

ENCROACHMENT AGREEMENT

STATE OF GEORGIA

COUNTY OF COLUMBIA

Deed Reference: _____

Present Owner: _____

Address: _____

WHEREAS, _____, hereinafter called "Owner", is the owner of property described on Exhibit A attached hereto, and recorded in the Office of the Clerk of Superior Court of Columbia County, Georgia, in _____ - _____.

WHEREAS, Columbia County, Georgia, hereinafter called "County", owns a certain utility easement over said property, and

WHEREAS, Owner is _____, which encroaches on County's easement,

NOW THEREFORE, for and in consideration of the sum of \$10.00 (Ten and No/100 Dollars) in hand paid, the receipt and adequacy of which is acknowledged, Columbia County does hereby grant and convey to Owner the right to encroach upon its easement according to the following terms and conditions:

1. The County hereby gives, on the conditions set forth herein, its permission to Owner to construct, use, operate and maintain said encroachment. Such permission is given on the express understanding and condition, and Owner hereby acknowledges, that said construction, use, operation, and maintenance of the encroachment is a permissive use which is revocable by the County on the terms and conditions set forth herein.

2. Owner shall construct, use, operate, and maintain said encroachment in a safe and proper manner at all times and hereby acknowledges that the use, operation, and maintenance of said encroachment shall never become the basis of a prescriptive right, easement or title to any portion of the easement or any interest in the easement and shall never be or deemed to be a reduction, termination, or modification of any kind of the easement or any portion thereof or any interest or right therein. Owner further acknowledges that the construction, use, operation, and maintenance of the encroachment located on County's easement shall be enjoyed as a permissive right only.

3. Owner agrees to remove, at Owner's sole expense, said encroachment in any of the following events:

- (a) the County determines, in good faith, that said encroachment interferes with or endangers the proper operation and maintenance of the utility located in said easement; or
- (b) the County finds it necessary to excavate in said easement in order to maintain the utility located therein; or
- (c) the County finds it necessary to install, operate, and maintain an additional utility within said easement.

4. In the event Owner fails to remove said encroachment from the easement if requested to do so by County in the event any of the eventualities of the foregoing paragraph occur, the County may enter upon Owner's property and effect such removal without the County incurring any liability whatsoever to Owner; and in such event, Owner shall be liable to County for any and all reasonable costs incurred by the County in connection with the removal and restoration and shall reimburse the County for such costs upon demand of County.

5. Owner shall not do or permit to be done any of the following acts on said easement or any portion thereof: (a) expand or add to said encroachment or (b) construct or erect any other encroachments or other structures on said easement.

6. Owner hereby indemnifies the County and agrees to hold County harmless from all liability, loss, cost, damage, and expenses (including, but not being limited to, attorney's fees, court costs, and expenses or litigation) arising out of or in any manner connected with the installation, use, operation, maintenance or removal of any portion of said encroachment which may be located upon the easement. Without limiting the generality of the foregoing indemnification provisions, Owner further agrees that if any third party asserts a claim or files an action against County in connection with any event or circumstance relating to the relocation of any portion of said encroachment, the County may defend itself against such claim or action; and in such event, Owner shall reimburse the County for any sums paid to any third party in damages, judgements, or settlement of such claim or action and for any reasonable cost and expenses (including, but not being limited to, attorney's fees, court costs, and expenses of litigation) incurred by the County in defending itself against such claim or action.

This agreement and the covenants and conditions contained herein shall be binding upon and inure to the benefit of each of the parties hereto and their respective heirs, assigns, employees, servants, representatives, and successors in title. The covenants and conditions contained herein shall run with the land, and this agreement shall be recorded in the Office of the Clerk of the Superior Court of Columbia County, Georgia.

7. Enforcement of the covenants and condition contained herein shall be by any proceeding at law or in equity. The remedies given to the County herein are distinct, cumulative remedies; and the exercise of any one remedy shall not bar the County from exercising of any or all of its other remedies hereunder or under the aforesaid easement or any other right or remedy which the County has either at law or in equity.

8. This agreement and the exhibit attached hereto constitute the full and complete agreement among County and Owner with respect to all matters contained herein; and evidence of any prior or contemporaneous oral agreement or understanding shall be inadmissible to take from, add to, or alter the terms of this agreement. There is no consideration for this agreement other than the consideration herein expressed.

9. This agreement may not be modified, rescinded, terminated, or amended, in whole or in part, except by written and recorded consent of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, or where the context so requires, caused same to be executed by its proper officers and its corporate seal affixed, on the date set opposite the execution of each.

Signed and sealed in our presence this _____ day of _____, _____.

Witness

OWNER

Notary Public

OWNER

My Commission Expires

Signed and sealed in our presence this ____ day of _____, _____.

Witness

COLUMBIA COUNTY, GEORGIA
BY: _____

CHAIRMAN, BOARD OF COMMISSIONERS

Notary Public

ATTEST:
CLERK, BOARD OF COMMISSIONERS

My Commission Expires

