

**CONTRACT DOCUMENTS  
AND  
SPECIFICATIONS FOR  
SAMUELL PARKS FARMS/SCYENE SEWER MAIN REPAR/REHABILITATION  
CITY OF MESQUITE CONTRACT NO. 2025-073  
VOLUME 3**

**FOR THE CITY OF MESQUITE, TEXAS  
PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION**



Prepared by:

**ENGINEERING DIVISION, PUBLIC WORKS DEPARTMENT**



## **APPENDIX**

- APPENDIX A City of Mesquite Approved Materials List
- APPENDIX B Union Pacific Railroad Maintenance Consent Letters – Project Numbers 0115490, 0115491 and 0115493
- APPENDIX C Draft Temporary Access Agreement North Mesquite Creek Preserve – Site 1
- APPENDIX D Temporary Construction Easement Church Property – Site 2

# **APPENDIX A**

City of Mesquite  
Approved Materials List for Wastewater  
Last Revised - September 8, 2020

BASIC PRODUCT CATEGORY	SUB-CATEGORY	MANUFACTURER	MODEL, TYPE, OR STYLE APPROVED	GOVERNING SPECIFICATION	GENERAL REQUIREMENTS	NOTES
<b>Sewer Pipes</b>						
Sewer Main	4" to 15" Dia		PVC, SDR-26	ASTM D3034	Green color	Fusible PVC and Certa-Lok are acceptable PVC pipe materials
			HDPE, DR 13.5	ASTM F714, PE 4710		
	18" to 30" Dia		PVC, PS115	ASTM F679		Fusible PVC and Certa-Lok are acceptable PVC pipe materials
	18" to 54" Dia	Hobas Pipe, US Composite Pipe South and Ameron International	Fiberglass	ASTM D3262 / ASTM 4161		Must submit thickness design for wall thickness calculations
Aerial Crossing			Ductile iron pipe (CL 54) with Protecto 401 internal coating		Green color	
Service Laterals			PVC		Green color	Green color
<b>Manhole and Appurtenances</b>						
Manhole Pipe connectors		A-Loc National Pollution Control Systems Inc.	KOR-N-SEAL 306 Series			
		Press-Seal	PSX: Direct Drive			
Manhole Lids and Rings	Connectings Lines < 15" Dia	EJ USA, Inc.	30-in ERGO XL SS (Product No. 00148026L01)		30" Clear Opening; AASHTO HS-20 Load Rated; Words and Logo per Standard Detail	Equipped with MPIC Pick Slot, elastomer T-Gasket in lid, infiltration plugs at hinge
	Connecting Lines ≥ 15" Dia	Manhole Rehab, Inc. Composite Access Products	Sewper Cover 3200 Product Series Composite Manhole Frame and Cover (Model CAP ONE - 30, bolt down)			
	Retrofit Work Only	EJ USA, Inc.	24-in ERGO SS (Product No. NPR10-1213A)			Equipped with MPIC Pick Slot, elastomer T-Gasket in lid, infiltration plugs at hinge
Manhole Coating		Armorock	Armorock liner inserts for existing manholes or Armorock manholes for new manholes may be used in lieu of concrete manholes with coating where coating is required			Armorock manholes shall not be allowed where manhole is required to be above adjacent grade (i.e. floodplains). Inserts are still allowed in floodplain.
		Raven Lining Systems	Raven 405			125 mils thick
Manhole Grade Rings		Cretex Seals	ARPRO Expanded Polypropylene	ASTM D3575		
		EJ USA, Inc.	Infra-Riser			
Pre-Cast Manhole Ring Gasket		Hydroconduit	Profile			
		Hanson	CR 097			
Geotextile Material Under Manhole		Tencate	Mirafi 140N			
		Propex Geosolutions	Geotex 401			
Manhole Chimney Seals, Ring & Cover sealing systems		Pipeline Seal & Insulator Inc.	Riser-Wrap			
	Retrofit Work Only	Cretex	Interior Chimney Seal with stainless steel self locking bands			for use with EJ USA, Inc. 24-in manhole lid only
Threaded Lid Anchor						All manhole ring anchors must be embedded a minimum of 4.5-inches into concrete cone. All Stainless Steel Bolts Threads and Nuts must be coated with approved anti-seize compound: Permatex Nickel Anti-Seize or approved equal.
		Hilti USA	KWIK BOLT 3 SS 304 5/8" or equal			
		Simpson Strong-Tie	Strong Bolt 5/8"			
<b>Miscellaneous</b>						
Double Cleanout Meter Box		Bass & Hays	3-LID2 (Sewer)			

# **APPENDIX B**



## MAINTENANCE CONSENT LETTER

October 14, 2024  
Project: 0115490

CITY OF MESQUITE  
PO BOX 850137  
MESQUITE, TEXAS 75185

Lisa Crossman,

Please refer to City of Mesquite's (hereinafter the "Utility") maintenance application for a Crossing - Pipeline, covered by Audit Number 151030 at Mile Post 203.43, on the Mineola Subdivision at or near MESQUITE, Dallas County, Texas requesting approval from Union Pacific Railroad Company (hereinafter the "Railroad Company") to cured-in-place (CIPP) lining of existing 36" sanitary sewer main. Attached hereto is a Railroad Location Print marked **EXHIBIT A**, each attached hereto and hereby made a part hereof, which illustrate the location and specifications of the subject project.

This letter will serve as notification that the Railroad Company approves of your above stated intentions.

It is understood and acknowledged that the Utility shall reimburse the Railroad Company for all expenses incurred by the Railroad Company for employment of flagmen, inspectors and other employees required to protect the right of way and property of the Railroad Company from damage arising out of and/or from the work on the utility line. The Utility shall reimburse the Railroad Company for such expenses within thirty (30) days after presentation of bill for such expenses.

**This consent for maintenance will expire one (1) year from the date hereof.**

If a contractor is to do any of the work performed on or about the Railroad Company's property, then Utility shall require its contractor to execute the Railroad Company's form Contractor's Right of Entry Agreement, **EXHIBIT B**. Utility acknowledges receipt of a copy of Contractor's Right of Entry Agreement and understanding its term, provisions and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Utility's contractor be allowed on or about the Railroad Company's property without first executing the Contractor's Right of Entry Agreement.

In order to protect the operations of the Railroad Company as well as for safety reasons, it is imperative that the Utility notify a Railroad approved flagger provided at the link below and our field representatives at the following offices:

<http://www.up.com/flagging>

**Kris D. Keith**

Email: [kdkeith@up.com](mailto:kdkeith@up.com)

Cell Phone: 682/438-7524

no less than ten (10) days in advance of any construction on, along, or across the Railroad Company's right of way and/or tracks.

The Railroad Company has authorized the installation of fiber optics cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you must visit [up.com/CBUD](http://up.com/CBUD) to complete and submit the required form to determine if a fiber optic cable is buried on the subject property. When you or your representative enters the Railroad Company's property, a copy of this letter must be available at the site to be shown on request to any Railroad Company employee or official.

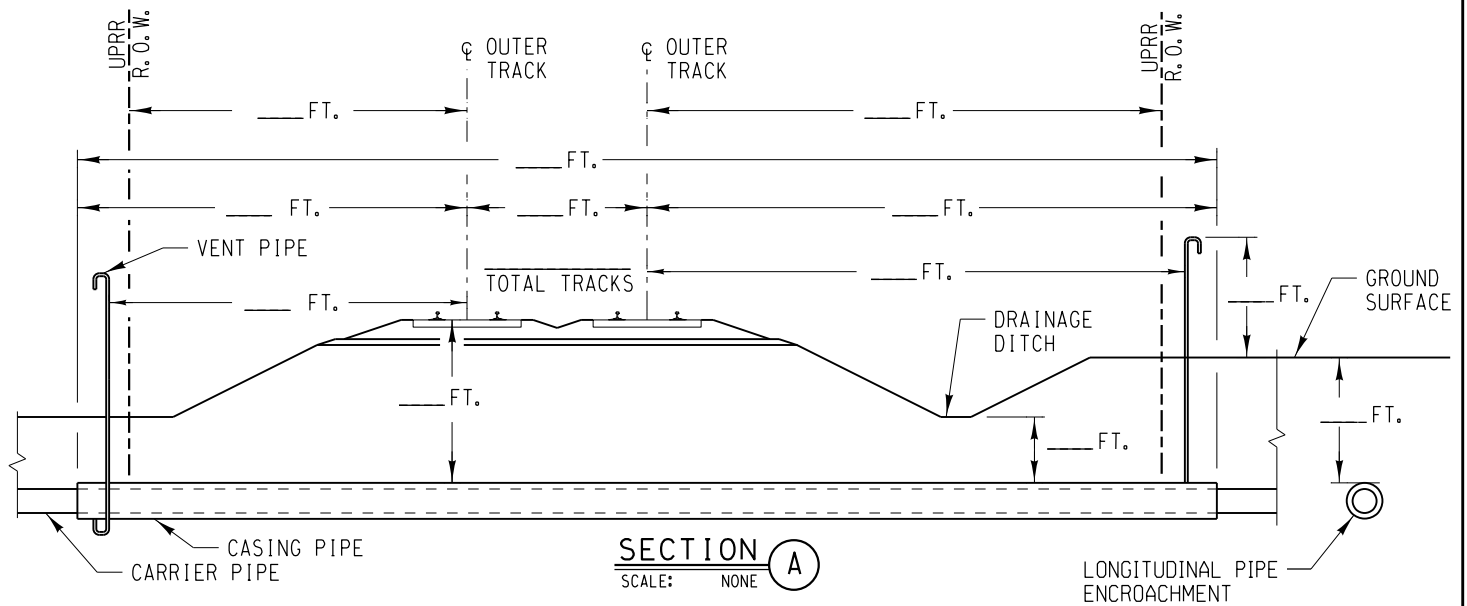
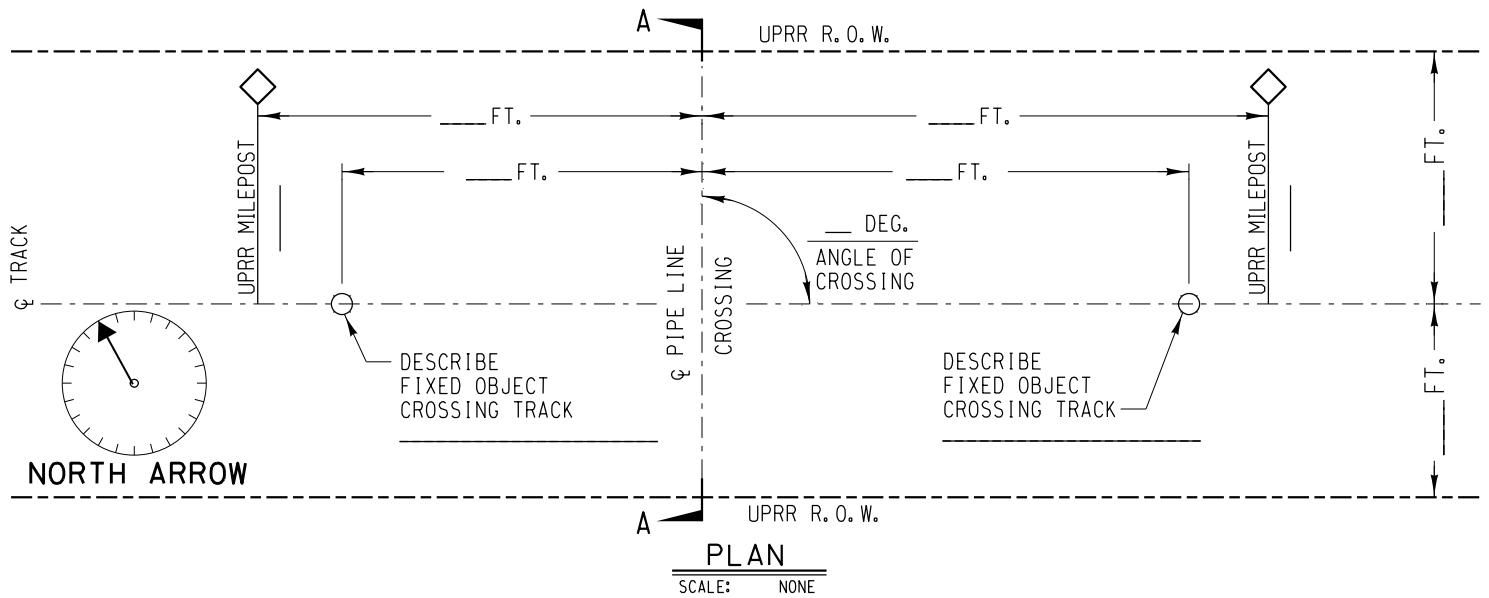
If you have any questions or concerns pertaining to this permit, feel free to contact Craig Benson at (402) 544-8620 or [cobenson@up.com](mailto:cobenson@up.com).

