

STATE OF KANSAS

Tract 28103,  
28112, 28124,  
L3031 & L4218

COUNTY OF DOUGLAS

Line: E

**ENCROACHMENT AGREEMENT  
(Farmland Development @ O'Connell Road)**

**THIS AGREEMENT**, entered into by and between **SOUTHERN STAR CENTRAL GAS PIPELINE, INC.**, (formerly Williams Gas Pipelines Central, Inc., Williams Natural Gas Company, Northwest Central Pipeline Corporation and Cities Service Gas Company), a Delaware corporation, whose mailing address is P.O. Box 20010, Owensboro, Kentucky 42304, hereinafter referred to as "**Company**", and **City of Lawrence** whose mailing address is 6 E 6<sup>th</sup> Street, Lawrence, KS 66044, hereinafter referred to as "**City**".

**WHEREAS**, **Company** is the owner of one (1) twenty-six inch (26") natural gas pipeline (Line E) and easement therefore across the following land to wit:

**The Southwest Quarter (SW1/4) and the Northwest Quarter (NW1/4) of Section 4, Township 13 South, Range 20 East, and the Northeast Quarter (NE1/4) and the Southeast Quarter (SE1/4) of Section 5, Township 13 South, Range 20 East all in County of Douglas and State of Kansas.**

by virtue of a certain valid and subsisting Right of Way contract granted by Charles E. Martin and Goldie E. Martin, his wife and Robert W. Pickett and Betty Rose Pickett, his wife and Grace L. Happy, a widow, to Cities Service Gas Company, dated June 19, 1963, recorded in Volume 228, page 192 at Register of Deeds Office, Douglas County,

Kansas and Agreement and Partial Release granted Charles A. Mills, Janet I. Mills, John B. Mills and Donna J. Mills to Cities Service Gas Company, dated April 18, 1973, recorded in Book 292, Page 752, Register of Deeds Office, Douglas County, Kansas and by a Right of Way contract granted by The Cooperative Farm Chemicals Association to Cities Service Gas Company, dated June 27, 1963, recorded in Volume 228 page 399 at Register of Deeds Office, Douglas County, Kansas and by virtue of a Meter and Regulator Lease granted by Chas A. Schaake and Isabelle V. Schaake, his wife, dated May 6, 1946, recorded in Volume 156 page 211 at Register of Deeds Office, Douglas County, Kansas and by virtue of an Easement agreement granted by Farmland Industries, Inc., dated September 11, 1995, recorded in Book 541 page 1392 at Register of Deeds Office, Douglas County, Kansas and by virtue of a Miscellaneous Lease granted by Charles E. Martin, Grace L. Happy, a widow, Robert W. Pickett and Betty Rose Pickett, his wife, to Cities Service Gas Company, dated October 12, 1966, recorded in Book 247 page 348 at Register of Deeds Office, Douglas County, Kansas and by virtue of a Condemnation Petition granted by the District Court of Douglas County, Kansas to Cities Service Gas Company, dated July 10, 1963. .

**WHEREAS, City** is in possession of and owns the following described land to wit:

**A tract of land in Section 4 and the East half of the Southeast Quarter of Section 5, A portion of said tract previously recorded in Book 1066. Page 2927, All in Township 13 South, Range 20 East of the 6<sup>th</sup> P.M. City of Lawrence, Douglas County, State of Kansas.**

**WHEREAS, City** has requested **Company's** permission to encroach on a portion of **Company's** easements by construction of the following; Proposed **30" RCP Storm Sewer** at station 115/1250+50 and stationing 115/1259+65; Proposed **North/South O'Connell Road** at stationing 115/1251+06 – 115/1253+94; Proposed **Sidewalk** at stationing 115/1251+06 – 115/1253+94; Proposed **East/West Farmland Road** and **ROW** at stationing 115/1259+55 – 115/1260+55; Proposed **8" Sanitary Sewer** at stationing 115/1259+45; proposed **8" Water Line** at stationing 115/1260+45; and Proposed **19<sup>th</sup> Street Connection** and **ROW** at stationing 115/1276+15 – 115/1277+15 on and across **Company's** pipeline easement and,

**WHEREAS,** under the terms of this agreement, **Company** is willing to permit said encroachment and,

**NOW, THEREFORE,** in consideration of the premises and the mutual promises of the parties, **Company** and **City** agree as follows:

1. **Company** is willing to accommodate the encroachment of the following; the proposed **30" RCP Storm Sewer** line crosses Line E at an approximately 90° angle. The drawings have been updated to prevent any conflict. (Farmland Roads Project Sheet No. 24 of 172, A 2.4 & No. 14 of 172, A 2.3); the proposed **North/South O'Connell Road** running

