

GSGT-ETMD Saco/ Old Orchard Beach Co-Location Agreement

Agreement made as of this 30th day of November, 2010 by and among GRANITE STATE GAS TRANSMISSION, Inc., a corporation organized and existing under the laws of New Hampshire, with a principal place of business at 325 West Road, Portsmouth, New Hampshire 03801 (GSGT), and THE EASTERN TRAIL MANAGEMENT DISTRICT (ETMD) a Maine not-for-profit corporation with an address at PO Box 250 Saco, Maine, 04072 relating to the installation and maintenance of a multi-use trail, as is more specifically defined herein.

WHEREAS, Maine Department of Transportation (MDOT) is working with the ETMD and the Eastern Trail Alliance (ETA) on the development of the Eastern Trail, which shall be part of the East Coast Greenway, a non-motorized transportation corridor running the full length of the East Coast of the United States and

WHEREAS, MDOT and ETMD desire to construct a segment of the Eastern Trail as follows:
running in a northeasterly direction from the former Boston and Maine railroad station 5031+00 to Station 5041+00 (south side of State of Maine I-195 corridor) in Saco, Maine and recommencing northeasterly at railroad station 5048+00 and remaining within the former Boston and Maine Railroad right-of-way to Station 5075+50 at or about U.S Route 1 in Saco, Maine, thence continuing northeasterly from Station 5077+00 in said former railroad right-of-way now owned by the Biddeford and Saco Water Company to Station 5170+30 at Cascade Road in Old Orchard Beach, Maine, thence continuing northeasterly from Station 5170+30 in said former railroad right-of-way now owned by Central Maine Power to Station 5203+00 at Milliken Mills Road, such segments being generally depicted on Exhibit A attached hereto and made a part hereof by this reference (such segments of the Eastern Trail defined below as the "Trail", and the installation of the Trail being defined below as the "Project"); and

WHEREAS, MDOT and the ETMD have executed a Transportation Enhancement Project Agreement ("MDOT/ETMD Project Agreement") STATE PIN 13440.00, in connection with the Project; and

WHEREAS, provided that it can secure the requisite funding, approvals and permissions, the ETMD plans to locate, construct, maintain and operate the Trail pursuant to grants to be obtained from the fee owners of the land crossed thereby or an assignment of trail easement(s) to be obtained from the current holders thereof, which grants and assignments are to be duly recorded in the County Registry of Deeds of Cumberland County, as applicable; and

WHEREAS, GSGT, or its predecessors, have, since the mid-1960's, owned, operated and maintained an active natural gas line through land to be affected by the Project; and

WHEREAS, On December 01, 2008, GSGT and Northern Utilities were purchased by Unitil Service Corporation, and

WHEREAS, upon the terms and conditions set forth herein, GSGT has agreed to permit ETMD to construct, install, operate and maintain certain portions of the Trail upon certain property owned or controlled by GSGT.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein, ETMD and GSGT, with the intent of being legally bound, do hereby covenant and agree as follows:

Section 1 - Definitions

As used in this Agreement, the following terms have the meaning indicated:

MDOT - Means the Maine Department of Transportation

The Co-Location Area - Means any portion of the Trail (defined below), situated on land owned or controlled by GSGT, as preliminarily and generally depicted on Exhibit A attached hereto, provided that the final location of such

Trail upon land owned or controlled by GSGT shall be subject to the prior written approval of GSGT pursuant to the terms of Section 3 hereof and of this Agreement in general.

The Project - Means the initial construction and installation of that segment of the Eastern Trail consisting of approximately 4.3 miles, as generally depicted on Exhibit A attached hereto.

The Trail – Means that portion of the Eastern Trail that is approximately 12 feet in width, to be constructed in connection with the Project.

The Pipeline - Means the existing high-pressure natural gas transmission pipeline and its related facilities owned and operated by GSGT and all future replacements, alterations and upgrades thereof.

Minimum Guidelines - Refers to the “GSGT minimum guidelines for construction near natural gas pipeline facilities”, a copy of the now effective guidelines is attached hereto as Exhibit -B and made a part hereof by this reference.

Project Coordinator - Means the person appointed by the ETMD to coordinate and supervise all aspects of the Project on behalf of ETMD.

Project Engineer - Means the engineer and its subcontractors who were contracted by the ETMD and are responsible for the design and construction oversight of the Project

