

# Natural Gas Pipeline Company of America LLC

## LOCKRIDGE TO WAHA PROJECT NOTICE OF NON-BINDING OPEN SEASON

### Announcement of Open Season

Natural Gas Pipeline Company of America LLC (“**NGPL**”) has received interest from the market in developing a project to provide 500,000 Dth/d of firm capacity via an extension of its Amarillo system. The Lockridge to Waha Project (“**Project**”) will provide for firm transportation service via NGPL’s yet to be constructed new pipeline extension from the terminus of Segment 9 in Ward County, Texas (“**Lockridge Extension Pipeline**”) to a delivery point at a proposed new interconnect with the Enterprise Waha Header in Pecos County, Texas (the “**Project Path**”).

The purpose of this Non-Binding Open Season is to solicit further interest for firm capacity on the Project Path from shippers that are (1) willing to commit to such firm transportation service, under terms and conditions described below and in accordance with all applicable rules and regulations of the Federal Energy Regulatory Commission (“**FERC**”) (2) agree to reimburse NGPL for the portion of the capital costs associated with the contract quantity bid in this Non-Binding Open Season, and (3) agrees to provide the requisite pressure to effectuate firm receipt of the gas at the primary receipt point and delivery of the gas at the primary delivery point . Within sixty (60) days of the close of this Open Season, NGPL will provide a qualified bidding shipper the capital cost estimate associated with its requested quantity pursuant to the Confidentiality Agreement (“**CA**”), attached to this Open Season as Exhibit A.

### Description of the Project

This Project, as currently designed, will increase NGPL’s capability by 500,000 Dth/d of firm transportation along the Project Path. The Project will require the installation of certain facilities, including but not limited to the following: (1) a new 16-mile, 30-inch pipeline lateral, extending from NGPL’s Amarillo Line in Ward County, Texas that will comprise the Lockridge Extension Pipeline; and (2) new metering and regulation facilities at the terminus of the Lockridge Extension Pipeline at a proposed new interconnect with the Enterprise Waha Header (collectively, such facility modifications to enable deliveries of natural gas on a primary firm basis and referred to as the “**Project Facilities**”).

The target in-service date for the Project is November 1, 2019. The target in-service date is an estimate and may change dependent on the required facilities, regulatory approvals and completion of Project construction.



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### **Bid Requirements**

Parties interested in obtaining firm transportation capacity, pursuant to this Non-Binding Open Season, should submit a completed Non-Binding Open Season Bid Form (attached as Exhibit B) during the Open Season.

A Non-Binding Open Season Bid Form must include the following information:

- Reservation Rate on a dollar per Dth of MDQ per month basis
  - Negotiated Rate, plus a Contribution in Aid of Construction (defined below) or
  - Maximum Recourse Reservation Rate (the applicable maximum tariff rate for the Permian Receipt Zone to the Permian Delivery Zone), plus a Contribution in Aid of Construction (defined below)
- Maximum Daily Quantity (“MDQ”) must be 1,000 Dth per day or greater
- Bidder’s Minimum Acceptable MDQ
- Primary Receipt Point(s), including the specified MDQ for the requested point(s) along the Project Path
- Primary Delivery Point(s), including the specified MDQ for the requested point(s) along the Project Path
- Contract Start Date no earlier than November 1, 2019
- Contract term must be at least seven and one-half (7.5) years
- Credit Application (attached as Exhibit C).
- Shipper’s Agreement to provide Contribution in Aid of Construction for capital costs associated with Shipper’s MDQ (“CIAC”)
- Shipper’s Agreement to provide the requisite pressure to effectuate firm receipts of gas at the primary receipt point and deliveries at the primary delivery point

### **Other Rates**

In addition to the reservation demand charges and CIAC, shippers shall also pay all other applicable charges, including a commodity rate based on usage, Annual Charge Adjustment (ACA), fuel and gas lost and unaccounted for charges and any additional charges or surcharges that are in effect from time to time pursuant to NGPL’s FERC Gas Tariff, or as separately negotiated between Bidder and NGPL

### **Turn-back of Capacity – Not Applicable**

NGPL is only seeking bids in this Open Season for capacity on the Project Path. Given that the Project involves an extension of NGPL’s existing system, no turn-back would obviate the need for the Lockridge Extension Project. Therefore, NGPL is not soliciting offers for the turn-back of capacity.

### **Credit Requirements**

Prior to entering into precedent agreements, Shippers will be required to demonstrate creditworthiness or provide a credit alternative acceptable to NGPL in accordance with NGPL’s Tariff.

