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FILED SARPY COUNTY NEBRASKA
INSTRUMENT NUMBER

2016-21293

08/24/2016 2:13:37 PM

Lloyd J. Dowding

REGISTER OF DEEDS



**THIS PAGE ADDED
FOR RECORDING
INFORMATION.**

**DOCUMENT STARTS ON
NEXT PAGE.**

LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS

Steven J. Stastny, Deputy

1210 GOLDEN GATE DRIVE, # 1230

PAPILLION, NE 68046-2842

402-593-5773

*Scott Loos
Lamp Rynearson
14710 W Dodge Rd
Ste 100
Omaha NE 68154
402.496.2498-Gwendolyn*

A

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT, made as of the 18th day of August, 2016, by and between the Sanitary and Improvement District No. 303 of Sarpy County, Nebraska, a political subdivision of the State of Nebraska ("District"), its successors and assigns, with a mailing address of 2120 South 72nd Street, Suite 1200, Omaha, NE 68124-2341, and Black Hills/Nebraska Gas Utility Company, LLC d/b/a Black Hills Energy ("Company"), its successors and assigns whose mailing address is 1600 Windhoek Drive, Lincoln, NE 68512.

WITNESSETH THAT:

WHEREAS, Company is the current owner of record of easements described as "Right of Way Grant" (hereafter "Easements") originally executed on April 5, 1962 as recorded in Book 29, Page 551 in the Office of the Register of Deeds in and for Sarpy County, State of Nebraska covering the following described lands as found in Attachment A.

WHEREAS, Company holds a valid and enforceable legal interest in the Easements;

WHEREAS, Company has two natural gas pipelines (hereafter "Pipeline") within the easement;

WHEREAS, District is contemplating improvements (hereinafter "Improvements") within, in or near an area identified generally as 18-inch diameter and 30-inch diameter storm sewer pipes and appurtenances attached hereto as Attachment B; and that the Improvements of District will encroach upon the Company's Easements.

WHEREAS, in connection with the development of the Improvements by District, Company must protect the rights and privileges enjoyed by Company under the Easements, and must have access to Company's Pipeline for among other things, maintenance of the Pipeline located in the Easements.

WHEREAS, in order to accommodate District, Company will not object to certain construction, repair, replacement and maintenance of the Improvements over, upon and across the right of way and easement and Pipeline upon the terms and conditions of this Agreement, as will more fully hereinafter appear.

NOW, THEREFORE, in consideration of the premises and of the mutual advantages accruing or expected to accrue to the parties hereto by virtue of this Encroachment Agreement, the parties, intending to be legally bound hereby for themselves and their respective successors and assigns, covenant and agree as follows:

1. For purposes of this Agreement, the terms set forth below are defined as follows:
 - (a) "Work" shall mean any and all work performed by or for Company to the right of way and Easements and the Pipeline as currently installed, or any other pipeline to be installed within the right of way and Easements, on, over and across the Easements pursuant to the terms of the Easements, including, but not limited to, construction, maintenance, repair, replacement, alteration, renewal and removal of said Pipeline.
 - (b) "Easements" shall mean the Easements described in Attachment A.
 - (c) "Improvements" shall mean work performed by District as shown on Attachment B hereto.
 - (d) "Encroachment Area" shall mean the area of Company's Easement upon which District is authorized to make its Improvements. The area permitted by Company for the Encroachment Area is shown on Attachment A.
2. During the performance of any Work, Company shall have the right to pile dirt and

B

materials on the surface of the ground both within the limits of and adjacent to the Easements, provided Company uses its best efforts to minimize any interference with or interruption of the operation of or access to the Easements or any of the businesses or other commercial or professional enterprises or activities located on the Easements and particularly the Encroachment Area.

3. Except as otherwise provided for herein, neither District nor their agents or contractors shall build any structures on, construct man-made surfaces or place bodies of water upon, excavate or locate any utilities within, change the grade of, or use Company's right of way and easement, or any part thereof, in any way which will or may interfere with Company's immediate and/or unimpeded access to Company's Pipeline facilities located therein or otherwise interfere with Company's lawful exercise of any of the rights herein granted or confirmed without first having obtained Company's approval in writing. Notwithstanding the foregoing, this Encroachment Agreement constitutes approval of construction in compliance with terms herein and Attachments hereto.

4. District, its agents and contractors shall give Company not less than forty-eight (48) hours' notice prior to any proposed grading, excavation, construction or installation of any Improvements on, over, under, upon, or near Company's Pipeline and Easements.

