

Prepared by:

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WATER LINE CROSSING AGREEMENT

This WATER LINE CROSSING AGREEMENT (“Agreement”) is made effective this ___ day of October, 2015 by and between **DAKOTA ACCESS, LLC**, a Delaware limited liability company having its principal place of business at 1300 Main Street, Houston Texas 77002 (“Company”) and **LEWIS AND CLARK RURAL WATER SYSTEM, INC.**, having its principal place of business at 46986 Monty Street, Tea, SD 57064, (“Lewis & Clark”) (Company and Lewis & Clark may collectively be referred to as “Parties” and individually as “Party”).

WHEREAS, Company intends to acquire certain easement and/or right-of-way rights in South Dakota for the purposes of constructing and maintaining a 30 inch diameter pipeline, together with all other equipment and appurtenances necessary, for the transportation of oil and all by-products thereof;

WHEREAS, Lewis & Clark is a rural water utility providing treated drinking water and related services to communities and rural water districts in South Dakota, Minnesota, and Iowa and, at the point of this crossing, operates a 54 inch diameter spiral wound steel water line with a tight bonded polyurethane coating (hereinafter the “Water Line”);

WHEREAS, the proposed route of Company’s pipeline in South Dakota is such that it will cross or impact Lewis & Clark’s Water Line at a certain point in Lincoln County, South Dakota, in which Lewis & Clark holds an exclusive easement for its Water Line, which easement effects land legally described as follows:

The West Half (W½) of the Southwest Quarter (SW¼) of Section 3, Township 99 North, Range 51 West of the 5th P.M., Lincoln County, South Dakota,

as further shown on Exhibit A attached hereto;

WHEREAS, the Parties desire to assess any potential impacts and resolve or mitigate such impacts to Lewis & Clark’s Water Line as outlined herein; and

WHEREAS, Company desires to obtain from Lewis & Clark permission to cross Lewis & Clark's Water Line easement and Lewis & Clark is willing to provide such permission provided the terms and conditions of this crossing agreement are satisfied.

NOW THEREFORE, the Parties hereby agree as follows:

1. Lewis & Clark agrees to permit the crossing specified herein provided the terms and conditions of this crossing agreement are met by Company. The permission granted to Company by Lewis & Clark hereunder shall be revocable in the event of a material noncompliance with the terms or conditions of this Agreement and the failure by Company to correct such noncompliance with thirty (30) days of written notice given to Company or within an agreed upon timeframe as proposed by Company and as provided for in a written corrective action plan as submitted to Lewis & Clark. In the event of a good faith dispute over the methods, means, terms or conditions of this Agreement, Lewis & Clark's right to revoke under this paragraph shall not be effective until the applicable dispute resolution process has been completed by the Parties. Lewis & Clark shall not have the right to revoke as it relates to third party binding engineering decisions reached as a result of the requirements of Section 2.
2. Company will work with Lewis & Clark to assess and minimize the potential impacts to the Lewis & Clark's Water Line crossed by Company's proposed pipeline and identified in Exhibit B. Company and Lewis & Clark shall work together in good faith to agree upon all of the engineering specifications, construction plans, methods of construction, and related crossing details associated with the crossing specified herein, including any alignment changes to Company's pipeline, taking into account the risks and benefits to the Lewis & Clark water system, feasibility, governing engineering principles, and the reasonable need to accommodate present or proposed infrastructure of Lewis & Clark. The parties agree that the crossing design details shall be in accordance with 49 CFR parts 194 and 195. In the event the Company and Lewis & Clark cannot agree upon the foregoing crossing details, the Company and Lewis & Clark shall mutually agree upon an independent, third party who is a licensed engineer in South Dakota with experience in large diameter treated water pipelines who shall, with input from both Company and Lewis & Clark, finally resolve any disputes between the parties with respect to any of the engineering specifications, construction plans, methods of construction, and related crossing details associated with the crossing specified herein, including any alignment changes to Company's pipeline, taking into account the risks and benefits to the Lewis & Clark water system, feasibility, governing engineering principles, and the reasonable need to accommodate any present or proposed infrastructure of Lewis & Clark. The decision of such independent third party licensed engineer shall be binding upon the parties. The Company shall pay all fees and costs of the independent third party engineer. Company and Lewis & Clark agree that the existing fifty-four (54) inch line will not be relocated but may be crossed as agreed upon herein.
3. Company agrees it shall not place any structure, other than the pipeline, or part of a structure within the easement of Lewis & Clark. Company shall provide all final crossing details to Lewis & Clark, in writing, for review and comment at least ninety (90)

