

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** June 20, 2023

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON:** Samuel Rodriguez, P.E., Aviation Director, (915) 212-7301

**DISTRICT(S) AFFECTED:** 3

**STRATEGIC GOAL 1:** Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:** N/A

**SUBJECT:**

That the City Manager, or designee, be authorized to sign an Easement Agreement between the City of El Paso ("Grantor") and SFPP, L.P. ("Grantee") for a term of twenty years. Said easement, which will be used by Grantee to transport liquid petroleum products, shall consist of two areas located within the City of El Paso, El Paso County, Texas, as set forth below:

1. Area 1: A thirty-five (35) foot wide easement situated within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of Sections 27, 33, 34, and 40, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 1, Butterfield Trail Aviation Park, Unit Two.
2. Area 2: A thirty-five (35) foot wide easement situated within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of Sections 22, 23, 26, and 27, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two.

The initial twenty-year term (20) term begins on June 20, 2023 ("Effective Date") and will end June 19, 2043. There are no options to extend this lease beyond the initial twenty-year term. This easement agreement is comprised of two areas. The first area consists of 271,014 SF and the second area consists of 365,111 SF for a total of 636,125 SF. The price per square foot will be \$0.2608 for a total of \$165,901.40 paid annually.

**BACKGROUND / DISCUSSION:**

The Department of Aviation is requesting approval of this easement agreement to allow SFPP, L.P. to continue to utilize their easement located on Airport property. Within the easement, there are three underground pipelines that transport refined petroleum-based products to production facilities throughout the country.

**PRIOR COUNCIL ACTION:**

**January 09, 2007** – Approval of a 15-year Lease Agreement including two Temporary Construction Easements (TCEs) between the City of El Paso ("Grantor") and SFPP, L.P. ("Grantee").

**November 13, 2007** – Approval to place an above ground cathodic protection system in accordance with Section 1.04 of the Easement Agreement of January 9, 2007.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue-generating item.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

Revised 04/09/2021

**PRIMARY DEPARTMENT:** Aviation  
**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** \_\_\_\_\_

  
**Samuel Rodriguez, P.E., Director of Aviation**

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager, or designee, be authorized to sign an Easement Agreement between the City of El Paso (“Grantor”) and SFPP, L.P. (“Grantee”) for a term of twenty years. Said easement, which will be used by Grantee to transport liquid petroleum products, shall consist of two areas located within the City of El Paso, El Paso County, Texas, as set forth below:

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2. Area 2: A thirty-five (35) foot wide easement situated within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of Sections 22, 23, 26, and 27, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two.

**APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.**

CITY OF EL PASO

ATTEST:

\_\_\_\_\_  
Oscar Leaser  
Mayor

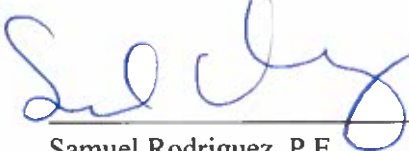
\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

APPROVED AS TO CONTENT:



\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

**EASEMENT AGREEMENT**

**El Paso International Airport  
City of El Paso, Texas  
Grantor**

**SFPP, L.P.  
Grantee**

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**Effective Date**

**EASEMENT AGREEMENT  
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## EASEMENT AGREEMENT

This EASEMENT AGREEMENT (the “Agreement”) is made and entered into by and between the **CITY OF EL PASO, TEXAS** (“Grantor”) and SFPP, L.P. (“Grantee”). Grantor and Grantee are referred to herein collectively as the “Parties” or individually as a “Party”.

### WITNESSETH:

**WHEREAS**, the Grantor owns and operates the El Paso International Airport (the “Airport”, which is inclusive of such other Grantor owned property that is managed by the El Paso International Airport) located in the County of El Paso, State of Texas, said Airport being managed by the Director of Aviation (the “Director”); and

**WHEREAS**, the Grantee currently has three (3) active liquid petroleum products pipelines located within a portion of the Airport, for which Grantee’s right to operate and maintain these pipelines has expired and the Parties now desire to reestablish and update those rights; and

**NOW, THEREFORE**, for and in consideration of the foregoing recitals and of the mutual promises and covenants of the Parties contained herein, and intending to be legally bound hereby, the Parties hereto agree as follows:

### ARTICLE I – PREMISES, PRIVILEGES AND RESTRICTIONS

#### 1.01 Easement.

- A. Grant of Easement. Grantor hereby grants to Grantee a non-exclusive easement in, on, under and through the premises (the “Easement”) identified as Area 1 and Area 2 within Paragraph 1.01(B) below and legally described in Exhibit A and shown on Exhibit B, which are attached hereto and incorporated herein for all purposes (the “Premises”), except for those rights retained for the benefit of Grantor. The rights, privileges, and uses granted are limited strictly to those rights, privileges, and uses granted by this Easement.
- B. Description of Easement. For the purposes of this Agreement, the Parties agree that the Easement shall consist of two (2) distinct areas, which are located within the City of El Paso, El Paso County, Texas, as more fully described in **Exhibit A** and shown on **Exhibit B**, and as set forth below:
1. Area 1: A thirty-five (35) foot wide easement situated within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of Sections 27, 33, 34, and 40, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 1, Butterfield Trail Aviation Park, Unit Two.
  2. Area 2: A thirty-five (35) foot wide easement situated within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of Sections

22, 23, 26, and 27, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two.

C. Specific Privileges, Uses and Rights.

1. Operation. It is Grantee's intent to operate and maintain the three (3) existing pipelines (the "Existing Pipelines") within the Premises during the Term of this Agreement. Grantee shall have certain rights of ingress to and egress from the Premises over those roadways, drives and walkways designated from time to time by the Director for operation and maintenance purposes. Grantee's rights of ingress and egress are limited by this Agreement and those applicable rules and regulations of the Airport.

2. Use. The Existing Pipelines shall be used only for the transportation of liquid petroleum products.

3. Maintenance. Upon execution of this Agreement by Grantor, Grantee shall have the right and privilege to conduct Maintenance Activities on the Existing Pipelines within the Premises. All Maintenance Activities by Grantee shall require prior notification, with regard to scheduling, security clearance, and related processes required by the Airport.

4. "Maintenance Activities". For purposes of this Agreement, "Maintenance Activities" shall mean activities undertaken to maintain, operate, repair, replace, relocate, reconstruct, and remove the Existing Pipelines, attachments and other property, equipment, conduits and appurtenances located within the Premises.

1.02 Restrictions on Privileges, Uses and Rights. Grantee covenants and agrees that in no event will it enter into any business activity on the Airport other than the Operation of, and Maintenance Activities on, the Existing Pipelines and such other activities explicitly permitted herein. Grantee shall not engage in operations during the Term of this Agreement for any purpose other than as set forth herein, except with the prior written consent of Grantor, nor for any purpose in violation of any present or future laws, ordinances, rules or regulations at any time applicable thereto of any federal, state or local or other governmental bodies or agencies, departments or offices, including without limitation Grantor.

1.03 Restrictions on Surface Installations. Grantee agrees that no drips or valve are in place on the Existing Pipeline, nor shall any drips or valves be placed on the Pipelines located on the Premises in the future. Further, and unless explicitly permitted in writing by Grantor, Grantee shall have no right to place any additional surface installation on any part of the Premises.

1.04 Signs. The placement, size and location of Grantee's signage or other notice of pipelines or other improvements in or upon the Easement shall require the approval of the Director, subject to all laws and other applicable U.S. Department of Transportation rules and regulations.



1.05 Authorization to Enter Airport Restricted Areas. Grantee understands that the Easement is located within a restricted area of the Airport and that Grantee and its agents, employees, servants or independent contractors must be authorized by Grantor to enter restricted areas of the Airport prior to their entry thereon. The authorization to enter restricted areas of the Airport is not granted by this Agreement, but shall be granted to Grantee upon Grantee's completion of security clearance and identification badging requirements necessary of all persons entering restricted areas of the Airport. As Grantee is required to comply with all applicable rules and regulations, any violation of this provision or those security rules and regulations applicable to the restricted areas of the Airport, shall be considered to be a material violation of this Agreement and grounds for termination.

