

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

**DEPARTMENT:**           **Engineering Traffic Division**

**AGENDA DATE:**       **Introduction: April 6, 2010; Public Hearing: April 13, 2010**

**CONTACT PERSON NAME AND PHONE NUMBER:** **Mirian Spencer, Planner (915) 541-4482, spencermd2@elpasotexas.gov**

**DISTRICT(S) AFFECTED:**   **4**

**SUBJECT:**

An Ordinance amending Ordinance No. 013980, as amended by Ordinances 014787, 015374, and 016006 which granted a Special Privilege to Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee), as assigned to and transferred to Wes Uhlman & Associates, Inc./Mallard El Paso Limited Partnership (Owners) and The Boeing Company (Lessee) to permit the temporary use of a portion of Threadgill Avenue for security purposes, by extending the term through November 30, 2014. SP-98143 (District 4).

**BACKGROUND / DISCUSSION:**

The Boeing Company (Lessee) has requested to continue to utilize a portion of Threadgill Avenue to provide secured access to the properties adjacent to Threadgill Avenue. The property lease is scheduled to continue through November of 2014, and the Lessee has requested to extend the special privilege to for the remainder of the property lease.

The renewal is for a term of four years, nine months for \$18,810.00 payable in four installments, (3) annual payments of \$3,960.00 and a final installment of \$6,930.00 to cover the final year and nine months of the term. The applicants are required to provide General Liability insurance in the amounts of \$250,000.00 for injury to one person, \$500,000.00 for injury to two or more, and \$100,000.00 for property damage with the City listed as additionally insured will be required for the duration of the special privilege.

**PRIOR COUNCIL ACTION:**

The special privilege was first approved by Ordinance No. 013980 on March 16, 1999 for a term of two years. It was renewed on March 13, 2001(Ordinance No. 014787) and on March 11, 2003 (Ordinance No. 015374) for additional two year periods. On February 22, 2005 (Ordinance No. 016006), the agreement was assigned to Wes Uhlman & Associates, Inc./Mallard El Paso Limited Partnership (Owners) and The Boeing Company (Lessee) and the term was extended for five years to expire March 16, 2010.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

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**BOARD / COMMISSION ACTION:**

The Development Coordinating Committee approved the special privilege renewal application (SP-98143) on December 22, 2009 for a term through November 30, 2014.

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

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

*Information copy to appropriate Deputy City Manager*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 013980, AS AMENDED BY ORDINANCES 014787, 015374, AND 016006 WHICH GRANTED A SPECIAL PRIVILEGE TO KELLER & AZAR JOINT VENTURE, INC. (OWNER), AND BOEING NORTH AMERICAN, INC. (LESSEE), AS ASSIGNED TO AND TRANSFERRED TO WES UHLMAN & ASSOCIATES, INC./MALLARD EL PASO LIMITED PARTNERSHIP (OWNERS) AND THE BOEING COMPANY (LESSEE) TO PERMIT THE TEMPORARY USE OF A PORTION OF THREADGILL AVENUE FOR SECURITY PURPOSES, BY EXTENDING THE TERM THROUGH NOVEMBER 30, 2014**

**WHEREAS**, the El Paso City Council approved Ordinance No. 013980 on March 16, 1999, a copy of which is attached as Exhibit “A,” which authorized Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) (hereinafter referred to as “Grantees”), temporary use of a portion of Threadgill Avenue (hereinafter referred to as “Premises”) for security purposes; and

**WHEREAS**, the El Paso City Council approved Ordinance No. 014787 on March 13, 2001, which amended Ordinance No. 013980 allowing the extension of the term for an additional two (2) years; and

**WHEREAS**, the El Paso City Council approved Ordinance No. 015374 on March 11, 2003, which amended Ordinance No.’s 013980 and 014787, allowing the extension of the term for an additional two (2) years; and

**WHEREAS**, the El Paso City Council approved Ordinance No. 016006 on February 22, 2005, which amended Ordinance No.’s 013980, 014787, and 015374, allowing the assignment and transfer from Keller and Azar Joint Venture, Inc. (Owners) and Boeing North American, Inc. (Lessee) to Uhlman & Associates, Inc./Mallard El Paso Limited Partnership (Owners) and The Boeing Company (Lessee) and the extension of the term for an additional five (5) years, a copy of which is attached as Exhibit “B”; and

**WHEREAS**, pursuant to the terms of the Special Privilege, The Boeing Company submitted a written request to extend the grant of the special privilege license originally provided by Ordinance 013980, as subsequently extended, until November 30, 2014 to use this portion of public right-of-way; and

**WHEREAS**, the Development Coordinating Committee has recommended that the term extension be granted without amendment to other conditions enumerated in Ordinance No. 013980 as amended; and

**WHEREAS**, the El Paso City Council finds that the grant of a Special Privilege extension, upon the terms and conditions hereinafter set forth, is not inconsistent with and will not unreasonably impair the public use of the right-of-way.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:**

**A.** That Paragraph 2 (Term) of Exhibit A of Ordinance No. 013980, shall be deleted in its entirety and substituted with the following paragraph:

2. **TERM.** This Special Privilege shall commence upon execution and continue until November 30, 2014 at which time it shall expire. The City shall have the sole option to renew this Special Privilege upon the request of the Grantees for additional terms. If the Grantees wish the City to renew this Special Privilege for an additional term, Grantees shall submit a request in writing to the City no later than **August 31, 2014**. This Special Privilege shall expire without notice on **November 30, 2014** unless a request for renewal is submitted in writing to the City by the Grantees as herein required. Grantees understand, agree, and accept that the City may require the terms, conditions, and provisions of this Special Privilege be modified as a condition for renewing the grant of the encroachment upon or through public right-of-way as permitted by this Special Privilege.”

**B.** That Paragraph 3 (Consideration) of Exhibit A of Ordinance No. 013980, shall be deleted in its entirety and substituted with the following paragraph:

3. **CONSIDERATION.** As consideration for the use of the Premises, the Grantee shall pay the City EIGHTTEEN THOUSAND EIGHT HUNDRED TEN and No/100 Dollars (\$18,810.00) for the term of this Agreement. Payment of this consideration shall be made to the City in four (4) installments:

- First Installment: Three Thousand Nine Hundred Sixty and No/100 Dollars (\$3960.00) due prior to City Council action.
- Second Installment: Three Thousand Nine Hundred Sixty and No/100 Dollars (\$3960.00) due on or before March 16, 2011.
- Third Installment: Three Thousand Nine Hundred Sixty and No/100 Dollars (\$3960.00) due on or before March 16, 2012.
- Fourth Installment: Six Thousand Nine Hundred Thirty and No/100 Dollars (\$6,930.00) due on or before March 16, 2013.

The first installment shall be in the form of a check delivered to the Engineering Traffic Division for remittance to the Financial Services – Capital Assets Division. If the Special Privilege is disapproved by the City Council, the Financial Services – Capital Assets Division shall make a full refund of the payment within fifteen (15) days of the denial action.

