



200 W. SECOND ST., 3RD FL., FREEPORT, TX 77541
(979) 233-2667 1 (800) 362-5743 FAX: (979) 233-5625

Instructions

1. Send all applications, plans and data to:
Port Freeport
Attention: Director of Engineering
200 W. Second St., 3rd Floor
Freeport, TX 77541
Email: hull@portfreeport.com; frankmauro@maurolaw.com
Fax: 979-233-8625
Phone: 979-233-2667
2. Each individual pipe must have its own individual application.
3. Please submit engineering plans and surveys (including meets and bounds) on 11x17 paper and a CD.

PORT COMMISSION

JOHN HOSS, CHAIRMAN; PAUL KRESTA, VICE CHAIRMAN; SHANE PIRTLE, SECRETARY; RAVI K. SINGHANIA, ASST. SECRETARY;
BILL TERRY, COMMISSIONER; THOMAS S. PERRYMAN, COMMISSIONER; GLENN A. CARLSON, EXECUTIVE PORT DIRECTOR/CEO

Qualification for Pipeline License

No Pipeline License shall be approved unless the proposed license holder is shown to be a financially and legally responsible owner or operator, who has demonstrated competence to own or operate pipelines on Port Freeport Authority property. Financially responsible operators are those who regularly comply with their contractual undertakings and legal obligations, are not in default and have no material history of default in their obligations to their employees, customers, or the District, are able and willing to pay their obligations, and who at all times maintain in force and effect the insurance required of holders of a Pipeline License. Legally responsible operators are those who regularly comply with and who have no history of violation of material federal and state statutes, including those statutes having particular applicability to those in the business of operating pipelines. Competent operators are those whose past practices demonstrate their commitment to safe and efficient ownership or operation of pipelines and who possess the skill, experience, equipment, and trained personnel necessary to do so.

Port Freeport staff shall review each original or renewal application, may require the applicant to submit additional information, and may consider additional information obtained through an investigation or submitted by the public that bears on an applicant's responsibility or competence.

All original and renewal applications for a Pipeline License submitted to the Port Authority, written materials obtained or received by the District in connection with its consideration of an application, and the written recommendations of the Port Freeport staff to the Port Commission, shall be considered public records, with the exception of an applicant's customer or other proprietary information that is exempted from disclosure by the Texas Public Information Act.

The Port Commission may deny, revoke or decline to renew a Pipeline License if the license holder does not meet all of the requirements for license approval, or has made a material misrepresentation on an original or renewal application, or has been convicted of a material criminal offense. A material criminal offense is one that directly relates to the competence, duties and responsibilities of the owner or operator of the pipeline.

PORT COMMISSION



200 W. SECOND ST., 3RD FL., FREEPORT, TX 77541
(979) 233-2667 1 (800) 362-5743 FAX: (979) 233-5625

License/Permit Application

1. Project Description	
1a. Survey and abstract number	
2. Company Name	3. Contact Address, Phone Number and Email
2a. Contact Name	
4. Agent's Name & Title (if different than 2a)	5. Agent's Address, Phone #, and Email
6. Emergency Contact Person	7. Address, Phone Number, and Email
8. State Incorporated/Registered	9. Dun & Bradstreet Number
8a. Business Form	
10. Name and Title of Corporate Officer signing the License	
11. Name, title, phone number of person preparing this application	
12. Billing address if different from mailing address	
Purchase Order Number (if required):	
I certify that the information in this application is true and correct.	
Applicant's signature:	Date:

Project data must be entered on page 2.

PORT COMMISSION

JOHN HOSS, CHAIRMAN; PAUL KRESTA, VICE CHAIRMAN; SHANE PIRTLE, SECRETARY; RAVI K. SINGHANIA, ASST. SECRETARY;
BILL TERRY, COMMISSIONER; THOMAS S. PERRYMAN, COMMISSIONER; GLENN A. CARLSON, EXECUTIVE PORT DIRECTOR/CEO

Page 2. Project Data: if it does not apply, leave it blank.

13. TXRRC T-4 Number:	14. Project Location (x,y or Lat/Long)
13a. Expiration Date:	
15. Length (feet)	16. Diameter (inches/KV)
17. County	18. City
19. Installation Method	20. Product type
21. Product Transported (specific)	22. Street Reference
23. PF Property Impacted	24. USACE Permit Number
25. Valve Site (Y/N)	26. Valve Site Size
27. Pipeline Name	

PIPELINE RIGHT-OF-WAY LICENSE AGREEMENT AND EASEMENT

STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

PORT FREEPORT, a navigation district and a political subdivision of the State of Texas ("Grantor"), for Ten Dollars (\$10.00) and other good and valuable consideration of the various covenants and agreements of Grantee set forth herein, has granted and does by these presents grant unto _____ ("Grantee") the following described non-exclusive underground easement, and right-of-way (the "Easement") upon, under, and through the lands of Grantor situated in Brazoria County, Texas (collectively, the "Easement Tracts") and described in Exhibit "A" attached hereto as specified herein:

