

STATE OF KENTUCKY
 COUNTY OF JEFFERSON

Main Line System
 Tract No. K-808
 Parcel No.

ENCROACHMENT AND CUT AGREEMENT

THIS AGREEMENT, made and entered into this 18th day of February, 2008, by and between **HURSTBOURNE WOODS HOMEOWNERS ASSOCIATES, INC.**, a Kentucky corporation whose mailing address is P.O. Box 99559, Louisville, Kentucky 40299 (hereinafter called "Hurstbourne"), and **TEXAS GAS TRANSMISSION, LLC**, a Delaware limited liability company, formerly known as Texas Gas Transmission Corporation, with an operating office at 3800 Frederica Street, Owensboro, Kentucky 42301 (hereinafter called "Texas Gas").

WITNESSETH:

WHEREAS, by reason of a certain Deed of Easement dated November 29, 1949, of record in Book 2556, at Page 315; a Deed of Easement dated November 29, 1949, of record in Book 2556, at Page 348; a Deed of Easement dated December 20, 1951, recorded in Book 2836, at Page 96; a Deed of Easement dated December 20, 1951, recorded in Book 2836, at Page 106; and a certain Agreement for Additional Pipeline dated August 1, 1970, recorded in Book 4372, at Page 62 (hereinafter collectively called "Agreements"), all in the County Clerk's Office of Jefferson County, Kentucky, Texas Gas owns, operates and maintains two (2) 26-Inch diameter natural gas transmission pipelines and one (1) 36-Inch diameter natural gas transmission pipeline (hereinafter collectively called "pipelines"), on, over, across and through property described in the above-referenced Agreements belonging to the landowner(s) of record at the time the right of way and easements (hereinafter collectively called "easements") were granted; and

WHEREAS, Hurstbourne is now the owner of the land more particularly described in Exhibit "A", attached hereto and made a part hereof, and covered by this Encroachment and Cut

Agreement by virtue of a Quit-Claim Deed dated February 13, 2001, of record in Deed Book 07611, at Page 0841, in the County Clerk's Office of Jefferson County, Kentucky; and

WHEREAS, Hurstbourne, proposes to construct a wooden foot bridge (hereinafter sometimes called "encroachment"), on, over and across Texas Gas's easements and pipelines referenced above and lying at approximate Texas Gas pipeline Mile Post 589 (Tract No. K-808) on its Main Line System.

NOW THEREFORE, Texas Gas hereby grants permission to Hurstbourne to construct the above-named encroachment on, over and across its above-referenced easements, subject to the terms and conditions set forth in this Agreement; and Hurstbourne agrees to execute this instrument which serves as an Encroachment and Cut Agreement insofar as said encroachment affects Texas Gas's natural gas transmission pipelines referred to above.

Hurstbourne agrees that if in the sole judgment of Texas Gas it becomes necessary for the operation or maintenance of its pipelines, that Texas Gas shall have the right and power, at such time or times as it, in its sole discretion shall deem necessary, to enter upon the wooden footbridge encroachment to cut and/or remove or otherwise disturb the wooden footbridge and any underlying supports thereof in order to gain access to its three (3) existing pipelines, and any additional or substitute pipeline(s), that may at any time be on or within the land covered by Texas Gas's easements and Agreements provided that, except in case of an emergency, Texas Gas agrees to give Hurstbourne reasonable notice of not less than ten (10) days before Texas Gas enters upon property covered by the aforesaid Agreements to cut and/or remove, or otherwise disturb the encroachment and underlying supports provided for above.

In the event it becomes necessary to cut and/or remove the wooden footbridge encroachment as provided for above, Texas Gas agrees upon completion of any work to be performed hereunder to backfill the cut to normal grade existing as of the date of execution of this Agreement, and to restore soil to as near normal compaction as is practical. Special backfill, exceptional compaction and repairing/replacing the encroachment shall be borne solely by Hurstbourne. The wooden foot bridge to be repaired/replaced at Hurstbourne's sole expense shall include the entire section(s) of the encroachment that is located within Texas Gas's easements that is damaged, disturbed, cut, or removed by Texas Gas in order to perform work on its pipelines.

