

**Agricultural Impact Mitigation Plan
for
City of Hutchinson (Hutchinson Utilities Commission)
Gas Transmission Pipeline
from Trimont to Hutchinson**

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Purpose and Applicability

This Agricultural Impact Mitigation Plan is intended to implement condition VI.A., “Agricultural Impact Mitigation Plan”, of the pipeline routing permit issued by the Environmental Quality Board to the City of Hutchinson (Hutchinson Utilities Commission) (MEQB Docket No. 02-33-PRP-HUC), and to address the Findings 62-72 of the Environmental Quality Board Findings of Fact, Conclusions, and Order dated December 19, 2002. Condition A of the pipeline routing permit states as follows:

The Permittee shall, after consultation with representatives of the counties and interested landowners and the Minnesota Department of Agriculture, submit an agricultural impact mitigation plan to the EQB by February 28, 2003. The plan shall set forth mitigative measures that the Permittee will implement to address individual and cumulative impacts of the pipeline on agricultural lands crossed by the pipeline. Upon submission of the plan, the plan shall become a condition of this permit and shall be complied with by the Permittee.

In addition to the requirements of Minn. Rules Part 4415.0195, which are hereby incorporated by reference, this Plan contains measures intended to avoid, mitigate, or provide compensation for, negative agricultural impacts that may result from pipeline construction.

The below prescribed construction standards and policies only apply to construction activities occurring partially or wholly on privately owned agricultural land. They do not apply to construction activities occurring entirely on public right-of-way, railroad right-of-way, publicly owned land, or private land that is not agricultural land. The City will, however, adhere to the construction standards relating to the repair of drainage Tile (Item No. 3 in the Plan) when drainage Tiles are encountered on public highway right-of-way, railroad right-of-way, publicly or privately owned land.

Unless an easement specifically provides to the contrary, the mitigative actions specified in the construction standards and policies set forth in this Plan will be implemented in accordance with the conditions listed below:

General Provisions

- A. All mitigative actions are subject to change by landowners and landowner's designees, provided such changes are negotiated in advance of construction and acceptable to the City.
- B. Unless otherwise specified, the City will retain qualified contractors to execute mitigative actions; however, the City may negotiate with landowners or landowners' designees to carry out the mitigative actions that landowners wish to perform themselves.

- C. All mitigative actions employed by the City pursuant to this Plan, unless otherwise specified in this Plan or in an easement negotiated with an individual landowner or landowners' designee, will be implemented within 45 days following completion of the pipeline facilities on any affected property. If because of weather and landowner permission, the City needs a longer period of time, then the City shall have the burden to establish how much additional time would be reasonably necessary to complete the mitigative actions required by this Plan. Temporary repairs will be made by the City during construction as needed to minimize the risk of additional property damage or interference with the landowner's access to or use of the property that may result from an extended time period to implement mitigative actions.
- D. Except as otherwise provided in this plan, or unless otherwise agreed to by landowners or landowners' designees, all mitigative actions pursuant to this Plan will extend to associated future construction, maintenance and repairs by the City for the life of the pipeline routing permit issued by the Environmental Quality Board.
- E. The City will implement the mitigative actions contained in this Plan to the extent that they do not conflict with the requirements of any applicable federal and state rules and regulations and other permits and approvals that are obtained by the City for the project.
- F. Each mitigative action contained in this Plan will be implemented to the extent that such mitigative action is not determined to be unenforceable by reason of other requirements of federal and state permits issued for the project. To the extent a mitigative action required by this agreement is determined to be unenforceable in the future due to requirements of other federal or state permits issued for the project, the City will so inform the EQB and work with them to develop a reasonable alternative mitigative action.
- G. By no later than 45 days prior to the construction of the pipeline, the City shall provide each landowner and tenant with a telephone number and address which can be used to contact the City, both during and following the completion of construction, regarding the agricultural impact mitigation work which is performed on their property or any other construction-related matter. The City shall respond within two business days to Landowner and Tenant telephone calls and correspondence.
- H. Certain provisions of this Plan require the City to consult and/or agree with the landowner and tenant(s) of a property. The City shall engage in a good faith effort to secure the agreement of both landowner and tenant in such cases. In the event of a disagreement between landowner and tenant, the City's obligation shall be satisfied by securing the landowner's written agreement, unless the tenant has demonstrated in a court of competent jurisdiction that he or she has the superior legal rights in the matter at issue.
- I. In accordance with condition VI.A. of the pipeline routing permit, this plan becomes a condition of the pipeline routing permit and, therefore, it is the responsibility of the County Inspector to

conduct inspections to determine whether the pipeline construction is in compliance with this Plan pursuant to Minn. Stat. § 116I.06, Subd. 7. The County Inspector shall also maintain a written log recording comments and complaints concerning the pipeline construction made by owners and tenants of land crossed by the pipeline and by local officials and shall note, in particular, any complaints concerning failure to settle damage claims filed by an owner or tenants or failure to comply with the terms of an easement agreement, as required by Minn. Stat. § 116I.06, Subd. 7.

