

ENCROACHMENT AND REIMBURSEMENT AGREEMENT

THIS AGREEMENT, entered into by and between WILLIAMS PIPE LINE COMPANY, a Delaware corporation, hereinafter called "Williams," and MCJ INVESTMENT COMPANY, a Nebraska corporation, and SANITARY IMPROVEMENT DISTRICT NO. 364 OF DOUGLAS COUNTY, NEBRASKA, a Nebraska Political Subdivision, hereinafter called "Permittees,"

WITNESSETH:

WHEREAS, Williams is the owner of a six (6) inch pipeline and an easement One Hundred Twenty-eight (128) feet (more or less) in width for pipelines, communications cables, and appurtenances across lands in the West Half of the Northwest Quarter (W/2 NW/4) of Section 33, Township 16 North, Range 12 East, Douglas County, Nebraska by virtue of and more particularly described in that certain Partial Release and Grant of Right-of-Way Agreement executed by Arthur R. Camenzind and Luanna R. Camenzind on December 27, 1990 and to be filed for record with this Agreement in the office of the Recorder of Deeds of Douglas County, Nebraska.

WHEREAS, Permittees warrant it is the owner of the aforesaid West Half of the Northwest Quarter (W/2 NW/4), Section 33, Township 16 North, Range 12 East, Douglas County, Nebraska, now known as Lots 1 through 218 inclusive - Cherry Hills, a subdivision in Douglas County, Nebraska, which lands are encumbered by Williams' One Hundred Twenty-eight (128') foot wide easement across the most Northern portion of Permittee's property and which are subject to the terms and conditions of the aforesaid easements and partial release of Williams; which strictly prohibit the erection, creation, or construction of any building, improvement, structure, or obstruction of any kind either on, above, or below the surface of the ground on Williams' easement or change the elevation thereof.

WHEREAS, Permittees, under the terms and conditions hereinafter stated, now desire Williams to grant its consent to the construction of Cherry Hills Subdivision and improvements as shown in Thompson, Dreessen and Dorner drawing titled Cherry Hills - Grading Plan, dated July 1990 (hereby made a part of this Agreement by reference), across Williams' One Hundred Twenty-eight (128') foot easement and further desire Williams to perform certain pipeline work to accommodate said Cherry Hills Subdivision; and

WHEREAS the aforesaid Cherry Hills Subdivision of Permittees would unreasonably interfere with the aforesaid easement rights of Williams, under the terms and conditions stated herein, Williams is willing to grant Permittees permission for the aforesaid encroachment of Cherry Hills Subdivision and perform specified work over its pipeline to accommodate said Cherry Hills Subdivision;

NOW THEREFORE, in consideration of a Thirty-Five Thousand Four Hundred (\$35,400) Dollar deposit paid to Williams, and the promises herein made by Permittees to Williams, Williams hereby grants permission for the hereinafter described encroachments as shown in aforementioned Thompson, Dreessen and Dorner drawing titled Cherry Hills - Grading Plan, dated July 1990.

- A. Construction of 105th Street. The center of the ninety (90) foot wide 105th Street shall cross Williams' pipeline and easement at a point one hundred sixty-five (165) feet West of Permittee's East property line. Said property line being the East line of the West Half of the Northwest Quarter (W/2 NW/4).
- B. One 48" Storm Sewer. The 48" diameter storm sewer shall cross under Williams' pipeline within the confines of the ninety (90) foot wide 105th Street and maintain a minimum separation of twelve (12) inches beneath Williams' existing six (6) inch pipeline.

WILLIAMS PIPE LINE COMPANY

ATTN: Land, Records and Claims (34-11)

P O BOX 3448

TULSA OK 74101-9946

- C. One 8" Sanitary Sewer. The eight (8) inch diameter sanitary sewer shall cross under Williams' pipeline within the confines of the ninety (90) foot wide 105th Street and maintain a minimum separation of twelve (12) inches beneath Williams' existing six (6) inch pipeline.
- D. One 4" Force Main. The four (4) inch diameter force main shall cross under Williams' pipeline within the confines of the ninety (90) foot wide 105th Street and maintain a minimum separation of twelve (12) inches beneath Williams' existing six (6) inch pipeline.

