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Skagit County Auditor

This Document prepared by  
and when recorded return to:  
Olympic Pipe Line Company LLC  
c/o Lisa Krenz  
BP Pipelines (North America) Inc.  
30 South Wacker Drive, Suite 900  
Chicago, IL 60606

### PERMITTED FACILITIES AGREEMENT

DATE: August 12, 2020

GRANTOR: Olympic Pipe Line Company LLC  
30 South Wacker Drive  
Chicago, IL 60606

GRANTEE: Brandon and Kate Atkinson  
16559 Country Club Drive  
Burlington, WA 98233

REFERENCE: Olympic File: 3676\_SK-57: Database: 12114  
Tax Parcel Number(s): 3887-000-005-0007, P64539  
Abbreviated Legal: Lot(s): All of Lot3, 4 and 5, Country Club Add. #2

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, **Olympic Pipe Line Company LLC**, a Delaware limited liability company (hereinafter called "OLYMPIC"), is the present owner of a right of way and easement (hereinafter called the "Easement" whether one or more), in, over, through, under and across the following described parcel of land in Skagit County, Washington:

Section 2, Township 34 North, Range 3 East, W.M., more clearly described on Exhibit A attached hereto; and

granted by Howard Parker and Emma Parker, George Weiland and Bernadette Weiland, James W. McNett and Anna McNett, Eugene Pearce and Farrell J. Pearce, Richard Cady and Elizabeth A. Cady, Lennart A. Anderson and Pauline Anderson; C.W. Wuest and Neil F. Wuest, to OLYMPIC, its successors and assigns, dated April 3, 1964 and recorded May 14, 1964, as Document 650523 in the Office of the Auditor of Skagit County, Washington.

WHEREAS pursuant to the Easement, OLYMPIC owns, maintains and operates a pipeline or pipelines with equipment, appurtenances and apparatus thereto, if any (hereinafter collectively called "Pipeline") within the Easement; and

WHEREAS **Brandon and Kate Atkinson** (hereinafter called "LANDOWNER") has subsequently acquired title to a tract (whether one or more) of land legally described in Exhibit B and made a part hereof, being all or a part of the same land covered by the Easement; and

WHEREAS, LANDOWNER has requested OLYMPIC to consent to certain improvements including a proposed 10 foot high chain link fence around a previously approved concrete sport court with post installed no closer than 4 feet from the centerline of the existing pipeline (Hereinafter called "Permitted Facilities"), which would be within the Easement.

NOW, THEREFORE, in reliance on the aforesaid representation and the mutual covenants herein contained, notwithstanding any of the provisions of the Easement which prohibit such construction within the Easement, OLYMPIC hereby consents and agrees, insofar as it has the lawful right so to do, to the construction and maintenance of the Permitted Facilities within the Easement, subject to the following terms and conditions:

- 1) OLYMPIC has the right to remove portion(s) of the Permitted Facilities as necessary in OLYMPIC's sole discretion in the exercise of its rights under the Easement.
- 2) To the fullest extent authorized by applicable law, LANDOWNER hereby agrees to defend and fully indemnify and hold harmless OLYMPIC and each of its members, agents, employees, and affiliates from and against any and all claims, demands, liens, causes of action, damages, suits, costs, losses or expenses of any kind or character, including without limitation all expert and attorneys' fees, arising out of or in any way connected with LANDOWNER's or its agents or subcontractors actions, conduct (including its refusal to act where there is a duty to do so), or activities contemplated by or performed pursuant or as a result of this agreement, including, but not limited to, any claims relating to (a) injury, or death of persons (including any OLYMPIC employee, contractor or subcontractor), (b) damage to or loss of any property (including that of OLYMPIC and any OLYMPIC employee, contractor or subcontractor), or (c) harm to the environment. To the extent that LANDOWNER may be immune from any liability under or by virtue of any applicable industrial insurance or workers' compensation statute, LANDOWNER agrees to waive such immunity to the extent such immunity would otherwise extend to its indemnification duty under this Agreement. LANDOWNER agrees that its duty to fully indemnify and defend OLYMPIC shall not be affected if it is alleged or proved that the loss covered by this indemnity was in part caused or contributed to by the fault or negligence of OLYMPIC or its agents or subcontractors; except, however, LANDOWNER shall have no obligation to indemnify OLYMPIC for any loss solely caused by OLYMPIC's fault or negligence.
- 3) All costs and expenses for constructing, maintaining and removing the Permitted Facilities shall be borne solely by LANDOWNER, its successors and assigns.

