

**CONTRACTUAL AGREEMENT FOR
RIGHT-OF-WAY UTILITY ADJUSTMENTS**

THE STATE OF TEXAS

§

COUNTY: Harris

§

CHANNEL: E132-00-00

COUNTY OF HARRIS

§

This Agreement entered into by and between **Harris County** ("County"), acting by and through the Harris County Engineering Department ("HCED"), and **Enterprise Crude Pipeline LLC** ("Owner"). The County and Owner each may also be referred to individually herein as a "Party", or collectively as the "Parties".

RECITALS

WHEREAS, County deems it necessary to make certain improvements related to E132-00-00 Channel ("Proposed Improvement"), located in Harris County Precinct 3; and

WHEREAS, Owner has asserted an interest in certain lands as set forth in an Affidavit dated January 22, 202[4], and attached hereto as **Exhibit 1** and the Proposed Improvement will necessitate the adjustment, removal, or relocation of certain utility facilities of Owner located upon such lands as indicated in the following statement of work ("Work"):

To excavate and remove approximately 220' of the abandoned pipeline 8" LID C59 where it crosses over an existing channel. The removal work is being performed to accommodate the widening of the existing channel - E132-00-00 Mitigation Project and

WHEREAS, County desires to accomplish the adjustment, removal, or relocation of Owner's utility facilities located within the right-of-way ("ROW") owned by the County and affected by this Agreement,

NOW THEREFORE, the Parties desire to enter into this Agreement, as follows:

I. Owner's Responsibilities

- A. Upon execution of this Agreement by the Parties, Owner shall submit the Plans and/or Sketch of the Work, Estimate of Costs, Affidavit of Property Ownership, and other instruments, as appropriate, for approval by County.
- B. Owner agrees to prosecute the Work diligently to completion so as to not result in reasonably-avoidable interference or delay in County's construction of the Proposed Improvement or in the Work. Owner will carry out the Work in accordance with the Plans or Sketch attached hereto.

II. County's Responsibilities

Upon County's approval of the instruments referenced in Section I.A of this Agreement, County will authorize Owner in writing to proceed with the Work ("Notice to Proceed"). A copy of the Commissioners Court Order related to this Agreement will be attached to the Notice to Proceed.

III. Terms of Payment

- A. County agrees to pay Owner and Owner agrees to accept payment equal to 100% of the total actual and related indirect costs of the Work, reduced by any applicable salvage and betterment, which may result from the Work ("Owner's Costs"). The amount paid by County pursuant to this Agreement shall be full compensation to Owner for the Owner's Costs ("County's Payment"). County's Payment represents the portion of the Work for which County is legally required to pay and for which Owner is legally entitled to be reimbursed.
- B. Owner shall remit all invoices for reimbursement of Owner's Costs to County no later than ninety (90) days after completion of the Work. Any reimbursement due under this Agreement will be based on the Owner's Costs incurred in a commercially-reasonable manner. Owner shall submit to County an itemized final invoice to include supporting documentation of all costs incurred ("Final Invoice") for the Work. County will reimburse Owner within thirty (30) days of County's receipt of the Final Invoice.
- C. County shall have no obligation to pay Owner for the Work contemplated under this Agreement until sufficient funds are certified by the County Auditor as available from current fiscal funds. The issuance of a purchase order pursuant to this Agreement represents certification by the Harris County Auditor that funds, in the amount of the purchase order total, are available to satisfy all financial obligations of Harris County hereunder.

IV. Limitation of Liability

- A. Unless the Parties mutually agree to modify this Agreement to provide for additional funding, County shall in no event be liable to pay a sum greater than One Hundred Eighty-Nine Thousand Two Hundred Twenty and 00/100 Dollars (\$189,220.00) in reimbursement of Owner's Costs ("Limitation of Liability"). Owner shall not be obligated to incur costs in excess of the Limitation of Liability as provided herein.
- B. If circumstances arise such that, based on commercially-reasonable criteria, there is the likelihood that the amount of the Limitation of Liability will be insufficient to cover 100% percent of the Costs of the Work, Owner may (i) notify County of such likelihood and the basis thereof, and inform County of its reasonable estimate of the additional amount that will be sufficient to cover the cost to complete the Work ("Additional Costs"), and, at its option, (ii) stop the Work. Any Additional Costs attributable to the negligence of Owner or its contractor(s) in the performance of the Work shall not constitute "commercially reasonable criteria" and will not be the basis for additional compensation to Owner.

