

The State of Texas



Austin, Texas

MISCELLANEOUS EASEMENT (PIPELINES)

ME800236

STATE OF TEXAS

§

COUNTY OF NUECES

§

§

KNOW ALL MEN BY THESE PRESENTS:

This Miscellaneous Easement (the "Agreement"), ME800236, is granted by virtue of the authority granted in Section 51.291, *et seq.*, TEX. NAT. RES. CODE, 31 TEX. ADMIN. CODE §13.12, *et seq.*, and all other applicable statutes and rules, as the same exist on the date hereof or as they may be amended from time to time.

ARTICLE I. PARTIES

1.01. In consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the STATE OF TEXAS, acting by and through the Commissioner of the General Land Office, on behalf of the Permanent School Fund, (the "STATE"), hereby grants to City of Corpus Christi, whose address is PO Box 9277, Corpus Christi, TX 78469-9277, phone number (361) 826-3500, (the "Grantee"), a non-exclusive easement for the purposes identified in Article V.

ARTICLE II. PREMISES

2.01. The easement is located across Permanent School Fund land in Nueces County(ies), Texas, described as follows:

Laguna Madre, State Tract Numbers 16, 17, 28, 29, 44, 51, 61 and the easement is a right-of-way 1130.1 rods long and 30 feet wide, being 15 feet either side of a centerline formed by the Improvements (as hereinafter defined), as constructed (the "Premises"). In addition, if repair and/or replacement of the pipeline is necessary, for a period not to exceed 60 days, Grantee shall again be granted additional easement width which shall be 100 feet wide being 50 feet either side of the centerline.

The Premises are further described or depicted on the Vicinity Map attached hereto as Exhibit A and the Survey Plats attached hereto as Exhibit B, collectively incorporated by reference for descriptive purposes.

2.02. Grantee acknowledges and agrees that when the Improvements (as hereinafter defined) are placed on the Premises, the location of such Improvements within the easement shall thereby become fixed at such location and shall not be changed except by an amendment to this Agreement signed by both parties hereto and subject to any approval by any other governmental agency with jurisdiction over same.

2.03. **GRANTEE HAS INSPECTED THE PHYSICAL AND TOPOGRAPHIC CONDITION OF THE PREMISES AND ACCEPTS THE SAME "AS IS", IN ITS EXISTING PHYSICAL AND TOPOGRAPHIC CONDITION. THE STATE DISCLAIMS ANY AND ALL WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AND ANY**

OTHER WARRANTY WHATSOEVER NOT EXPRESSLY SET FORTH IN THIS AGREEMENT. THE STATE AND GRANTEE HEREBY AGREE AND ACKNOWLEDGE THAT THE USE OF THE TERM "GRANT" IN NO WAY IMPLIES THAT THIS EASEMENT IS FREE OF LIENS, ENCUMBRANCES AND/OR PRIOR RIGHTS. NOTICE IS HEREBY GIVEN TO GRANTEE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCE MAY BE OF RECORD, AND GRANTEE TAKES SUBJECT TO ANY SUCH PRIOR GRANT AND/OR ENCUMBRANCE. GRANTEE IS ADVISED TO EXAMINE THE RECORDS IN THE ARCHIVES AND RECORDS DIVISION OF THE GENERAL LAND OFFICE, 1700 NORTH CONGRESS AVENUE, AUSTIN, TEXAS 78701-1495, AND ALL OTHER LAND TITLE RECORDS OF THE COUNTY OR COUNTIES IN WHICH THE PREMISES ARE LOCATED. THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS EASEMENT.

ARTICLE III. TERM

3.01. This Agreement is for a period of ten (10) years, beginning on June 1, 2010, and ending on May 31, 2020, unless renewed, amended, or sooner terminated as authorized by law or as set forth herein.

3.02. Provided that Grantee has complied with all provisions of this Agreement, Grantee shall have the right to extend and renew this Agreement pursuant to 31 TAC §13.17(c) and (d) for an additional like term based on the then current rate schedule and on the terms and conditions provided hereunder, by taking the following actions:

- (i) providing written notice to the STATE of Grantee's intent to renew the Agreement not less than ninety (90) days prior to expiration of the term of this Agreement; and
- (ii) completing and submit to the STATE for approval, an application for renewal within thirty (30) days following the notice provided in Section 3.02(i); and
- (iii) paying the applicable renewal fee, pursuant to the rate schedule in effect at the time of renewal; and
- (iv) providing documentation showing the current location of the Improvements. This documentation shall include spatial coordinates sufficient for determining that the pipeline(s) lie within the approved Premises. Such information may be in the form provided to the U.S. Department of Transportation, provided that such documentation includes the current location and spatial coordinates. Notwithstanding the foregoing, and provided that the pipeline has been in place for at least twenty (20) years (an "older pipeline"), Grantee may, in lieu of providing such actual dimensions and spatial coordinates, satisfy the requirements of this subsection (iv) by providing a certified written statement by a Professional Engineer which states that the engineer, despite having employed best efforts to do so, can not ascertain the burial depth and/or location coordinates of such existing pipeline from Grantee's existing records and documentation. Any such certified statement shall also include any documentation in Grantee's possession relating to either the actual dimensions or spatial coordinates of the Improvements. If Grantee, at any time, later discovers or determines the actual burial depth and/or location coordinates of an older pipeline, Grantee agrees to submit such documentation to STATE. If either STATE or Grantee determine that an older pipeline is not actually located within the right of way described in this Agreement, both STATE and Grantee will enter into an amendment to this Agreement to correct the right of way description provided such right of way is located on State-owned land. In any event, Grantee **will indemnify** STATE pursuant to Section 8.01 of this Agreement even if some or all of the Improvements are not located on State-owned land.

3.03. In the event that Grantee shall fail to comply with the requirements of Section 3.02, Grantee shall be in default hereunder; however, the Easement shall not terminate until STATE provides notice of such failure and allows a period of thirty (30) days for Grantee to cure such failure and default. Grantee's failure to comply with Section 3.02, even if subsequently cured to STATE's satisfaction, shall be deemed a forfeiture of any right Grantee may have to renew the Agreement. STATE may require (i) the full then-current fee as calculated for a new easement, or, (ii) the applicable renewal fee pursuant to the rate schedule in effect at the time of renewal, plus an administrative penalty as determined by STATE.

ARTICLE IV. CONSIDERATION AND TAXES

4.01. A. As consideration (Consideration) for the granting, or if applicable, renewal of this easement, Grantee agrees to pay the STATE (payable to the Commissioner of the General Land Office at Austin, Texas) the sum of Sixty-Six Thousand Six Hundred Seventy-Five And 90/100 Dollars (\$66,675.90), due and payable upon the execution of this Agreement.