5. The installation, operation, maintenance and repair of the Improvements by District shall be done in a manner as will not interfere with the proper and safe use, operation and enjoyment of Company's Pipeline and Easements. Should cranes or other extremely heavy equipment be required for the construction of the Facilities, District shall provide pads or steel plating giving no less than 4 feet of cover from the top of pipeline where Grantee will cross Grantor's Pipeline with said equipment.

6. District, their heirs, successors and assigns, at their sole cost and expense, shall at all times be obligated to maintain, repair and replace the Improvements in order to protect the interest of Company in and to the Pipeline and Easements. In the event the condition of the Improvements creates a risk to the Pipelines integrity, District agrees to promptly maintain, repair or replace the Improvements.

7. Subject to the terms of this Encroachment Agreement, the construction, installation, maintenance and/or reconstruction of the Improvements is and shall be subject to the rights of Company as provided in the Easements and in this Agreement.

8. Company, in the exercise of any of its rights, shall not be liable in any manner or respect whatsoever for any damages occasioned to any of the Improvements, except for damage caused by the negligence or willful actions of Company or Company's agents, employees or contractors. District, in the exercise of any of its rights, shall not be liable in any manner or respect whatsoever for any damages occasioned to the Pipeline, except for damage caused by the negligence or willful actions of District or District's agents, employees or contractors.

9. District will reimburse Company for all costs incurred by Company in response to any relocations of its Pipeline from or within the Easements requested by District. Company will only be required to relocate its Pipeline if it can obtain a new easement or right-of-way satisfactory to Company. If Company must obtain a new easement, then District will reimburse Company for all cost associated with the acquisition or condemnation thereof, including, but not limited to, reasonable attorney fees, engineering costs, land purchase and other related costs.

10. All the terms and provisions of the Easements, as the Easements were modified or amended by this Agreement or by Company, are hereby ratified and confirmed and shall remain in full force and effect.

11. The parties acknowledge and agree that the terms and provisions of this Agreement shall constitute a covenant running with the land.

12. This Agreement shall be binding upon District and Company and their respective heirs, successors and assigns.

C

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year above written.

COMPANY

DISTRICT

Black Hills/Nebraska Gas Utility Company, LLC d/b/a Black Hills Energy

Sanitary and Improvement District No. 303 of Sarpy County, Nebraska

Don Nordell

Paul S. McCune
Paul S. McCune, Chairman

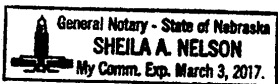
CORPORATE ACKNOWLEDGEMENT

STATE OF NEBRASKA)

COUNTY OF Sarpy)

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this 18th day of August, 2016, personally appeared Don Nordell, who being by me duly sworn, did say that he is the Senior Operations Manager of Black Hills/Nebraska Gas Utility Company, LLC d/b/a Black Hills Energy, a corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said Don Nordell acknowledged said instrument to be the free act and deed of said corporation.

In testimony whereof, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.



Sheila A. Nelson
Notary Public

My Commission Expires March 3, 2017

DISTRICT ACKNOWLEDGEMENT

STATE OF NEBRASKA)

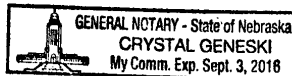
COUNTY OF SARPY)

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this 9th day of August, 2016, personally appeared Paul S. McCune, who being by me duly sworn, did say that he is the Chairman of SID No. 303 of Sarpy County, Nebraska, a political subdivision of the State of Nebraska, and that said instrument was signed on behalf of said political subdivision by authority of its Board of Trustees, and said Chairman acknowledged said instrument to be the free act and deed of said political subdivision.

In testimony whereof, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

Crystal Geneski
Notary Public

My Commission Expires Sept 3, 2016



D

FORM 67 IN R. G. O.

NEA91-1-10
29-551

Know All Men by These Presents:

That Cecelia E. Weath, A WIDOW

of the County of Barry and State of Nebraska for and in consideration of the sum of One Dollar (\$1.00) per lineal rod, receipt of One Dollar (\$1.00) of which consideration is hereby acknowledged and balance of which is to be paid when and as the location of pipe lines over and through the lands hereinafter described shall be established, surveyed and measured, and the further consideration of the performance of the covenants and agreements by the grantee, as hereinafter set out and expressed, do hereby GRANT, REMISE and RELINQUISH unto NORTHERN NATURAL GAS COMPANY, a Delaware corporation, its successors or assigns, the RIGHT, PRIVILEGE and EASEMENT to construct, maintain and operate pipe lines, and appurtenances thereto, over and through the following described lands and appurtenances thereunto belonging, including riparian rights, situated in the County of Barry and State of Nebraska, to-wit:

The South half of the Northwest quarter (34 1/4) in Section 21, Township 14, Range 11.