- C. Upon receipt of Owner's notice as described herein, County may submit a request to Commissioners Court to amend or supplement this Agreement to increase the Limitation of Liability by the amount of the Additional Costs. If Commissioners Court does not approve the proposed amendment or supplement within thirty (30) days of County's receipt of Owner's notice, Owner may restore its facilities and seek reimbursement for 100% of the Cost of the Work, including, but not limited to, restoration cost incurred, subject to the Limitation of Liability.

V. Notice

- A. All notices required to be given hereunder ("Notice") shall be given by registered or certified United States Mail, postage prepaid, return receipt requested, or by courier services, addressed as follows:

Owner:

Enterprise Crude Pipeline LLC
1100 Louisiana St
Houston, Texas 77002
Attention: John Sanchez
Email: jfsanchez@eprod.com

County:

Harris County Engineering Department
1111 Fannin Street, 7th Floor
Houston, Texas 77002
Attention: Okechukwu Chika, Chief Utility Coordinator
Email: okechukwu.chika@harriscountytexas.gov

Any Notice sent by mail or delivery services as provided herein shall be deemed given and completed on the date of actual receipt thereof.

- B. All communications and invoices given hereunder may be given by electronic means or in the same manner as Notices described herein.
- C. Each Party shall have the right to change its respective address and each shall have the right to specify as its address any other address in the State of Texas by giving at least fifteen (15) days' written notice of such change to the other Party.

VI. Attached Instruments

The instruments attached to and made a part of this Agreement are:

Exhibit 1 - Affidavit
Exhibit 2 - Cost Estimate
Exhibit 3 - Chief Utility Coordinator's Approval of Cost Estimate
Exhibit 4 - Company Plans or Sketch

VII. Termination

County may terminate this Agreement at any time up to the date that the Work under this Agreement has been authorized and such termination will not create any liability on the part of County.

VIII. Liability of the Parties

Subject to Section XV below, each Party shall be responsible for all claims and liability due to the activities of the Party's employees, officials, agents, contractors, or subcontractors arising out of or under this Agreement and which result from any act, error, or omission; intentional tort; intellectual property infringement; or failure to pay a vendor; committed by the Party or its employees, officials, agents, consultant under contract, or another entity over which it exercises control.

IX. Applicable Law and Venue

- A. The Agreement is subject to the state and federal laws, orders, rules, and regulations relating to the Agreement and funded by state or federal funds. Each Party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations concerning the performance of this Agreement.
- B. This Agreement is governed by the laws of the State of Texas.
- C. The exclusive forum for any action arising out of, in connection with, or in any way relating to, the Agreement shall be in a state or federal court of competent jurisdiction in Texas.
- D. The exclusive venue for any action arising out of, in connection with, or in any way relating to, the Agreement shall be in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

X. Assignment

No Party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other Party.

XI. Independent Parties

It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of the Owner for any purpose. The Owner, nor its officials, employees, officers, or agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.

XII. No Third Party Beneficiaries

The County is not obligated or liable to any party other than Owner for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.

XIII. Waiver of Breach

A waiver by either Party of a breach or violation of any provision of the Agreement shall not be deemed or construed to be a waiver of any subsequent breach.

XIV. No Personal Liability; No Waiver of Immunity

- A. Nothing in the Agreement is construed as creating any personal liability on the part of any official, officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
- B. The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- C. Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity on behalf of itself, its employees or agents under the Texas Constitution or the laws of the State of Texas.

XV. Applicable Law and Venue

This agreement shall be governed by the laws of the State of Texas and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

XVI. Anti-Boycott

In accordance with Tex. Gov't Code Ann. § 2270.002, Owner warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.

XVII. Foreign Terrorists Organizations

In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Owner warrants and represents that, at the time of execution of this Agreement and for the duration of the Term of this Agreement and any Renewal Terms, Owner does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

XVIII. No Binding Arbitration; Right to Jury Trial

The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

XIX. Contract Construction

- A. This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
- B. The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- C. When terms are used in the singular or plural, the meaning shall apply to both.
- D. When either the male or female gender is used, the meaning shall apply to both.

XX. Recitals

The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.

XXI. Entire Agreement; Modifications

This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.

XXII. Severability

The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.

XXIII. Survival of Terms

Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

XXIV. Multiple Counterparts/Execution.

This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.

XXV. Warranty

By execution of this Agreement, the Owner warrants that the duties accorded to the Owner in this Agreement are within the powers and authority of the Owner.