- J. If any provision of this Plan is held to be unenforceable, no other provision shall be affected by that holding, and the remainder of the Plan shall be interpreted as if it did not contain the unenforceable provision.

Definitions

- Agricultural Land = Land which is presently under cultivation; land which has been previously cultivated and not subsequently developed for non-agricultural use; and cleared land which is capable of being cultivated. It includes land used for cropland, hayland, pastureland, managed woodlands, truck gardens, farmsteads, commercial agriculturally-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs.
- City = City of Hutchinson (Hutchinson Utilities Commission), its successors and assignees.
- County Inspector = The inspector designated by the County Board of each of the counties (Martin, Watonwan, Brown, Nicollet, Sibley, and McLeod Counties) pursuant to Minn. Stat. § 116I.06, Subd. 7.
- Cropland = Land used for growing row crops, small grains, or hay; includes land which was formerly used as cropland but is currently in a government set-aside program, and pastureland formerly used as cropland.
- Pipeline = The natural gas pipeline in Martin, Watonwan, Brown, Nicollet, Sibley, and McLeod Counties as described in the pipeline routing permit issued by the Environmental Quality Board to the City of Hutchinson (Hutchinson Utilities Commission) (MEQB Docket No. 02-33-PRP-HUC).
- Landowner = Person(s) holding legal title to property on the pipeline route from whom the City is seeking, or has obtained, a temporary or permanent easement.
- Landowner's Designee = Any person(s) authorized in writing by a Landowner to make decisions regarding the mitigation or restoration of agricultural impacts to such Landowner's property
- Non-Agricultural Land = Any land that is not "Agricultural Land" as defined above.
- Right-of-Way = Includes the permanent and temporary easements which the City acquires for the purpose of constructing and operating the pipeline.

- Tenant = Any person lawfully residing on or in possession of the land which makes up the "Right-of-Way" as defined in this Plan.
- Tile = Any artificial subsurface drainage system.
- Topsoil = The mollic epipedon, which is defined as the upper part of the soil having a hue, value, and chroma of 10YR 3/3 or darker according to a Munsell Soil Color Chart, or the upper eight (8) inches of soil, whichever is greater.

Mitigative Actions

1. Pipeline Depth of Cover

- A. Except for above-ground piping facilities, such as mainline block valves, tap valves, meter stations, etc., and except as otherwise stated in this Plan, the pipeline will be buried with the following depths of cover:
1. Where the selected actual right-of-way is located along existing rights-of-way such as county roads, along section lines and half section lines, or along headlands in accordance with the pipeline routing permit, Section IV B, the pipeline may be constructed with the minimum depth of cover 4-1/2 feet required by Minn. Stat. §116I.06, Subd. 1.
 2. Where the selected actual right-of-way is not located as described in number A.1. above, the minimum depth of cover will be five (5) feet.
 3. Where the pipeline crosses nonagricultural land, the depth of cover may be the minimum depth required by federal or state regulations.
- B. Notwithstanding paragraph A of Section 1, unless the landowner determines otherwise in writing, the City shall construct its pipeline under all existing nonabandoned tile and planned drainage tile within eight (8) feet of the surface. The City may install its pipeline over drainage tile buried deeper than eight (8) feet. Furthermore, where soil conditions exist indicative of the presence of a drainage tile or the City has been informed by the landowner of the presence of drain tile in a location, the City is required to excavate or probe for the presence of tile to a depth of eight (8) feet. Planned drainage tile means locations where the proposed installation of underground tile is made known in writing to the City prior to the securing of an easement on the property, and the landowner has plans for, or has other evidence of, the proposed installation of underground tile drawn by an individual experienced in or trained in the installation or planning of drainage systems. In determining the proper depth of the pipeline, the City shall accommodate the depth and grade needed for both existing and

planned drainage tile to function properly. The City shall not change the grade of existing tile to accommodate the pipeline without the landowner's advance written consent.