Sincerely,

Craig Benson  
Sr. Manager – Real Estate

# NON-FLAMMABLE LIQUID PIPELINE

- CROSSING
- ENCROACHMENT
- BOTH



- NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION \_\_\_\_\_  
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT \_\_\_\_\_  
 C) SIGNS PROVIDED? \_\_\_\_\_  
 D) CARRIER MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 COMMODITY TO BE CONVEYED \_\_\_\_\_,  
 OPERATIONAL PRESSURE \_\_\_\_\_ PSI. MAOP \_\_\_\_\_ PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE \_\_\_\_\_, DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 E) CASING MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 TOTAL LENGTH CASING PIPE: \_\_\_\_\_ FT.  
 WALL THICKNESS \_\_\_\_\_ IN. DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 CASING PIPE IS \_\_\_\_\_ AT THE ENDS.  
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF  
 BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
 \_\_\_\_\_ AND \_\_\_\_\_.



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EXHIBIT "A"

SUBDIVISION:	
TRACK TYPE:	
M.P.:	LAT.:
E.S.M.:	LONG.:
NEAREST CITY:	COUNTY: STATE:
APPLICANT:	
FILE NO.:	DATE: / /

**EXHIBIT B**  
**TO**  
**MAINTENANCE CONSENT LETTER**

PL X&E ROE 940201  
Form Approved, AVP-Law  
08/25/2006

Project No. 0115490

**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the \_\_\_\_\_ by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, ("Railroad") and \_\_\_\_\_, a \_\_\_\_\_ corporation ("Contractor"), to be addressed at \_\_\_\_\_.

**RECITALS:**

The Contractor has been hired by **City of Mesquite** to install a cured-in-place (CIPP) lining of existing 36" sanitary sewer main (the "work"), with all or a portion of such work to be performed on property of Railroad at Mile Post 203.43, on the Mineola Subdivision at or near MESQUITE, Dallas County, Texas. pursuant to a Maintenance Consent Letter between Railroad and City of Mesquite dated October 14, 2024 at such location as shown on the print marked **Exhibit A** attached hereto and hereby made a part hereof.

Railroad is willing to permit Contractor to perform the work described above at the location describe above subject to the terms and conditions contained in this Agreement.

**AGREEMENT:**

NOW, THEREFORE, it is mutually agreed by and between the Railroad and Contractor, as follows:

**Article I. DEFINITION OF CONTRACTOR.**

For purposes of this Agreement, all references in this Agreement to the Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

**Article II. RIGHT GRANTED; PURPOSE.**

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing any work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article IV, and is strictly limited to the scope of work identified to the Railroad, as determined by the Railroad in its sole discretion, and for no other purpose.

**Article III. TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND C.**

The terms and conditions contained in **Exhibit B** and **C**, attached hereto, are hereby made a part of this Agreement.

**Article IV. ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.**

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with a Railroad approved flagger provided at the link below and the following Railroad representatives or his or her duly authorized representative (the "Railroad Representative"):

<a href="http://www.up.com/flagging">http://www.up.com/flagging</a>	<b>Kris D. Keith</b> Email: <a href="mailto:kdkeith@up.com">kdkeith@up.com</a> Cell Phone: 682/438-7524
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C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

**Article V. TERM; TERMINATION.**

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue for one (1) year from October 14, 2024, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

**Article VI. CERTIFICATE OF INSURANCE.**

A. Only upon request Contractor will provide Railroad with the insurance binders, policies, certificates and/or endorsements set forth in **Exhibit C** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Project No: 0115490  
Union Pacific Railroad Company  
1400 Douglas Street STOP 1690  
Omaha, Nebraska 68179-1690

**Article VII. CHOICE OF FORUM.**

Litigation arising out of or connected with this Agreement may be instituted and maintained in the courts of the State of Texas only, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

**Article VIII. DISMISSAL OF CONTRACTOR'S EMPLOYEE.**

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

**Article IX. ADMINISTRATIVE FEE.**

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad **One Thousand Dollars (\$1,000.00)** as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

**Article X. CROSSINGS.**

No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

**Article XI. EXPLOSIVES.**

Explosives or other highly flammable substances shall not be stored on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  
Craig Benson  
Sr. Manager – Real Estate

\_\_\_\_\_  
(Contractor Name)

By \_\_\_\_\_

Name: \_\_\_\_\_

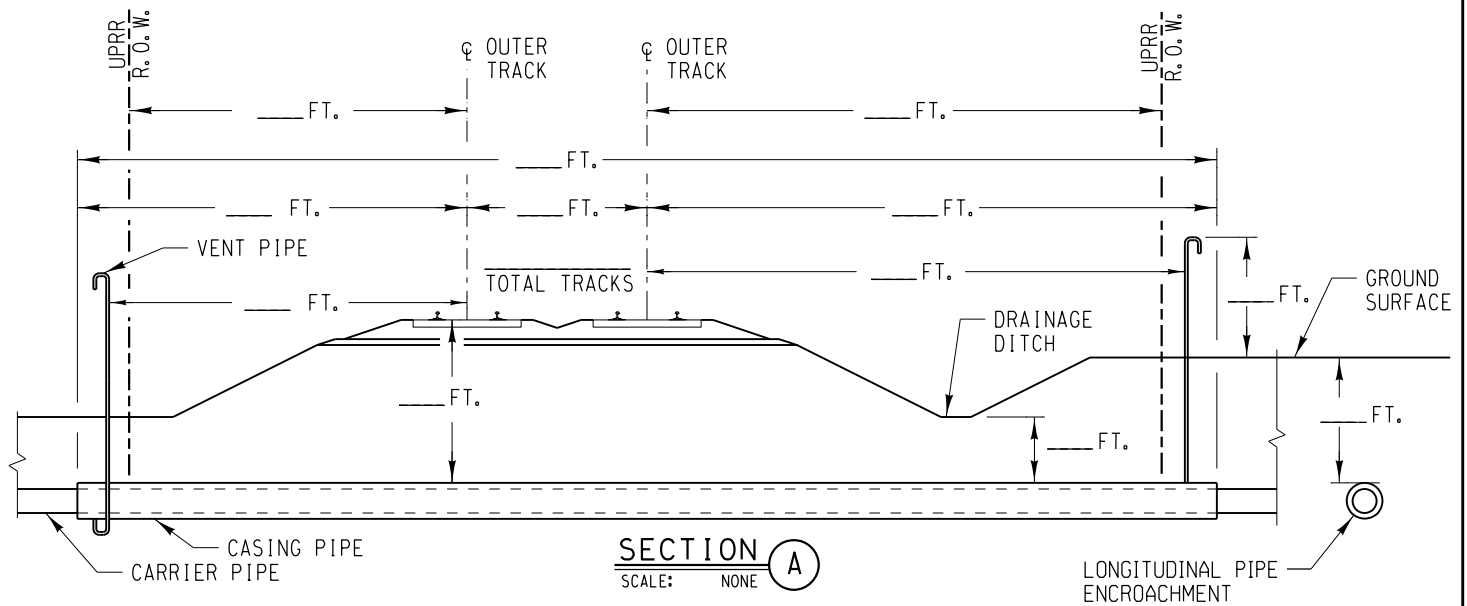
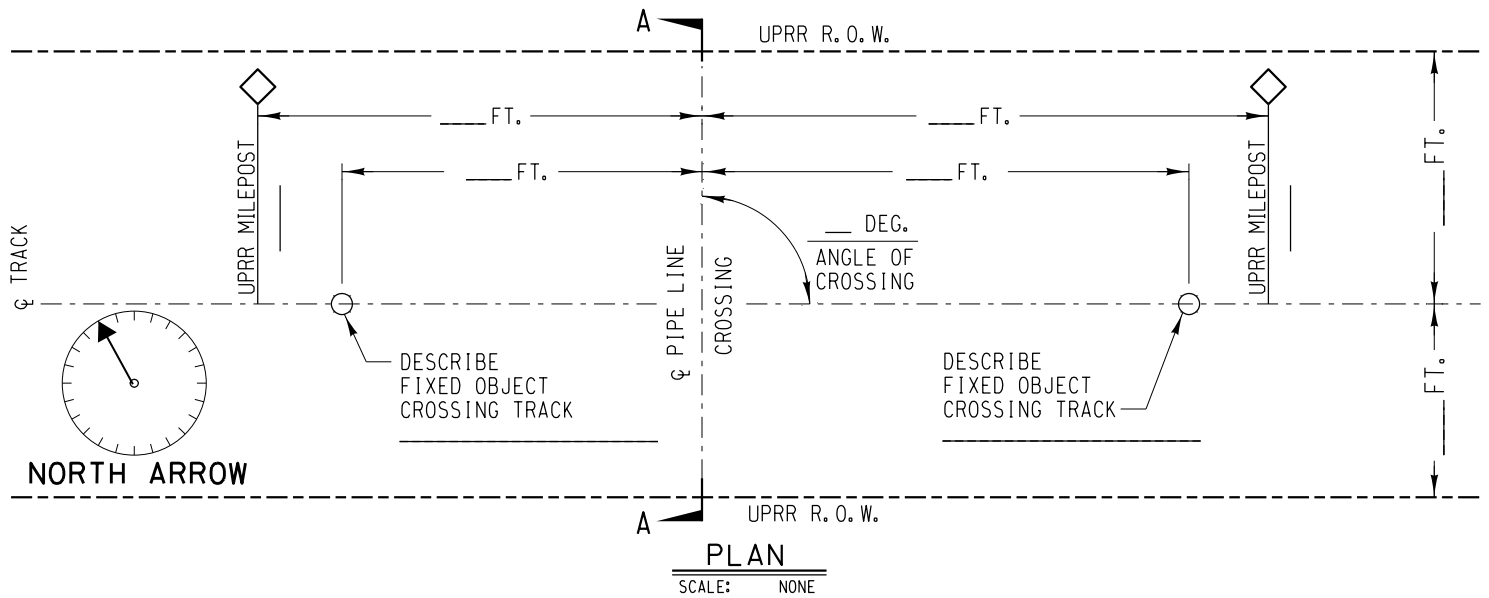
Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