- 4) LANDOWNER shall not commence with any excavation or construction without first contacting the local "One-Call" utility locating service at least 48 hours (two working days) prior to initiating any excavation or construction activities so OLYMPIC can arrange to have a representative present when LANDOWNER or its contractor are performing activities contemplated under this Agreement.
- 5) OLYMPIC may, at its sole discretion, elect to have a representative on site when LANDOWNER or its contractor are performing activities contemplated under this Agreement and LANDOWNER herein acknowledges that OLYMPIC's representative shall have full authority to stop any of LANDOWNER's excavation or construction related activities if OLYMPIC's representative, in his/her sole discretion, feels LANDOWNER's activities could result in damage to OLYMPIC's Pipeline.
- 6) LANDOWNER shall immediately cease work and notify OLYMPIC if OLYMPIC's Pipeline is struck by any means of earth disturbing equipment so OLYMPIC can inspect its Pipeline, and if required, make all necessary repairs.
- 7) LANDOWNER shall require its contractor to follow the general excavation and construction requirements outlined in Exhibit C; attached hereto, when performing activities contemplated under this Agreement.

All notices shall be sent by United States registered or certified mail, return receipt requested, and shall be addressed to the parties at the address first mentioned above or at such other address as the parties may direct.

The Easement shall remain in full force and affect except as modified and changed by this Agreement.

If any one or more of the provisions of this Agreement, or the applicability of any such provisions to a specific situation shall be invalid or unenforceable, the validity and enforceability of all other applications of such provisions shall not be affected.

The covenants contained in this Agreement shall constitute covenants running with the land and shall be binding upon and insure to the benefit of the parties hereto, their personal representatives, heirs, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto separately and severally have caused this AGREEMENT to be executed in their respective names by and through their duly authorized representatives, as of the day and year first above written.

**[Signature Pages to Follow.]**

Olympic Pipe Line Company LLC

By: [Signature]

Name: Terry Zimmerman  
Please Print

Title: President

**ACKNOWLEDGMENT**

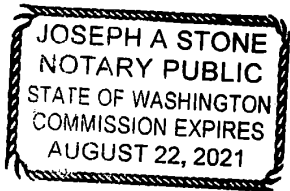
THE STATE OF Washington  
COUNTY OF King

Before me, a Notary Public in and for said County and State, on this day personally appeared Terry Zimmerman, known to me to be the President, of Olympic Pipe Line Company LLC, a limited liability company of the State of Delaware, and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed, and as the act of said limited liability company.

Given under my hand and seal of office this 16<sup>th</sup> day of September, 2020.

[Signature]  
Notary Public

My Commission Expires: August 22, 2021



Brandon Atkinson

By: [Signature]

Print Name: Brandon Atkinson

**ACKNOWLEDGMENT**

THE STATE OF Washington )  
COUNTY OF Snohomish )

Before me, a Notary Public in and for said County and State, on this day personally appeared Brandon Atkinson, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Given under my hand and seal of office this 18 day of August, 2020.

[Signature]  
Notary Public

My Commission Expires: 6-28-2024

NOTARY PUBLIC  
STATE OF WASHINGTON  
BRADLEY SLOAN  
Lic. No. 160633  
My Appointment Expires  
JUNE 28, 2024

Kate Atkinson

By: Kate Atkinson

Print Name: Kate Atkinson

**ACKNOWLEDGMENT**

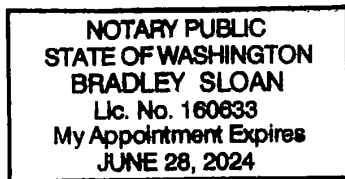
THE STATE OF Washington )  
COUNTY OF Skagit )

Before me, a Notary Public in and for said County and State, on this day personally appeared Kate Atkinson, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Given under my hand and seal of office this 18 day of August, 2020.

Bradley Sloan  
Notary Public

My Commission Expires: 6-28-2024



**Exhibit A**

The following described property situated in the County of Skagit, State of Washington:

The easement and right of way strip herein granted, being 25 feet in width, the center line of which is described as follows:

Beginning at a point on the North line of the Eugene Pearce et al property, said property being the E ½ SW ¼ of Section 2, T-34-N, R-3-E of the Willamette Meridian, Skagit County, Washington. Said point of beginning being located 14 feet Westerly along said North line from the Northeast corner of said property; thence S 06° 12' 50" W, 784 feet; thence S 00° 27' 10" E, 175 feet; thence S 29° 58' 10" E, 111 feet; thence S 12° 48' 50" W, 73 feet; thence S 18° 58' 30" E, 233 feet; thence S 01° 56' 30" E, 473 feet; thence S 01° 40' 30" E, 141 feet; thence S 01° 08' 30" E, 199 feet; thence S 00° 36' 30" E, 520 feet, to a point on the South line of said property. Said point being located 15 feet Westerly along said line from the Southeast corner of said property, together with the right of ingress and egress to and from said line.

