

FILED SARPY CO. NE.
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99-030111

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Glenn J. Landowner
REGISTER OF DEEDS

99-30111
Counter DNK
Verify S
D.E. a
Proof AK
Fee \$ 55.00
Ck Cash Chg

PARTIAL RELEASE AND ENCROACHMENT AGREEMENT

This Agreement ("Agreement") is made and entered into by and between WILLIAMS PIPE LINE COMPANY, a Delaware corporation (hereinafter called "WPL"), whose address is P.O. Box 21628, RES-2nd Floor, Tulsa, Oklahoma 74121-1628, and BROOK VALLEY II, LTD, a Nebraska Limited Partnership (hereinafter called "Landowner"), whose address is 6410 South 120th Plaza, Omaha, Nebraska 68137 and Sanitary and Improvement District No. 59 of Sarpy County, Nebraska, a political subdivision of the State of Nebraska (hereinafter called the "District"), whose address is 11440 West Center Road, Omaha, Nebraska 68144.

WITNESSETH:

WHEREAS, WPL is the owner of a pipeline(s) with related appurtenances (hereinafter called the "Pipelines") and a pipeline easement and right of way (hereinafter called the "Easement") on, over and through parts of the Northwest Quarter of Section 20 and the Southwest Quarter of Section 17, both in Township 14 North, Range 12 East, Sarpy County, Nebraska, by virtue of the following agreements and assignments:

Right of Way Agreement dated July 17, 1941, filed July 24, 1941 in Book 10 at Page 616 of the Miscellaneous Records of Sarpy County, Nebraska from Fred Peters and Annie Peters, his wife, to Socony Vacuum Oil Company, Incorporated.

Right of Way Agreement dated March 3, 1941, filed March 11, 1941 in Book 10 at Page 467 of the Miscellaneous Records of Sarpy County, Nebraska from Annie Peters and Fred Peters, her husband, to Socony Vacuum Oil Company, Incorporated.

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Right Of Way Agreement dated March 3, 1941, filed April 11, 1941 in Book 10 at Page 464 of the Miscellaneous Records of Sarpy County, Nebraska from Mary E. Schneekloth and Fred Schneedloth, her husband, Fred Hagedorn and Antonette E. Hagedorn, his wife, to Socony Vacuum Oil Company, Incorporated.

Assignment of Agreement filed June 14, 1960 in Book 26 at Page 126 of the Miscellaneous Records of Sarpy County, Nebraska from Socony Mobile Oil Company, Inc. to Magnolia Pipe Line Company.

Assignment of Right of way Agreement dated October 31, 1983, filed January 18, 1984 in Book 57 at Page 31 of the Miscellaneous Records of Sarpy County, Nebraska, from Mobile Pipe Line Company to Williams Pipe Line company.

Relocation and Reimbursement Agreement filed June 23, 1994 as instrument #94-14186 of the records of Sarpy County, Nebraska,

Collectively hereinafter called the "Right of Way Agreements"

WHEREAS, Landowner represents and warrants that it is the current owner of the following described tract of land (hereinafter called "Owner's Land"):

Commencing at the Southeast Corner of said the NW/4 of Section 20-T14N-R12E, Sarpy County, Nebraska; thence S89°54'13"W (assuming the East line of said NW/4 to bear North and South) 33.00 feet on the South line of said NW/4 to the point of beginning; thence North 2217.06 feet on the West line of 114th Street and on a line 33.00 feet West of and parallel with the East line of said NW/4 to a point on the Easterly extension of the South line of Lot 4, Brook Valley II Business Park (Lots 1 thru 22, inclusive), a subdivision as surveyed, platted and recorded in said Sarpy County, Nebraska; thence on the outer boundary of said Brook Valley II Business Park (Lots 1 thru 22, inclusive) on the following described ten courses; thence West 314.00 feet; thence North 60.00 feet; thence West 300.00; thence South 275.00 feet; thence West 53.00 feet; thence South 730.00 feet; thence East 323.00 feet; thence South 850.00 feet; thence West 203.00 feet thence South 422.98 feet; thence N89°54'13"E 547.00 feet on the South line of said NW/4 to the point of beginning. Also Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 17, 19, 20, and 21 in Brook Valley II Business park, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

WHEREAS, the District has been duly organized and is existing under and by virtue of the laws of the State of Nebraska, Neb. Rev. Stat. §§ 31-727 et seq. (Reissue 1993) and is

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authorized and empowered thereunder to contract and pay for the installation of public improvements, including, but not limited to, streets, sewers, electricity, and natural gas.

