

MULLER LAW GROUP

A PROFESSIONAL LIMITED LIABILITY COMPANY

23E

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Tara@MullerLawGroup.com

Tara Miles
Legal Assistant

April 28, 2021

VIA FEDERAL EXPRESS

Ms. Olga Payero
Fort Bend County Judge's Office
401 Jackson Street
Richmond, Texas 77469

Re: Texas Heritage Parkway Improvement District Encroachment Agreement

Dear Ms. Payero,

Enclosed please find one partially-executed original of the Encroachment Agreement among Fort Bend County, Texas Heritage Parkway Improvement District, and Texas Natural Gas Pipeline Company of America LLC ("Agreement"). Per Marcus Spencer, this Agreement will be on the County's May 4, 2021 agenda for approval.

Following execution by the County, please record the document in the Official Public Records of Fort Bend County and e-mail me a recorded copy at the e-mail address above.

Thank you,



Tara Miles
Legal Assistant

Enclosure



ENCROACHMENT AGREEMENT

Tracts: TX-712; TX-713; TX-2-533; TX-2-534

County: Fort Bend

State: Texas

THIS AGREEMENT is made and entered into this ____ day of 2021 by and between **Natural Gas Pipeline Company of America LLC**, a Delaware limited liability company (the "Company"), with an office at 1001 Louisiana, Suite 1000, Houston, Texas 77002, and **Texas Heritage Parkway Improvement District** ("THPID") whose address for purposes of this Agreement is c/o The Muller Law Group, PLLC, 202 Century Square Blvd., Sugar Land, Texas 77478, and **Fort Bend County, Texas** ("County"), whose mailing address for the purpose of this Agreement is 301 Jackson Street, Richmond, Texas, 77469, (THPID and County, collectively referred to as the "Owner"). Company and Owners may be individually referred to in this Agreement as a "Party" and collectively as the "Parties".

WHEREAS, Texas Illinois Natural Gas Pipeline Company entered into a certain Right of Way Agreement ("Company Easement 1") executed on September 14, 1950 and recorded at Deed Book 275, Page 229 of the records of the Fort Bend County Recorder, and;

WHEREAS, Company is successor to Texas Illinois Natural Gas Pipeline Company and to the above-referenced Company Easement 1, and;

WHEREAS, Company entered into a certain Right of Way Agreement ("Company Easement 2") executed on November 10, 1960 and recorded at Volume 412, Page 102 of the Deed Records of Fort Bend County, and;

WHEREAS, Company Easement 1 and Company Easement 2 shall herein be known collectively as the "Company Easements":

WHEREAS, Company operates certain pipelines and pipeline related facilities (the "Company Facilities") under, upon, over, through and across the Company Easements, and;

WHEREAS, Owner owns all or a portion of the property (the "Parcel"), which is subject to the Company Easements, described as follows:

600 acres, more or less, of the Micajah Autrey League, Abstract 100, Fort Bend County, Texas, and being more particularly described in that certain Deed dated December 11, 1924 from Sallie B. Harris, et al, to C.C. Cardiff and J.F. Cardiff, Recorded at Volume 104, Page 483 of the Deed Records of Fort Bend County, and;

CCM 5-4-2021 # 23E
Fort Bend County Clerk
Return Admin Serv Coord - RAC

WHEREAS, Company is hereby willing, at the request of Owner, to allow Owner, to construct, own, operate, maintain, use and remove at Owner's sole risk and expense, one roadway known as Texas Heritage Parkway (the "Encroachment") at the location or locations designated in Exhibit "A" attached hereto and made a part hereof.