Section 2 - Co-Location

- 2.1 Co-Location:** The ETMD hereby agrees to design, construct, install, operate and maintain the Trail in accordance with the terms and conditions of this Agreement so as not to interfere with GSGT's operation and maintenance of the Pipeline within any portion of the Co-Location Area. GSGT agrees to the co-location of the Trail within the Co-Location Area, subject to and in accordance with the terms of this Agreement.
- 2.2 Sound Practices:** The ETMD agrees to ensure that at all times, initial and any subsequent design, construction, installation, operation, and maintenance of the Trail and all access to and by their volunteers, employees, agents and contractors on or about the Co-Location Area shall comply with: (a) sound engineering and construction practices; (b) all applicable engineering, environmental, land use, safety and other standards, statutes, laws, ordinances, rules, directives, orders, guidelines and regulations (whether now or hereinafter enacted) imposed by any federal, state or local governmental authority applicable to the Project or operation of the Pipeline; and (c) the Minimum Guidelines and all other requirements of GSGT.
- 2.3 Reservation of Rights:** GSGT reserves and shall have the right to use the Co-Location Area for any lawful purpose pursuant to GSGT's ownership or easement rights, and any future modifications or amendments thereto. Nothing contained herein is intended to limit or restrict GSGT's right or ability to place additional pipeline(s) or facilities or to acquire additional or different land rights. GSGT shall make reasonable attempts to minimize the impact to the Trail or its components and shall undertake reasonable restoration to the trail base of any portions of the Trail or its components disturbed during any such future expansion. GSGT shall not be responsible to restore trail surface.
- 2.4 Prohibited Uses:** ETMD shall not use all terrain vehicles and/or snow mobiles in the Co-Location Area, except as permitted hereunder or as otherwise permitted by GSGT by a separate written agreement.

Section 3 - Initial Construction of the Trail

- 3.1 GSGT Review of Construction Plans:** The ETMD will provide GSGT with engineering and construction plans prior to commencement of construction so as to permit GSGT to perform engineering reviews, evaluations and field inspections as may be reasonably necessary and appropriate for the protection of its Pipeline and property. Actual on-site construction work on the Project shall not commence within the Co-

Location Area until GSGT has reviewed and approved in writing ETMD's engineering and construction plans, which approvals may be withheld at the sole discretion of GSGT if GSGT reasonably determines that the plans present safety issues or concerns.

- 3.2 Design & Construction Schedules:** It is the intent of the ETMD to begin design of the Project as soon as practicable. Construction is planned to begin in 2011. The Project Coordinator will hold timely meetings as necessary with GSGT to discuss the timing and sequencing of any work that may impact or involve the Pipeline.
- 3.3 Construction Inspection and Monitoring:** GSGT agrees to work with the Project Coordinator, Project Engineers, and Contractors to arrange for GSGT personnel to be present at appropriate times while work on the Trail or the Project is being conducted within the Co-Location Area, including without limitation those times discussed in Section 3.6 below, and, in accordance with the Project schedule, to monitor any contractors or subcontractors of ETMD who may be working near the Pipeline. Such inspection and monitoring may be required by GSGT any time work is being done within the Co-Location Area.
- 3.4 Work Stoppage:** Under the provisions of Section 4 of this Agreement, GSGT shall have the right to stop work on the Project immediately if the Pipeline or the safety of the public or GSGT employees or its agents or ETMD personnel and its agents are or might be negatively impacted during design or construction of the Project. Immediately following the decision to stop work during construction, the Project Coordinator must be contacted and a meeting held with GSGT, the Project Coordinator, the Project Engineer and the Contractor to evaluate the concern(s) and determine a corrective course of action.
- 3.5 Dig Safe:** The ETMD or its agents will follow and comply with the state requirement that Maine's "Dig Safe" be called and notified at least 72 hours before any excavation. Such notification shall alert all applicable underground facilities and cause such facilities to be identified and marked prior to the start of construction activities.
- 3.6 Minimum Guidelines for Construction:** Except set forth in this Section, the ETMD shall, at all times, observe and comply with the Minimum Guidelines.
- (A) GSGT shall schedule personnel for inspection and monitoring of construction activities in connection with the Project in accordance with the mutually agreed to Project schedule.
- (B) Existing levels of ground cover above and within five (5) feet of either side of the Pipeline shall not be reduced or increased as a result of a Project unless previously approved by GSGT during the design and review process. Where GSGT requires an increase in the level of cover over its Pipeline in connection with the installation of the Trail, ETMD shall reasonably accommodate GSGT in such efforts. Any costs associated with improvements to cover shall be borne by ETMD.
- (C) Other conditions as below:
1. ETMD shall provide GSGT with a listing of all construction equipment and vehicles.
 2. GSGT shall require a minimum of 72 hours to perform its review.
 3. Upon review, GSGT shall provide ETMD with conditions under which specified equipment and vehicles may safely operate within the Co-Location area.
 4. At GSGT's sole discretion, GSGT may require ETMD at their cost, take additional measures as GSGT deems necessary to protect the integrity of the pipeline. These measures may include but not be limited to use of matting, temporary protective fill, and bridging.
- 3.7 Required Permits:** It shall be the responsibility of the ETMD and the Project Engineer to obtain all required permits for the Project at ETMD's sole costs and expense.

3.8 Construction Related Expenses:

(A) Trail Related Document Review: GSGT's expense to review the engineering plans, specifications, or equipment weights related to the Trail shall be considered an eligible Project expense to be reimbursed by the ETMD from Project funds. An estimate is required as outlined in 6.1.