**C.** That paragraph 11 (Assignment) of Exhibit A of Ordinance No. 013980, shall be deleted in its entirety and substituted with the following paragraph:

11. **ASSIGNMENT.** Grantees shall not assign this Special Privilege without the prior written consent of the El Paso City Manager.

**D.** That paragraph 5 of the Consent to Assignment Exhibit “D” of Ordinance No. 016006, shall be deleted in its entirety and substituted with the following paragraph:

All notices shall be sent by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

City of El Paso  
Attn: Engineering Traffic Division  
#2 Civic Center Plaza, 6<sup>th</sup> Floor  
El Paso, Texas 79901-1196

with copy to: City of El Paso  
Attn: Financial Services – Capital Assets Division  
#2 Civic Center Plaza 7<sup>th</sup> Floor  
El Paso, Texas 79901-1196

and: Wes Uhlman & Associates, Inc./Mallard El Paso  
Limited Partnership  
16 W. Harrison St., Suite 201  
Seattle, Washington 98119-4121

with copy to: The Boeing Company  
9566 Railroad Dr.  
El Paso, Texas 79924-6318

**E.** This amendment to Ordinance No. 013980, executed on March 16, 1999, shall be effective immediately upon execution and delivery to all parties. This amendment to Ordinance No. 013980 may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together shall constitute but one and in the same instrument.

**F.** This amendment to Ordinance No. 013980 supersedes any prior agreements, negotiations and communications, oral or written, with respect to subject matter and contains the

entire agreement between, and the final expression of City, Owners and Lessee with respect to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer agent or representative of either party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

**G.** Except as herein amended, Ordinance No. 013980, executed on March 16, 1999, and as previously amended shall remain in full force and effect.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, **2010.**

**THE CITY OF EL PASO**

**ATTEST:**

\_\_\_\_\_  
John F. Cook, Mayor

\_\_\_\_\_  
Richarda Momsen, City Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Mark Shoemith  
Assistant City Attorney

\_\_\_\_\_  
Ted Marquez, P.E.  
Assistant City Engineer

*(Acceptance to follow on next page)*





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AN ORDINANCE GRANTING A SPECIAL PRIVILEGE TO  
KELLER & AZAR JOINT VENTURE, INC., OWNER, AND BOEING  
NORTH AMERICAN, INC., LESSEE, TO PERMIT THE TEMPORARY USE  
OF A PORTION OF THREADGILL AVENUE FOR SECURITY PURPOSES.

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

That the Mayor be authorized to sign, on behalf of the City of El Paso, a Special Privilege upon the following terms to KELLER & AZAR JOINT VENTURE, INC., Owner, and BOEING NORTH AMERICAN, INC., Lessee:

1. This Special Privilege shall be in a form which is attached and incorporated as Exhibit "A";

2. The Special Privilege is to permit KELLER & AZAR JOINT VENTURE, INC., Owner, and BOEING NORTH AMERICAN, INC., Lessee, of properties described as: Tract 3B1A and 3B1C, Section 43, Block 80, Township 1, T&P Survey, more commonly known as 6055 Threadgill Avenue; the southerly portion of Blocks 239 and 240 and a portion of closed r-o-w, South Parkland Addition, more commonly known as 9526 Railroad Drive; and the northerly portion of Blocks 239 & 240 and a portion of closed r-o-w, South Parkland Addition, more commonly known as 9566 Railroad Drive; City and County of El Paso, Texas, to encroach onto a portion of City right-of-way for security purposes associated with the expansion of Boeing North American, Inc.;

3. As consideration for this Special Privilege, KELLER & AZAR JOINT VENTURE, INC., Owner, and BOEING NORTH AMERICAN, INC., Lessee, shall pay the

\_\_\_\_\_ \$ 0.00

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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EXHIBIT A

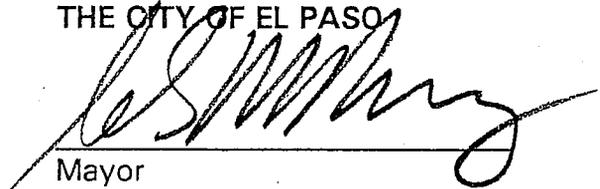
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City of El Paso the sum set forth in Section 3 of Exhibit "A", subject to the terms and conditions of this ordinance and Special Privilege; and

4. This Special Privilege shall last a term of two (2) years.

PASSED AND APPROVED this 16<sup>th</sup> day of March, ~~1998~~ <sup>1999</sup>.

THE CITY OF EL PASO

  
Mayor

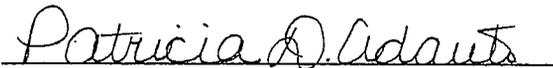
ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
John F. Nance, Asst. City Attorney

APPROVED AS TO CONTENT:

  
Patricia D. Adauto, Chief Urban Planner  
Department of Planning, Research & Development

THE STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

EXHIBIT "A"  
SPECIAL PRIVILEGE

THIS SPECIAL PRIVILEGE, made this 16<sup>th</sup> day of March, ~~1998~~, <sup>1999</sup>, by

and between the CITY OF EL PASO, hereinafter called "City", and KELLER & AZAR JOINT VENTURE, INC., Owner, and BOEING NORTH AMERICAN, INC., Lessee, hereinafter called "Grantees", of properties described as Tract 3B1A and 3B1C, Section 43, Block 80, Township 1, T&P Survey, more commonly known as 6055 Threadgill Avenue; the southerly portion of Blocks 239 and 240 and a portion of closed r-o-w, South Parkland Addition, more commonly known as 9526 Railroad Drive; and the northerly portion of Blocks 239 & 240 and a portion of closed r-o-w, South Parkland Addition, more commonly known as 9566 Railroad Drive; in El Paso County, El Paso, Texas.

**WHEREAS**, Grantees have requested permission from the City to use a portion of public right-of-way in conjunction with a proposed expansion of Boeing North American, Inc. at 9526 and 9566 Railroad Drive and 6055 Threadgill Avenue; and

**WHEREAS**, the City Council finds that the grant of a Special Privilege upon the terms and conditions hereinafter set forth is not inconsistent with and will not unreasonably impair the public use of the right-of-way;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree and covenant as follows:

1. **DESCRIPTION.** The City hereby grants a Special Privilege to Grantees to permit the temporary use of a portion of Threadgill Avenue between 9526

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and 9566 Railroad Drive and 6055 Threadgill Avenue, as more particularly shown in Exhibit "B" which is attached hereto and made a part hereof for all purposes, and which is hereinafter referred to as "Premises".