Article I. Grant of License Agreement and Pipeline Easement

1. Grant of License Agreement and Pipeline Easement and Use. Grantor hereby grants to Grantee a License Agreement and non-exclusive easement for the purpose of constructing, maintaining, inspecting, repairing, relocating, and removing no more than _____ (____) pipeline ("Pipeline"), which Pipeline shall not exceed ____ inches in diameter for the sole purpose of transporting _____ and the associated Pipeline Facilities on, under, across and/or through a strip of land, located on real property situated in the County of Brazoria, the State of Texas owned by Grantor.
2. Location, Dimensions and Purpose of Pipeline. Prior to installation of the Pipeline when Grantee makes application for a License Agreement and Pipeline Easement, Grantee agrees to provide a metes and bounds description of the Pipeline's intended location which is attached as **Exhibit "A"**. The Pipeline will be installed at a depth of no less than _____ as measured from the top of the pipe to the surface of the ground at grade level. Grantee shall not install any above ground facilities other than Pipeline markers without the express prior written consent of Grantor. The Pipeline will be used by Grantee solely for the purposes of transporting _____. Grantee will not change the products transported in the Pipeline without the prior written consent of Grantor.
3. Final Easement. Grantee agrees to erect and maintain permanent markers at each boundary of the Grantor's property crossed by such Pipeline, showing Grantee's name and size and use of Pipeline. Grantee further agrees to furnish to Grantor three (3) copies of "as built" drawings which will replace the Exhibit "A" attached hereto within thirty (30) days after completion of that portion of the Pipeline covered by this license. Said "as built" drawings shall show the location of the above mentioned markers with ties to property corners of other physical features, as well as showing the exact location of the Pipeline referenced to the Grantor's property lines, corners or other accepted survey monuments.

4. Definition of Pipeline Facilities. The “Pipeline Facilities” refers to all fittings, cathodic protection equipment, pipeline markers, associated fiber optic cabling and all other equipment and appurtenances related thereto installed by Grantee from time to time.
5. Easement Specification. Except as otherwise provided in Article VII hereof, the Easement granted herein is limited to the width actually occupied by the Facilities when installed.

Article II

Term of Easement and Fee

1. Initial Term of Easement. Subject to the other provisions herein, the initial term (the “Initial Term”) of this Easement shall commence on the Effective Date and (unless terminated earlier as provided herein) will terminate on _____, 20____.
2. Fee for Initial Term of Easement. On or prior to the Effective Date, Grantee shall pay Grantor as compensation for the Initial Term the fee of _____Dollars (\$ _____) based upon \$ _____per linear foot.
3. Renewal of Easement and Renewal Fee. Provided that Grantee is not in default with respect to any obligation under this Easement, Grantee shall have the right and option to extend the Initial Term of this Easement for up to three (3) additional terms of fifteen (15) years each (the “Renewal Terms”). In order to extend the Initial Term or any Renewal Term of this Easement, Grantee must (a) deliver to Grantor written notice of Grantee’s intent to renew this Easement no less than six (6) months and no more than twelve (12) months prior to the expiration of the Initial Term or the Renewal Term then in effect (as applicable), and (b) simultaneously pay to Grantor the applicable Renewal Fee calculated in accordance with the provisions hereof. The “Renewal Fee” for the first Renewal Term will be _____per linear foot of the Easement; and the Renewal Fee for each subsequent Renewal Term shall be 150% of the Renewal Fee paid for the preceding Renewal Term.

Article III

Abandonment of Easement

This Easement shall terminate prior to the expiration of the Initial Term, or any Renewal Term, if Grantee abandons or ceases to use all or any portion of the Facilities for a period of three hundred sixty-five (365) consecutive days; provided, however, that this Easement shall not terminate if such non-use is caused by acts-of-God; lightning; fire; explosion; floods; extraordinary action of the elements; acts, regulation orders of civil or military authority; restrictions or restraints imposed by law or due to suspension of work by order or decree of a court of competent jurisdiction; or any other cause beyond the reasonable control of Grantee.

Article IV Reservations

1. Reservations by Grantor. Grantor hereby reserves for itself, its successors and assigns, the right to use the Easement Tracts for any and all purposes, including but not limited to the right to construct, operate, maintain, repair, replace, and remove facilities, pipelines, roadways and any other structures that Grantor or Grantor's tenants may desire in, on, under, or over the Easement Tracts, and to grant such rights to others, provided that such use does not substantially and materially interfere with Grantee's use and enjoyment of the rights and privileges granted herein.
2. Title Matters. This Easement is subject to all valid and existing liens, claims, encumbrances, rights, privileges, easements, rights of way, agreements, leases, covenants and restrictions affecting the Easement Tracts, whether of record or not, and to any matters which would be revealed by a current on the ground survey and inspection of the land, including the subsurface. Further, this Easement is subject to any outstanding interest in the underlying fee, including, without limitation, any deeds of trust or other liens. Grantor makes no (and hereby disclaims any) warranty or representation either expressed or implied as to title to the land.
3. Grantee's Acceptance of Easement Tracts "As Is". BY ITS ACCEPTANCE OF THIS EASEMENT, AND AS A MATERIAL PART OF THE CONSIDERATION MADE THE BASIS OF THIS AGREEMENT, GRANTEE FURTHER EXPRESSLY ACKNOWLEDGES AND AGREES THAT
 - (i) ANY INFORMATION PROVIDED TO GRANTEE PERTAINING TO THE EASEMENT TRACTS BY GRANTOR HAS NOT BEEN INDEPENDENTLY INVESTIGATED OR VERIFIED BY GRANTOR;
 - (ii) GRANTOR IS NOT MAKING, AND HAS NOT MADE, ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER TO GRANTEE AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION; AND
 - (iii) GRANTOR IS NOT, AND WILL NOT BE, LIABLE OR BOUND IN ANY MANNER WHATSOEVER BY ANY WRITTEN OR VERBAL STATEMENT, REPRESENTATION, REPORT, SURVEY OR INFORMATION FURNISHED TO GRANTEE, OR MADE BY ANY PARTY WITH RESPECT TO THE EASEMENT.