1.06 Placement and Movement of the Pipelines. Grantee agrees to bury New Pipelines to a depth that is sufficient to avoid any interference with any present or future Airport operations of Grantor, including existing drainage patterns. Grantee further agrees to pay any and all damages to Grantor that may arise by the construction, maintenance, and operation of the pipelines authorized pursuant to this Easement. Grantor reserves the right to full use and enjoyment of the Airport property, including, but not limited to, the ability to lay out, construct and maintain runways, taxiways and other structures, improvements and appurtenances throughout Airport property ("Airport Improvements"). If future development of the Airport is extended to and in the vicinity of the Premises, the Grantee, its successors and assigns hereby agree that after receipt of written notification by Grantor, Grantee will either completely relocate all Pipelines and other improvements to the nearest alternative location provided by Grantor on Grantor's property, and/or lower the Pipelines to an appropriate depth under the Airport Improvements, and/or to properly encase those Pipelines or improvements where they pass under the Airport Improvements, including but not limited to runways, taxiways or roadways in a manner sufficient to withstand the weight and pressure of aircraft and airport related equipment using those Airport Improvements. Grantee shall also be responsible for restoring, to the extent practicable, the Premises to its original condition upon the relocation, lowering and/or encasing of such Pipelines and improvements. The relocation, lowering and/or encasing of the Pipelines and improvements will be accomplished at the sole cost of Grantee, its successors and assigns.

1.07 Restoration of the Premises. Upon completion of any construction, installation, removal, relocation, lowering or encasing of the Pipelines, Grantee shall remove all unused equipment, materials and pipe remaining in, on or under the surface of the Premises during construction phase and other property placed on the Premises by or for Grantee, as well as fill and level all ditches, ruts, depressions or other disturbances to the topography caused by the construction or removal operations, remove all debris and stakes or posts and generally restore the Premises to its original condition, as soon as reasonably possible. Such restoration activities shall include the replacement of any grass, landscaping, drainage or irrigation systems, and other damage caused to the Premises. Should the Grantee fail to comply with these requirements, Grantor shall provide Grantee a written notice of its failure to comply with the requirements of this section and a thirty (30) calendar day opportunity to cure and restore the Premises, and if Grantee fails to do so, Grantor may assume these responsibilities at Grantee's risk and expense, and Grantee agrees to reimburse Grantor for the cost of such activities plus ten percent (10%) for administrative and overhead costs.

1.08 Inspection of the Easement. Grantee's inspections of any developed portions of the Premises shall only be accomplished by foot or air. Inspection within the Airport Operation Area (AOA) can be performed under Airport escort. However, Grantee may inspect developed areas which may be accessed through dedicated streets; provided that such inspection by vehicle is limited to such dedicated streets. It is the intent of this section to maintain those developed areas of the Premises in the condition to which they have been developed. Such developed areas shall include, by way of example and not limitation, any Airport golf courses or parks. The use of unmanned aircraft systems ("UAS"), or "drones," for inspection purposes shall be regulated according to the purposes for which the UAS is operated in accordance with applicable federal and state regulations.

## ARTICLE II – OBLIGATIONS OF GRANTEE

2.01 General. This Easement, in every sense, shall be without cost to Grantor. It shall be the sole responsibility of Grantee to keep, maintain, repair and operate Pipelines and related improvements and facilities existing or placed in, on or under the Premises or otherwise owned by Grantee at Grantee's sole cost and expense.

2.02 Condition of Premises. Grantee accepts the Premises in "AS IS" condition. Grantor has no responsibility or obligation to cause any work to be performed or to provide utilities or other services to the Premises.

2.03 Compliance with Laws. Grantee, at Grantee's expense, expressly agrees that it will locate, install, construct, operate, maintain, use and remove the Pipelines and related improvements and facilities located on the Premises as may be necessary from time to time in a safe and secure manner and in accordance with the requirements of this Agreement and in accordance with all present and future laws.

Grantee, at Grantee's expense, specifically agrees to make or cause to be made all such alterations to the Premises, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act, as amended, and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to the use or occupation of the Premises and any improvements thereon by disabled persons ("Disabilities Laws").

Grantee shall, at Grantee's expense, comply with all present and hereinafter enacted Environmental Laws and any amendments thereto, affecting Grantee's use, operation, occupation or alteration of the Premises including any improvements thereon.

### A. Definitions.

1. "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq.*;

the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. Section 300h *et seq.*; the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including, but not limited to, the ambient air, ground water, surface water and land use, including sub-strata land.

2. "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Laws and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
3. "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment in quantities of such that are regulated under any Environmental Laws.

B. Compliance.

1. **Grantee shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises in violation of any Environmental Law, or transported to and from the Premises, by Grantee, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law. Without limiting the generality of any other indemnity clauses contained in this Agreement, Grantee shall indemnify, defend and hold harmless Grantor, its successors and assigns, its officers, directors, employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Grantee's obligations and liabilities under this**

**paragraph shall continue so long as Grantor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon. This indemnification of Grantor by Grantee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material located on the Premises or any improvements thereon, or present in the soil or groundwater on, under or about the Premises. The Parties agree that Grantor's right to enforce Grantee's promise to indemnify is not an adequate remedy at law for Grantee's violation of any provision of this Section. Grantor shall also have all other rights and remedies provided by law or otherwise provided in this Agreement.**

2. Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or any improvements thereon results in any contamination of the Premises or any improvements thereon or any surrounding property, Grantee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon or any surrounding property to the condition existing prior to the introduction of any such hazardous material to the Premises or any improvements thereon; provided that Grantor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or any improvements thereon.
3. Grantee shall, at Grantee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon, then Grantee shall, at Grantee's own cost and expense, prepare and submit the required plans and financial assurances and carry out the approved plans. At no cost or expense to Grantor, Grantee shall promptly provide all information requested by Grantor to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties, which is related to environmental contamination.
4. Grantee shall immediately notify Grantor of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises, and (b) any change in Grantee's operation on the Premises that will change or has the potential

to change Grantee's or Grantor's obligations or liabilities under the Environmental Laws.

5. Grantee shall insert the provisions of this section in any contract by which it grants a right or privilege to any person, firm or corporation under this Easement.

Notwithstanding any other provision in this Agreement to the contrary, Grantor shall have the right of "self-help" or similar remedy in order to minimize any damages, expenses, penalties and related fees or costs, arising from or related to a violation of any law on, under or about the Premises.

Grantee's failure or the failure of its agents, employees, contractors, invitees, sublessees or the failure of a third party to comply with any of the requirements and obligations of this Section shall constitute a material default of this Agreement and shall permit Grantor to pursue the remedies as set forth herein, in addition to all other rights and remedies provided by law or otherwise provided in the Agreement, to which Grantor may resort cumulatively, or in the alternative.

2.04 Maintenance and Repair. Grantee shall, at its sole cost and expense, maintain and repair the Premises, the Pipelines and Grantee's improvements and appurtenances thereto, in good condition consistent with good business practice. Grantee shall repair all damages to Grantor's property and equipment located on and within the Premises, including any landscaping, irrigation or drainage installations, paving, curbs, islands, buildings or other improvements. Grantor's property and equipment shall include the property and equipment of Grantor, Grantor's lessees, sublessees and those other parties with authority to use Grantor's property within the Premises.

Grantor shall be the sole judge of the quality of Grantee's repairs to the referenced property and equipment and, upon written notice by Grantor to Grantee, Grantee shall be required to perform whatever repair Grantor deems necessary. If said repairs are not undertaken by Grantee within ten (10) days after receipt of written notice, Grantor shall have the right to enter the Premises and perform the necessary repair work, the cost of which, plus ten percent (10%) for administrative and overhead costs, shall be borne by Grantee.

Grantee agrees not to paint, erect, or in any manner install any advertising or other signage on the exterior of any improvements or anywhere on the Premises, except as may be authorized in advance by the Director in writing.

2.05 Utilities. Grantee shall assume and pay for all costs or charges for utility services furnished to Grantee during the Term hereof.

2.06 Trash, Garbage and other Refuse. Grantee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Premises and the Airport, of all trash, garbage and other refuse caused as a result of Grantee's activities in a timely manner so as no accumulation of such trash, garbage, or other refuse shall occur.