TO HAVE AND TO HOLD unto said NORTHERN NATURAL GAS COMPANY, its successors and assigns, so long as such pipe lines, and appurtenances thereto, shall be maintained, together with the right of ingress to and egress from said premises, for the purpose of constructing, inspecting, repairing, maintaining and replacing the property of the grantee located thereon, or the removal thereof, in whole or in part, at the will of the grantee; it being the intention of the parties hereto that grantor hereby granting the uses herein specified without divesting grantor of the rights to use and enjoy said above described premises, subject only to the right of the grantee to use the same for the purposes herein expressed.

As a further consideration for this grant, the grantee herein agrees as follows:

(1) That it will bury all line pipe laid upon said land to a sufficient depth so as not to interfere with the cultivation of the soil.

(2) That it will pay to grantor any damages which may arise to growing crops, trees, shrubbery, fences or buildings from the construction, maintenance or operation of said pipe lines, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one of whom shall be appointed by the grantor, one by the grantee, and the third to be selected by the two appointed as aforesaid, and the written award of such three persons shall be final, conclusive and binding upon the parties hereto.

(3) That grantee, upon written application by the grantor, will make, or cause to be made, a tap in any gas pipeline constructed by grantee upon the above described premises for the purpose of supplying gas to grantor for domestic purposes only and not for re-sale, and for use upon the above described premises only. All connections required, shall be furnished and paid for by Grantor with the exception of the meter, which is to be furnished and owned by the Grantee. Said tap will be provided by grantee from a convenient point on its main line or some lateral as the grantee may determine, and gas to be taken under this provision shall be measured and furnished to the grantor at the rates and upon the terms as may be established by grantee, or by any vendee of grantee, from time to time.

(4) That grantee will replace or rebuild to the satisfaction of grantor or of her representative any and all damaged parts of all drainage systems, the damage to which shall be occasioned by the construction of said pipe lines under and through the above described premises.

This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.

IN WITNESS WHEREOF we have hereunto set our hands this 23th day of March 1952.

Cecelia E. Weath
Cecelia E. Weath

Frank [Signature]
Notary Public

FILED FOR RECORD IN [unclear] AND RECORDED IN BOOK 99 [unclear] 25

E

STATE OF Nebraska
COUNTY OF Barry ss.

On this 24th day of March A. D. 1962, before me, the undersigned duly commissioned and qualified authority in and for said county and state, personally came Carolla E. Weath

to me known to be the identical person whose name is subscribed to the foregoing instrument as Grantor, and duly acknowledged the execution of the same as a voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

(Seal) _____
Notary Public in and for _____ County.
My commission expires the _____ day of _____ 1962

STATE OF _____
COUNTY OF _____ ss.

On this _____ day of _____ A. D. 19____, before me, the undersigned duly commissioned and qualified authority in and for said county and state, personally came _____

to me known to be the identical person whose name is subscribed to the foregoing instrument as Grantor, and duly acknowledged the execution of the same as a voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

(Seal) _____
Notary Public in and for _____ County.
My commission expires the _____ day of _____ 19____

5443 -

EASEMENT GRANT

FROM

TO

NORTHERN NATURAL GAS COMPANY

STATE OF NEBRASKA,)
COUNTY,)

Filed for record the _____ day
of _____ 19____
at _____ o'clock _____ M., and recorded
in Book _____ of _____
at Page _____

Register of Deeds.
Deputy.

*Notarized before me
1962-3 before Carolla E. Weath*

STATE OF _____
COUNTY OF _____ ss.

_____ day of _____ A. D. 19____, before me, _____ duly commissioned and qualified in and for said County, personally came the above named _____ President, _____ Secretary, of _____

who are personally known to me to be the identical persons whose names are affixed to the above instrument as President and Secretary of said Corporation, and they acknowledged the instrument to be their voluntary act and deed, and the voluntary act and deed of said corporation.

WITNESS, my hand and official seal at _____ in said County, the date aforesaid.