GRANTEE AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO CONDUCT SUCH TESTS, STUDIES, AND INVESTIGATIONS AS GRANTEE DEEMS NECESSARY AND APPROPRIATE, GRANTEE IS RELYING SOLELY UPON GRANTEE'S OWN INVESTIGATION OF THE EASEMENT AND NOT ON ANY INFORMATION PROVIDED BY GRANTOR.

GRANTEE FURTHER AGREES THAT GRANTEE HAS ACCEPTED THE EASEMENT TRACTS IN THEIR CURRENT, "AS IS," WITH ALL FAULTS CONDITION, AND TO HAVE ASSUMED THE RISK OF ANY MATTER OR CONDITION WHICH IS LATENT OR PATENT. GRANTOR HAS NOT MADE, AND GRANTOR HEREBY EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, WHATSOEVER, AS TO THE VALUE, CONDITION, NATURE, CHARACTER, SUITABILITY, HABITABILITY, OR FITNESS OF THE EASEMENT TRACTS, THE INCOME TO BE DERIVED THEREFROM, THE PRESENCE OR ABSENCE OF ANY HAZARDOUS MATERIAL OR OTHER ENVIRONMENTAL CONDITION OR COMPLIANCE OF THE LAND WITH, OR VIOLATION OF ANY LAW, STATUTE, ORDINANCE, RULE, OR REGULATION, AND ANY OF SUCH REPRESENTATIONS AND WARRANTIES, AND ANY CLAIMS OR CAUSES OF ACTION AGAINST GRANTOR BASED IN WHOLE OR IN PART ON ANY VIOLATION OF, OR ARISING WITH RESPECT TO, ANY FEDERAL, STATE, OR LOCAL STATUTE OR ORDINANCE, RULE OR REGULATION ARE HEREBY EXPRESSLY WAIVED AND RELEASED BY GRANTEE.

Article V

Compliance With Laws

Compliance with Laws. As used herein, the term "Laws" means any and all present or future federal, state or local laws (including common law), statutes, ordinances, rules, regulations, orders, decrees, interpretations or requirements of any and all Governmental Authorities. "Governmental Authority" means any governmental or quasi-governmental authority (federal, state, county or municipal), and any department, agency or board thereof. As applied to Grantor, the term "Governmental Authority" means Port Freeport, acting in the exercise of its general governmental functions, and not as a contracting party under this Easement. Grantee covenants and agrees that its use of the Easement Tracts and its operations conducted thereon will at all times comply with all applicable Laws. Grantee agrees to construct the Facilities in a good and workmanlike manner and agrees to maintain and operate the Facilities in a prudent manner, in compliance with all applicable Laws, and with due care for Grantor's property, business and operations. Grantee agrees to construct and maintain the Pipeline and all Pipeline Facilities in such condition that the escape of any substance therefrom shall be prevented. Except in the case of bona fide emergencies where a threat to life or property exists, Grantee agrees to give at least ninety (90) days prior written notice to Grantor of construction activities affecting the surface of the Easement Tracts. Grantee shall conduct its activities in such a manner as to cause the least inconvenience and disruption to Grantor's business, operations and property. Grantee, its employees, agents, contractors, subcontractors, and invitees will at all times while on land owned by Grantor comply with all safety rules and regulations now in effect or hereafter promulgated by Grantor and governing activities on Grantor's lands.

Article VI

Security Measures

Security Measures. Grantor may, from time to time, implement and enforce such security measures, policies, procedures and regulations, and furnish and maintain such security services and devices, for the protection of persons and property on or about the channels, waterways, docks, slips and other facilities and improvements owned, operated or controlled by Grantor (collectively, the “Port Facilities”) as Grantor deems reasonably necessary and as may required by applicable Law from time to time (including specifically, and without limitation, those required by 33 C.F.R. §128, as amended from time to time). Grantor may institute tariffs to cover the cost of such security services and devices, which will be paid by all users of Port Facilities. Grantee will and will cause its agents, employees, contractors and invitees to comply with all security measures, policies, procedures, and regulations in effect from time to time. Any such security services and devices are for the protection of Grantor's property and the Port Facilities in general; in the event that Grantee requires security for the Easement Tracts or Grantee's property, Grantee shall provide such security at Grantee's sole cost and expense. Under no circumstances shall Grantor ever be responsible for or liable to Grantee or any other person, and Grantee hereby releases Grantor from any claims, for losses due to theft or burglary or for vandalism or damages (including personal injuries or death of persons) occurring on or about the Easement Tracts.

Article VII

Temporary Workspace

Temporary Workspace. Subject to further written agreement by the parties, Grantee shall have the right and permission to use portions of Grantor's land during construction, installation and maintenance of the Facilities. Specifically, Grantee shall have the right to use fifty feet (50') of Grantor's land, which shall be twenty-five feet (25') on each side of the Pipeline and as more specifically described in Exhibit “A”, for the purpose of ingress and egress, for the purposes of exercising the rights and privileges herein granted, and for the purpose of complying with the obligations assumed by Grantee hereunder; provided that each time after any work has been performed in the Easement Tracts in connection with the exercise of such rights and privileges, Grantee shall cause Grantor's lands and road (including the Easement Tracts) to be restored to the condition, as nearly as possible, in which the same were found prior to any such work being conducted; and provided further that in the exercising of said rights and privileges, Grantee shall not interfere with operation or improvements of Grantor or Grantor's tenant's operations or create or allow to be created a nuisance, or do any act or allow any act to be done which will be damaging or detrimental to Grantor's land or that will or may create a lien thereon. Said temporary construction easement terminates upon completion of construction or maintenance, as applicable, and restoration of the property.