2.07 Security. Grantee is familiar with the restrictions imposed by 49 C.F.R. 1540.105 and agrees to assume responsibility for compliance with said regulations as they relate to security procedures on the Premises.

2.08 Penalties Assessed by Federal Agencies. Grantee understands and agrees that in the event any federal agency assesses a civil penalty against Grantor or the Airport for any security violation as a result of or related to any act or failure to act on the part of Grantee, its agents, employees or independent contractors, Grantee shall reimburse the Grantor in the amount of the civil penalty assessed. Failure to reimburse the Grantor within thirty (30) calendar days of receipt of written notice shall constitute an event of default hereunder.

2.09 Taxes. The Grantee shall pay all taxes and governmental charges of any kind whatsoever that may be assessed against Grantee or Grantor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Grantee's use and/or occupancy of the Premises, or any improvements thereon, during the Term of this Agreement including any extensions granted thereto. Grantor is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from Grantee's use of the property or possession of the Premises.

The Grantee in good faith may contest any tax or governmental charge, provided that the Grantee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to the Grantor, such action will not adversely affect any right or interest of the Grantor.

2.10 Governmental Filings. In the event that Grantee submits any filing or response pertaining to its property, operations or presence at the Airport with any governmental entity (other than the Internal Revenue Service), by way of example and not in limitation the Federal Aviation Administration (FAA), the Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ) or any successor agencies, Grantee shall provide duplicate copies to Grantor of such filing(s) or response(s) made at the time same are made.

### ARTICLE III – TERM OF EASEMENT

3.01 Term. The term of this Easement shall be for the period of twenty (20) years commencing on the date this Agreement is executed by the City (the "Effective Date") and ending on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Term").

### ARTICLE IV – EASEMENT FEES

4.01 Easement Fees.

- A. Computation of Easement Fees. During the Term of this Agreement, Grantee agrees to pay Grantor the fees enumerated below, for the rights and privileges herein granted. As set forth in Paragraph 1.01(B), the Premises consist of two (2) distinct areas, as more fully described in **Exhibit A** and shown on **Exhibit B**. The fees applicable to Area 1 are nineteen cents (\$0.1929) per square foot per annum. The fees applicable to Area 2 are thirty-one cents (\$0.3120) per square foot per

annum. The Annual Fee to be paid by Grantor for **both Areas** is twenty-six cents (\$0.2608) per square foot, which is based on the average rate per square foot of the two areas as set forth in Table 1. The Easement Annual Fee shall be due annually in advance on or before the anniversary of the Effective Date during the Term of this Agreement and shall be subject to any applicable increases as noted below.

Table 1

	Sq. Ft.	Annual Rate/SF	Annual Fee
Area 1	271,014	\$0.1929	N/A
Area 2	365,111	\$0.3120	N/A
Total	636,125	\$0.2608 (Average)	\$165,901.40

- B. Initial Annual Fee. Upon the execution of this Agreement, Grantee shall pay to Grantor an Annual Fee for the Easement area. For the purpose of computing the Annual Fee for each segment of the Easement areas, Area 1 is comprised of approximately 271,014 square feet of land and Area 2 is comprised of approximately 365,111 square feet of land, as more clearly identified within **Exhibit A** and shown on **Exhibit B**. The initial total Easement Annual Fee for Area 1 and Area 2 shall be \$165,901.40.
- C. Easement Fee Increases. The Easement Annual Fee shall be adjusted every fifth (5th) year anniversary of the Effective Date of this Agreement by the cumulative percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), issued by the Bureau of Labor Statistics of the United States Department of Labor for that preceding five (5) year period; provided, however, that the adjustment of such Easement Annual Fee shall never result in a fee that is less than the immediately preceding applicable Easement Annual Fee. In addition, an appraisal will be conducted every ten (10) years.
- D. Easement Fees for Pipelines Abandoned In-Place. Notwithstanding any provision of this Agreement to the contrary, Grantor hereby grants Grantee the right to abandon, in-place, all or any portion of the Pipelines without the obligation to otherwise remove the abandoned Pipelines or restore the Premises to its original condition without the Pipelines during the Term of this Agreement. However, in the event Grantee abandons any Pipelines during the Term, Grantee shall be responsible for continued payment to Grantor of all applicable fees. If Grantor provides written authorization to Grantee allowing any portion of the abandoned Pipelines to remain during the Term, the fees required herein shall no longer be applicable to the remaining portions identified in such authorization and applicable pre-paid fees shall be credited to Grantor's applicable fees for the following year. Upon the expiration or early termination of this Agreement, Grantee shall be responsible for the complete removal of all Pipelines, including those previously abandoned in-place. In the event Grantor elects to waive this required removal of all or any portion of the Pipelines, Grantor shall provide written notice to Grantee of its election prior to the expiration or early termination of this Agreement. In

such event, Grantee shall not be responsible for the payment of any additional fees associated with any portion of Pipelines permitted by Grantor to remain.

4.02 Grantor's Lost Revenue. Grantee agrees to reimburse the owners and operators of the Airport golf courses or other existing or future developments operated by or through the Airport located over or adjacent to the Easement Premises (the "Developers") for any Pipeline Construction or Maintenance Activities that adversely affect those developments at one hundred ten percent (110%) of the development's lost revenue. Relative to the Airport's future commercial and industrial development, this calculation will be based for the 601 Corridor Industrial Park and the Global Reach Infinity Park, having no previous revenue as follows: losses shall be based on budgeted revenue versus actual revenue generated for the period of any claimed loss of revenue.

4.03 Place of Payment. All payments required herein shall be paid to Grantor at the following address as may be amended from time to time by the Director in writing:

Accounting Division  
El Paso International Airport  
P.O. Box 971278  
El Paso, Texas 79997-1278

4.04 Unpaid Fees and Charges. Any installment of any Annual Easement Fees, Monthly TCE Fees, or other charges or monies accruing under any provisions of this Agreement that are not received by the tenth (10th) day of the month in which payment is due, shall bear interest at the rate equal to the maximum allowed by law from the date when the same was due according to the terms of this Agreement until paid by Grantee.

## ARTICLE V - INSURANCE AND INDEMNIFICATION

5.01 Insurance. Prior to the execution of this Agreement, Grantee shall obtain, provide proof of, and shall maintain for the Term of this Agreement, the types and amounts of insurance coverage listed below, in amounts not less than:

Comprehensive General Liability Insurance, in amounts not less than One Million Dollars (\$1,000,000.00) for bodily injury to one person for each occurrence;

Two Million Dollars (\$2,000,000.00) for bodily injuries to more than one person arising out of each occurrence;

One Million Dollars (\$1,000,000.00) for Property Damage arising out of each occurrence; and

Three Million Dollars (\$3,000,000.00) for Comprehensive Pollution Damage arising out of each occurrence, which insurance shall cover, at a minimum, bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, removal, storage, disposal, and or use of the pollutant, and defense costs,



including costs and expenses incurred in the investigation, defense, or settlement of claims, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

**Comprehensive Pollution Liability and Storage Tank Liability Insurance.** For the duration of this Agreement, Grantee will obtain:

i. Comprehensive Pollution Liability Insurance in amounts not less than One Million Dollars (\$1,000,000.00) for each occurrence, which insurance shall cover, at a minimum, bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, removal, storage, disposal, and or use of the pollutant, and defense costs, including costs and expenses incurred in the investigation, defense, or settlement of claims, all covering the Premises and surrounding the Landlord's property.

ii. Storage Tank Liability Insurance in amounts not less than One Million Dollars (\$10,000,000.00) to cover bodily injury and property damage from pollution conditions emanating from above ground and below ground storage tanks. The Storage Tank Liability Insurance must also provide coverage for corrective action and cleanup as required by applicable federal and state laws and regulations.

5.02 **Authorized Insurance Companies.** All such policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies with an AM Best Rating of A-VII or better. Certificates of insurance shall be delivered to Grantor at least ten (10) days prior to the Effective Date of this Agreement. Each such insurance certificate shall contain:

- A. A statement of the coverage provided by the policy;
- B. A statement certifying the Grantor, its officers, directors, employees and agents to be listed as an additional insureds in the policy;
- C. A statement of the period during which the policy is in effect;
- D. A statement that the annual premium or the advance deposit premium for such policy has been paid in advance; and
- E. An agreement by the insurance company issuing such policy that the policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days prior written notice to Grantor.

