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

DEPARTMENT: **Development Services Department/Planning Division**

AGENDA DATE: **Introduction 05-16-06; Public Hearing 05-30-06**

CONTACT PERSON/PHONE: **Esther Guerrero, Planner I – 541-4720**

DISTRICT(S) AFFECTED: #6

SUBJECT:

An Ordinance granting a Lease and a Special Privilege to Ethicon Endo Surgery, Inc. to permit and regulate the construction, maintenance and use of a fiber optic cable telecommunications system on the Zaragoza Bridge and across, over and under portions of City-owned property and public right-of-way along Zaragoza Drive within the City of El Paso. The following consideration is to be paid to the City: $1,320.00 (Special Privilege Annual Fee), Annual Lease Fee ($730.00), and Monthly Bridge Fee ($1,000.00). The Bridge Fee will be abated for seventy-five (75) months in exchange for the grantee's installation of oversized infrastructure for the benefit of the City as set forth in the agreement. (**District 6**)

BACKGROUND / DISCUSSION:

See attached information.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?

See attached general information.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Approval Recommendation

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

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

DEPARTMENT HEAD: Alan Shubert

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

GENERAL INFORMATION:

SUBJECT: Special Privilege SP-05029

This Special Privilege and Lease will allow Ethicon Endo Surgery, Inc. to use various City public rights-of-way and City-owned property along Zaragoza Road and the Zaragoza Bridge, solely for the purpose to install and maintain a fiber optic cable telecommunications network connecting the underground conduit between the City of El Paso and Ciudad Juarez solely to transport electronic information for their internal business use, and not for the purpose of leasing to a third party or for profit.

The Streets Department shall approve the construction plans prior to beginning any work in the right-of-way and on the Bridge, and Ethicon is subject to all terms in the agreement regarding safety and installation of the telecommunications network. The term of this Agreement shall be seven (7) years from the date the Agreement is fully executed. The Grantee shall have the option to extend this agreement for one (1) additional five (5) year term upon the negotiation of the total fee.

As consideration for this Special Privilege License Agreement, the Grantee shall pay to the City and annual fee of $1,320.00; An Annual Lease Fee of $730.00; and Monthly Bridge Fee of $1,000.00 (the Bridge will be abated for seventy-five (75) months in exchange for the Grantee's installation of oversized Infrastructure for the benefit and use by the City. The City's total cost contribution shall not exceed $75,000.00.

AN ORDINANCE GRANTING A LEASE AND A SPECIAL PRIVILEGE TO ETHICON ENDO SURGERY, INC. TO PERMIT AND REGULATE THE CONSTRUCTION, MAINTENANCE AND USE OF A FIBER OPTIC CABLE TELECOMMUNICATIONS SYSTEM ON THE ZARAGOZA BRIDGE AND ACROSS, OVER AND UNDER PORTIONS OF CITY OWNED PROPERTY AND PUBLIC RIGHT-OF-WAY ALONG ZARAGOZA DRIVE WITHIN THE CITY OF EL PASO. THE FOLLOWING CONSIDERATION IS TO BE PAID TO THE CITY: $1,320.00 (SPECIAL PRIVILEGE ANNUAL FEE), ANNUAL LEASE FEE ($730.00), AND MONTHLY BRIDGE FEE ($1,000.00). THE BRIDGE FEE WILL BE CREDITED FOR SEVENTY-FIVE (75) MONTHS IN EXCHANGE FOR THE GRANTEE'S INSTALLATION OF OVERSIZED INFRASTRUCTURE FOR THE BENEFIT OF THE CITY AS SET FORTH IN THE AGREEMENT.

WHEREAS, ETHICON ENDO SURGERY, INC. (hereinafter called "Grantee") desires the use of certain City owned property and public rights-of-way within the City of El Paso (hereinafter called "City") for the purpose of installing a fiber optic cable communication network connecting the underground conduit between the City of El Paso and Ciudad Juarez solely to transport electronic information for their internal business use; and,

WHEREAS, Grantee proposes to install the fiber optic telecommunications network along the Zaragosa Bridge, within City owned property and certain public rights-of-way; and,

WHEREAS, the City is willing to grant this lease and special privilege according to the terms in the attached agreement without waiving any of its rights under applicable law.