HARRIS COUNTY

ENTERPRISE CRUDE PIPELINE LLC

By: _____

Lina Hidalgo
County Judge

By: _____


John Sanchez
Agent and Attorney-in-Fact

APPROVED AS TO FORM:

ATTEST:

CHRISTIAN D. MENELEE

Harris County Attorney

By: An Le

An Le

Assistant County Attorney

C.A. File No.: 24GEN0069

Secretary

AFFIDAVIT

THE STATE OF TEXAS § **COUNTY: Harris**
 § **CHANNEL: E132-00-00**
COUNTY OF HARRIS §

WHEREAS Harris County, hereinafter called the "County," deems it necessary to make certain improvements to the E132-00-00 Channel "Improvements;" and

WHEREAS, it is anticipated that the Improvements will affect the facilities of Enterprise Crude Pipeline LLC, acting by and through its Agent and Attorney-in-Fact, hereinafter called the "Owner," at the following-described location:

E132-00-00 Channel

WHEREAS, the County has requested that the Owner furnish the County information relative to interests that Owner holds in lands at the above-indicated location,

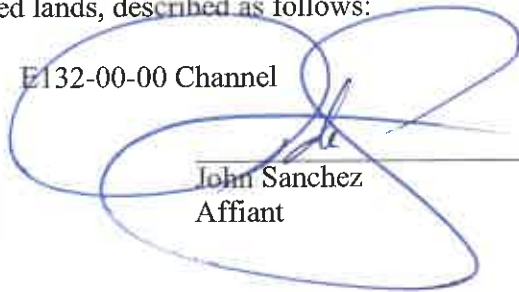
NOW THEREFORE, before me, the undersigned authority, this day personally appeared John Sanchez who, after being by me duly sworn, did depose and say:

"My name is John Sanchez. I am above the age of eighteen (18) and fully qualified to make this affidavit. I am the Agent and Attorney-in-Fact of Enterprise Crude Pipeline LLC and as such, have knowledge of the facts contained herein, and they are all true and correct.

To the best of my knowledge, Enterprise Crude Pipeline LLC is the owner of certain interests in the above-indicated lands, described as follows:

E132-00-00 Channel




John Sanchez
Affiant

Sworn to and subscribed before me this 22nd day of January, 2024.


Notary Public in and for the State of Texas

(SEAL)

