

**SECOND AMENDMENT TO CITY OF SAN DIEGO
RIGHT OF ENTRY PERMIT**

THIS SECOND AMENDMENT TO CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT (Second Amendment) is entered into by and between the CITY OF SAN DIEGO, a California municipal corporation (CITY), and KINDER MORGAN ENERGY PARTNERS L.P. (PERMITTEE), to be effective as of the date of execution by the parties and approved by the San Diego City Attorney (Effective Date), as follows:

RECITALS

- A. CITY is the owner of certain real property located at 9449 Friars Road, San Diego, California, which is commonly known as "SDCCU Stadium" (City Property).
- B. CITY and PERMITTEE are parties to that certain City of San Diego Right of Entry Permit, dated as effective on June 28, 2019, as amended by that certain First Amendment to City of San Diego Right of Entry Permit, dated as effective on May __, 2020 (collectively the "Permit"), which authorize PERMITTEE access to the Permit Area to conduct certain activities for site restoration (described in Sections 1 and 13 of the Permit) required of PERMITTEE to comply with Addendum No. 8 (Addendum) to Cleanup and Abatement Order No. 92-01 (CAO) and Addenda (1 through 8) thereto issued by the California Regional Water Quality Control Board (RWQCB) – San Diego on April 6, 1992.
- C. On or about April 24, 2020, PERMITTEE submitted a request to CITY to change the sub-grade material used during the vault removal required pursuant to the Restoration Plan set forth in EXHIBIT B: RESTORATION PLAN AND SCHEDULE, attached to the Permit.
- D. The parties desire to amend the Permit to authorize changes to the Restoration Plan upon the mutual written agreement of the parties without the need for the parties to process further amendments of the Permit.
- F. Unless otherwise defined herein, capitalized terms as used in the Permit shall have the same meanings as given therefor in the Permit.

NOW THEREFORE, in consideration of the above recitals, the mutual promises contained herein, and other valuable consideration, the sufficiency and receipt of which is acknowledged, the parties agree as follows:

- 1. Section 13 of the Permit is hereby AMENDED to ADD subsection 13.4 as follows:

"13.4. Changes to Restoration Plan. The Restoration Plan (as set forth in attached EXHIBIT B: RESTORATION PLAN AND SCHEDULE) may be changed or modified by authorized representatives of PERMITTEE and CITY, upon the written consent of CITY, on the condition that such change or modification shall require the work to be performed in compliance with all applicable local, state and federal laws, rules and regulations, including, without limitation, the *Standard Specifications for Public Works Construction* (Greenbook, 2018 edition), and the 2018 City of San Diego "Whitebook" supplement to the Greenbook. Such agreed upon change or modification to the Restoration Plan shall be signed by duly authorized representatives of the parties, attached to the Restoration Plan, and as such become a part of the Restoration Plan."

2. No Other Changes. All other terms and conditions of the Permit shall remain in full force and effect, and if there are any conflicts between the Permit and this Second Amendment, said conflicts shall be resolved in favor of the terms and conditions of this Second Amendment.
3. Counterparts. This Second Amendment may be executed in any number of counterparts, each of which shall constitute an original, and all of which together shall constitute one instrument.
4. Authority. Each individual executing this Second Amendment on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Second Amendment on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Second Amendment is binding upon such person or entity in accordance with its terms. Upon request, each person executing this Second Amendment on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

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5. Recitals; Attachments. The Recitals and Attachments, if any, attached hereto are incorporated into this Second Amendment and made a part hereof.

IN WITNESS WHEREOF, this Second Amendment is executed to be effective as of the Effective Date.

PERMITTEE:

Date: June 11, 2020 KINDER MORGAN ENERGY PARTNERS, L.P.

BY: [Signature]
Name: Michael A. Hanak
Title: Director

CITY:

Date: 6/11/20 THE CITY OF SAN DIEGO, a California municipal Corporation

BY: [Signature]
Name: CYNTHIA THOMPSON
Title: DIRECTOR, PUBLIC WORKS

Approved as to form this 11th day
of June, 2020.

MARA W. ELLIOTT, City Attorney

BY: [Signature]
Name: Mara W. Elliott
Title: Deputy City Attorney

**FIRST AMENDMENT TO CITY OF SAN DIEGO
RIGHT OF ENTRY PERMIT**

THIS FIRST AMENDMENT TO CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT (Amendment) is entered into by and between the CITY OF SAN DIEGO, a California municipal corporation (CITY), and KINDER MORGAN ENERGY PARTNERS L.P. (PERMITTEE), to be effective as of the date of execution by the parties and approved by the San Diego City Attorney (Effective Date), as follows:

RECITALS

- A. CITY is the owner of certain real property located at 9449 Friars Road, San Diego, California, which is commonly known as "SDCCU Stadium" (City Property).
- B. CITY and PERMITTEE are parties to that certain City of San Diego Right of Entry Permit, dated as effective on June 28, 2019 (Permit), which authorizes PERMITTEE access to the Permit Area to conduct certain activities for site restoration (described in Sections 1 and 13 of the Permit) required of PERMITTEE to comply with Addendum No. 8 (Addendum) to Cleanup and Abatement Order No. 92-01 (CAO) and Addenda (1 through 8) thereto issued by the California Regional Water Quality Control Board (RWQCB) – San Diego on April 6, 1992.
- C. On or about March 5, 2020, PERMITTEE submitted a request to the California Environmental Protection Agency, San Diego Regional Water Quality Control Board, attached as **Attachment 1**, to abandon certain off-site monitoring wells.
- D. On or about March 6, 2020, Sean McClain of the California Environmental Protection Agency, San Diego Regional Water Quality Control Board, responded to Mr. Martin that the request was acceptable, citing the excepted wells (T-11, R-10, R-43AS-AD, R-79AS-AM-AD, and R-87AS) in Directive 2 of the Cleanup and Abatement Order 92-01, Addendum 8, attached as **Attachment 2** (Response).
- E. As a result of the Response, PERMITTEE has requested CITY grant permission to PERMITTEE to remove and/or close out sentinel wells labeled as T-11, R-10, R-79AS-AM-AD and R-87AS in the Permit Area.
- F. Unless otherwise defined herein, capitalized terms as used in the Permit shall have the same meanings as given therefor in the Permit.

NOW THEREFORE, in consideration of the above recitals, the mutual promises contained herein, and other valuable consideration, the sufficiency and receipt of which is acknowledged, the parties agree as follows:

- 1. Section 1 of the Permit is hereby DELETED in its entirety and REPLACED with the following:

"1. Right to Enter. Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE, its employees, agents, contractors, and invitees to enter upon the City Property, solely for the purpose of the following use ("Permit Use"): (a) performing the required activities on the Permit Area in order to comply with the CAO, which is the removal and/or close out of the groundwater monitoring and soil vapor extraction (SVE) wells, including sentinel wells labeled as T-11, R-10, R-79AS-AM-AD and R-87AS, as prescribed by San Diego County Department of Health (DEH) permit requirements and the

CAO; and (b) restoring the Permit Area by removing all waste (i.e. debris and other investigation or remediation derived materials), including the vaults and related infrastructure to an approved condition as outlined in Section 13, below.

- 1.1 The groundwater wells will be destroyed by standard methods approved by the San Diego County DEH Monitoring Well Program in compliance with an approved destruction permit. The destruction and removal of groundwater and SVE wells, vaults, and related infrastructure will be conducted as set forth in the Restoration Plan (see attached **EXHIBIT B: RESTORATION PLAN AND SCHEDULE**). Following the destruction and removal of the groundwater and SVE wells, a well destruction report must be submitted to the San Diego County DEH Monitoring Well Program, and copies sent to the RWQCB's Geotracker as well as the CITY's Public Utilities Department at the following address: Deputy Director, Public Utilities Department Long-Range Planning & Water Resources Division, 525 B Street, Suite 300, San Diego, CA 92101.

PERMITTEE's permission to enter onto City Property is contingent upon PERMITTEE's agreement that its activities will not interfere with the use of the Permit Area or the stadium facility by CITY or its lessee. PERMITTEE also agrees that it shall submit necessary permits and approved plans for all work for the Permit Use, as further described in the Restoration Plan, in advance for all anticipated work to the manager of the City Property (Stadium Manager) and shall also notify the Stadium Manager prior to performing any activities that will last more than four (4) hours in any one calendar day, except for routine monitoring and sampling activities. PERMITTEE shall also provide the Stadium Manager with a list of all subcontractors providing work and maintenance on City Property, prior to performing any work or maintenance activities. This list shall include the name(s) of a contact person(s) and phone number(s) who can appropriately and timely respond to all questions/comments concerning the work that is being performed, and corresponding telephone number(s), for each subcontractor providing the work and/or maintenance."

2. No Other Changes. All other terms and conditions of the Permit shall remain in full force and effect, and if there are any conflicts between the Permit and this Amendment, said conflicts shall be resolved in favor of the terms and conditions of this Amendment.
3. Counterparts. This permit may be executed in any number of counterparts, each of which shall constitute an original, and all of which together shall constitute one instrument.
4. Authority. Each individual executing this Amendment on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Amendment on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Amendment is binding upon such person or entity in accordance with its terms. Upon request, each person executing this Amendment on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
5. Recitals; Attachments. The Recitals and Attachments attached hereto are incorporated into

this Amendment and made a part hereof.

IN WITNESS WHEREOF, this Amendment is executed to be effective as of the Effective Date.

PERMITTEE:

Date: April 21, 2020 KINDER MORGAN ENERGY PARTNERS, L.P.

BY: Michael A. Hanek

Name: Michael A. Hanek

Title: Director

CITY:

Date: _____ THE CITY OF SAN DIEGO, a California municipal Corporation

BY: _____

Name: _____

Title: _____

Approved as to form this _____ day
of _____, 2020.

MARA W. ELLIOTT, City Attorney

BY: _____

Name: _____

Title: _____