# NON-FLAMMABLE LIQUID PIPELINE

- CROSSING
- ENCROACHMENT
- BOTH



- NOTES:  
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 D) CARRIER MATERIAL \_\_\_\_\_. IF RCP, CLASS V? \_\_\_\_\_.  
 COMMODITY TO BE CONVEYED \_\_\_\_\_.  
 OPERATIONAL PRESSURE \_\_\_\_\_ PSI. MAOP \_\_\_\_\_ PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE \_\_\_\_\_ . DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 E) CASING MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_.  
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 WALL THICKNESS \_\_\_\_\_ IN. DIAMETER \_\_\_\_\_ IN.  
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 CASING PIPE IS \_\_\_\_\_ AT THE ENDS.  
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES \_\_\_\_\_ AND \_\_\_\_\_.



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EXHIBIT "A"

SUBDIVISION:	
TRACK TYPE:	
M.P.:	LAT.:
E.S.M.:	LONG.:
NEAREST CITY:	COUNTY: STATE:
APPLICANT:	
FILE NO.:	DATE: / /

**EXHIBIT B**  
**To**  
**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

**Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not

required for that period. An additional ten (10) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

**Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED**

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

**Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.**

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

**Section 4. LIENS.**

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

**Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall visit [up.com/CBUD](http://up.com/CBUD) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

**Section 6. PERMITS - COMPLIANCE WITH LAWS.**

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

**Section 7. SAFETY.**

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Licensee or its contractor. Licensee shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Licensee and its contractor shall at a minimum comply with Licensor's then current safety standards located at the following link [UP Safety Standards](#) to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's safety standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but

not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

**Section 8. INDEMNITY.**

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this agreement by Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

**Section 9. RESTORATION OF PROPERTY.**

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

**Section 10. WAIVER OF DEFAULT.**

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

**Section 11. MODIFICATION - ENTIRE AGREEMENT.**

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof

constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

**Section 12. ASSIGNMENT - SUBCONTRACTING.**

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by Contractor as provided in this Agreement, and to indemnify Contractor and Railroad to the same extent as Railroad is indemnified by Contractor under this Agreement.

**EXHIBIT C**

**Union Pacific Railroad Company  
Insurance Provisions For  
Contractor's Right of Entry Agreement**

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from the Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

**A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

**B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less than \$2,000,000 for each accident.

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement – Hazardous materials clean up (MCS-90) if required by law.

**C. Workers Compensation and Employers Liability insurance.** Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excel workers compensation coverage must be provided. Coverage must include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

**D. Railroad Protective Liability insurance.** Contractor must maintain Railroad Protective Liability insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. A binder stating the policy is in place must be submitted to Railroad before the work may be commenced and until the original policy is forwarded to Railroad.

**E. Umbrella or Excess insurance.** If Contractor utilizes umbrella or excess policies, these policies must “follow form” and afford no less coverage than the primary policy.

**F. Pollution Liability insurance.** Pollution Liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any “hazardous” material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 04 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

#### **Other Requirements**

**G.** All policy(ies) required above (except worker’s compensation and employers liability) must include Railroad as “Additional Insured” using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad’s negligence whether sole or partial, active or passive, and shall not be limited by Contractor’s liability under the indemnity provisions of this Agreement.

**H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.

**I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.

**J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

**K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best’s Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

**L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.



## MAINTENANCE CONSENT LETTER

October 14, 2024  
Project: 0115491

CITY OF MESQUITE  
PO BOX 850137,  
MESQUITE, TEXAS 75185

Lisa Crossman,

Please refer to City of Mesquite's (hereinafter the "Utility") maintenance application for a Crossing - Pipeline, covered by Audit Number 151031 at Mile Post 203.43, on the Mineola Subdivision at or near MESQUITE, Dallas County, Texas requesting approval from Union Pacific Railroad Company (hereinafter the "Railroad Company) for installing cured-in-place (CIPP) lining of existing 36" sanitary sewer main. Attached hereto is a Railroad Location Print marked **EXHIBIT A**, each attached hereto and hereby made a part hereof, which illustrate the location and specifications of the subject project.

This letter will serve as notification that the Railroad Company approves of your above stated intentions.

It is understood and acknowledged that the Utility shall reimburse the Railroad Company for all expenses incurred by the Railroad Company for employment of flagmen, inspectors and other employees required to protect the right of way and property of the Railroad Company from damage arising out of and/or from the work on the utility line. The Utility shall reimburse the Railroad Company for such expenses within thirty (30) days after presentation of bill for such expenses.

**This consent for maintenance will expire one (1) year from the date hereof.**

If a contractor is to do any of the work performed on or about the Railroad Company's property, then Utility shall require its contractor to execute the Railroad Company's form Contractor's Right of Entry Agreement, **EXHIBIT B**. Utility acknowledges receipt of a copy of Contractor's Right of Entry Agreement and understanding its term, provisions and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Utility's contractor be allowed on or about the Railroad Company's property without first executing the Contractor's Right of Entry Agreement.

In order to protect the operations of the Railroad Company as well as for safety reasons, it is imperative that the Utility notify a Railroad approved flagger provided at the link below and our field representatives at the following offices:

<http://www.up.com/flagging>

**Kris D. Keith**

Email: [kdkeith@up.com](mailto:kdkeith@up.com)

Cell Phone: 682/438-7524

no less than ten (10) days in advance of any construction on, along, or across the Railroad Company's right of way and/or tracks.

The Railroad Company has authorized the installation of fiber optics cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you must visit [up.com/CBUD](http://up.com/CBUD) to complete and submit the required form to determine if a fiber optic cable is buried on the subject property. When you or your representative enters the Railroad Company's property, a copy of this letter must be available at the site to be shown on request to any Railroad Company employee or official.

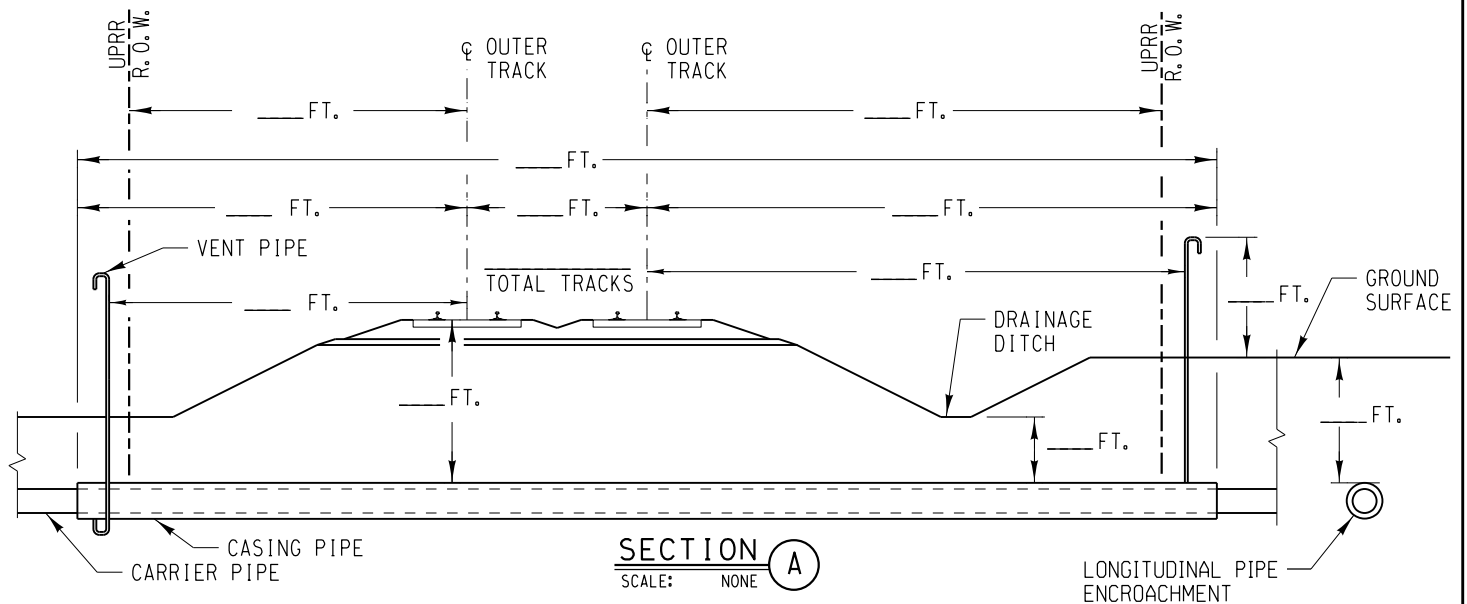
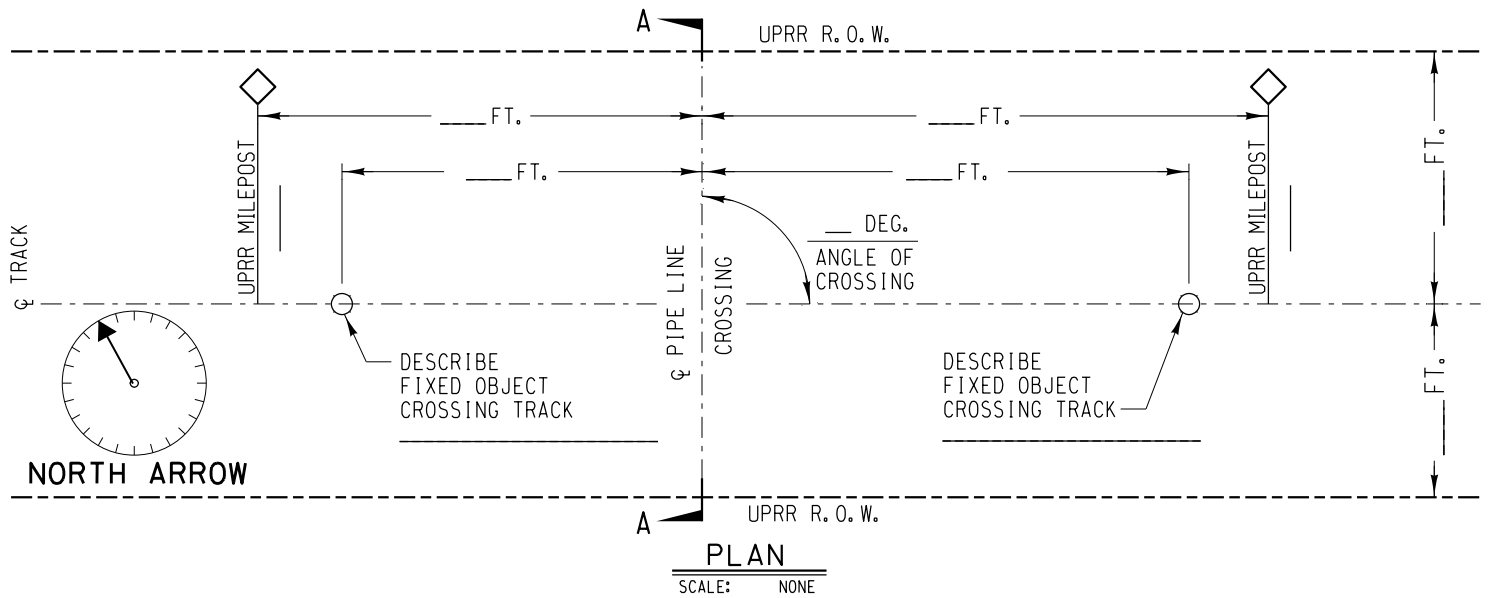
If you have any questions or concerns pertaining to this permit, feel free to contact Craig Benson at (402) 544-8620 or [cobenson@up.com](mailto:cobenson@up.com).

