

THE STATE OF TEXAS §

COUNTY OF FAYETTE §

APPLICATION FOR PIPELINE PUBLIC ROAD BORED CROSSING PERMIT
(Form Approved June 27, 2019 by the Commissioners Court)

TO: THE COMMISSIONERS COURT OF FAYETTE COUNTY, TEXAS

ON THIS THE _____ day of _____, 20 ____, the undersigned _____, hereinafter, "Company" or "Applicant", does hereby make application to Fayette County, Texas, for the purposes of constructing, installing, boring, maintaining, operating, using, reworking and/or repairing a pipeline, mains or lines, for the transportation and conveyance of natural gas, oil and/or other hydrocarbons, bored and crossing under a public road of Fayette County, Texas over which the Fayette County Commissioners Court has jurisdiction and the obligation to maintain in good repair for the purpose of use and travel by the public, the name of the public county road being _____, and the location and depths of said bored crossing being as shown on the survey drawing and profile, plat map, engineering drawing or profile, and/or schematic, supplied by the Applicant (8.5" by 14" maximum size sheets), attached hereto and made a part hereof.

Upon payment of a \$1,000.00 application fee, plus a \$5,000.00 penalty fee if construction and/or installation of the said pipeline under the public county road has begun prior to this Application being approved by Fayette County Commissioners Court, and the further consideration of: (1) payment of a \$30.00 fee per foot or any part thereof for any part of the bored crossing exceeding fifty (50) feet; and (2) \$30.00 fee per foot or any part thereof for which the pipeline shall run parallel to the county road within the county right-of-way, all such fees to be paid by Company with the Application, as consideration of the County's expenditure of time and resources concerning this Application and the Applicant's and its successors', if any, use and burdening of the public county road interests and lands for the purposes aforesaid, the undersigned Company agrees that such use shall be subject to the following terms, covenants and conditions, to-wit:

I.

The public's use of the public county road for travel shall be of primary importance. The use of the bored road crossing by Applicant, and by its successors, upon subsequent acceptance and approval of this Application, shall be subordinate to the rights of the public to use the road. It is expressly agreed to and understood by the Applicant that Fayette County does not hereby, and does not by any subsequent approval or granting of this Application for Permit, grant to Applicant any right, claim, title, or easement in, to, under, and/or across the public county road. No pipeline, main or line which is the subject of this Application shall ever be constructed, installed, bored, maintained, operated, used, reworked and/or repaired by the Applicant in such manner as to interfere with the use, operation, construction, maintenance, drainage or repair of the public county road or roads, and in the event it shall develop that any pipeline, main or line which is the subject of this Application hereafter to be constructed and bored by the Applicant which in any manner interferes with the use, operation, construction, maintenance, drainage or repair of the public county road, because of the depth at which the same has been laid, or for any other reason, the Applicant, upon request by the Commissioners Court so to do, shall promptly change or alter, at Applicant's sole expense, such pipeline, main or line, in such manner that the same will no longer interfere with such use, operation, construction, maintenance, drainage or repair of the public county road. Applicant agrees to make all changes, alterations and modifications to said pipeline, main or line which is the subject of this Application, as Fayette County may require in connection with any future use, operation, construction, widening, alteration, relocation, drainage, and/or paving of the public county road, all at the sole

cost and expense of the Applicant, and of its successors in interest, if any, and at no cost and expense to Fayette County.

II.

It is understood that no pipeline, main or line shall ever be constructed, installed, bored under, maintained, operated, used, reworked and/or repaired by Applicant, and by its successors in interest, in such a way or manner as to interfere with traffic, or so as to interfere with any drainage now or hereafter on or along such public road and that no pipeline, main or line shall ever be constructed, bored under, maintained, operated, used, reworked and/or repaired by the Applicant in such a way as to constitute a danger or hazard, or to become a nuisance of any kind to anyone using the public road or living in the vicinity thereof.

III.

