

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

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DEPARTMENT: Financial Services
AGENDA DATE: January 02, 2008
CONTACT PERSON/PHONE: Gonzalo Cedillos, P.E., 541-4074
DISTRICT(S) AFFECTED: 3 & 7



SUBJECT:

That the City Manager be authorized to sign two Rights-of-Entry and Temporary Construction Easements granting permission to SFPP, L.P. to use the following parcels:

1. A portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, as a staging area to install a 12-inch pipeline under TxDot Highway I-10 Right-of-Way and
2. A portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, as a staging area to install a 12-inch pipeline on adjacent private property and on portions of City-owned property leased to Plains Pipeline, L.P.

BACKGROUND / DISCUSSION:

SFPP, L.P. has requested that it be allowed to use the above identified properties on different dates but for the same purpose and the City staff recommends that the dates of the Rights of Entry and Temporary Construction Easements be revised.

PRIOR COUNCIL ACTION:

Yes, other cases of Right-of-Entry/Temporary Construction Easements granted by Council

AMOUNT AND SOURCE OF FUNDING:

\$1,600 Revenue
\$2,900 Revenue

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: Carmen Arciniega Candelaria
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

WHEREAS, on Sept. 25, 2007, the City of El Paso granted a Right of Entry and Temporary Construction Easement to SFPP, L.P. to use a portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas as a staging area to install a 12-inch pipeline under TxDOT Highway I-10 Right-of-Way, and

WHEREAS, on Oct.16, 2007, the City of El Paso granted a Right of Entry and Temporary Construction Easement to SFPP, L.P. to use a portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas as a staging area to install a 12-inch pipeline on adjacent private property and on portions of City-owned property leased to Plains Pipeline, L.P.; and

WHEREAS, SFPP, L.P. has requested that it be allowed to use the identified properties on different dates but for the same purpose; and,

WHEREAS, the City staff recommends that the dates of the Rights of Entry and Temporary Construction Easements be revised,

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

That the City Manager be authorized to sign two Rights-of-Entry and Temporary Construction Easements to SFPP, L.P. to use the following parcels:

1. A portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, as a staging area to install a 12-inch pipeline under TxDOT Highway I-10 Right-of-Way, and
2. A portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, as a staging area to install a 12-inch pipeline on adjacent private property and on portions of City-owned property leased to Plains Pipeline, L.P.

ADOPTED THIS _____ DAY OF _____, 2008.

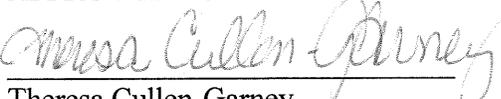
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Theresa Cullen-Garney
Deputy City Attorney

APPROVED AS TO CONTENT:



Gonzalo Cedillos, P.E.
Capital Assets Manager

CITY CLERK DEPT.
07 DEC 20 AM 10:58

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STATE OF TEXAS §
§
COUNTY OF EL PASO §

**RIGHT-OF-ENTRY AND TEMPORARY
CONSTRUCTION EASEMENT**

WHEREAS, on Oct. 16, 2007, the City of El Paso granted a Right of Entry and Temporary Construction Easement to SFPP, L.P. to use a portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, as a staging area to install a 12-inch pipeline on adjacent private property and on portions of City-owned property leased to Plains Pipeline, L.P.; and

WHEREAS, SFPP, L.P. has requested that it be allowed to use the identified property on different dates but for the same purpose; and,

WHEREAS, the City staff recommends that the dates of the Right of Entry be revised,

KNOW ALL MEN BY THESE PRESENTS:

1. That the Oct. 16, 2007 Right of Entry and Temporary Construction easement granted by the City of El Paso, hereinafter referred to as the "City", to SFPP, L.P., a Delaware limited partnership, hereinafter referred to as the "Grantee", a copy of which is attached hereto as Exhibit "A" is revoked, and

2. That the City for and in consideration of the sum of TWO THOUSAND NINE HUNDRED AND 00/100THS DOLLARS (\$2,900.00) and other good and valuable consideration paid, receipt of which is hereby acknowledged, does hereby grant to the Grantee a Right-of-Entry and Temporary Construction Easement in, upon and across the following described real property, (hereinafter the "Property"), situated in El Paso County, Texas, to-wit:

Parcel 1- 63,267 square feet, more or less, being a portion of Tract 4A30F, Block 2, Ascarate Grant, located between Acer Street and Interstate Highway No. 10, El Paso, El Paso County, Texas and being more particularly described in Exhibit "B-1", attached hereto and made a part hereof for all purposes, and

Parcel 2- 81,742.0 square feet, more or less, being a portion of Tract 4A30F, Block 2, Ascarate Grant, located between Daugherty Drive and Acer Street, El Paso, El Paso County, Texas and being more particularly described in Exhibit "B-2", attached hereto and made a part hereof for all purposes,

together with the right of ingress and egress for all purposes incident to said grant, for the purpose of using and occupying such Property for the installation of a 12-inch pipeline on

adjacent private property and on portions of City owned property leased to Plains Pipeline, L.P. and for staging of construction equipment for the pipeline installation, (hereinafter referred to as the "Project"), including but not limited to 1) the right of workmen to occupy the Property, 2) the right to cross such Property with materials, machinery and equipment and to store the same thereon, 3) the right to borrow and deposit fill, spill, spoil and waste material thereon, 4) the right to erect and remove temporary structures on the Property, 5) the right to trim, cut, fill and remove therefrom all tress, underbrush, obstructions and any other vegetation, structures or obstacles within the limits of the Property, and 6) to perform any other work necessary and incident to the Project.

Upon completion of the Project, the surface of the Property will be restored and cleaned to the condition agreed upon by the City and the Grantee to the full extent reasonably practicable.

This grant of authority shall extend to all contracts let by the Grantee in furtherance of the Project and the objectives herein stated.

This grant shall carry with it the right of ingress and egress, to and from the Property at all reasonable times, with the right to use existing roads for the purpose of the Project.

The payment of the consideration for this Right-of Entry and Temporary Construction Easement conveyed herein shall be considered full compensation for same during the identified time period.