Sincerely,

Craig Benson  
Sr Manager – Real Estate

# NON-FLAMMABLE LIQUID PIPELINE

- CROSSING
- ENCROACHMENT
- BOTH



- NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION \_\_\_\_\_  
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT \_\_\_\_\_  
 C) SIGNS PROVIDED? \_\_\_\_\_  
 D) CARRIER MATERIAL \_\_\_\_\_. IF RCP, CLASS V? \_\_\_\_\_.  
 COMMODITY TO BE CONVEYED \_\_\_\_\_.  
 OPERATIONAL PRESSURE \_\_\_\_\_ PSI. MAOP \_\_\_\_\_ PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE \_\_\_\_\_. DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 E) CASING MATERIAL \_\_\_\_\_. IF RCP, CLASS V? \_\_\_\_\_.  
 TOTAL LENGTH CASING PIPE: \_\_\_\_\_ FT.  
 WALL THICKNESS \_\_\_\_\_ IN. DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 CASING PIPE IS \_\_\_\_\_ AT THE ENDS.  
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES \_\_\_\_\_ AND \_\_\_\_\_.



**BUILDING AMERICA®**

EXHIBIT "A"

SUBDIVISION:	
TRACK TYPE:	
M.P.:	LAT.:
E.S.M.:	LONG.:
NEAREST CITY:	COUNTY: STATE:
APPLICANT:	
FILE NO.:	DATE: / /

**EXHIBIT B**  
**TO**  
**MAINTENANCE CONSENT LETTER**

PL X&E ROE 940201  
Form Approved, AVP-Law  
08/25/2006

Project No. 0115491

**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the \_\_\_\_\_ by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, ("Railroad") and \_\_\_\_\_, a \_\_\_\_\_ corporation ("Contractor"), to be addressed at \_\_\_\_\_.

**RECITALS:**

The Contractor has been hired by **City of Mesquite** for installing cured-in-place (CIPP) lining of existing 36" sanitary sewer main (the "work"), with all or a portion of such work to be performed on property of Railroad at Mile Post 203.43, on the Mineola Subdivision at or near MESQUITE, Dallas County, Texas. pursuant to a Maintenance Consent Letter between Railroad and City of Mesquite dated October 14, 2024 at such location as shown on the print marked **Exhibit A** attached hereto and hereby made a part hereof.

Railroad is willing to permit Contractor to perform the work described above at the location describe above subject to the terms and conditions contained in this Agreement.

**AGREEMENT:**

NOW, THEREFORE, it is mutually agreed by and between the Railroad and Contractor, as follows:

**Article I. DEFINITION OF CONTRACTOR.**

For purposes of this Agreement, all references in this Agreement to the Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

**Article II. RIGHT GRANTED; PURPOSE.**

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing any work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article IV, and is strictly limited to the scope of work identified to the Railroad, as determined by the Railroad in its sole discretion, and for no other purpose.

**Article III. TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND C.**

The terms and conditions contained in **Exhibit B** and **C**, attached hereto, are hereby made a part of this Agreement.

**Article IV. ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.**

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with a Railroad approved flagger provided at the link below and the following Railroad representatives or his or her duly authorized representative (the "Railroad Representative"):

<a href="http://www.up.com/flagging">http://www.up.com/flagging</a>	<b>Kris D. Keith</b> Email: <a href="mailto:kdkeith@up.com">kdkeith@up.com</a> Cell Phone: 682/438-7524
---	---

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

**Article V. TERM; TERMINATION.**

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue for one (1) year from October 14, 2024, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

**Article VI. CERTIFICATE OF INSURANCE.**

A. Only upon request Contractor will provide Railroad with the insurance binders, policies, certificates and/or endorsements set forth in **Exhibit C** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Project No: 0115491  
Union Pacific Railroad Company  
1400 Douglas Street STOP 1690  
Omaha, Nebraska 68179-1690

**Article VII. CHOICE OF FORUM.**

Litigation arising out of or connected with this Agreement may be instituted and maintained in the courts of the State of Texas only, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

**Article VIII. DISMISSAL OF CONTRACTOR'S EMPLOYEE.**

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

**Article IX. ADMINISTRATIVE FEE.**

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad **One Thousand Dollars (\$1,000.00)** as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

**Article X. CROSSINGS.**

No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

**Article XI. EXPLOSIVES.**

Explosives or other highly flammable substances shall not be stored on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  
Craig Benson  
Sr. Manager – Real Estate

\_\_\_\_\_  
(Contractor Name)

By \_\_\_\_\_

Name: \_\_\_\_\_

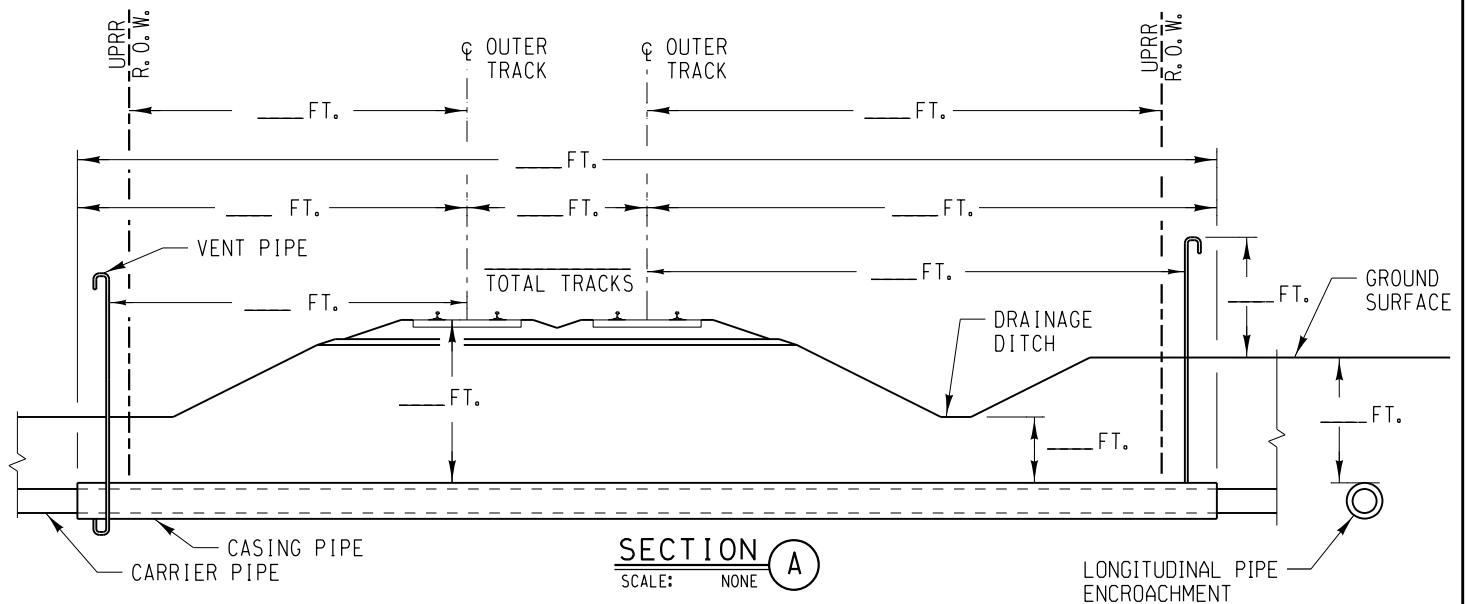
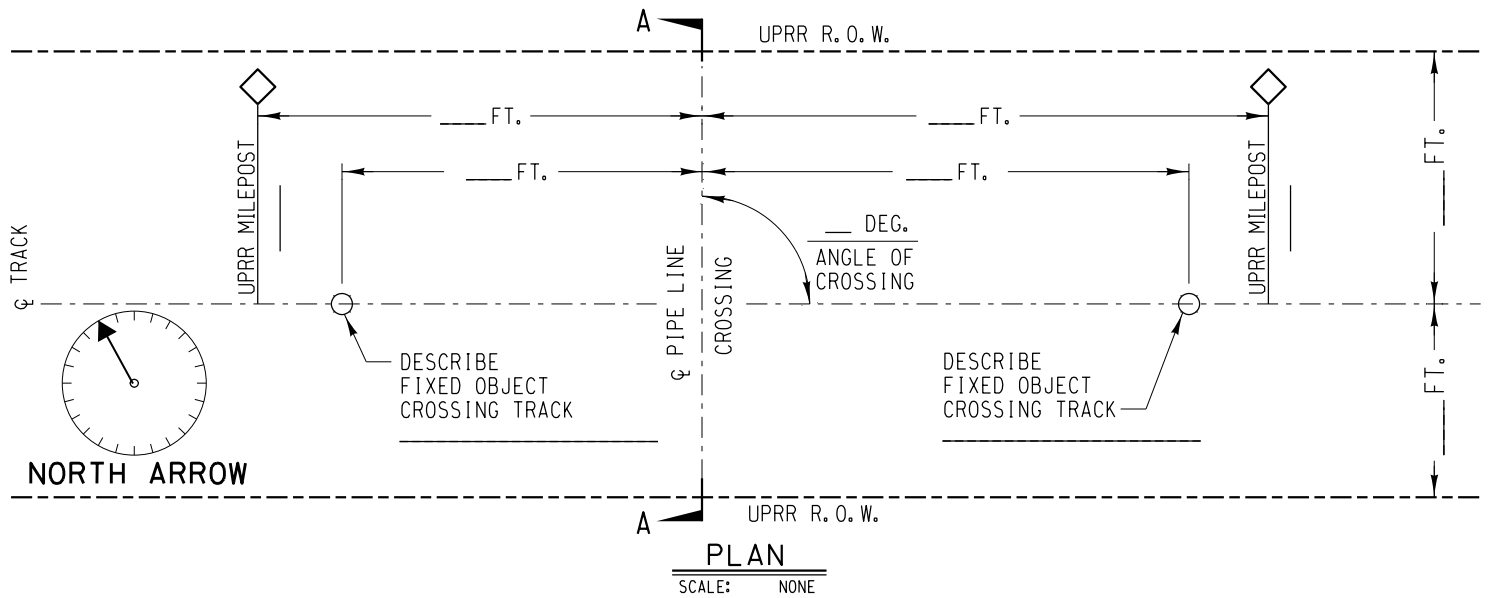
Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

