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(Affects: 1145) (TL-4-5-38)

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This Instrument Prepared By:
Jeff Callicott, Alabama Power Company
Post Office Box 2641
Birmingham, AL 35291



20080401000130600 1/5 \$23.50
Shelby Cnty Judge of Probate, AL
04/01/2008 10:36:41AM FILED/CERT

STATE OF ALABAMA)

SHELBY COUNTY)

THIS AGREEMENT, made and entered into on this the 13th day of September, 2007, by and between ALABAMA POWER COMPANY, a corporation, hereinafter called Power Company, and ~~CITY OF ALABASTER, ALABAMA~~, hereinafter called *City*, *ALABASTER WATER BOARD* *BOARD* *WITNESSETH:* *BOARD* *the*

WHEREAS, the said Power Company has acquired and is the owner of an easement, which embraces, among other rights, the right to construct, operate and maintain electric transmission lines and communication lines, towers, poles and appliances necessary or convenient in connection therewith upon a strip of land 100 feet in width, which is a part of the North One-half of the Northwest Quarter (N 1/2 of NW 1/4) of Section 32, Township 20 South, Range 3 West, Shelby County, Alabama. Such easement being more particular described in that certain instrument executed by Tennessee Coal, Iron and Railwater main Company dated December 27, 1915, located in the Records Center, Corporate Real Estate, Alabama Power Company, Birmingham, Alabama, and reference is hereby expressly made to such records for a particular description of such land; and

WHEREAS, the *Board* *City* desires to acquire an easement for the purpose of installing a water main hereinafter referred to as facilities of *City*, at the location more particularly described and shown on Drawing B-190-1467 marked Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Power Company is willing to grant such easement to the extent of its interest upon, under, along, through and across such transmission line easement hereinabove described upon the terms and conditions hereinafter set out:

NOW, THEREFORE:

In consideration of the premises and the further consideration of the sum of One and No/100 Dollar (\$1.00), in hand paid to Power Company by *City*, receipt of which is hereby acknowledged, Power Company to the extent of its interest does hereby grant to *City of Alabaster*, its successors and assigns, subject to the terms, conditions and reservations hereinafter set forth, the right to construct, operate and maintain, said water main upon, under, along, through and across its right of way and underneath the electric power transmission lines located thereon.

Board *City* shall construct and maintain its facilities at the location hereinabove described in accordance with the following:

(a) The said facilities of *City* shall be constructed, operated and maintained in accordance with the adopted procedures of well-regulated businesses and undertakings of same or similar kind, and in such manner as not to cause the facilities of Power Company to be in conflict with the specifications of the National Electrical Safety Code, or any other specifications prescribed by laws of the United States or the State of Alabama, or any regulatory body having jurisdiction with respect to such facilities. If at any time such specifications are not being met because of the construction, maintenance and/or presence of said *City's* facilities, then City shall within thirty (30) days after notice that such specifications are not being met, revise or alter said facilities in accordance with such specifications.

Board *Board* (b) In the event said facilities of *City* interfere with the existing structures or facilities of Alabama Power Company which are located on or under such right of way including, but not limited to towers, poles, guy wires, conductors, crossarms, counterpoise, conductors or anchors, or in the event said facilities of the *City* interfere with the construction, operation or maintenance of additional structures or facilities to be placed on or under such right of way, *City* shall revise or alter said facilities in such a manner so that it will not interfere with the construction, operation or maintenance of such existing or additional structures or facilities.

Board *Board*

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(c) Power Company specifically reserves unto itself the right of ingress and egress to and from its facilities at all times. Should facilities of City so constructed hinder or interfere with Power Company's ingress and egress for the proper operation and maintenance of its facilities, then City upon receipt of notice from Power Company, shall immediately make the necessary provisions to eliminate same.

Board pz

Board pz

(d) City shall construct and maintain said facilities of City, both now and in the future, in a manner that will prevent any erosion or washing away of the lands of Power Company which its said facilities cross. If at any time said facilities of City are the cause of or are contributing to any erosion or washing, then City will immediately take the necessary steps to prevent same.

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(e) City shall do no blasting within fifty feet (50') of any tower foundation and in the event it becomes necessary in the construction and installation of said facilities of City to use dynamite or do any blasting outside the said fifty foot (50') radius of tower foundations, City shall use blasting mats in order to protect the facilities of Power Company.

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(f) City, in the construction and maintenance of the facilities of City, shall not deposit or place any spoil closer than twenty-five feet (25') of any Power Company poles, towers, structures and/or guy wires presently located on said lands, and no spoil shall be placed at any location that will reduce the present conductor clearances underneath Power Company's facilities.

Board pz - Board pz

(g) Upon completion of the construction of the facilities of City, City shall at its expense remove or cause to be removed all equipment used and all debris and refuse resulting from the construction of the facilities of City and shall leave the premises in a condition satisfactory to Power Company.

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(h) City agrees to reimburse Power Company for damage to any of Power Company's facilities resulting from the construction, operation, maintenance, repair and/or removal of facilities of City.

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(j) City will at all times hereafter indemnify, protect and save harmless Power Company from any and all claims, loss, damage, expense and liability which Power Company may incur, suffer, sustain or be subjected to resulting from or arising out of the negligent use by City of the rights herein granted. "Negligent use" as the term is used herein shall include any violation of the foregoing or the following provisions:

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(1) City shall use extreme caution in operating machinery and equipment across said lands and shall at all times maintain at least a clearance between the machinery and the overhead conductors, as will meet the following standards:

(i) for lines rated 50 kV or below, minimum clearance between the lines and part of the equipment or load shall be ten feet (10').