2. TERM. The term of this Special Privilege shall be for two (2) years from the date of execution of this Agreement. The City shall have the sole option to renew this Special Privilege upon the request of the Grantees for additional two (2) year options. If the Grantees wish the City to renew this Special Privilege for an additional two (2) year term, Grantees shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this Special Privilege. This Special Privilege shall expire without notice at the end of such expiration period unless a request for renewal is submitted in writing to the City by the Grantees as herein required. Should Grantees fail to submit such request for the renewal of this Special Privilege to the City as herein required, the Special Privilege shall expire upon the expiration date. Grantees understand, agree, and accept that the City may require that the terms, conditions, and provisions of this Special Privilege be modified as a condition for renewing the grant of the encroachment upon or through public rights-of-way as permitted by this Special Privilege.

3. CONSIDERATION. As consideration for this Special Privilege, Grantees shall pay to the City, pursuant to the fees set forth in Ordinance 10363, as amended, Section 15.08.120.D., the sum of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) for the two (2) year term of this Agreement which sum shall be due prior to the execution of this Special Privilege. The advance payment shall be in the form of a cashier's check delivered to the City Department of Planning,

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Research and Development for remittance to the Office of the City Comptroller. If the Special Privilege is disapproved by the City Council, a full refund of the payment shall be made by the Office of the City Comptroller within fifteen (15) days of the denial action.

The fee payment shall be exclusive of and in addition to all costs of obtaining required permits, plans and other approvals as necessary to conform with all other applicable ordinances and regulations.

4. USE OF PROPERTY:

This Special Privilege is granted solely for the encroachment onto the Premises with a gated entrance, security fencing, striped parking and other auxiliary uses associated with the expansion of Boeing North American, Inc., and for security purposes, as shown in Exhibit "B" and hereinafter referred to as "Use". As an express condition of this Special Privilege, Grantees shall provide for the installation of traffic control signage at Railroad Drive pursuant to the requirements of the Deputy Director for Engineering.

This Special Privilege shall not be construed to waive any City permit requirements. Grantees shall be responsible for all maintenance of the Premises.

Nothing contained herein shall grant or be construed to grant any real property interest to the Grantees, nor shall it give rise to any vested right in the Grantees, their assigns or successors in interest who shall not have a cause of action for damages upon revocation of this Special Privilege.

Nothing contained herein shall be construed to imply that the City is involved in the design, construction, maintenance or repair of the Use.

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5. IMPROPER USE.

This Special Privilege shall not permit or be construed to permit any other private use of the City's right-of-way which impairs its function as a right-of-way. Grantees shall not construct any additional improvements, or make any additions or alterations on or over the City right-of-way, without the prior written consent of the City Council.

6. REPAIRS.

Grantees shall keep the Premises in good condition and repair and in a clean, orderly and attractive condition during the term of this Special Privilege. Grantees shall be responsible for all maintenance of the Premises and Use, and shall repair any damage to the Premises regardless of the cause of such damage, at the sole expense of Grantees.

7. INDEMNITY.

As a condition of the Special Privilege, Grantees 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 Grantees' use of the public right-of-way, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City.

8. LIABILITY INSURANCE.

Grantees 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, 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. These amounts are not a limitation upon the Grantees' agreement to indemnify and hold the City harmless.

Grantees 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, their officers, agents, servants or employees. All policies shall name the City of El Paso, its officers, agents, servants and employees as additional insured to the full amount of the policy limits.

No special privilege license shall be granted by City Council until the Grantees file a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk, the City Attorney, and the Department of Planning, Research and Development. 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 the Special Privilege, shall be grounds for cancellation of this Special Privilege.

9. CANCELLATION. Should the City at any time or for any reason decide that the right-of-way onto which the Use is encroaching is needed for public use, the City may upon thirty (30) days' written notice, cancel this Special Privilege at no cost to the City and may take possession of the public right-of-way. All rights of Grantees in the Premises shall then be terminated. Grantees may cancel this Special Privilege,

for any reason, upon thirty (30) days' prior written notice to the City, and all rights of Grantees shall then be terminated.

In addition, if, for a period of six (6) months, Grantees shall cease to use or occupy the property for the purposes herein contemplated, or if Grantees default in any of their obligations under this Special Privilege and fail to correct such defaults within thirty (30) days after written notice to do so; the City may cancel this Special Privilege and take possession. All rights of the Grantees on the City right-of-way shall then terminate.

Any waiver by the City of any breach of any of Grantees' obligations shall not be deemed a continuing waiver, and shall not prevent the City from exercising any remedy it may have for any succeeding breach of the same or another obligation of the Grantees.

Upon termination of this Special Privilege for whatever reason, the encroaching Use shall become the property of the City and shall, at the option of the City, be removed by the Grantees without cost to the City.

10. LIENS AND ENCUMBRANCES. Grantees shall defend and indemnify the City against any liability and loss of any type arising from any lien or encumbrance on the property that arises or is alleged to have arisen from Grantees' use of the Premises.

11. ASSIGNMENT. Grantees shall not assign this Special Privilege without the prior written consent of the El Paso City Council.

12. MISCELLANEOUS.

a. SIGNS: This Special Privilege does not grant any permission to erect signage, but, rather, only authorizes an encroachment upon public right-of-way as described herein.

b. RIGHT OF ENTRY AND INSPECTION: The City's authorized representative shall have the right to enter upon the property at all reasonable times for the purpose of inspecting the same and determining compliance with the terms of this Special Privilege.

c. LAWS AND ORDINANCES: Grantees shall comply with all statutes, laws, codes and ordinances applicable to Grantees' maintenance of the Premises, as well as Grantees use on the Premises, except as specifically provided by the grant of this Special Privilege. This Special Privilege shall not grant permission for Grantees to utilize the Premises or operate the Use without first having obtained any required building permits from the Department of Building Services. In addition, Grantees shall obtain any and all other required permits and inspections and shall pay the necessary permit fees.

d. SUCCESSORS AND ASSIGNS: All of the terms, provisions, covenants and conditions of this Special Privilege shall inure to the benefit of and be binding upon the parties, their successors and assigns.

e. NOTICES: All notices provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

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City of El Paso  
Attn: Mayor  
#2 Civic Center Plaza, 10th Floor  
El Paso, Texas 79901-1196

with copy to: City of El Paso  
Attn: City Clerk  
#2 Civic Center Plaza, 2nd Floor  
El Paso, Texas 79901-1196

and: Keller & Azar Joint Venture, Inc.  
9566 Railroad Drive  
El Paso, Texas 79924

with copy to: Boeing North American, Inc.  
9566 Railroad Drive  
El Paso, Texas 79924

or to such other address as the parties may designate to each other in writing from time to time.

f. **ENTIRE AGREEMENT:** This document contains all of the agreements between the parties and may not be modified, except by an agreement in writing signed by all parties.

g. **SEVERABILITY:** The invalidity or illegality of any provision hereof shall not affect the remaining provisions hereof.

h. **LAW GOVERNING:** The laws of the State of Texas shall govern the validity, performances and enforcement of this Special Privilege and if legal action is necessary to enforce it, exclusive venue shall be in El Paso County, Texas.

