

LICENSE AGREEMENT

This license agreement ("Agreement") is dated August 1, 2022, and is entered into by and between CONTRA COSTA COUNTY, a political subdivision of the State of California (the "County") and Marathon Pipe Line LLC, a Delaware limited liability company ("Licensee").

RECITALS

- A. The County is the owner of the real property located on Waterfront Road, near Waterbird Way, in Martinez, California, identified as Assessor's Parcel No. 159-320-XXX (the "Property").
- B. Licensee desires to obtain the County's permission to use a portion of the Property, for the limited purposes described in this Agreement. The County is willing to grant a license to use that portion of the Property shown on Exhibit A (such portion of the Property referred to herein as the "Licensed Premises") upon the terms and conditions set forth in this Agreement.

The parties therefore agree as follows:

AGREEMENT

- 1. **Grant of License.** Subject to the terms and conditions of this Agreement, the County hereby grants to Licensee, a nonexclusive revocable license to enter the Licensed Premises for the purposes described in Section 2, below, and for no other purposes without County's prior written consent, which shall be within the County's sole discretion to provide.
- 2. **Use of Premises.** Licensee and its officers, employees, contractors, and representatives may occupy and use the Licensed Premises for the purpose of staging vehicles and equipment when and to the extent necessary in connection with Licensee's maintenance of its pipeline located on adjacent Union Pacific Railroad property.
- 3. **Term.** The term of this Agreement is one year, beginning August 1, 2022, and ending July 31, 2023. The County and Licensee each have the right to terminate this Agreement at any time, for any reason, or for no reason, with 30 days' advance written notice to the other party. In addition, the County may terminate this Agreement on 15 days' advance written notice if Licensee is in material breach of any term or condition of this Agreement.
- 4. **License Fee.** Within five days following the full execution of this Agreement, Licensee shall pay a one-time license fee to the County in the amount of \$10,000.00. Said payment shall be delivered to Contra Costa County, Public Works Department, Attention: Real Estate Division, 255 Glacier Drive, Martinez, California 94553. Licensee shall not be entitled to a refund of any portion of said license fee in the event this Agreement is terminated prior to June 30, 2023.
- 5. **Improvements to the Premises.**

- a. Licensee may not construct any improvements on the Licensed Premises without prior written consent from the County. For the purposes of this Agreement, any equipment Licensee is permitted to install on the Licensed Premises is not considered to be an improvement to the Property or the Licensed Premises.
 - b. Any improvements to the Licensed Premises by Licensee (with or without the consent of the County) must be removed by Licensee, at its sole cost, except those improvements that the County and Licensee agree are not required to be removed upon the termination of this Agreement. Licensee shall repair, at its sole cost, any damage caused by the removal of its improvements or equipment.
 - c. If Licensee fails to remove any improvements or equipment it is required to remove, the County may remove them at Licensee's expense, and Licensee shall immediately reimburse the County upon Licensee's receipt of an invoice from the County.
6. **Permits and Approvals**. Licensee is responsible for obtaining any permits or approvals from any agency having jurisdiction. This Agreement does not constitute governmental approval by Contra Costa County of this use.
 7. **Nonexclusive Right of Use**. This Agreement is nonexclusive. The County reserves the right to issue licenses, easements and permits to others that could affect the Property or the Licensed Premises.
 8. **Existing Facilities**. It is understood and agreed that the County has leases, licenses, and/or easements with others for all or a portion of the Property.

The holders of the leases, licenses, and/or easements granted by the County have the right to enter on the Property and maintain their facilities. Licensee will not be compensated for damage resulting from such maintenance.

9. **Surface Rights Only; Damage**. The rights granted under this Agreement are surface rights only and no excavation is allowed. It is the responsibility of Licensee to contact property owners and holders of easements, leases, and licenses to determine if any real property over which Licensee wishes to use a vehicle is able to support the vehicle without damage to subsurface or surface facilities. If Licensee's use of real property pursuant to this Agreement causes damage to that real property, the Property, the Licensed Premises, or their vegetation, subsurface or surface facilities, Licensee shall repair the damage and return the affected property to a neat and safe condition satisfactory to the County and the affected users.
10. **Pollution**. Licensee, at its expense, shall comply with all applicable laws, regulations, and rules with respect to the use of the Property, regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality, and shall furnish satisfactory evidence of such compliance upon request by the County.

Licensee may not permit hazardous materials to be handled at any time on the Property. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the Property due to Licensee's use and occupancy of the Property, Licensee, at its

expense, shall clean all the property affected thereby, whether owned or controlled by the County or any third person, to the satisfaction of the County (insofar as the property owned or controlled by the County is concerned) and any governmental body having jurisdiction.