5.03 **Indemnification.** WITHOUT LIMITING THE GENERALITY OF ANY OTHER INDEMNITY CONTAINED IN THIS AGREEMENT, GRANTEE AGREES TO INDEMNIFY AND HOLD GRANTOR, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, LIABILITIES AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEYS' FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY, OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF GRANTEE'S ACTIVITIES ON THE PREMISES, ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF GRANTEE OF ANY TERMS OF THIS AGREEMENT OR FROM ANY ACT OR NEGLIGENCE OF GRANTEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF GRANTOR, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST GRANTOR BY REASON OF ANY SUCH CLAIM, GRANTEE, UPON RECEIPT OF WRITTEN NOTICE FROM GRANTOR, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO GRANTOR.

Without limiting the generality of any other indemnity contained in this Agreement, and in addition thereto (and not in satisfaction thereof), Grantee agrees that whenever Grantee shall contract for or receive the benefit of any arrangement under which any third party may indemnify Grantee with regard to any matter the subject of which Grantee has agreed to indemnify Grantor under this Agreement, the indemnification which Grantee shall or may receive from the third party ("third-party indemnification") shall be considered to be for the benefit of Grantor hereunder, as well as for the benefit of Grantee; and Grantor may enforce the third-party indemnification in a court of competent jurisdiction. Grantee agrees to: (a) include Grantor as a third-party beneficiary in all contracts providing for such third-party indemnification, with provision for Grantor to give formal notification to the contracting parties of its acceptance of the benefits as a third party beneficiary; (b) provide Grantor with-copies of each contract under which Grantee shall or may receive third-party indemnification; and, (c) perform such other acts as reasonably requested by Grantor to allow Grantor to avail itself of the third-party indemnification.

## **ARTICLE VI - DESTRUCTION OF IMPROVEMENTS BY FIRE OR OTHER CASUALTY**

6.01 **Obligations of Grantee Upon Destruction of Improvements.** During the Term hereof, except as may be provided within this Article, should the Pipelines or related improvements in, on, or under the Premises be damaged or destroyed, in whole or in part, by fire, explosion, or other casualty, Grantee shall give prompt notice thereof to Grantor, and Grantee, at its own cost and expense, shall either: (i) promptly repair, replace and rebuild the same, as near as practicable to the character of the improvements existing immediately prior to such time; or, (ii) remove the damaged or destroyed improvements and return the Premises as near as practicable to their original condition. Any damage or destruction of the Premises that affects the operation of the Airport functions of the Grantor shall be immediately remedied by Grantee at Grantee's sole expense.

6.02 Insurance Proceeds. Upon receipt by Grantee of the proceeds of any insurance policy or policies, Grantee shall deposit same in an escrow account to be held in trust to pay for the cost of repair or removal. Such proceeds shall be disbursed by Grantee during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair or removal, Grantee shall pay any additional sums required, and if the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be retained by Grantee only after the completion of all work required of Grantee and approval of Grantor.

6.03 Repair by Grantee. In the event Grantee elects to repair the damaged or destroyed improvements, such repairs, replacements or rebuilding shall be made by Grantee as soon as reasonably practicable. Prior to commencing construction of such repairs or replacements, Grantee shall furnish security in conformance with the security requirements as noted herein. Upon settlement with the insurance company or companies and issuance of proceeds of such insurance policy or policies shall have been paid to Grantee, Grantee shall commence such repair, replacements or rebuilding within a reasonable time and shall continue such work with reasonable diligence until completion.

6.04 Removal of Improvements and Restoration of Premises. In the event Grantee elects not to repair, rebuild or replace the improvements, Grantee shall remove all remaining improvements from the Premises, whether damaged or not, and shall restore the Premises to its condition prior to the granting of this Easement. Upon such event, this Agreement and Grantee's obligation to pay applicable Easement Annual Fees and TCE Monthly Fees will terminate. Security, as referenced in section 5.02 herein, is required for all removal activities required herein.

6.05 Immediate Repair. Grantee understands and agrees that Grantor is providing an Easement across property that is within an operating Airport. Grantee further understands and agrees that in granting this Easement, Grantor does not anticipate nor approve of any disruption in Grantor's provision of Airport services. Grantee understands and agrees that none of its activities relative to this Easement shall interfere with Grantor's operation of the Airport, except as may be explicitly granted in advance by Grantor in writing.

## **ARTICLE VII - EXPIRATION, TERMINATION, ASSIGNMENT AND TRANSFER**

7.01 Expiration. This Agreement shall expire at the end of the Term or any extension thereof.

7.02 Termination. This Agreement shall be subject to termination by Grantor in the event Grantee shall:

- A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Grantor has notified Grantee in writing that payment was not received when due;
- B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Grantee's property;
- C. Make any general assignment for the benefit of creditors;

- D. Abandon the Easement, which shall be conclusively presumed following non-use by Grantee for one (1) year and with use not being resumed within thirty (30) days following receipt of written notice of abandonment from Grantor to Grantee;
- E. Default in the performance of any of the covenants and conditions required herein (except required payments) to be kept and performed by Grantee, and such default continues for a period of thirty (30) days after receipt of written notice from Grantor to cure such default, unless during such thirty (30) day period, Grantee shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;
- F. Be adjudged bankrupt in involuntary bankruptcy proceedings; or
- G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Grantee where such receivership is not vacated within sixty (60) days after the appointment of such receiver.

In any of the aforesaid events, which shall be events of default hereunder, Grantor may take immediate possession of the Premises including any and all improvements thereon and remove Grantee's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of Grantor to declare this Agreement canceled upon the default of Grantee for any of the reasons set out shall not operate to bar or destroy the right of Grantor to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by Grantor from Grantee after the expiration or termination of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Grantor's consent is required or operate as a waiver of any right of the Grantor to retake and resume possession of the Premises.

7.03 Repossessing and Re-granting. In the event of default by Grantee hereunder that shall remain uncured after the required notices have been given pursuant to this Agreement, and for such time as provided herein, Grantor may at once thereafter, or at any time subsequent to such breach or default:

- A. Enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Grantee and all improvements, equipment and personal property of Grantee (which property may be removed and stored at the cost of and for the account of Grantee), using such force as may be necessary; and
- B. Either terminate this Agreement by notice or without terminating this Agreement, re-grant the use of the Premises or any part thereof upon such terms and conditions

as shall appear advisable to Grantor. If Grantor shall proceed to re-grant the use of the Premises and the amounts received from such re-granting of the Premises during any month or part thereof be less than the fees due and owing from Grantee during such month or part thereof under the terms of this Agreement, Grantee shall pay such deficiency to Grantor immediately upon calculation thereof, providing Grantor has exercised good faith in the terms and conditions of re-granting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

7.04 Assignment and Transfer. Grantee may transfer or assign this Agreement without the prior written approval of Grantor.

7.05 Rights Upon Expiration or Early Termination. At the expiration or early termination of this Agreement, Grantor shall be entitled to have the Premises returned to Grantor clear of all improvements, including but not limited to the Pipelines and related improvements in, on, or under the Premises, subject to the provisions of Section 4.01 (D) herein. Grantee shall have one hundred and eighty (180) days after expiration in which to remove such improvements; provided that any occupancy by Grantee for the purposes of removal shall be subject to the fees due hereunder and provided further that Grantee shall continue to be bound by the terms and conditions of this Agreement; provided, however, that in no event shall any such continued occupancy be construed as an extension or renewal of the Agreement Term for other than the aforementioned one hundred and eighty (180) days. If Grantee fails to so remove said improvements, Grantor may remove same at Grantee's expense.

## ARTICLE VIII – GENERAL PROVISIONS

8.01 Right of Flight. Grantor reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from or operation on the Airport.

Grantor reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Premises to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways at the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations, as may be amended.

Grantor reserves for itself, its successors and assigns the right to prevent any use of the Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use of the Premises which would constitute an airport hazard.