# NON-FLAMMABLE LIQUID PIPELINE

- CROSSING
- ENCROACHMENT
- BOTH



- NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION \_\_\_\_\_  
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT \_\_\_\_\_  
 C) SIGNS PROVIDED? \_\_\_\_\_  
 D) CARRIER MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 COMMODITY TO BE CONVEYED \_\_\_\_\_,  
 OPERATIONAL PRESSURE \_\_\_\_\_ PSI. MAOP \_\_\_\_\_ PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE \_\_\_\_\_, DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 E) CASING MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 TOTAL LENGTH CASING PIPE: \_\_\_\_\_ FT.  
 WALL THICKNESS \_\_\_\_\_ IN. DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 CASING PIPE IS \_\_\_\_\_ AT THE ENDS.  
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF  
 BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
 \_\_\_\_\_ AND \_\_\_\_\_.



**BUILDING AMERICA®**

EXHIBIT "A"

SUBDIVISION:	
TRACK TYPE:	
M.P.:	LAT.:
E.S.M.:	LONG.:
NEAREST CITY:	COUNTY: STATE:
APPLICANT:	
FILE NO.:	DATE: / /

**EXHIBIT B**  
**To**  
**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

**Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not

required for that period. An additional ten (10) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

**Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED**

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

**Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.**

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

**Section 4. LIENS.**

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

**Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall visit [up.com/CBUD](http://up.com/CBUD) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

**Section 6. PERMITS - COMPLIANCE WITH LAWS.**

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

**Section 7. SAFETY.**

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Licensee or its contractor. Licensee shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Licensee and its contractor shall at a minimum comply with Licensor's then current safety standards located at the following link [UP Safety Standards](#) to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's safety standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but

not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

**Section 8. INDEMNITY.**

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this agreement by Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

**Section 9. RESTORATION OF PROPERTY.**

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

**Section 10. WAIVER OF DEFAULT.**

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

**Section 11. MODIFICATION - ENTIRE AGREEMENT.**

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof

constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

**Section 12. ASSIGNMENT - SUBCONTRACTING.**

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by Contractor as provided in this Agreement, and to indemnify Contractor and Railroad to the same extent as Railroad is indemnified by Contractor under this Agreement.

**EXHIBIT C**

**Union Pacific Railroad Company  
Insurance Provisions For  
Contractor's Right of Entry Agreement**

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from the Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

**A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

**B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less than \$2,000,000 for each accident.

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement – Hazardous materials clean up (MCS-90) if required by law.

**C. Workers Compensation and Employers Liability insurance.** Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excel workers compensation coverage must be provided. Coverage must include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

**D.** Railroad Protective Liability insurance. Contractor must maintain Railroad Protective Liability insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. A binder stating the policy is in place must be submitted to Railroad before the work may be commenced and until the original policy is forwarded to Railroad.

**E.** Umbrella or Excess insurance. If Contractor utilizes umbrella or excess policies, these policies must “follow form” and afford no less coverage than the primary policy.

**F.** Pollution Liability insurance. Pollution Liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any “hazardous” material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 04 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

#### **Other Requirements**

**G.** All policy(ies) required above (except worker’s compensation and employers liability) must include Railroad as “Additional Insured” using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad’s negligence whether sole or partial, active or passive, and shall not be limited by Contractor’s liability under the indemnity provisions of this Agreement.

**H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.

**I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.

**J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

**K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best’s Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

**L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.



## MAINTENANCE CONSENT LETTER

October 14, 2024  
Project: 0115493

CITY OF MESQUITE  
PO BOX 850137,  
MESQUITE, TEXAS 75185

Lisa Crossman,

Please refer to City of Mesquite's (hereinafter the "Utility") maintenance application for a Crossing - Pipeline, covered by Audit Number 151033 at Mile Post 203.43, on the Mineola Subdivision at or near MESQUITE, Dallas County, Texas requesting approval from Union Pacific Railroad Company (hereinafter the "Railroad Company) for installing cured-in-place (CIPP) lining of existing 36" sanitary sewer main. Attached hereto is a Railroad Location Print marked **EXHIBIT A**, each attached hereto and hereby made a part hereof, which illustrate the location and specifications of the subject project.

This letter will serve as notification that the Railroad Company approves of your above stated intentions.

It is understood and acknowledged that the Utility shall reimburse the Railroad Company for all expenses incurred by the Railroad Company for employment of flagmen, inspectors and other employees required to protect the right of way and property of the Railroad Company from damage arising out of and/or from the work on the utility line. The Utility shall reimburse the Railroad Company for such expenses within thirty (30) days after presentation of bill for such expenses.

**This consent for maintenance will expire one (1) year from the date hereof.**

If a contractor is to do any of the work performed on or about the Railroad Company's property, then Utility shall require its contractor to execute the Railroad Company's form Contractor's Right of Entry Agreement, **EXHIBIT B**. Utility acknowledges receipt of a copy of Contractor's Right of Entry Agreement and understanding its term, provisions and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Utility's contractor be allowed on or about the Railroad Company's property without first executing the Contractor's Right of Entry Agreement.

In order to protect the operations of the Railroad Company as well as for safety reasons, it is imperative that the Utility notify a Railroad approved flagger provided at the link below and our field representatives at the following offices:

<http://www.up.com/flagging>

**Kris D. Keith**

Email: [kdkeith@up.com](mailto:kdkeith@up.com)

Cell Phone: 682/438-7524

no less than ten (10) days in advance of any construction on, along, or across the Railroad Company's right of way and/or tracks.

The Railroad Company has authorized the installation of fiber optics cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you must visit [up.com/CBUD](http://up.com/CBUD) to complete and submit the required form to determine if a fiber optic cable is buried on the subject property. When you or your representative enters the Railroad Company's property, a copy of this letter must be available at the site to be shown on request to any Railroad Company employee or official.

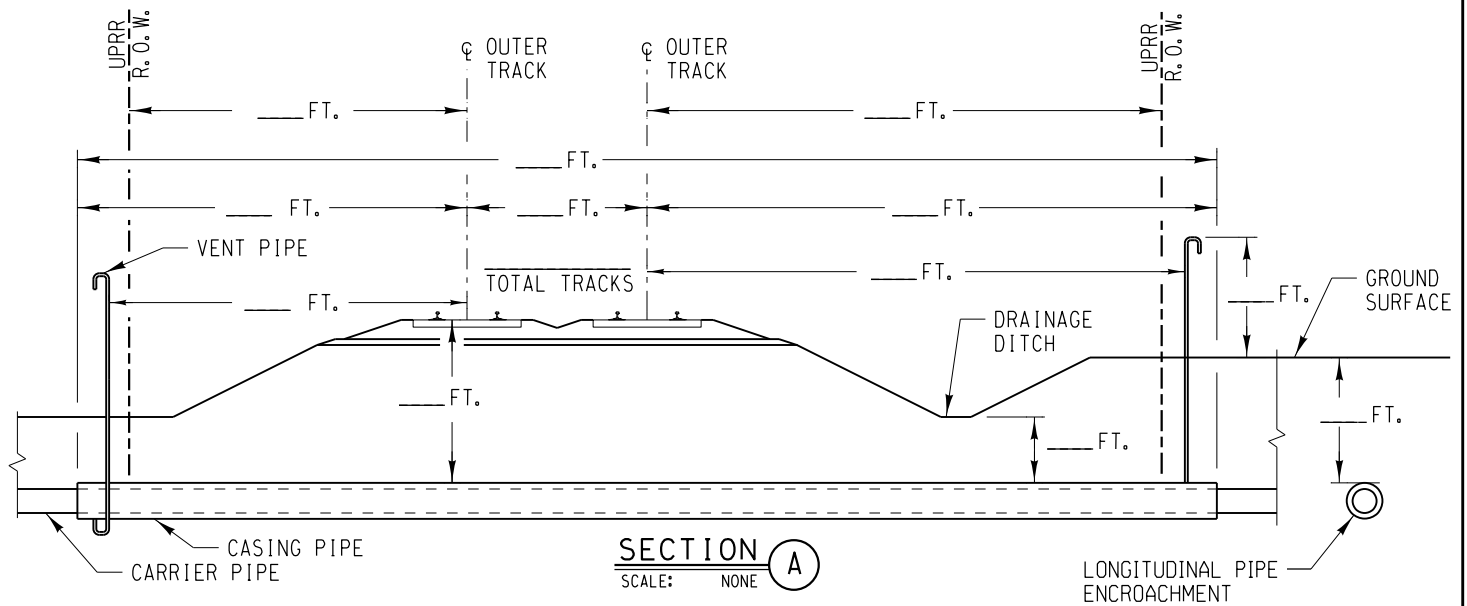
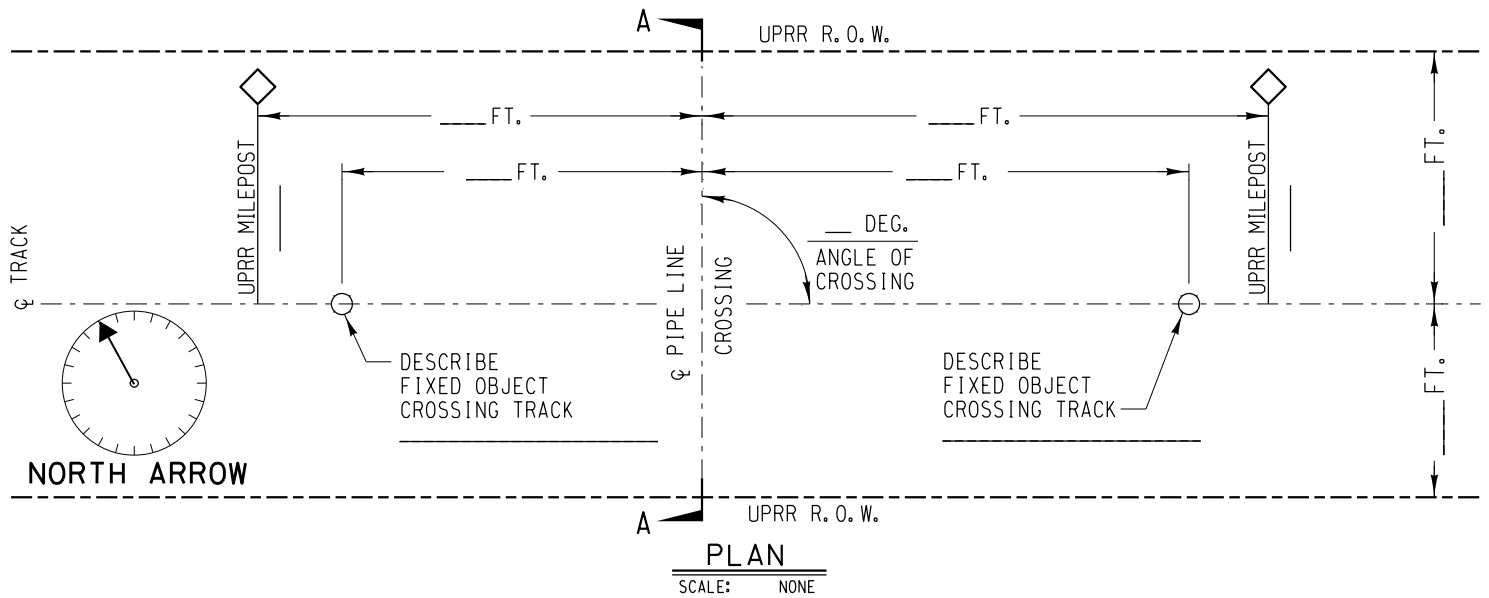
If you have any questions or concerns pertaining to this permit, feel free to contact Craig Benson at (402) 544-8620 or [cobenson@up.com](mailto:cobenson@up.com).