Article VIII

Relocation of Facilities

1. Relocation of Facilities for Grantor's Operations. Grantee agrees that, within one hundred eighty (180) days receipt of written notice from Grantor, Grantee will, at its sole cost and expense, effect such reasonable and necessary changes or alterations in the location of the Facilities as Grantor may require in order to avoid interference with any improvements (whether existing or proposed) or use of the Easement Tracts by Grantor or Grantor's tenants. Said reasonable and necessary changes or alterations may include but will not be limited to requiring Grantee to encase, relocate, lower, raise, maintain, repair or otherwise change the operation of the Facilities so as to meet with the approval of the Grantor.
2. Relocation of Facilities for Governmental Authority. Whenever, at the insistence of any Governmental Authority, a change in the location or grade of the Pipeline is declared necessary, Grantee, whenever notified in writing of such necessity, shall change the location or grade of the Facilities at the sole expense of Grantee.
3. Relocation of Facilities for Improvement to Waterway. It is expressly agreed that if at any time any portion of the Facilities interfere with the widening, deepening or other revision or improvement of any body of water within Grantor's jurisdiction, in such event Grantee, at its sole cost and expense, shall remove, relocate, lengthen, deepen or otherwise conform the Facilities to the requirements of such improvement in the sole discretion of Grantor or as required by any Federal or State governmental entity.
4. Failure to Relocate by Grantee is Grounds for Termination. Should Grantee fail to comply with this Article within One Hundred Eighty (180) days after receipt of written notification to relocate by Grantor, such failure to timely comply shall constitute an Event of Default and Grantor shall be permitted to terminate this agreement.

Article IX

Default and Remedies

1. Events of Default. The occurrence of any of the following events will constitute an "Event of Default" by Grantee under this Easement:
 - a. Grantee fails to pay any monetary obligation arising under this Easement, and such failure continues for ten (10) days following written request or demand for payment from Grantor.
 - b. Grantee fails to complete installation of substantially all of the Facilities within twelve (12) months following the Commencement Date, or Grantee thereafter abandons or ceases to use all or any material portion of the Facilities for a consecutive period of twelve (12) months or longer.
 - c. Grantee assigns, transfers, pledges, encumbers or otherwise conveys this

Easement (in whole or in part) or any of Grantee's rights herein, whether directly or by operation of law, without the prior written consent of Grantor.

- d. Grantee breaches or violates any other provision of this Easement applicable to Grantee (other than the provisions referred to in (i), (ii), and (iii) above), and such breach or violation continues for a period of thirty (30) days after written notice thereof from Grantor; or, if such breach or violation cannot reasonably be cured within such thirty (30) day period, Grantee does not commence a cure within such thirty (30) day period or does not thereafter diligently pursue such cure in good faith to completion.
 - e. The occurrence of a "default" or "event of default" (howsoever denominated) under any other lease, easement or agreement to which Grantor and Grantee are parties, and the continuation of such default or event of default beyond any applicable cure period set forth in such other lease, easement or agreement.
2. Remedies. If any Event of Default occurs, Grantor shall have the right, at its option, at any time, to exercise any remedies and collect any damages available to it at law or in equity. All remedies are cumulative and concurrent and no remedy is exclusive of any other remedy. No remedy shall be exhausted by Grantor's exercise thereof. Specifically, and without limitation, Grantor may exercise any one or more of the following remedies:
- a. Grantor may, at Grantor's option but without obligation to do so, and without releasing Grantee from any obligations under this Easement, make any payment or take any action as Grantor deems necessary or desirable to cure any Event of Default in such manner and to such extent as Grantor deems necessary or desirable. Grantee shall pay Grantor, upon demand, all advances and costs of Grantor in connection with making any such payment or taking any such action, including reasonable attorneys' fees, together with interest at the maximum non-usurious rate allowed by applicable Law (the "Default Rate") from the date of payment of any such advances and costs by Grantor.
 - b. Grantor may, at Grantor's option, terminate this Easement, without further notice to Grantee or any other person, in which event the rights herein granted to Grantee, shall automatically terminate and revert to, and become property of, Grantor, its successors and assigns, without the necessity of Grantee executing a conveyance or release of same.
 - c. Grantor may, at Grantor's option, declare a default under any and all other leases, easements or agreements between Grantor and Grantee, and proceed with termination of such other lease, easement or agreement in accordance with the applicable provisions thereof. Grantee specifically agrees and understands that an Event of Default under this Easement will constitute a default or event of default under any and all other leases, easements or agreements (now existing or hereafter arising) between Grantor and Grantee or to which Grantor and Grantee may be parties.

3. Non-Waiver. No failure of Grantor (i) to insist at any time upon the strict performance of any provision of this Easement or (ii) to exercise any option, right, power or remedy contained in this Easement shall be construed as a waiver, modification or relinquishment thereof. All obligations of Grantor under this Easement will be suspended upon the occurrence and for the duration of an Event of Default.

Article X

Termination of Easement

1. Treatment of Facilities Upon Termination. Upon termination of this Easement for any reason, Grantor may, at its sole option: (a) purchase that portion of the Facilities located in, on or under the Easement at a price to be agreed upon between the parties hereto, but in no event greater than a price equivalent to 50% of the uninstalled cost of new pipe, materials and equipment of the same dimension, type, grade and quality installed, or (b) allow Grantee to abandon the Facilities in place, if Grantor and Grantee enter a written agreement, which agreement shall contain but not be limited to the requiring an acceptable payment to Grantor, removal of all liquids and substances from the Pipeline before abandonment, severance and capping of the Pipeline on all ends and indemnification both of which must be acceptable to Grantor), or (c) require Grantee, at Grantee's sole risk, cost and expense, to commence, within thirty (30) days after written request from Grantor, the removal of its Facilities from the Easement Tracts and restore the Easement Tracts as close as possible to their original condition. Such removal and restoration shall be completed within ninety (90) days of commencement of such operation. Notwithstanding the above, this Easement shall terminate and become null and void twelve (12) months from the effective date hereof unless prior to such date, construction of the Facilities shall have been completed and use of the Facilities for the purposes herein specified shall have commenced. Any property or Facilities not so removed shall become the property of Grantor, and Grantor may thereafter cause such property and Facilities to be removed from the Easement Tracts. Grantee shall pay to Grantor on demand the cost of removing and disposing of such property and Facilities and repairing any damage to any of the Easement Tracts caused by such removal (together with interest at the Default Rate from the date of advancement thereof by Grantor).
2. Grantee's Release of Easement. In the event this Easement shall terminate for any reason, Grantee, or its successors or assigns, will, within twenty (20) days following written request by Grantor, execute and deliver to Grantor a good and sufficient release of this Easement in recordable form.