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

That the City Manager be authorized to execute an Agreement, and any future amendments or extensions to such Agreement, incorporating a lease and Special Privilege on behalf of the CITY OF EL PASO, hereinafter referred to as "City," upon the following terms, to the ETHICON ENDO SURGERY, INC., hereinafter referred to as "Grantee":

1. This Agreement shall be in a form that is attached and incorporated as Exhibit "A"; and,

2. The Agreement is to permit Grantee the use of various City public rights-of-way and City owned property along Zaragosa Drive solely for the installation and maintenance of a fiber optic telecommunications network for its internal business use, and not for the purpose of leasing to a third party or for profit; and,

3. As consideration for this Agreement, Grantee shall pay to the City the sum set forth in Paragraph Five of Exhibit "A," subject to the terms and conditions of this ordinance and Agreement; and,

4. This Agreement shall be for a term of seven (7) years from the date the Agreement is executed and may be extended by a one five (5) year term from the expiration date of the initial term as provided in the Agreement.

PASSED AND APPROVED this _____day of _____, 2006.

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Momsen
City Clerk

APPROVED AS TO FORM:

Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:

for George Sarmiento, AICP, Deputy
Director/Planning Division

Daryl Cole, Director
Streets Department

Gonzalo Cedillos
Financial Services
Capital Assets Management

THE STATE OF TEXAS)

)

COUNTY OF EL PASO)

EXHIBIT "A"

LEASE and SPECIAL PRIVILEGE AGREEMENT

THIS LEASE AND SPECIAL PRIVILEGE AGREEMENT is made and entered into this ____ day of _____ 2006, by and between the City of El Paso, Texas, a Municipal Corporation, of the County of El Paso in the State of Texas (hereinafter referred to as "City"), and Ethicon Endo Surgery, Inc. (hereinafter referred to as "Grantee").

WITNESSETH

WHEREAS, Grantee proposes to install fiber optic conduit within certain specific public rights-of-way and City property, for its internal business use, and not for the purpose of leasing to a third party or for profit; and,

WHEREAS, the City and the Grantee desire to enter into this Agreement to set forth the duties and responsibilities of the parties; and,

NOW THEREFORE, in consideration of these premises and of the mutual covenants and agreements of the parties, it is agreed as follows:

SECTION 1. SCOPE AND PURPOSE

The City hereby grants to Grantee, a lease and Special Privilege (hereinafter referred to as "Agreement") to install, operate, repair, replace and maintain upon, beneath, across and along portions of certain City owned property and public rights-of-way of the City (hereinafter collectively referred to as the "City Property") all necessary or desirable wires, cables, underground conduits, manholes, junction boxes, communication vaults or other structures or appurtenances necessary, in connection with a fiber optic telecommunications network, not including cable television or local exchange telephone service, to provide fiber optic telecommunications service, solely for their own internal business purposes and not for sale, lease or use by third parties, to include but not limited to, Multi-Gard Multi-Cell Raceway System providing four inner ducts for each four-inch conduit and where located on the City owned portion of the City Property shall be installed in accordance with the manufacturers' instructions and recommendations, and as to be further shown on the approved Plans, hereinafter referred to as the "Infrastructure".

The Grantee may only follow the proposed route for the installation and repair of the Infrastructure within the boundaries of the City Property as shown and more particularly described by metes and bounds in Exhibit "B" attached and incorporated by reference for all purposes (hereinafter the "Route"). The exact location of the Route within the City Property described in Exhibit "B" shall be established and shown on the approved Plans. At a minimum, the Route may not include the area five (5) feet from the sidewalk in front of the bridge toll office facilities located within the City Property. The recommended route is to pass the bridge toll office facilities on the west side along the existing parking area and driveway facilities.

Any use of any public right-of-way or other location other than the Route for the installation of the Infrastructure is not authorized by this Agreement and may be considered a breach of this Agreement. It is understood however, that slight deviations from the Route may occur due to unforeseen conditions. Should such a deviation be required, Grantee shall promptly notify the Director and request his approval prior to taking a deviation in the route. This Agreement shall not permit or be construed to permit any other private use of the City Property, which impairs its function as a right-of-way or otherwise interferes with the City's use of the City Property. Grantee shall not install or construct any additional improvements, or make any additions or alterations on, below or over the City Property, without the prior written consent of the City. Nothing herein shall grant any real property interest to Grantee except as provided herein.