The Right-of-Entry and Temporary Construction Easement and rights herein granted shall begin on Jan. 3, 2008 and shall terminate on Mar. 2, 2008. The City's City Manager is authorized to revise the dates of this Right-of Entry and Temporary Construction Easement to extend the term of this Agreement to allow the Grantee time to finish its identified work as long as the Grantee is in full compliance with the terms and conditions of this Agreement. Upon termination of this Right-of-Entry and Temporary Construction Easement and the rights herein granted, the Grantee shall furnish the City with an appropriate recordable instrument releasing the interest of Grantee and its assigns, if any, in the Right-of-Entry and Temporary Construction Easement herein granted.

The Grantee will not have the right to assign all or any part of its rights hereunder to third parties.

The Grantee shall submit for review and approval by the City for issuance of an Excavation Permit, a site plan, excavation/construction plans, and a Storm Water Pollution Prevention Plan.

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INSURANCE AND INDEMNIFICATION PROVISIONS.

The Grantee acknowledges that its request to use the Property is solely for its benefit and not a use, which benefits the City taxpayers as a whole. As a result, the Grantee agrees to provide the following as a condition of its use of the Property:

A. **LIABILITY INSURANCE.** Grantee shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for two (2) or more persons in any one accident, and, in addition, it shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause.

The Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantees, its officers, agents, servants or employees. All policies shall name the City, its officers, agents, servants and employees as additional insureds to the full amount of the policy limits.

No rights pursuant to this Right-of-Entry and Temporary Construction Easement shall be granted by the City until the Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk, the City Attorney's Office, and the City Capital Assets Manager. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of this Right-of-Entry and Temporary Construction Easement shall be grounds for cancellation of this Right-of-Entry and Temporary Construction Easement.

B. **INDEMNITY.** As a condition of the Right-of-Entry and Temporary Construction Easement, the Grantee shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with the Grantee's use of the Property, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City up to the minimum amounts required for the public liability insurance under this Right-of-Entry and Temporary Construction Easement.

The City reserves the right to full use and enjoyment of the Property encumbered by the Right-of-Entry and Temporary Construction Easement, except as otherwise provided herein, and such use shall not hinder, conflict, or interfere with the exercise of the Grantee's

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rights hereunder, and no permanent improvements shall be constructed or maintained on the Property without the Grantee's written consent.

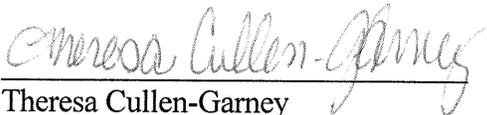
IN WITNESS WHEREOF this instrument is executed on the ____ day of _____, 2008.

CITY:
City of El Paso

Joyce Wilson, City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

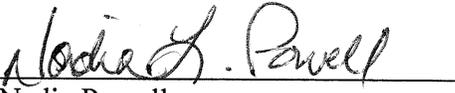


Theresa Cullen-Garney
Deputy City Attorney



Gonzalo Cedillos, P.E.
Capital Assets Manager

APPROVED AS TO CONTENT:



Nadia Powell
Consumer Affairs Officer

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2008,
by **Joyce A. Wilson**, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of _____

My Commission Expires:

(Signatures continued on next page)

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

07 DEC 20 AM 10:58

State of California

County of ORANGE

} ss.

On DECEMBER 14, 2007, before me, MARTHA NIGUIDULA, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared ALLAN CAMPBELL,
Name(s) of Signer(s)

personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: RIGHT-OF-ENTRY AND TEMPORARY CONSTRUCTION EASEMENT

Document Date: DECEMBER 14, 2007 Number of Pages: 5

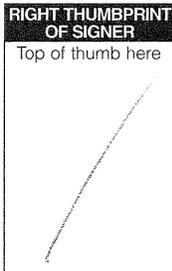
Signer(s) Other Than Named Above: NA

Capacity(ies) Claimed by Signer(s)

Signer's Name: ALLAN CAMPBELL

- Individual
- Corporate Officer — Title(s): DIRECTOR-PROJECT PERMITTING
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

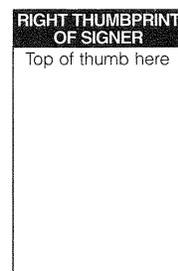
Signer Is Representing: SFPP



Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



3F

CITY CLERK DEPT.

07 OCT 11 AM 8:28

STATE OF TEXAS §
§
COUNTY OF EL PASO §

RIGHT-OF-ENTRY AND TEMPORARY
CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the City of El Paso, hereinafter called the "City", for and in consideration of the sum of TWO THOUSAND NINE HUNDRED AND NO/100THS DOLLARS (\$2,900.00) and other good and valuable consideration paid, receipt of which is hereby acknowledged, does hereby grant to SFPP, L.P., hereinafter the "Grantee", a Delaware limited partnership, a Right-of-Entry and Temporary Construction Easement in, upon and across the following described real property, (hereinafter the "Property"), situated in El Paso County, Texas, to-wit:

Parcel 1- 63,267 square feet, more or less, being a portion of Tract 4A30F, Block 2, Ascarate Grant, located between Acer Street and Interstate Highway No. 10, El Paso, El Paso County, Texas and being more particularly described in Exhibit "A-1", attached hereto and made a part hereof for all purposes, and

Parcel 2- 81,742.0 square feet, more or less, being a portion of Tract 4A30F, Block 2, Ascarate Grant, located between Daugherty Drive and Acer Street, El Paso, El Paso County, Texas and being more particularly described in Exhibit "A-2", attached hereto and made a part hereof for all purposes,

together with the right of ingress and egress for all purposes incident to said grant, for the purpose of using and occupying such Property for the installation of a 12-inch pipeline on adjacent private property and on portions of City owned property leased to Plains Pipeline, L.P. and for staging of construction equipment for the pipeline installation, (hereinafter referred to as the "Project"), including but not limited to 1) the right of workmen to occupy the Property, 2) the right to cross such Property with materials, machinery and equipment and to store the same thereon, 3) the right to borrow and deposit fill, spill, spoil and waste material thereon, 4) the right to erect and remove temporary structures on the Property, 5) the right to trim, cut, fill and remove therefrom all tress, underbrush, obstructions and any other vegetation, structures or obstacles within the limits of the Property, and 6) to perform any other work necessary and incident to the Project.