The provisions of this Article will survive the termination of this Easement.

Article XI

Insurance

At all times during the term of this Easement, Grantee will and will cause each of its

contractors and subcontractors to provide and maintain insurance coverage(s) in accordance with the requirements set forth in **Schedule I** attached hereto.

Article XII

Waivers and Indemnities

1. Grantee's Release of Grantor. Grantee hereby waives and releases Grantor, its agents, officers and employees, of and from any and all right of recovery, claim, action or cause of action for any loss or damage that may occur to the Facilities or the Easement Tracts, or personal property or fixtures within the Easement Tracts, by reason of fire or the elements, regardless of cause or origin, including negligence of Grantor or its agents, officers and employees. In the event that Grantee sustains a loss by reason of fire or other casualty which is covered (or could have been covered) by a fire and extended coverage insurance policy or other insurance policy or rider thereto, and such fire or casualty is caused in whole or in part by acts or omissions of Grantor, its agents, servants or employees, then Grantee agrees to look solely to its insurance proceeds (if any); and Grantee shall have no claim or right of recovery against Grantor, or the agents, servants or employees of Grantor; and no third party shall have any claim or right of recovery by way of subrogation or assignment or otherwise. To the extent that Grantee fails to take out or maintain the aforesaid fire and extended coverage insurance policy, such failure shall be a defense to any claim asserted by Grantee against Grantor by reason of any loss sustained by Grantee due to fire or other casualty notwithstanding that such loss might have been proximately caused solely by the negligence of Grantor, its agents, officers or employees. Grantee agrees to immediately give the insurance companies which have issued policies of insurance covering all risk of direct physical loss, written notice of the terms of the waivers contained in this Section, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverage's by reason of such waivers.
2. Indemnification of Grantor. As used in this Easement, the term "Indemnified Parties" means Grantor, its officers, directors, commissioners, attorneys, employees, agents, successors, and assigns. **TO THE FULLEST EXTENT PERMITTED BY LAW AND REGARDLESS OF ANY DEGREE OF FAULT, OMISSION OR NEGLIGENCE, STRICT LIABILITY, STRICT STATUTORY LIABILITY, STRICT PRODUCTS LIABILITY OR NEGLIGENCE PER SE OF THE INDEMNIFIED PARTIES, GRANTEE HEREBY ASSUMES ALL LIABILITY FOR, AND AGREES TO DEFEND, INDEMNIFY AND HOLD THE INDEMNIFIED PARTIES HARMLESS FROM ALL CLAIMS, FINES, DAMAGES, LIABILITIES, LOSSES, COSTS, EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND COURT COSTS), PENALTIES, ASSESSMENTS, ENVIRONMENTAL RESPONSE COSTS, AND/OR INJUNCTIVE OBLIGATIONS, WHICH MAY BE SUFFERED OR INCURRED AT ANY TIME BY THE INDEMNIFIED PARTIES, ON ACCOUNT OF INJURIES TO OR DEATH OF ANY PERSONS, DAMAGE TO OR DESTRUCTION OF ANY PROPERTY, AND/OR ANY VIOLATION OF ANY**

APPLICABLE LAW, RULE, REGULATION, OR ORDER OF ANY GOVERNMENTAL ENTITY, CAUSED BY, RESULTING FROM, OR ARISING OUT OF THE CONSTRUCTION, OPERATION, MAINTENANCE (AND FAILURE TO MAINTAIN), REPAIR (AND FAILURE TO REPAIR), REPLACEMENT, REMOVAL AND USE OF THE FACILITIES AND/OR ANY RELATED EQUIPMENT AND APPURTENANCES, OR THE RIGHTS GRANTED HEREIN.

THE OBLIGATION OF GRANTEE DESCRIBED ABOVE SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR GRANTEE UNDER WORKER'S OR WORKMEN'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS OR THE MINIMUM INSURANCE LIMIT SET FORTH IN THIS EASEMENT.

THE PARTIES RECOGNIZE AND UNDERSTAND THAT THE PURPOSE OF THIS SECTION IS FOR GRANTEE TO PROVIDE FULL AND COMPLETE INDEMNIFICATION TO THE INDEMNIFIED PARTIES EVEN THOUGH THE INDEMNIFIED PARTIES MAY HAVE BEEN NEGLIGENT, NEGLIGENT PER SE OR MAY BE LIABLE UNDER THEORIES OF STRICT LIABILITY AND/OR STRICT PRODUCTS LIABILITY, INCLUDING SOLE CAUSE OR NEGLIGENCE; AND GRANTEE'S INDEMNITY OBLIGATIONS ARE INTENDED TO AND WILL PROTECT THE INDEMNIFIED PARTIES AGAINST THE CONSEQUENCES OF THEIR OWN STRICT LIABILITY, FAULT, CONCURRENT, SOLE OR CONTRIBUTORY NEGLIGENCE.