13. **RESTRICTIONS AND RESERVATIONS:** This Special Privilege is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. If, at any time during the initial term of this Special Privilege, or any extension thereof, any such rights-of-way,

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leases, dedications, restrictions, reservations and other encumbrances of record and running with the land, preclude, interrupt or interfere with Grantees' use of the Premises. Grantees shall have the right to terminate this Special Privilege upon giving the City prior written notice of its intention to do so.

14. EFFECTIVE DATE: This Special Privilege shall be null and void unless signed by Grantees within thirty (30) days after its passage and approval by City Council. This Special Privilege shall not take effect unless Grantees shall, within thirty (30) days after its passage and approval, file written acceptance with the City Clerk.

If Grantees accept the terms and conditions of this Special Privilege as a corporation, each of the persons accepting on behalf of such Grantee warrants to the City that the corporate Grantee is a duly authorized and existing corporation, that the corporate Grantee is qualified to do business in the State of Texas, that the corporate Grantee has full right and authority to accept the terms and conditions of this Special Privilege and that each and every person signing on behalf of the corporate Grantee is authorized to do so. Upon the City's request, the corporate Grantee will provide evidence satisfactory to the City confirming these representations.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

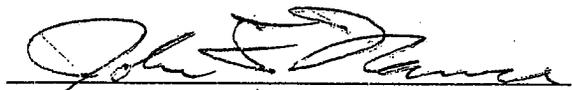
THE CITY OF EL PASO

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John F. Nance, Asst. City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Patricia D. Adauto, Chief Urban Planner  
Department of Planning, Research & Development

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 26<sup>th</sup>  
day of JANUARY, ~~1998~~ 1999.

GRANTEE:  
KELLER & AZAR JOINT VENTURE, INC.

By: [Signature]  
Title: \_\_\_\_\_

GRANTEE:  
BOEING NORTH AMERICAN, INC.

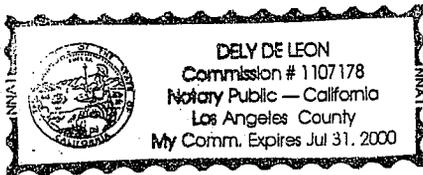
By: [Signature]  
Title: PHILIP W. CYBURT  
VICE PRESIDENT

State of California

County of Los Angeles

On January 15, 1999 before me, Dely De Leon, Notary Public, personally appeared Philip W. Cyburt personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal



*Dely De Leon*

Document: El Paso, TX - Special Privilege Document

013980

ACKNOWLEDGEMENT

THE STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

This instrument is acknowledged before me on this 26th day of January, 1998, by James A. Keller, on behalf of KELLER & AZAR JOINT VENTURE, INC., as Grantee.

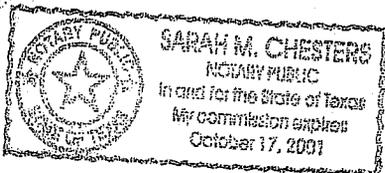
Sarah M. Chesters

Notary Public, State of Texas  
Notary's Printed or Typed Name:

Sarah M. Chesters

My Commission Expires:

October 17, 2001



ACKNOWLEDGEMENT

WASHINGTON  
THE STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )  
KING

This instrument is acknowledged before me on this 15 day of JANUARY, 1998, by Philip Cyburt, on behalf of BOEING NORTH AMERICAN, INC., as Grantee.

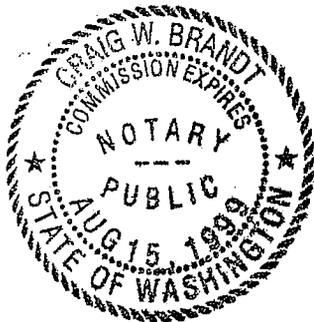
CRAIG W. BRANDT

Notary Public, State of Texas Washington  
Notary's Printed or Typed Name:

Craig W. Brandt

My Commission Expires:

8/15/99



AN ORDINANCE AMENDING ORDINANCE NO. 013980, AS AMENDED BY ORDINANCES 014787 AND 015374, WHICH GRANTED A SPECIAL PRIVILEGE TO KELLER & AZAR JOINT VENTURE, INC. (OWNER), AND BOEING NORTH AMERICAN, INC. (LESSEE), TO PERMIT THE TEMPORARY USE OF A PORTION OF THREADGILL AVENUE FOR SECURITY PURPOSES, BY EXTENDING THE TERM THROUGH MARCH 17, 2010 AND BY AUTHORIZING AN ASSIGNMENT AND TRANSFER FROM KELLER & AZAR JOINT VENTURE, INC. (OWNERS) TO WES UHLMAN & ASSOCIATES, INC./MALLARD EL PASO LIMITED PARTNERSHIP (OWNERS) AND FROM BOEING NORTH AMERICAN, INC. (LESSEE) TO THE BOEING COMPANY (LESSEE).

WHEREAS, the El Paso City Council approved Ordinance No. 013980 on March 16, 1999, a copy of which is attached as Exhibit "A," which authorized Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) (hereinafter referred to as "Grantees"), temporary use of a portion of Threadgill Avenue (hereinafter referred to as "Premises") for security purposes; and

WHEREAS, the El Paso City Council approved Ordinance No. 014787 on March 13, 2001, a copy of which is attached as Exhibit "B", which amended Ordinance No. 013980 allowing the extension of the term for an additional two (2) years; and

WHEREAS, the El Paso City Council approved Ordinance No. 015374 on March 11, 2003, a copy of which is attached as Exhibit "C", which amended Ordinance No.'s 013980 and 014787, allowing the extension of the term for an additional two (2) years; and

WHEREAS, Grantees have submitted written request to extend the grant of the special privilege license originally provided by Ordinance 013980, as subsequently extended, for an additional five (5) years to use this portion of public right-of-way; and

WHEREAS, pursuant to the terms of the Special Privilege, Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) have submitted written request for the express consent of the City to transfer and assign the Special Privilege to Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and to The Boeing Company (Lessee), and Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company have likewise requested the express consent of the City that it be allowed to accept the assignment and transfer of the Special Privilege License; and

WHEREAS, the Development Coordinating Committee has recommended that the term extension and assignment be granted without amendment to other conditions enumerated in Ordinance No. 013980 as amended; and

WHEREAS, the El Paso City Council finds that the grant of a Special Privilege extension and assignment, upon the terms and conditions hereinafter set forth, is not inconsistent with and will not unreasonably impair the public use of the right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

A. That the Mayor be authorized to sign a Consent to Assignment of the Special Privilege License provided to Grantees by Ordinance No. 013980, a copy of which is attached herein as exhibit "D" and made a part hereof for all purposes.