Hurstbourne agrees to the following requirements of Texas Gas, which cover the above-referenced encroachment, as follows:

1. Prior notification to be given to Mr. Howard Menser, Area Business Leader, or a Texas Gas representative at the Jeffersontown Office, 502/491-0251, forty-eight (48) hours in advance of any work to be performed within Texas Gas's easements. In the event Hurstbourne is unable to contact Mr. Menser or a Texas Gas representative at the above number, then contact the Land Department, Owensboro, Kentucky Office, at 1-800-626-1948.
2. During construction and/or maintenance of the encroachment, no equipment shall operate on or around Texas Gas's easements without a Texas Gas representative present, unless Texas Gas elects not to be present.
3. Texas Gas shall have the right and option to have representation on site during construction of the encroachment.
4. At no time shall earthen cover over the pipelines be reduced to less than three feet (3'). Existing earthen cover over the pipelines shall not be reduced (i.e. only fill and no cut).
5. During construction, maintenance and normal use of the encroachment, wheel loads (1/2 of single axle load or 1/2 of tandem axle load) over the pipelines shall not exceed twelve thousand (12,000) pounds and track-type equipment shall be limited to Caterpillar D4 or smaller.
6. The ground in the vicinity of the pipelines shall be dry at the time of construction to prevent construction equipment from penetrating the surface and effectively reducing the earthen cover over the pipelines.
7. Except for the encroachment named herein, obstructions (including, but not limited to, dry wells, fire hydrants, utility poles, utility taps, drainage structures, buildings, trees, large shrubbery, etc.) shall not be permitted on Texas Gas's easements.
8. Any area on Texas Gas's easements disturbed during construction shall be protected and re-vegetated to prevent erosion on or within its easements. Appropriate measures shall be taken to prevent erosion or impoundment of water on Texas Gas's easements.
9. No trees or large, deep-rooted shrubs are permitted on Texas Gas's easements. With prior written approval from Texas Gas, some types of shrubs may be permitted provided the plantings do not interfere with the operation, maintenance and inspection of the pipelines and related facilities. Under no circumstances will mechanical equipment be allowed for planting of shrubs on Texas Gas's easements. Texas Gas reserves the right to cut and/or remove plantings on its easements as required in the operation, inspection and maintenance of its

facilities. Furthermore, Texas Gas assumes no responsibilities for any cost involved in the replacement of said cut and/or removed landscape plantings.

10. All roads, the wooden foot bridge encroachment, foreign lines, utilities, etc. should cross the pipelines as close to ninety degrees (90°) as practical.
11. Reasonable diligence shall be taken to protect Texas Gas's pipelines in the working area.
12. Hurstbourne agrees to maintain and require its independent contractors, and/or subcontractors, to maintain during the period of construction of the encroachment a minimum of \$2 million per occurrence comprehensive general liability, including contractual liability insurance (the required \$2 million may be satisfied by primary and excess policies), \$1 million per occurrence employer's liability insurance, statutory worker's compensation insurance coverage and, where vehicles are used hereunder, \$1 million per occurrence comprehensive automobile liability insurance. With the exception of worker's compensation, all required insurance policies shall have Texas Gas, its parent and affiliated companies, named as additional insureds; and all policies shall provide for waiver of all Rights of Subrogation against Texas Gas, its parent and affiliated companies. A certificate of insurance evidencing that the above-mentioned insurance requirements are in effect shall be presented to the Texas Gas Land Department prior to the beginning of any operations addressed in this Encroachment and Cut Agreement.

Notwithstanding any other provisions contained herein to the contrary, Hurstbourne shall protect, indemnify, defend and hold harmless Texas Gas, its parent and affiliated companies, and their respective officers, members, managers, agents, representatives and employees from all claims, demands, damages and causes of action, on account of bodily injury or death or damages to property arising out of, or in connection with, work done by or on behalf of Hurstbourne on, over, or near the above-referenced pipelines. This paragraph shall have no application to loss, injury, or damage resulting from the sole negligence of Texas Gas, its employees, agents, or invitees, to the extent of that negligence.