NOW, THEREFORE in consideration of the mutual covenants herein stated, Company and Owner agree as follows:

1. Company agrees to allow the construction, ownership, operation, maintenance, usage and removal of the Encroachment within the Company Easement, but only insofar as the Encroachment affects the Company Easement within the Parcel. The permission granted herein is limited exclusively to the Encroachment.
2. Except as specifically set forth in Exhibit "A",
 - a. Owner shall construct, own, operate, maintain, use and remove the Encroachment in accordance with Company's O&M Procedure 204 OM200-29 titled "Guidelines for Design and Construction near Kinder Morgan Operated Facilities," which is attached hereto as Exhibit "B" and made a part hereof. A Company representative shall be on-site to monitor any construction activities within twenty-five (25) feet of Company Facilities. Owner shall notify Company at (281) 886-1803 at least seventy-two (72) hours prior to commencing any construction activities.
 - b. Owner shall not reduce the depth of cover on, or permit such alteration anywhere on, or alter the drainage of the Company Easement without Company's prior written consent, which Company may withhold or condition in its sole discretion. Owner shall be solely responsible for, and shall bear the expense of repairs attributable to, in Company's sole opinion, any loss of subjacent or lateral support to the Company Easement and/or Company Facilities caused by the Encroachment.
 - c. Owner shall not construct any permanent structure, building, or obstruction within the Company Easement, except the Encroachment, without Company's prior written consent, which Company may withhold or condition in its sole discretion.
 - d. Owner shall not plant shrubs or trees within the Company Easement, without Company's prior written consent, which Company may withhold or condition in its sole discretion.
 - e. Owner shall not operate or permit the operation of any heavy equipment on the Company Easement without Company's prior written consent, which Company may withhold or condition in its sole discretion. Heavy equipment shall only be allowed to cross Company Facilities at locations designated by Company and as already approved for the initial construction of the Encroachment. Owners shall comply with all precautionary measures required by Company to protect Company Facilities and the Company Easement.

- f. Owner shall not replace or modify the Encroachment without Company's prior written consent, which Company may withhold or condition in its sole discretion.
3. Owner shall be solely responsible for the construction, ownership, operation, maintenance, use, and removal of the Encroachment, or physical damage to the pipelines as a result of Owner's exercise of its rights under this Agreement.
 4. Should Company's construction, reconstruction, operation, maintenance, alteration, repair, replacement, removal, addition, or changing the size of any of its Company Facilities within the Company Easement in any way, shape, manner, or form, in Company's sole opinion, affect, damage, or cause to be removed the Encroachment, or any portion thereof, Owner agrees to bear all costs to repair or replace the Encroachment, including any costs and expenses associated with the loss of the use of the Encroachment as a result of Company's activities.
 5. In the event Company shall, at any time, desire or be required to construct, reconstruct or alter the grade or location of its pipeline(s) or other facility upon the Company Easement; or in the event Company shall, at any time, desire to construct additional pipelines, appurtenances or other facilities upon the Company Easement; and if, in the judgment of Company, it is necessary that the Encroachment shall be relocated or altered in any way; or if for any other reason, Company deems it necessary for Owner to relocate or alter the Encroachment, Company shall notify Owner of the necessity for such relocation and use reasonable efforts to minimize the distance of said relocation and Owner shall alter or relocate the Encroachment, at its sole cost and expense, within thirty (30) days of receipt of said notification, as shall be deemed necessary in the judgment of Company. In the event of such alteration or relocation, Owner agrees to restore the Company Easement as nearly as practicable to its original condition. If Owner shall fail to comply with any such request of Company to alter or relocate the Encroachment, Company shall have the right to alter or relocate the Encroachment at Owner's sole risk and expense.
 6. Should Owner remove the Encroachment, in its entirety, from the Company Easement for a term of one hundred twenty (120) consecutive days, this Agreement shall be deemed null and void.
 7. Should Owner fail to adhere to the provisions of this Agreement, Company may have no adequate remedy at law and Owner agrees that monetary damages may not be sufficient. Owner, therefore, consents to Company seeking injunctive relief or an emergency order to enforce the provisions, or prevent breach of, this Agreement without the necessity to post a bond.
 8. Nothing contained herein shall be deemed to constitute any warranty or representation by Company as to its authority to permit the Encroachment upon the Parcel as proposed by Owner, except regarding Company's rights as set forth in the Company Easement that may restrict the Encroachment.

