

RIGHT- OF- WAY AGREEMENT

THE STATE OF TEXAS

THE COUNTY OF TARRANT

For and in consideration of TEN Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Keller Independent School District (hereinafter called GRANTOR, whether one or more) does hereby GRANT, BARGAIN, SELL and CONVEY TO **EAGLE MOUNTAIN PIPELINE COMPANY, L.P.**, a Texas limited partnership, having a principal address of 8111 Preston Road, Suite 600, Dallas, Texas 75225, its successors and assigns (hereinafter called GRANTEE), a right-of-way and easement on, over, under, upon and across that certain land more specifically shown in Exhibit "A" and Exhibit "B", attached hereto and made a part hereof, which shall be **fifty-five (55) feet in width during any period of construction (plus an additional temporary workspace as may be needed, not to exceed 13,000 square feet, rectangular in shape, immediately adjacent to Grantee's point of ingress and egress during construction, for a staging area during the initial construction of the improvements described herein) with said right-of-way and easement reverting to twenty (20) feet in width no more than 90 days after the commencement of construction.** The aforementioned right-of-way and easement shall be used to construct, maintain, operate, repair, alter, replace, change the size of and remove or abandon in place pipelines and appurtenant facilities including, but not limited to, valves, risers, meters, communication wires, cables, conduits and devices and pigging facilities, for the transportation of natural gas, oil, gas petroleum products, saltwater or any other liquids, gases (including inert gases) or substances which can be transported through pipelines on, over, under upon and across the lands comprising said right-of-way and easement ("said lands") of GRANTOR in the County of Tarrant, State of Texas, to wit:

A tract of land containing 112.868 acres, more or less, out of the William McCowan Survey, Abstract 999, Tarrant County, Texas, and being more particularly described in a Warranty Deed, recorded as Volume 13567, Page 310, of the Official Records of Tarrant County Texas, and the easement being more particularly described in Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

GRANTOR hereby reserves the right to use the surface of said lands in any manner that will not, in GRANTEE'S sole discretion, prevent or interfere with the exercise by GRANTEE of its rights hereunder. GRANTOR also agrees not to construct nor permit to be constructed, any house, building or any other structure on, over, under upon or across the right-of-way and easement without express prior written consent of the GRANTEE. In addition, GRANTEE shall have all of the rights and benefits necessary and convenient for the full enjoyment and use of the rights herein granted, including, but not limited to, the right of ingress and egress over and across said lands to and from said right-of-way and easement and the right from time to time to cut out all trees, undergrowth and other obstructions that, in its judgment, may injure, endanger or interfere with the exercise by GRANTEE of the rights, privileges and easements herein granted.

Notwithstanding anything contained herein to the contrary, it is hereby agreed and understood that GRANTEE may lay, construct, maintain, operate, repair, change the size of, replace and remove one (1) pipeline, and one (1) pipeline, only, and appurtenant facilities.

GRANTEE shall have the right to assign this Right-of-Way Agreement after reasonable notice to GRANTOR and any of the rights herein granted, in whole or in part, and the terms,

conditions and provisions hereof shall extend to and be binding on GRANTEE'S successors and assigns.

GRANTEE covenants and agrees to indemnify and forever hold harmless GRANTOR against each and every claim, demand or cause of action that may be made or come against GRANTOR arising out of the construction, operation or maintenance of any pipelines or appurtenant facilities within the right-of-way and easement specified herein, except where such claims, demands or causes of action are result from the sole negligence of GRANTOR or GRANTOR'S trustees, employees, tenants (if any), agents, representatives, lessees, successors and/or assigns.

GRANTEE hereby assumes all risks and agrees, binds, and obligates itself to indemnify, defend, and save harmless GRANTOR from and against all claims, demands, actions, suits, judgments, and recoveries for or on account of injury to or death of any person or persons (including, but not by way of limitation, the trustees, agents, representatives, and employees of GRANTOR and GRANTEE and any other third parties) and/or damage to property (including, but not by way of limitation, property of GRANTOR or property of others in its custody) arising out of or in any way connected with the exercise of the rights herein granted, except to the extent such damage or injury is due to the negligence or willful misconduct of GRANTOR, its agents, representatives or employees.

Grantee shall be obligated to restore the surface and subsurface of the said lands at Grantee's sole cost and expense (including the restoration of any landscaping, sidewalks, pole signs, driveways, parking areas, roads, paved areas, or other similar surface improvements and any subsurface irrigation systems or other subsurface improvements located in, upon, beneath, or adjacent to the said lands which may be or have been removed, relocated, altered, damaged, or destroyed as a result of the Grantee's use of the said lands) to a like or better condition in which same were found before such entry and/or work was undertaken.

GRANTEE agrees to bury all pipe to a depth of at least 48" (inches) and to pay for any physical damage caused by GRANTEE'S construction, maintenance, operation, repair, alteration, replacement or removal of said pipelines and appurtenant facilities. It is understood and agreed that the consideration herein paid does include payment for the aforementioned damages during the initial construction period.

