

## **REQUEST FOR BOARD ACTION**

### **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** October 16, 2013

**SUBJECT:** PSNC Energy Easement Request

**PRESENTER:** John Mitchell, Business and Community Development Director

**ATTACHMENTS:** UTILITY AND TEMPORARY CONSTRUCTION EASEMENT

#### **SUMMARY OF REQUEST:**

PSNC Energy is requesting an easement to construct an improvement to their system across land owned by the County on Boylston Highway. The proposed improvement will connect existing infrastructure at Broadpointe Industrial Park and Old Fanning Bridge Road to provide more redundant and reliable service to the new Sierra Nevada brewery and other existing industrial customers in the area.

#### **BOARD ACTION REQUESTED:**

Direct staff to execute the easement.

#### **Suggested Motion:**

*I move to approve the request by PSNC Energy concerning the property with the PIN:9642462677 located on Boylston Highway, and direct staff to execute the easement.*



## UTILITY AND TEMPORARY CONSTRUCTION EASEMENTS

PREPARED BY: JANE FOY PAINTER, MULLEN HOLLAND & COOPER P.A., ATTORNEYS AT LAW  
RETURN TO: PSNC Energy  
(Attn: Kenneth Owenby, Engineering Department)  
15 Overland Industrial Boulevard  
Asheville, North Carolina 28806

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

Project No.0056191

Know all men by these presents that for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration paid to **Henderson County, a body corporate and politic** (hereinafter designated "Grantor"), the receipt of which is hereby acknowledged, the Grantor hereby bargains, sells, and conveys unto **Public Service Company of North Carolina, Incorporated**, a South Carolina corporation, dba PSNC Energy (hereinafter designated "Grantee"), and its successors and assigns, a perpetual and exclusive utility pipeline easement approximately thirty (30) feet in width for the purpose of installing, laying, constructing, maintaining, operating, repairing, altering, replacing, and removing gas pipeline equipment (including but not limited to valves, regulators, meters, fittings, appliances, tie-overs, pipe line markers, communications and corrosion control equipment, and appurtenant facilities) for the transportation and control of natural gas, oil, petroleum products, or any other liquids, gases, or substances which can be transported through a pipeline system under, upon, over, through and across lands of Grantor, or in which Grantor has interest situate in Henderson County, North Carolina as described in those deeds recorded in Book 930 at Page 639 and Book 974 at Page 530 in the Henderson County Registry, together with the rights of ingress and egress over and across the easement and the remaining lands of the Grantor for the purpose of obtaining access to and from the easement.

Together with a temporary construction easement across the lands of the Grantor for purposes of ingress, egress and regress and the construction, operation, repair, maintenance, and replacement by the Grantee, its agents, successors or assigns, of the gas pipeline(s).

The utility pipeline and temporary construction easements shall be located as shown on Exhibit "A" and described in Exhibit "B" both of which are attached hereto and incorporated herein by reference.

The temporary construction easement described above and hereby granted shall terminate ninety (90) days after the completion of the installation of such gas pipeline or lines. In any event this temporary construction easement shall terminate no later than one (1) year from the date of the execution of this instrument by Grantor. If Grantee decides not to proceed with construction of its gas pipeline or lines within the area for which this temporary construction easement is needed it will thereupon execute a Deed of Release indicating this temporary construction easement is terminated.

The Grantee shall have the right to assign this Easement in whole or part at any time.

The Grantor may make full use and enjoyment of the Grantor's Property and premises included within the easement herein granted in any manner not inconsistent with the use of the easement by the Grantee; provided, however, that the Grantor, its heirs, successors and assigns, shall not construct nor permit to be constructed any house or building, or allow to be placed or installed any other obstruction, temporary or permanent, that could damage the pipeline or interfere with the operation, maintenance or repair of the pipeline by the Grantee, including, but not limited to the accumulation of

garbage, rubble, disabled vehicles, tires, or debris of any kind, nor impound nor permit to be impounded any water, nor plant trees or large shrubs, on or over the easement; and the Grantor, its heirs, successors and assigns may build roads, streets or utilities which cross over the easement, but may not construct within and along said pipeline easement any such utilities which run parallel therewith. Utility crossings of the pipeline must provide a minimum two (2) foot vertical clearance above or below the pipeline. Fences may be installed by the Grantor crossing the easement but such fences must meet specifications of the Grantee for type and to ensure safety of the pipeline and must provide accessibility to the easement suitable to Grantee. The Grantor, for itself, its successors, and assigns, further agrees not to change the grade within the easement in any manner which will reduce or increase the cover over the pipeline. Grantor shall notify Grantee in writing at least 30 days prior to any construction or maintenance activity within the area specifically covered by the easement to seek approval of such activity and to allow Grantee's representative to be present during such activity. Pipeline markers shall not be removed from the right of way.

