

AGREEMENT FOR TEMPORARY EASEMENT

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

Hidalgo County, Texas (“Owner”) is the owner of certain property in Hidalgo County, Texas, more particularly described as follows:

Lots One through Eight (1-8), inclusive, Eyhorn Landfill Subdivision No. 1, Hidalgo County, Texas, as per map or plat thereof recorded in Volume 49, Pages 175-177, Map Records of Hidalgo County, Texas (the “Property”).

- A. Electric Transmission Texas, LLC, a Delaware limited liability company (“ETT”) has declared a public need to acquire an easement over, upon, and across the Property solely for the construction, operation and maintenance of one 345 kV double-circuit capable transmission line and associated facilities, as approved in PUC Docket No. 40728.
- B. ETT has delivered to Owner a final offer letter, dated June 12, 2015, and filed a condemnation petition, dated July 2, 2015, seeking to acquire such easement rights on the terms described in that petition (the “Easement Rights”).
- C. The Easement Rights that ETT is seeking to acquire are along the route described in the attached Exhibit A (the “Easement Area”). Owner does not desire to unnecessarily delay ETT’s access to and use of the Easement Area, and ETT is willing to pay an amount for the immediate access to and use of the Easement Area, which amount, upon acquisition of the Easement Rights by ETT, by grant or by final judgment in condemnation, shall be applied to the consideration for the grant or to the satisfaction of the judgment, as applicable.
- D. For the purpose of allowing the parties additional time to investigate and negotiate, without delaying ETT’s access to and use of the Easement Area, and to postpone the possible need for ETT to exercise its power of eminent domain to acquire the Easement Rights, the parties agree as follows:

Terms and Conditions

- 1. ETT shall pay to Owner the sum of ONE HUNDRED TWENTY THOUSAND FIVE HUNDRED AND SIX AND NO/100 DOLLARS (\$120,506.00) (the “Initial Consideration”) within thirty (30) days of the date of this Agreement. It is agreed that Owner receives the Initial Consideration under the same terms and conditions and with the same legal effect as if the same had been deposited by ETT into the court’s registry, together with all other payments and related security required for possession pending litigation, and withdrawn by Owner pursuant to Sec. 21.021 of the Texas Property Code,

except as such terms may be expressly modified by this Agreement. Upon acquisition of the Easement Rights by ETT, by grant or final judgment, the Initial Consideration (and the Subsequent Payment, as hereinafter defined, if any) shall be applied to the consideration for the grant or to the satisfaction of the judgment, as applicable.

2. In consideration of such payment, Owner does hereby **GRANT AND CONVEY** unto ETT a temporary easement to access and use the Easement Area solely for the purpose of exercising the Easement Rights under the same terms and conditions as if such rights had been obtained pursuant to Sec. 21.021 of the Texas Property Code, as herein above provided.
3. The Easement Rights granted hereby, and this Agreement, shall continue until either of the following shall first occur: (a) Owner delivers to ETT an easement granting the Easement Rights, in a mutually acceptable form; (b) ETT ceases to use the Easement Area for the purposes set forth in this Agreement, and such Easement Area is not used for a period of one hundred and eighty (180) consecutive days; or (c) ETT is vested with the Easement Rights covering the Easement Area by final judgment in eminent domain.
4. In the event the amount of damages as determined by final judgment are in excess of the Initial Consideration previously paid to Owner, ETT shall pay prejudgment interest on the amount of such excess from the date of the taking, as defined in Paragraph 6 herein below, to the date of the final judgment.
5. Nothing in this Agreement shall be construed to be a limitation upon ETT's right to exercise its power of eminent domain. ETT has filed a condemnation petition, and special commissioners have been appointed. ETT may request that the special commissioners set the hearing (the "Hearing") at any time it determines that the parties are unable to agree on the terms of the easement or the consideration to be paid, or that further negotiations would be futile, subject to the requirements of Paragraph 10, herein below.
6. For purposes of the condemnation proceeding, the date of taking shall be deemed to be the date of this Agreement. Upon the filing of an award (the "Award") by the special commissioners, the Initial Consideration shall continue to be retained by Owner, subject to further order of the Court, and possession shall continue in ETT pending final judgment, as herein provided. In the event the Award is greater than the Initial Consideration, then ETT shall, on or before the twenty-first (21) day after the Award is filed with the Court, pay to the Owner the amount of such excess (the "Subsequent Payment"). Upon final judgment, the Initial Consideration shall first be credited to such final judgment before application of the Subsequent Payment. If the final judgment is more than the total consideration previously paid by ETT (Initial Consideration and Subsequent Payment, if any) ETT shall, on or before the twenty-first (21) day after such judgment is final, pay to the Owner the amount of such excess. If the final judgment is less than the total consideration previously paid by ETT, Owner shall, on or before the twenty-first (21) day after such judgment is final, refund to ETT the amount paid in excess of the final judgment.