8.02 Time is of the Essence. Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

8.03 Notices. All notices provided to be given under this Agreement shall be given by certified or registered mail, return receipt requested, postage fully prepaid and addressed to the proper Party; or shall be given via delivery by a recognized delivery provider. The Parties' addresses are as follows:

GRANTOR: Director of Aviation  
El Paso International Airport  
6701 Convair Rd.  
El Paso, Texas 79925-1099

GRANTEE: Kinder Morgan, Inc.  
2 North Nevada Ave.  
Colorado Springs, CO 80944

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any Party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

8.04 Attorneys' Fees. If either Party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs.

8.05 Agreement Made in Texas. This Agreement is made in the State of Texas and the laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts of El Paso County, Texas.

8.06 General Civil Rights Provision.

Grantee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Grantee transfers its obligation to another, the transferee is obligated in the same manner as the transferor.

This provision obligates Grantee for the period during which the property is owned, used or possessed by Grantee and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

8.07 Compliance with FAA Requirements and Nondiscrimination Requirements.

Grantee shall comply with and shall cause its assignees, successors in interest, and any contractor, subcontractor, lower-tier subcontractor, or service provider of Grantee to comply with, to the extent required by applicable law, all provisions of Exhibit C, Federal Aviation Administration Required Provisions, as amended or interpreted by the FAA from time to time, which are incorporated as if fully set forth herein.

8.08 Affirmative Action.

Grantee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the City of El Paso, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Grantee assures that it will require that its covered sub-organizations (sublessees) provide assurances to Grantor, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (sublessees) to the same effect.

8.09 FAA Order 1400.11.

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Grantee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Grantee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in Pertinent List of Nondiscrimination Authorities (Federal Aviation Administration Order 1400.11, Appendix 4) as same may be amended from time to time (the "Acts and Regulations") such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the Agreement, in the event of breach of any of the above nondiscrimination covenants, Grantor will have the right to terminate the Agreement and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said instrument had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. Grantee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Grantee will use the premises in compliance with all other requirements imposed by or pursuant to the listed acts and authorities appearing in the Acts and Regulations.

B. With respect to the Agreement, in the event of breach of any of the above nondiscrimination covenants, Grantor will have the right to terminate the Agreement and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said instrument had never been made or issued. [FAA Order 1400.11, Appendix D]

3.A. In the event of breach of any of the covenants in this section 3, Grantee shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

8.10 Cumulative Rights and Remedies. All rights and remedies of Grantor here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Grantor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

8.11 Interpretation. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

Grantee and Grantor agree that this Agreement has been freely negotiated by both Parties and that in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Agreement or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either Party by virtue of that Party having drafted this Agreement or any portion thereof.

8.12 Agreement Made in Writing. This Agreement contains all of the agreements and conditions made between the Parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the Parties hereto or their respective successors in interest.

8.13 Paragraph Headings. The Table of Contents and the captions of the various articles and sections of this Agreement are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

8.14 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

8.15 Survival of Certain Provisions. All provisions of this Agreement which expressly or impliedly contemplate or require performance after the expiration, cessation or termination of this Agreement, whether by default, the passage of time or otherwise, shall survive such expiration or termination of this Agreement, including specifically but without limitation the indemnification provisions found herein.



8.16 Successors and Assigns. All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon Grantor and Grantee and their successors, assigns, legal representatives, heirs, executors and administrators.

8.17 Taxes and Other Charges. The Grantee shall pay all taxes and governmental charges of any kind whatsoever that may be assessed against Grantee or Grantor, with respect to the Premises or any improvements thereon, during the Term of this Agreement including any extensions or option periods granted thereto.

8.18 Restrictions and Reservations. This Agreement is subject to all other rights-of-way, easements, dedications, restrictions and other encumbrances of record and running with the land. Grantor reserves the right to grant any future rights-of-way, easements, dedications, restrictions, reservations or encumbrances and Grantee consents to and will diligently execute all documentation necessary to complete any future rights-of-way, easements, dedications, restrictions, reservations or encumbrances.

Grantor reserves for itself and any authorized agent to, at any reasonable time and without notice, enter upon and inspect the Premises for all legal purposes, including without limitation the purpose of ascertaining whether the maintenance of such parcel, and the maintenance, construction, or alteration of improvements or structures thereon are in compliance with all Environmental Laws and for the purpose of showing the Premises or other Airport property; Grantor shall not be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

8.19 Subordination of Agreement. All rights granted in this Agreement shall be subordinate to the rights in any deed from the United States to Grantor. This Agreement shall further be subordinate to the provisions of any existing or future agreements between Grantor and the United States relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Should the effect of such agreement with the United States Government be substantially destroy the commercial value of the Agreement, Grantee may cancel this Agreement in its entirety.

8.20 Authorization to Enter Agreement. The Parties represent and warrant to each other that each Party and the persons signing this Agreement have authority to enter into this Agreement and bind their respective organizations thereto. Further, all persons entering into this Agreement represent that their respective entity is a duly authorized and existing entity qualified to do business in Texas. Upon either Party's request, the other Party will provide evidence satisfactory to requesting Party confirming these representations.

8.21 Effective Date. This Agreement shall be effective as of the date approved by the City Council of the City of El Paso.

*(Signatures begin on the following page)*

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the date noted.

**GRANTOR:**

**CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**



\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

**APPROVED AS TO CONTENT:**



\_\_\_\_\_  
Samuel Rodriguez, P.E.  
Director of Aviation

**ACKNOWLEDGMENT**

THE STATE OF TEXAS   )  
  )  
COUNTY OF EL PASO   )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Tomás González, as City Manager of the City of El Paso, Texas (Grantor).

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

*(Signatures continue on the following page)*

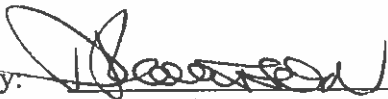
**GRANTEE:**

SFPP, L.P., a Delaware limited partnership

By: Kinder Morgan Operating L.P. "D"  
its general partner

By: Kinder Morgan G.P. Inc.  
its general partner

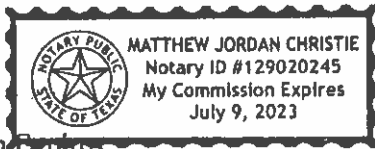
By: Kinder Morgan Management, LLC,  
the delegate of Kinder Morgan G.P., Inc.

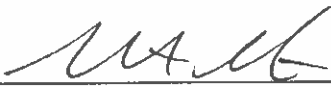
By:   
Name: Dayton Robertson  
Title: Vice President

**ACKNOWLEDGMENT**

STATE OF Texas )  
 )  
COUNTY OF Harris )

This instrument was acknowledged before me on this 31 day of May, 2023,  
by Dayton Robertson as Vice President of SFPP, L.P. (Grantee).



  
Notary Public, State of Texas

My Commission Expires:  
7-9-23

**EXHIBIT "A"**

Area 1

**35' WIDE SFPP, L.P. EASEMENT**

**A tract of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Sections 27, 33, 34 and 40, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 1, Butterfield Trail Aviation Park, Unit Two and being more particularly described as follows, to wit:**

**COMMENCING** for reference at a city monument located at the intersection of Shell Street and Mayflower Avenue; **THENCE, North 36°46'54" East, 458.86 feet,** to the southerly boundary line of the El Paso International Airport for the **POINT OF BEGINNING** of the easement herein described;

**THENCE,** leaving the southerly boundary line of the El Paso International Airport, **North 00°41'58" West, 133.69 feet** to the most westerly corner of the easement herein described;

**THENCE,** **North 33°52'30" East, 90.17 feet** to an angle point of the easement herein described;

**THENCE,** **North 36°31'21" East, 96.77 feet** to an angle point of the easement herein described;

**THENCE,** **North 36°34'24" East, 387.24 feet** to an angle point of the easement herein described;

**THENCE,** **North 36°32'31" East, 3,545.40 feet** to an angle point of the easement herein described;

**THENCE,** **North 36°33'39" East, 2,266.14 feet** to an angle point of the easement herein described;

**THENCE,** **North 35°20'10" East, 790.06 feet** to an angle point of the easement herein described;

**THENCE,** **North 37°02'40" East,** at 5.71 feet intersecting the southwesterly boundary line of Lot 1, Block 1, Butterfield Trail Aviation Park, Unit Two and continuing for a total distance of 446.81 feet to the southwesterly right-of-way line of Global Reach Drive for the most northerly corner of the easement herein described;