### **Timing of Open Season and Contact List**

The Non-Binding Open Season will commence at 12:00 P.M. CST on Tuesday, October 3, 2017, and conclude at 4:00 P.M. CST on Thursday, October 26, 2017. Interested parties should send their bids via email to:

[Jason\\_sweeney@kindermorgan.com](mailto:Jason_sweeney@kindermorgan.com).

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Bids may also be sent by mail or FAX to NGPL's offices to the attention of Jason Sweeney. The mailing address is 1001, Louisiana Street, Suite 1000, Houston, Texas 77002. The facsimile number is (713) 369-9365. Parties may submit questions concerning this Open Season to:

Jason Sweeney: Phone: (713) 420-6055; Email: [Jason\\_sweeney@kindermorgan.com](mailto:Jason_sweeney@kindermorgan.com)  
Donette Bisett: Phone: (713) 369-9316; Email: [donette\\_bisett@kindermorgan.com](mailto:donette_bisett@kindermorgan.com)

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EXHIBIT A - CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_, 2017 (“Execution Date”) by and between Natural Gas Pipeline Company of America LLC, a Delaware limited liability company (“NGPL”) and \_\_\_\_\_, a \_\_\_\_\_ (“\_\_\_\_\_”).

In order to pursue preliminary business discussions regarding the Lockridge to Waha Project (the “Project”), the parties hereto recognize that there is a need to disclose to one another certain of their respective Confidential Information to be used solely for consideration and development of the Project and a need to protect each other’s Confidential Information from unauthorized use and disclosure.

Therefore, in consideration of the other party’s disclosure of such Confidential Information and the mutual agreements set forth herein, and intending hereby to be legally bound, the parties hereto hereby agree as follows:

1. Confidential Information. As used in this Agreement, “Confidential Information” shall mean either (a) information with respect to the existence or any aspect of the Project; (b) proprietary information concerning the business, operations, and assets of either party or its affiliates; (c) information of a party or its affiliates that would, if disclosed to competitors of a party, give or increase such competitor’s advantage over the party or diminish such party’s advantage over its competitors; and (d) any other information disclosed, either orally, electronically, or in writing, by one party or its affiliates to the other party or its affiliates under this Agreement that the disclosing party identifies as confidential at the time of its disclosure. The parties understand and agree that: (a) affiliates of NGPL include all other entities ultimately owned either wholly or partially by Kinder Morgan, Inc. or operated by an entity whose ultimate parent is Kinder Morgan, Inc.; and (b) affiliates of \_\_\_\_\_ include all other entities ultimately owned or operated either wholly or partially by the ultimate parent of \_\_\_\_\_.

2. Exclusions. Confidential Information does not, however, include information that the receiving party can demonstrate:

- (a) is now, or hereafter becomes, through no act or failure to act on the part of the receiving party, generally known or available to the public;
- (b) was known by the receiving party before receiving such information from the disclosing party;
- (c) is hereafter rightfully obtained by the receiving party from a third party, without breach of any obligation by the receiving party to the disclosing party;
- (d) is independently developed by the receiving party without use of or reference to the Confidential Information by persons who had no access to the Confidential Information; or
- (e) the parties agree in writing is not confidential or may be disclosed.

3. Obligations. Each party agrees:

- (a) to hold the other party’s Confidential Information in strict confidence;
- (b) not to disclose such Confidential Information to any third party except as specifically authorized herein or as specifically authorized by the other party in writing;
- (c) to use all reasonable precautions, consistent with such party’s treatment of its own Confidential Information of a similar nature, to prevent the unauthorized disclosure of the other party’s Confidential Information; and

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(d) not to use any Confidential Information for any purpose other than in connection with its consideration of the Project.

4. Permitted Disclosures. Each party may disclose the other party's Confidential Information to its and its affiliates' directors, officers, employees, representatives, consultants, agents, attorneys, lenders, and professional advisors ("Representatives") with a bona fide need to know such Confidential Information, but only if such Representatives are advised of the confidential nature of such Confidential Information. The receiving party shall ensure that any of those authorized recipients shall maintain the confidentiality of the Confidential Information as described herein.

5. Required Disclosures. Each party may disclose the other party's Confidential Information if and to the extent that such disclosure, based upon reasonable advice of counsel, is required by applicable law, rule, regulation, or any order, decree, subpoena, or ruling or other similar process of any court, securities exchange, governmental agency, or governmental or regulatory authority, provided that, where reasonably possible and permissible prior to disclosure, the receiving party provides the disclosing party a reasonable opportunity to review the disclosure before it is made and to provide reasonable assistance to the disclosing party in obtaining a protective order or a request for confidential treatment, at the sole cost and expense of the disclosing party.