7. ETT will not grant any permission or license to any person other than its agents, employees, and service providers to enter on the Easement Area and such agents, employees and service providers will enter the Easement Area only to discharge their duties in connection with the purpose of this Agreement.
8. Owner reserves the right to use the Easement Area subject to this Agreement in any way that will not interfere with ETT's exercise of the Easement Rights hereby granted and that complies with the terms of this Agreement. Owner's uses may include, but shall not be limited to, using the Easement Area for agricultural, pasture, open space, set-back, density, street and roadway purposes in accordance with the terms of this Agreement. Owner is permitted to construct streets, roadways, underground water, sewer, gas, electric, cable TV, drainage facilities, telephone or other utility lines that cross Easement Area that do not damage, destroy or alter ETT's installation, operation and maintenance of the electric transmission, distribution and communication lines and its appurtenant facilities, and further provided that Owner obtains the prior written consent of ETT prior to the construction of any improvements within the Easement Area or prior to changing the grade of the land within the Easement Area, which consent shall not be unreasonably withheld. In addition to other requirements, any underground water, sewer, gas, electric, cable TV, drainage facilities, telephone or other utility lines that cross the Easement Area must be installed at least one hundred feet (100') from the foundation of any of ETT's structures, and must cross the Easement Area at or near ninety degrees (90°) to the extent practicable. However, Owner shall not place, construct or permit to be placed or constructed within the Easement Area any aboveground structure, house or other habitable structure, storage tank, or other aboveground obstruction within the Easement Area, without the prior written consent of ETT.
9. ETT accepts the Easement Area subject to all easements, rights of way, leases, encumbrances and instruments of record affecting the Easement Area. The rights granted in this Agreement shall run only to ETT and its successors and assigns and no grant of any right in the Easement Area to the public is intended hereby. Owner shall not be required to expend any funds to release any such easements, rights of way, leases, encumbrances and instruments of record affecting the Easement Area.
10. ETT shall indemnify, defend and hold Owner, and its officers, employees, partners, agents, successors and assigns harmless from any and all claims, losses, liabilities, causes of action (including attorneys' fees and cost of suit) arising out of or related to the acts and omissions of ETT relating to its use of the Easement Area.
11. This Agreement contains the complete agreement, expressed or implied between the parties herein and shall inure to the benefit of and be binding of the respective successors, assigns, heirs, executors, administrators, lessees, tenants, and licensees.
12. This Agreement shall be interpreted in accordance with the laws of Texas, without regard to its conflicts of laws provisions, and all applicable federal laws. Venue for any cause of action hereunder shall lie exclusively in Hidalgo County, Texas.

13. This Agreement is binding upon the parties, their respective heirs, successors and assigns.
14. This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument. Scanned and/or facsimile signatures shall be considered as originals.
15. The parties agree not to file this Agreement as a public record, but upon the request of either party hereto, will execute a memorandum of this Agreement in recordable form, which may be filed among the Real Property Records of Hidalgo County, Texas.
16. The parties agree to use reasonable, good faith efforts to agree upon mutually satisfactory dates for the Hearing. If the parties are able to agree upon mutually satisfactory dates, the parties agree to request the Commissioners to use such dates in setting the Hearing date; provided, however, if the parties are unable to agree upon mutually satisfactory dates, then either party may thereafter request the Commissioners to set the Hearing date, provided that neither party shall request that such hearing date occur before October 15, 2015.

[Signature Page Follows]

This Agreement is executed effective as of this _____ day of August, 2015.

OWNER:

ETT:

HIDALGO COUNTY, TEXAS

ELECTRIC TRANSMISSION TEXAS, LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT "A"