Sincerely,

Craig Benson  
Sr. Manager - Real Estate

# NON-FLAMMABLE LIQUID PIPELINE

- CROSSING
- ENCROACHMENT
- BOTH



- NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION \_\_\_\_\_  
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT \_\_\_\_\_  
 C) SIGNS PROVIDED? \_\_\_\_\_  
 D) CARRIER MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 COMMODITY TO BE CONVEYED \_\_\_\_\_,  
 OPERATIONAL PRESSURE \_\_\_\_\_ PSI. MAOP \_\_\_\_\_ PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE \_\_\_\_\_, DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 E) CASING MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 TOTAL LENGTH CASING PIPE: \_\_\_\_\_ FT.  
 WALL THICKNESS \_\_\_\_\_ IN. DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 CASING PIPE IS \_\_\_\_\_ AT THE ENDS.  
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF  
 BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
 \_\_\_\_\_ AND \_\_\_\_\_.



**BUILDING AMERICA®**

EXHIBIT "A"

SUBDIVISION:	
TRACK TYPE:	
M.P.:	LAT.:
E.S.M.:	LONG.:
NEAREST CITY:	COUNTY: STATE:
APPLICANT:	
FILE NO.:	DATE: / /

**EXHIBIT B**  
**TO**  
**MAINTENANCE CONSENT LETTER**

PL X&E ROE 940201  
Form Approved, AVP-Law  
08/25/2006

Project No. 0115493

**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the \_\_\_\_\_ by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, ("Railroad") and \_\_\_\_\_, a \_\_\_\_\_ corporation ("Contractor"), to be addressed at \_\_\_\_\_.

**RECITALS:**

The Contractor has been hired by **City of Mesquite** for installing cured-in-place (CIPP) lining of existing 36" sanitary sewer main (the "work"), with all or a portion of such work to be performed on property of Railroad at Mile Post 203.43, on the Mineola Subdivision at or near MESQUITE, Dallas County, Texas. pursuant to a Maintenance Consent Letter between Railroad and City of Mesquite dated October 14, 2024 at such location as shown on the print marked **Exhibit A** attached hereto and hereby made a part hereof.

Railroad is willing to permit Contractor to perform the work described above at the location describe above subject to the terms and conditions contained in this Agreement.

**AGREEMENT:**

NOW, THEREFORE, it is mutually agreed by and between the Railroad and Contractor, as follows:

**Article I. DEFINITION OF CONTRACTOR.**

For purposes of this Agreement, all references in this Agreement to the Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

**Article II. RIGHT GRANTED; PURPOSE.**

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing any work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article IV, and is strictly limited to the scope of work identified to the Railroad, as determined by the Railroad in its sole discretion, and for no other purpose.

**Article III. TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND C.**

The terms and conditions contained in **Exhibit B** and **C**, attached hereto, are hereby made a part of this Agreement.

**Article IV. ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.**

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with a Railroad approved flagger provided at the link below and the following Railroad representatives or his or her duly authorized representative (the "Railroad Representative"):

<a href="http://www.up.com/flagging">http://www.up.com/flagging</a>	<b>Kris D. Keith</b> Email: <a href="mailto:kdkeith@up.com">kdkeith@up.com</a> Cell Phone: 682/438-7524
---	---

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

**Article V. TERM; TERMINATION.**

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue for one (1) year from October 14, 2024, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

**Article VI. CERTIFICATE OF INSURANCE.**

A. Only upon request Contractor will provide Railroad with the insurance binders, policies, certificates and/or endorsements set forth in **Exhibit C** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Project No: 0115493  
Union Pacific Railroad Company  
1400 Douglas Street STOP 1690  
Omaha, Nebraska 68179-1690

**Article VII. CHOICE OF FORUM.**

Litigation arising out of or connected with this Agreement may be instituted and maintained in the courts of the State of Texas only, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

**Article VIII. DISMISSAL OF CONTRACTOR'S EMPLOYEE.**

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

**Article IX. ADMINISTRATIVE FEE.**

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad **One Thousand Dollars (\$1,000.00)** as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

**Article X. CROSSINGS.**

No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

**Article XI. EXPLOSIVES.**

Explosives or other highly flammable substances shall not be stored on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  
Craig Benson  
Sr. Manager - Real Estate

\_\_\_\_\_  
(Contractor Name)

By \_\_\_\_\_

Name: \_\_\_\_\_

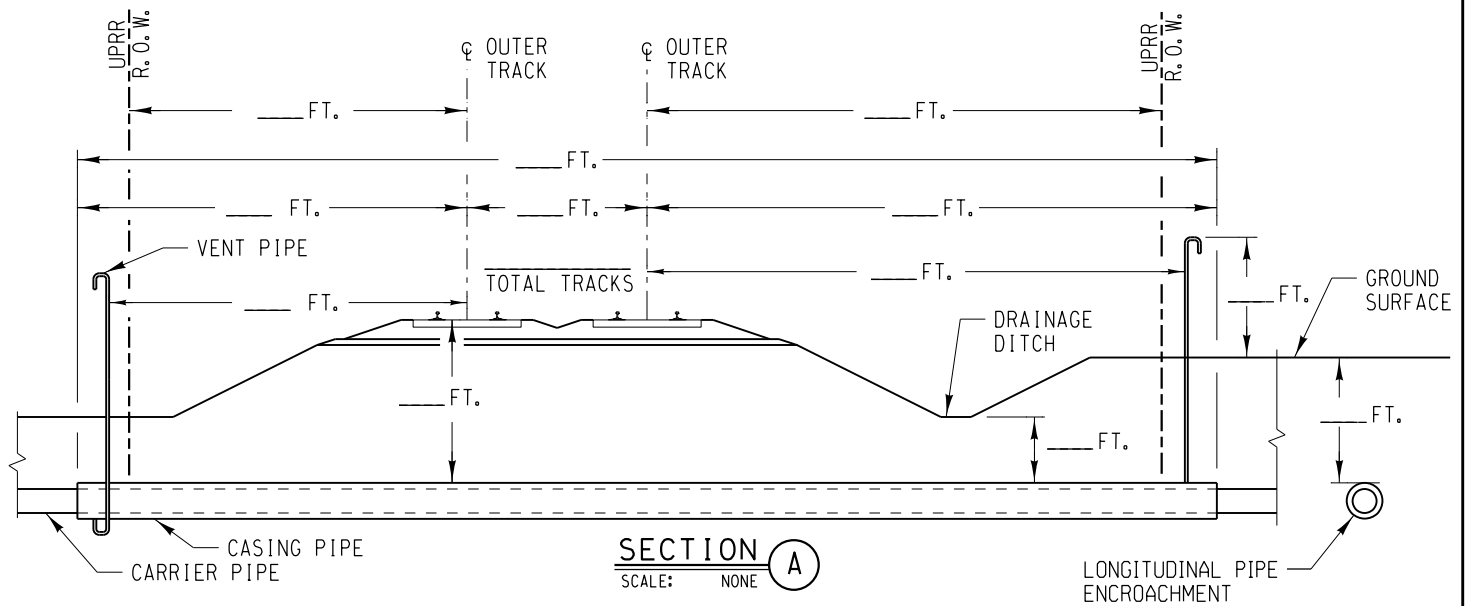
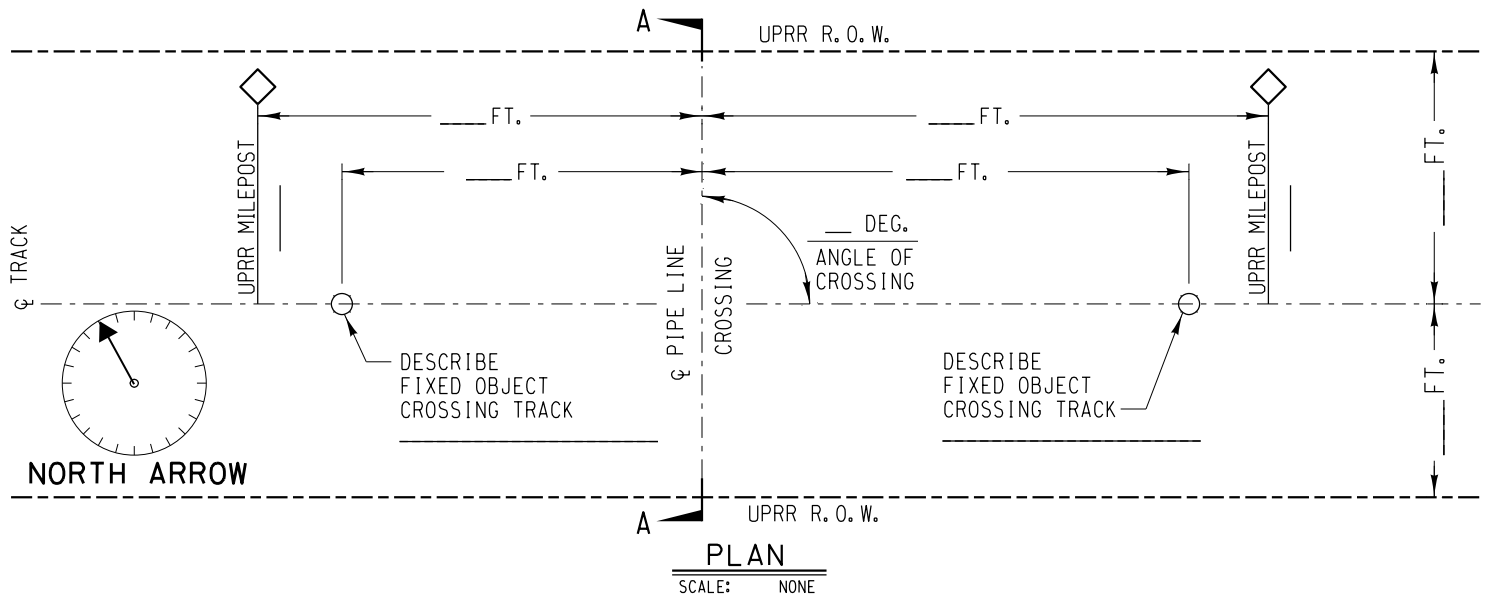
Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