To the extent permitted by law, Licensee shall indemnify, hold harmless, and defend the County and the holders of rights to use the Property (each, an “Indemnitee”) against all liability, cost, and expense (including, without limitation, any fines, penalties, judgments, litigation costs, and attorneys' fees) incurred by any Indemnitee as a result of any discharge, leakage, spillage, emission or pollution, regardless of whether the liability, cost or expense arises during or after the term of this Agreement, unless such liability, cost or expense is proximately caused solely by the active negligence of the County.

Licensee shall pay all amounts due to the County under this section within ten (10) days after any demand therefor.

11. **Hold Harmless**. Licensee shall defend, indemnify, save, and keep harmless the County, its officers, employees, contractors, agents, and representatives (“County Parties”) from and against all liabilities, judgments, costs, expenses, fees, penalties, attorney’s fees, attorney’s fee awards, and damages (collectively, “Liabilities”) that arise from or are connected with the occupancy and use of the Licensed Premises by any Licensee Parties, or that arise from or are connected with Licensee’s pipeline maintenance activities on Union Pacific Railroad’s property adjacent to the Licensed Premises. However, notwithstanding the foregoing, Licensee shall have no obligation to defend, indemnify, save, and keep harmless the County from any Liabilities that arise from the sole negligence or sole willful misconduct of the County. Licensee’s obligations under this section shall survive the termination or expiration of this Agreement.

12. **Insurance**. Licensee agrees, at no cost to the County, to obtain and maintain during term of this Agreement, commercial general liability insurance with a minimum limit coverage of \$1,000,000 for each occurrence and \$2,000,000 aggregate for all claims or loses due to bodily injury, including death, or damage to property, including loss of use, and to **name Contra Costa County, its officers, agents, and employees as additional insured** thereunder. The coverage must provide for a thirty-day written notice to the County of cancellation or lapse. Licensee shall provide evidence of the coverage to the County prior to execution of this Agreement.

Licensee further agrees, at no costs to the County, to obtain and maintain during the term of this Agreement Automobile Liability Insurance with respect to any vehicles owned, non-owned, leased or hired by or on behalf of the Licensee with a combined single limit of not less than \$1,000,000 for bodily injury or death to any person and damages to the property, including the loss of use thereof arising out of each accident or occurrence, and, as above, such policy shall name the **County its officers, agents, and employees as additional insured thereunder**.

Licensee further agrees, at no cost to the County, to obtain and maintain during the term of this Agreement Worker’s Compensation and Employer’s Liability Insurance for all of its employees. Licensee shall require any subcontractor to provide it with evidence of Worker’s

Compensation and Employer's Liability Insurance, all in strict compliance pursuant to California State Law.

13. **Assignment.** Licensee may not assign its rights under this Agreement.
14. **County's Title.** Licensee hereby acknowledges County's fee title in and to the Property and agrees never to assail or to resist the County's title. Licensee agrees that it has not, and never will, acquire any rights or interest in the Property as a result of this Agreement, and that Licensee has not, and will not, obtain any right or claim to the use of the Property beyond that specifically granted in this Agreement. Construction of any improvements by Licensee on or about the Property does not give rise to an agreement coupled with an interest. The foregoing does not preclude Licensee from purchasing the Property under a separate agreement with the County.
15. **Notices.** Notices under this Agreement must be in writing and will be effective either when delivered in person or deposited as certified mail, postage prepaid, return receipt requested, or sent by a recognized overnight courier service, and directed to the other party at its address as stated below, or to such other address as the party may designate by written notice.

LICENSEE: Marathon Pipe Line LLC
200 East Harden Street
Findlay, Ohio 45840

COUNTY: Contra Costa County
Public Works Department
Attn: Real Estate Division
255 Glacier Drive
Martinez, CA 94553
(925) 313-2000

16. **Governing Law.** This Agreement is governed by the laws of the State of California.
17. **Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the subject matter of this Agreement. No alteration or variation of this Agreement is valid or binding unless made in writing and signed by both parties.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

The parties are signing this Agreement as of the date set forth in the introductory paragraph.

CONTRA COSTA COUNTY

LICENSEE

By _____
Brian M. Balbas
Public Works Director

By _____
Duran Lucas
Right of Way Supervisor

By _____
Aaron B. Donat
Right of Way Supervisor

RECOMMENDED FOR APPROVAL:

By _____
Jessica L. Dillingham
Principal Real Property Agent

By _____
Tasha Thaxton
Senior Real Property Technical Asst.

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Approved by County Counsel 3/2021
Rev. 3/2021