- C. A minimum of 12 inches of separation will be maintained between the pipeline and drainage tile unless the landowner or landowner's designee agrees in writing to a lesser separation distance or other physical conditions exist which prevent the minimum distance of separation to be achieved and the landowner is informed of the physical condition prior to the installation of the pipeline over the tile. If the landowner or landowner's designee is unavailable, the county inspector will be so informed.
- D. Notwithstanding the foregoing, in those areas where (i) rock in its natural formation and/or (ii) a continuous strata of gravel exceeding 200 feet in length are encountered on non-agricultural land, the minimum topcover will be 30 inches.
- E. On lands subject to erosion, the City will patrol the pipeline right-of-way with reasonable frequency to detect erosion of the topcover. In no instance will the City knowingly allow the amount of topcover to erode more than 12 inches from its original level nor to be less than 36 inches, whichever measure provides for the greatest depth of cover, except as stated in D above. The City will be responsible for maintaining the proper topcover under this section where erosion has occurred due to normal farming practices. However, the City will not be responsible for a landowner or tenant removing cover or causing erosion to occur over the pipeline through means other than normal farming practices.

2. Topsoil Stripping, Storage, and Replacement

- A. The depth of soil to be removed (stripped) and separately stored for later replacement must be determined by a properly qualified soil scientist or soil technician. The soil scientist or soil technician must set stakes or flags in a manner to clearly identify the depth of soil to be removed. The actual depth of soil to be removed must be either the depth of the mollic epipedon (see definition of "topsoil"), not to exceed 14 inches, or a depth of eight (8) inches, whichever is greater. The topsoil must first be stripped from the area to be excavated above the pipeline and the adjacent subsoil storage area, and such topsoil must be stored separately from the subsoil.
- B. All subsoil material which is removed from the trench will be placed in a second stockpile that is separate from the topsoil stockpile.
- C. In backfilling the trench, all stockpiled subsoil material must be placed back into the trench before replacing the topsoil, or must be hauled off the landowner's premises or

disposed of on the landowner's premises at a location that is mutually acceptable to the landowner, the tenant and the City, and at the City's cost and expense.

- D. The topsoil must be replaced on the subsoil storage area and over the trench so that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be achieved. In no instance will the topsoil materials be used for any other purpose.
- E. Where excavations are made for road, stream, drainage ditch, or other crossings, the actual depth of topsoil will be replaced as nearly as reasonably possible.

3. Repair of Damaged and Adversely Affected Tile Lines

If underground drainage tile is damaged by the pipeline installation or future construction, maintenance, or repair of the pipeline, the tile will be repaired in a manner that assures the tile line's proper operating condition at the point of repair. If underground drainage tile lines on or adjacent to the pipeline's construction area are adversely affected by the pipeline, the City will take such actions as are necessary to insure the proper functioning of the tile lines, including the relocation, reconfiguration, and replacement of the existing tile lines. The affected landowner may elect to negotiate a fair settlement with the City for the landowner to undertake the responsibility for repair, relocation, reconfiguration, or replacement of the damaged drain tile. In the event the landowner chooses to undertake the responsibility for repair, relocation, reconfiguration, or replacement of the damaged drain tile, the City will not be responsible for correcting tile repairs after completion of the pipeline (the City is responsible for correcting tile repairs after completion of the pipeline, provided the repairs were made by the City or its agents or designees. See subsection G of this section).

Where the damaged tile is repaired by the City, the following standards and policies shall apply to the tile line repair:

- A. The City will endeavor to locate all tile lines within the right-of-way prior to the pipeline's installation so repairs can be made if necessary. The City will contact affected landowners/tenants for their knowledge of tile line locations prior to the pipeline's installation. All identified tile lines will be flagged prior to construction to alert construction crews to the possible need for tile line repairs. Any tile line that is damaged, cut, or removed shall be distinctly marked by placing a highly visible flag in the trench spoil bank directly opposite such tiles. This marker shall not be removed until the Tile has been permanently repaired and such repairs have been approved and accepted by the landowner or the landowner's designee or the County or Agricultural Inspector.