SECTION 2. REGULATION OF CONSTRUCTION

No less than fourteen (14) days prior to the installation of the Infrastructure, Grantee shall submit to the Streets Department Director ("Director") for review and approval the following information:

a. Five complete sets of sealed engineering drawings (design and construction) for the Infrastructure on a scale of one inch (1") equals fifty feet (50'); and,

b. A sealed engineering shoring plan indicating calculations and analysis for soil stabilization for any trenching/excavation of five (5) feet depth or greater, as required by OSHA; and,

c. Detail of the location of all right-of-way and utility easements which Grantee plans to use; and,

d. Detail of all existing utility facilities, horizontally and vertically, in relationship to the proposed route; and,

e. Detail of the Infrastructure the Grantee proposes to install, such as pipe size, number of interducts, valves, conduits, junction boxes, communication vaults, type of construction material, et cetera, and location of each; and,

f. Detail of plans to remove and replace asphalt, concrete in street in accordance with City standards; and,

g. Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, et cetera including depth notation; and,

h. Handhole and/or manhole typicals of type of manholes and/or handholes Grantee intends to use or access; and,

i. The name, address and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction; and,

j. The construction and installation methods and materials to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way and City Property, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the Director; and,

k. The proposed schedule of construction showing commencement and completion dates; and,

l. A detailed traffic control plan for the control of traffic in and around any construction site, approved by the Traffic Division of the Engineering Department; and,

m. Letters of clearance from all utility companies which may be affected by the construction of the installation of the Infrastructure; and,

n. Letters of clearance from affected federal, state or applicable local entities. Notwithstanding the foregoing requirement, the letters of clearance will not delay the review and the approval of the Plans; however, no construction, including preparatory work, shall commence on the City Property until the Director receives any and all applicable letters at least twenty-four hours prior to the scheduled start date of construction; and,

o. Any additional information and documentation reasonably required by the Director needed to review the plans.

Collectively these submission items shall be referred to as the "Plans".

Upon approval of the Plans by the Director, Grantee shall coordinate with the Director a preconstruction meeting with Grantee's contractor. Grantee may begin the installation of the Infrastructure after the pre-construction meeting has been held, subject to any reasonable changes requested by the Director at the meeting and subject to the timelines set forth in this Agreement. All construction and installation of the Infrastructure shall be completed in accordance with the approved Plans. The Director or his/her designee shall be provided access to the work and to such information as he or she may reasonably require to assure compliance with the terms of this Agreement. A copy of the Plans shall be maintained at the construction site and made available for inspection by the Director or City staff at all times when construction or installation work is occurring. All construction or installation work must be completed in the time specified in the submitted construction schedule. If the work cannot be completed in the specified construction schedule, the Grantee may request, in writing an extension from the Director. A copy of any permit or approval issued by federal or state authorities shall be posted at work site.

Grantee shall notify the Director, the Director of Engineering and the Chief Traffic Engineer of the Department of Engineering a minimum of forty-eight (48) hours in advance prior to the commencement of construction or installation by the Grantee, their contractor or representative. All construction shall be in conformance with city codes and applicable local, state and federal laws and regulations. In addition the Grantee shall comply with the following:

a. A three by three feet information sign shall be posted stating the identity of the person doing the work, telephone number and Grantee's identity and telephone number shall be placed at the location where construction is to occur not less than forty-eight hours prior to the beginning of work in the City Property and shall continue to be posted at the location during the entire time the work is occurring.

b. Provider must show proof of Texas Commission on Environmental Quality ("TCEQ") and/or Environmental Protection Agency ("EPA") approved plans relating to storm water and erosion when applicable or a letter from the governmental agency stating they are not required to obtain such plans.

c. Lane closures on major thoroughfares are permitted between 8:30 a.m. and 4:00 p.m. only, unless the Director grants prior approval. Arrow boards will be required on lane closures, with all barricades, advance warning signs and 36-inch reflector cones placed according to the specifications of the Traffic Engineering Division of the Engineering Department.

d. Grantee is responsible for the workmanship and any damages by a contractor or subcontractor, regardless if the contractor or subcontractor is an independent contractor. A responsible representative of the Grantee will be available at all times during construction.

e. Grantee shall be responsible for storm water management erosion control that complies with city, state and federal guidelines. Requirements shall include, but not be limited to, silt fencing around any excavation that will be left overnight, barricade fencing around open holes, and high erosion areas will require wire backed silt fencing.

f. Grantee, Grantee's contractor or subcontractor will notify the Director of any damage to other utilities, either City or privately owned, and shall notify the owner of such facilities.