**Exhibit B**

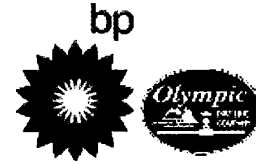
The following described real estate, situated in the County of Skagit, State of Washington together with all after acquired title of the grantor(s) herein:

Lots 3, 4, 5 "Country Club Addition No. 2", as per plat recorded in Volume 8 of Plats, Pages 78 and 79, records of Skagit County, Washington.

Abbreviated Legal: Lots 3, 4, & 5 "Country Club Addition No. 2"

Tax Parcel Number(s): P64539

## Exhibit C



BP Pipelines (North America),  
Inc.  
30 South Wacker Drive  
Suite 900  
Chicago, IL 60606

## **BP PIPELINES (NORTH AMERICA) INC. / OLYMPIC PIPE LINE COMPANY GENERAL DESIGN & CONSTRUCTION STANDARDS**

BP Pipelines (North America) Inc. (hereinafter referred to as "BP") is committed to environmental stewardship and maintaining the safety of its employees, contractors, and the general public. BP operates pipelines that safely transport various liquids and gasses at high pressure (including, for example, those of the Olympic Pipe Line Company). Construction or excavation work that is performed near pipelines has the potential to be hazardous. As a result, the United States Department of Transportation and the Office of Pipeline Safety regulate such activities. BP has prepared the following list of general standards for working on pipeline rights-of-way.

### **General Safety Requirements**

- Any person who intends to conduct work within a pipeline right-of-way ("Requestor") is required to first call 811, the national "One-Call" number, at least 48 hours (2 working days)\* before any construction and/or excavation activities are initiated within the pipeline right-of-way. Alternatively, depending on the state, a Requestor may make a notification online at <http://call811.com/811-your-state>. BP may have a representative present to ensure that there are no conflicts with the pipeline as a result of the work. There is no cost to use the One-Call Notification service. However, failure to utilize the One-Call service is a violation of regulatory requirements and may subject the offender to potential civil penalties\*\* and damages for personal injury and/or destruction of property.

\*Some states require additional advance notice. For example, Michigan and Tennessee each require 72 hours (3 working days) prior notice.

\*\*For example, refer to Washington State RCW 19.122.030 and Oregon State OAR 952-001-0050

- To have the pipeline physically located and its depth verified, please contact a BP Right of Way Agent at [BPPipelinesROW@bp.com](mailto:BPpipelinesROW@bp.com).
- BP requires its representative to be on site when any work is being performed within 25 feet of the pipeline(s) or when the reach of mechanized equipment is capable of extending within twenty five feet of the pipeline(s). BP requires forty-eight (48) hours' (2 working days) prior notice of any work. Notice to BP does not relieve any Requestor of its obligation to contact the appropriate state One-Call system.
- The Requestor is responsible for taking all necessary safety precautions and will be held responsible for any damages to property or for personal injury caused by the work.

### **Submitting Plans and Requests to BP**

Any proposed project or development that is located in close proximity to BP's pipelines is of concern due to the potential adverse impact to the pipeline's operation and integrity.

BP strongly discourages any request to encroach upon the right of way, easement areas, leased premises or owned properties, whether such areas belong solely to BP, or are BP joint venture locations.

If a Requestor has plans or proposals for development, modification or change in use of land, or of land adjacent to where BP has existing real property interests, BP will review those plans and proposals; however, BP's engagement on these issues should not be construed as BP's approval of a request to encroach upon BP's real property interests. Any time or costs the Requestor incurs or expends in connection with BP's review of such plans and proposals are the Requestor's sole responsibility.

Requestors must have the pipeline location and depth added to their plans and drawings. To avoid project delays, Requestors should submit their plans to BP during the initial planning stages of the project. Plans and drawings should be sent to BP Pipelines (North America) Inc., Attention: Right of Way Department, 30 South Wacker Drive, Suite 900, Chicago, Illinois 60606.

Compliance with BP's General Design & Construction Standards does not guarantee BP's final approval of any project. These are considered minimum standards. Each request will be assessed on a case-by-case basis and additional project-specific requirements may apply.