- B. All tile lines will be repaired with materials of the same or better quality as that which was damaged.
- C. If water is flowing through a damaged tile line, the tile line will be immediately and temporarily repaired until such time that permanent repairs can be made.
- D. Where tile lines are damaged or severed by the pipeline trench, repairs must be made according to the following standards:
 - 1. Where tile lines are severed by the pipeline trench, three-sided steel channel iron, angle iron, full-round slotted pipe or half pipe, or an equivalent material, will be used to support the repaired tile lines
 - 2. The support member will be of sufficient strength to support loads expected from normal farming practices (i.e., loads up to a 10-ton point load) on the surface directly above the repaired tile line.
 - 3. The support member will extend a minimum of 2 feet into previously undisturbed soil on both sides of the trench and will be installed in a manner that will prevent it from overturning. If the tile repairs involve clay tile, the support member will extend to the first Tile joint beyond the minimum 2 foot distance.
 - 4. Within the trench, 1 1/2 inch river gravel, 4 inch crushed stone, sandbags, or bags of concrete will be backfilled under all tile lines to provide a positive support to the tile lines. Concrete blocks are also acceptable forms of support as are protective pads on the pipeline.
 - 5. There will be a minimum clearance as required by 1. C.
 - 6. In no instance will the grade of the Tile line be changed.
- E. Before completing permanent tile repairs, all tile lines will be examined by suitable means on both sides of the trench for their entire length within any work area to check for tile that might have been damaged by construction equipment. If tile lines are found to be damaged, they must be repaired so they operate as well after construction as before construction began.
- F. All permanent tile line repairs must be made within 14 days following completion of construction on any affected landowner's property, taking into account weather and soil conditions.
- G. Following completion of the pipeline, the City will also be responsible for correcting all tile line repairs that fail due to pipeline construction, provided those repairs were made

by the City. The City will be responsible for correcting and repairing all tile line breaks, or other damages to tile systems that occur on the permanent and construction easements to the extent that such breaks are the result of pipeline construction. For the purpose of this paragraph, it is presumed that, until October 1, 2008, all tile breaks or other damages to tile systems in the permanent and construction easements are the result of pipeline construction unless the City can prove otherwise; provided that the landowner notifies the City at least 30 days in advance of making such tile line repairs. The City will not be responsible for tile line repairs which the City has paid the landowner to perform.

4. Installation of Additional Tile Lines

The City shall be responsible for installing such additional drainage tile and other drainage measures as are necessary to properly drain wet areas on the permanent and temporary easements caused by the construction and/or existence of the pipeline. For the purpose of this paragraph, until October 1, 2008, it is presumed that any wet areas located in the permanent and temporary easements are caused by the construction and/or existence of the pipeline unless the City can prove that the construction and/or existence of the pipeline is not the cause of the wet areas; provided that the landowner notifies the City at least 30 days in advance of installing such additional drainage tile or other drainage measures.

5. Rock Removal

The following conditions with respect to rock removal shall apply on agricultural land:

- A. The actual depth of topcover within the pipeline trench, or bore pits, or other excavations will not be backfilled with soil containing rocks of any greater concentration or size than existed prior to the pipeline's construction.
- B. If trenching, blasting, or boring operations are required through rocky terrain, suitable precautions will be taken to minimize the potential for oversize rocks to become interspersed with the soil material that is placed back in the trench.
- C. Soil removed from the pipeline trench, bore pits, or other excavations containing unacceptable rock concentrations or sizes (see 5.A. above) will be hauled off the landowner's premises or disposed of on the landowner's premises at a location that is mutually acceptable to the landowner, the tenant and the City, and at the City's cost and expense. The City may elect to remove excess rock from the soil and use the soil as backfill material.
- D. After completion of the compaction alleviation activities required in Section 8, below, the City shall remove rocks which are three (3) inches in diameter from surface of disturbed soil on the entire construction area if the off right-of-way areas do not

contain rocks larger than 3 inches in diameter. The amount of rock on the right-of-way after construction will be similar to that on adjacent off-right-of-way areas. Rocks so removed will be hauled off the landowner's premises or disposed of on the landowner's premises at a location that is mutually acceptable to the landowner, the tenant and the City, and at the City's cost and expense.

6. Removal of Construction Debris

All construction-related debris and material which is not an integral part of the pipeline will be removed from the landowner's property at the City's cost. (Note: Such material to be removed would include litter generated by the construction crews.)