B. Past due Consideration and other past due payments shall bear interest as provided in TEX. NAT. RES. CODE Section 51.301, as amended from time to time. Failure of Grantee to make a payment on or before the date the same becomes due shall be deemed an act of default and, at the STATE's option, cause all payments to become due and payable immediately; provided, however, STATE shall give Grantee notice of such default and allow a period of thirty (30) days within which to cure the default before exercising such option to accelerate such payments.

4.02. In addition to the above, Grantee shall pay and discharge any and all taxes, general and special assessments, and other charges which during the term of this Agreement may be levied on or assessed against Grantee's interest in the Premises or on the Improvements constructed thereon.

4.03. Grantee agrees to and shall protect and hold the STATE harmless from liability for any and all such taxes, charges, and assessments, together with any penalties and interest thereon, and from any sale or other proceeding to enforce payment thereof.

ARTICLE V. USE OF THE PREMISES

5.01. Grantee and Grantee's employees, contractors, and agents shall have the right to use the Premises for a right-of-way to construct, maintain, operate, inspect, repair, change the size of, and replace one (1) 24-inch O.D. pipeline for the purpose of transporting domestic water (the "Improvements"). Grantee shall not change (i) the operation of the pipeline in any material respect or (ii) the category of products therein, without STATE's written permission, such permission not to be unreasonably withheld. Also, it shall not be unreasonable for STATE to (a) condition its consent on Grantee procuring and providing proof to STATE of adequate insurance to protect the Premises and (b) charge fees for (i) additional pipelines, and (ii) changes in use operation, including but not limited to, a use separate and apart from the original use contemplated by the Agreement, e.g. fiber optics and reverse flow. STATE agrees to grant or deny such permission within thirty (30) days following Grantee's request for a category use change, provided such request includes all information necessary for STATE to make an informed decision.

5.02. A. The STATE and Grantee hereby acknowledge and agree that each shall have reciprocal rights of ingress and egress to and from the Premises across contiguous or adjacent Permanent School Fund land or land owned by Grantee, provided in the exercise of this right the STATE and Grantee agree not to unreasonably interfere with the other party's (or that party's agents, assignees, or designees) use of its property. At its sole cost, risk, and expense, Grantee shall have the right of ingress and egress for the purposes authorized by Section 5.01 and such right is not granted for any other purpose. Grantee and the STATE mutually agree to coordinate the use of contiguous or adjacent Permanent School Fund land or land owned by Grantee, respectively, and to exercise such right of use only to the extent and in the manner allowed by the respective interests of the parties in the subjects lands and for the length of time necessary to provide access to and from the Premises. Notwithstanding any other provisions to the contrary, no easement is created by this Section 5.02; instead, a license is granted to the parties and their respective officers, employees, agents and contractors for the limited purposes set forth herein.

B. Grantee acknowledges and agrees that the STATE's right of ingress and egress described in Section 5.02.A. of this Agreement shall be and remain in effect as long as the Improvements and any other structure placed on the Premises by Grantee remain on the Premises, as necessary for the STATE to confirm the removal (in whole or in part) of the Improvements, and/or until any claims of liability against STATE arising in connection with the Improvements are finally resolved. Such right of ingress and egress shall survive the expiration or earlier termination

of this Agreement, but only for so long as the Improvements remain on the Premises and/or any claims for liability have not been finally resolved.

5.03. A. Grantee's use of the Premises is subject to and contingent upon compliance with the following covenants, obligations and conditions (the "Special Conditions"):

1. Grantee is responsible for maintaining all structures authorized under this contract in good repair and safe condition, and in compliance with all existing state and federal regulations governing such work.
2. If a leak occurs in a pipeline, Grantee shall take all immediate action to prevent further release, as comports with industry practice or complies with applicable regulatory requirements.
3. Grantee is required to perform mitigation and/or pay surface damage fees according to the STATE's policy in effect at the time damages occur for any and all surface damages resulting from actions of Grantee's employees, contractors, and/or agents during the term of this easement. If mitigation is required Grantee will be notified in writing by the STATE of the terms and conditions under which the mitigation shall be conducted. Such mitigation and/or payment of damage fees shall be performed in the manner and within the time frame specified in written notice provided by the STATE to Grantee following said damages.

B. Prior to any construction, installation, repair, or other activities on the Premises, Grantee shall provide written notice of all the terms of this Agreement relating to the particular activity to any contractor and/or agent involved in any such activity. On request, Grantee shall send a copy of such notice to the General Land Office, ATTN: Asset Inspection, 1700 N. Congress Avenue, Austin, Texas 78701-1495.

5.04. STATE shall have the right to use or to permit the use of any or all of the Premises for any purpose deemed, in STATE's sole discretion, not to be inconsistent with Grantee's easement grant. STATE, its agents, representatives and employees shall have the right to enter upon the Premises at any reasonable time (or any time in case of emergency) for purposes of inspection, repair, and any other purpose necessary to protect STATE's interests therein. Except in the event of an emergency, in which case no notice is required by STATE, if STATE reasonably believes that a repair is necessary to protect the health and safety of the public, the environment, or the value of STATE's property, STATE shall give Grantee reasonable prior written notice of the necessary repair. If STATE gives such notice, and Grantee does not initiate immediate action to pursue to completion such repair with diligence, STATE may, but shall not be obligated to, undertake that repair, all costs of which shall be immediately due and payable by Grantee on STATE's demand. This Section 5.04 is for the sole purpose of providing a mechanism for STATE to respond to a situation in which immediate action is required to protect the State and/or public interest and such immediate action has not been initiated by or on behalf of Grantee.

5.05. Grantee shall not use, or permit the use of the Premises for any illegal purpose. Grantee shall comply, and will cause its officers, employees, agents, contractors and invitees to comply, with all applicable laws, ordinances, rules, and regulations of governing agencies concerning use of the Premises.

5.06. Failure by Grantee to construct, maintain and operate the Improvements in accordance with this Article V may render such Improvements "unauthorized structures" as defined under TEX. NAT. RES. CODE §51.302 and subject them to sanctions provided therein.

ARTICLE VI. ASSIGNMENTS

6.01. A. Grantee shall not assign the premises or the rights granted herein, in whole or part, to any third party for any purpose without prior written consent of the STATE, which consent may not be unreasonably withheld. For purposes of this Section 6.01 A, the phrase "third party" shall not include any subsidiary or affiliate in which Grantee

owns, respectively, at least a majority percentage, or the largest plurality percentage, voting interest.

B. Grantee may assign this Agreement without STATE's consent to (a) a parent entity, (b) any affiliate of Grantee controlled by the same parent entity, or (c) any subsidiary or affiliate in which Grantee owns, respectively, at least a majority percentage, or the largest plurality percentage, voting interest, provided that, in any of the foregoing events, (i) the resulting entity agrees in writing to assume and perform all of the terms and conditions of this Agreement, and (ii) Grantee provides notice to STATE of any such assignment within thirty (30) days of such assignment. In the event of such assignment, it is understood and agreed by both Grantee and STATE that the original Grantee remains liable to STATE under all terms and provisions of the Agreement.