(ii) for lines rated 50 kV, minimum clearance between the lines and any part of the equipment or load shall be ten feet (10') plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than ten feet (10').

Board pz

(2) City shall also maintain a horizontal clearance adequate in distance for all purposes to protect Power Company's facilities between the machinery and any of Power Company's poles, towers, structures, counterpoise facilities and/or guy wires placed on such lands in the future.

(3) There shall be no physical contact with Power Company's support structures or the lessening of support therefor, or damage to any of Power Company's support structures, guys or counterpoise facilities therefor.

(4) Blasting on the right of way shall be conducted only in a completely safe manner so as to prevent all injury whatsoever to any person or property.

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Any breach by City of said standards of care agreed to in writing and as set out above should be considered negligence per se on the part of City.

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Provided, further, for any construction, installation or other use of the rights herein granted to be performed for City by an individual or entity other than City (including City's contractors, agents or

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Board p1
assigns), *City* shall obtain acceptable liability insurance protection, for Power Company as a named insured on a policy conforming to Exhibit "B" attached hereto.

Board p1 *Board p2*
Herein the term "*City*" shall include the named *City* in this document and its employees..

This agreement shall be binding upon the heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

ALABAMA POWER COMPANY

By: *Sara R Parks*
Sara R. Parks, Land Supervisor
Corporate Real Estate

ALABASTER WATER BOARD
~~CITY OF ALABASTER, ALABAMA~~

By: *Pete Lucas*
Its *Manager*



20080401000130600 3/5 \$23.50
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fz **Alabaster Water Board** EXHIBIT "B"

~~City of Alabaster, Alabama~~, has entered into a contract with Alabama Power Company relating to this exhibit. Alabama Power Company requires the following certificates of insurance, in addition to the ~~City's~~ certificates.

If any work contemplated under this document is to be performed by outside contractors of ~~City~~, or subcontractors thereof, ~~City~~ shall present to Power Company, prior to any entity entering onto Power Company's property and right of way, acceptable policies or certificates of insurance which afford to Power Company the following insurance protection:

- (1) Worker's Compensation - The liability of the ~~City's~~ Contractor and their subcontractors of any their for claims for injury to employees engaged in this work and for death resulting therefrom under any applicable State or Federal Worker's Compensation Act. In addition, such coverage shall include Employer's Liability with a limit of at least \$300,000.00 per person. Such insurance shall be endorsed to waive any right of subrogation for such claims against Alabama Power Company, the Southern Company and their subsidiaries.

- (2) Comprehensive General Liability - The legal liability of ~~City~~, its Contractor and its/his subcontractors for claims or damages:

- (a) For personal or bodily injuries, including death, arising out of work to be performed under this contract in an amount not less than:

\$2,000,000.00 for any one person per occurrence.

\$2,000,000.00 for any one occurrence.

- (b) For damage to property belonging to other than such Contractor or his subcontractors in an amount of not less than:

\$500,000.00 for any one accident and subject to an aggregate amount not less than \$500,000.00.

The insurance policy providing the above coverage shall be endorsed substantially as follows:

During the effective period of the policy mentioned herein, it is agreed that this insurance specifically covers all liability assumed by the insured under the provisions of a contract entered into by ~~City of Alabaster, Alabama~~, and Alabama Power Company dated 13th day of September, 2007, and further, it is specifically agreed that Alabama Power Company is a named insured under the terms of this policy of insurance and covered by all of its terms and provisions.

- (3) Automobile Liability - For personal or bodily injuries, including death, and/or for damages to property belonging to other than Contractor or his subcontractors caused by automotive equipment of or used by Contractor or his subcontractors in an amount not less than \$500,000.00 per personal injury or death of any one person per occurrence.

\$2,000,000.00 for personal injury or death of any one occurrence.

\$500,000.00 for property damage for any one accident.

Prior to beginning any work under the contract to which this is attached, Alabama Power Company shall be furnished by the Contractor with a certificate of the above insurance showing that the premium therefor has been paid. Alabama Power Company shall be furnished a ten (10) day cancellation notice of this insurance coverage.

STATE OF ALABAMA)
:
JEFFERSON COUNTY)

I, JEFF J. CALLCOTT, a Notary Public in and for said County in
said State, hereby certify that Sara R. Parks, whose name as Land Supervisor, Corporate
Real Estate, Alabama Power Company, a corporation, is signed to the foregoing
instrument and who is known to me, acknowledged before me on this day that, being
informed of the contents of the instrument, and with full authority, executed the same
voluntarily for and as the act of said corporation.


Given under my hand and official seal, this the 13th day
of September, 2007.

Jeff J. Callcott
Notary Public - State at Large

My Commission Expires: 11-17-07

Shelby County, AL 04/01/2008
State of Alabama

Deed Tax: \$.50


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STATE OF ALABAMA)
:
COUNTY OF SHELBY)

I, Jo Ann Bailey, a Notary Public in and for said
County in said State, hereby certify that Pete Lucas whose
name as Manager of Alabaster Water Board JB
City of Alabaster, Alabama, is signed to the
foregoing instrument and who is known to me acknowledged before me on this day, that,
being informed of the contents of the instrument, and with full authority, executed the
same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 17th day
November, 2007.

Jo Ann Bailey
Notary Public - State at Large

My Commission Expires:

My Commission Expires

4/26/2010