9. If any part, term or provision of this Agreement is, by a court of competent jurisdiction or regulatory authority having jurisdiction over the Parcel, held to be illegal, void or unenforceable, or to be in conflict with the law of the state which the Parcel lies, the validity of the remaining provisions or portion hereof shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.
10. Except as specifically herein described, all of the terms and conditions of the Company Easement shall remain in full force and effect.
11. The terms and conditions of this Agreement shall be binding on the Parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Parties hereunto subscribed their names as of the date first above written.

**TEXAS HERITAGE PARKWAY
IMPROVEMENT DISTRICT**

Clifford J. Vacek
Signature

CLIFFORD J. VACEK
Name

VICE - PRESIDENT
Title

**NATURAL GAS PIPELINE COMPANY
OF AMERICA LLC**

Thomas C. Dender
Signature

THOMAS C. DENDER
Name

VP - PROJECT MANAGEMENT / ROW
Title

FORT BEND COUNTY, TEXAS

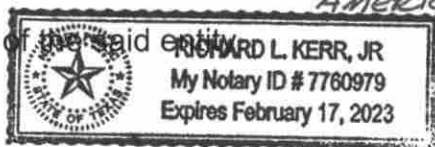
K. George
Signature

KP George
Name

County Judge
Title

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this the 26th day of APRIL, 2021, by THOMAS C. DENDER (name), as VP-PROJECT MANAGEMENT/ROW (type of authority, e.g., officer, trustee, etc.) of NATURAL GAS PIPELINE COMPANY OF AMERICA LLC (company) on behalf of and as the act of the said entity.



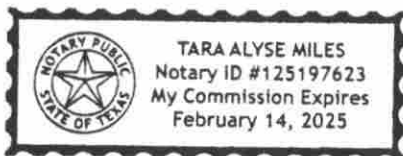
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2/17/2023
Commission Expires

R L Kerr
Notary Public

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on this the 27th day of April, 2021, by Clifford J. Vacek (name), as Vice President (type of authority, e.g., officer, trustee, etc.) of Texas Heritage Parkway Improvement District (company) on behalf of and as the act of the said entity.



{Seal}

2/14/2025
Commission Expires

Tara Alyse Miles
Notary Public

THE STATE OF TEXAS §

COUNTY OF Fort Bend §

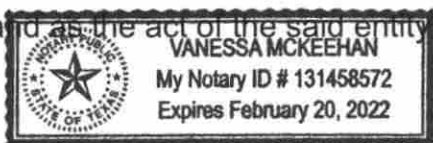
This instrument was acknowledged before me on this the 4 day of

May, 2021, by KP George

(name), as County Judge (type of authority, e.g., officer,

trustee, etc.) of Fort Bend County (company) on

behalf of and as the act of the said entity



{Seal}

February 20, 2022
Commission Expires

VMcKeehan
Notary Public

This instrument prepared by:
Natural Gas Pipeline Company of America LLC
After recording, return to:
Natural Gas Pipeline Company of America LLC,
Attention: David Ross
1001 Louisiana, Suite 1000, Houston, Texas 77002

This page is not satisfactory for photographic recordation due to carbon or photocopy, discolored paper, etc. All block-outs, additions and changes were presented at time instrument was filed and recorded.