WHEREAS, Landowner and District desire that WPL relocate a portion of the Pipelines and amend the Right of Way Agreements in the following described manner to facilitate the future development of Owner's Land, and WPL is willing to do so under the following described conditions.

NOW, THEREFORE, in reliance on the aforesaid representations and warranties of ownership and in consideration of the conveyances, promises and the mutual covenants herein contained, the Right of Way Agreements are modified as hereinafter described:

1. Effective as of the date hereof, all pipelines, valves, cables, conduits, cathodic protection equipment and other appurtenances of WPL heretofore or hereafter constructed on Owner's Land by authority of the Right of Way Agreements and this Agreement shall be confined within a tract of land (hereinafter called the "Easement Strip") extending across Owner's Land being more particularly described as follows:

A 100.00 wide foot pipeline easement being part of the fractional part of the NW/4 of Section 20-T14N-R12E and the SW/4 of Section 17-T14N-R12E, both in Sarpy County, Nebraska.

See Exhibit 'A' attached hereto and made a part hereof.

It is strictly understood Exhibit 'A' defines the Easement Strip after the relocation of the Pipelines. Prior to relocation of the Pipelines Landowner and District consent to the operation and maintenance of the Pipelines as presently located. It is strictly understood that nothing herein contained shall in anywise diminish WPL's right, title and interest, in and to the Easement Strip described in Exhibit 'A'.

2. WPL for itself, its future successors and assigns, hereby releases all of its right, title and interest acquired by virtue of the Right of Way Agreements in that portion of Owner's Land, and no other described real estate, not included in the Easement Strip.
3. For and in consideration of the benefits derived herefrom and other valuable consideration paid to Landowner, the receipt and sufficiency of which are hereby acknowledged, Landowner grants, sells and conveys to WPL the free, uninterrupted, perpetual and commercial right, privilege and easement to lay, construct, maintain, inspect, operate, repair, replace, change the size of, protect and remove (a) existing and future pipelines for the transportation of liquids, gases or other materials which can

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be transported through a pipeline, with fittings, valves, cathodic protection equipment and related appurtenances, and (b) existing and future lines, cables, conduits and related equipment and appurtenances for telecommunications or other purposes, whether or not related to pipelines (all the foregoing being sometimes hereinafter collectively called "WPL's Lines") over, through, under and across the Easement Strip, together with the right of ingress and egress across Owner's Land for all purposes incident to the exercise of the aforesaid rights, the right to environmentally remediate Owner's Land if a discharge should occur from WPL's Lines and the right to place on Owner's Land incidental equipment to facilitate the exercise of the aforesaid rights. No additional compensation shall be payable to Landowner for the aforesaid rights or any damage resulting to the property of Landowner, its successors or assigns, except where expressly provided for in the Right of Way Agreement; provided, however, WPL shall have the right to keep the Easement Strip clear of obstructions, structures, trees, undergrowth, brush, ornamental or other vegetation. To the extent reasonably practical, WPL agrees to use the public streets within the subdivision to access the Pipelines.

4. Landowner and District shall not erect, construct or create any building, house, improvement, trees, structure or obstruction of any kind either on, above or below the surface of the ground on the Easement Strip, or change the grade thereof, or cause or permit such construction work or acts to be done by others, without the express written permission of WPL, except as specifically permitted as follows:
 - 4.1 Only four-foot tall or shorter picket or chain link fences shall be permitted to run parallel with the Pipelines as long as they are a minimum of ten feet from the Pipelines. Four-foot tall or shorter Picket or chain link fences may be allowed to cross over the Pipelines as long as they extend ten feet beyond the Pipelines. Fence posts shall not be permitted directly above the Pipelines. Privacy fences are strictly prohibited.
 - 4.2 Parking lots shall be permitted providing a minimum of 4 foot of cover is maintained over the Pipelines. At WPL's option, a close interval cathodic protection survey will be performed prior to the parking lot being installed to evaluate the integrity of the pipeline coating. The charges of said cathodic protection survey shall be paid in advance by Landowner.
 - 4.3 WPL's representative shall be contacted a minimum of forty-eight (48) hours prior to construction of fences and parking lots by phoning WPL's Coordinator of Operations & Maintenance, Dan Egner, at 402-342-5476 (Office) or 402-677-2996 (cell phone) or Nebraska One-Call at 800-331-5666 or such other

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representatives that WPL may from time-to-time appoint. The presence of WPL's representative or any instructions given by such representative shall not relieve Landowner and District of any liability under the Right of Way Agreement and this Agreement.