days prior to any proposed construction activity. Crossing details shall include, but not be limited to the following:

- (a) name of applicant/company;
- (b) contact person;
- (c) address and telephone numbers of both (a) and (b);
- (d) type of utility or construction activity;
- (e) physical relation of Company pipeline to the Lewis & Clark Water Line (i.e. over or under the Lewis & Clark's existing Water Line) and proposed separation distance;
- (f) vacuum excavate the Lewis & Clark pipeline minimum of ninety (90) days before any work at the crossing to confirm elevation and location of Lewis & Clark Water Line;
- (g) proposed construction methods and materials;
- (h) safety measures to be used to protect Lewis & Clark Water Line;
- (i) notification plan for any disruption of Lewis & Clark Water Line service;
- (j) site restoration details; and
- (k) such other construction detail for the proposed Company pipeline such as pipe sizes, pipe wall thicknesses, coating descriptions, corrosion control methods, operating pressures, and related details as Lewis & Clark may reasonably request.

Company may not enter the Lewis & Clark's easement for any construction related activities until Lewis & Clark has provided Company with its written consent, which may not be unreasonably withheld, after having reviewed and approved all of the plans and crossing details provided by Company.

In connection with its review of the plans and crossing details, Lewis & Clark agrees that:

- Lewis & Clark shall not require Company to replace the Lewis & Clark Water Line with different pipe.
- Lewis & Clark shall not request Company's pipe wall thickness to exceed 0.625".
- The design shall be in accordance with 49 CFR parts 194 and 195.
- Lewis & Clark shall not require Company to utilize casing pipe of any kind as part of the crossing.

The Company may cross either under or over the Lewis & Clark pipeline provided the following requirements set forth herein are met.

4. Company agrees that no open cut excavation or hollow (unsupported) boring below the Lewis & Clark Water Line shall be allowed due to structural limitations of the

Lewis & Clark Water Line. Company agrees to provide a minimum of twenty-four (24) inches separation between the Lewis & Clark's Water Line and the Company's pipeline.