In order to obtain final approval of your submitted project design (or any component thereof), all Requestors must obtain a fully-executed Permitted Facilities Agreement and Engineering Approval Letter (or other form of fully-executed written agreement appropriate for the proposed encroachment or work activity). Only a BP management employee with the appropriate level of authority is authorized to grant such approval and execute such documents on BP's behalf. Any verbal approval that a Requestor may receive from a contractor, subcontractor or other party does not constitute the required final approval from a BP management employee. If, after fully-executed written BP approval is appropriately granted, any drawings or designs are updated or changed, the final approval is invalidated and the Requestor must send the new plans to BP for further review and written approval.

### **Subdivision Planning**

- Neither residential nor commercial lot lines should be placed on the right-of-way. In cases where it is impossible to locate such lot lines outside of the right-of-way, lot lines shall under no circumstances be placed on the pipeline. Any portion of the lot line within a BP right-of-way should be used only as a green space.

### **General Construction Activities**

- To gain access to the job site, the contractor shall submit a plan indicating where construction equipment will cross the pipeline, the depth of the pipe at the crossings, any proposed ramping over the pipeline, and the following specifications for the equipment: type and fully loaded weight of equipment; for tracked equipment – track shoe width and length of track on ground; for wheeled equipment – number of axles (single or tandem axles). BP will perform a stress factor calculation to determine if the equipment can safely cross the pipeline. If crossing of the pipeline is allowed, special measures may need to be taken to ensure the integrity of the pipeline.

- To gain access to the job site, the contractor shall submit a plan indicating where construction equipment will cross the pipeline, the depth of the pipe at the crossings, any proposed ramping over the pipeline, and the following specifications for the equipment: type and fully loaded weight of equipment; for tracked equipment – track shoe width and length of track on ground; for wheeled equipment – number of axles (single or tandem axles). BP will perform a stress factor calculation to determine if the equipment can safely cross the pipeline. If crossing of the pipeline is allowed, special measures may need to be taken to ensure the integrity of the pipeline.
- The contractor shall not transport construction materials or equipment longitudinally over the pipeline. Where it is necessary for construction equipment (*i.e.*, tractors, backhoes, dump trucks, etc.) or equipment transporting construction materials to cross the pipeline, the crossing of the pipeline right-of-way shall be at, or as near to, a 90° angle as is feasible.
- No track type construction equipment shall be permitted to pivot or turn directly over the top of the pipeline.
- A scraper or pan type tractor shall not be used for removal of soil within ten feet (10') of the centerline of the pipeline. Rubber tire or small track type equipment is an acceptable alternative.
- A sheepsfoot roller shall not be used for compaction purposes within five feet (5') of, or directly above, the centerline of the pipeline.
- No vibratory rollers shall be used within three feet (3') of the centerline of the pipeline until the compacted cover over the pipeline has reached a depth of three and one-half feet (3 ½').

#### **Excavation Requirements**

- No excavation or construction activity will be permitted in the vicinity of a pipeline until all appropriate communications have been made with BP's field operations and the Right-of-Way Department. A formal engineering assessment may be required.
- No excavation or backfilling should occur within the pipeline right-of-way for any reason unless prior permission is obtained from BP personnel who are on-site and can review the work.
- Any excavation within two feet (2') of the pipeline shall be done by hand, or by other non-mechanical means as approved by BP personnel who are on-site and can review the work.

#### **Structures, Parking Lots, Roads, Driveways, and Fences**

- No permanent structures may be constructed on/within/overhanging the pipeline right-of-way (permanent structures shall include, but not be limited to, swimming pools, sheds, fences, earthen berms, bike paths, etc.) Any aboveground structure should be located as far as possible from the pipeline, and it is strongly recommended that none be located within 30' of the pipeline; this provides BP needed access for ongoing maintenance and potential emergency response. (*Requestors must inform the BP Right-of-Way Department as to how close the structure will be to the pipeline right of way, even if the structure itself is off the pipeline right-of-way.*)
- For any proposed occupied buildings within 50' of the pipeline, for your consideration, please be advised that US Code of Federal Regulations 195 governing the construction of hazardous liquid pipelines states, "no pipeline may be [installed] within 50 feet of any [existing] private dwelling[,] industrial building or place of public assembly in which persons work, congregate, or assemble,

unless" the pipeline has 48" of cover. Thus, it is strongly recommended that the 3rd party ensures any hazardous liquid pipeline within 50' of an occupied building has a minimum 48" of cover. This minimum depth of cover is intended to provide increased protection of the pipeline and public in areas of public activity.