Upon completion of the Project, the surface of the Property will be restored and cleaned to the condition agreed upon by the City and the Grantee to the full extent reasonably practicable.

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Exhibit A
1 of 6

This grant of authority shall extend to all contracts let by the Grantee in furtherance of the Project and the objectives herein stated.

This grant shall carry with it the right of ingress and egress, to and from the Property at all reasonable times, with the right to use existing roads for the purpose of the Project.

The payment of the consideration for this Right-of Entry and Temporary Construction Easement conveyed herein shall be considered full compensation for same.

The Right-of-Entry and Temporary Construction Easement and rights herein granted shall begin upon the date of execution hereof and shall terminate within sixty (60) days of the grant hereof. Upon termination of this Right-of-Entry and Temporary Construction Easement and the rights herein granted, the Grantee shall furnish the City with an appropriate recordable instrument releasing the interest of Grantee and its assigns, if any, in the Right-of-Entry and Temporary Construction Easement herein granted.

The Grantee will not have the right to assign all or any part of its rights hereunder to third parties.

The Grantee shall submit for review and approval by the City for issuance of an Excavation Permit, a site plan, excavation/construction plans, and a Storm Water Pollution Prevention Plan.

INSURANCE AND INDEMNIFICATION PROVISIONS.

The Grantee acknowledges that its request to use the Property is solely for its benefit and not a use, which benefits the City taxpayers as a whole. As a result, the Grantee agrees to provide the following as a condition of its use of the Property:

A. **LIABILITY INSURANCE.** Grantee shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100 Dollars (\$500,000.00) for two (2) or more persons in any one accident, and, in addition, it shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause.

The Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantees, its officers, agents, servants or employees. All policies shall name the City, its officers, agents, servants and employees as additional insureds to the full amount of the policy limits.

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CITY CLERK DEPT. 2

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EXHIBIT "A"
2076

No rights pursuant to this Right-of-Entry and Temporary Construction Easement shall be granted by the City until the Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk, the City Attorney's Office, and the City Capital Assets Manager. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of this Right-of-Entry and Temporary Construction Easement shall be grounds for cancellation of this Right-of-Entry and Temporary Construction Easement.

B. **INDEMNITY.** As a condition of the Right-of-Entry and Temporary Construction Easement, the Grantee shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with the Grantee's use of the Property, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City up to the minimum amounts required for the public liability insurance under this Right-of-Entry and Temporary Construction Easement.

The City reserves the right to full use and enjoyment of the Property encumbered by the Right-of-Entry and Temporary Construction Easement, except as otherwise provided herein, and such use shall not hinder, conflict, or interfere with the exercise of the Grantee's rights hereunder, and no permanent improvements shall be constructed or maintained on the Property without the Grantee's written consent.

(Signatures begin on next page)

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Exhibit A
396

IN WITNESS WHEREOF this instrument is executed on the 16th day of October, 2007.

CITY:
City of El Paso

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Theresa Cullen-Garney

Theresa Cullen-Garney
Deputy City Attorney

APPROVED AS TO CONTENT:

Gonzalo Cedillos

Gonzalo Cedillos, P.E.
Capital Assets Manager

APPROVED AS TO CONTENT:

Nadia Powell

Nadia Powell
Customer Affairs Officer

ACKNOWLEDGMENT

THE STATE OF TEXAS)

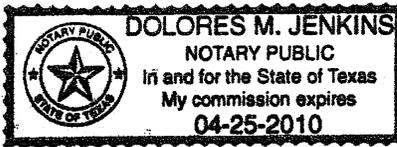
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 16th day of October, 2007,
by **Joyce A. Wilson**, as **City Manager** of the **City of El Paso, Texas**.

Dolores M. Jenkins
Notary Public, State of Texas

My Commission Expires:

04/25/2010



(Signatures continued on next page)

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CITY CLERK DEPT.
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Exhibit "A"
4 of 6

CITY CLERK DEPT.

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The above instrument, together with all conditions thereto is hereby ACCEPTED and EXECUTED by the Grantee to be effective as of the _____ day of _____, 2007.

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: [Signature]

Name: J.D. REYNOLDS

Title: MANAGER, LAND & RIGHT OF WAY

ACKNOWLEDGMENT

THE STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of _____, 2007, by _____ of SFPP, L.P. (Grantee).

SEE ATTACHED CALIFORNIA ALL KNOWLEDGEABLE

Notary Public, State of _____

My Commission Expires:

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Exhibit "A"
5 of 6

CITY CLERK DEPT.

ACKNOWLEDGEMENT

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State of California }
County of Orange } s.s.

Title of Document RIGHT-OF-ENTRY AND TEMPORARY CONSTRUCTION EASEMENT

On October 8, 2007, before me, Martha Niguidula, Notary Public, personally appeared J.D. Reynolds [X] personally known to me ~~-OR- [] proved to me on the basis of satisfactory evidence~~ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons(s) acted, executed the instrument.

WITNESS my hand and seal.



Martha Niguidula

NOTARY PUBLIC, STATE OF CALIFORNIA

(Seal)

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Exhibit "A"
6 of 6



BROCK & BUSTILLOS INC.

CONSULTING ENGINEERS
LAND SURVEYORS
(Formerly Faught & Associates)

CITY CLERK DEPT.

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EXHIBIT "A-1"
SPFF, L.P. TEMPORARY WORKSPACE EASEMENT

A parcel of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as the portion of Tract 4A30F, Block 2, Ascarate Grant located between Acer Street and Interstate Highway No. 10, excluding the 5 feet wide SFPP, L.P. easement area described below. Said parcel containing 1.4524 acres (63,267 square feet), more or less and being subject to easements, restrictions and covenants of record.