# NON-FLAMMABLE LIQUID PIPELINE

- CROSSING
- ENCROACHMENT
- BOTH



- NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION \_\_\_\_\_  
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT \_\_\_\_\_  
 C) SIGNS PROVIDED? \_\_\_\_\_  
 D) CARRIER MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 COMMODITY TO BE CONVEYED \_\_\_\_\_,  
 OPERATIONAL PRESSURE \_\_\_\_\_ PSI. MAOP \_\_\_\_\_ PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE \_\_\_\_\_, DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 E) CASING MATERIAL \_\_\_\_\_, IF RCP, CLASS V? \_\_\_\_\_  
 TOTAL LENGTH CASING PIPE: \_\_\_\_\_ FT.  
 WALL THICKNESS \_\_\_\_\_ IN. DIAMETER \_\_\_\_\_ IN.  
 CATHODIC/COATING PROTECTION \_\_\_\_\_  
 CASING PIPE IS \_\_\_\_\_ AT THE ENDS.  
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF  
 BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
 \_\_\_\_\_ AND \_\_\_\_\_.



**BUILDING AMERICA®**

EXHIBIT "A"

SUBDIVISION:	
TRACK TYPE:	
M.P.:	LAT.:
E.S.M.:	LONG.:
NEAREST CITY:	COUNTY: STATE:
APPLICANT:	
FILE NO.:	DATE: / /

**EXHIBIT B**  
**To**  
**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

**Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not

required for that period. An additional ten (10) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

**Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED**

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

**Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.**

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

**Section 4. LIENS.**

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

**Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall visit [up.com/CBUD](http://up.com/CBUD) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

**Section 6. PERMITS - COMPLIANCE WITH LAWS.**

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

**Section 7. SAFETY.**

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Licensee or its contractor. Licensee shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Licensee and its contractor shall at a minimum comply with Licensor's then current safety standards located at the following link [UP Safety Standards](#) to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's safety standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but

not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

**Section 8. INDEMNITY.**

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this agreement by Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

**Section 9. RESTORATION OF PROPERTY.**

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

**Section 10. WAIVER OF DEFAULT.**

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

**Section 11. MODIFICATION - ENTIRE AGREEMENT.**

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof

constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

**Section 12. ASSIGNMENT - SUBCONTRACTING.**

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by Contractor as provided in this Agreement, and to indemnify Contractor and Railroad to the same extent as Railroad is indemnified by Contractor under this Agreement.

**EXHIBIT C**

**Union Pacific Railroad Company  
Insurance Provisions For  
Contractor's Right of Entry Agreement**

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from the Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

**A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

**B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less than \$2,000,000 for each accident.

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement – Hazardous materials clean up (MCS-90) if required by law.

**C. Workers Compensation and Employers Liability insurance.** Coverage must include but not be limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excel workers compensation coverage must be provided. Coverage must include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

**D.** Railroad Protective Liability insurance. Contractor must maintain Railroad Protective Liability insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. A binder stating the policy is in place must be submitted to Railroad before the work may be commenced and until the original policy is forwarded to Railroad.

**E.** Umbrella or Excess insurance. If Contractor utilizes umbrella or excess policies, these policies must “follow form” and afford no less coverage than the primary policy.

**F.** Pollution Liability insurance. Pollution Liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any “hazardous” material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

Pollution liability coverage must be written on ISO form Pollution Liability Coverage Form Designated Sites CG 00 39 12 04 (or a substitute form providing equivalent liability coverage), with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

#### **Other Requirements**

**G.** All policy(ies) required above (except worker’s compensation and employers liability) must include Railroad as “Additional Insured” using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad’s negligence whether sole or partial, active or passive, and shall not be limited by Contractor’s liability under the indemnity provisions of this Agreement.

**H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.

**I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.

**J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

**K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best’s Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

**L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

# **APPENDIX C**

## TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement (this “**Agreement**”) is entered into as of [REDACTED], 20 [REDACTED], between **Dallas County**, (“Dallas County”), and **City of Mesquite** (“**City of Mesquite**”).

### RECITALS:

A. Dallas County is the owner of the North Mesquite Creek Preserve located at 1000 Garden Trail, Mesquite, Texas, Dallas County, Texas, and commonly known as (the “**North Mesquite Creek Preserve**”).

B. City of Mesquite is a political subdivision of the State of Texas and has a sanitary sewer line that runs in an easement on North Mesquite Creek Preserve granted by Dallas County to City of Mesquite by Commissioners Court Order 95-766, dated May 9, 1995 (the “Easement”).

C. City of Mesquite desires access to the property adjacent to the Easement in order to transport equipment and materials that are needed to repair and rehabilitate the sanitary sewer line and manholes that are in located within the Easement. The repair and rehabilitation of the sewer line and manholes (the “Work”) is associated with the 2021 Large Diameter Sewer Rehabilitation Project. In order to complete the Work, City of Mesquite and its contractors will enter by foot from City of Mesquite property known as Wildflower Park, on the west side of North Mesquite Creek Preserve using the temporary access route shown in the attached Exhibit “A”. The City of Mesquite and its contractors will transport the needed equipment and materials across this temporary access route either by hand or via a cart, wagon, wheelbarrow or other non-motorized method of conveyance. Motorized vehicles are not allowed. Vegetation under six inches in diameter may be cut within the temporary access route to the extent needed to traverse the route with equipment and materials. Care must be taken to only cut what is needed for this purpose. All cut vegetation must be mulched and dispersed in the Preserve or removed from the preserve for disposal. Cut vegetation must not be left on the preserve property in such a way that would constitute a nuisance or code violation per the City of Mesquite Code of Ordinances. Cutting or felling of trees six inches in diameter or larger is not allowed.

D. Dallas County has agreed to permit City of Mesquite and its contractors access to perform the Work described above on the terms and conditions more particularly set forth in this Agreement.

### AGREEMENTS:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the covenants contained herein, Dallas County and City of Mesquite agree as follows:

1. **Grant of License.** Subject to the terms of this Agreement, Dallas County grants to City of Mesquite, its contractors, subcontractors, and representatives, as duly authorized agents of City of Mesquite, a license to enter onto North Mesquite Creek Preserve for the purpose of

performing the Work beginning on the date the Work commences at North Mesquite Creek Preserve and ending [REDACTED] ( ) days thereafter.

2. **Performance of Work.** City of Mesquite will perform the Work at City of Mesquite's sole cost and expense in a good and workmanlike manner and in accordance with all applicable federal, state, and local laws, building codes, regulations, ordinances, and OSHA standards. In connection therewith, City of Mesquite will deliver to Mia Brown, Dallas County Open Space Administrator, copies of any necessary permit(s) for the performance of the Work and copies of all previous and future inspections with respect to the Work.

3. **Insurance.** For the duration of this Agreement, City of Mesquite will obtain and/or maintain (or cause its contractors to take out and maintain) comprehensive general liability insurance in a minimum amount of \$1,000,000 combined single limit. Certificates of such insurance will be delivered by City of Mesquite to Mia Brown, Dallas County Open Space Administrator, prior to any entry by City of Mesquite, its agents or contractors onto North Mesquite Creek Preserve to begin the Work.

4. **Indemnification.** City of Mesquite, its Officers, Agents, Servants, Employees, Attorneys, Insurers, Subsidiaries, and all other persons, natural or corporate, in privity with City of Mesquite or any of them, agree to defend, indemnify, and hold harmless, Dallas County, Dallas County Planning and Development, its current and former Officers, Agents, Servants, Employees, Commissioners, Elected Officials, Non-Elected Officials, Attorneys, Subsidiaries, and all other persons, natural or corporate, in privity with Dallas County or any of them, from and against any and all claims, loss, cost, damage, judgments, or any other expenses—including attorney's fees—incurred by Dallas County and Dallas County Planning and Development, arising out of this Access Agreement, the entry upon land permitted by this Access Agreement, the Work performed by City of Mesquite pursuant to this Access Agreement, and/or any claims or causes of action brought or asserted against City of Mesquite or Dallas County. This indemnity and hold harmless agreement, running in favor of Dallas County and Dallas County Planning and Development, is specifically intended to operate and be applicable even if it is alleged, charged, or proven that all or some of the damages sought were solely and completely caused by the fault, negligent, grossly negligent, or intentional acts or omissions, of City of Mesquite, City of Mesquite's Officers, Agents, Servants, Employees, Attorneys, Insurers, Subsidiaries, and all other persons, natural or corporate, in privity with City of Mesquite or any of them, Dallas County, or Dallas County Planning and Development.

5. **Notices.** All notices and other communications given pursuant to the Agreement shall be in writing and shall be 1) mailed by first class, United States mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address listed below, 2) hand delivered to the intended addressee, 3) sent by nationally recognized overnight courier, or 4) sent by email at the below addresses. Notice sent by certified mail, postage prepaid, shall be effective three business days after being deposited in the United States mail; all other notices shall be effective upon delivery to the address of the addressee (even if such addressee refuses delivery thereof). Notice by email is effective upon receipt of message.

Dallas County  
Planning & Development Department  
Parks & Open Space Program  
500 Elm Street, Suite 6100  
Dallas, TX 75202

Email: mia.brown@dallascounty.org

City of Mesquite  
Public Works Department  
Engineering Division  
757 N. Galloway Ave.  
Mesquite, TX 75149

Email: lcrossman@cityofmesquite.com

6. **Miscellaneous.** This Agreement (a) may not be modified or amended except by an agreement in writing; (b) shall be governed by and construed in accordance with the laws of the State of Texas; and (c) may be executed in counterparts (which may be delivered in portable document format (PDF) or similar electronic format), each of which shall constitute an original, but which together shall constitute one and the same instrument.