**THENCE**, along the southwesterly right-of-way line of Global Reach Drive, **South 44°31'32" East, 35.38 feet** to the northwesterly line of a 50 feet wide Chevron Pipeline right-of-way for the most easterly corner of the easement herein described;

**THENCE**, leaving the southwesterly right-of-way line of Global Reach Drive and following the northwesterly line of the 50 feet wide Chevron Pipeline right-of-way, **South 37°02'40" West, 441.10 feet** to the most southerly corner of Lot 1, Block 1, Butterfield Trail Aviation Park, Unit Two for an angle point of the easement herein described;

**THENCE**, leaving the northwesterly line of the 50 feet wide Chevron Pipeline right-of-way and the southwesterly line of said Lot 1, **South 35°20'10" West, 789.92 feet** to an angle point of the easement herein described;

**THENCE**, **South 36°33'39" West, 2,266.51 feet** to an angle point of the easement herein described;

**THENCE**, **South 36°32'31" West, 3,545.41 feet** to an angle point of the easement herein described;

**THENCE**, **South 36°34'24" West, 387.23 feet** to an angle point of the easement herein described;

**THENCE**, **South 36°31'21" West, 95.94 feet** to an angle point of the easement herein described;

**THENCE**, **South 33°52'30" West, 78.47 feet** to an angle point of the easement herein described;

**THENCE**, **South 00°41'58" East, 125.66 feet** to the southerly line of the El Paso International Airport;

**THENCE**, following the southerly line of the El Paso International Airport, **North 86°01'54" West, 35.12 feet** to the **POINT OF BEGINNING**;

Said easement containing **6.2216 acres (271,014.0 square feet)**, more or less and being subject to easements, restrictions and covenants of record.

Bearings are based on the U.T.M. (Universal Transverse Mercator System) Zone 13, NAD 83, for the State of Texas. Distances were scaled up to surface.

Area 2

**35' WIDE SFPP, L.P. EASEMENT**

**A tract of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Sections 22, 23, 26 and 27, Block 80, Township 2, Texas and Pacific Railway Company Surveys and a portion of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two and being more particularly described as follows, to wit:**

**BEGINNING** at the intersection of the northeasterly right-of-way line of Global Reach Drive and the northwesterly line of a 50 feet wide Chevron Pipeline right-of-way, for the **POINT OF BEGINNING** of the easement herein described, identical to the southeasterly corner of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two, whence a city monument located at the Global Reach monument line point of curvature bears, South 44°00'30" East, 4985.22 feet;

**THENCE**, leaving the northwesterly line of a 50 feet Chevron Pipeline right-of-way and following the northeasterly right-of-way line of Global Reach Drive, North 44°31'32" West, 35.38 feet

**THENCE**, leaving the northwesterly right-of-way line of Global Reach Drive, North 37°02'40" East, 945.39 feet, to an angle point of the easement herein described;

**THENCE**, North 38°06'33" East, 4.85 feet to the northeasterly line of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two and continuing for a total distance of 137.76 feet to an angle point of the easement herein described;

**THENCE**, North 36°37'36" East, 157.43 feet to an angle point of the easement herein described;

**THENCE**, North 36°15'31" East, 237.67 feet to an angle point of the easement herein described;

**THENCE**, North 36°40'03" East, 665.41 feet to an angle point of the easement herein described;

**THENCE**, North 36°31'45" East, 1465.25 feet to an angle point of the easement herein described;

**THENCE**, North 36°32'49" East, 1683.24 feet to an angle point of the easement herein described;

**THENCE**, North 33°51'52" East, 71.63 feet to an angle point of the easement herein described;

**THENCE, North 03°16'34" East, 61.79 feet to an angle point of the easement herein described;**

**THENCE, North 00°06'25" West, 768.96 feet to an angle point of the easement herein described;**

**THENCE, North 00°17'51" West, 1359.94 feet to an angle point of the easement herein described;**

**THENCE, North 01°23'54" West, 80.12 feet to an angle point of the easement herein described;**

**THENCE, North 00°14'05" West, 835.21 feet to an angle point of the easement herein described;**

**THENCE, North 00°21'50" West, 1092.45 feet to an angle point of the easement herein described;**

**THENCE, North 00°17'19" West, 641.98 to the proposed south right-of-way line, Sta. 455+92.69, 113.79 feet Right, Inner Loop Spur, CSJ No. 0924-06-258, and continuing for a total distance of 855.26 feet to the north boundary line of El Paso International Airport for the northwesterly corner of the easement herein described;**

**THENCE, following the north boundary line of El Paso International Airport, North 89°41'34" East, 35.00 feet to the northeasterly corner of the easement herein described, whence an aluminum cap stamped "SAM" found along the proposed south right-of-way line, Sta. 478+27.11, 100.00 feet Right, Inner Loop Spur, CSJ No. 0924-06-258, bears South 84°35'20" East, 2,009.35 feet;**

**THENCE, leaving the north boundary line of El Paso International Airport, South 00°17'19" East, 212.72 feet to the proposed south-right-of-way line, Sta. 456+27.69, 113.22 feet Right, Inner Loop Spur, CSJ No. 0924-06-258, and continuing for a total distance of 855.25 feet to an angle point of the easement herein described;**

**THENCE, South 00°21'50" East, 1092.46 feet to an angle point of the easement herein described;**

**THENCE, South 00°14'05" East, 834.89 feet to an angle point of the easement herein described;**

**THENCE, South 01°23'54" East, 80.10 feet to an angle point of the easement herein described;**

**THENCE, South 00°17'51" East, 1360.33 feet to an angle point of the easement herein described;**

**THENCE, South 00°06'25" East, 770.05 feet to an angle point of the easement herein described;**

**THENCE, South 03°16'34" West, 72.39 feet to an angle point of the easement herein described;**

**THENCE, South 33°51'52" West, 82.02 feet to an angle point of the easement herein described;**

**THENCE, South 36°32'49" West, 1684.05 feet to an angle point of the easement herein described;**

**THENCE, South 36°31'45" West, 1465.28 feet to an angle point of the easement herein described;**

**THENCE, South 36°40'03" West, 665.32 feet to an angle point of the easement herein described;**

**THENCE, South 36°15'31" West, 237.66 feet to an angle point of the easement herein described;**

**THENCE, South 36°37'36" West, 158.00 feet to an angle point of the easement herein described;**

**THENCE, South 38°06'33" West, 137.89 feet to intersection of the northeasterly boundary of Lot 1, Block 2, Butterfield Trail Aviation Park, Unit Two and the northwesterly line of a 50 feet wide Chevron Pipeline right-of-way, for an angle point of the easement herein described;**