The grading has already been completed and up to 8 feet of fill dirt has been placed over the pipeline increasing the maximum cover to approximately 11 feet, therefore, requiring the pipeline to be raised.

Williams will raise the pipeline to an elevation of 228 feet, reducing the present 11 feet of cover to 3 feet of cover under 105th Street and to lower the 48" storm sewer approximately 2 feet to an elevation of 226 feet. The 48" storm sewer will cross under the pipeline with a minimum separation of 12 inches. The 8" sanitary sewer is approximately 8-1/2 feet deep and the 4" force main is a minimum of 5 feet deep and will cross under the pipeline with at least 12 inches of separation.

It will be necessary to raise the 6" pipeline before the sewer lines are installed. The estimated cost to raise the line is \$35,000. It will take approximately one week to complete the work. No other permanent structures shall be constructed on Williams' easement, and Williams agrees to perform certain pipeline work on the aforesaid easement of Williams, provided:

1. In the event that the aforesaid permitted items interfere with Williams' easement rights, Permittees agree to move said items, or Williams may -- at Permittee's risk and expense -- cause to be removed from its easement the items permitted to be placed on the easement or any other items or objects that may have been placed on the easement. Permittee's agreement includes, but is not limited to, removing the aforesaid encroachments completely from Williams' easement should Williams ever so desire said removal. Any and all direct and indirect costs, damages, expense or injury to Permittee, including but not limited to the removed items or property from which they are removed, shall be at the risk and expense of Permittee. Except in cases of emergency, Permittee shall be given 48 hours notice of the need for such removal, and Permittee shall immediately undertake said removal. In cases of emergency, or at the request of Permittee, or any circumstances where Permittee does not or cannot remove the permitted items or other objects, Williams may undertake said removal, the cost of which shall be paid to Williams by Permittee upon demand.
2. In the enjoyment of its right to construct, maintain, and operate pipelines, communications systems, and appurtenances; should Williams or its contractors destroy or damage the items herein permitted or any other item or object on its easement, all such damages, whether direct or indirect to that item, shall be the sole responsibility of Permittee.
3. As specified above, Williams agrees to change the elevation of its pipeline to conform to the proposed encroachments according to the plan submitted to Williams by Permittee, and, in lieu of specific engineering drawings, Permittee shall furnish the necessary survey and inspection services to assure and satisfy itself that Williams' work is performed in accordance therewith.

4. Permittee agrees to bear the cost of and reimburse Williams for all Williams' direct and indirect costs in connection with the preparation, execution or performance of this Agreement, including, but not limited to, labor, materials, construction damages, administrative overhead, taxes and legal fees, which are now estimated to be \$35,400.00.
5. On the execution of this Agreement, Permittees shall pay \$35,400.00 to Williams as an advance deposit of Williams' estimated construction cost. Said payment shall not be considered a limit of Permittee's obligations to Williams. Williams shall have no obligation to commence the described work or contract the same until said \$35,400.00 is received. If it is shown by Williams that the construction costs will exceed \$35,400.00, Permittees shall pay the excess amount to Williams in advance of the commencement of work by Williams, and/or its contractor.
6. Following the completion of the project, Williams shall determine its final cost and provide Permittees an itemized invoice for same. If Williams' final cost is less than the advance payment, Williams shall reimburse the difference to Permittees within 30 days of the invoice notice. If Williams' final cost is in excess of the advance payment, Permittees shall pay Williams the amount of such excess within 30 days of the invoice date, or sooner if required to do so by Williams.
7. Permittees and Williams mutually agree all work on, above, below, adjacent, and/or adjoining to Williams' facilities shall be performed in a workmanlike manner and in conformance with all applicable industry standards and government regulations.
8. Williams' consent to the construction of this permitted encroachment on its easement is made without prejudice to its easement rights, and Permittees hereby agree to pay Williams any and all reasonable direct or indirect costs incurred by Williams in connection with the construction, operation, and maintenance of its existing pipelines and/or other pipelines constructed by the authority of the aforesaid easements, and Partial Release, including but not limited to any additional cost incurred by Williams for labor and materials, which additional costs are attributable to the presence of Permittee's items on Williams' easement.
9. Seven (7) days notice shall be given to Williams by Permittees in advance of any commencement of work on or adjacent to Williams' easement, excepting normal service maintenance and in cases of emergency. Said notice shall be given to the District Manager, currently Mr. Rick Fahrenkrog, 3636 Westown Parkway, Unisys Bldg., Suite 215, West Des Moines, Iowa 50265, telephone (515) 226-9360.
10. In the event it shall become necessary for Williams to commence litigation to enforce any provisions of this Agreement or the aforesaid easements, the reasonable cost of attorney's fees and attendant expenses will be payable to Williams by Permittees upon demand.
11. Permittees agree to indemnify, save and hold Williams harmless from and against any loss, cost or expense incurred by Williams, including without limitation to losses resulting from claims for damages to property, injury to or deaths of persons, judgments and court costs and attorney's fees, which arise out of or are claimed to have arisen out of the construction, maintenance and/or existence of said permitted encroachments or any other encroachments on Williams' easement.
12. The terms of this Agreement shall constitute covenants running with the land and be binding upon and inure to the benefit of the parties hereto, their heirs, successors, and assigns.