That the assignment of the Special Privilege shall be effective upon the completion of the date of filing by Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and to the Boeing Company (Lessee) of the attached Consent to Assignment (effective date). Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) shall be fully and finally released from any further duties, liabilities, or obligations under this Special Privilege upon the effective date.

B. That Paragraph 2 (Term) of Ordinance No. 013980 Exhibit "A", shall be deleted in its entirety and substituted with the following paragraph:

"2. **TERM.** This Special Privilege shall commence upon execution and continue until March 16, 2010 at which time it shall expire. The City shall have the sole option to renew this Special Privilege upon the request of the Grantees for additional terms of (5) years. If the Grantees wish the City to renew this Special Privilege for an additional five (5) year term, Grantees shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this Special Privilege. This Special Privilege shall expire without notice at the end of such expiration period unless a request for renewal is submitted in writing to the City by the Grantees as herein required. Should Grantees fail to submit such request for the renewal of this Special Privilege to the City as herein required, the Special Privilege shall expire upon the date of expiration. Grantees understand, agree and accept that the City may require the terms, conditions, and provisions of this Special Privilege be modified as a condition for renewing the grant of the encroachment upon or through public right-of-way as permitted by this Special Privilege."

C. That Paragraph 3 (Consideration) of Ordinance No. 013980 Exhibit "A", shall be deleted in its entirety and substituted with the following paragraph:

"4. CONSIDERATION. As consideration for the use of the Premises, the Grantee shall pay the City Forty Two Thousand Nine Hundred and No/100 Dollars (\$42,900.00) for the eleven (11) year term of this Agreement. Payment of this consideration shall be made to the City in four (4) installments:

- First Installment: First installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 16, 1999 (already paid).
- Second Installment: Second installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 6, 2001 (already paid).
- Third Installment: Third installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 6, 2003 (already paid).
- Fourth Installment: Fourth installment of Nineteen Thousand Five Hundred and No/100 Dollars (\$19,500.00) shall be due on or before March 6, 2005.

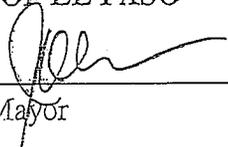
The payment shall be in the form of a cashier's check delivered to the City Department of Planning, Research and Development for remittance to the Office of the City Comptroller. If the Special Privilege is disapproved by the City Council, the Office of the City Comptroller shall make a full refund of the payment within fifteen (15) days of the denial action.

D. That this amendment to Ordinance No. 013980, executed on March 16, 1999, shall not be effective until grantees submit a written acceptance (Exhibit "E") to all conditions contained herein, such acceptance to be submitted within 30 days from approval of the El Paso City Council.

E. Except as herein amended, Ordinance No. 013980, executed on March 16, 1999, shall remain in full force and effect.

PASSED AND APPROVED this 22<sup>nd</sup> day of February, 2005.

THE CITY OF EL PASO

  
\_\_\_\_\_  
Joe Wardy, Mayor

ATTEST

  
\_\_\_\_\_  
Richarda Momsen, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Matt Watson  
Assistant City Attorney

APPROVED AS TO CONTENT:

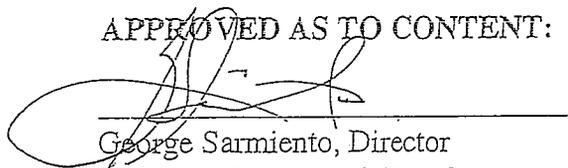
  
\_\_\_\_\_  
George Sarmiento, Director  
Planning, Research & Development

EXHIBIT "D"

THE STATE OF TEXAS     §  
                                   §                     Consent to Assignment  
COUNTY OF EL PASO     §

WHEREAS, Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) (hereinafter referred to as "Grantees"), were granted a special privilege to use a portion of Threadgill Avenue located within the City of El Paso ("the City") for security purposes pursuant to the terms and condition of Ordinance No. 013980 (Exhibit "A") as subsequently amended and extended; and

WHEREAS, pursuant to the terms of the Special Privilege, Grantees have requested the express consent of the City to transfer and assign the Special Privilege to Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company (lessee) (hereinafter collectively referred to as "Assignees"), and Assignees have likewise requested the express consent of the City that it be allowed to accept the assignment and transfer of the Special Privilege License; and

WHEREAS, Section 11 of the Special Privilege License requires the written consent of the El Paso City Council for assignment of the Special Privilege License; and

WHEREAS, Grantees and Assignees request that the City approve the assignment of the Special Privilege License granted by Ordinance No. 013980 as amended; and

WHEREAS, It is requested that this Special Privilege transfer shall be effective upon the completion of both (1) the approval of this amendment to Ordinance No. 013980, and (2) the date of the filing by both Assignees of the written acceptance of the terms of this Consent to Assignment of the Special Privilege with the City Clerk.

WHEREAS, the City agrees to the assignment to Assignees, of the rights, duties, obligations and responsibilities encompassed in the Special Privilege License; and

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. The City Council hereby gives its consent and permission to the assignment and transfer by Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee)

of the Special Privilege, and to the substitution of Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company (lessee) in the Special Privilege, which Special Privilege is incorporated herein by reference, the same as if repeated verbatim.

2. That such consent to the assignment and transfer of the Special Privilege shall be effective upon both the approval of the Special Privilege License amendment and the completion by Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company (lessee) of this consent to assignment, which shall indicate Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company (lessee)'s agreement to accept and assume to pay, perform and discharge all of the obligations, duties and liabilities of Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) in and under the terms and conditions of the Special Privilege and to be in all respects subrogated to the rights and liabilities of Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee).

3. Keller & Azar Joint Venture, Inc. (Owner), and Boeing North American, Inc. (Lessee) shall remain responsible for the duties, liabilities and obligations under the Special Privilege until the Effective Date and shall be fully and finally released from any further duties, liabilities or obligations under the Special Privilege upon delivery by Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company (lessee) of the written acceptance as described in (2) above.

4. Wes Uhlman & Associates, Inc./Mallard, El Paso Limited Partnership (Owners) and the Boeing Company (lessee) agrees to indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, court costs, expenses and attorneys fees which are connected with or arising from the assignment of this Special Privilege License and the City's acceptance and recognition of the assignment of the Special Privilege License.