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MODEL NAME: Default
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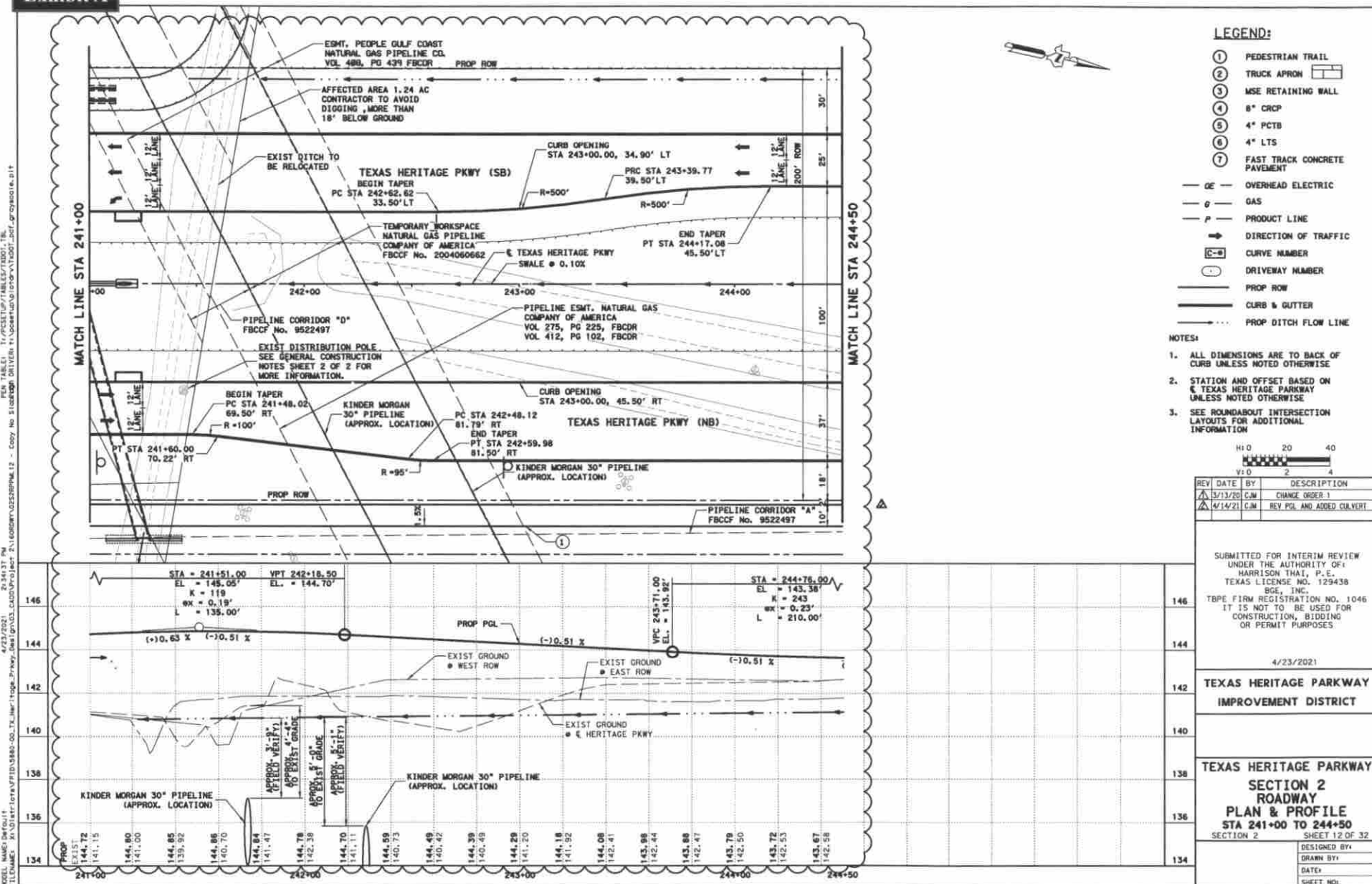


Exhibit B

RECORDER'S MEMORANDUM

This page is not satisfactory for photographic recordation due to carbon or photocopy, discolored paper, etc. All block-outs, additions and changes were presented at time instrument was filed and recorded.

KINDER MORGAN

Guidelines for Design and Construction near Kinder Morgan Operated Facilities

Name of Company: Natural Gas Pipeline Company of America, LLC (NGPL)

The list of design, construction and contractor requirements, including but not limited to the following, for the design and installation of foreign utilities or improvements on KMO right-of-way (ROW) are not intended nor do they confer or modify any rights. KMO only takes under existing easements or ROW agreements. Reference existing easements and agreements for additional requirements. This list of requirements is applicable for KMO facilities on easements only. Easements on fee property should be referred to the Land and Right-of-Way Department.