(B) Trail Related Construction Inspection and Monitoring: GSGT's expense to monitor and/or inspect construction or excavation activities related to the Trail and as outlined in Section 3.3 shall be considered an eligible Project expense to be reimbursed by the ETMD from Project funds. An estimate is required as outlined in Section 6.1.

(C) Trail Design and Construction: All expenses associated with the design and construction of the Trail, except as noted herein, shall be considered an eligible Project expense and shall be paid by the ETMD from Project funds.

Section 4 - Endangering Condition

- 4.1 Endangering Condition:** For the purpose of this Agreement, an "Endangering Condition" is one that in the reasonable judgment of GSGT threatens the physical integrity of the Pipeline, could interfere with the transmission of gas, or presents a threat to public safety or to the safety of GSGT's employees, agents or contractors or the safety of ETMD's personnel, its agents and contractors (hereinafter "Endangering Condition").
- 4.2 Immediate Endangering Condition:** GSGT may immediately suspend or temporarily prohibit construction activities within and/or the use of the Trail across all of the Co-Location Area, or any portion thereof, and take immediate corrective action, if in the reasonable judgment of GSGT there is an Endangering Condition that presents an immediate or immanent threat of harm or injury. Upon such suspension, GSGT shall notify the ETMD that such action has been taken. GSGT shall not be responsible for any damage to the Trail that results from or occurs in connection with the corrective action(s) taken by GSGT, its employees, agents or contractors to address any such immediate Endangering Condition. GSGT's sole responsibility shall be to restore its pipeline area to the same grade as existed prior to installation of the Trail and to restore the trail base of any portions of the Trail affected by such corrective action(s) to substantially similar condition and grade as existed immediately prior to the corrective action. ETMD shall be responsible to restore the Trail surface and any related facilities, at its own cost and expense.
- 4.3 Non-Immediate Endangering Condition:** If in the reasonable judgment of GSGT there exists an Endangering Condition that is the result of the use of the Trail or is created by the ETMD in its exercise of its rights within the Co-Location Area which does not present an immediate threat to the Pipeline, transmission of gas or public or GSGT employee(s) or its agents or ETMD personnel and its agents safety, GSGT shall require the ETMD to take corrective action by providing verbal and written notification of such Endangering Condition to the ETMD by certified mail, return receipt requested. The ETMD shall, within a reasonable time not to exceed 15 days, initiate action suitable to promptly correct or abate the Endangering Condition. Should the ETMD fail to initiate such appropriate corrective action within the prescribed period, then GSGT shall have the right, but not the obligation, under this Agreement to:
- (A)** Enter upon the Co-Location Area and take the actions that GSGT deems necessary to correct the Endangering Condition, and, thereafter, all reasonable expenses incurred by GSGT to take such corrective action shall be reimbursed to GSGT by the ETMD in accordance with Section 6; and/or
 - (B)** Temporarily suspend access to that portion of the Trail affected by the Endangering Condition until such condition is corrected or sufficiently abated.

Section 5 - Operation, Maintenance and Repair of the Co-Location Area

- 5.1 Vehicular Access to the Co-Location Area:** Vehicular access to the Co-Location Area shall be limited and controlled as follows:
- (A) Nothing herein is intended to limit access by GSGT by any means to the Co-Location Area.
 - (B) ETMD and their agents shall have access to all portions of the Trail as necessary to comply with the terms of this agreement. On each occasion motorized vehicular access to the Trail is required, prior approval of GSGT must be obtained.
 - (C) Emergency Services shall be permitted to access the Trail as necessary to fulfill their duties. GSGT reserves the right to impose conditions on Emergency Services with respect to vehicular access in order to safeguard the integrity of the pipeline.
 - (D) ETMD shall be responsible for modifying existing or installing additional gates, locking bollards or other suitable security measures designed to permit pedestrian and non-motorized access to the Trail whilst restricting unauthorized motorized vehicular access. All designs are subject to written approval by GSGT.
 - (E) GSGT will not distribute copies of its company keys associated with gated access to the Trail to ETMD, its agents, Emergency Services, or other third parties. It shall be the responsibility of ETMD to ensure that their security designs include the addition of ETMD locks. It is not permitted for GSGT locks to be substituted with ETMD locks such that GSGT is solely reliant on ETMD keys to gain access to the Trail. ETMD shall be responsible for the distribution of keys to their locks to legitimate parties, including GSGT.
- 5.2 Public Access to the Project:** Upon completion of the Trail, it is the intent of the Parties hereto that the public will have access to the Trail. Public access to a portion of the Trail may be modified or prohibited as necessary during construction or maintenance activities. Public access to the Trail may immediately be prohibited by GSGT and/or ETMD in the event of an Endangering Condition as outlined in Section 4.
- 5.3 ETMD Maintenance, Upgrade or Repair:** ETMD shall be responsible, at its sole cost and expense, for all maintenance and repair associated with any portion of the Trail situated within the Co-Location Area. ETMD shall also be responsible, at its sole cost and expense for any excavation, replacement, material upgrade or addition of a component in connection with the Trail within the Co-Location Area, provided that any such action shall be made by the ETMD only upon prior, written notice to and approval by GSGT. The ETMD shall follow the same general provisions established for the initial construction/installation of the Trail as outlined in Section 3 of this Agreement.
- 5.4 GSGT Maintenance, Upgrade or Repair:**
- (A) In the event that GSGT engages in any excavation, replacement, material upgrade or addition of a component to the Pipeline or related appurtenances thereto within the Co-Location Area, GSGT shall undertake reasonable restoration of any portion of the Trail or its components disturbed during any such work to the extent that it shall restore the Trail base, but GSGT shall not be responsible to restore the Trail surface or any facilities of ETMD placed on or near the Co-Location Area.
 - (B) GSGT will make efforts to provide prior notice to ETMD of such work in conformance with applicable provisions of this Agreement. Notwithstanding the foregoing, this section shall not apply to work undertaken by GSGT to correct an Endangering Condition, as outlined under Section 4, caused by the exercise of the rights granted to the ETMD for the use of the Co-Location Area and operation of the Trail.