C. Any assignment which fails to comply with the foregoing provisions shall be void and of no effect.

D. This provision and the prohibition against unauthorized assignments contained herein shall survive expiration or earlier termination of this Agreement. For purposes of this Agreement, an assignment is any transfer, including by operation of law, to another of all or part of the property, interest or rights herein granted.

ARTICLE VII. PROTECTION OF NATURAL AND HISTORICAL RESOURCES

7.01. With regard to all activities authorized herein, Grantee shall use all reasonable best efforts to: (i) prevent pollution of air, ground, and water in and around the Premises, and (ii) to protect and preserve natural resources and wildlife habitat. Grantee shall comply with all applicable rules and regulations of the General Land Office, the School Land Board, and other governmental agencies responsible for the protection and preservation of public lands and waters, natural resources, and wildlife habitat. In the event of a pipeline incident that is reportable to the U.S. Department of Transportation, the General Land Office, or the Railroad Commission of Texas (or any other applicable regulatory agency) that may result in pollution of the Premises or adjacent property, Grantee shall notify the STATE immediately upon discovery of such incident, use all means reasonably available to recapture any pollutants which have escaped or may escape, and mitigate for any and all natural resource damages caused thereby.

7.02. **GRANTEE IS HEREBY EXPRESSLY NOTIFIED OF THE NATIONAL HISTORICAL PRESERVATION ACT OF 1966, (PB-89-66, 80 STAT. 915, 16 U.S.C.A. SECTION 470, ET. SEQ.) AND THE ANTIQUITIES CODE, [TITLE 9, CHAPTER 191, TEX. NAT. RES. CODE]. IN CONFORMANCE WITH THESE LAWS, IN THE EVENT THAT ANY SITE, FOUNDATION, BUILDING, STRUCTURE, LOCATION, OBJECT, ARTIFACT, ITEM OR OTHER FEATURE OF ARCHEOLOGICAL, SCIENTIFIC, EDUCATIONAL, CULTURAL OR HISTORIC INTEREST IS ENCOUNTERED DURING THE ACTIVITIES AUTHORIZED BY THIS EASEMENT, GRANTEE SHALL IMMEDIATELY CEASE ANY AND ALL ACTIVITIES, AND NOTIFY THE COMMISSIONER OF THE GENERAL LAND OFFICE AND THE TEXAS HISTORICAL COMMISSION, PO BOX 12276, AUSTIN, TEXAS 78711, SO THAT APPROPRIATE ACTION MAY BE UNDERTAKEN TO PROTECT OR RECOVER SUCH DISCOVERIES OR FINDINGS, AS APPROPRIATE. IN THE EVENT THAT GRANTEE IS REQUIRED TO CEASE ACTIVITIES, THE STATE SHALL NOT BE LIABLE FOR ANY COSTS OF GRANTEE, GRANTEE'S AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS OR ANY OTHER PERSON OR ENTITY AS A RESULT OF ANY INTERRUPTION OF GRANTEE'S ACTIVITIES OR INABILITY TO USE THE PREMISES AS HEREIN CONTEMPLATED.**

ARTICLE VIII. INDEMNITY

8.01. **TO THE EXTENT PERMITTED BY LAW, GRANTEE SHALL BE FULLY LIABLE AND RESPONSIBLE FOR ANY DAMAGE, OF ANY NATURE, ARISING OR RESULTING FROM OR ATTRIBUTABLE TO GRANTEE'S USE GRANTED HEREIN OR THE ACTS OR OMISSIONS OF GRANTEE, ITS AGENTS OR CONTRACTORS RELATED TO GRANTEE'S EXERCISE OF THE RIGHTS GRANTED HEREIN. GRANTEE AGREES TO AND SHALL INDEMNIFY AND HOLD THE STATE, THE STATE'S OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS FROM AND AGAINST CLAIMS, SUIT, COSTS, LIABILITY OR DAMAGES OF ANY KIND, INCLUDING STRICT LIABILITY CLAIMS, COSTS OF COURT, ATTORNEY'S FEES AND COSTS OF INVESTIGATION OR EXPERTS, WITHOUT LIMIT AND WITHOUT REGARD TO CAUSE OF THE DAMAGE OR THE NEGLIGENCE OF ANY PARTY, (EXCEPT TO THE EXTENT OF THE PROPORTIONATE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE STATE, THE STATE'S OFFICERS, AGENTS, EMPLOYEES, OR CONTRACTORS)**

ARISING DIRECTLY OR INDIRECTLY FROM OR ATTRIBUTABLE TO GRANTEE'S USE OF THE PREMISES (INCLUDING ANY ADJACENT OR CONTIGUOUS LAND) OR FROM ANY BREACH BY GRANTEE OF THE TERMS, COVENANTS OR CONDITIONS CONTAINED HEREIN. THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

ARTICLE IX. DEFAULT, TERMINATION AND EXPIRATION

9.01 If, within thirty (30) days after receipt of written notice from the STATE specifying an act of default or breach, Grantee fails to pay any money due hereunder or continues in breach of any term or condition of this Agreement, the STATE shall have the right to terminate this Agreement and all rights inuring to Grantee herein. Should Grantee fail to cure the specified default or breach within the allowed thirty (30) day period, this Agreement shall be subject to termination, and upon such termination all rights granted herein to Grantee shall revert to the STATE. Such termination shall not prejudice the rights of the STATE to collect any money due or to seek recovery on any claim arising hereunder.

9.02. Except as otherwise provided by applicable law or rule and subject to obtaining necessary approval from state or federal agencies having applicable jurisdiction, or making best efforts to obtain such permits, Grantee shall, within one hundred twenty (120) days from the date of expiration or sooner termination of this Agreement, initiate removal of all personal property, structures, and the Improvements, and shall restore the Premises (and any other property affected by such removal activities) to the same condition that existed before Grantee entered thereon. Such removal and restoration activities shall be coordinated with the General Land Office in accordance with guidelines in effect at the time of removal/restoration which may include, without limitation, specific removal techniques required for protection of natural resources and mitigation or payment in lieu of mitigation for any and all damages resulting from removal activities, all of which shall be in accordance with generally accepted current pipeline industry standards using available technology. Grantee shall notify the STATE at least ten (10) days before commencing removal/restoration activities so that a General Land Office field inspector may be present.