5. In the event Company's pipeline is to be bored beneath the Lewis & Clark Water Line, the Company agrees that its pipeline shall be installed with a direct buried carrier pipe consisting of a wall thickness of 0.625" which Company warrants is designed to adequately support and protect the Lewis & Clark's Water Line.
6. Bored applications will require minimum of twenty-four (24) inches separation distance from Company carrier pipe to Lewis & Clark Water Line. Bored applications will also require a direct bury carrier pipe wall thickness of 0.625" for a minimum of one hundred (100) feet in length, or longer dependent upon crossing skew, centered on Lewis & Clark Water Line. All joints shall be welded and shall be spaced such that all joints shall be at least thirty (30) feet on either side of the center line of the Lewis & Clark Water Line.
7. Company shall provide all of the plans and specifications regarding the direct buried carrier pipe to Lewis & Clark. The Company carrier pipe wall thickness shall be 0.625" to account for the weight of the 54 inch Lewis & Clark water line, which weighs approximately 1231 lbs/lineal foot when full of water. Lewis & Clark shall review such construction detail, including specific boring method details, coating specifications, and other plans and information provided by the Company and shall have sixty (60) days from and after the receipt of a complete review submittal package to provide its written approval or denial of such specifications. Lewis & Clark may not unreasonably withhold its approval of such specifications.
8. Any proposed changes in the amount of existing cover material on or over the Lewis & Clark's Water Line must be approved in advance by Lewis & Clark.
9. The Lewis & Clark water line is cathodically protected with an impressed current cathodic protection system. Company acknowledges the right of Lewis & Clark to cathodically protect their water pipeline and agrees to work with Lewis & Clark to conduct mutual interference testing and mitigation (if necessary) at the proposed crossing. Company agrees to provide, and continually maintain at its expense, any and all appurtenances and equipment necessary for cathodic protection testing and mitigation (if required) and electrical isolation between Lewis & Clark's Water Line and Company's pipelines as shown on the attached Lewis & Clark foreign pipeline test station details. Test wire connections shall be either located directly above the pipeline crossings for the above grade type crossing or offset to both pipelines for the bored type application. The post mounted test stations shall be offset from the crossing location so as to be installed in a protected location (fence line, above grade structure, etc.). At the expense of Company, the respective parties shall attach the test wires to their own individual pipelines.
10. In the event that the Company pipeline is placed above the Lewis & Clark pipeline, the Company shall provide and install the necessary post mounted type test station for foreign pipeline crossing in accordance with Details 13920L (attached hereto as Exhibit

C) including but not limited to post mounted test station for foreign pipeline crossing, drain anode, a minimum of two test wires (minimum one No. 12 AWG and one No. 8 AWG) to each pipeline, reference electrode, plastic monitoring pipe, shunt and electrical barrier sheet or other items as determined by Lewis & Clark.

11. In the event that the Company pipeline is bored below the Lewis & Clark pipeline, the Company shall provide and install a test station at the crossing in accordance with Detail 13920LA (attached hereto as Exhibit D) including but not limited to post mounted test stations for foreign pipeline crossing, drain anode, a minimum of two test wires (minimum one No. 12 AWG and one No. 8 AWG) to each pipe, reference electrode, and shunt or other items as determined by Lewis & Clark.
12. All damage to Lewis & Clark's Water Line pipeline, coating or lining shall be repaired to the satisfaction of Lewis & Clark. All repairs shall be completed and approved by Lewis & Clark before backfilling of the Lewis & Clark Water Line is allowed.
13. To protect Lewis & Clark's Water Line from external loading, Company shall perform an engineering analysis to determine the effects of any proposed equipment use. A complete submittal package containing such engineering analysis shall be provided to Lewis & Clark, in writing, for review and comment at least sixty (60) days prior to any proposed construction activity. Mats, timber bridges or other protective materials deemed necessary by the engineering analysis, or as otherwise reasonably required by the Lewis & Clark, shall be placed over the Lewis & Clark's Water Line for the duration of any loading or construction traffic. Protective materials shall be purchased, placed and removed at no cost to Lewis & Clark. The easement shall be restored to its original condition.
14. Company shall provide not less than seven (7 calendar days) advance written notice to Lewis & Clark or its representative of anticipated date of crossing to allow Lewis & Clark time to schedule personnel for observation of work across its Water Line easement.
15. Company shall provide not less than 24 hour written notice by means of mail, fax, or email, to Lewis & Clark or its representative to have an authorized Lewis & Clark representative on-site during any work performed on or across the Lewis & Clark easement. However, if Lewis & Clark does not have a representative on site, is delayed for any reason, or does not come to the site at the appointed time, Company will not be delayed as long as Company provided the required 24 hour notice in to the utility or its representative.
16. Except as authorized, in writing by Lewis & Clark, no vibratory equipment of any nature shall be permitted within the Lewis & Clark Water Line easement.
17. Company agrees to reimburse Lewis & Clark for any reasonable direct expenses it incurs as a result of this crossing including, but not limited to, outside party engineering and plan review, and all cathodic protection and isolation costs, both at time of construction

and during life of the Company pipeline. Reimbursement will be made by the Company within thirty (30) days of Lewis & Clark's submission of reimbursement requests. Any reimbursements will be subject to an Audit conducted by Company or its representatives within 24 months following any such reimbursement. Company agrees to reimburse Lewis & Clark for its legal fees associated with the Dakota Access PUC hearings and the negotiation and preparation of this Crossing Agreement, but not for any future legal fees unless otherwise agreed upon in writing prior to the additional activity or required to be paid by a court of law.