7. Compaction, Rutting, Fertilization, Liming, and Soil Restoration

- A. Compaction will be alleviated on all agricultural land traversed by construction equipment. Cropland and all pasture and woodland that has been compacted will be plowed with cultivation equipment as recommended by the appropriate county Soil and Water Conservation District. In areas where topsoil has been segregated, the City will first plow the subsoil with cultivation equipment to the extent recommended by the appropriate county Soil and Water Conservation District before replacing the segregated topsoil. However alleviation of compaction of the topsoil must be performed during suitable weather conditions, and must not be performed when weather conditions have caused the soil to become so wet that activity to alleviate compaction would damage the future production capacity of the land as determined by the landowner or landowner's designee.

- B. In the case of a claims for damages related to soil compaction, upon request, the City itself shall pay for, or at the landowner's or tenant's option, reimburse the landowner or tenant for the cost of having a member of the Minnesota Association of Professional Soil Scientists, who is also licensed by the State of Minnesota, or an appropriately qualified Minnesota licensed professional engineer perform a soil survey for bulk density and field moisture on the right-of-way and on adjacent land in the same field containing the same soil map units. As long as the adjacent lands contain the same soil map units, the selected adjacent land is assumed to be suitable for purposes of establishing the preconstruction conditions that existed in the right-of-way. Said soil survey shall be performed pursuant to the protocol identified in the USDA's *Soil Survey Methods Manual* (Soil Survey Investigations Report No. 42, Version 3.0, January 1996, which may be found at <http://soils.usda.gov/procedures/lmm/ssir42.pdf>. In particular, see Bulk Density Cores (Method 4A3), and Field Moisture (Method 4A3a)), or other method as approved by the Landowner, such as a soil penetrometer. In addition, where there are row crops, all samples shall be taken in the middle of the row, but not in rows where the drive wheels of farm equipment normally travel. Copies of the results of the above-described survey shall be provided to landowners,

landowner's designees and tenants at the City's expense within 45 days of the City's receipt of a request to perform such a survey.

- C. The City will restore all construction rutted land to as near as practical to its pre-construction condition.
- D. Compensation of landowners and/or tenants, as appropriate, for damages caused by the City during pipeline construction, including the cost of soil restoration will be determined as provided in the "Schedule of Damage Compensation" provided in section 19 below.
- E. If there is any dispute between the landowner and the City as to what areas need to be ripped or chiseled, the depth at which compacted areas should be ripped or chiseled, or the necessity or rates of lime, fertilizer, and organic material application, the appropriate county Soil and Water Conservation District's opinion shall be considered by the City and the landowner.

8. Land Leveling

Following the completion of the pipeline construction, the City will restore any Right-of-Way to its original pre-construction elevation and contour. If in the future, uneven settling occurs or surface drainage problems develop, as a result of pipeline construction, the City will provide additional land leveling services, or compensation, within 45 days of receiving a landowner's or tenant's verbal or written notice, weather, landowner and tenant permitting.

9. Prevention of Soil Erosion

- A. The City will work with landowners and tenants to prevent excessive erosion on lands disturbed by construction. Reasonable methods will be implemented to control erosion at the City's cost and expense.
- B. Prior to construction of the pipeline, erosion must be controlled by the planting of a crop by the landowner or tenant. However, the City must chop any remaining crop prior to construction as directed by the landowner or tenant.
- C. During construction, the City will use suitable means of controlling erosion as recommended by the appropriate county Soil and Water Conservation District.

10. Repair of Damaged Soil Conservation Practices

All soil conservation practices (such as terraces, grassed waterways, ridge till, etc.) which are damaged by the pipeline's construction will be restored to their pre-construction condition.

11. Clearing of Trees and Brush from the Easement

- A. If trees are to be removed from the right-of-way, the City will consult with the landowner or landowner's designee to see if there are trees of commercial or other value to the landowner.
- B. If there are trees of commercial or other value to the landowner's or landowner designee, the City will allow the landowner's or landowner designee the right to retain ownership of the trees with the disposition of the trees to be negotiated prior to the commencement of land clearing and included in the easement Plan. Relocation of such trees will be at the City's cost.
- C. Unless otherwise restricted by federal, state or local regulations, the City will follow the landowner's or landowner designee's desires as stated in the easement agreement regarding the removal of tree stumps that the City might otherwise leave in the ground. Any such stumps will removed at the City's cost.
- D. Unless otherwise restricted by federal, state or local regulations, the City will follow the landowner's, landowner designee's, and the tenant's desires as stated in the easement agreement regarding the disposal of trees, brush, and stumps of no value to the landowner by burning, burial, etc., or complete removal from any affected property, all at the City's cost.