g. When a street or sidewalk cut is required, prior approval must be obtained from the Engineering Department and all requirements of the Engineering Department shall be followed. Repair of all street and sidewalk removals must be made promptly and no more than forty-eight hours to avoid safety hazards to vehicle and pedestrian traffic. Any street or sidewalk cuts shall be subject to the regulations set forth in City ordinances regarding excessive paving cuts.

h. All directional boring shall have locator place bore marks and depths while bore is in progress. Grantee shall place a mark at each stem with paint dot and depth at least every other stem. The installation of the Infrastructure shall include customary directional construction boring at a minimum depth of no less than seventy-two (72") inches.

i. Work on City Property shall occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Work that needs to be performed after 6:00 p.m. Monday through Friday must be approved in advance by the Director. Any work performed on Saturday must be approved twenty-four hours in advance by the Director. Directional boring is permitted only Monday through Friday, 7:00 a.m. to 6:00 p.m., unless approved in advance. No work will be done, except for emergencies, on City holidays. Grantee shall pay and be responsible for any City staff costs above and beyond two hours as well as any overtime costs for any inspections conducted outside of the City's normal business working hours.

j. Grantee and Grantee's contractors are responsible for obtaining line locates from all affected utilities prior to any excavation.

k. Grantee will be responsible for verifying the location both horizontal and vertical of all affected facilities whether by potholing or hand digging prior to any excavation or boring with the exception of work involving lane closures, as discussed above.

l. Placement of all manholes and/or handholes must be approved in advance by the Director.

The work completed by Grantee in placing, replacing, repairing, or maintaining the Infrastructure shall be performed in accordance with all applicable laws, rules and regulations of the City, State of Texas, and the United States government. Grantee's work shall be performed in a manner that does not unreasonably inconvenience the public's use of City Property. Grantee shall make every effort to minimize the impact to the surface of the City Property and shall follow the reasonable direction of the Director to ensure the impact is minimized. The Director shall have the right to order all work to cease immediately if he reasonably believes that the work constitutes a danger to the public. The City shall not be subject to any damages incurred because of such stoppage.

In the event that Grantee desires to reconstruct, repair, maintain, or replace the Infrastructure and such work will involve excavation or any surface disturbance, Grantee shall provide written notice and submit the plans and specifications that pertain to the rebuilding or repairs of the Infrastructure fourteen (14) days in advance of commencing such work to the Director for approval. Approval of such plans will not be unreasonably delayed, withheld, or denied. In the event that emergency repairs are necessary, Grantee shall immediately notify the Director in writing prior to commencing such work. If Grantee is unable to notify the Director prior to the commencement of work due to emergency conditions, Grantee shall notify the City no later than the next business day after the work is commenced and such notice will include details of the repair work and a copy of any revised plans.

Upon approval of the Plans, the Director of Engineering will issue a paving cut permit and excavation permit for the installation of the Infrastructure. New permits shall be required at any time there is additional construction after the Infrastructure has been installed.

Simultaneous with the submission of the Plans to the Director, Grantee shall submit a detailed traffic control plan to the Director of Engineering for review and approval by the Chief Traffic Engineer of the Department of Engineering. Traffic control signs shall not be removed, altered or damaged for any reason by Grantee. All construction barricading, warning signs, and other construction control devices shall be put in place by Grantee and shall be in accordance with the latest edition of the "Texas Manual on Uniform Traffic Control Devices" before traffic signs can be removed. Grantee shall notify the Chief Traffic Engineer of the Department of Engineering at least seventy-two (72) hours, not including weekends or City holidays, before scheduled removal of construction barricades, warning signs, and traffic control devices. In all cases, Grantee shall not remove said barricades, warning signs, and traffic control devices until the Grantee has replaced any removed stop signs, yield signs and other official traffic control devices in their proper location.

Grantee covenants and agrees that Grantee shall, at its own expense, repair all water lines, storm and sanitary sewer lines, service lines, water meters and any other infrastructure located within the City Property owned by the City that Grantee, its employees, its agents or contractors damage. The repair of the water lines, storm and sanitary sewer lines and water meters shall comply with the El Paso Water Utilities regulations and must be approved by of the El Paso Water Utilities, and such approval shall not be unreasonably delayed, withheld or denied.

The City shall have the power at any time to order and require Grantee to remove and abate all or any portion of the Infrastructure that is dangerous to life or property. Should Grantee, after notice, fail or refuse to comply within a reasonable time, the City shall have the power to remove or abate same, at the expense of Grantee, all without compensation or liability for damages to Grantee. Work done in connection with the construction, repair and maintenance of such Infrastructure is subject to the continuing police power of the City.