SAVE AND EXCEPT A tract of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Tract 4A30F, Block 2, Ascarate Grant and being more particularly described as follows, to wit:

COMMENCING at a city monument found at the centerline intersection of Acer Street (60 feet wide) and Miracle Way (60 feet wide); **THENCE**, leaving said intersection, South 32°36'02" West, 1,525.10 feet to the boundary line common to said Tract 4A30F and Cielo Vista Park East for the **POINT OF BEGINNING** of the easement herein described;

THENCE, following the boundary line common to said Tract 4A30F and Cielo Vista Park East, South 00°14'55" East, 5.00 feet to the southeast corner of the easement herein described;

THENCE, leaving the boundary line common to said Tract 4A30F and Cielo Vista Park East, North 90°00'00" West, 25.71 feet to an angle point;

THENCE, South 00°25'12" West, 8.57 feet to the northerly right-of-way line of Interstate Highway No. 10 for the most southerly corner of the easement herein described, whence the southeast corner of said Tract 4A30F bears, South 53°24'17" East, 32.25 feet;

THENCE, following the northerly right-of-way line of Interstate Highway No. 10, North 53°24'17" West, 6.19 feet to the southwest corner of the easement herein described, whence the southwest corner of said Tract 4A30F bears, North 53°24'17" West, 24.01 feet;

THENCE, leaving the northerly right-of-way line of Interstate Highway No. 10, North 00°25'12" East, 9.87 feet to the northwest corner of the easement herein described;

THENCE, South 90°00'00" East, 30.65 feet to the west boundary line of Cielo Vista Park East and the **POINT OF BEGINNING**.

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Exhibit "A-1"
1 of 3

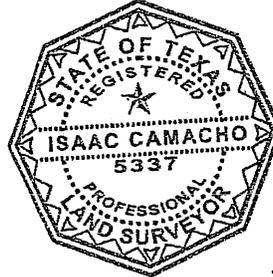
Exhibit B-1
1 of 3

Said easement containing 0.0042 acres (186.9 square feet), more or less and being subject to easements, restrictions and covenants of record.

I hereby certify that this description was prepared by me or under my supervision.

Isaac Camacho 09/18/07
Isaac Camacho, TX RPLS No. 5337

S6645-01b
KM-EASE-11B-TEMP.doc

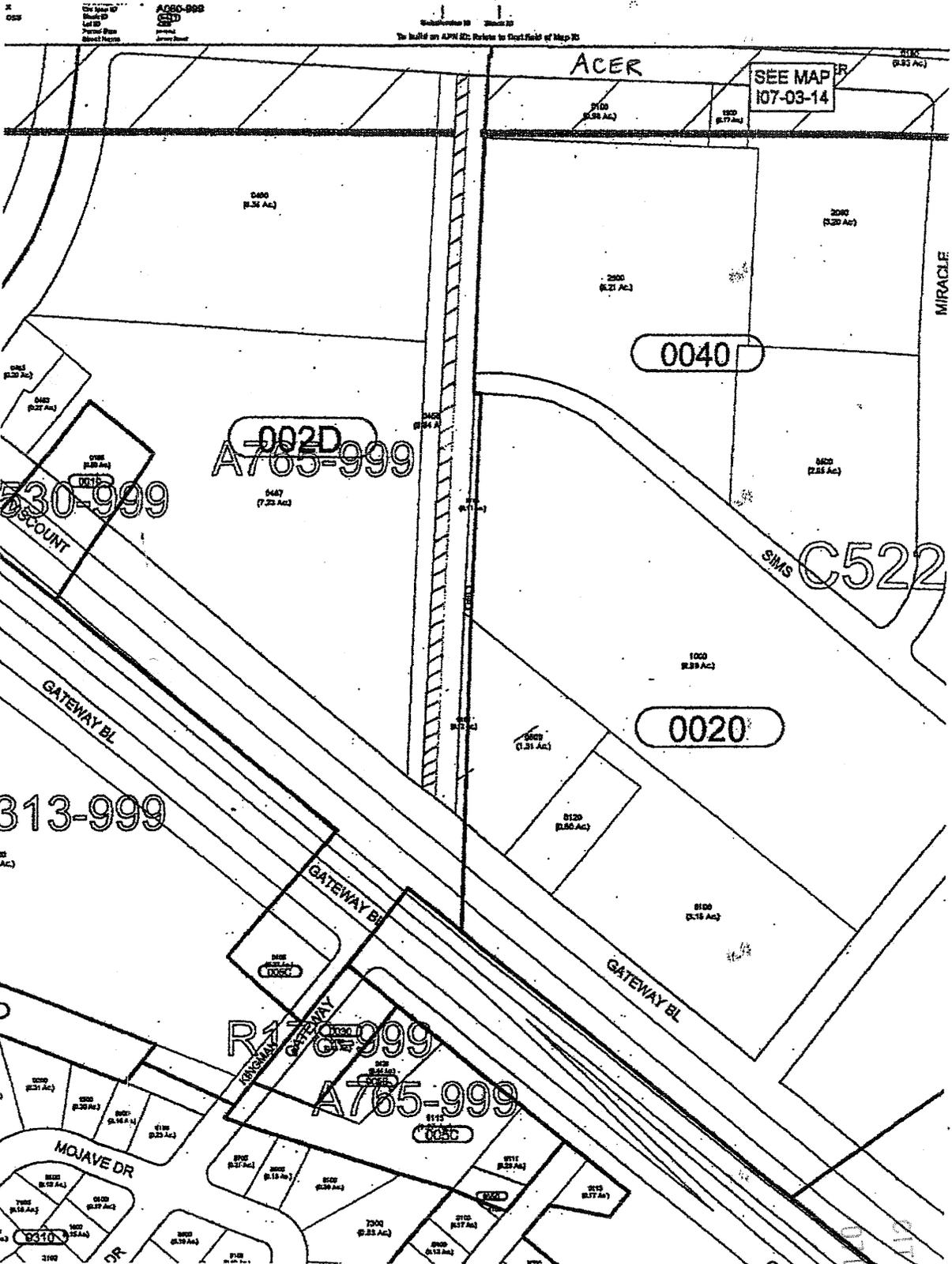


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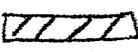
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Exhibit "A-1"
2 of 3

Exhibit
-



Scale:
1" = 200'

 20' wide City Property
west of 30' wide Plains
lease area.

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Exhibit "A-1"
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Exhibit B-1
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BROCK & BUSTILLOS INC.