- (C) Unitil at their sole discretion reserves the right to close sections of the GSGT ROW to the public when conducting maintenance activities. When Unitil deems it necessary to close a section of the GSGT ROW to the public, Unitil will Endeavour to provide ETMD advanced notice so that a trail detour may be put in place. Any reasonable costs incurred by Unitil associated with GSGT ROW closures will be reimbursable by ETMD.
- (D) Except in the case of an immediate Endangering Condition, as outlined in Section 4, and whenever reasonably possible, the ETMD and GSGT shall schedule major maintenance, upgrade or repair projects in the Co-Location Area according to a mutually agreed upon schedule so that the impact(s) to the Trail and/or the Pipeline are minimized and efforts not duplicated. Under no condition will ETMD unreasonably withhold agreement that results in GSGT's inability to maintain its pipeline facilities in a timely and cost-effective manner.

5.5 Governing Approval: It shall be the responsibility of each party respectively to obtain and maintain at their own cost and expense, all permits, licenses, and approvals required for construction, operation and maintenance of their facilities within the Co-Location Area as may be required by any federal, state, or local authority or by any governmental rules, statutes or regulations.

5.6 Snow Removal: In order to maintain year-round access to its Pipeline and related transmission facilities, GSGT and its customers who take deliveries perform snow removal along the Co-Location Area. Such removal shall be the sole obligation and expense of GSGT or its customers and shall be performed as determined by GSGT or its customers in their sole discretion. GSGT shall request its employees, snow removal contractor, and customers that the blade of any plow vehicle used on the Trail shall be raised several inches to maintain a snow base on the trail. When feasible, snow removal should be done such that a portion of the width of the Trail is left as is. This may minimize damage and provide a base for snow related trail usage, provided such base does not prohibit GSGT from safe and immediate access to the Pipeline and related appurtenances. GSGT shall require its snow removal contractor to close any gates opened and replace any bollards removed during snow removal upon completion of snow removal operations. GSGT shall request that its affiliates perform their snow removal in a similar manner. GSGT shall not be held liable for any damages to the Trail due to snow removal.

Section 6 - Reimbursements

6.1 GSGT Related Reimbursements: Federal and state regulations allow for the reimbursement of certain expenses incurred by a utility company as a result of work performed on or for the Trail. The following conditions shall apply to all reimbursement requests from GSGT:

(A) Project Design & Construction Expenses

1. All Project expenses are subject to review and final approval by MDOT in accordance with the MDOT/ETMD Project Agreements and are subject to all federal and state regulations.
2. All Project expenses that GSGT and the ETMD anticipate must be outlined in advance and a written estimate provided to the ETMD that includes the following:

Wage Reimbursement - Description of staff position, hourly rate, anticipated transportation, meals and lodging and the total number of hours required.

Equipment Reimbursement - Material cost per item, direct labor cost to replace/repair, number of items required.

3. The ETMD shall issue to GSGT written acceptance/approval of an estimate before it will be considered binding on the ETMD.

4. Request for transportation, meals and lodging reimbursement must be based on federal allowances and are subject to Maine State maximums.
5. Expenses related to the hiring or training of personnel are not eligible for reimbursement.

(B) Trail Maintenance Expenses

1. Expenses incurred by GSGT during maintenance activities associated with Trail closures will be submitted directly to ETMD.

6.2 Reimbursement Procedure: This section shall apply any time that there is an exchange of funds between the parties. The party requesting reimbursement shall submit an official invoice to the other. The invoice should include the total amount due, including a breakdown of the costs incurred such as material(s), labor, outside services and other information contained in the original estimate. Payment shall be due within 30 days from the receipt of the invoice. In the event that timely payment is not made, interest will be charged on the outstanding balance equal to one and one-half percent (1.5%) per month. Such interest shall accrue on unpaid amounts beginning on the payment due date and shall terminate when such invoice is paid. Such interest will not be payable if such failure to pay is the result of a bona fide dispute of any such charges or costs.