ARTICLE X. NOTICE

10.01. Any notice which may or shall be given under the terms of this Agreement shall be in writing and shall be either delivered by hand, by facsimile, or sent by United States first class mail, adequate postage prepaid, if for the STATE to Deputy Commissioner, Professional Services, addressed to his attention, 1700 North Congress Avenue, Austin, Texas 78701-1495, FAX: (512) 463-5304, and if for Grantee, to it at PO Box 9277, Corpus Christi, TX 78469-9277, and FAX: (361) 826-3501. Any party's address may be changed from time to time by such party by giving notice as provided above, except that the Premises may not be used by Grantee as the sole notice address. No change of address of either party shall be binding on the other party until notice of such change of address is given as herein provided.

10.02. For purposes of the calculation of various time periods referred to in this Agreement, notice delivered by hand shall be deemed received when delivered to the place for giving notice to a party referred to above. Notice mailed in the manner provided above shall be deemed completed upon the earlier to occur of (i) actual receipt as indicated on the signed return receipt, or (ii) three (3) days after posting as herein provided.

ARTICLE XI. INFORMATIONAL REQUIREMENTS

11.01. A. For newly constructed pipelines, Grantee shall submit to the STATE, within one hundred eighty (180) days following installation or construction of the Improvements authorized in this Agreement, an "as-built" survey and field notes prepared by a surveyor duly licensed by the State of Texas. The as-built survey shall be conducted in accordance with the STATE's survey requirements attached hereto as Exhibit C. Failure or refusal by Grantee to timely provide the as-built survey when due hereunder and the continuance of such failure for thirty (30) consecutive days after the receipt of the STATE's written notice to Grantee specifying such failure may be treated as a default by Grantee hereunder and the STATE may, in addition to any other remedy and in the STATE's sole discretion,

terminate this Agreement and require removal of any personal property and the Improvements located on the Premises in accordance with Section 9.02 of this Agreement.

B. Upon receipt of the as-built survey, prepared in accordance with this Section 11.01, the STATE shall compare the as-built survey with the proposed location of the Improvements, as represented by Grantee's application to the STATE and set forth in Section 2.01 (and referenced Exhibits) hereof. If there are changes or discrepancies in the location of the Improvements authorized by this Agreement, the STATE may either terminate this Agreement, or: (i) upon determination that the changed location results in unacceptable adverse impacts, require relocation of the Improvements to conform to the authorized right of way, or (ii) upon determination of no unacceptable adverse impacts, agree to replace Exhibit B attached hereto with a substitute exhibit denoted as Exhibit B-1. The substitute exhibit shall be consistent with the as-built survey and signed by both parties. Upon attachment of Exhibit B-1 hereto, Exhibit B shall be void and of no further effect.

C. If all or any part of the Improvements are buried, Grantee shall submit to the STATE, within one hundred eighty (180) days following installation or construction of the Improvements, a survey which includes coordinates, or at STATE's option, "depth of cover" data, prepared by a surveyor duly licensed by the State of Texas. The survey shall be conducted in accordance with the STATE's survey requirements attached hereto as Exhibit C. Failure or refusal by Grantee to timely provide the survey when due hereunder and the continuance of such failure for thirty (30) consecutive days after the receipt of the STATE's written notice to Grantee specifying such failure may be treated as a default by Grantee hereunder and the STATE may, in addition to any other remedy and in the STATE's sole discretion, terminate this Agreement and require removal of any personal property and the Improvements located on the Premises in accordance with Section 9.02 of this Agreement.

11.02. A. Grantee shall provide written notice to the STATE of any change in Grantee's name, address, or legal status (from a corporate entity to a partnership, etc.) and any change to other information required by this Agreement within thirty (30) days of the effective date of the change.

B. Grantee shall provide to the STATE any other information reasonably requested by the STATE in writing within thirty (30) days following such request.

C. If any information required to be submitted within a certain time under the terms of this Agreement shall not be received by the STATE on or before ten (10) days after the date when due, after notice to Grantee and opportunity to cure, then, at STATE's discretion, Grantee may be required to pay the STATE a "Late Charge" not to exceed One Hundred Dollars (\$100.00) for each day so past due until the date on which the information is received or the Agreement is terminated.

11.03. Except with regard to initial construction/installation of the Improvements and emergencies, prior to conducting any activities at the Premises which may materially impact natural resources in or around the Premises, Grantee shall provide written notice to the STATE describing the proposed activities in detail and any procedures which will be used to protect natural resources. Such notice shall be provided by Grantee to the STATE at least sixty (60) days prior to conducting re-burial activities, and at least thirty (30) days prior to conducting major repairs, modification, or other activities. Grantee acknowledges and agrees that the STATE shall have at least twenty (20) days following receipt of the notice to review the proposed activities and to impose specific conditions for conducting such activities which, in the STATE's sole determination, are necessary to protect natural resources or to mitigate for actual damages to natural resources. If the STATE has not provided notice to Grantee within twenty (20) days following receipt of Grantee's notice, the STATE is deemed to have approved, subject to the terms of this Agreement, the proposed activities to be conducted at the Premises. In case of emergencies, Grantee may undertake all actions necessary to prevent imminent injury or damage to public health, safety or welfare, and/or to protect natural resources, and Grantee shall undertake any such actions as are, in the pipeline industry, ordinary and commercially reasonable responses to such emergencies. Within twenty-four (24) hours following such emergency actions, Grantee shall provide notice to the STATE of such actions as hereinabove provided.

ARTICLE XII. MISCELLANEOUS PROVISIONS

12.01. With respect to terminology in this Agreement, each number (singular or plural) shall include all numbers, and each gender (male, female or neuter) shall include all genders. If any provision of this Agreement shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions of the Agreement, but such other provisions shall continue in full force and effect.

12.02. The titles of the Articles in this Agreement shall have no effect and shall neither limit nor amplify the provisions of the Agreement itself. This Agreement shall be binding upon and shall accrue to the benefit of the STATE, its successors and assigns, Grantee, Grantee's successors and assigns (or heirs, executors, administrators and assigns, as the case may be); however, this clause does not constitute a consent by the STATE to any assignment by Grantee, but instead refers only to those instances in which an assignment is hereafter made in strict compliance with Article VI above, or in the case of a deceased natural person grantee, refers to the instances previously referred to in this sentence and also circumstances in which title to Grantee's interest under this Agreement passes, after the demise of Grantee, pursuant to Grantee's will or the laws of intestate succession. The words "hereof," "herein," "hereunder," "hereinafter" and the like refer to this entire instrument, not just to the specific article, section or paragraph in which such words appear.

12.03. Neither tender nor acceptance of any sums payable hereunder nor failure by either party to complain of any action, non-action or default of the other shall constitute a waiver as to any breach of any covenant or condition contained herein nor a waiver of any of the rights hereunder. Waiver by the STATE of any right for any default of Grantee shall not constitute a waiver of any right for either a prior or subsequent default of the same obligation or for any prior or subsequent default of any other obligation. No right or remedy of either party hereunder or covenant, duty or obligation hereunder shall be deemed waived by the other party unless such waiver be in writing, signed by a duly authorized representative of the party.