CONSULTING ENGINEERS
LAND SURVEYORS
(Formerly Faught & Associates)

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EXHIBIT "A-2"
SPFF, L.P. TEMPORARY WORKSPACE EASEMENT

A parcel of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as the portion of Tract 4A30F, Block 2, Ascarate Grant, located between Daugherty Drive and Acer Street. Said parcel containing 1.8765 acres (81,742.0 square feet), more or less and being subject to easements, restrictions and covenants of record.

I hereby certify that this description was prepared by me or under my supervision.

Isaac Camacho 09/18/07
Isaac Camacho, TX RPLS No. 5337

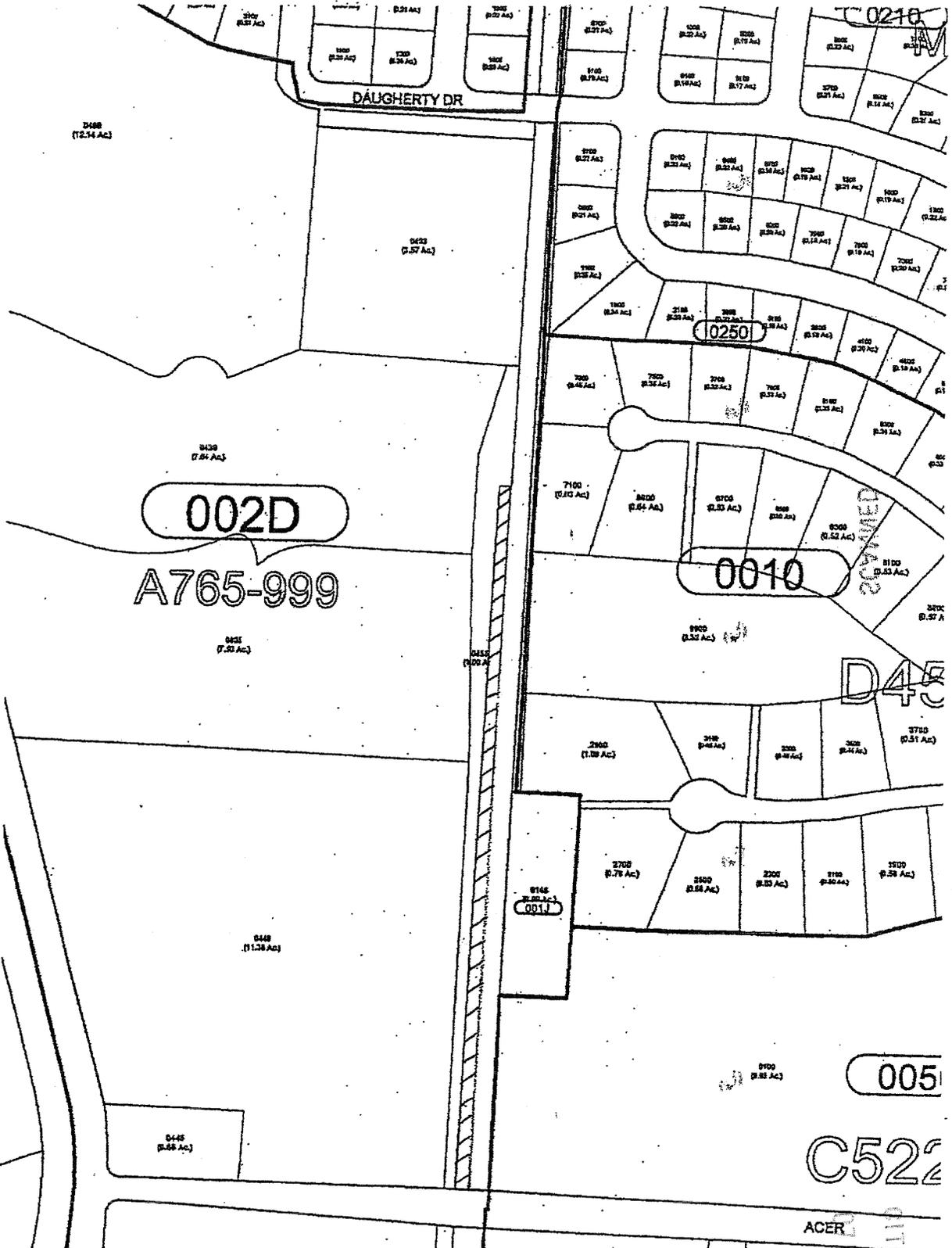
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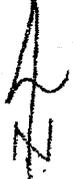


CITY CLERK DEPT.
07 DEC 20 AM 10:59

Exhibit "A-2"
10/2

Exhibit B-2
10/2




 Scale:
 1" = 200'

 20' wide City Property west of 30' wide Plans lease area.

Exhibit "A-2"
2 of 2

Exhibit B.2
2 of 2

07 OCT 11 AM 8:29
 CITY CLERK DEPT.

C522

CITY CLERK DEPT.
 DEC 20 AM 10:59

CITY CLERK DEPT.

STATE OF TEXAS

§
§

07 DEC 20 AM 11:01

**RIGHT-OF-ENTRY AND TEMPORARY
CONSTRUCTION EASEMENT**

COUNTY OF EL PASO

§

WHEREAS, on Sept. 25, 2007, the City of El Paso granted a Right of Entry and Temporary Construction Easement to SFPP, L.P. to use a portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, as a staging area to install a 12-inch pipeline under TxDOT highway I-10 Right-of-Way, and

WHEREAS, SFPP, L.P. has requested that it be allowed to use the identified property on different dates but for the same purpose; and,

WHEREAS, the City staff recommends that the dates of the Right of Entry be revised,

KNOW ALL MEN BY THESE PRESENTS:

1. That the Sept. 25, 2007 Right of Entry and Temporary Construction easement granted by the City of El Paso, hereinafter referred to as the "City", to SFPP, L.P., a Delaware limited partnership, hereinafter referred to as the "Grantee", a copy of which is attached here to as Exhibit "A" is revoked, and

2. That the City for and in consideration of the sum of ONE THOUSAND SIX HUNDRED AND 00/100THS DOLLARS (\$1,600.00) and other good and valuable consideration paid, receipt of which is hereby acknowledged, does hereby grant to the Grantee a Right-of-Entry and Temporary Construction Easement in, upon and across the following described real property, (hereinafter the "Property"), situated in El Paso County, Texas, to-wit:

A portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso County, Texas, and being more particularly described in Exhibit "B", attached hereto and made a part hereof for all purposes,

together with the right of ingress and egress for all purposes incident to said grant, for the purpose of using and occupying such Property to dig a bore pit for the installation of a 12-inch pipeline under TxDOT Highway I-10 Right-of-Way and for staging of construction equipment for the bore, (hereinafter referred to as the "Project"), including but not limited to 1) the right of workmen to occupy the Property, 2) the right to cross such Property with materials, machinery and equipment and to store the same thereon, 3) the right to borrow and deposit fill, spill, spoil and waste material thereon, 4) the right to erect and remove temporary structures on the Property, 5) the right to trim, cut, fill and remove therefrom all tress, underbrush, obstructions and any other vegetation, structures or obstacles within the

limits of the Property, and 6) to perform any other work necessary and incident to the Project.

Upon completion of the Project, the surface of the Property will be restored and cleaned to the condition agreed upon by the City and the Grantee to the full extent reasonably practicable.

This grant of authority shall extend to all contracts let by the Grantee in furtherance of the Project and the objectives herein stated.

This grant shall carry with it the right of ingress and egress, to and from the Property at all reasonable times, with the right to use existing roads for the purpose of the Project.

The payment of the consideration for the Property conveyed herein shall be considered full compensation for same and for any diminution in value which may result to remaining property owned by the City by virtue of the Project, construction, installation and repair of utility lines and improvements, if any, grade alignment or the alteration of drainage patterns and facilities.

The Right-of-Entry and Temporary Construction Easement and rights herein granted shall begin on Jan. 3, 2008 and shall terminate on Mar. 2, 2008. The City's City Manager is authorized to revise the dates of this Right-of-Entry and Temporary Construction Easement to extend the term of this Agreement to allow the Grantee time to finish its identified work as long as the Grantee is in full compliance with the terms and conditions of this Agreement. Upon termination of this Right-of-Entry and Temporary Construction Easement and the rights herein granted, the Grantee shall furnish the City with an appropriate recordable instrument releasing the interest of Grantee and its assigns, if any, in the Right-of-Entry and Temporary Construction Easement herein granted.

The Grantee will not have the right to assign all or any part of its rights hereunder to third parties.

The Grantee shall submit for review and approval by the City for issuance of an Excavation Permit, a site plan, excavation/construction plans, and a Storm Water Pollution Prevention Plan. In addition, the Grantee shall submit for review by the City, a copy of the TxDOT Permit for the I-10 bore and if required, a copy of the Traffic Control Plans approved by TxDOT for access to the Property from Gateway Boulevard West.

INSURANCE AND INDEMNIFICATION PROVISIONS.

The Grantee acknowledges that its request to use the Property is solely for its benefit and not a use, which benefits the City taxpayers as a whole. As a result, the Grantee agrees to provide the following as a condition of its use of the Property:

A. **LIABILITY INSURANCE.** Grantee shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for two (2) or more persons in any one accident, and, in addition, it shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause.

The Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantees, its officers, agents, servants or employees. All policies shall name the City, its officers, agents, servants and employees as additional insureds to the full amount of the policy limits.

No rights pursuant to this Right-of-Entry and Temporary Construction Easement shall be granted by the City until the Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk, the City Attorney's Office, and the City Capital Assets Manager. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of this Right-of-Entry and Temporary Construction Easement shall be grounds for cancellation of this Right-of-Entry and Temporary Construction Easement.

B. **INDEMNITY.** As a condition of the Right-of-Entry and Temporary Construction Easement, the Grantee shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with the Grantee's use of the Property, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City up to the minimum amounts required for the public liability insurance under this Right-of-Entry and Temporary Construction Easement.

The City reserves the right to full use and enjoyment of the Property encumbered by the Right-of-Entry and Temporary Construction Easement, except as otherwise provided herein, and such use shall not hinder, conflict, or interfere with the exercise of the Grantee's rights hereunder, and no permanent improvements shall be constructed or maintained on the Property without the Grantee's written consent.

(Signatures begin on next page)

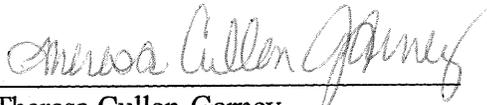
IN WITNESS WHEREOF this instrument is executed on the ____ day of _____, 2008.

CITY:
City of El Paso

Joyce Wilson, City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Theresa Cullen-Garney
Deputy City Attorney



Gonzalo Cedillos, P.E.
Capital Assets Manager

APPROVED AS TO CONTENT:



Nadia Powell
Consumer Affairs Officer

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2008,
by **Joyce A. Wilson**, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of _____

My Commission Expires:

(Signatures continued on next page)

CITY CLERK DEPT.
07 DEC 20 AM 11:01

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CITY CLERK DEPT.
07 DEC 20 4:11:01

State of California }
County of ORANGE } ss.

On DECEMBER 14, 2007, before me, MARTHA NIGUIDULA, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared ALLAN CAMPBELL,
Name(s) of Signer(s)

personally known to me

~~proved to me on the basis of satisfactory evidence~~
to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Martha Niguidula
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: RIGHT-OF-ENTRY AND TEMPORARY CONSTRUCTION EASEMENT

Document Date: DECEMBER 14, 2007 Number of Pages: 5

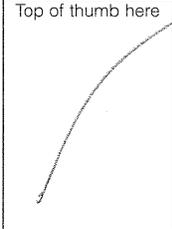
Signer(s) Other Than Named Above: NA

Capacity(ies) Claimed by Signer(s)

Signer's Name: ALLAN CAMPBELL

- Individual
- Corporate Officer — Title(s): DIRECTOR - PROJECT PERMITTING
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: SFPP

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

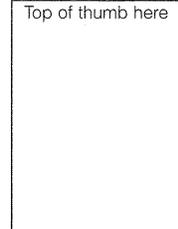


Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here



Signer Is Representing: _____

31

Doc. 20070094199

CITY CLERK DEPT.