Design

- KMO shall be provided sufficient prior notice of planned activities involving excavation, blending, or any type of construction on KMO's ROW to determine and resolve any location, grade or environmental problems and provide protection of our facilities and the public before the actual work is to take place.
- Excavating entity shall provide KMO with a set of drawings for review and a set of final construction drawings showing all aspects of the proposed facilities in the vicinity of KMO's ROW. The excavating entity shall also provide a set of as-built drawings showing the proposed facilities in the vicinity of KMO's ROW.
- Only facilities shown on drawings reviewed by KMOPL (Company) will be approved for installation on KMO's ROW. All drawing revisions and other facilities proposed to be placed on KMO's ROW must be approved by KMO in writing.
- KMO shall approve the design of all permanent road crossings.
- Excavating entity shall, at the discretion of the Kinder Morgan, Inc., Incorporated Health, Safety and Environment Department, submit drawings of proposed access or "clean cut" areas of KMO ROW. The drawings shall be labeled per KMO Standard TYP-V-0103-0010.
- Any repair to surface facilities following future pipeline maintenance or repair work by KMO will be at the expense of the developer or landowner.
- The depth of cover over the KMO pipeline shall not be reduced nor changes allowed without KMO's written approval.
- Construction of any permanent structure, building(s) or obstructions within KMO pipeline easement is not permitted.
- Planting of shrubs and trees is not permitted on KMO pipeline easement.
- Injection equipment (e.g., backflow prevent devices, meters, valves, valve boxes, etc.) shall not be located on KMO easement.
- Foreign line, gas, water, electric and sewer lines, etc., may cross perpendicular to KMO's pipeline within the ROW, provided that a minimum of ten (10) feet of vertical clearance is maintained between KMO pipeline(s) and the foreign pipeline. Constant line elevations must be maintained across KMO's entire ROW width, except drain lines are the only exception. Foreign line crossings below the KMO pipeline must be indicated by KMO to ensure that a significant length of the KMO line is not exposed and unsupported during construction. When installing underground utilities, the last line should be placed beneath all existing lines unless it is impossible or unreasonable to do so. Foreign line crossings above the KMO pipeline with less than 8 feet of clearance must be indicated by KMO to ensure that additional support is not necessary to prevent settling on top of the KMO natural gas pipeline.
- A foreign pipeline shall cross KMO facilities at an near a ninety-degree angle or parallel. A foreign pipeline shall not run parallel to KMO pipeline within KMO easement without written permission of KMO.
- The foreign utility should be advised that KMO maintains cathodic protection on their pipelines. The foreign utility must coordinate their cathodic protection system with KMO's. At the request of KMO, foreign utilities shall install or allow to be installed cathodic protection test leads at all crossings for the purposes of monitoring cathodic protection. The KMO Cathodic Protection (CP) installation and the foreign utility CP installation shall perform joint cathodic CP interference testing. Interference issues shall be resolved by mutual agreement between foreign utility and KMO. All costs associated with the correction of cathodic protection problems on KMO pipeline as a result of the foreign utility crossing shall be borne by the foreign utility for a period of one year from date the foreign utility is put in service.