*[signature page follows]*

**EXECUTED** to be effective as of the date first written above.

**Dallas County:**

---

By: Mia Brown  
Open Space Administrator

**City of Mesquite:**

---

By: Cliff Keheley  
City Manager

DRAFT

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# **APPENDIX D**

## TEMPORARY ACCESS EASEMENT

THE STATE OF TEXAS   §  
                                  §       KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF DALLAS   §

THAT **RESPONSIVEED TEXAS**, hereinafter referred to as Grantor, whether one or more, for and in consideration of cash ten dollars (\$10.00) to Grantor in hand paid by the City of Mesquite, the receipt of which is hereby acknowledged, and the further consideration of the benefits to be derived by Grantor from the placing of a **temporary access easement for the construction, reconstruction and/or maintenance of public utilities**, have this day Granted and Conveyed, and by these presents, do hereby Grant and Convey unto the City of Mesquite, a municipal corporation situated in Dallas County, Texas, a **temporary access easement** upon and across the following described land, to wit:

All that certain tract, piece or parcel of land, lying and being situated in the County of Dallas, State of Texas, described in the attached legal description and diagram (**EXHIBIT "A"**) attached hereto and made a part hereof for all purposes, to which reference is made for a more particular description of said property:

TO HAVE AND TO HOLD the same to the City of Mesquite, its successors and assigns, together with the right and privilege to enter said premises for the purposes herein recited.

And in consideration thereof, the parties agree;

1. That the said improvements **of public utilities** shall not be constructed in the Temporary Access Easement.
2. That CITY, its successors and assigns, will restore the said premises to the condition in which the same was found before such work was undertaken and will repair any damages to fences and/or other improvements which may be caused by the exercise of the rights hereby granted.
3. That this Temporary Access Easement will expire on the date that is forty-five (45) days from the date this Temporary Access Easement is executed by the Grantor and the Grantee.

GRANTOR:

RESPONSIVEED TEXAS,

By: 

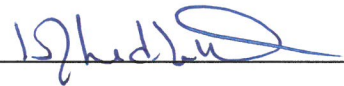
Name: T. Lynn Tompkins, Jr. (Printed)

Title: Vice President Construction + Real Estate

**ACKNOWLEDGMENT**

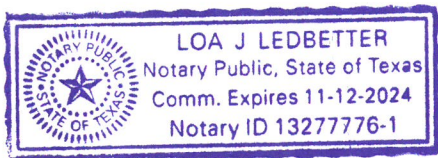
STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on March 14, 2023 [date] by T. Lynn Tompkins, Jr. [name of officer executing instrument], Vice President Construction + Real Estate [title of officer executing instrument] of **RESPONSIVEED TEXAS** [name of entity acknowledging].

 NOTARY PUBLIC, State of Texas

My Commission expires: 11/12/24

[Seal]



**EXHIBIT "A"**

**OWNER: RESPONSIVEED TEXAS  
20' WIDTH TEMPORARY ACCESS EASEMENT  
DALLAS TANNER SURVEY, ABSTRACT NO. 1462  
CITY OF MESQUITE, DALLAS COUNTY, TEXAS**

Being a 0.1501 acre tract of land situated within the Dallas Tanner Survey, Abstract No. 1462, City of Mesquite, Dallas County, Texas, being a portion of Lot 1RA, Block B of Skyline Village No. 37 Phase III recorded in Volume 2005149, Page 266 of the Deed Records of Dallas County, Texas. Said 0.1501 acre tract of land being more particularly described by metes and bounds as follows:

**COMMENCING** at a 1/2-inch iron rod found at a re-entrant corner of said Lot 1RA, being the southwest corner of a remainder portion of Lot 1, Block B of Skyline Village No. 37 Phase II recorded in Volume 85094, Page 1333 of said Deed Records and as described in the deed to PRS GROSS I LP recorded in Volume 94073, Page 3131 of said Deed Records;

**THENCE** NORTH 74 degrees 20 minutes 16 seconds EAST, 20.10 feet with the north line of said Lot 1RA to its intersection with the east line of a sanitary sewer easement dedicated to the City of Mesquite recorded in Volume 90083, Page 1215 of said Deed Records, from which a 5/8-inch iron rod with cap stamped "KSO 419" found at an angle point in the north line of said Lot 1RA bears NORTH 74 degrees 20 minutes 16 seconds EAST, 841.99 feet, and NORTH 56 degrees 09 minutes 12 seconds EAST, 194.42 feet;

**THENCE** SOUTH 26 degrees 21 minutes 22 seconds EAST, 17.35 feet with the east line of said sanitary sewer easement to the **POINT OF BEGINNING**;

**THENCE** NORTH 74 degrees 20 minutes 16 seconds EAST, 290.12 feet parallel with the north line of said Lot 1RA;

**THENCE** NORTH 24 degrees 51 minutes 24 seconds WEST, 17.27 feet to the north line of said Lot 1RA;

**THENCE** NORTH 74 degrees 20 minutes 16 seconds EAST, 20.00 feet with the north line of said Lot 1RA;

**THENCE** the following three (3) calls, through the interior of said Lot 1RA:

1. SOUTH 24 degrees 51 minutes 24 seconds EAST, 37.53 feet;
2. SOUTH 74 degrees 20 minutes 16 seconds WEST, 309.58 feet parallel with the north line of said Lot 1RA to the east line of said sanitary sewer easement;
3. NORTH 26 degrees 21 minutes 22 seconds WEST, 20.35 feet with the east line of said sanitary sewer easement to the **POINT OF BEGINNING**, containing 0.1501 acres.


**NOTES:**

1. Bearings and coordinates are based on the Texas State Plane Coordinate System, North American Datum of 1983, NA2011 (Epoch 2010.00), North Central Zone (4202). Coordinates and distances are surface values and can be converted to grid by dividing by the scale factor of 1.000136506 (0,0 Base Point).
2. A plat of same date accompanies this legal description.

**\* SURVEYOR'S CERTIFICATE \***

TO ALL PARTIES INTERESTED IN TITLE TO THE PREMISES SURVEYED, I DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED FROM PUBLIC RECORDS AND FROM AN ACTUAL AND ACCURATE SURVEY UPON THE GROUND AND THAT SAME IS TRUE AND CORRECT.

Company Name: **Bowman Consulting Group, Ltd.**

By:   
Surveyor's Name: Robert A. Hansen  
LSLS & Registered Professional  
Land Surveyor No. 6439  
Date: February 27, 2023  
Texas Firm No. 10120600



(Exhibit "A") Page 2 of 3

# PLAT OF EXHIBIT "A"

DANIEL TANNER SURVEY  
ABSTRACT NO. 1462

LINE	BEARING	DISTANCE
L1	N 74°20'18" E	20.10'
L2	N 56°09'12" E	194.42'
L3	S 26°21'22" E	17.35'
L4	N 24°51'24" W	17.27'
L5	N 74°20'18" E	20.00'
L6	S 24°51'24" E	37.53'
L7	N 26°21'22" W	20.35'

REMAINDER  
LOT 1, BLOCK B  
SKYLINE VILLAGE NO. 37, PHASE II  
VOLUME 85094, PAGE 1333  
P.R.T.C.T.

19.415 ACRES (BY DEED)  
PRS GROSS I LP  
C.C.F. No. D123456789  
VOLUME 94073, PAGE 3131  
D.R.T.C.T.

FOUND 5/8" IRON ROD  
WITH CAP STAMPED  
"KSO 419"

P.O.C.  
FOUND 1/2" IRON ROD  
WITH CAP STAMPED  
"COLEMAN RPLS 400"

P.O.B.

20' WIDTH TEMPORARY  
ACCESS EASEMENT AREA  
6,538 SQ. FT. OR  
0.1501 ACRES

CALLLED 41.556 ACRE  
LOT 1RA, BLOCK B  
SKYLINE VILLAGE NO. 37 PHASE III  
VOLUME 2005149, PAGE 286  
O.P.R.D.C.T.

SANITARY SEWER EASEMENT  
CITY OF MESQUITE  
VOLUME 90083, PAGE 1215  
D.R.D.C.T.

EASEMENT  
LOCATION

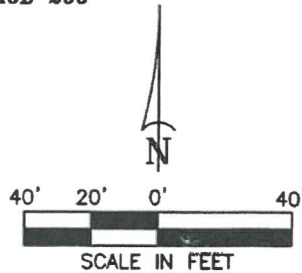
SUBJECT TRACT &  
LOCATION OF EASEMENT

LEGEND	
●	FOUND MONUMENT AS NOTED
○	CALCULATED POINT
---	EASEMENT LINE
---	PROPERTY LINE
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS DALLAS COUNTY TEXAS
P.R.D.C.T.	PLAT RECORDS DALLAS COUNTY TEXAS

## Bowman

© 2022 Bowman Consulting Group, Ltd.  
1200 West Magnolia Blvd., Suite 300 Phone: (214) 484-8586  
Fort Worth, TX 76104 www.bowman.com  
TBPELS #10120600

20' WIDTH TEMPORARY ACCESS EASEMENT			
SURVEY: DANIEL TANNER SURVEY ABSTRACT NO. 1462			
LOCATION: CITY OF MESQUITE, DALLAS COUNTY, TEXAS			
SUBJECT TRACT ACREAGE: 41.556 ACRES (PLAT)			
JOB NO. 210429	DRAWN BY: OIS	CAD FILE: ACCESS EASMENT NO. 1	
DATE: 02-27-23	CHECK BY: RAM	SCALE: 1" = 40'	PAGE 3 OF 3



- NOTES:
- (1) BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (NAD83), NORTH CENTRAL ZONE (4202). COORDINATES AND DISTANCES ARE SURFACE VALUES AND CAN BE CONVERTED TO GRID BY DIVIDING BY THE SCALE FACTOR OF 1.000138508 (OLD BASE POINT).
  - (2) A LEGAL DESCRIPTION OF SAME DATE ACCOMPANIES THIS PLAT.

STATE OF TEXAS  
REGISTERED  
ROBERT A. HANSEN  
6439  
PROFESSIONAL  
LAND SURVEYOR

ROBERT A. HANSEN  
LSLS & REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 6439

## TO THE BIDDER / VENDOR

### DID YOU REMEMBER TO?

- Abide by the General and Special Conditions
- Make note of the opening date and time. All bids must be submitted by 2:00 p.m. Bids received after 2:00 p.m. will not be accepted.
- Fill in the **unit** and **extended price** on your bid proposal.
- Fill in the **total amount**.
- Fill in the **alternate bid amounts**, if requested.
- Fill in the terms, if requested.
- Acknowledge receipt of all addendums.
- Fill in the **delivery time** or the **calendar days** (if applicable).
- Fill in the **company name, address and phone number**.
- **Sign bid proposal**.
- Include on the front of your sealed envelope the following information: **Company name, address, bid number, opening date and time**.

#### Mailing Address:

City of Mesquite  
P.O. Box 850137  
Mesquite, TX 75185-0137

Purchasing Office  
972-216-6201  
972-216-6397 Fax

#### Physical Address:

City of Mesquite  
757 N. Galloway  
Mesquite, TX 75149