Exhibit 2

Project Cost Estimate											
Project Title:		Harris County - Concrete Lined Channel - Abandoned 8-inch Line C59 removal.			Item Description		Rate				
Project ID:		DB 19814			Tax - Labor/Services		8.25%				
Project Location:		Harris County, TX			Tax - Material		8.25%				
Revision Number:		Rev A 18Oct23			Capitalized Int. (Y1)		0.00%				
Scenario Name:					Capitalized Int. (Y2)		0.00%				
Estimate Type:		Definitive									
Cost Center:		13100-20052 Enterprise Crude Pipeline LLC (100%)									
Project Type:		Reimbursable									
AFE Classification		Stay in Business									
4.0 - GENERAL CONTRACTS					\$ 72,000.00		38%				
Line Item	Item Description			Units	Quantity	Unit Rate	Cost	Taxes	AFE Total	Notes	
4.3	Construction contracts-misc.								\$ 72,000.00		
		1. General Contractor -									
		Excavate and remove approximately 220 feet of the abandoned pipeline 8" LID C59 "Jenkins Junction to Wright Road Junction"									
	0			lot	1	\$ 67,000	\$ 67,000	\$ -	\$ 67,000.00	Average of 5 bids	
	0	2. Asbestos Abatement			days	1	\$ 5,000	\$ 5,000	\$ 5,000.00		
5.0 - ENGINEERING					\$ 17,740.00		9%				
Line Item	Item Description			Units	Quantity	Unit Rate	Cost	Taxes	AFE Total	Notes	
5.2	Outside Engineering								\$ 10,240.00		
	0	Project Engineering			lot	1	\$ 10,240	\$ 10,240	\$ -	\$ 10,240.00	LJA Quote
5.5	Surveying								\$ 7,500		
	0	Survey Construction Staking and asbuilt dwg			lot	1	\$ 7,500	\$ 7,500	\$ -	\$ 7,500	LJA Quote
6.0 - INSPECTIONS COSTS					\$ 20,400.00		11%				
Line Item	Item Description			Units	Quantity	Unit Rate	Cost	Taxes	AFE Total	Notes	
6.7	Inspection Misc.								\$ 20,400.00		
	0	Chief Inspector (Welding)/COR			day	14	\$ 1,200	\$ 16,800	\$ -	\$ 16,800.00	
	0	Hot Tap Inspector			day	3	\$ 1,200	\$ 3,600	\$ -	\$ 3,600	For line verification
7.0 - INTERNAL COSTS					\$ 22,940.00		12%				
Line Item	Item Description			Units	Quantity	Unit Rate	Cost	Taxes	AFE Total	Notes	
7.5	Office Costs & Travel								\$ 500.00		
	0	Office Cost & Travel Expenses (mileage, food per trip)			ea.	2	\$ 250	\$ 500	\$ -	\$ 500.00	
7.6	Salaries & Wages								\$ 22,440.00		
	0	Project Manager			hr.	100	\$ 160	\$ 16,000	\$ -	\$ 16,000.00	
	0	Pipeline Tech./Operator			hr.	8	\$ 90	\$ 720	\$ -	\$ 720.00	
	0	Project Admin			hr.	8	\$ 65	\$ 520	\$ -	\$ 520.00	
	0	Environmental			hr.	8	\$ 100	\$ 800	\$ -	\$ 800.00	
	0	Sr. Land Agent			hr.	40	\$ 110	\$ 4,400	\$ -	\$ 4,400.00	
8.0 - LEGAL/PROFESSIONAL SERVICES/EHS&T					\$ 10,000.00		5%				
Line Item	Item Description			Units	Quantity	Unit Rate	Cost	Taxes	AFE Total	Notes	
8.4	Land Damages								\$ 10,000.0		
	0	Temporary Work Space outside ROW - 2 sites @ \$5000 per			ea.	1	\$ 10,000	\$ 10,000	\$ -	\$ 10,000.0	Land Quote
9.0 - ACCOUNTING					\$ -		0%				
Line Item	Item Description				Rate	Unit Rate	Cost	Basis	AFE Total	Notes	
PROJECT CONTINGENCY					\$ 21,462.00		11%				
Line Item	Item Description				Rate (%)	Unit Rate	Cost	Weighted Average	Subtotal	Notes	
7.1	Contingency								\$ 21,462		
	4.0 - GENERAL CONTRACTS			15%	Rate	\$72,000	50%	\$ 10,800			
	5.0 - ENGINEERING			15%	Rate	\$17,740	12%	\$ 2,661			
	6.0 - INSPECTIONS COSTS			15%	Rate	\$20,400	14%	\$ 3,060			
	7.0 - INTERNAL COSTS			15%	Rate	\$22,940	16%	\$ 3,441			
	8.0 - LEGAL/PROFESSIONAL SERVICES/EHS&T			15%	Rate	\$10,000	7%	\$ 1,500			
PROJECT SUMMARY											
Summary			AFE Total								
Subtotal			\$143,080								
Contingency & Insurance			15%			\$21,462					
Capitalized Interest						\$0					
Project Overhead			15%			\$24,681					
Total						\$189,220					
COST RESPONSIBILITIES											
Enterprise			0.00%			\$0.00					
Harris County			100.00%			\$189,220					
Notes / Assumptions:											
1.Remove approximately 220 feet total abandoned 8-inch LID C59 pipeline where it crosses over an existing channel. The removal work is being performed to accommodate the widening of the existing channel - E132-00-00 Mitigation Project - 2020; UPIN 21090MF22E01 in Harris County, TX .											
2. The estimate package doesn't include any inflation or escalation of material and service cost at the time of execution.											

Exhibit 3

CHIEF UTILITY COORDINATOR'S APPROVAL OF COST ESTIMATE

Date: January 4, 2024

Project: E132-00-00 Mitigation Project – 2020: UPIN: 21090MF22E01

Owner Enterprise Crude Pipeline LLC

Description of Adjustment: Excavate and remove approximately 220 feet of the abandoned pipeline 8" LID C59 where it crosses over an existing channel. The removal work is being performed to accommodate the widening of the existing channel – E132-00-00 Mitigation Project- 2020: UPIN: 21090MF22E01 in Harris County, Tx.

Estimated Cost: \$189,220

Percentage Reimbursable: 100%

Approved By:

Okeshukwu Chika

Chief Utility Coordinator
Harris County Engineering Department

L:\Projects\677 (Enterprise Products)\677-1743 (DB19814 LID C59 Removal -Harris Co)\CAD\MAPPING_GIS\677-1743 C59 Pipeline Removal - 09-26-2023.dwg

ORDER OF COMMISSIONERS COURT

Authorizing Execution of Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF THE AGREEMENT BETWEEN HARRIS COUNTY AND ENTERPRISE CRUDE PIPELINE LLC

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and law-fully adopted. The order thus adopted follows:

IT IS ORDERED that County Judge Lina Hidalgo be, and she is hereby, authorized to execute for and on behalf of Harris County, the Agreement with Enterprise Crude Pipeline LLC for adjustment of its facilities on the E132-00-00 Channel for Harris County at a cost to the County of \$189,220.00. The Agreement is incorporated herein by reference for all purposes as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.