6.3 State and Federal Audits: The parties hereto acknowledge that by receiving reimbursement from State or Federal funds for expenses, whether directly from MDOT or indirectly through the ETMD, they become subject to federal and/or state audits related to said reimbursement. Such audits may include, but are not limited to federal wage rates, estimates and final cost, maximums, Buy America and any other regulation tied to the use of federal and or state funds.

Section 7- Insurance & Mutual Indemnification

7.1 ETMD General Liability: The ETMD shall procure and maintain, solely at its own cost and expense, comprehensive general liability insurance coverage including contractual liability thereunder, naming GSGT as an additional insured, with limits not less than Three Million Dollars (\$3,000,000.00) combined single limit for bodily injury (including death), personal injury and property damage (including loss of use) liability, subject to reasonable increases from time to time at the request of GSGT, with a deductible that shall be no more than ten thousand dollars(\$10,000.00). ETMD shall also obtain other forms of insurance as may be reasonably requested by GSGT, including without limitation worker's compensation insurance, employer's liability insurance or commercial automobile insurance, all naming GSGT as an additional insured, in commercially reasonable amounts. Prior to commencing any work on or access to the Co-Location Area, the ETMD shall submit a certificate of insurance giving evidence of these required coverage amounts and indicating that GSGT is an additional insured. The ETMD shall be required to provide GSGT with a certificate of insurance, showing the required insurance coverage, on an annual basis in a form reasonably acceptable to GSGT. All insurance shall be procured from insurers authorized to do business in the State of Maine. Thirty (30) days prior written notice shall be given to GSGT in the event that coverage is substantially changed, canceled or not renewed.

7.2 Contractor Damage: ETMD or GSGT shall each cause their respective contractors to have adequate insurance or evidence of financial responsibility sufficient to correct and reasonably restore to the condition immediately prior to the damage incident any damages they may cause to the Trail and its components and the Pipeline and its components within the Co-Location Area.

7.3 Mutual Indemnity: To the extent not covered by Maine's Landowner's Liability Law at 14 M.R.S.A. Section 159-A, ETMD agrees to indemnify and hold harmless GSGT, its parent, subsidiaries and affiliates, from and against any claims, loss, cost, damage or expense, including reasonable attorneys' fees, suffered or incurred by GSGT arising from any negligent act or omission of the ETMD in connection with this Agreement and in connection with ETMD's exercise of the rights hereunder, and GSGT agrees to indemnify and hold harmless ETMD from and against any claim, loss, cost, damage or expense, including reasonable attorneys' fees, suffered or incurred by ETMD arising from any negligent act or omission of GSGT in connection with its use of the Trail.

- 7.4 **Title:** GSGT has made no representation of whatever nature and gives no covenant in connection with the title or condition of the Co-Location Area or any other property owned, controlled or utilized by GSGT, and ETMD accepts the Co-Location Area "as-is." Without limiting the foregoing, GSGT does not warrant or represent that it has sufficient interest in all or any part of the Co-Location Area for ETMD to exercise the rights described herein. GSGT shall not be liable for any latent or patent defects therein.
- 7.5 **Maine Landowner's Liability Law:** The ETMD and GSGT intend that the Maine Landowner's Liability Law, 14 M.R.S.A. Section 159-A shall apply to members of the public accessing the Trail for recreational purposes.
- 7.6 **Termination:** The provisions of this Section shall survive termination of this Agreement.

Section 8 - Notices

- 8.1 **Contact Persons:** In order to facilitate communication between GSGT and ETMD, each party will designate a contact person for communication necessary under this Co-Location Agreement, which notices shall be sent in accordance with the written notice provisions of this Co-Location Agreement as below.
- 8.2 **Addresses:** All notices, demands, requests or other communications which may be or are required to be given, served, or sent by one party to the other party pursuant to this Agreement shall be in writing and shall be mailed by first-class registered or certified mail, return receipt requested, postage prepaid, or sent by messenger or a recognized courier or overnight delivery service, addressed as follows:
- (A) If to GSGT:
Patty Quinn
Land Department
Unitil Service Corporation
6 Liberty Lane West
Hampton, NH 03842
 - (B) With a copy to:
Roger Barham and Frank Callahan
Granite State Gas Transmission, Inc.
325 West Road
Portsmouth, New Hampshire 03801
 - (C) If to Eastern Trails Management District (ETMD):
Ms. Carole Brush
Executive Director
Eastern Trail Management District
P.O. Box 250
Saco, ME 04072
- 8.2 **Change of Address:** Either party may designate by notice in writing a new address to which any notice, demand, request or communication made thereafter shall be so given, served or sent.
- 8.3 **Delivery:** Each notice, demand, request or communication which shall be delivered in a manner described in this Section 8, shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the address set forth above as to each party (with the return receipt or the delivery receipt being deemed conclusive evidence of such delivery), or at such time as delivery is refused by the addressee upon presentation.