- No portion of canopy, building overhang, etc. shall be allowed over the pipeline right-of-way.
- For proposed utility structures within public ROW adjacent to BP pipeline:
  - No utility structures (including, but not limited to, manholes or catch basins) shall be located over the pipeline. A minimum horizontal clearance of twenty-five feet (25') is required between the structure and the pipeline.
  - There shall be a minimum vertical separation of two feet (2') between the pipeline and any underground utility structure constructed on the pipeline right-of-way, regardless of horizontal clearance.
- Development grading should not remove any of the existing ground cover from, nor add fill over the pipeline(s). Any request to increase the cover above BP's pipeline, with the exception of meeting the required clearance for a road crossing, must be brought immediately to BP engineering's attention for discussion. Please note: clearing a paved lot (e.g., a parking lot), is not considered a road crossing.
- All permanent driving surfaces shall cross the pipeline right-of-way at, or as near to, a 90° angle as is feasible. In no instance shall the angle of the crossing be less than 45°.
- For proposed road crossings and driveways BP will perform a stress factor calculation to determine the amount of cover required over the pipeline. Under no circumstances shall cover be less than the following: a) five and one half feet (5.5') for all road crossings and commercial driveways, and b) three feet (3') for residential driveways.
- A minimum of four feet (4') of cover is required for all drainage ditches.
- Proposals for parking lot construction on the pipe line right-of-way are discouraged and should be limited to the same encroachment impact as would a 4 lane road. Any proposals must include green spaces above the BP pipeline to allow for required visual inspections of the rights-of-way and routine measurements.
- Concrete pavement is discouraged, especially reinforced concrete; and in most instances will not be allowed. This is to prevent exposing the pipeline to stresses related to impact forces associated with breaking concrete.
- Requests for fence installation within the easement shall be reviewed on a case-by-case basis and any permitted fence install must allow for 24/7 access by BP operations to the pipeline ROW

#### **Foreign Line or Utility Crossings**

- All foreign lines shall cross the pipeline right-of-way at, or as near to, a 90° angle as is feasible. In no instance shall the angle of the crossing be less than 45°.
- In no instance shall the foreign line be placed parallel to the pipelines right-of-way.

- The foreign line shall cross under the pipeline with at least two feet (2') of vertical separation (three feet (3') for fiber optics).
- If the foreign line is a telecommunications cable, power cable, or similar in nature, the foreign line shall be placed in a Schedule 40 PVC conduit, or greater, for a linear distance extending ten feet (10') on either side of the centerline of the pipeline. The entire length of carrier pipe shall either be encased in concrete, or shall have a concrete cap placed on top of it. However, if the method of installation is bore, and concrete is impractical, then the utility shall be placed in HDPE.
- If the foreign line is a metallic pipeline, or similar in nature, the foreign line shall be coated with a suitable coating for a distance of at least fifty feet (50') on either side of the centerline of the pipeline. The foreign line owner, operator, or their contractor, shall install cathodic protection bonds and potential test leads to the foreign line at the crossing location and terminate the leads at an above-ground location as identified by BP's on-site representative. BP will install the test leads on BP's pipeline.
- Below-ground precautionary flagging (warning tape) shall be placed in the ditch line above the foreign line. The warning tape shall be placed approximately one foot (1') below the final surface grade/elevation. The warning tape shall extend for a linear distance of ten feet (10') on either side of the centerline of the pipeline.

#### **Landscape and Vegetation**

- Trees and deep-rooted shrubbery are not allowed on the pipeline right-of-way. BP may permit the installation of limited landscaping and minor shrubbery plantings with written communication and/or documentation. For a major development, landscaping plans must first be submitted in writing to BP for review and approval. Any plantings that restrict efficient aerial inspection or limit access to the easement area will be considered an interference and will not be allowed.
- Development grading should not remove any of the existing ground cover from, nor add fill over the pipeline(s). Any request to increase the cover above BP's pipeline, with the exception of meeting the required clearance for a road crossing, must be brought immediately to BP engineering's attention for discussion (to be clear a paved lot, e.g. a parking lot, is not considered a road crossing).

**Requestors anticipating problems complying with these requirements should contact BP's *Right of Way Agent* at [BPPipelinesROW@bp.com](mailto:BPPipelinesROW@bp.com).**

**If, in the exercise of the pipeline easement rights, any "Permitted Facility" is damaged, disturbed or otherwise interfered with, BP and/or the pipeline easement owner shall be held harmless from and against any and all claims of whatsoever kind and nature which might be associated with or derived from such damage, disturbance or interference.**