GRANTOR specifically reserves the right to build a road crossing the right-of-way at the location depicted on Exhibit "A". Such road shall cross the right-of-way at no less than a forty-five degree (45°) angle. At least 60 days prior to installing any such road over the said right-of-way, GRANTOR shall notify and submit plans of the proposed road to GRANTEE for GRANTEE'S approval; such approval shall not be unreasonably withheld. GRANTEE shall have the right to have a representative present during construction of the proposed road.

GRANTOR reserves the right to landscape over the right-of-way so long as the pipeline depth of cover is maintained at 48" (inches).

It is mutually agreed and understood that this Agreement, as written, covers all the agreements and stipulations between the said parties, and no representations or statements, verbal or written, have been made modifying, adding to or changing the terms of hereof.

The following restrictions shall in all things be observed, followed, and complied with:

(a) The Property, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other institution of learning, study or instruction which discriminates against any person because of his race, color, or national origin, regardless of whether such discrimination be effected by design or otherwise.

(b) The Property, or any part thereof, shall not be used in the operation of, or in conjunction with, any school nor other institution of learning, study or instruction which creates, maintains, reinforces, renews, or encourages, or which tends to create, maintain, reinforce, renew or encourage a dual school system.

(c) These restrictions and conditions shall be binding upon GRANTEE, its successors and assigns for a period of fifty (50) years from the date GRANTEE acquires the Property.

(d) The foregoing restrictions and other covenants hereafter set out are covenants running with the land, and each and every parcel thereof, and shall be fully binding upon any person, firm, partnership, corporation, trust, church, club, governmental body, or other organization or entity whatever (whether private or governmental in nature), without limitation, hereafter acquiring any estate, title, interest or property in the Property, whether by descent, devise, purchase or otherwise; and no act or omission upon the part of the District or any purchaser, their successors and assigns, shall be a waiver of the operation or enforcement of such restrictions; but neither restriction shall be construed to be a condition subsequent or special limitation on the estate thereby conveyed.

(e) It is further covenanted, that third party beneficiaries of the restrictions set forth above shall be as follows:

- (1) As to the restrictions set out in (a) above, any person prejudiced by its violation;
- (2) As to the restriction set out in (b) above, any public school district or any person prejudiced by its violation; and
- (3) As to either or both of the restrictions set out in (a) and (b) above, the United States of America, as plaintiff, and the American G.I. Forum, the League of United Latin American Citizens (LULAC), and the National Association for the Advancement of Colored People (NAACP), as intervenors, in U.S. v. Texas, Civil Action No. 5281, Tyler Division, U.S. District Court, Eastern District of Texas; reported in U.S. v. Texas, 321 F. Supp. 1043 (E.D. Tex. 1970); U.S. v. Texas, 330 F.Supp. 235 (E.D. Tex. 1971); aff'd with modifications sub nom, U.S. v. State of Texas and J.W. Edgar, et al., 447 F.2d 441 (5th Cir. 1971); stay den. sub nom, Edgar v. U.S., 404 U.S. 1206 (1971); cert den. 404 U.S. 1016 (1972).

(f) It is further covenanted, that in case of a violation of either or both of the above restrictions, any of the third party beneficiaries above alluded to is authorized and empowered to prosecute proceedings at law or in equity against any person, firm, partnership, corporation, trust, church, club, governmental body or other organization or entity whatever (whether private or governmental in nature), without limitation:

- (1) To enforce either or both of such restrictions relating to the use of the above-described property;
- (2) To abate or prevent violations of either or both of such restrictions; and

(3) To recover damages for a breach of either or both of such restrictions.

(g) It is further covenanted, that if any third party beneficiary referred to above shall prosecute proceedings at law or in equity for the aforesaid purposes, such third party beneficiary may recover reasonable attorney's fees from the violator or violators of either or both of such restrictions, if the Court finds that the proceedings were necessary to bring about compliance therewith.

TO HAVE AND TO HOLD unto GRANTEE, its successors and assigns, for so long as the rights and easement herein granted, or any one of them shall be used by, or useful to, GRANTEE for the purpose herein granted, the undersigned hereby bind themselves, their heirs, executors and administrators (and successors and assigns) to warrant and forever defend this right-of-way and easement unto the GRANTEE, its successors and assigns, against every person whomever lawfully claiming or to claim the same or any part thereof.

IN TESTIMONY WHEREOF, GRANTOR, for the purposes hereof, shall be deemed to have executed this conveyance this _____ day of _____, 2005.

GRANTOR:

Keller Independent School District

Its: _____

Address: _____

ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person/persons whose name/names is/are subscribed to the foregoing instrument as **GRANTOR**, and acknowledged to me that the undersigned executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____.

NOTARY PUBLIC, STATE OF TEXAS