Section 9 - Dispute Resolution

- 9.1 Settlement of Disputes:** It is the intent of the parties that any disputes that may arise between them be resolved as quickly and informally as possible. Any agreement between the parties with respect to any dispute shall be in writing.
- 9.2 Enforcement:** Each party shall be liable for their own attorney's fees in litigating any matter arising between the parties concerning the enforcement or interpretation of this Co-Location Agreement.

Section 10 - Miscellaneous

- 10.1 Acknowledgement of Contingency:** ETMD and GSGT acknowledge that all of the obligations under this Agreement for initial construction of the Trail are contingent upon approval by MDOT of all design plans and Project costs. In the event that MDOT does not provide such approval and funds are withheld or reallocated, then ETMD shall notify GSGT of such state of affairs in writing, whereupon all obligations of GSGT incident to the Project shall cease, and ETMD shall reimburse GSGT for all costs expended or committed by GSGT at the time GSGT is notified of such cancellation or postponement.
- 10.2 Severability:** If any one or more of the provisions contained in this Agreement, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions of this Agreement shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits or the remaining provisions hereof.
- 10.3 No Joint Venture:** By entering into this Agreement with the ETMD, GSGT is not hereby establishing any joint undertaking, joint venture or partnership with the ETMD their agents or contractors. Each party shall be deemed to be an independent contractor, and shall act solely for its own account.
- 10.4 Successors and Assigns:** This Agreement shall be binding upon and shall inure to the benefit of ETMD and GSGT, and each of their respective successors and assigns.
- 10.5 Merger:** It is understood and agreed that all understandings, agreements or representations, either oral or in writing heretofore between the Parties hereto, are superseded by this Agreement, which document alone fully and completely expresses the Parties' agreement with respect to the matters covered hereby. This Agreement may not be modified in any manner except by a subsequent instrument in writing signed by ETMD and GSGT.
- 10.6 Counterparts:** This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute one and the same instrument.
- 10.7 Governing Law:** This Agreement, the rights and obligations of ETMD, and GSGT and any claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of Maine, except to the extent that such laws are preempted by federal law under the Natural Gas Act, 15 U.S.C. §§717, et seq., the Natural Gas Pipeline Safety Act, 49 U.S.C. §§ 60101, et seq., or the regulations promulgated pursuant thereto.
- 10.8 Lien Waiver:** ETMD and GSGT expressly waive and relinquish any rights that either of them may have pursuant to Maine's Mechanics Lien laws, 10 M.R.S.A. § 3251 et seq., to file or make in whatever manner a mechanics lien in any Registry of Deeds or Court against any property affected by or referred to in this Agreement, for any services, labor, or materials supplied by ETMD or GSGT. ETMD and GSGT expressly agree that this provision is supported by adequate consideration.

Notwithstanding the foregoing, ETMD covenants to promptly pay when due the entire cost of all work done in connection with the Project and in connection with any and all on-going maintenance and repair, or in connection with any future upgrade or replacement of the Trail as permitted hereunder, and shall keep the land

owned or controlled by GSGT, including such portions situated within the Co-Location Area, free of all liens for labor and materials arising therefrom or related thereto. Should a mechanic's or materialmen's lien, or other lien arising from the exercise of ETMD's rights hereunder, be filed against any land owned or controlled GSGT, including land situated within the Co-Location Area, ETMD shall pay, bond or obtain a release or discharge of such lien within 10 days of receiving notice of such lien. If such lien is not paid promptly or otherwise satisfied, GSGT shall have the right, at its option, to pay such lien, and ETMD shall promptly reimburse GSGT upon demand, together with expense, charges, interest and attorneys' fees.

IN WITNESS WHEREOF, the parties hereof have executed this instrument acting through their duly authorized representatives as of the day and year first above written.

Seen and agreed to.

GRANITE STATE GAS TRANSMISSION, INC.

By: [Signature]

Name: MARK H. COLLIN

Title: TREASURER

Date: NOVEMBER 30, 2010

State of New Hampshire

County of Rockingham

Nov. 30, 2010

Thence personally appeared the above-named Mark H. Collin, as aforesaid, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Granite State Gas Transmission, Inc.

Before me,

[Signature]
Notary Public/Attorney at Law

Printed Name: Sandra L. Whitney

My commission expires: March 10, 2015

Title:

Seen and agreed to:

EASTERN TRAIL MANAGEMENT DISTRICT

By: [Signature]

Name: Robert H. Hamblen

Title: President

Date: Nov. 30, 2010

State of Maine

County of York

November 30, 2010

Thence personally appeared the above-named Robert H. Hamblen, as aforesaid, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Eastern Trail Management District.

