

**CARBON PIPELINE PROJECT
DEVELOPMENT AGREEMENT**

THIS CARBON PIPELINE DEVELOPMENT AGREEMENT ("Agreement") made this ___ day of [_____], 2023 by and between **NAVIGATOR HEARTLAND GREENWAY LLC** (the "**Developer**"), and [**McDonough**] **COUNTY, ILLINOIS** (the "**County**") (collectively, the "**Parties**").

WHEREAS, the Developer is developing its interstate Heartland Greenway carbon dioxide pipeline transportation project (the "**Pipeline**") in Illinois, Iowa, Minnesota, Nebraska, and/or South Dakota to transport carbon dioxide which is captured to one or more destination points to be utilized in industry or permanently sequestered deep below the surface. The Pipeline is planned to traverse through the County.

WHEREAS, the Developer has applied to the Illinois Commerce Commission for issuance to Developer of a Certificate of Authority pursuant to the Carbon Dioxide Transportation and Sequestration Act ("**CO₂ Act**") (220 ILCS 75/1 *et seq.*) authorizing Developer to construct, install, operate, and maintain the Illinois portions of the Pipeline and appurtenant facilities. In the County the Developer has acquired or will acquire certain property interests ("**Property**"), including rights-of-way, needed for the Pipeline.

WHEREAS, Exhibit A depicts the initially planned location of the Pipeline in the County. The final location may be altered.

WHEREAS, neither the County, nor any of its constituent townships or other taxing districts, have authority to tax the Pipeline, other than levy a real estate tax on certain real estate interests acquired by Developer.

WHEREAS, the Developer intends to make right-of-way payments to certain property owners in the County for the rights needed for the Pipeline and county residents will benefit generally from the construction jobs and associated local economic that the Pipeline will generate.

WHEREAS, the County has determined that the Pipeline, and the associated economic benefits that the Pipeline will provide pursuant to this Agreement, are in the best interests of the County's residents and the County wishes to form an arrangement whereby the County can derive additional direct economic benefits from the development process and the operation of the Pipeline.

WHEREAS, the County has the authority to enter into this Agreement pursuant to the Illinois Constitution, Article VII, Section 10, entitled "Intergovernmental Cooperation," which includes the ability of units of local government to contract and otherwise associate amongst themselves, with individuals, associations, and corporations in any manner not prohibited by law or by ordinance.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements set forth in this Agreement, it is agreed by and between the Parties as follows:

1. Pipeline Development Fee. The “**Pipeline Development Fee**” is Twenty Thousand Dollars (\$20,000) per year per mile of carbon dioxide pipeline constructed and operated by Developer in the County as part of the Pipeline, but not to exceed a total of [\$630,000] Thousand Dollars (\$[30],000) per year (the “**Cap**”), commencing on the calendar year in which Operation on the Pipeline in the County commences and continuing until thirty (30) total annual payments have been made by the Developer to the County. Payment terms are as follows: Payment of the Pipeline Development Fee shall be made in one annual installment on or before February 15 based on, subject to the Cap, the miles of Pipeline in the County in Operation by the Developer during the immediately preceding January 1 through December 31.

“**Operation**”, as used herein, means pipeline which has transportation volumes greater than zero (0) during the applicable period.

2. Responsibility of the County. During the term of this Agreement, the County shall cooperate with the Developer on a good-faith basis and provide positive assistance as necessary (such as with public hearings) during the pre-construction, construction, and operational phases of the Pipeline. This support will specifically include, but is not limited to, working with the Developer to secure necessary local road use agreements, either at the County or township road district level and providing rights-of-way for the Pipeline on market terms for real property owned by the County to be utilized in the Pipeline. Any failure by the County to comply with the terms of this Paragraph shall be grounds for immediate termination of this Agreement by the Developer. The foregoing will not impact the County's obligations to take any and all action required by law to review and approve any applicable items and/or actions.

3. Responsibility of the Developer. The Developer will keep the County informed as to the progress of the Pipeline and provide the County with an annual written Pipeline status report.

4. Term. This Agreement shall become effective on the date written on the first page of this Agreement and shall expire thirty (30) years from the date that the Pipeline is commissioned for commercial service and commences Operation.

5. Real Estate Taxation/Challenges to the Agreement. If at any time during this Agreement the County, any constituent township(s), levies a real estate tax on the Property and necessary related improvements owned, controlled, used by, or benefitting the Pipeline, the Developer may reduce payments required hereunder by the amount of the tax. Additionally, if at any time the County challenges the validity of this Agreement, the Developer, at its sole option, may immediately terminate the Agreement and cease to make all payments required hereunder.