After installation of the Infrastructure, Grantee shall restore all City Property to a condition that is substantially the same or better as existed prior to Grantee's disturbance of the area and to the reasonable satisfaction of the Director. The restoration shall include, but not be limited to:

a. Replacing all ground cover with equal to the type of ground cover damaged during work or better, as directed by Director;

b. Installation of all manholes and handholes, as required;

c. Backfilling all bore pits, potholes, trenches or any other holes shall be done daily, unless other safety requirements are approved by the Director;

d. Leveling of all trenches and backhoe lines, and providing soils test results as needed;

e. Restoration of excavation site to City specifications;

f. Restoration of all landscaping, ground cover, and sprinkler systems, if any.

g. All locate flags shall be removed during the clean up process by the Grantee or his/her contractor at the completion of the work.

Restoration must be made in accordance with the approved construction schedule to the reasonable satisfaction of the Director or his/her designee. If restoration is not satisfactory and not performed in a timely manner, all work in progress, except the pending restoration work, will be halted until all restoration is complete.

No less than fourteen (14) days after: (1) the completion of the installation of the Infrastructure and any repair thereafter; and, (2) the completion of the final inspection by the City, Grantee shall submit to the Director, three (3) complete sets of as-built plans and an electronic copy of the plans, sealed by an engineer depicting the work completed by Grantee. The as-built plans will provide sufficient information so that the City may update their Geographic Information System's (GIS) street and asset inventories. The project digital file format shall be in compliance with the following requirements:

1. Categorize features into individual layers (ex: streets, street names, lots, lot numbers, etc.); and,
2. Provide projection in State Plane Coordinate System, NAD 83, Texas Central Zone and units in feet; and,
3. Remove/explode all proxy graphics; and,
4. Provide or convert all text styles on digital file submitted to Standard text using font symbolset.txt.shx; and,
5. Provide digital file using either dxf or dwg format; and,
6. Provide one mylars.

The as-built plans shall be provide as much detail and accuracy as reasonably required by the Director. All the criteria specified for the Plans shall be included in the final as built plans.

SECTION 3. TERM

The term of this Agreement shall be seven (7) years from the date the Agreement is fully executed ("Effective Date"), unless terminated earlier as provided herein ("Initial Term"). At the end of the Initial Term, Grantee shall have the option to extend this Agreement for one (1) additional five (5) year term ("Option"), upon the renegotiation of the Total Fee, as well as any other provision of this Agreement. Grantee shall notify the City of its intent to exercise its Option in writing to the City no later than ninety (90) days prior to the expiration date of the Initial Term ("Option"). Should Grantee fail to submit its notice of its intent to exercise its Option, the Agreement shall expire by its own terms.

SECTION 4. CITY'S USE OF CITY PROPERTY

Nothing herein contained shall be construed as granting an exclusive use or right to the Grantee to the City Property, and the City may grant an additional lease or special privilege to any other applicant in it's discretion for the same City Property described herein; provided however, that such additional grant of use does not interfere with the Grantee's use of the City Property. The City reserves the right to use the surface or subsurface or airspace above the City Property covered by this Agreement for any public purposes allowed by law and deemed necessary by the City and to do or permit to be done any work in connection therewith which may be deemed necessary or proper by the City on, across, along, under or over said City Property. Further the City expressly reserves the right to install, repair, or reconstruct the City Property used or occupied by Grantee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, including but not limited to, drainage facilities and structures; provided however, that such work will not interfere with Grantee's use of the City Property.

The City reserves the right, subject to further conditions described in this Section, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the City in, across, along, over or under any City Property occupied by Grantee, and to change any curb or sidewalk or the street grade of any street. The City shall not be liable to Grantee for any damage resulting thereof, nor shall the City be liable to Grantee for any damages arising out of the performance of any work by the City, or its contractors or subcontractors, not

willfully and unnecessarily occasioned; provided, however, nothing herein shall relieve any other persons or entities from liability for damage to Grantee's Infrastructure.

If the City requires Grantee to remove, alter, change, adapt, or conform its Infrastructure because of changes in the grade of the City Property or in the location or manner of constructing a water pipe, sewer pipe or other underground or aboveground structure or any other infrastructure to be owned by the City, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the Director without claim for reimbursement or damages against the City. Notwithstanding anything contained to the contrary in this Agreement, the Total Fee shall be abated for the time period for which the Grantee does not have use of its communication system. Additionally, the term of the Agreement shall be extended equal to the time that Grantee's communication system is inoperable due to the alterations or changes required by the City.