Before me,

[Signature]

Notary Public/Attorney at Law

Printed Name: Karen Audie

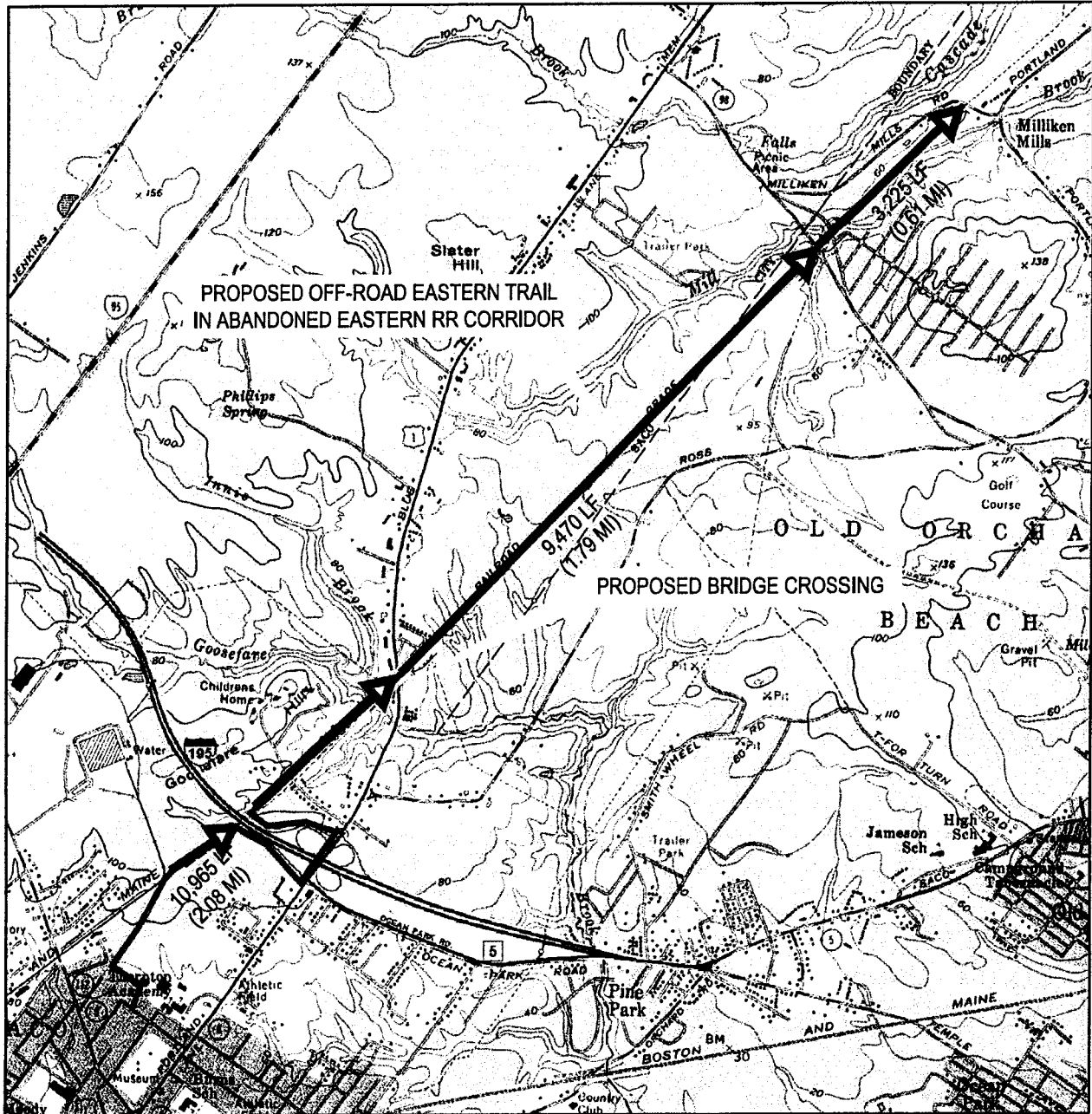
My commission expires: May 9, 2016

Title:

EXHIBIT A: Project Location - Attached

EXHIBIT B: Attached

“GSGT minimum guidelines for construction near natural gas pipeline facilities”



USGS LOCATION MAP
Eastern Trail - Milliken Road to Thornton Academy
Old Orchard Beach - Saco, Maine

SOURCE: USGS 7.5 MINUTE OOB & BIDDEFORD QUADRANGLES / MDOT EASTERN TRAIL MAP

DeLuca-Hoffman Associates, Inc.
 778 MAIN STREET, SUITE 8
 SOUTH PORTLAND, ME 04106
 207-775-1121
 www.delucahoffman.com

DRAWN: SEB
 CHECKED: SRB
 DATE: APRIL 2009
 FILENAME: 2869 USGSMAP.DWG
 SCALE: 1" = 2500'

Exhibit A

EXHIBIT B
MINIMUM GUIDELINES FOR CONSTRUCTION

Granite State Gas Transmission, Inc.
Minimum Guidelines for Construction Activities In The Vicinity Of Gas Pipelines

Granite State Gas Transmission Co.'s (GSGT) minimum guidelines for construction activities are intended to ensure the safety of the public and preserve the integrity of GSGT's facilities. GSGT will cooperate to the extent possible in the use of property in the vicinity of its facilities, but to protect public safety and assure the nation's continuous supply of energy deliveries, GSGT cannot allow its facilities and attendant property rights to be compromised.