The Applicant agrees as to the public county road involved with this Application that it shall in no way enter upon any property hereby affected for the purpose of constructing, installing, boring under, maintaining, reworking or repairing any pipeline, main or line now existing or hereafter to exist unless it shall have first submitted to the Commissioners Court of Fayette County, plans, specifications, engineering drawings or profiles, schematics, plat maps, survey drawings and/or descriptions (8.5" by 14" maximum size sheets) of construction, boring, maintenance or repair, as to fully describe the same.

IV.

Applicant shall give the County Commissioner of the Precinct in which is located the public county road bored crossing which is the subject of this Application, at least forty-eight (48) hours actual notice prior to the time of beginning of any boring work with reference to any such public road. The County Commissioner of the Precinct in which is located the road crossing which is the subject of this Application, or the Commissioner's representative, must be so notified so as to be at the job site of the crossing when the boring work begins, and upon completion of the crossing job must give approval that the public road right of way at the crossing has been returned to the same condition as existed prior to the beginning of the boring work by Applicant, and returned to full use by the public, all to the satisfaction of the Commissioner.

V.

It is understood and agreed by Applicant that all pipelines, mains or lines bored under and crossing under any public county road shall be either bored, tunneled, jacked, or driven under the entire portion of the public road right of way, and also for a minimum distance of 10 feet away from each road right of way line; and that the section of pipeline, main or line placed through boring shall extend under the full width of the public road right of way and also an additional 10 feet away from each road right of way line; and that all pipelines, mains or lines under such road right of way shall be placed through an iron or other approved casing of approximately two inches larger in diameter than the pipeline; or, as an alternative to casing, Applicant may install a heavier walled carrier pipe beneath the road right of way; provided, however, that in all instances the installation shall meet all the requirements of the Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part 192, and/or those same, similar or equivalent regulations as adopted by Texas Railroad Commission and any other regulations and rules promulgated by the Texas Railroad Commission applicable to the constructing, installing, boring, maintaining, operating, using, reworking and/or repairing a pipeline, mains or lines for the transportation and conveyance of natural gas, oil and/or other hydrocarbons; and provided further that the County Commissioner in whose Precinct the bored crossing is being made, with the concurrence of the Commissioners Court, may require that the carrier pipe be cased beneath the roadway when, in his or her opinion, the best interests of Fayette County would be served thereby. Said pipeline, main or line shall be placed at such sufficient depth so that there is **a minimum of six (6) feet** from the top of the casing, or from the top of the pipe if there is no casing, to the top

of the surface material of the roadway; and so that there is **a minimum of three (3) feet** from the top of the casing, or from the top of the pipe if there is no casing, to the bottom of the ditch(es) in the road right of way; and so that there is **a minimum of four (4) feet** from the top of the casing, or from the top of the pipe if there is no casing, to the surface of the land at each road right of way line, boundary, or edge, and also bored under the surface of the land for the entire 10 feet distance away from each road right of way line, boundary, or edge.

VI.

The Applicant agrees that prior to the constructing, installing, and/or boring of the pipeline, Applicant will obtain a permit (or permits) for the bored crossing described in this Application, from the Fayette County Office of Floodplain Administration concerning the **Fayette County Flood Damage Prevention Regulations** or Order and concerning the development activity of constructing, installing, boring, and/or reworking of the pipeline. The Applicant further agrees that it will adhere to all County, State, and federal laws, statutes, codes, orders, rules and regulations applicable to the constructing, installing, boring, laying, maintaining, operating, using, reworking and/or repairing the pipeline that is the subject of this Application. The Applicant further agrees that prior to the construction, installation, and boring the pipeline that is the subject of this Application, Applicant shall obtain the right from all necessary landowners to enter and perform work on the real property of landowners adjacent to the public road to construct, install, and bore the pipeline at the bored crossing described in this Application.

VII.

The Applicant agrees that Applicant and/or its contractor(s) shall provide and have in place all warning and traffic control signs and lights, barricades, flagmen when necessary, and safety signage prior to and at all times during the period of construction, installation, and/or boring of the pipeline at the bored crossing which is the subject of this Application, and as necessary prior to and at all times during maintenance and repair of the pipeline at the bored crossing.

VIII.