To have and to hold said utility pipeline easement unto the Grantee, its successors, and assigns, in title forever and the undersigned hereby binds itself, its successors, and assigns to warrant and forever defend all and singular said premises unto the Grantee, its successors, and assigns, against the claims of all persons whomsoever.

It is understood and acknowledged by the undersigned that the person securing this grant is without authority to make any agreement with regard to the subject matter hereof which is not expressed herein, and that no such agreement will be binding on the Grantee.

IN WITNESS WHEREOF this instrument is signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**Henderson County, a body corporate and politic**

By: \_\_\_\_\_  
Charlie Messer, Chairman of the Board of  
Commissioners of Henderson County

ATTEST

\_\_\_\_\_  
Teresa L. Wilson, Clerk to the Board

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, Notary Public for said County and State, have personal knowledge of the identity of Teresa L. Wilson, and hereby certify that said Teresa L. Wilson, Clerk to the Board, personally appeared before me this day and voluntarily acknowledged that she is Clerk to the Board of Commissioners of Henderson County and that Charlie Messer is the Chairman of the Board of Commissioners of Henderson County, and that by authority duly given and as the act of Henderson County, the foregoing instrument was signed in its name by said Chairman, sealed with its official seal, and voluntarily attested to by herself as its Clerk as the act and deed of Henderson County, all by authority duly given by its governing body.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
*[Note: Notary Public must sign exactly as on notary seal]*

My Commission Expires: \_\_\_\_\_

☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

## EXHIBIT "B"

### 30' UTILITY EASEMENT:

BEGINNING on a point, such point being located North 57 degrees 53 minutes 45 seconds East 1618.52 feet from NCGS Monument "DG5618" having grid coordinates of N = 625717.43 feet and E = 942955.32 feet, and being further located North 70 degrees 18 minutes 20 seconds East 32.90 feet from a #5 rebar with cap, and runs thence in a northeasterly direction the following four (4) courses and distances: (1) North 7 degrees 54 minutes 42 seconds East 45.42 feet to a point; (2) North 68 degrees 42 minutes 32 seconds East 167.24 feet to a point; (3) North 68 degrees 42 minutes 32 seconds East 254.80 feet to a point; and (4) North 68 degrees 39 minutes 15 seconds East 264.45 feet to a point; thence turns and runs South 14 degrees 11 minutes 09 seconds East 30.24 feet to a point; thence turns and runs in a southwesterly direction the following four (4) courses and distances: (1) South 68 degrees 39 minutes 15 seconds West 260.71 feet to a point; (2) South 68 degrees 42 minutes 32 seconds West 198.33 feet to a point; (3) South 68 degrees 42 minutes 32 seconds West 206.11 feet to a point; and (4) South 7 degrees 54 minutes 42 seconds West 12.13 feet to a point; thence turns and runs South 70 degrees 18 minutes 20 seconds West 33.85 feet to the place and point of Beginning.

Being and containing 0.337 of an acre as per unrecorded plat of easement by Randall L. Stepp, dated September 19, 2013, and titled 'PROPOSED BOYSTON HWY. PIPELINE TIE-IN EASEMENT, HENDERSON CO., NC.'

### 30' TEMPORARY CONSTRUCTION EASEMENT:

BEGINNING on a point, such point being located North 57 degrees 53 minutes 45 seconds East 1618.52 feet from NCGS Monument "DG5618" having grid coordinates of N = 625717.43 feet and E = 942955.32 feet, and runs thence in a northeasterly direction the following four (4) courses and distances: (1) North 7 degrees 54 minutes 42 seconds East 45.42 feet to a point; (2) North 68 degrees 42 minutes 32 seconds East 167.24 feet to a point; (3) North 68 degrees 42 minutes 32 seconds East 254.80 feet to a point; and (4) North 68 degrees 39 minutes 15 seconds East 264.45 feet to a point; thence turns and runs North 14 degrees 11 minutes 09 seconds West 30.24 feet to a point; such point being located South 18 degrees 46 minutes 45 seconds East 120.96 feet from a #5 rebar with cap; thence turns and runs in a southwesterly direction the following five (5) courses and distances: (1) South 68 degrees 39 minutes 15 seconds West 268.19 feet to a point; (2) South 68 degrees 42 minutes 32 seconds West 311.28 feet to a point; (3) South 68 degrees 42 minutes 32 seconds West 128.34 feet to a point; (4) South 07 degrees 54 minutes 42 seconds West 64.01 feet to a point; and (5) South 04 degrees 31 minutes 21 seconds West 14.28 feet to a #5 rebar with cap; thence turns and runs North 70 degrees 18 minutes 20 seconds East 32.90 feet to the place and point of Beginning.

Being and containing 0.378 of an acre as per unrecorded plat of easement by Randall L. Stepp, dated September 19, 2013 and titled "PROPOSED BOYSTON HWY. PIPELINE TIE-IN EASEMENT, HENDERSON CO., NC."