5. All notices provided shall be sent by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

City of El Paso  
Attn: Mayor  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

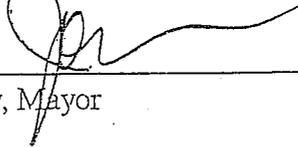
with copy to: City of El Paso  
Attn: City Clerk  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

and: Wes Uhlman & Associates, Inc./Mallard El Paso Limited  
Partnership  
16 W. Harrison St., Suite 201  
Seattle, Washington 98119  
(206) 285-0664

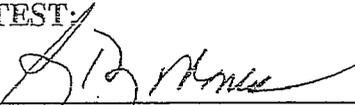
with copy to: The Boeing Company  
9566 Railroad Dr.  
El Paso, Texas 79924  
Charles Sanders/834-1033

WITNESS the following signatures and seals:

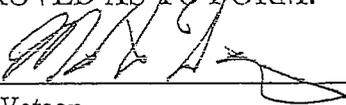
THE CITY OF EL PASO

  
\_\_\_\_\_  
Joe Wardy, Mayor

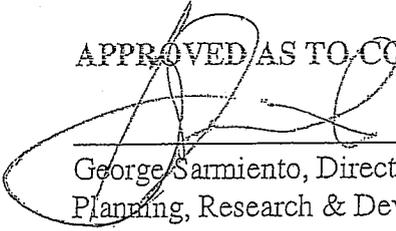
ATTEST:

  
\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Matt Watson  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
George Sarmiento, Director  
Planning, Research & Development

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 14 day of February 2005.

ASSIGNEE: WES UHLMAN & ASSOCIATES, INC./MALLARD EL PASO LIMITED PARTNERSHIP (OWNERS)

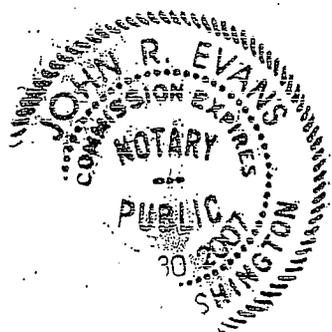
By: [Signature]

Title: Managing Partner

ACKNOWLEDGEMENT

THE STATE OF TEXAS §  
COUNTY OF EL PASO §

This instrument is acknowledged before me on this 14 day of February, 2005, by John R Evans, on behalf of WES UHLMAN & ASSOCIATES, INC./MALLARD EL PASO LIMITED PARTNERSHIP (OWNERS), as assignee.



Notary Public, State of Texas: (signature)

[Signature]  
Notary's Printed/Typed Name:  
John R Evans

My Commission Expires:

Sept 30 - 2007

ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 10<sup>TH</sup> day of FEBRUARY 2005.

ASSIGNEE: THE BOEING COMPANY (LESSEE)

By: [Signature]

Title: Mark E. Villagomez  
Authorized Signatory

ACKNOWLEDGEMENT

THE STATE OF TEXAS §  
                                          §  
COUNTY OF EL PASO §

This instrument is acknowledged before me on this 10<sup>th</sup> day of February,  
2005, by Mark E. Villagomez, on behalf of BOEING NORTH AMERICAN,  
INC. as assignee.

Notary Public, State of Texas: (signature)  
\_\_\_\_\_

see Attachment "A"

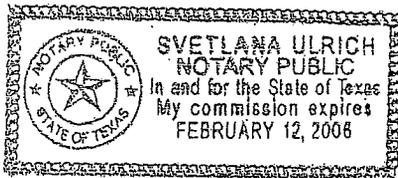
Notary's Printed/Typed Name:  
\_\_\_\_\_

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

THE STATE OF TEXAS §  
                                          §  
COUNTY OF EL PASO §

This instrument is acknowledged before me on this 15 day of FEBRUARY,  
2005, by EDWARD AZAR, on behalf of, KELLER & AZAR JOINT  
VENTURE, INC., as assignee.

Notary Public, State of Texas: (signature)  
Svetlana Ulrich



Notary's Printed/Typed Name:  
SVETLANA ULRICH

My Commission Expires:  
2-12-06

State of California

County of Orange

On February 10, 2005, before me, T.S. Wertner, Notary Public, personally appeared Mark E. Villagomez, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal

A handwritten signature in cursive script, appearing to read "T.S. Wertner", written over a horizontal line.

ACKNOWLEDGEMENT

THE STATE OF TEXAS §  
                                                          §  
COUNTY OF EL PASO §

This instrument is acknowledged before me on this 10<sup>th</sup> day of February, 2005, by Mark E. Villagomez, on behalf of THE BOEING COMPANY, as assignee.

Notary Public, State of Texas: (signature)

\*see Attachment "B"

Notary's Printed/Typed Name:

My Commission Expires:

ACCEPTANCE (Exhibit "E")

The amendment to Ordinance 013980, as amended herein, are hereby accepted this        day of FEBRUARY 15, 2005.

GRANTEE:  
KELLER & AZAR JOINT VENTURE, INC.

BY: [Signature]

TITLE: [Signature]

GRANTEE:  
BOEING NORTH AMERICAN, INC.

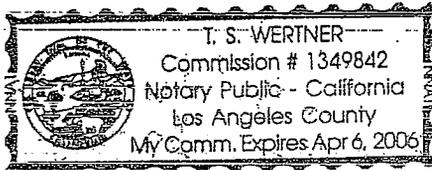
BY: [Signature]  
Mark E. Villagomez

TITLE: Authorized Signatory

State of California

County of Orange

On February 10, 2005, before me, T.S. Wertner, Notary Public, personally appeared Mark E. Villagomez, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal

A handwritten signature in black ink, appearing to be "T.S. Wertner", written over a horizontal line.

MARSH

CERTIFICATE OF INSURANCE

CERTIFICATE NUMBER  
CHI-000848351-03

PRODUCER  
MARSH USA INC.  
DONNA FENTRESS  
FAX (877) 855-7274  
E-MAIL DONNA.R.FENTRESS@MARSH.COM  
500 W. MONROE STREET  
CHICAGO, IL 60661  
BNA

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

COMPANIES AFFORDING COVERAGE

- COMPANY A ACE AMERICAN INS CO
- COMPANY B INDEMNITY INSURANCE CO. OF NORTH AMERICA
- COMPANY C NATIONAL UNION FIRE INSURANCE CO OF PITTSBURGH
- COMPANY D