Reference: KMO Procedure 204

Page 1 of 3

CM200-02
0002

KINDER MORGAN

Guidelines for Design and Construction near Kinder Morgan Operated Facilities

- The outside design line shall be marked with a suitable pipe casing for a distance of at least 10 feet on either side of the existing unless otherwise requested by the KMO CP Technician.
- All Electrical lines must be installed in conduit and properly insulated.
- DOT approved pipeline markers shall be installed as to indicate the route of the foreign pipeline across the KMO ROW.
- No power poles, light standards, etc. shall be installed on KMO easement.
- Construction
 - Contractors shall be advised of KMO's requirements and be contractually obligated to comply.
 - The structural integrity of KMO's pipelines and the safety of all individuals in the area of proposed work near KMO's facilities are of the utmost importance. Therefore, contractor shall consult with KMO representatives prior to construction to provide and receive notification findings for appropriate work operations and emergency personnel. KMO's on-site representative will require discontinuation of any work that, in his opinion, endangers the operations or safety of personnel, pipelines or facilities.
 - The Contractor shall expose all KMO transmission and distribution lines prior to attempting to determine the exact alignment and depth of the lines. A KMO representative must be present. In the event of parallel lines, only one pipeline can be exposed at a time.
 - KMO will not allow pipelines to remain exposed overnight without consent of KMO designated representative. Contractor may be required to install pipelines at the end of each day.
 - A KMO representative shall do all line testing. A KMO representative shall be present for hydraulic protection. The use of pushing rods for pipeline testing shall be performed by KMO representatives only, to prevent unnecessary damage to the pipeline testing.
 - Notification shall be given to KMO at least 72 hours before start of construction. A schedule of activities for the duration of the project must be made available at that time to facilitate the scheduling of Kinder Morgan, Inc.'s work site representative. Any Contractor schedule changes shall be provided to Kinder Morgan, Inc. immediately.
 - Heavy equipment shall not be allowed to operate directly over KMO pipelines or in KMO ROW unless written approval is obtained from KMOPL (Company). Heavy equipment shall only be allowed to cross KMO pipelines at locations designated by Kinder Morgan, Inc. Contractor shall comply with all precautionary measures required by KMO to protect its pipelines. When inclement weather occurs, provisions must be made to compensate for soil displacement due to subsidence of lines.
 - Excavating or grading which might result in erosion or which could render the KMO ROW inoperable shall not be permitted unless the contractor/developer/owner agrees to restore the area to its original condition and provide protection to KMO's facility.
 - A KMO representative shall be on-site to monitor any construction activities within twenty-five (25) feet of a KMO pipeline or aboveground equipment. The contractor shall not work within this distance without a KMO representative being on site. Only hard excavation shall be permitted within a minimum of 15 inches (under) to eight (eight) feet (above) regarding any additional clearance requirements of KMO pipelines, valves and fittings. However, proceed with extreme caution when within three (3) feet of the pipe.
 - Flagging is only allowed when the position of the pipe is known and not within ten (10) feet of KMO facility unless company representative is present.
 - Temporary support of any exposed KMO pipeline by Contractor may be necessary if required by KMO's on-site representative. Shoring below the exposed line and 12" above the line shall be replaced with sand or other selected material as approved by KMO's on-site representative and thoroughly compacted in 12" lifts in 90% of standard proctor dry density or as approved by KMO's on-site representative. This is to adequately protect against erosion that may be caused by the cutting of the pipeline.
 - No welding shall be allowed within 5000 feet of KMO's facilities unless welding notification is given to KMO including company welding plan data. A pre-test meeting shall be conducted by the organization responsible for welding.

Reference: KMO Procedure 204

Page 2 of 3

CM200-02
0002

ERC ENGINEERING APPROVAL

| REV | DATE | BY | DESCRIPTION |
|-----|------|----|-------------|
| | | | |
| | | | |

FINAL PLANS



12/20/2013

TEXAS HERITAGE PARKWAY IMPROVEMENT DISTRICT

8805, 8806,
10017 Duffield, 8805, 8806, 10017
10017 Duffield, 8805, 8806, 10017
10017 Duffield, 8805, 8806, 10017

TEXAS HERITAGE PARKWAY GENERAL CONSTRUCTION NOTES PIPELINE

KINDER MORGAN
SECTION 2 SHEET 3 OF 4

DESIGNED BY: MC
DRAWN BY: MC
DATE:
CHECKED BY: JF

Exhibit B

RECORDER'S MEMORANDUM

This page is not satisfactory for photographic recordation due to carbon or photocopy, discolored paper, etc. All block-outs, additions and changes were presented at time instrument was filed and recorded.