12. Interference with Irrigation Systems

- A. If the pipeline and/or temporary work areas intersect an operational (or soon to be operational) spray irrigation system, the City will establish with the landowner or landowner's designee and any tenant, an acceptable amount of time the irrigation system may be out of service.
- B. If, as a result of pipeline construction activities or future construction, maintenance, or repair of the pipeline, an irrigation system interruption results in crop damages, either on the pipeline right-of-way or off the right-of-way, compensation of landowners and/or tenants, as appropriate, will be determined as provided in the "Schedule of Damage Compensation" provided in section 19 below.
- C. If it is feasible and mutually acceptable to the City and the landowner or landowner's designee and any tenant, temporary measures will be implemented to allow an irrigation system to continue to operate across land on which the pipeline is also being constructed.

13. Mitigation for Other Natural Resource Impacts

Unless otherwise required by a state or federal agency or other governmental body, the City will not mitigate for impacts to other natural resources (wetlands, woodlands, etc.) utilizing agricultural land as mitigation lands. If agricultural land is used for woodland/wetland impact mitigation, the City will attempt to negotiate a mitigation ratio not to exceed a 1:1 ratio.

14. Ingress and Egress

Prior to the pipeline's installation, the City and the landowner and the tenant will reach a mutually acceptable agreement on the means of entering and leaving the pipeline right-of-way should access to the right-of-way not be practical or feasible from adjacent segments of the pipeline right-of-way or from public highway or railroad right-of-way.

15. Temporary Roads

- A. The location of temporary roads to be used for construction purposes will be negotiated with the landowner and the tenant.
- B. The temporary roads will be designed so as to not impede proper drainage and will be built to minimize soil erosion on or near the temporary roads.
- C. Upon abandonment, temporary roads may be left intact through mutual agreement of the landowner, the tenant and the City unless otherwise restricted by federal, state or local regulations.
- D. If the temporary roads are to be removed, the right-of-way upon which the temporary roads are constructed will be returned to its previous use and restored to equivalent condition as existed prior to their construction, including fertilization, liming, and soil restoration as described in item 7 above.

16. Weed Control

On any right-of-way over which the City has jurisdiction as to the surface use of such land (i.e., valve sites, metering stations, , etc.), the City will provide for weed control in a manner that does not allow for the spread of weeds onto adjacent lands used for agricultural purposes. Any weed control spraying performed will be done so by a State of Minnesota licensed applicator. Otherwise, compensation of landowners and/or tenants, as appropriate, will be determined as provided in the "Schedule of Damage Compensation" provided in section 19 below.

17. Pumping of Water from Open Trenches

- A. In the event it becomes necessary to pump water from open trenches, the City will pump the water in a manner that will avoid damaging adjacent agricultural land, crops,

and/or pasture. Such damages include, but are not limited to: inundation of crops for more than 24 hours, deposition of sediment in ditches and other water courses, and the deposition of gravel in fields, pastures, and any water courses.

- B. If it is impossible to avoid water-related damages as described in 17.A. above, compensation of landowners and/or tenants, will be determined as provided in the “Schedule of Damage Compensation” provided in section 19 below, and the City will either restore the land, pasture, water courses, etc. to their preconstruction condition or compensation of landowners and/or tenants, as appropriate will be determined as provided in the “Schedule of Damage Compensation” provided in section 19 below.
- C. All pumping of water shall comply with federal, state, and local regulations.

18. Construction in Wet Conditions

- A. The landowner or the landowner's designee, and/or the tenant may request that the County Inspector visit the construction site on landowner's property to make a determination as to whether weather conditions have caused the soil in the construction area on the landowner's property to become so wet that continued construction activity would damage the future production capacity of the land included in the construction area. Should the County Inspector determine that, due to wet conditions, continued construction activity would result in damage to the future production capacity of the land included in the construction area, then he or she may temporarily halt the construction activity on that landowner's property (not on the entire construction spread) until the County Inspector consults with supervisory personnel of the City or of the contractor operating for the City.
- B. If construction is continued over the County Inspector's objection, and damage results therefrom, the landowner may seek a determination of damages. For the purpose of this paragraph, it is presumed that any damage occurring after the County Inspector's objection is caused by any construction that takes place after the County Inspector's objection unless the City can prove otherwise. Compensation of landowners and/or tenants, as appropriate, will be determined as provided in the “Schedule of Damage Compensation” provided in section 19 below.