IN WITNESS WHEREOF, we hereunto set our hands and seals on the day and year below our signatures indicated.



WILLIAMS PIPE LINE COMPANY

By [Signature]
 C. M. Proud, Manager
 Land, Records & Claims
 Attorney-in-Fact

Date January 31, 1992

ATTEST:

PERMITTEES:

MCJ INVESTMENT COMPANY
[Signature]

SANITARY IMPROVEMENT DISTRICT NO. 364 OF DOUGLAS COUNTY, NEBRASKA
[Signature]

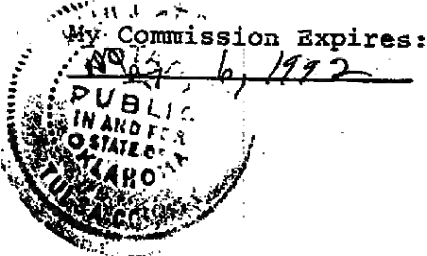
Date 2-18-92

STATE OF OKLAHOMA)
) SS
 COUNTY OF TULSA)

Before me, the undersigned, a Notary Public in and for the county and state aforesaid, on this 31st day of January, 1992 personally appeared C. M. Proud, Manager of Land, Records and Claims, who being by me duly sworn, did say that he is the Attorney-in-Fact for Williams Pipe Line Company, a Delaware corporation, by virtue of a December 27, 1991, Power of Attorney filed for record January 24, 1992, in the County of Tulsa, State of Oklahoma, in Book 5376 at Page 252, as Document 92005849, and that the seal affixed to this instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, and said C. M. Proud 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.

Notary Public
[Signature]



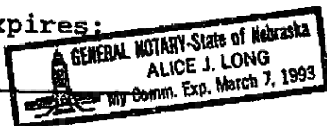
STATE OF NEBRASKA)
) SS
COUNTY OF DOUGLAS)

On this 18th day of February, 1992, before me appeared Robert P. Horgan, to me personally known, who, being by me duly sworn, did say that he is the President of MCJ Investment Company and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Robert P. Horgan 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.

[Signature]
Notary Public

My Commission Expires:



STATE OF NEBRASKA)
) SS
COUNTY OF DOUGLAS)

On this 18th day of February, 1992, before me appeared Robert P. Horgan, to me personally known, who, being by me duly sworn, did say that he is the Chairman of S.I.D. No. 364 of Douglas County, NE and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Trustees, and said Robert P. Horgan 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.

[Signature]
Notary Public

My Commission



This instrument was drafted by
Williams Pipe Line Company,
a Delaware Corporation,
P.O. Box 3448,
Tulsa, Oklahoma 74101

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BK 1022
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GEORGE J. BUCLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE