



Memorandum

To: Homer Bazan, Jr. P.E.
Director of TP&D
Pharr District

From: Jesse R. Cooper, RPLS
Maps, Survey & Utility Section
Right of Way Division

Subject: Utility Adjustment, U14591
LPA: Hidalgo County
Utility: Tennessee Gas Pipeline Company
RCSJ: 1803-02-033
CCSJ: 1803-02-028
FM 1925

Date: November 23, 2015

A handwritten signature in blue ink, appearing to read "Samuel", is written over the "From:" field of the memorandum.

Based upon the District's technical review and recommendation, the captioned LUP utility adjustment in the amount of **\$262,984.00 is eligible 100.00%** for state cost participation.

The Hidalgo County may be notified to this affect. Reimbursement will be made to the County upon completion of audit and demonstration that the County has paid the utility (Form ROW-U-45).

A copy of the bid documents and form 1818 will be required prior to or at the time of final billing.

Enclosed is one copy of the Modified Utility Joint Use Agreement, for your further disposition. The modification has been approved by ROW attorney. State cost participation will be based on 23 CFR 645A. All quantities in the estimate portion of this agreement are preliminary, final quantities and participation will be based upon the actual scope of the work performed.

If you have any questions, please contact Mak Saeedi at 512-416-2957

Attachments



UTILITY JOINT USE ACKNOWLEDGEMENT
REIMBURSABLE UTILITY ADJUSTMENT

U-Number: 14591

ROW CSJ: 1803-02-033

County: Hidalgo

District: Pharr

Highway: FM 1925

Federal Project No.: N/A

From:

Projected Highway Letting Date: July, 2015

To:

WHEREAS, the State of Texas, ("State"), acting by and through the Texas Department of Transportation ("TxDOT"), proposes to make certain highway improvements on that section of the above-indicated highway; and

WHEREAS, Tennessee Gas Pipeline Company, LLC, ("Utility"), proposes to adjust or relocate certain of its facilities, if applicable, and retain title to its pipeline easement on, along or across, and within or over such limits of the highway right of way as indicated by the location map attached hereto as Exhibit "A."

NOW, THEREFORE, in consideration of the covenants and acknowledgements herein contained, the parties mutually agree as follows:

It is agreed that the State is amending its petition to drop Utility from *State of Texas and Hidalgo County v. MJVM, Ltd. and Tennessee Gas Pipeline Company, LLC*, Cause No. CCD-0251-A, County Court At Law No. 1, in Hidalgo County, Texas, such that the State is not condemning the Utility's easement.

It is agreed that joint usage for both highway and utility purposes will be made of the area within the highway right of way limits as such area is defined and to the extent indicated in the plans attached hereto as Exhibit "B." Nothing in this Acknowledgement shall serve to modify or extinguish any compensable property interest vested in the Utility within the above described area. If the facilities shown in the aforementioned plans need to be altered or modified or new facilities constructed to either accommodate the proposed highway improvements or as part of Utility's future proposed changes to its own facilities, Utility agrees to notify TxDOT at least 30 days prior thereto, and to furnish necessary plans showing location and type of construction, unless an emergency situation occurs and immediate action is required. If an emergency situation occurs and immediate action is required, Utility agrees to notify TxDOT promptly. If such alteration, modification or new construction is in conflict with the current highway or planned future highway improvements, or could endanger the traveling public using said highway, TxDOT shall have the right, after receipt of such notice, to prescribe such regulations as necessary for the protection of the highway facility and the traveling public using said highway. Such regulations shall not extend, however, to requiring the placement of intended overhead lines underground or the routing of any lines outside of the area of joint usage above described. This Agreement does not preclude Utility from asserting a regulatory taking if such regulation takes, damages, or destroys Utility's property interest.

If Utility's facilities are located along a controlled access highway, Utility agrees that ingress and egress for servicing its facilities will be limited to frontage roads where provided, nearby or adjacent public roads and streets, or trails along or near the highway right of way lines which only connect to an intersecting road. Entry may be made to the outer portion of the highway right of way from any one or all access points. Where supports, manholes or other appurtenances of the Utility's facilities are located in medians or interchange areas, access from the through-traffic roadways or ramps will be allowed by permit issued by the State to the Utility setting forth the conditions for policing and other controls to protect highway users. In an emergency situation, if the means of access or service operations as herein provided will not permit emergency repairs as required for the safety and welfare of the public, the Utility shall have a temporary right of access to and from the through-traffic roadways and ramps as necessary to accomplish the required repairs, provided TxDOT is notified immediately when such repairs are initiated and adequate provision is made by Utility for the convenience and safety of highway traffic. Except as expressly provided herein, the Utility's rights of access to the through-traffic roadways and/or ramps shall be

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TS Initial 4/5/15 Date

TxDOT

MLC Initial 10/28/15 Date

Utility

UJUAA



UTILITY JOINT USE ACKNOWLEDGEMENT
REIMBURSABLE UTILITY ADJUSTMENT

subject to the same rules and regulations as apply to the general public.

If Utility's facilities are located along a non-controlled access highway, the Utility's rights of ingress and egress to the through-traffic roadways and/or ramps are subject to the same rules and regulations as apply to the general public.

Participation in actual costs incurred by the Utility for any future adjustment, removal or relocation of utility facilities required by highway construction shall be in accordance with applicable laws of the State of Texas, including the rights to just compensation under the Texas Constitution and Tex. Transp. Code § 203.092 if TxDOT requires relocation of the pipeline.

Utility will, by written notice, advise TxDOT of the beginning and completion dates of the adjustment, removal, or relocation, and, thereafter, agrees to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside Utility's control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the State or any other party with Utility's ability to proceed with the relocation, or any other event in which Utility has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of Utility.

It is expressly understood that Utility conducts the new installation, adjustment, removal, and/or relocation at its own risk, and that TxDOT makes no warranties or representations regarding the existence or location of utilities currently within the right of way.

Subject to Utility's notice requirements to TxDOT and subject to TxDOT regulations as outlined above, it is expressly understood that Utility has the right to utilize all areas of its easement, including the area between the pipelines.

The Utility and the State, by execution of this Acknowledgement, do not waive or relinquish any right that they may have under the law.

The signatories to this Acknowledgement warrant that each has the authority to enter into this Acknowledgement on behalf of the party represented.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures.

00063630 DOCX 2

[Signature]
Initial

11/5/15
Date

TxDOT

[Signature]
Initial

10/28/15
Date

Utility



UTILITY JOINT USE ACKNOWLEDGEMENT
REIMBURSABLE UTILITY ADJUSTMENT

UTILITY

Utility: Tennessee Gas Pipeline Company, L. L. C.
Name of Utility

By: [Signature]
Authorized Signature Johany W. McGee

Title: Vice President, Land and ROW
and Agent and Attorney-in-Fact

Date: 10/28/15

EXECUTION RECOMMENDED:

District Engineer, [Signature] District

THE STATE OF TEXAS
Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.
By: [Signature]
Director, Right of Way Division
Date: 11/23/2015

[Signature] 11/5/15
Initial Date
[Signature] 10/28/15
Initial Date
Utility