INSURED  
THE BOEING COMPANY  
ATTN: MS. KRISTINE FLETCHER  
100 NORTH RIVERSIDE MC 5003-3357  
CHICAGO, IL 60606-1596

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY	HDOG21731869	10/01/04	10/01/05	GENERAL AGGREGATE	\$ 25,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	*SEE ATTACHMENT "A"	10/01/04	10/01/05	PRODUCTS - COMP/OF AGG	\$ 7,500,000	
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				PERSONAL & ADV INJURY	\$ 5,000,000	
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE	\$ 5,000,000	
	<input checked="" type="checkbox"/> AUTO LIABILITY (AOS)				FIRE DAMAGE (Any one fire)	\$ INCL	
	ANY AUTO				MED EXP (Any one person)	\$ N/A	
A	AUTOMOBILE LIABILITY	ISAH07944688 (TX)	10/01/04	10/01/05	COMBINED SINGLE LIMIT	\$ 5,000,000	
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$	
	<input checked="" type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE	\$	
	<input checked="" type="checkbox"/> HIRED AUTOS						
	<input checked="" type="checkbox"/> NON-OWNED AUTOS						
<input checked="" type="checkbox"/> SELF INSURED FOR PHYSICAL DAMAGE							
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$	
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY:		
					EACH ACCIDENT	\$	
					AGGREGATE	\$	
	EXCESS LIABILITY				EACH OCCURRENCE	\$	
	<input type="checkbox"/> UMBRELLA FORM				AGGREGATE	\$	
	OTHER THAN UMBRELLA FORM					\$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WLRC43988980 AOS	10/01/04	10/01/05	<input checked="" type="checkbox"/> WC STATUTORY LIMITS		
A		SCFC43989601 WI	10/01/04	10/01/05	EL EACH ACCIDENT	\$ 1,000,000	
B	THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE:	<input checked="" type="checkbox"/> INCL	WLRC43989674 MO,NC,NE,NJ,OK	10/01/04	10/01/05	EL DISEASE-POLICY LIMIT	\$ 1,000,000
A		<input type="checkbox"/> EXCL	WLRC43989637 CA	10/01/04	10/01/05	EL DISEASE-EACH EMPLOYEE	\$ 1,000,000
C	OTHER EXCESS WORKERS' COMP. **SUBJECT TO #3,000,000 S.I.R.	3757498 (OH, WA)	10/01/04	10/01/05	EL. EA. ACCIDENT	10,000,000	
					EL DISEASE-EA. EMPLOYEE	10,000,000	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Regarding the Lease Agreement between City of El Paso (Lessor) and Boeing North American, Inc. (Lessee), a wholly owned subsidiary of The Boeing Company for premises at 6055 Threadgill, 9526 Railroad Drive, 9566 Railroad Drive, El Paso, TX. City of El Paso, its officers, agents, servants and employees are named as additional insured's, per the attached, but only to the extent required in Section 8 of Ordinance 013980 dated March 16, 1998 and renewal ordinance 014787 dated March 13, 2001. [Visual Lease No. TX-ELP91-29, TX-ELP91-57 and TX-ELP91-58]

CERTIFICATE HOLDER

CITY OF EL PASO  
ATTN: MATT WATSON  
#2 CIVIC CENTER PLAZA  
EL PASO, TX 79901-1196

CANCELLATION

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN, BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES, OR THE ISSUER OF THIS CERTIFICATE.

MARSH USA INC.

BY: Kendra A Givan

*Kendra A. Givan*

VALID AS OF: 02/04/05

**ADDITIONAL INFORMATION**

DATE (MM/DD/YY)

CHI-000343351-03 02/04/05

PRODUCER MARSH USA INC. DONNA FENTRESS FAX (877) 855-7274 E-MAIL DONNA.R.FENTRESS@MARSH.COM 500 W. MONROE STREET CHICAGO, IL 60661	COMPANIES AFFORDING COVERAGE	
	COMPANY E	
BNA	COMPANY F	
INSURED THE BOEING COMPANY ATTN: MS. KRISTINE FLETCHER 100 NORTH RIVERSIDE MC.5003-3357 CHICAGO, IL 60606-1596	COMPANY G	
	COMPANY H	

\* COMPREHENSIVE LIABILITY INSURANCE - POLICY HD0G21731869

COVERAGE INCLUDES COMPREHENSIVE GENERAL LIABILITY, CONTRACTUAL LIABILITY, PRODUCTS-COMPLETED OPERATIONS, PERSONAL INJURY, ADVERTISING INJURY, BENEFITS INJURY (CLAIMS MADE), AND APPLIED TO ALL PREMISES, OPERATIONS AND AUTOMOBILES.

1. ADDITIONAL INSURED: WITH RESPECT TO BODILY INJURY, PROPERTY DAMAGE, MALPRACTICE INJURY, PERSONAL INJURY, ADVERTISING INJURY, AND BENEFITS INJURY, ANY OTHER PERSON OR ORGANIZATION IS INCLUDED AS AN INSURED TO SUCH EXTENT AND FOR SUCH LIMITS OF LIABILITY (NOT IN EXCESS OF THE LIMITS OF LIABILITY AFFORDED BY THIS POLICY) AS THE NAMED INSURED HAS AGREED IN WRITING BEFORE LOSS TO PROVIDE INSURANCE.

THE INSURANCE AFFORDED ABOVE APPLIES SUBJECT TO THE FOLLOWING ADDITIONAL PROVISIONS:

A. THE LIMIT OF THE COMPANY'S LIABILITY SHALL BE THE LIMITS OF LIABILITY STATED IN THE POLICY OR THE LIMITS OF LIABILITY REQUIRED BY THE PROVISION OF SUCH CONTRACT, WHICHEVER ARE LESS.  
 B. WHERE REQUIRED BY CONTRACT, THIS INSURANCE SHALL APPLY AS PRIMARY AND NON-CONTRIBUTORY INSURANCE TO OTHER INSURANCE PURCHASED BY THE ADDITIONAL INSURED.

2. SEVERABILITY OF INTERESTS: THIS POLICY APPLIES SPECIFICALLY TO EACH INSURED AGAINST WHOM CLAIM IS MADE OR SUIT IS BROUGHT, BUT THE INCLUSION HEREIN OF MORE THAN ONE INSURED SHALL NOT OPERATE TO INCREASE THE LIMITS OF THE COMPANY'S LIABILITY.

**CERTIFICATE HOLDER**

CITY OF EL PASO  
 ATTN: MATT WATSON  
 #2 CIVIC CENTER PLAZA  
 EL PASO, TX 79901-1196

MARSH USA INC. BY  
 Kendra A Givan

*Kendra A. Givan*

AN ORDINANCE AMENDING ORDINANCE NO. 013980  
 GRANTED A SPECIAL PRIVILEGE TO KELLER & AZAR JOINT  
 VENTURE, INC., OWNER, AND BOEING NORTH AMERICAN, INC.,  
 LESSEE, TO PERMIT THE TEMPORARY USE OF A PORTION OF  
 THREADGILL AVENUE FOR SECURITY PURPOSES, BY EXTENDING  
 THE TERM THROUGH MARCH 16, 2003

WHEREAS, the El Paso City Council approved Ordinance No. 013980 on March 16, 1999, a copy of which is attached as Exhibit "A," which authorized Keller & Azar Joint Venture, Inc., Owner, and Boeing North American, Inc., Lessee (hereinafter referred to as "Grantees"), temporary use of a portion of Threadgill Avenue (hereinafter referred to as "Premises") for security purposes; and

WHEREAS, Grantees are requesting to extend the time to use this portion of public right-of-way, as described in Ordinance No. 013980, to enhance security associated with the expansion of Boeing North American Inc., upon payment of the annual consideration; and

WHEREAS, the Development Coordinating Committee has recommended that the term extension be granted subject to no other amendment to the conditions enumerated in Ordinance No. 013980; and

WHEREAS, the El Paso City Council finds that the grant of a Special Privilege upon the terms and conditions hereinafter set forth is not inconsistent with and will not unreasonably impair the public use of the right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

A. That Paragraph 2 (Term) of Ordinance No. 013980, shall be deleted in its entirety and substituted with the following paragraph:

"3. TERM. The term of this Special Privilege shall be for four (4) years from March 16, 1999 to March 16, 2003. The City shall have the sole option to renew this Special Privilege upon the request of the Grantees for additional two (2) year options. If the Grantees wish the City to renew this Special Privilege for an additional two (2) year term, Grantees shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this Special Privilege. This Special Privilege shall expire without notice at the end of such expiration period unless a request for renewal is submitted in writing to the City by the Grantees as herein required. Should Grantees fail to submit such request for the renewal of this Special Privilege to the City as herein required, the Special Privilege shall expire upon the expiration date. Grantees understand, agree and accept that

the City may require the terms, conditions, and provisions of this Special Privilege be modified as a condition for renewing the grant of the encroachment upon or through public right-of-way as permitted by this Special Privilege.”