To minimize conflicts and delays, property owners and developers are encouraged to consult GSGT in the design phase of their project and receive acknowledgement of their construction plans before obtaining zoning permits and committing to construction schedules.

Construction

No construction or excavation activities of any kind, including blasting, shall be done on GSGT's right of way area before GSGT personnel have established the actual location of all affected facilities and the limits of the ROW area. GSGT personnel must be present during any construction or excavation activities.

Notification

GSGT must be notified according to the state one-call regulations before construction begins in the vicinity of its facilities. This notification shall be made through the appropriate state one-call notification service, but follow up contact should be made with the local GSGT office.

Excavation in the vicinity of pipelines/buried facilities

No excavation shall be made on the pipeline right-of-way without prior notification to GSGT through the state one-call notification service. Subsequent follow-up must be made to GSGT to seek approval for the proposed construction. Approved excavations that are done above, below or within three-feet of either side of the pipeline shall be dug using hand tools.

Crossing pipelines with heavy equipment

To adequately protect GSGT pipelines from potential damage by heavy equipment crossing the right-of-way, GSGT may require heavy equipment operators to install mats, dirt pads, or other approved protective materials. All proposed road crossings of buried facilities must be evaluated by GSGT personnel. The additional over-burden must be removed after construction unless otherwise directed by GSGT personnel.

Blasting

Any blasting proposed within 300 feet of GSGT facilities must have prior written acknowledgement by GSGT. Acknowledgement must be requested by submitting a blasting

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plan for evaluation by GSGT personnel. Any modifications to the blasting plan must be acknowledged by GSGT in writing. The blasting contractor may be required to monitor and record seismic shock at the facilities.

Directional Drilling or Boring

When directional drilling or boring is proposed under GSGT's pipelines or buried facilities, contractors shall submit plans to GSGT for review. Adequate clearance must be maintained from GSGT's facilities and additional excavations may be required to ensure adequate clearance. As built plans are required for all borings.

Operating Area of Storage Wells

In order to safely and efficiently operate and maintain GSGT's natural gas storage fields, GSGT requires up to 300-foot or larger clear area around each well. Accordingly, the company requires notification of, and reserves the right to object to, any proposed above-ground or below-ground construction activities or placement of objects closer than 300 feet in any direction of a wellhead.

Rights-of-Way

The requirements listed below are minimum standards that GSGT requires for construction in the vicinity of its pipeline rights-of-way to protect public safety and the integrity of its facilities. A review of individual plans and property rights may reveal more specific requirements.

1. The existing cover over pipelines, which is normally 36-inches, shall be maintained. The minimum earth cover over pipelines at all street and road crossings, including the adjacent ditch line, shall be 36-inches; 60-inches minimum cover shall be maintained at stream and river crossings.
 2. Above ground or below ground structures or obstructions of any type shall not be placed within the easement area of any pipeline, which is generally 25 feet each side of the pipeline.
 3. Pipeline easements shall not be shared longitudinally with other utilities. All water valves, curb boxes, manholes, etc. must be outside the easement. Other utilities which cross GSGT pipelines must do so at or as near 90 degrees as practical and with a minimum of 12-inches vertical clearance. Any crossing not installed below GSGT's pipelines must have prior written consent from GSGT. Cable or wire utilities must be in conduit the full width of the easement. For safety reasons, all electric and fiber optic lines crossing GSGT's pipelines shall be surrounded with a minimum of six inches of concrete for the full width of the right-of-way. Metallic warning flags shall also be buried above all cable, wire utility, or fiber optic lines crossing a TCO Right-Of-Way. All crossings must be approved by GSGT before installation begins.
 4. Roads shall cross pipelines at or as near 90 degrees as practical, but at angles not less than 45 degrees. The entity constructing the street must pay for any measures required by GSGT to protect its pipeline(s). Such protective measures shall be designed and/or approved by GSGT personnel.
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5. Paved areas, such as parking lots, shall not be allowed over the easement unless the pavement can be altered so as not to impact the safe and reliable operation and maintenance of GSGT's pipeline. Concrete paving in GSGT's right-of-way is prohibited. Consequently, all plans for pavement within a GSGT right-of-way must be submitted and acknowledged by GSGT personnel before paving can begin.
6. Septic tanks and leach fields should be placed so they drain away from the pipeline where practical. In no case shall they be placed in the easement area.
7. The right-of-way may be planted in lawn and small shrubs (less than 5 feet tall) or may be used for normal agricultural purposes. However, shrubs will not be allowed within 5 feet each side of the pipeline. Shrubs greater than 5 feet tall and trees, including fruit or nut bearing trees of any kind, are prohibited within the right-of-way.
8. Fences that block visual inspection or interfere with access to GSGT's facilities are prohibited within GSGT rights-of-way. Fences permitted by GSGT to cross its rights-of-way must be designed with 12-foot gates centered on the pipelines and must cross at or as near to 90 degrees as possible.

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