19. Procedures for Determining Construction-Related Damages and Providing Compensation

- A. The City will develop and put into place an administrative procedure for the processing of landowners' claims for determining just compensation for construction-related damages. The procedure shall be intended to eliminate or minimize the necessity of court action by a landowner to recover damages, to provide a degree of certainty and

predictability for both landowners and the City, and to foster good relationships between the City and landowners over the long term.

- B. The City will prepare a "Schedule of Damage Compensation," which addresses the types of damages and amount of damages to be paid landowners who are damaged by the pipeline. The City shall comply with the administrative procedure set forth below in determining the amount of compensation to pay individual landowners.
1. Prior to the construction of the pipeline, the City shall provide to each landowner, landowners designee and/or tenant the name, telephone number and mailing address of the City representative assigned to that geographic area and responsible for the liaison activities on behalf of the City. This City representative will be the contact person both during and following the completion of construction. Prior to any construction related activities, the City shall also provide the landowner with a copy of the "Schedule of Damage Compensation".
 2. No sooner than 48 hours after the City has provided the landowner with a copy of the "Schedule of Damage Compensation" and prior to the start of construction on the property, the City, through its right-of-way agents, shall meet with the landowner, the landowner's designee and/or the tenant, and examine each property to inventory crops, livestock, fences, irrigation systems, tiles, etc.
 3. Within 45 days after the completion of construction of the entire pipeline, a City representative shall personally meet with each landowner, landowner's designees and/or tenants to investigate and measure the losses caused by pipeline construction activities on the landowner's property.
 4. By no later than 30 days after the meeting identified in subparagraph (3), the City shall provide the landowner, the landowner's designee, and the tenant with a detailed itemized list of the damages the City proposes to pay the landowner, landowner's designee and the tenant.
 5. If the landowner or the landowner's designee or the tenant reach agreement on the amount of compensation for the damages, the matter shall be finalized by the parties.
- C. No landowner, landowner's designee, or tenant is required to follow the administrative procedure set forth above nor accept the amount of damages offered by the City pursuant to this procedure. However, in the event a landowner or a landowner's designee or a tenant shall decide not to accept the compensation offered by the City, the compensation offered is only an offer to settle, and the offer shall not be introduced

in any administrative or judicial proceeding brought by the landowner, the landowner's designee, or a tenant to establish the amount of damages the City must pay.

- D. The City shall respond within 48 hours to any landowner and/or tenant issues or concerns both during the construction and long-term operational activities.

20. Advance Notice of Access to Private Property

- A. The City will provide the landowner and tenant with a minimum of 24 hours prior notice before accessing his/her property for the purpose of constructing the pipeline.
- B. Prior notice shall first consist of a personal contact or a telephone contact, whereby the landowner and the tenant is informed of the City's intent to access the land. If the landowner and tenant cannot be reached in person or by telephone, the City will mail or hand-deliver to the landowner and the tenant's home a dated, written notice of the City's intent. The landowner and tenant need not acknowledge receipt of the written notice before the City can enter the landowner's property.

21. Indemnification

For any pipeline installation covered by this plan, the City or its successor in interest will indemnify all landowners and tenants, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, (including, but not limited to, crop loss, repairs to irrigations systems and Tile, real and personal property damages) costs, losses, and reasonable expenses resulting from or arising out of the laying, maintenance, removal, repair, use or existence of such pipeline, including damage to such pipeline or any of its appurtenances and the leaking of its contents, except where such claims, injuries, suits, damages, costs, losses, and expenses are caused by the negligence or intentional acts, or willful omissions of such landowners and tenants, their contractors, heirs, successors, legal representatives, and assigns. This section shall not preclude the City from securing releases from future damage claims from landowners and tenants as part of damage settlements, as long as the subject matter of the releases does not exceed the subject matter of the corresponding settlements. However, the above-referenced releases shall not be included as part of any easement agreements obtained by the City.

22. Excavation after Pipeline Installation

If at any time after pipeline installation the landowner must make repairs to a tile line that lies within the pipeline right-of-way, or is to install new planned drainage tile as described in item 1B above, the City must, at its own expense:

1. If the pipeline is below the tile, the City will provide a person to be present when the excavation work is being performed but will not perform the excavation work.
2. If the pipeline is above the tile, the City is responsible for extra costs incurred by the landowner to excavate and expose the pipeline.