B. That Paragraph 3 (Consideration) of Ordinance No. 013980 shall be deleted in its entirety and substituted with the following paragraph:

“4. CONSIDERATION. As consideration for the use of the Premises, the Grantee shall pay the City Fifteen Thousand Six Hundred and No/100 Dollars (\$15,600.00) for the four (4) year term of this Agreement. Payment of this consideration shall be made to the City in two (2) installments:

- First Installment: First installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 16, 1999.
- Second Installment: Second installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 6, 2001.

The advance payments shall be in the form of a cashier's check delivered to the City Department of Planning, Research and Development for remittance to the Office of the City Comptroller. If the Special Privilege is disapproved by the City Council, a full refund of the payment shall be made by the Office of the City Comptroller within fifteen (15) days of the denial action. “

C. Except as herein amended, Ordinance No. 013980, executed on March 16, 1999, shall remain in full force and effect.

PASSED AND APPROVED this 13<sup>th</sup> day of March, 2001.

THE CITY OF EL PASO



Carlos M. Ramirez, P.E.  
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



Carolyn J. Celum  
Assistant City Attorney

APPROVED AS TO CONTENT:



Patricia D. Adauto, Interim Director  
Planning, Research & Development

15374

AN ORDINANCE AMENDING ORDINANCE NO. 014787, WHICH GRANTED A SPECIAL PRIVILEGE TO KELLER & AZAR JOINT VENTURE, INC., OWNER, AND BOEING NORTH AMERICAN, INC., LESSEE, TO PERMIT THE TEMPORARY USE OF A PORTION OF THREADGILL AVENUE FOR SECURITY PURPOSES, BY EXTENDING THE TERM THROUGH MARCH 16, 2005

WHEREAS, the El Paso City Council approved Ordinance No. 013980 on March 16, 1999, a copy of which is attached as Exhibit "A," which authorized Keller & Azar Joint Venture, Inc., Owner, and Boeing North American, Inc., Lessee (hereinafter referred to as "Grantees"), temporary use of a portion of Threadgill Avenue (hereinafter referred to as "Premises") for security purposes; and

WHEREAS, the El Paso City Council approved Ordinance No. 014787 on March 13, 2001, a copy of which is attached as Exhibit "B", which amended Ordinance No. 013980 to allow the extension of the term for an additional two (2) years.

WHEREAS, Grantees are requesting to extend the time for an additional two (2) years to use this portion of public right-of-way, as described in Ordinance No. 013980, to enhance security associated with the expansion of Boeing North American Inc., upon payment of the annual consideration; and

WHEREAS, the Development Coordinating Committee has recommended that the term extension be granted subject to no other amendment to the conditions enumerated in Ordinance No. 013980; and

WHEREAS, the El Paso City Council finds that the grant of a Special Privilege upon the terms and conditions hereinafter set forth is not inconsistent with and will not unreasonably impair the public use of the right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

15374

A. That Paragraph 4 of Ordinance No. 013980 shall be amended to read as follows:

4. *This Special Privilege shall last for a term of six (6) years.*

B. That Paragraph 2, TERM, of Exhibit "A", Special Privilege, within Ordinance No.

013980, shall be deleted in its entirety and substituted with the following language:

3. *TERM. The term of this Special Privilege shall be for six (6) years from March 16, 1999 to March 15, 2005. The City shall have the sole option to renew this Special Privilege upon the request of the Grantees for additional two (2) year options. If the Grantees wish the City to renew this Special Privilege for an additional two (2) year term, Grantees shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this Special Privilege. This Special Privilege shall expire without notice at the end of such expiration period unless a request for renewal is submitted in writing to the City by the Grantees as herein required. Should Grantees fail to submit such request for the renewal of this Special Privilege to the City as herein required, the Special Privilege shall expire upon the expiration date. Grantees understand, agree and accept that the City may require the terms, conditions, and provisions of this Special Privilege be modified as a condition for renewing the grant of the encroachment upon or through public right-of-way as permitted by this Special Privilege.*

C. That Paragraph 3, CONSIDERATION, of Exhibit "A", Special Privilege, within

Ordinance No. 013980 shall be deleted in its entirety and substituted with the following language:

3. *CONSIDERATION. As consideration for the use of the Premises, the Grantee shall pay the City Twenty Three Thousand Four Hundred and No/100 Dollars (\$23,400.00) for the six (6) year term of this Agreement. Payment of this consideration shall be made to the City in three (3) installments:*

*First Installment: First installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 16, 1999.*

*Second Installment: Second installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 6, 2001.*

*Third Installment: Third installment of Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00) shall be due on or before March 6, 2003.*

*The advance payments shall be in the form of a cashier's check delivered to the City Department of Planning, Research and Development for remittance to the Office of the City Comptroller. If the Special Privilege is disapproved by the City Council, a*

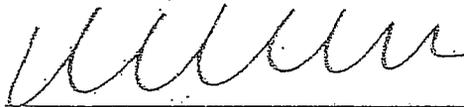
15374

full refund of the payment shall be made by the Office of the City Comptroller within fifteen (15) days of the denial action.

D. Except as herein amended, all other provisions of Ordinance No. 013980, approved on March 16, 1999, as amended by Ordinance 014767 approved on March 13, 2001, shall remain in full force and effect.

PASSED AND APPROVED this 11<sup>th</sup> day of MARCH, 2003.

THE CITY OF EL PASO



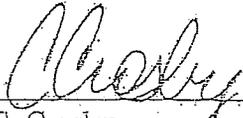
Raymond C. Caballero  
Mayor

ATTEST:



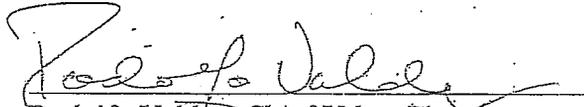
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



C. Crosby  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
Rodolfo Valdez, Chief Urban Planner  
Planning, Research & Development

\* 15374

LOCATION MAP

SP-98143