07 SEP 13 AM 11:44

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

**RIGHT-OF-ENTRY AND TEMPORARY
CONSTRUCTION EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That the City of El Paso, hereinafter called the "City", for and in consideration of the sum of ONE THOUSAND SIX HUNDRED AND NO/100THS DOLLARS (\$1,600.00) and other good and valuable consideration paid, receipt of which is hereby acknowledged, does hereby grant to SFPP, L.P., hereinafter the "Grantee", a Delaware limited partnership, a Right-of-Entry and Temporary Construction Easement in, upon and across the following described real property, (hereinafter the "Property"), situated in El Paso County, Texas, to-wit:

A portion of Tract 4A30F, Block 2, Ascarate Grant, El Paso, El Paso, El Paso County, Texas, and being more particularly described in Exhibit "A", attached hereto and made a part hereof for all purposes,

together with the right of ingress and egress for all purposes incident to said grant, for the purpose of using and occupying such Property to dig a bore pit for the installation of a 12-inch pipeline under TxDOT Highway I-10 Right-of-Way and for staging of construction equipment for the bore, (hereinafter referred to as the "Project"), including but not limited to 1) the right of workmen to occupy the Property, 2) the right to cross such Property with materials, machinery and equipment and to store the same thereon, 3) the right to borrow and deposit fill, spill, spoil and waste material thereon, 4) the right to erect and remove temporary structures on the Property, 5) the right to trim, cut, fill and remove therefrom all tress, underbrush, obstructions and any other vegetation, structures or obstacles within the limits of the Property, and 6) to perform any other work necessary and incident to the Project.

Upon completion of the Project, the surface of the Property will be restored and cleaned to the condition agreed upon by the City and the Grantee to the full extent reasonably practicable.

This grant of authority shall extend to all contracts let by the Grantee in furtherance of the Project and the objectives herein stated.

This grant shall carry with it the right of ingress and egress, to and from the Property at all reasonable times, with the right to use existing roads for the purpose of the Project.

CITY CLERK DEPT.
07 DEC 20 AM 11:01

Exhibit "A"
1 of 7

STATE OF TEXAS §
§
COUNTY OF EL PASO §

**RIGHT-OF-ENTRY AND TEMPORARY
CONSTRUCTION EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That the City of El Paso, hereinafter called the "City", for and in consideration of the sum of ONE THOUSAND SIX HUNDRED AND NO/100THS DOLLARS (\$1,600.00) and other good and valuable consideration paid, receipt of which is hereby acknowledged, does hereby grant to SFPP, L.P., hereinafter the "Grantee", a Delaware limited partnership, a Right-of-Entry and Temporary Construction Easement in, upon and across the following described real property, (hereinafter the "Property"), situated in El Paso County, Texas, to-wit:

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Upon completion of the Project, the surface of the Property will be restored and cleaned to the condition agreed upon by the City and the Grantee to the full extent reasonably practicable.

This grant of authority shall extend to all contracts let by the Grantee in furtherance of the Project and the objectives herein stated.

This grant shall carry with it the right of ingress and egress, to and from the Property at all reasonable times, with the right to use existing roads for the purpose of the Project.

07 SEP 13 AM 11:43
CITY CLERK DEPT.

CITY CLERK DEPT.
07 DEC 20 AM 11:01

Exhibit "A"
2 of 7

The payment of the consideration for the Property conveyed herein shall be considered full compensation for same and for any diminution in value which may result to remaining property owned by the City by virtue of the Project, construction, installation and repair of utility lines and improvements, if any, grade alignment or the alteration of drainage patterns and facilities.

The Right-of-Entry and Temporary Construction Easement and rights herein granted shall begin upon the date of execution hereof and shall terminate within sixty (60) days of the grant hereof. Upon termination of this Right-of-Entry and Temporary Construction Easement and the rights herein granted, the Grantee shall furnish the City with an appropriate recordable instrument releasing the interest of Grantee and its assigns, if any, in the Right-of-Entry and Temporary Construction Easement herein granted.

The Grantee will not have the right to assign all or any part of its rights hereunder to third parties.

The Grantee shall submit for review and approval by the City for issuance of an Excavation Permit, a site plan, excavation/construction plans, and a Storm Water Pollution Prevention Plan. In addition, the Grantee shall submit for review by the City, a copy of the TxDOT Permit for the I-10 bore and if required, a copy of the Traffic Control Plans approved by TxDOT for access to the Property from Gateway Boulevard West.

INSURANCE AND INDEMNIFICATION PROVISIONS.

The Grantee acknowledges that its request to use the Property is solely for its benefit and not a use, which benefits the City taxpayers as a whole. As a result, the Grantee agrees to provide the following as a condition of its use of the Property:

A. **LIABILITY INSURANCE.** Grantee shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100 Dollars (\$500,000.00) for two (2) or more persons in any one accident, and, in addition, it shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause.

The Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantees, its officers, agents, servants or employees. All policies shall name the City, its officers, agents, servants and employees as additional insureds to the full amount of the policy limits.

Exhibit "A"
307

CITY CLERK DEPT.
07 DEC 20 AM 11:01

07 SEP 13 AM 11:43
CITY CLERK DEPT.

No rights pursuant to this Right-of-Entry and Temporary Construction Easement shall be granted by the City until the Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk, the City Attorney's Office, and the City Capital Assets Manager. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of this Right-of-Entry and Temporary Construction Easement shall be grounds for cancellation of this Right-of-Entry and Temporary Construction Easement.

B. **INDEMNITY.** As a condition of the Right-of-Entry and Temporary Construction Easement, the Grantee shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with the Grantee's use of the Property, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City up to the minimum amounts required for the public liability insurance under this Right-of-Entry and Temporary Construction Easement.

The City reserves the right to full use and enjoyment of the Property encumbered by the Right-of-Entry and Temporary Construction Easement, except as otherwise provided herein, and such use shall not hinder, conflict, or interfere with the exercise of the Grantee's rights hereunder, and no permanent improvements shall be constructed or maintained on the Property without the Grantee's written consent.

(Signatures begin on next page)

CITY CLERK DEPT.
07 DEC 20 AM 11:02

Document #: 31793
Document Name: Temp construction easement/SFPP/CAM

CITY CLERK DEPT.
07 SEP 13 AM 11:43

EXHIBIT "A"
4 of 7

The above instrument, together with all conditions thereto is hereby ACCEPTED and EXECUTED by the Grantee to be effective as of the _____ day of _____, 2007.