The provisions of this Article will survive the expiration or termination of this Easement and will be binding upon Grantee, its successors and assigns.

Article XIII Environmental

1. Environmental Laws. As used in this Easement, the term "Environmental Laws" means all applicable federal, state and local laws, whether common laws, court or administrative decisions, statutes, rules, regulations, ordinances, court orders and decrees, and administrative orders concerning action levels of a Governmental Authority now or hereafter in effect relating to the environment, public health, occupational safety, industrial hygiene, any Hazardous Substance (including the disposal, generation, manufacture, presence, processing, production, release, storage, transportation, treatment or use thereof), or the environmental conditions on, under or about the Easement Tracts, as amended and as in effect from time to time, including, without limitation, the following statutes and all regulations there under as amended and in effect from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.; the Superfund Amendments and Reauthorization Act of 1986, Title III, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300(f) et seq.; the

Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§ 1801 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. §§ 2601 et seq.; and the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; and any successor statutes and regulations to the foregoing. The term "Hazardous Substances" means (a) all chemicals, materials and substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law; and (b) all other chemicals, materials and substances, exposure to which is prohibited, limited or regulated by any Governmental Authority, including asbestos and asbestos-containing materials in any form, petroleum and petroleum products and byproducts, lead-based paint, radioactive materials, polychlorinated biphenyls ("PCBs"), and substances and compounds containing PCBs.

2. Hazardous Substances. Grantee shall not cause or permit any Hazardous Substance to be brought upon, kept, used or released in or about the Easement Tracts in violation of any Environmental Laws, and Grantee further covenants and agrees that Grantee shall not install, use or operate any underground storage tanks, pits or impounds at or on the Easement Tracts. If (i) Grantee breaches the obligations stated in this Section, or (ii) the presence of any Hazardous Substance on the Easement Tracts from whatever cause or nature, including actions of third parties taken with or without the permission or knowledge of Grantee, results in contamination of any of the Easement Tracts or any other property in violation of any Environmental Laws, or (iii) contamination of the Easement Tracts by any Hazardous Substance otherwise occurs in violation of any Environmental Laws, then **GRANTEE SHALL INDEMNIFY, DEFEND AND HOLD INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, JUDGMENTS, DAMAGES, PENALTIES, FINES, COSTS, LIABILITIES OR LOSSES (INCLUDING DIMINUTION IN VALUE OF THE EASEMENT TRACTS, DAMAGES FOR THE LOSS OR RESTRICTION ON USE OF THE EASEMENT TRACTS, AND SUMS PAID IN SETTLEMENT OF CLAIMS, REASONABLE ATTORNEYS' FEES, CONSULTANT FEES AND EXPERT FEES) THAT ARISE DURING OR AFTER THE TERM AS A RESULT THEREOF.** The foregoing indemnification by Grantee includes costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any Governmental Authority because of any Hazardous Substance present, in violation of any Environmental Laws, on, in or about the Easement Tracts, or the soil or groundwater on or under the Easement Tracts. Without limiting the foregoing, if the presence of any Hazardous Substance on or about the Easement Tracts caused or permitted by Grantee results in any contamination of any portion thereof in violation of any Environmental Laws, Grantee shall promptly take all actions, at its sole cost, as are necessary to return the Easement Tracts to the condition existing prior to the introduction of any such Hazardous Substance, subject to obtaining Grantor's prior written consent to the actions to be taken by Grantee, which consent shall not be

unreasonably withheld. Grantor may require its prior written approval (which approval will not be unreasonably withheld) to the selection of the contractors and other experts involved in the inspection, testing and removal or abatement activities, the scope of activities to be performed, the manner and method for performance of such activities, and such other environmental, health and safety matters as may be required or requested by Grantor for the continued use of the Easement Tracts and the safety of the Easement Tracts and all occupants thereof. Grantee shall provide Grantor with such documentation and information requested by Grantor with respect to any inspection, testing, remediation, removal, abatement or other activities undertaken by or on behalf of Grantee under this Section. Any remediation, removal, abatement or other activities shall be completed in accordance with applicable Environmental Laws. The obligations and liabilities of Grantee herein shall survive termination of this Easement.

3. Environmental Assessments. At any time, and from time to time during the term of this Easement, Grantor may, at its sole option, perform such reasonable environmental site assessments, examinations, studies, tests and monitoring of the Easement Tracts (collectively, "Assessments") as Grantor deems necessary to evaluate Grantee's compliance with the terms of this Easement and applicable Laws. Grantor shall have the right to choose the consultant and contractor for all work related to, and necessary to complete the Assessments; provided, however, that any contractor so chosen shall then have in full force and effect all licenses required by all Governmental Authorities. Grantor will promptly provide Grantee with copies of all test results, data and reports gathered, or received relating to such Assessments. Grantee shall reimburse Grantor for all costs and expenses incurred by Grantor in connection with the performance of the Assessments, provided that (unless any such Assessment reveals a breach by Grantee of any of its obligations under this Easement) Grantee shall have no obligation to reimburse Grantor for more than (i) one series of Assessments for each Assessment Period (regardless of whether such Assessments are performed during the applicable Assessment Period), and (ii) one series of Assessments performed following expiration of this Easement. The term "Assessment Period" means the period of five (5) years beginning on the Effective Date and each five (5) year anniversary thereof. If any Assessment identifies the presence of any Hazardous Substances on, in or about the Easement Tracts in violation of Environmental Laws or Grantee's obligations herein, or that could reasonably give rise to a violation of Environmental Laws, Grantee shall promptly, at its sole cost, take all necessary steps in accordance with this Section to return the Easement Tracts to the condition existing prior to the introduction or increase of any such Hazardous Substances. The obligations and liabilities of Grantee in this Section will survive the termination of this Easement.
4. Notification. Grantee shall promptly notify Grantor of any (i) enforcement, clean-up, removal or other governmental or regulatory action concerning the Easement Tracts instituted, completed or threatened pursuant to any Environmental Law; (ii) claim made or threatened by any Person against Grantor and/or Grantee, or the Easement Tracts, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Substance; (iii) reports made (excluding information deemed confidential or privileged under applicable Laws) to any