KINDER MORGAN

Guidelines for Design and Construction near Kinder Morgan Operated Facilities

KM shall be indemnified and held harmless from any loss, cost of liability for personal injuries sustained, death caused or property damage suffered or sustained by any person resulting from any blasting operations conducted within 500 feet of its facilities. The organization responsible for blasting shall be liable for any and all damages caused to KM's facilities as a result of their activities whether or not KM representations are present. KM shall have a signed and executed Blasting Indemnification Agreement before authorized permission to blast can be given.

No blasting shall be allowed within 500 feet of KM's facilities unless blasting notification is given to KM a minimum of one week before blasting. (Inter connected above) KM shall review and analyze the blasting methods. A written blasting plan shall be provided by the organization responsible for blasting and agreed to in writing by KM in addition to meeting requirements for 500' and 1000' being met above. A written emergency plan shall be provided by the organization responsible for blasting. (Inter connected above)

- Any contact with any KM facility, pipeline, valve out, etc. shall be reported immediately to KM. If repairs to the pipe are necessary, they will be made and repaired before the section is re-entered and the line is back-filled.
- KM personnel shall install all test leads on KM facilities.
- Burning of trash, brush, etc. is not permitted within the KM ROW.

Insurance Requirements

- All contractors, and their subcontractors, working on Company contracts shall maintain the following types of insurance policies and minimum limits of coverage. All insurance coverages carried by Contractor and Owner shall include the following minimums: (Kinder Morgan and its affiliated or subsidiary companies are covered as additional insured on all above policies (except Worker's Compensation) and names of subcontractors in favor of Kinder Morgan and its affiliated or subsidiary companies, their respective divisions, officers, agents and employees apply as required by notice contract). Contractor shall furnish Certificates of Insurance evidencing insurance coverage prior to commencement of work and shall provide thirty (30) days notice prior to the termination or non-renewal of any policy.

- Statutory Damage Workers' Compensation Insurance in accordance with the laws of the state where the work is to be performed. If Contractor performs work on the oilfield on non-union workers Contractor shall furnish a certificate of insurance showing compliance with the provisions of the Federal Longshoreman's and Harbor Workers' Compensation Law.
- Employer's Liability Insurance, with limits of not less than \$1,000,000 per occurrence and \$1,000,000 disease each employee.
- Commercial General Liability Insurance with a combined single limit of not less than \$5,000,000 per occurrence and in the aggregate. All policies shall include coverage for libel and slander/defamation.
- Comprehensive Automobile Liability Insurance with a combined single limit of not less than \$1,000,000. If necessary, the policy shall be endorsed to provide unlimited liability coverage.
- If necessary Comprehensive Aircraft Liability Insurance with combined bodily injury, including passengers, and property damage liability single limits of not less than \$5,000,000 each occurrence.
- Contractor's Pollution Liability Insurance this coverage shall be maintained in force for the full period of this agreement with available limits of not less than \$5,000,000 per occurrence.
- Pollution Legal Liability Insurance this coverage must be maintained in a minimum amount of \$5,000,000 per occurrence.

PRC ENGINEERING APPROVAL

| REV | DATE | BY | DESCRIPTION |
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FINAL PLANS



TEXAS HERITAGE PARKWAY IMPROVEMENT DISTRICT



TEXAS HERITAGE PARKWAY GENERAL CONSTRUCTION NOTES PIPELINE (KINDER MORGAN)

| | |
|-----------------|------------------|
| SECTION 2 | SHEET 4 OF 4 |
| RECORDED BY: HT | DATE: 12/20/2018 |
| DRAWN BY: HT | CHECKED BY: HT |

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Laura Richard

Laura Richard, County Clerk

Fort Bend County Texas

May 07, 2021 04:28:08 PM

FEE: \$0.00

DP2

2021075432