6. Copies and Abstracts. To the extent necessary to carry out the business contemplated herein, the receiving party may make copies or abstracts of the disclosing party's Confidential Information and include such Confidential Information in management presentations and the like provided that all such copies, abstracts, and presentations are themselves treated as Confidential Information pursuant hereto.

7. Return of Confidential Information. Upon the disclosing party's request, the receiving party will promptly return to the disclosing party or, at the receiving party's option, destroy all copies of the Confidential Information, will destroy all notes, abstracts, and other management presentations and the like or documents in any form that contain Confidential Information. Notwithstanding the foregoing, (i) nothing set forth herein shall require the destruction of computer files stored as a result of automated back-up procedures and (ii) if statutory document retention obligations require the receiving party or any of its Representatives to retain a certain portion of the Confidential Information, such receiving party or such Representative (as applicable) may retain one hard copy of such portion as part of its or its Representative's (as applicable) customary storage archives, and access to such Confidential Information shall be limited only to the person or persons necessary to have access in order to comply with such statutory retention obligations. Any Confidential Information that is not returned or destroyed, including, without limitation, any oral Confidential Information, shall remain subject to the confidentiality obligations set forth in this Agreement.

8. No Implied Licenses or Duty to Furnish Information. Nothing in this Agreement will be construed as granting any rights to the receiving party, by license or otherwise, to any of the disclosing party's Confidential Information, except as specifically stated in this Agreement. Nothing in this Agreement shall be construed, interpreted, or implied to obligate either party to furnish any specific type of information to the other party or to compel either party to consummate the Project with the other party or any other party.

9. Term of Agreement. The term of this Agreement shall be one year from the Execution Date.

10. Applicable Law; Venue; Jurisdiction. This Agreement will be construed, interpreted and applied in accordance with the laws of the State of Texas (excluding its body of law controlling conflicts of law). In the event of any litigation to enforce or interpret any terms of this Agreement, the parties agree that such action will be brought exclusively in the United States Federal or State courts located in the County of Harris, State of Texas, United States of America.

11. Entire Agreement. This Agreement sets forth the complete and exclusive agreement of the parties

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regarding the subject matter of this Agreement and supersedes all prior agreements, understandings, and communications, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement is not, however, intended to limit any rights that the parties may have under trade secret, copyright, patent, or other laws that may apply to the subject matter of this Agreement both during and after the term of this Agreement.

12. Publicity. Neither party shall, without the prior written consent of the other party, disclose to any person (a) the fact that the parties have exchanged Confidential Information or (b) any information regarding the ongoing business relationship between the parties, including the fact that such relationship, if any, exists; provided, however, that a party may disclose the information specified in (a) and (b) above if such disclosure is permitted in Section 4 or required in Section 5 above, in which case the procedures specified therein with respect to such disclosure shall apply.

13. Other Business Opportunities. Neither the holding of discussions between the parties hereto nor the disclosure of Confidential Information will be construed as an obligation on the part of either party to refrain from engaging at any time in the same business or any business similar or dissimilar to the business in which the other is now engaged. Each party remains free to pursue the Project or similar business opportunities as the Project with any other party. Further, except as otherwise agreed in writing, Confidential Information received concerning the other party's future plans is tentative and does not represent firm decisions or commitments by either party. Either party may (a) change any and all of the dates or procedures associated with the Project, (b) withdraw the Project, or any portion thereof, from consideration, (c) terminate discussions with the other party in connection with the Project, (d) reject any or all offers in respect to the Project, or (e) meet with, or accept offers from, third persons and receive information similar to the Confidential Information that the party received under this Agreement.

14. No Legal Obligation. The parties agree that unless and until a final, written definitive agreement regarding the Project or any party's participation in or use of services provided by the Project has been executed and delivered, neither party will be under any legal obligation of any kind whatsoever with respect to the Project by virtue of this Agreement, except for the matters specifically agreed to herein.

15. Remedies. The parties acknowledge and agree that, in the event of any breach of this Agreement, the disclosing party would be irreparably harmed and could not be made whole by monetary damages. Accordingly, it is agreed that, in addition to any other remedy to which the disclosing party may be entitled at law or in equity, the disclosing party shall be entitled to an injunction or injunctions (without the posting of any bond or other security and without proof of actual damages) to prevent breaches or threatened breaches of this Agreement and/or to compel specific performance of this Agreement. Neither party nor any of its subsidiaries or affiliates shall have any liability to any other party or its subsidiaries or affiliates for any special, indirect, incidental, or consequential loss or damage whatsoever, including, without limitation, lost profits or lost investment opportunity, even if such party has been advised in advance that such damages could occur.