5. WPL consents, subject to the hereinafter described conditions, to the construction by District of four streets (named Centennial Road, Portal Road, Cary Street and Virginia Street) that shall cross the Pipelines at right angles. WPL further consents, subject to the hereinafter described conditions, to the construction by District and Landowner of (a) sanitary sewer lines and storm sewer lines; (b) cable television, telecommunication lines and natural gas utility lines, and (c) underground electric power-line crossing WPL's pipeline(s) (collectively the "Utility Lines) within and across that portion of the Easement Strip which lies within Owner's Land, provided that District agrees to the following conditions:

5.1 District and Landowner agree to perform any grading so that a minimum of 36" of cover exists over Pipelines, except at street crossings where a minimum of four feet (4') and a maximum of eight feet (8') of cover shall be provided and maintained between the bottom of the Streets' surface and the top of the Pipelines. No sub-cutting by machinery shall be allowed within two feet (2') of the Pipelines. Hand digging shall be required if excavation is necessary within two feet (2') of the Pipelines. No rocks, dirt clods, clay clumps, debris or any other type of fill determined by WPL's on site representative to be unsuitable shall be used as fill over and around the Pipelines.

5.2 Underground Utility Lines shall be constructed in a manner which will provide a minimum clearance of two feet (2') between the Utility Lines and the Pipelines. Utility Lines shall not be permitted to run parallel with the Pipelines on the Easement without the written permission of WPL. Underground fiber optic cable, long distance carrier telephone, and electrical cable shall be cased and concrete coated when crossing WPL's Pipelines and a warning tape shall be placed over the concrete coating. The tape shall extend 20 feet on each side of the Pipelines. Utility poles and guys shall not be placed within 15 feet of the Pipelines.

The covenants contained in this Agreement shall constitute covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, heirs, successors and assigns. WPL shall have the right to assign the rights granted herein or in the aforementioned Right of Way Agreement in whole or in part. WPL executes this Agreement solely on its own behalf. WPL does not represent, through this

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Agreement or otherwise, any other entity other than WPL and its future successors and assigns.

It is further understood and agreed that WPL is hereby released from the covenants contained in the aforesaid Right of Way Agreement as to the lands herein released from the burdens thereof.

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

WILLIAMS PIPE LINE COMPANY

By Bryan E. Young
Bryan E. Young
Manager, Real Estate Services
Attorney-In-Fact

Date 6-28-99

-WPL

BROOK VALLEY II, A NEBRASKA LIMITED PARTNERSHIP

By: PRIME REALTY, INC. A NEBRASKA CORPORATION, ITS GENERAL PARTNER

By James V. McCart
James V. McCart
President

Date 4/24/99

- LANDOWNER

99.30111 F

ATTEST:

William J. Wiedemeyer
William J. Wiedemeyer
CLERK OF SAID DISTRICT

SANITARY AND IMPROVEMENT DISTRICT NO. 59
OF SARPY COUNTY, NEBRASKA

By *Ronald K. Parks*
Ronald K. Parks
CHAIRMAN OF THE BOARD OF TRUSTEES

Date 5-18-99

- DISTRICT

STATE OF OKLAHOMA)
) SS
COUNTY OF TULSA)

Before me, the undersigned, a Notary Public in and for the county and state aforesaid, on this 28th day of June, 1999, personally appeared Bryan E. Young, who being by me duly sworn, did say that he is the Attorney-in-Fact for Williams Pipe Line Company, a Delaware corporation, 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 Bryan E. Young 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.

Shelia J. Seathoff
Notary Public

My Commission Expires: 11/23/2000



99.301113

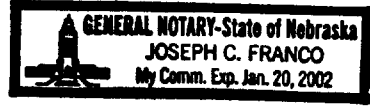
STATE OF NEBRASKA)
) SS
COUNTY OF DOUGLAS)

Before me, the undersigned, a Notary Public in and for the county and state aforesaid, on this 26 day of APRIL, 1999, personally appeared James V. McCart, who being by me duly sworn, did say that he is the President of Prime Realty, Inc., a Nebraska corporation, General Partner of BROOK VALLEY II, LTD, a Nebraska Limited Partnership and said James V. McCart acknowledged said instrument to be the free act and deed of said BROOK VALLEY II, LTD, a Nebraska Limited Partnership.

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.