north from K10 Highway encroaches on Southern Star's right-of-way for approximately 250 feet. The actual road does not cross the pipeline but is located on Southern Star's right-of-way. (Farmland Roads Project Sheet No. 11 of 193, A 2..2); the proposed **six foot (6') sidewalk** being constructed west of O'Connell Road encroaches on Southern Star's right-of-way for approximately 250 feet. The actual sidewalk does not cross the pipeline. (Farmland Roads Project Sheet No. 26 of 193, A 2.5); the proposed **East/West Farmland Road** running west from the East Hills Business Park crosses Line E at an approximately 90° angle, as recommended by Southern Star's Land Use Development and Right-of-Way Handbook (LUDRH). The API 1102 calculations show that it is safe to cross the pipeline with (5') 5 feet depth of cover. (Farmland Roads Project Sheet No. 14 of 193, A 2.3) as described in drawing **STD-ENC-X-RDSC**, which is attached hereto and made a part hereof and shown on "**Exhibit A**"; the proposed **8" water line** crossed Line E at an approximate 90° angle. The drawings have been updated to prevent any conflict. (Farmland Roads Project Sheet No. 34 of 193, A 2.6); the proposed **19<sup>th</sup> Street connection** is an extension of the proposed road which runs north from Highway 10, which then turns west to terminate at 19<sup>th</sup> Street. This proposed road crosses Line E at an approximately 90° angle, as recommended in the LUDRH. The developer has stated that the 19<sup>th</sup> Street connection over the Southern Star Central Gas Pipeline will not be constructed at this time nor in the near future, and they will apply for an additional encroachment agreement in the future. (Farmland Roads Project Sheet No. 124 of 193, A 2.9) Final Development Plan prepared by Bartlett & West, 544 Columbia, Lawrence, KS 66049, dated February 6, 2013. Which is attached hereto and made a part hereof and shown on "**EXHIBIT B**".

2. **City** agrees that existing cover will be maintained on pipeline right-of-way.
3. No deep rooted trees shall be allowed in **Company's** easement.
4. The underground utilities, (30" RCP Storm Sewer, 8" Sanitary Sewer & Proposed 8" Water Line) crossing **Company's** pipeline shall maintain a vertical clearance of 2 feet (2') as described in drawing **STD-ENC-PX-FP**, which is attached hereto and made a part hereof and shown on "**Exhibit C**". Utilities parallel to the pipeline shall be completely outside of the pipeline easement
5. **City** agrees that all water lines must be ductile iron or steel pipe which is protected from SSCGP cathodic protection system, or plastic pipe installed in a minimum of schedule 40 steel conduit of the full width of the right-of-way. No piping connections are allowed within (5') five feet of the pipeline.

6. **City** agrees to inform **Company** at least 48 hours in advance of construction of said encroachments by contacting the **Company's** Tonganoxie, Kansas Office at (913)-845-5001.
7. During construction of said encroachments, rubber tired equipment up to a maximum axle load of 87,000 lbs. can safely cross the existing pipeline. Tracked equipment similar to a Cat D8 is also allowed with an approximate depth of 4.5 feet. Equipment larger than these scenarios or a crossing with less than 4.5 feet of cover will need to be evaluated on a case by case basis prior to allowing the equipment to cross the existing pipeline. All pipeline crossing with equipment will be at a 90° angle at a location designated by Company's operations personnel. A Company representative will need to be on site prior to allowing any equipment crossing said pipeline.
8. In the event that during the exercise of its easement rights to construct, maintain and operate the pipeline and appurtenances, **Company** or its contractors destroy or damage the encroachments herein permitted, all such damages to said permitted items shall be the sole responsibility of the **City**, unless **Company** is negligent in such action.
9. **City** agrees to indemnify, save and hold **Company**, its parent and affiliates, and the employees, officers, directors and agents thereof, harmless from and against any loss, cost or expense incurred by **Company**, including without limitation losses resulting from claims for damages to property or injuries to or deaths of persons, judgments, court costs and attorneys' fees which arise out of, or are claimed to have arisen out of the construction, maintenance or other operations of **City**, their contractors and subcontractors, on the **Company** easement, unless such loss, cost or expense is proximately caused by the sole negligence of **Company**, its contractors and/or subcontractors.
10. Prior to commencement of construction of the above reference work, **City** shall provide **COMPANY** a statement of self-insurance.
11. **City** warrants that it is the fee owner of record of the real property described herein and has the right, title and capacity to enter into this agreement.
12. The terms of this agreement shall constitute covenants running with the land and will be binding upon and inure to the benefit of the parties hereto, or their successors and assigns.

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

**COMPANY:**

**SOUTHERN STAR CENTRAL GAS PIPELINE, INC.**

\_\_\_\_\_  
Robert S. Bahnick, Vice-President and  
Chief Operations Officer

Date: \_\_\_\_\_

**CITY:**

**City of Lawrence Kansas**

\_\_\_\_\_  
**David L. Corliss, City Manager**

Date: \_\_\_\_\_

**CORPORATE ACKNOWLEDGEMENT**

**STATE OF KENTUCKY**

**COUNTY OF DAVIESS**

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, personally appeared Robert S. Bahnick, who being by me duly sworn, did say that he is the Vice President and Chief Operations Officer of Southern Star Central Gas Pipeline, Inc., a corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said Robert S. Bahnick 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

My Commission Expires \_\_\_\_\_, 20\_\_\_\_\_.

**ACKNOWLEDGEMENT OF CITY**

**STATE OF KANSAS**

**COUNTY OF DOUGLAS**

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, personally appeared, David L. Corliss, City Manager, who being duly sworn, did say that they are the owners of said property.

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 above written.

\_\_\_\_\_ Notary Public

My Commission Expires: \_\_\_\_\_, 20\_\_\_\_\_.