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: [Signature]

Name: J. D. REYNOLDS

Title: Manager, Land & Right of Way

ACKNOWLEDGMENT

THE STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before me, _____ this _____ day of _____, 2007, by _____ as _____ of SFPP, L.P. (Grantee).

SEE ATTACHED ACKNOWLEDGMENT

Notary Public, State of _____

My Commission Expires:

CITY CLERK DEPT.
07 DEC 20 AM 11:02

CITY CLERK DEPT.
07 SEP 13 AM 11:43

Exhibit "A"
6 of 7

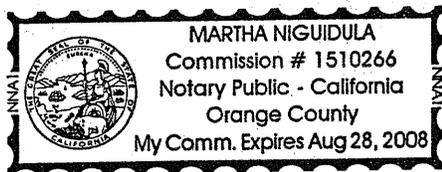
ACKNOWLEDGEMENT

State of California }
County of Orange } s.s.

Title of Document RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT

On August 2, 2007, before me, Martha Niguidula, Notary Public, personally appeared J.D. Reynolds [X] personally known to me - OR - [] ~~proved to me on the basis of satisfactory evidence~~ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons(s) acted, executed the instrument.

WITNESS my hand and seal.



Martha Niguidula
NOTARY PUBLIC, STATE OF CALIFORNIA

(Seal)

CITY CLERK DEPT.
07 DEC 20 AM 11:02

CITY CLERK DEPT.
07 SEP 13 AM 11:43

Exhibit "A"
7 of 7

CITY CLERK DEPT.

07 DEC 20 AM 11:02

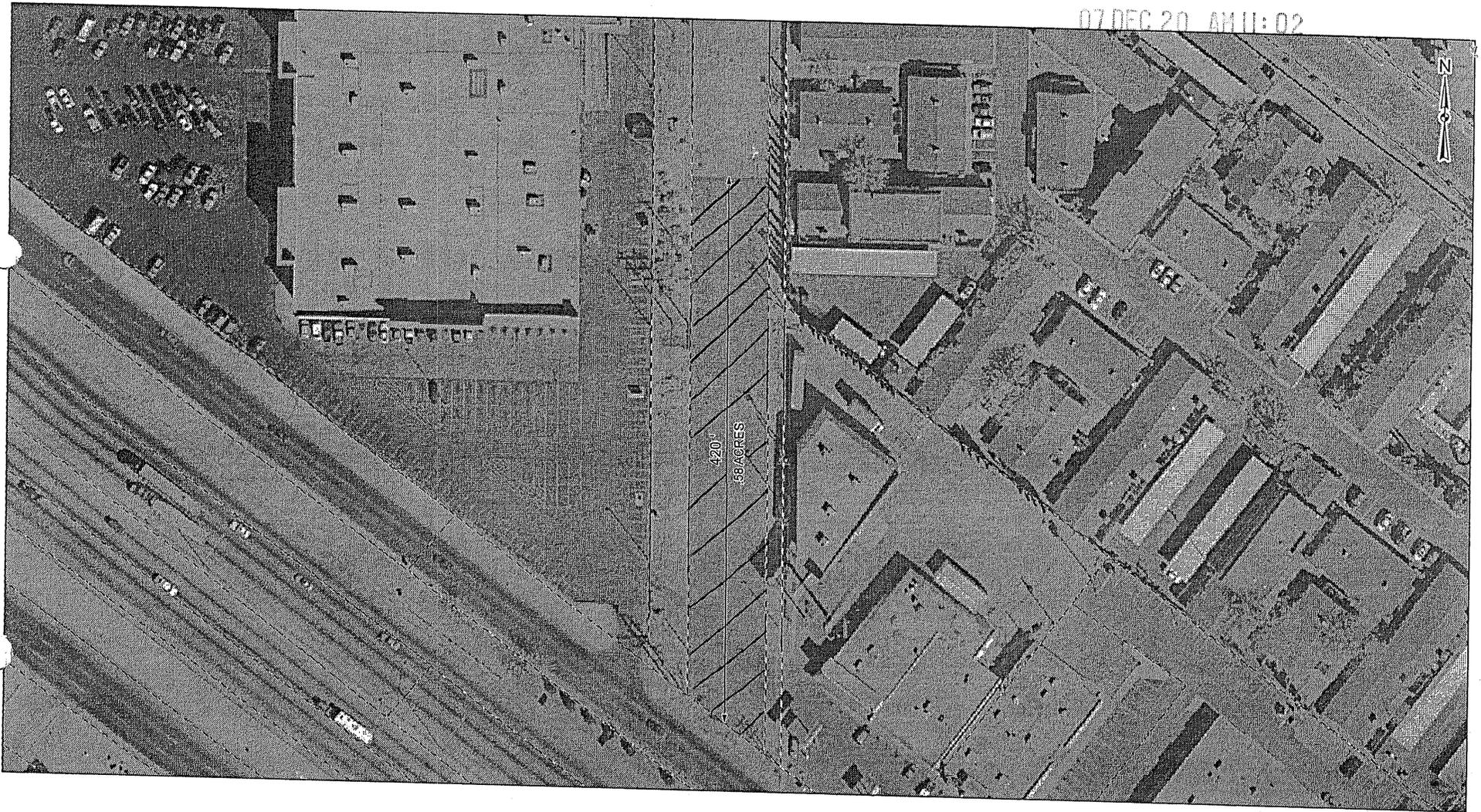


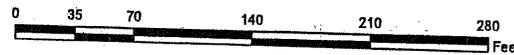
Exhibit "B"
1 of 1

Legend

-  Temporary Workspace
-  El Paso Parcels

CITY CLERK DEPT.
07 SEP 19 AM 11:43

Scale
1"=70 ft



KINDER MORGAN
ENERGY PARTNERS, L.P.
TEMPORARY WORKSPACE
REQUIREMENTS ON CITY OF
EL PASO PROPERTY FOR
I-10 CROSSING

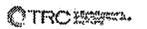


EXHIBIT A