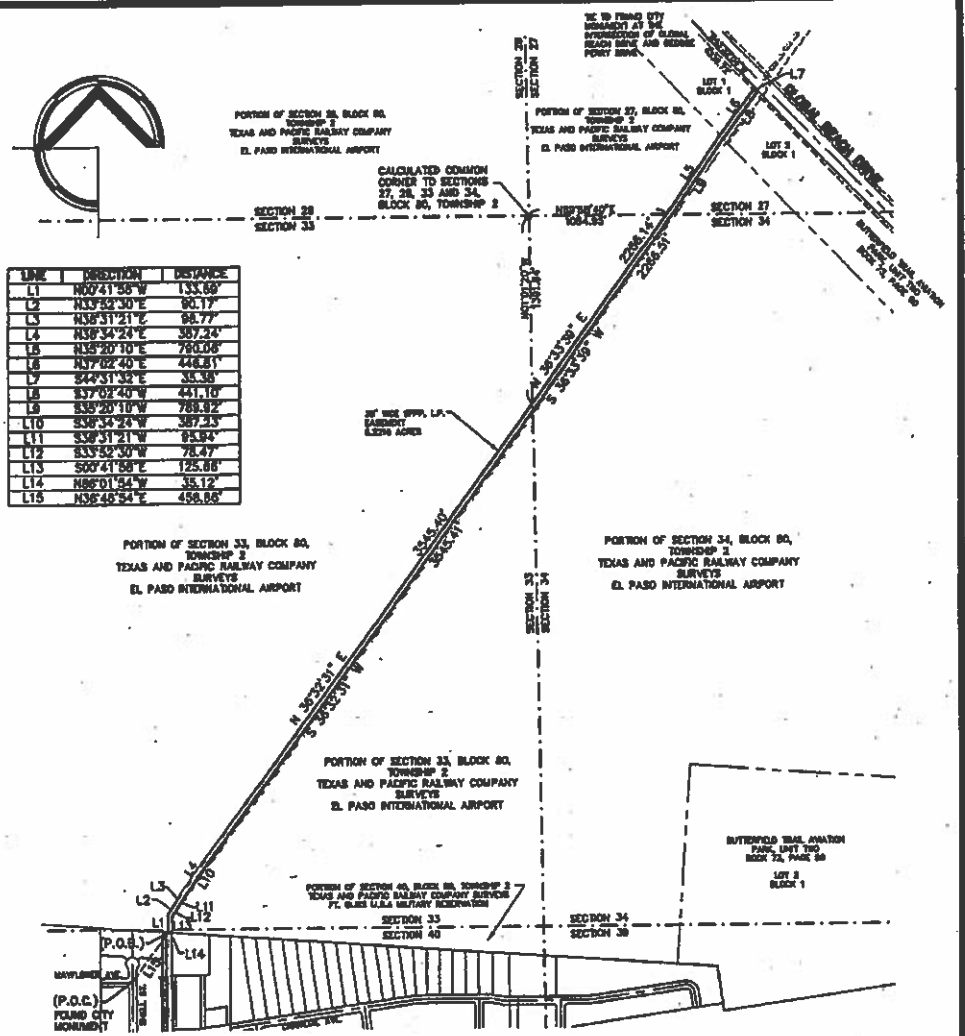
**THENCE, leaving the boundary line of said Lot 1, Block 2 and following the northwesterly line of the 50 feet wide Chevron Pipeline right-of-way, South 37°02'40" West, 950.26 feet to the POINT OF BEGINNING;**

Said easement containing **8.3818 acres (365,110.8 square feet)**, more or less and being subject to easements, restrictions and covenants of record.

Bearings are based on the U.T.M. (Universal Transverse Mercator System) Zone 13, NAD 83, for the State of Texas. Distances were scaled up to surface.

Descriptions prepared by:  
Isaac Camacho, TX RPLS No. 5337  
Brock & Bustillos Inc.  
417 Executive Center Blvd.  
El Paso, TX 79902  
915-542-4900





LINE	BEARING	DISTANCE
L1	N07°41'58" W	133.69
L2	N13°02'30" E	90.17
L3	N36°31'21" E	98.77
L4	N36°34'24" E	367.24
L5	N35°20'10" E	760.08
L6	N37°02'40" E	448.81
L7	S44°31'32" E	35.38
L8	S37°02'40" W	441.10
L9	S35°20'10" W	768.92
L10	S36°34'24" W	367.23
L11	S36°31'21" W	85.84
L12	S33°52'30" W	78.27
L13	S00°21'58" E	125.88
L14	N86°01'54" W	35.12
L15	N36°45'54" E	456.66

- NOTES:**
1. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS MAY EXIST WHERE NONE ARE SHOWN.
  2. NO CORNERS WERE SET FOR THE 35' WIDE SFPP, L.P. EASEMENT.
  3. BEARINGS ARE BASED ON U.T.M. (UNIVERSAL TRANSVERSE MERCATOR SYSTEM) ZONE 13, NAD 83, FOR THE STATE OF TEXAS. DISTANCES SHOWN WERE SCALED UP TO SURFACE.

- REFERENCE DOCUMENTS:**
1. PLAT OF A SURVEY OF SECTIONS 2, 4, 6, 8, 10, 14, 26, 18, 22, 20, BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, PREPARED BY S.A. CALDWELL, PROVIDED BY THE TEXAS GENERAL LAND OFFICE HOLDINGS, AUSTIN, TEXAS.
  2. PLAT OF A RESURVEY OF BLOCKS 76, 77, 78, TOWNSHIP 3, PARTS OF BLOCK 75, 76, 77, TOWNSHIP 5, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, PREPARED BY R.W. BAKER, DATED JULY 1 THRU DECEMBER 15, 1973, PROVIDED BY THE TEXAS GENERAL LAND OFFICE HOLDINGS, AUSTIN, TEXAS.
  3. PLAT OF SURVEY OF BLOCKS 80 AND 81, TOWNSHIPS 1 AND 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, PREPARED BY JACOB KUECHLER, DATED JANUARY, 1908, PROVIDED BY THE TEXAS GENERAL LAND OFFICE HOLDINGS, AUSTIN, TEXAS.
  4. BUTTERFIELD TRAIL AVIATION PARK, UNIT TWO, RECORDED IN BOOK 78, PAGES 57 AND 67A, EL PASO COUNTY PLAT RECORDS.

EXHIBIT B-1

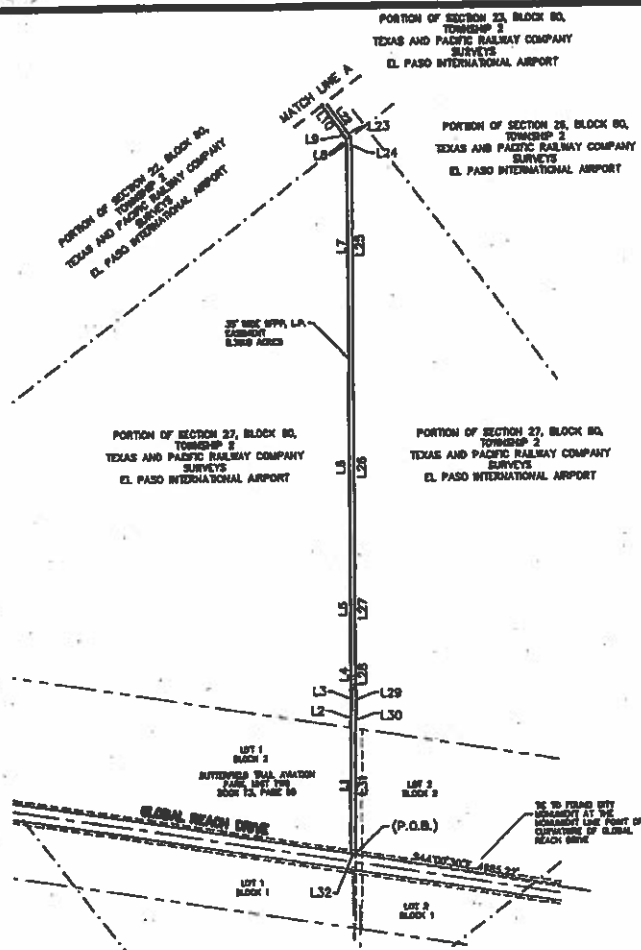
**35' SFPP, L.P. EASEMENT**

DRAWN BY: A.A. CHECKED BY: I.C. DATE: 09/29/06 SCALE: N.T.S.  
 A PORTION OF SECTIONS 27, 33, 34 AND 40, BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, AND A PORTION OF LOT 1, BLOCK 1, BUTTERFIELD TRAIL AVIATION PARK, UNIT TWO, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

**B BROCK & BUSTILLOS INC.**  
 CONSULTING CIVIL ENGINEERS  
 LAND SURVEYORS

FILE NO: S-6645-01

417 EXECUTIVE CENTER-EL PASO, TX 79902-PH (815) 642-4800  
 FAX (815) 642-2867-WWW.BROCKBUSTILLOS.COM




- NOTES:**
1. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS MAY EXIST WHERE NONE ARE SHOWN.
  2. NO CORNERS WERE SET FOR THE 35' WIDE SFPP, L.P. EASEMENT.
  3. BEARINGS ARE BASED ON U.T.M. (UNIVERSAL TRANSVERSE MERCATOR SYSTEM) ZONE 13, MAD 83, FOR THE STATE OF TEXAS. DISTANCES SHOWN WERE SCALED UP TO SURFACE.