18. Company will conduct its construction installation by meeting typical industry standards, and following One-Call damage prevention guidelines. Company will provide all necessary surveying for the project. Request for surveying shall be made to McLaury Engineering, Sioux Falls, South Dakota. Company will provide Lewis & Clark with existing survey data upon written request within five (5) business days of the request.
19. Except in the event of emergency repairs, Company will provide Lewis & Clark with not less than 24 hour advance written notice for any future activity near or around its Water Line because of maintenance or repairing to Company pipeline. In the event of an emergency, Company shall not be required to provide 24 hour advance written notice; however, Company will immediately call the Lewis & Clark emergency number which is: 605-310-2344.
20. Company shall indemnify and defend Lewis & Clark, and its successors and assigns, and its and their members, directors, officers, employees, and agents (herein the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, all claims, actions, liabilities, damages, costs, and expenses, including but not limited to claims or legal actions for environmental damage or clean-up, arising out of or in connection with Company's construction or operation of its pipeline on Lewis & Clark's Water Line easement parcel.
21. Dispute Resolution Procedure. The Parties agree that any disputes arising under this Agreement shall be resolved in accordance with the following procedure:
 - (i) Negotiation of Disputes and Disagreements. In the event of any dispute or disagreement arising out of this Agreement, which the Parties have been unable to settle or agree upon, either party may provide written notice to the other of its intent to invoke the procedures set forth below. Company shall nominate two non-attorney senior executives of its management and the Lewis & Clark shall nominate two non-attorney representatives to meet at a mutually agreed time and place not later than sixty (60) days after the notice of dispute or disagreement has been given to attempt to resolve such dispute or disagreement. Should a resolution of such dispute or disagreement not be obtained within fifteen (15) days after the meeting of senior executives and representatives for such purpose, either party may commence litigation in a court of competent jurisdiction. In the event of

any litigation arising out of or relating to this Agreement, the prevailing party shall be entitled to recover its litigation costs, expenses (including, but not limited to, expert fees) and attorneys' fees. If each party prevails on some issues, the Court shall award attorneys' fees on a pro rata basis.

22. This Agreement shall be interpreted according to the laws of the State of South Dakota. Any litigation arising out of or relating to this Agreement shall be venued exclusively in the Circuit Court of Lincoln County, South Dakota, Second Judicial Circuit, unless jurisdiction over the litigation is reserved to the federal courts, in which case, it shall be venued in the District of South Dakota, so far as allowable under law.
23. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.
24. If any portion of this Agreement is held invalid it shall have no effect upon the validity of the remaining portions of this Agreement.
25. All notices and oral or written communications relating to this Agreement shall be forwarded to:

Notices to Company:

Dakota Access, LLC
Attn: Right-of-Way Department
1300 Main Street
Houston, Texas 77002

With a copy to:

Keegan Pieper, Associate General Counsel
Energy Transfer Partners, LP
1300 Main Street
Houston, Texas 77002
Facsimile: 713-989-1212

Notices to Lewis & Clark:

Lewis and Clark Rural Water System, Inc.
Attn: Executive Director
46986 Monty Street
Tea, SD 57064

STATE OF _____)
:SS
COUNTY OF _____)

On this, the ____ day of _____, 2015, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of Dakota Access, LLC, a Delaware limited liability company, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of Dakota Access, LLC, by himself as _____.

In witness whereof, I hereunto set my hand and official seal.

(SEAL)

Notary Public, _____
My commission expires: _____