12.04. No provision of this Agreement shall be construed in such a way as to constitute the STATE and Grantee joint venturers or co-partners or to make Grantee the agent of the STATE or make the STATE liable for the debts of Grantee.

12.05. In all instances where Grantee is required hereunder to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence.

12.06. The terms of this Agreement shall only be binding on the STATE during the period of its ownership of the Premises, and in the event of the transfer of such ownership interest, the STATE shall thereupon be released and discharged from all covenants and obligations thereafter accruing, but such covenants and obligations shall be binding during the Agreement term upon each new owner for the duration of such owner's ownership.

12.07. All monetary obligations of the STATE and Grantee (including, without limitation, any monetary obligation for damages for any breach of the respective covenants, duties or obligations of either party hereunder) are performable exclusively in Austin, Travis County, Texas.

12.08. The obligation of Grantee to pay all Consideration and other sums hereunder provided to be paid by Grantee and the obligation of Grantee to perform Grantee's other covenants and duties under this Agreement constitute independent, unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is expressly provided for in this Agreement and not otherwise. Grantee waives and relinquishes all rights which Grantee might have to claim any nature of lien against, or withhold or deduct from or offset against, any Consideration or other sums provided hereunder to be paid to the STATE by Grantee. Grantee waives and relinquishes any right to assert, either as a claim or as a defense, that the STATE is bound to perform or is liable for the nonperformance of any implied covenant or implied duty of the STATE not expressly set forth in this Agreement.

12.09. Subject in all respects to Section 12.01 of this Agreement, this Agreement is and shall be subject to any applicable federal or state law, rule, order, or regulation presently or hereafter enacted or adopted to the extent, but only to the extent, that such law, rule, order, or regulation preempts or supersedes STATE's authority to issue this Agreement or to require any particular obligation of Grantee, provided, however, that in the event of a conflict between any provision of this Agreement and any administrative rule promulgated by the General Land Office and/or the School Land Board, this Agreement shall control.

ARTICLE XIII. RECORDING

13.01. Grantee shall, at its sole cost and expense, record this Agreement in the Nueces County Real Property Records and provide a file marked copy to the STATE within 60 days after the recorded original of this Agreement is returned by the county clerk responsible for such records.

ARTICLE XIV. ENTIRE AGREEMENT

14.01. This instrument, including exhibits, constitutes the entire agreement between the STATE and Grantee and no prior written, or prior or contemporaneous oral promises, warranties or representations shall be binding. This Agreement shall not be amended, changed, altered, or extended except by written instrument signed by all parties hereto.

14.02. This Agreement shall become effective only upon execution by all parties hereto and delivery of a fully executed counterpart to each party.

IN TESTIMONY WHEREOF, witness our hands and the seal of the General Land Office.

GRANTOR: THE STATE OF TEXAS

GRANTEE: CITY OF CORPUS CHRISTI

By: _____
JERRY E. PATTERSON
Commissioner, General Land Office

By: _____

(Printed Name)

Title: _____

Date: _____

Date: _____

APPROVED:

Contents: _____
Legal: _____
Deputy: _____
Executive: _____

Approved as to Legal form: 9-24-12
[Signature]
Veronica Ocañas
Assistant City Attorney
For City Attorney

ACKNOWLEDGMENT

STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____,

by _____
(Grantee representative signing this document)

(Notary Signature)