LINE	DIRECTION	DISTANCE
L1	N37°09'40"E	948.30
L2	N38°08'33"E	137.78
L3	N38°37'38"E	157.43
L4	N38°18'31"E	237.87
L5	N38°40'03"E	685.41
L6	N38°31'48"E	1485.25
L7	N38°32'49"E	1883.24
L8	N35°51'50"E	71.63
L9	N05°16'34"E	61.79
L10	N00°08'23"W	768.98
L11	N00°17'51"W	1359.94
L12	N01°23'52"W	83.12
L13	N00°19'03"W	835.21
L14	N00°21'58"W	1892.49
L15	N00°17'18"W	855.28
L16	N89°21'34"E	35.00
L17	S00°17'19"E	855.25
L18	S00°21'50"E	1892.46
L19	S00°14'05"E	834.69
L20	S01°23'54"E	80.10
L21	S00°17'51"E	1360.35
L22	S00°08'25"E	770.05
L23	S05°18'54"W	72.30
L24	S38°18'52"W	83.02
L25	S38°32'48"W	1584.08
L26	S38°31'48"W	1485.28
L27	S38°40'03"W	685.42
L28	S38°18'31"W	237.88
L29	S38°37'38"W	157.44
L30	S38°08'33"W	137.79
L31	S37°09'40"W	950.28
L32	N24°11'32"W	35.30

REV:10-27-06  
 REV:10-20-08  
 SHEET 1 OF 2

35' SFPP, L.P. EASEMENT

DRAWN BY: A.A.    CHECKED BY: I.C.    DATE: 09/29/08    SCALE: N.T.S.  
 A PORTION OF SECTION 22, 23, 28 AND 27, BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, AND A PORTION OF LOT 1, BLOCK 2, BUTTERFIELD TRAIL AVIATION PARK, UNIT TWO, CITY OF EL PASO, EL PASO COUNTY, TEXAS.



**BROCK & BUSTILLOS INC.**  
 CONSULTING CIVIL ENGINEERS  
 LAND SURVEYORS

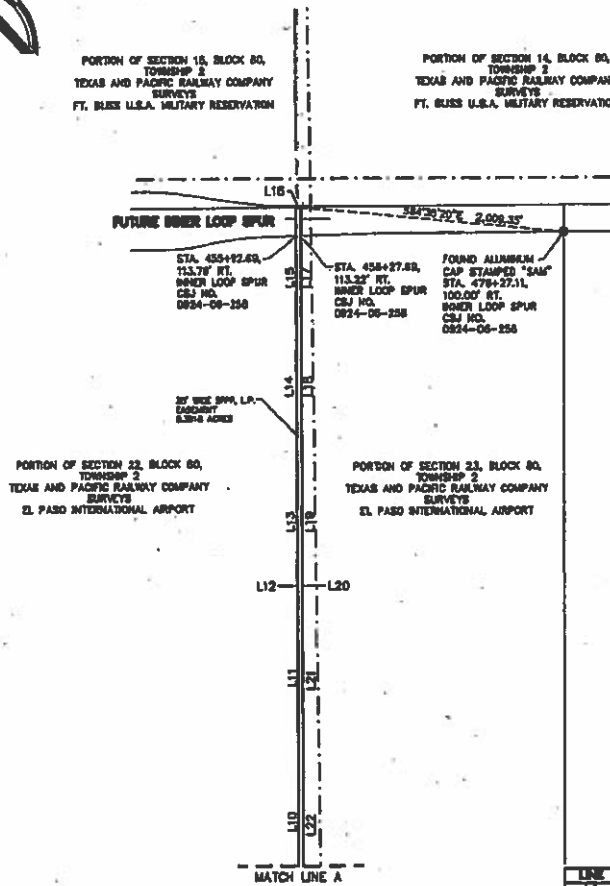
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 FAX (915) 542-2867-WWW.BROCKBUSTILLOS.COM

FILE NO: S-6645-01



PORTION OF SECTION 15, BLOCK 80,  
TOWNSHIP 2  
TEXAS AND PACIFIC RAILWAY COMPANY  
SURVEYS  
FT. BISS U.S.A. MILITARY RESERVATION

PORTION OF SECTION 14, BLOCK 80,  
TOWNSHIP 2  
TEXAS AND PACIFIC RAILWAY COMPANY  
SURVEYS  
FT. BISS U.S.A. MILITARY RESERVATION



**REFERENCE DOCUMENTS:**

1. PLAT OF A SURVEY OF SECTIONS 2, 4, 6, & 10, 14, 26, 18, 22, 20, BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, PREPARED BY S.A. CALDWELL, PROVIDED BY THE TEXAS GENERAL LAND OFFICE HOLDINGS, AUSTIN, TEXAS.
2. PLAT OF A RESURVEY OF BLOCKS 76, 77, 78, TOWNSHIP 3, PARTS OF BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, PREPARED BY R.W. BAKER, DATED JULY 1 THRU DECEMBER 13, 1973, PROVIDED BY THE TEXAS GENERAL LAND OFFICE HOLDINGS, AUSTIN, TEXAS.
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4. BUTTERFIELD TRAIL AVIATION PARK, UNIT TWO, RECORDED IN BOOK 78, PAGES 87 AND 87A, EL PASO COUNTY PLAT RECORDS.

LINE	DIRECTION	DISTANCE
L1	N37°52'40" E	943.30'
L2	N36°08'33" E	137.78'
L3	N36°37'58" E	157.43'
L4	N36°18'51" E	237.87'
L5	N38°40'03" E	664.41'
L6	N38°31'48" E	1485.25'
L7	N38°32'49" E	1683.24'
L8	N33°51'52" E	71.63'
L9	N03°18'54" E	61.70'
L10	N00°06'25" W	788.96'
L11	N00°17'51" W	1358.84'
L12	N01°23'54" W	80.12'
L13	N00°14'03" W	833.21'
L14	N00°21'00" W	1092.48'
L15	N00°17'18" W	845.28'
L16	N89°41'54" E	35.00'
L17	S00°17'19" E	854.25'
L18	S00°21'50" E	1092.48'
L19	S00°14'05" E	834.89'
L20	S01°23'54" E	80.10'
L21	S00°17'51" E	1390.33'
L22	S00°06'25" E	770.05'
L23	S03°18'54" W	72.38'
L24	S33°51'52" W	82.02'
L25	S38°32'49" W	1684.02'
L26	S38°31'48" W	1485.25'
L27	S38°40'03" W	664.33'
L28	S36°18'51" W	237.88'
L29	S36°37'58" W	158.00'
L30	S36°08'33" W	137.80'
L31	S37°02'40" W	650.28'
L32	N44°31'32" W	38.38'

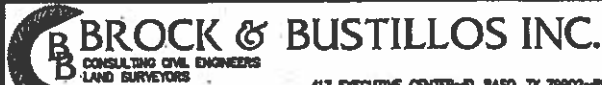
REV:10-27-08  
REV:10-20-08  
SHEET 2 OF 2

EXHIBIT B-3

**35' SFPF, L.P. EASEMENT**

DRAWN BY: A.A. CHECKED BY: I.C. DATE: 09/29/06 SCALE: N.T.S.

A PORTION OF SECTION 22, 23, 28 AND 27, BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, AND A PORTION OF LOT 1, BLOCK 2, BUTTERFIELD TRAIL AVIATION PARK, UNIT TWO, CITY OF EL PASO, EL PASO COUNTY, TEXAS.



FILE NO: S-6645-01

417 EXECUTIVE CENTER-EL PASO, TX 79902-PH (915) 542-4800  
FAX (915) 542-2867-WWW.BROCKBUSTILLOS.COM

Exhibit "C"  
Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Grantee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Grantee transfers its obligation to another, the transferee is obligated in the same manner as Grantee.
2. The above provision obligates Grantee for the period during which the property is owned, used or possessed by Grantee and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Grantee, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Grantor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to Grantor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, Grantor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Grantor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Grantor to enter into any litigation to protect the interests of Grantor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Grantee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27

(Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

**D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.**

1. Grantee for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Grantee will maintain and

operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2. In the event of breach of any of the above Nondiscrimination covenants, Grantor will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Grantee, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Grantee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.
2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Grantor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

F. Subcontracts. Grantee agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Grantee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).