Hurstbourne agrees to indemnify and hold harmless Texas Gas, its officers, members, managers, agents, representatives and employees against any and all damages to persons or property or claims for damages that may arise out of constructing, maintaining, or keeping said encroachment on, over, and across Texas Gas's easements. Hurstbourne further agrees

to include this language in any contract with a contractor, and/or subcontractor, performing work related to this Agreement.

This Encroachment and Cut Agreement and each and all of its terms, conditions and provisions shall constitute covenants running with the land and shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of Hurstbourne and Texas Gas, respectively; and the undersigned Hurstbourne hereby bind themselves, their heirs, executors, administrators, personal representatives, successors and assigns to warrant and defend all and singular the above-described premises unto Texas Gas, its successors and assigns, against every person whomsoever lawfully claiming the same or any part thereof.

“REMAINDER OF PAGE INTENTIONALLY LEFT BLANK”

IN TESTIMONY WHEREOF, witness the signatures of the parties hereto the day and date first hereinabove written.

HURSTBOURNE WOODS HOMEOWNERS ASSOCIATES, INC., a Kentucky corporation

By: Sherrri Weis

Title: President

Sherrri Weis
Printed Name

ATTEST:

TEXAS GAS TRANSMISSION, LLC

Stacy M. Goddard
Asst. Secretary

By Daniel L. Goedde
Vice President

DANIEL L. GOEDDE
Printed Name

THIS INSTRUMENT WAS PREPARED BY:

Stacy M. Goddard
Stacy M. Goddard
Printed Name

for
Texas Gas Transmission, LLC
3800 Frederica Street
Owensboro, Kentucky 42301
270/926-8686

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Signature page of Encroachment and Cut Agreement by and between Hurstbourne Woods Homeowners Associates, Inc. and Texas Gas Transmission, LLC dated 2-18-2008.

STATE OF KENTUCKY

COUNTY OF JEFFERSON

On this 25th day of January, 2008, before me, Melissa Smithson, a Notary Public, appeared Sherri Weis, of **Hurstbourne Woods Homeowners Associates, Inc.**, a Kentucky corporation, and that the above and foregoing instrument was signed and acknowledged to be the free act and deed of said partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Melissa Smithson
Notary Public

My Commission Expires: 10/26/2010

STATE OF KENTUCKY

COUNTY OF DAVIESS

On this 18th day of February, 2008, before me, Donna S. Westerfield, a Notary Public, appeared Daniel L. Goedde, a Vice President of **Texas Gas Transmission, LLC**, a Delaware limited liability company, and that said instrument was signed and acknowledged to be the free act and deed of said company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Donna S. Westerfield
Notary Public

My Commission Expires: 6-5-2008

Notary Page of Encroachment and Cut Agreement by and between Hurstbourne Woods Homeowners Associates, Inc. and Texas Gas Transmission, LLC dated 2-18-2008.

Exhibit "A"

Property Description

Attached to and made a part of that certain Encroachment and Cut Agreement by and between Hurstbourne Woods Homeowners Associates, Inc. and Texas Gas Transmission, LLC dated 2-18-2008.

BEING LOT 20 of Hurstbourne Woods Subdivision, Section 1, of record in Plate and Subdivision Book 39, Page 31, in the Office of the Clerk of the County Court of Jefferson County, Kentucky.

BEING a part of the property conveyed to Grantor by Deed dated March 4, 1992 and recorded in Deed Book 6154, Page 77, in the Office of the Clerk aforesaid.

Being a portion of the same property described in a certain Quit-Claim Deed dated February 13, 2001, of record in Deed Book 07611, at Page 0841, in the County Clerk's Office of Jefferson County, Kentucky.

Exhibit "A" page of Encroachment and Cut Agreement by and between Hurstbourne Woods Homeowners Associates, Inc. and Texas Gas Transmission, LLC dated 2-18-2008.

Document No.: DN2008025791
 Lodged By: TEXAS GAS
 Recorded On: 02/22/2008 12:44:20
 Total Fees: 28.00
 Transfer Tax: .00
 County Clerk: BOBBIE HOLSCLOW-JEFF CO KY
 Deputy Clerk: CARRAR

END OF DOCUMENT