16. Attorneys' Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees.

17. Any notices which are required to be sent under this Agreement shall be sent via facsimile or a nationally recognized overnight courier service as follows:

TO \_\_\_\_\_:  
Attention:  
[Address 1]  
[Address 2]  
Facsimile:

TO NGPL: Natural Gas Pipeline Company of America LLC  
Attention:  
1001 Louisiana St., Suite 1000

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Houston, Texas 77002  
Facsimile: (713) 369-9305

18. EACH PARTY ACKNOWLEDGES AND AGREES THAT THE CONFIDENTIAL INFORMATION IS BEING PROVIDED FOR THE PURPOSE OF ASSISTING THE RECEIVING PARTY IN CONDUCTING ITS OWN INDEPENDENT EVALUATION AND ANALYSIS OF THE PROJECT. EACH RECEIVING PARTY ACKNOWLEDGES AND AGREES THAT:

- (A) THE DISCLOSING PARTY, ITS AFFILIATES AND EACH OF THEIR REPRESENTATIVES EXPRESSLY DISCLAIM ANY AND ALL LIABILITY AND RESPONSIBILITY FOR THE QUALITY, ACCURACY, COMPLETENESS OR MATERIALITY OF ANY CONFIDENTIAL INFORMATION DELIVERED HEREUNDER BY THE DISCLOSING PARTY, INCLUDING WITHOUT LIMITATION: (I) THE EXISTENCE OF ANY AND ALL PROSPECTS OR POTENTIAL UPSIDE OPPORTUNITIES REFERENCED IN THE DISCLOSING PARTY'S CONFIDENTIAL INFORMATION, (II) THE COSTS, EXPENSES, REVENUES, OR RECEIPTS ASSOCIATED WITH THE PROJECT, (III) THE CONTRACTUAL, ECONOMIC, OR FINANCIAL DATA ASSOCIATED WITH THE PROJECT, AND/OR (IV) THE CONTINUED FINANCIAL VIABILITY OR PROFITABILITY OF THE PROJECT;
- (B) EACH PARTY WILL CONDUCT ITS OWN INDEPENDENT EVALUATION AND ANALYSIS OF THE OTHER PARTY'S CONFIDENTIAL INFORMATION AND SATISFY ITSELF AS TO THE QUALITY, ACCURACY, COMPLETENESS AND MATERIALITY OF THE SAME; AND
- (C) EACH PARTY WILL RELY SOLELY ON ITS OWN INDEPENDENT EVALUATION AND ANALYSIS OF THE OTHER PARTY'S CONFIDENTIAL INFORMATION WHEN DECIDING WHETHER OR NOT TO SUBMIT A BID, ENTER INTO A DEFINITIVE AGREEMENT, AND/OR CONSUMMATE A TRANSACTION COVERING ALL OR ANY PART OF THE PROJECT.

EACH PARTY FURTHER ACKNOWLEDGES AND AGREES THAT ONLY THE EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN A DEFINITIVE WRITTEN AGREEMENT (WHEN AND IF THE SAME IS EXECUTED) SHALL BE BINDING ON THE PARTIES.

19. Assignment. Neither Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, which may be given or withheld by the other Party in its sole discretion. Any attempted assignment without the prior written consent of the other Party shall be null and void. Notwithstanding the foregoing, a party may (without seeking the consent of the other party) transfer or otherwise alienate any of its rights, title or interests under this Agreement in connection with (i) a transfer to an affiliate which remains an affiliate, and (ii) the granting of a pledge, mortgage, hypothecation, lien or other security interest and any transfer pursuant to or in settlement of any terms of provisions of any agreement creating any such security interest. Promptly upon transfer of all or any portion of its rights, title and interests in and to this agreement, the transferor shall provide the other party with a copy of such instrument.

20. No Waiver. No failure or delay by either party in exercising any right, power, or privilege hereunder shall be deemed a waiver thereof or preclude exercise of any other or further, right, power, or privilege hereunder.

21. Savings Clause. If any provision of this Agreement or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

22. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be effective in its own right, but all of which shall be deemed to be one and only one agreement, and delivered via

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electronic mail in PDF format or via facsimile transmission.