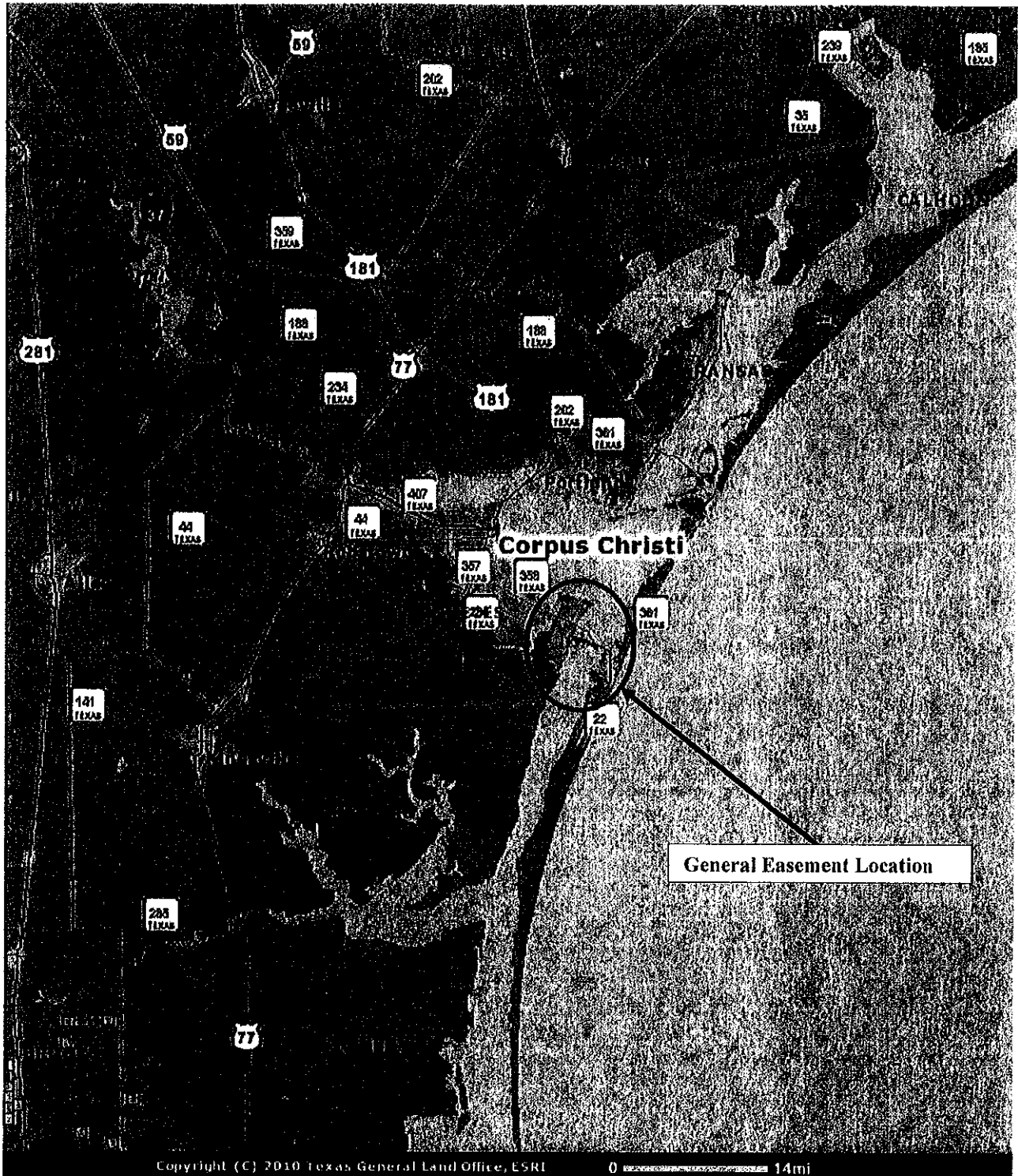
Notary Stamp

Notary Public, State of _____

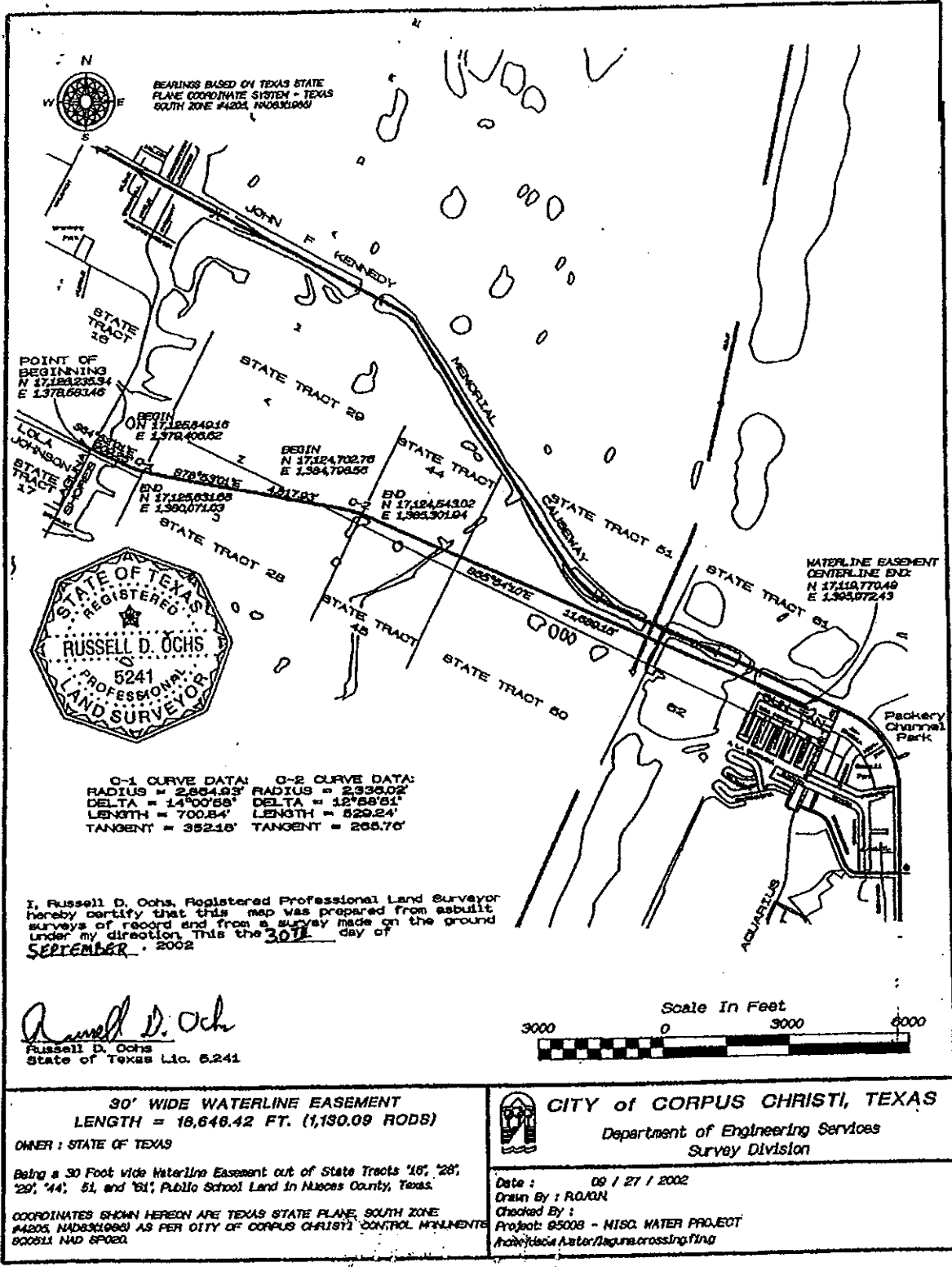
My commission expires: _____

VICINITY MAP

LAGUNA MADRE, NUECES COUNTY, TEXAS



SURVEY PLAT



BEARINGS BASED ON TEXAS STATE
 PLANE COORDINATE SYSTEM - TEXAS
 SOUTH ZONE #4205, NAD83/09

POINT OF BEGINNING
 N 17,124,209.34'
 E 1,378,663.45'

BEGIN ON 17,125,840.16'
 E 1,378,400.02'

BEGIN N 17,124,702.76'
 E 1,394,709.50'

END N 17,124,543.02'
 E 1,393,301.04'

LOLA JOHNSON
 STATE TRACT 16

END N 17,125,831.63'
 E 1,390,071.03'

WATERLINE EASEMENT
 CENTERLINE END:
 N 17,119,770.49'
 E 1,395,972.43'

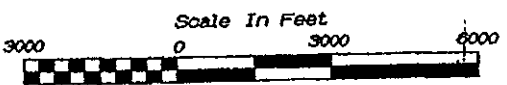


O-1 CURVE DATA: RADIUS = 2,864.93'
 DELTA = 14°00'58"
 LENGTH = 700.84'
 TANGENT = 352.18'

O-2 CURVE DATA: RADIUS = 2,336.02'
 DELTA = 12°58'51"
 LENGTH = 829.24'
 TANGENT = 265.76'

I, Russell D. Ochs, Registered Professional Land Surveyor
 hereby certify that this map was prepared from as-built
 surveys of record and from a survey made on the ground
 under my direction. This the 30th day of
SEPTEMBER, 2002

Russell D. Ochs
 Russell D. Ochs
 State of Texas Lic. 5241



30' WIDE WATERLINE EASEMENT
 LENGTH = 18,646.42 FT. (1,130.09 RODS)
 OWNER: STATE OF TEXAS

Being a 30 Foot wide Waterline Easement out of State Tracts '16', '28',
 '29', '44', '51', and '61', Public School Land in Nueces County, Texas.

COORDINATES SHOWN HEREON ARE TEXAS STATE PLANE, SOUTH ZONE
 #4205, NAD83(1983) AS PER CITY OF CORPUS CHRISTI CONTROL MONUMENTS
 000511 NAD 82/02.