environmental agency arising out of or in connection with any Hazardous Substance in, on, under or about the Easement Tracts or with respect to any Hazardous Substance removed from the Easement Tracts including any complaints, notices, warnings, reports or asserted violations in connection therewith; and (iv) Hazardous Substance that Grantee knows has been, or will come to be, released or located within, under or about the Easement Tracts.

Article XIV Miscellaneous

1. Taxes. Grantee agrees to render and pay all taxes, assessments, and other impositions which may be lawfully assessed, levied, or imposed upon any personal property, improvement or fixture owned, leased or in the possession of Grantee and being located within the Easement Tracts. The obligations under this paragraph shall survive the cancellation, expiration or termination of this Easement and shall be binding upon Grantee, its successors and assigns.
2. Site Clearing. Grantee agrees that during construction, operation, maintenance, installation, inspection, relocation, repair, replacement and removal of the Facilities, any and all trees, timber, wood, bushes, shrubs and brush cleaned from the Easement Tracts will be chipped, slashed and spread in inconspicuous locations on Grantor's property, said locations to be reasonably designated by Grantor in its sole discretion. Grantee further agrees that neither Grantee, nor its assigns, employees, contractors, agents nor representatives shall burn any trees, timber, wood, bushes, shrubs or brush cleared from the Easement Tracts on Grantor's property.
3. Supervisors. Grantor shall have the right, but shall not be obligated, to have a supervisor present during installation of the Facilities and during any subsequent repair, maintenance or alteration of the Facilities. Although supervisors have the right to stop work at any time, supervisors are present at the site solely for the benefit of Grantor and are not responsible for the safety of work crews. If Grantor requires a supervisor to be present, Grantee agrees to pay Grantor a supervisory fee in an amount to be established by Grantor from time to time, which fee covers reimbursement of the cost of the supervisor and related administrative costs. The supervisory fee will be billed when the work has been completed and is to be paid within thirty (30) days of invoice.
4. Assignment. Grantee shall not assign, transfer, pledge, encumber or otherwise convey, in whole or in part, this Easement or any rights and privileges granted herein without the prior written consent of Grantor. Any such purported assignment, transfer, pledge, encumbrance or other conveyance by Grantee without the prior written consent of Grantor will be void and, at Grantor's option, will constitute an Event of Default. Consent to one assignment, transfer, pledge, encumbrance or other conveyance shall not operate as consent to any subsequent assignment, transfer, pledge, encumbrance or other conveyance. No assignment, transfer, pledge, encumbrance or other conveyance will operate to relieve or release Grantee of any of its obligations under this Easement, and

Grantee will remain fully liable for payment and performance of all obligations hereunder unless and until Grantor shall specifically release Grantee of such obligations in writing.

5. Entire Agreement. This Easement supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof and sets forth the entire understanding of the parties with respect thereto and may not be changed or terminated orally, and no attempted change, termination or waiver of any of the terms or provisions hereof (including without limitation any change in the location of the centerline of the Easement Tracts and the Facilities) shall be binding unless in writing and signed by each of the parties hereto. The parties acknowledge, in entering into this agreement, they are not relying on any representations expressed outside the four corners of this agreement and the parties expressly disclaim reliance on same.
6. Notices. Any notice required or permitted to be given under this Easement must be in writing and may be served by (a) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, and registered or certified with return receipt requested; (b) delivering the same by recognized overnight delivery service; (c) delivering the same in person to such party; or (d) by facsimile copy transmission with confirmation of receipt. Notice given in accordance with (a) above shall be effective three (3) days after being mailed. Notice given in accordance with (b), (c), and (d) above shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to Grantee, to:

If to Grantor, to:

Port Freeport
Attn: Executive Director
200 W. 2nd St. 3rd floor
Freeport, Texas 77542-0615

With a copy to:

Mauro & Cordoba, PLLC
Attn: Frank L. Mauro, Attorney at Law
208 Parking Way
Lake Jackson, Texas 77566

Either party hereto may change its address for notice by giving ten (10) days' prior written notice thereof to the other party.

7. Survival. All of Grantee's obligations, established by and arising under this Easement shall survive the termination of this Easement.