The Applicant agrees that, after the completion of the construction, installation, and boring of the pipeline at the bored crossing which is the subject of this Application, the Applicant will install and maintain permanent signs on each side of the public road right of way at the bored crossing, showing the current pipeline owner, the current emergency contact phone number for the owner, and identifying the product transported in the pipeline.

IX.

The Applicant agrees to save and hold harmless and indemnify Fayette County, Texas against any and all liability that Fayette County may have or appear to have to any person whomsoever or to any entity, by reason of any act or thing that Applicant, its agents, servants, employees and contractors may do or cause to be done in the premises concerning the bored crossing under the public county road by the pipeline. The Applicant has also attached hereto a **Certificate of Liability Insurance**, naming Fayette County, Texas as an additional insured with the minimum amount of \$1,000,000 liability coverage, and Applicant agrees to maintain said minimum coverage in force concerning Fayette County until the boring project concerning this Application is completed.

X.

In consideration of the granting of the privilege hereby petitioned and applied for, Applicant agrees that whenever it shall in any manner damage any County Road or other public structure by reason of any operation hereunder, it will immediately, at its own expense, restore the same to the condition that the same was in before the damage

took place. Applicant further especially agrees that whenever the Fayette County Commissioners Court shall notify it in writing that it, its agents, servants, employees and contractors have damaged any public county road, or other public structure, Applicant will commence the restoration thereof, in accordance with the terms hereof, within forty-eight (48) hours after the receipt of such notice, and prosecute such restoration to completion, diligently and continuously, and that in the event of Applicant's failure to begin such restoration or repair within the time aforesaid, or in the event of its failure to therefore prosecute the same to completion, diligently and continuously, the Commissioners Court or its representative of said County, may take over the making of such restoration or repair with County employees, or through a private contractor, and complete and effect such repair or restoration at the expense of the Applicant, and that the action of the Fayette County Commissioners Court, or its representative, in making such restoration or repair shall be binding upon the Applicant, and such Commissioners Court estimate or statement of the cost and expense incurred in making such repair or restoration shall be final, conclusive and binding upon the Applicant, and Applicant shall pay the cost incurred by Fayette County in making and/or completing the restoration or repairs.

XI.

It is further agreed that the subsequent order of the Fayette County Commissioners Court granting and approving this Application shall be and does constitute acceptance on the part of the County of the offer hereby made, and said order and this Application shall constitute a contract between the parties hereto and shall be binding upon the Applicant, its heirs, assigns, representatives and successors according to all the terms hereof.

XII.

This Application for Pipeline Public Road Bored Crossing Permit shall expire 180 days after the same is approved by the motion and order entered into Commissioners Court Records of Fayette County, Texas. After expiration of the same, a new Application for Pipeline Public Road Bored Crossing Permit and payment of fees shall be required from the Applicant if the pipeline has not been bored and installed prior to the expiration date of this permit.

IN WITNESS WHEREOF, the Applicant has caused this instrument to be executed, by its authorized representative, on this the ____ day of _____, 20 ____.

Company (Applicant)

Company's Authorized Representative: _____
(Signature)

Authorized Representative's Name: _____
(Printed)

Authorized Representative's Title: _____
(Printed)

Company's Physical Address: _____

Company's Phone Number: _____

CORPORATE ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person and officer whose name is signed and subscribed to the foregoing instrument, and after being by me duly sworn, acknowledged to me that the same was the act of the aforesaid _____, a corporation, and that he/she executed the same as the authorized act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

SWORN TO AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 20__.

Notary Public in and for _____
County, Texas
Commission expires: _____

**ACTION OF THE FAYETTE COUNTY COMMISSIONERS COURT
CONCERNING THE APPLICATION**

At an open meeting of the Fayette County Commissioners Court, with Notice duly posted in accordance with law, came on to be considered the foregoing Application, and said Application is hereby Approved and the Permit is Granted by this Order of the Fayette County Commissioners Court on this the _____ day of _____, 20__.

Joseph F. Weber
Fayette County Judge

ATTEST:

Brenda Fietsam, Fayette County Clerk and
Clerk of the Commissioners Court

[Seal]