CITY of CORPUS CHRISTI, TEXAS
 Department of Engineering Services
 Survey Division

Date: 09 / 27 / 2002
 Drawn By: ROJAN
 Checked By:
 Project: 05008 - MISC. WATER PROJECT
 Note: See Waterline crossing plat

SURVEY PLAT

Laguna Madre Water Crossing 30' Waterline Easement

STATE OF TEXAS
COUNTY OF NUECES

BEING a 30 Foot Wide Waterline Easement, 15 feet on either side of the line as constructed at the location which follows, out of State Tracts "16", "28", "29", "44", 51, and "61", Public School Land in Nueces County, Texas. This Tract being more particularly described by metes and bounds as follows:

BEGINNING at a Point in State Tract 16, Public School Lands in Nueces County, (Centerline End Coordinate = N 17,126,235.34', E 1,378,583.46', Texas State Plane Coordinate System, Texas South Zone #4205, NAD83(1986);

THENCE S64°52'01"E through State Tract "16", Public School Land in Nueces County, Texas, a distance of 909.25' to a Point at the beginning of a circular curve to the left, (Centerline Coordinate = N 17,125,849.16', E 1,379,406.62', Texas State Plane Coordinate System, Texas South Zone #4205, NAD83(1986);

THENCE through State Tracts "16" and "28", Public School Land in Nueces County, Texas, along said circular curve to the left having a Radius of 2,864.93, a Central Angle of 14°00'58", an Arc Length of 700.84', and a Tangent Distance of 352.18' to a Point, (Centerline Coordinate = N 17,125,631.68', E 1,380,071.03', Texas State Plane Coordinate System, Texas South Zone #4205, NAD83(1986);

THENCE S78°53'01"E through State Tracts "28" and "29", Public School Land in Nueces County, Texas, a distance of 4,817.93' to a Point at the beginning of a circular curve to the right, (Centerline Coordinate = N 17,124,702.76', E 1,384,798.56', Texas State Plane Coordinate System, Texas South Zone #4205, NAD83(1986);

THENCE through State Tracts "29" and "44", Public School Land in Nueces County, Texas, along said circular curve to the right having a Radius of 2,336.02, a Central Angle of 12°58'51", an Arc Length of 529.24', and a Tangent Distance of 265.76' to a Point, (Centerline Coordinate = N 17,124,543.02', E 1,385,301.94', Texas State Plane Coordinate System, Texas South Zone #4205, NAD83(1986);

THENCE S65°54'10"E through State Tracts "44", "51", and "61", Public School Land in Nueces County, Texas, a distance of 11,689.16' to a point in said State Tract "61", (Centerline End Coordinate = N 17,119,770.49', E 1,395,972.43', Texas State Plane Coordinate System, Texas South Zone #4205, NAD83(1986);

Bearings are with reference to the Texas State Plane Coordinate System -- Texas South Zone #4205, NAD83(1986).

State of Texas
County of Nueces

I, Russell Ochs, a Registered Professional Land Surveyor, hereby certify that the foregoing field notes were prepared by me from asbuilts of record and a land survey made on the ground under my direction.

This the 30TH day of September, 2002.

Russell D. Ochs
Russell D. Ochs
State of Texas License No. 5,241



Instructions For Preparing Exhibits For The Following General Land Office Application:

Miscellaneous Easements (Pipeline)

Maps (or plats) showing the location of proposed and as-built projects on state-owned lands are required as part of the General Land Office (GLO) application process. The following instructions are to be followed when applying for new work (proposed project), or for reporting as-built conditions for a previously approved project, when the activity is a **Miscellaneous Easement (Pipeline/Right-of-Way)** on state land.

The information specified below represents minimum requirements of the GLO; additional information may be requested on a project-by-project basis to facilitate a full evaluation of the proposed activity.

The information should be submitted along with the required application form and processing fees. Each map or plat must conform to the specifications contained herein. An application is not considered complete, and processing of the application will not be initiated, until all information requested has been submitted and GLO staff has determined that it is adequate.

NOTE: Surveys and survey plats required by other entities, Federal, State, County and/or City, are PERMISSIBLE and USABLE for GLO applications provided they meet the following requirements.

IF SUBMITTING SURVEY PLATS DIGITALLY, PLEASE PROVIDE THE INFORMATION IN ONE OF THE FOLLOWING FORMATS:

1. In an ESRI format (i.e. Shape file, E00, or Geodatabase)
2. AutoDesk Map 6 or earlier version in a DWG format.
3. **And Projection Information of the data set submitted.**

A. GENERAL INSTRUCTIONS FOR ALL APPLICATIONS:

1. Each map or plat should be 8-1/2" x 11".
2. A one-inch margin should be left at the top edge of each sheet for binding purposes.
3. Any shading used to identify specific areas must be reproducible by ordinary copy machines.
4. Each map or plat submitted must have a title block identifying, at a minimum: (a) applicant name; (b) applicant address; (c) project name; (d) date of preparation; (e) name of preparer, and (f) project location as follows:
 - (1) if on state-owned uplands, then provide county, survey name (original grantee) and, as applicable, survey or section number, block number, township number, subdivision name, lot or tract number, and abstract number;
 - (2) if on submerged land, then provide county name, waterbody name, and state tract number.
5. The scale for each map or plat must be clearly indicated both digitally and by graphic scale.
6. Vicinity Maps -- Exhibit A for each project application must be a Vicinity Map showing the general location of the proposed work. The Vicinity Map must be produced using a U.S.G.S. 7.5-minute topographic map, a Texas Department of Transportation County Road Map, or navigation chart as its base layer. The project location should be indicated by a prominent arrow on the map. An 8 1/2" x 11" Xerox copy from the original Topo, county map, or navigation chart showing the project location is sufficient. It is not necessary to submit the entire Topo or county map, so long as the map is appropriately identified as to the origin of the base information (e.g., name, and date of base map information used). This is most easily accomplished by copying the legend of the base map and making it part of the Vicinity Map.

7. Project Site Map -- Exhibit B for each project application should be a Project Site Map (in Survey Plat format) which provides specific project location information. The Project Site Map should be produced at sufficient scale and detail to enable field inspectors to locate the project on the ground with minimal difficulty. Demographic features such as road numbers, stream names, railroad crossings, corporate city limits, and other prominent locative features should be included on the Project Site Map. The project location should be indicated by a prominent arrow on the map and a North arrow must be provided. Annotation may be included on the map regarding distance of the project from known points (e.g., highway intersections, road stream crossings, etc.). **Additional requirements for preparing Project Site Maps are provided in Section B of this document.**

8. Detailed Project Plan -- Exhibit C for each project application should be a Detailed Project Plan, consisting of an aerial plan-view drawing and a cross-sectional drawing of all proposed or existing structures on state-owned lands at the project site.