Notary Public.
My commission expires the _____ day of _____ 19____

BLACK HILLS ENERGY ENCROACHMENT AGREEMENT EASEMENT EXHIBIT

LEGAL DESCRIPTION

A PERMANENT EASEMENT FOR THE CONSTRUCTION AND MAINTENANCE OF STORM SEWERS OVER THAT PART OF TAXLOT 1A1A2, LOCATED IN THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 NORTH, RANGE 11 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 71, COVINGTON 2, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA;

THENCE SOUTH 87°18'39" WEST (BEARINGS REFERENCED TO THE FINAL PLAT OF COVINGTON 2) FOR 10.00 FEET ALONG THE SOUTH LINE OF SAID TAXLOT 1A1A2;

THENCE NORTH 02°43'13" WEST FOR 4.06 FEET;

THENCE NORTH 44°55'59" WEST FOR 55.69 FEET;

THENCE NORTH 45°04'01" EAST FOR 20.00 FEET;

THENCE SOUTH 44°55'59" EAST FOR 49.68 FEET;

THENCE NORTH 49°51'41" EAST FOR 65.46 FEET;

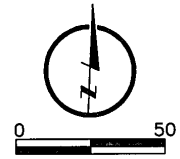
THENCE SOUTH 40°08'19" EAST FOR 20.00 FEET;

THENCE SOUTH 49°51'41" WEST FOR 69.15 FEET;

THENCE SOUTH 02°43'13" EAST FOR 3.83 FEET TO THE SOUTH LINE OF SAID TAXLOT 1A1A2;

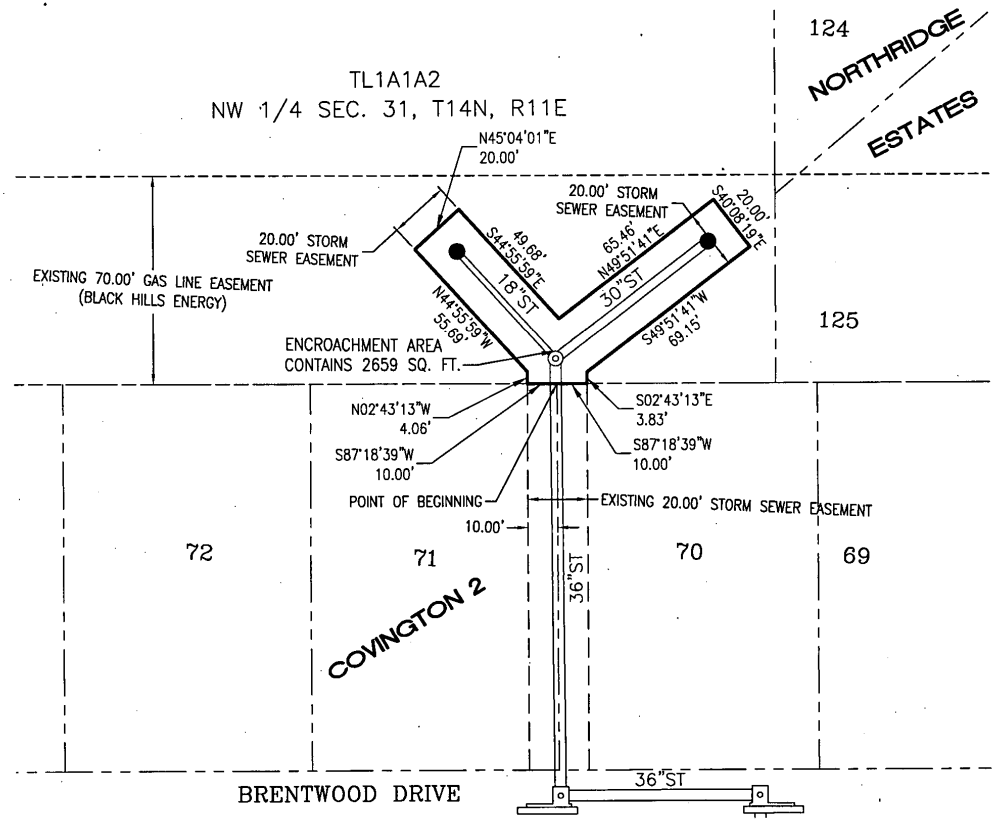
THENCE SOUTH 87°18'39" WEST FOR 10.00 FEET TO THE POINT OF BEGINNING;

CONTAINS 2,659 SQUARE FEET.



LEGEND

- LOT LINE
- EASEMENT LINE



ATTACHMENT B



**LAMP RYNEARSON
& ASSOCIATES**

14710 West Dodge Road, Suite 100 402.496.2498 | P
 Omaha, Nebraska 68154-2027 402.496.2730 | F
 www.LRA-Inc.com

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