6. Negation of Partnership and Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be or to create a partnership or joint venture between the

Parties. Each Party hereto shall be solely responsible for carrying out the responsibilities assumed by it under this Agreement and neither Party shall be liable for the acts or omission of the other Party in performing their responsibilities.

7. No Restriction on Other Development. Nothing in this Agreement shall restrict the Developer from developing its Pipeline in any other location.

8. Waiver. Waiver by either Party hereto of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by the other Party.

9. Notices. Any notice required or permitted to be given under the terms of this Agreement shall be reduced to writing and shall be regarded as given when personally delivered or when placed in the United States mail with first class and certified mail return receipt requested postage fully prepaid and addressed to the Parties at the following respective addresses:

If to the Developer, as follows: Navigator Heartland Greenway LLC
13333 California St.
Suite 202
Omaha, NE 68154
Attn.: Director, Right-of-Way

If to County, as follows: [] McDonough [] County
[]
[]
Attn: []
[] County, Illinois

or to any Party at such other address as that Party may from time to time designate by written notice given to the other Party hereto.

10. Headings. The headings of the several paragraphs hereof are for convenience in reference only and shall not be construed to be a part of this Agreement.

11. Amendment, Binding Effect, and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and the Parties' respective successors and assigns, including successor members of the authorities of the County and successor grantees, purchasers, and owners of the Property. The Parties acknowledge that the approvals granted by the County under this Agreement are not personal but shall run with the land and that Developer may assign and mortgage its rights and obligations pertaining to the Property and this Agreement; provided, however the right of the County to receive the Pipeline Development Fee shall run with the Property and be a lien against the Property if not timely paid. This Agreement shall not be modified or amended except in writing signed by the Parties hereto and shall be binding upon and inure to the benefit of the Developer and the County, and their respective successors and assigns, but neither this Agreement nor any rights hereunder may be assigned by the County

without the written consent of the Developer, which consent shall not be unreasonably withheld or delayed.

12. Severability. Any provision of this Agreement which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

13. Jurisdiction and Venue. This Agreement shall be deemed to have been entered into in the State of Illinois, and all questions concerning the validity, interpretation, or performance of any of its terms or provisions or of any rights or obligation of the Parties hereto, shall be governed by and resolved in accordance with the laws of the State of Illinois. Venue shall be in [McDonough] County, Illinois, or if there is federal jurisdiction, in the federal district in which [McDonough] County, Illinois, is located.

14. Default. The Developer and the County agree that should either of them default in the performance of any of the conditions or agreements contained herein, or institute any type of legal proceedings under this Agreement that are unsuccessful, the non-prevailing Party in any such type of action shall pay to the prevailing Party all costs and expenses that may arise from any enforcement of this Agreement, or successful defense of any type of legal action brought by reason of this Agreement, depending upon whatever the case may be, either by suit, or otherwise, including without limitation reasonable attorneys' fees.

15. Authority to Execute. The Parties hereby acknowledge and agree that all required notices, meetings, and hearings have been properly given and held by the County with respect to the approval and execution of this Agreement, and all documents referred to in this Agreement, and agree not to challenge this Agreement or any of the obligations created by it, or any document executed pursuant to it, on the grounds of any procedural infirmity or any denial of any procedural right. The Parties, and each of them, hereby mutually warrant and represent to each other that the persons executing this Agreement on their respective behalves have been properly authorized to do so.

16. Integration. This Agreement sets forth all promises, inducements, agreements, conditions, and understandings between the Parties relative to the subject matter hereof, and there are no promises, agreements, conditions, or understandings, either oral or written, express or implied, between them, other than as herein set forth. All Attachments to this Agreement are incorporated by this reference thereto.

17. Indemnification. The Developer will indemnify and hold harmless the County from and for any and all third-party liability, personal injuries, property damage, claims, causes of action, damages, losses, and other obligations to the extent caused by the negligent or intentional acts or omissions of the Developer, or its officers, officials, employees, agents, attorneys, representatives, or contractors. Each side will have responsibility for its own cost of defense against any claim and/or cause of action unless and until a determination of fault is made. Upon such determination of fault, attorney fees will be awarded to the non-responsible party.

SIGNATURES FOLLOW ON SUBSEQUENT PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers or agents as of the day and date first above.

ATTEST:

**NAVIGATOR HEARLTAND
GREENWAY LLC**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTEST:

[_McDonough_] COUNTY, ILLINOIS

By: _____

By: _____

Title: _____

Title: _____

Attachments:

Exhibit A, Pro Forma Map

Exhibit B, Copy of Ordinance authorizing execution of this Agreement, certified by the [_____] County Clerk

Exhibit A

Pro Forma Map of Pipeline in County