Page 1 of the Detailed Project Plan should contain, at a minimum:

- a. Location of the shoreline or banks if the project is on or adjacent to tidally influenced waters or crosses a state-owned river, stream, creek, or bayou.
- b. The direction of ebb and flow if in or adjacent to tidal waters, or the direction of water flow if the project crosses a river, creek, stream, or bayou.
- c. A North arrow.
- d. The location of state tract lines (on tidally influenced lands), survey lines, or property lines, as applicable.
- e. The location of any marshes, submerged grass flats, oyster reefs, mud or sand flats, or other sensitive natural/cultural resources known to exist in the project area.
- f. The lines of mean high water and mean low water when applicable.
- g. The Detailed Project Plan cross-sectional drawing must include notation as to the outside diameter (OD) of all pipelines covered by the easement, and the relationship of the pipeline(s) to any other pipeline(s) in the immediate vicinity.
- h. The registration, easement, or lease numbers for any structures at the site previously authorized by the GLO (available from GLO field offices upon request).
- i. Any applicable Corps of Engineers application numbers covering the proposed work, as soon as that application number is available, but, in any event, prior to issuance of the easement.

Page 2 of the Detailed Project Plan should contain, as applicable, an explanation of construction methodology, techniques, and equipment that will be used at the site.

9. As-Built Survey -- A survey showing the depth of burial must be furnished for all projects on state-owned tidally influenced lands (Gulf of Mexico, bays, estuaries, etc.), crossings of state-owned rivers/streams/creeks/bayous. The survey shall show plan view only for projects on state-owned upland tracts. Failure to provide this information is, by terms of the state contract, grounds for termination of the easement and removal of the structure from state-owned land.

New Pipeline Installations: Each application for installation of a new pipeline must include with the application a profile drawing showing the proposed depth of burial at not fewer than 36" below the surface.

GLO will issue an easement using the proposed ROW and depth of burial information. Following installation of the pipeline, however, the applicant is required by terms of the GLO contract to provide a survey of actual burial depth measurements for that portion of the ROW length occupying state-owned land. The spacing between depth-of-burial measurement points is a function of the length of ROW. If the easement length is less than 500 feet, the depth of cover of the structure and waterway bottom elevation shall be determined at intervals not to exceed 50 feet. If the easement length is greater than 500 feet but less than 5,000 feet the interval between measurement points shall be 100 feet. Easements greater than 5,000 feet in length shall be surveyed at 250-foot intervals.

All work shall be performed under the supervision of, and sealed by, a registered professional land surveyor. All submitted drawings must be sealed by the supervising registered public land surveyor. All elevations must be referenced to a common datum (Mean Sea Level, National Geodetic Vertical Datum, Mean Low Water, etc.) and grid coordinates must reference Texas State Plane coordinate System of 1927 or 1983. The accuracy of the waterway bottom and pipeline elevations shall be +/- one-half (.5') foot for the waterway bottom and +/- one-half (0.5') foot for depth of burial less than or equal to 10 feet and +/- fifteen (15%) percent for depth of burial greater than ten (10) feet. Manual probing and electronic means (both active and passive) of survey type shall be acceptable for depth of burial determinations.

Existing Pipelines: At time of renewal of a contract for an existing underground pipeline easement, provide the data as required under Section 3.02.(iv) of this easement contract.

CERTIFICATION BY A TEXAS REGISTERED PUBLIC LAND SURVEYOR IS REQUIRED ON ALL OF THE FOLLOWING WITH THE EXCEPTION OF DIRECTIONALLY DRILLED WELL BORE LOGS .

B. SPECIFIC INSTRUCTIONS:

Maps or Survey Plats to be submitted as the Project Site Map and/or the Detailed Project Plan (see A7 and 8 above) must contain the information described below.

Upland survey data should be reported to normal boundary land surveying minimum standards. Offshore or submerged sites shall be located to a specified accuracy of +/- 5 feet of any reported location.

1. Projects located on Tidally Influenced State-owned lands (Including the Gulf of Mexico, bay tracts, and the tidally influenced portions of rivers, creeks, streams, and bayous):

Coordinates must be provided at the beginning and ending points of the Rights-of-Way (ROWs) centerline, or on the principal point or points of tracts described by other means (directional well bores, etc.). These coordinates must be based on the Texas State Plane Coordinate System of 1927 or 1983. Courses and distances must be specified as either grid or geodetic for all centerlines and perimeter lines, and ties must be made from specific improvements (e.g., well heads, platforms, pilings, etc.) to a corner or corners of the lease or easement tract. All submerged state land tracts crossed by any part of the ROW must be shown and identified, and the points of each ROW crossing of a state-tract boundary identified in the Texas State Plane Coordinate System of 1927 or 1983. The distance between crossings of a state-tract boundary must be indicated in both feet and rods on the plat.

As-built plats (and confirmation surveys at time of renewal) must give bearing and distance between angle points along the easement route. In the event no angle points exist along the course of the ROW, the plat shall provide a minimum of one identified point for each 1,000 feet of ROW length. A ROW less than 1,000 feet long but greater than 500 feet in length requires one mid-point to be identified on the survey plat.

2. Projects Across State-owned Upland Property, or the state-owned portion of a river, creek, stream, or bayou above the limit of tidal influence:

a. Upland Tract (State Fee Lands):

For new project applications, information provided for projects on state-owned upland tracts shall include the beginning and end points of the easement centerline, identified by coordinates on the Texas State Plane Coordinate System of 1927 or 1983, and shall include course and distance of all segments of the proposed easement centerline. Course and distance from one end of the easement to the nearest survey corner or subdivision survey corner shall be included, along with the survey name (original grantee), and as applicable, survey or section number, block number, township number, subdivision name, lot or tract number, and abstract number of all surveys abutting the easement.

At completion of construction, or at time of renewal, an as-built plat or confirmation survey (whichever is applicable) must be submitted. This plat must give bearing and distance between angle points along the easement route. In the event no angle points exist along the course of the easement route, the plat shall provide a minimum of one identified point for each 1,000 feet of length. For easement routes, fewer than 1,000 feet long but greater than 500 feet long, one mid-point shall be identified on the survey plat.

b. Crossing the State-owned portion of a river, creek, stream, or bayou above the limit of tidal influence.

Information provided for projects crossing non-tidal state-owned rivers, creeks, streams, or bayous shall include an identification of the stream or water body by local and any other names known (historic, from topographic or other maps, etc.). In addition, the beginning and end points of the easement centerline, identified by coordinates on the Texas State Plane Coordinate System of 1927 or 1983, and shall include course and distance of all segments of the easement centerline. Course and distance from one end of the easement to the nearest survey corner or subdivision survey corner shall be included, along with a cross section or profile of the crossing between the top of the high banks, survey name (original grantee), and as applicable, survey or section number, block number, township number, subdivision name, lot or tract number, and abstract number of all surveys abutting the easement.