8. Binding Effect. All of the provisions of this Easement shall extend to, bind or inure to the benefit of, as the case may be; Grantor and Grantee, and their respective permitted successors and assigns.
9. No Waiver. No waiver of any provision of this Easement shall be implied by any failure of either party to enforce any remedy upon the violation of such provision, even if such violation is continued or repeated subsequently. No express waiver shall affect any provision other than the one specified in such waiver, and that only for the time and in the manner specifically stated.
10. Short Form Easement. Grantor and Grantee shall cause to be prepared and shall execute, acknowledge and deliver a short form memorandum of this Easement in recordable form that shall be recorded in the real property records in which the Easement Tracts are located to evidence and represent the provisions of this Easement and the location of the Pipeline. Upon the termination of this Easement, Grantor and Grantee shall immediately cause to be prepared and shall execute, acknowledge and deliver a termination of such short form memorandum in recordable form that shall be recorded in such real property records. Grantee shall pay all costs and expenses (including but not limited to all transfer, conveyance, recordation and similar taxes and assessments imposed) in connection with execution or recordation of documents or instruments contemplated in this Section. The covenants set forth in this Section shall survive the termination of this Easement.
11. Captions. The captions of Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Sections.
12. Severability. If any provision of this Easement is declared void or unenforceable by a final judicial or administrative order, this Easement shall continue in full force and effect, except that the void or unenforceable provision shall be deemed deleted and replaced with a provision as similar in terms to such void or unenforceable provision as may be possible and be valid and enforceable. If any of the obligations assumed or imposed upon Grantee hereunder shall be determined to be void or unenforceable, Grantor may (at Grantor's option) terminate this Easement by written notice to Grantee.
13. Authority to Bind. The individuals signing this Easement on behalf of Grantor and Grantee represent and warrant that they are empowered and duly authorized to bind Grantor or Grantee, as the case may be, to this Easement according to its terms.
14. No partnership. Grantor and Grantee agree that no provision of this Easement shall be deemed to create any partnership, joint venture or other relationship between Grantor and Grantee other than the relationship of landowner and easement holder.
15. Counterparts. This Easement may be executed in counterparts, and executed counterparts bearing signatures of Grantor and Grantee shall constitute a fully executed original of this Easement.

16. Time of Essence. Time is of the essence of each of the provisions of this Easement.

17. Governing Law. This Easement shall be governed by and construed according to the Laws of the State of Texas. Venue for any action arising under this Easement shall lie in state district court in Brazoria County, Texas.

TO HAVE AND TO HOLD said Easement unto Grantee, its successors and assigns for so long as the same shall be used for the purposes aforesaid, subject to the terms and provisions hereof and so long as the Facilities are operated and maintained in accordance with the terms and provisions hereof, and Grantee complies with all of its obligations set forth herein.

EXECUTED as of the dates of the acknowledgments set forth below, to be EFFECTIVE for all purposes as of the ____ day of _____, 2014 ("Effective Date").

Grantor:

PORT FREEPORT
BRAZORIA COUNTY, TEXAS

ATTEST:

By: _____
Shane Pirtle,
Secretary
Board of Port Freeport
Commissioners

By: _____
John Hoss,
Chairman
Board of Port Freeport
Commissioners

Grantee:

By: _____

STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared John Hoss, as Chairman, Port Commission of PORT FREEPORT known to me to be the person whose name is subscribed hereto, and acknowledged to me that he executed the foregoing instrument for the purposes and consideration therein expressed, and in the capacity therein stated.

TO CERTIFY WHICH, witness my hand and official seal on this the ____ day of _____, 2014.

Notary Public in and for
The State of TEXAS

STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

BEFORE ME, the undersigned authority, on this day personally appeared _____, as _____, of _____, known to me to be the person whose name is subscribed hereto, and acknowledged to me that he executed the foregoing instrument for the purposes and consideration therein expressed, and in the capacity therein stated.

TO CERTIFY WHICH, witness my hand and official seal on this the ____ day of _____, 2014.

Notary Public in and for
The State of TEXAS

Schedule I
Insurance Requirements

1. Insurance Coverage's.

- (a) Grantee will at its own expense, keep and maintain, or cause to be kept and maintained, and will at all times require all of its contractors and subcontractors performing any work within the Easement Tracts to keep and maintain, the following insurance policies having the following minimum limits:
 - (i) Commercial general liability insurance, including contractual liability for duties assumed Grantee under this Agreement, covering claims for personal injury, death and property damage, with limits of no less than \$1,000,000.00 combined single limit each occurrence for bodily injury and property damage, subject to a \$2,000,000.00 general aggregate limit, and providing a deductible or self-insured retention not to exceed \$25,000.00;
 - (ii) Business Automobile Liability insurance, including coverage for all owned, non-owned and hired vehicles, with limits of no less than \$1,000,000.00 combined single limit for each accident;
 - (iii) Workers' compensation insurance with limits required by the Workers' Compensation Laws of the State of Texas;
 - (iv) Such other policies of insurance as Grantor may reasonably require from time to time.
- (b) Grantee will deliver to Grantor certificates of the required insurance or such other proof of insurance as shall be deemed acceptable by Grantor prior to any entry upon the Easement Tracts. All such policies of insurance shall (i) name Grantor as an additional insured (other than Workers' Compensation Insurance), (ii) provide that the policy will not be cancelled or reduced in coverage unless Grantor is given thirty (30) days prior written notice, (iii) insure performance of the indemnities of Grantee contained in the Agreement, and (iv) be primary coverage, so that any insurance coverage obtained by Grantor will be in excess thereto. Grantee will deliver to Grantor certificates of renewal no less than thirty (30) days prior to the expiration date of each such policy and copies of new policies prior to terminating any such policies. All policies of insurance required to be maintained by Grantee will be subject to the approval of Grantor as to terms, coverage, deductibles and issuer, which approval will not be unreasonably withheld.

2. Waivers of Subrogation. All policies shall contain full waivers of subrogation against Grantor.

3. Blanket Policies. Anything in this Schedule to the contrary notwithstanding, any insurance that Grantee is required to obtain hereunder may be carried under a "blanket" or umbrella policy or policies covering other properties or liabilities of Grantee, provided that such "blanket" or umbrella policy or policies otherwise comply with the provisions

of this Schedule and provided further that such policies provide for a reserved amount there under to assure that the insurance required by this Schedule shall be available notwithstanding any losses with respect to other property covered by such blanket policies.

4. Compliance with Policy Terms. Grantee shall promptly comply with and conform to (a) all provisions of each insurance policy required by this Schedule and (b) all requirements of the insurers there under.