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In witness whereof, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

**Natural Gas Pipeline Company of America LLC**

By: \_\_\_\_\_

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

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

\_\_\_\_\_

By: \_\_\_\_\_

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

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

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**EXHIBIT B – BID FORM**

- A. Shipper Name:
  
- B. Contract Start Date:
  
- C. Contract Term:
  
- D. Maximum Daily Quantity (MDQ): \_\_\_\_\_ (Dth/d)
  
- E. Willing to accept a Lesser Quantity (Yes/No):
  
- F. If yes to E. above, please indicate the minimum acceptable amount: \_\_\_\_\_ (Dth/d)
  
- G. Reservation Rate (per Dth of MDQ per month): Please check one:  
    \_\_\_\_ Negotiated Rate - \$\_\_\_\_\_ per Dth of MDQ per month  
    \_\_\_\_ Maximum Tariff Rate
  
- H. Receipt/Delivery Point Information (Any receipt point or delivery point on the Project Path)  

<u>Receipt Point Name</u>	<u>Receipt Point Loc.</u>	<u>Maximum Daily Quantity</u> (Dth/d)
<u>Delivery Point Name</u>	<u>Delivery Point Loc</u>	<u>Maximum Daily Quantity</u> (Dth/d)
  
- I. Willing to pay Contribution in Aid of Construction (CIAC) (Yes/No):  
  
    CIAC Options: \_\_\_\_\_ Lump Sum Payment for Facility Costs; or  
                    \_\_\_\_ Monthly Charge for Facility Costs (including carrying costs)  
                    \_\_\_\_ Other

J. Other Provisions:

By:

Print Name:

Title

Phone:

Email:

Address:

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**EXHIBIT C – Credit Application**

**CREDIT APPLICATION FOR NATURAL GAS PIPELINE COMPANY OF AMERICA LLC**

**Section 1 --General Information**

Shipper / Operator Name \_\_\_\_\_

(Circle one)

Shipper / Operator Address \_\_\_\_\_

(Include City, State, Zip)

DUNS# \_\_\_\_ - \_\_\_\_ - \_\_\_\_ FEIN \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Contact Person \_\_\_\_\_ Telephone No. (\_\_\_\_) \_\_\_\_\_

Business Entity: \_\_\_ "S" Corporation \_\_\_ "C" Corporation \_\_\_ Partnership \_\_\_ Other FAX No. (\_\_\_\_) \_\_\_\_\_

Type of Business \_\_\_\_\_ Number of years in business \_\_\_\_\_

List parent corporation of Shipper/Operator (if Shipper/Operator is a subsidiary company) or general partners (if Shipper/Operator is a partnership) \_\_\_\_\_

Please identify (specify) whether you are owned by Brookfield Infrastructure Partners L.P.

**Section 2 -- Standardized Credit Information**

Please provide Shipper's long-term unsecured debt credit ratings (including Outlook) current as of the date of this Credit Application:

Standard & Poor's \_\_\_\_\_ Moody's \_\_\_\_\_

Is Shipper: - Operating under federal bankruptcy laws? \_\_\_Yes \_\_\_No

- Subject to liquidation or debt reduction procedures under state laws? \_\_\_Yes \_\_\_No

- Subject to pending liquidation or regulatory proceedings in state or federal courts which could cause a substantial deterioration of Shipper's financial condition? \_\_\_Yes \_\_\_No

- Subject to any collection lawsuits or outstanding judgments which would affect

Shipper's ability to remain solvent? \_\_\_Yes \_\_\_No

- Are there any overdue amounts owed Natural Gas Pipeline Company? \_\_\_Yes \_\_\_No

**Section 3 -- Additional Financial Information and Documentation**

Please provide Shipper's estimated activity under all requested services:

Estimated Monthly Volume for all Services: (Dth)

Estimated Monthly Transportation/Storage Charges for all services \$ \_\_\_\_\_

Estimated Term (in months) of Capacity Release Request \_\_\_\_\_

Expected Commencement Date for requested service or capacity release: \_\_\_\_\_

If Shipper's audited financial information is not publicly available, please enclose current financial statements, annual reports, 10-K or other reports to regulatory agencies, or any reports from credit reporting agencies which are available.

Natural Gas Pipeline Company may request additional credit information and documentation in order to perform a credit evaluation of Shipper, in accordance with the provisions of its FERC Gas Tariff.

Incomplete applications will be declined.

\_\_\_\_\_  
Shipper's Signature Date

**Return this Credit Application and Supporting Financial Information to:** Natural Gas Pipeline Company of America LLC.

Attention: Ralph Lohr  
3250 Lacey Road, Ste 700  
Downers Grove, IL 60515  
Telephone: 630/725-3213  
Facsimile: 630/725-3107

Ralph\_Lohr@kindermorgan.com