Joseph C. Franco
Notary Public

My Commission Expires: JANUARY 20, 2002



STATE OF Nebraska)
) SS
COUNTY OF Douglas)

Before me, the undersigned, a Notary Public in and for the county and state aforesaid, on this 18 day of May, 1999, personally appeared Ronald K. Parks, who being by me duly sworn, did say that he is the Chairman of the Board of Trustees of Sanitary and Improvement District No. 59 of Sarpy County, Nebraska, a political subdivision of the State of Nebraska, and William J. Wiedemeyer, Clerk of said District 59 and that said instrument was signed on behalf of said District No. 59, and said Ronald K. Parks and William J. Wiedemeyer acknowledged said instrument to be the free act and deed of said District No. 59.

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.



Carol A. Gilpin
Notary Public

My Commission Expires: _____

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EXHIBIT A - PAGE 1

THAT PART OF THE EAST 1/2 OF THE NW 1/4 OF SECTION 20, T14N, R12E OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, TOGETHER WITH PART OF LOT 4, BROOK VALLEY II BUSINESS PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SAID SARPY COUNTY DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF SAID NW 1/4;

THENCE S89°54'13"W (ASSUMED BEARING) 50.00 FEET ON THE SOUTH LINE OF SAID NW 1/4 TO THE POINT OF BEGINNING;

THENCE CONTINUING S89°54'13"W 150.00 FEET ON THE SOUTH LINE OF SAID NW 1/4;

THENCE NORTH 100.00 FEET ON A LINE 200.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NW 1/4;

THENCE N89°54'13"E 50.00 FEET ON A LINE 100.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NW 1/4;

THENCE NORTH 2284.26 FEET ON A LINE 150.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NW 1/4 TO THE NORTH LINE OF SAID LOT 4;

THENCE EAST 65.00 FEET ON THE NORTH LINE OF SAID LOT 4;

THENCE SOUTHEASTERLY ON THE NORTHERLY LINE OF SAID LOT 4 ON A 35.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S45°00'00"E, CHORD DISTANCE 49.50 FEET, AN ARC DISTANCE OF 54.98 FEET;

THENCE SOUTH 2349.09 FEET ON A LINE 50.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NW 1/4 TO THE POINT OF BEGINNING.

THAT PART OF LOTS 1, 2 AND 3, BROOK VALLEY II BUSINESS PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID LOT 3;

THENCE N81°15'27"E (ASSUMED BEARING) .17.84 FEET ON THE NORTHERLY LINE OF SAID LOT 3 TO THE POINT OF BEGINNING;

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EXHIBIT A - PAGE 2

THENCE CONTINUING N81°15'27"E 68.70 FEET ON THE
NORTHERLY LINE OF SAID LOT 3;

THENCE SOUTHEASTERLY ON THE NORTHERLY LINES OF SAID
LOTS 2 AND 3, ON A 2201.85 FOOT RADIUS CURVE TO
THE RIGHT, CHORD BEARING S88°59'48"E CHORD DISTANCE
745.43, AN ARC DISTANCE OF 749.04 FEET;

THENCE S79°15'05"E 82.14 FEET ON THE NORTHERLY LINE
OF SAID LOT 2 TO THE NE CORNER THEREOF;

THENCE S22°19'32"E 238.10 FEET ON THE EASTERLY LINES
OF SAID LOTS 1 AND 2;

THENCE SOUTH 80.00 FEET ON THE EASTERLY LINE OF
SAID LOT 1;

THENCE SOUTHWESTERLY ON THE SOUTHERLY LINE OF SAID
LOT 1 ON A 35.00 FOOT RADIUS CURVE TO THE RIGHT,
CHORD BEARING S45°00'00"W CHORD DISTANCE 49.50 FEET,
AN ARC DISTANCE OF 54.98 FEET;

THENCE WEST 65.00 FEET ON THE SOUTH LINE OF SAID
LOT 1;

THENCE NORTH 95.27 FEET ON A LINE 100.00 FEET WEST
OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 1;

THENCE N22°19'32"W 164.16 FEET ON A LINE 100.00 FEET
WESTERLY OF AND PARALLEL WITH THE EASTERLY LINES OF
SAID LOTS 1 AND 2;

THENCE N79°15'05"W 27.93 FEET ON A LINE 100.00 FEET
SOUTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE
OF SAID LOT 2;

THENCE NORTHWESTERLY ON A LINE 100.00 FEET
SOUTHERLY OF AND CONCENTRIC WITH THE NORTHERLY
LINES OF SAID LOTS 1 AND 2 ON A 2101.85 FOOT RADIUS
CURVE TO THE LEFT, CHORD BEARING N89°00'34"W, CHORD
DISTANCE 712.49 FEET, AN ARC DISTANCE OF 715.94 FEET;

THENCE N42°52'13"W 120.80 FEET ON A NON-TANGENT
LINE TO THE POINT OF BEGINNING.