SECTION 5. CONSIDERATION

A. Special Privilege: As consideration for this Agreement, Grantee shall pay to the City an annual fee in the sum of One Thousand Three Hundred Twenty and No/100 Dollars ($1,320.00) ("Annual Fee"). Each year no later than the tenth day of the month, in which this Agreement was approved by City Council, the Grantee shall remit to the City payment in full the annual fee.

B. Lease: For the portion included within the City Property, the rental fee is fifty cents ($0.50) per lineal foot per year as follows ("Lease Fee"):

City Property, estimate: 1,460 lineal feet, to be determined from approved plans

Total Lease Fee: $730.00.

The Lease Fee shall be paid monthly in advance.

C. In addition to the Lease Fee and Annual Fee, the fee for the lease of City owned property, shall be one thousand dollars and no cent ($1,000.00) per month ("Bridge Fee"). The Bridge Fee will be credited for seventy-five (75) months in exchange for the Grantee's installation of oversized Infrastructure for the benefit of the City. The cost breakdown for the over sizing of Infrastructure is attached hereto as Exhibit "C", and incorporated by reference for all purposes. Regardless of the cost breakdown shown in Exhibit "C", the City's total cost contribution shall not exceed $75,000.00.

Immediately upon completion of construction, the City shall be provided sole access for City's use of all remaining empty inner ducts. All Infrastructure shall become the property of the City at the expiration or earlier termination of the Agreement and Grantee shall provide and transfer any proof of title and ownership reflecting same, regardless of the cause of the termination. The Infrastructure shall not be encumbered by any lien or other security interest when transferred to the City.

D. The Annual Fee, Bridge Fee and the Lease Fee shall collectively be referred to as the "Total Fee"

E. Failure to remit payment as provided in this Section shall be cause for termination. Grantee's failure to make the payment within thirty-days (30) after the payment is due shall constitute a late payment and Grantee shall pay the City a late charge of five (5) percent. However, upon notification of the failure to remit payment, the Grantee shall have thirty days to remit payment in full including any late charges.

F. The Annual Fee shall remain the same for a period of one year from the Effective Date; however, the Annual Fee is subject to change each one-year period after the Effective Date ("Lease Year"). A change in the Annual Fee will occur only if the City increases the fee set forth in Section 15.08.120 of the City Code, or is renegotiated at the end of the Initial Term. Notification of such change will be provided to Grantee sixty days before the annual fee is due. If such notice is not provided timely, the increase shall not be due by Grantee until the following Lease Year. The initial Annual Fee shall be due and owing prior to City Council approval of the ordinance approving this Agreement. The advance payment shall be in the form of a cashier's check payable to "The City of El Paso" and delivered to the City Development Services Department/Planning Division for remittance to the Office of the City Comptroller. If the Agreement 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.

G. In addition to the Total Fee, Grantee shall pay all general municipal taxes of whatever nature, including, but not limited to, the ad valorem taxes and special taxes and assessments for private improvements except as hereinafter provided as may be enacted during the term of this Agreement or any extension.

H. The Total Fee shall be exclusive of and in addition to all costs of obtaining required permits, plans and other approvals as necessary to conform to all other applicable City, state or federal ordinances and regulations.

I. In the event the Grantee continues use of the Infrastructure after the expiration or termination of this Agreement, the amount of the Total Fee due and payable to the City shall be double and paid monthly until Grantee ceases all use of the Infrastructure, or another agreement is executed.

SECTION 6. INDEMNIFICATION AND INSURANCE

Grantee agrees to indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, loss, damages, causes of action, suits, and liability of any kind or character, including all expenses of litigation for injury or death to any person, or for damage to any property, arising out of or in connection with Grantee's, Grantee's agents, servants or employees or any organizations use of the City Property, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City.

Prior to the approval of this Agreement by City Council, Grantee shall provide the City with a certificate of liability insurance and shall maintain such insurance in effect during the term of this Agreement, in the amount of six million dollars; one million dollars ($1,000,000.00) primary plus five million dollars ($5,000,000.00) umbrella or other securities as acceptable to the Director. These amounts are not a limitation upon Grantee's agreement to indemnify and hold the City harmless.

Grantee shall procure said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide in substance 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 the licensee, its agents, servants or employees. The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, and explosion and collapse hazards. Each policy must include a cancellation provision in which the insurance company is required to notify the City in writing not fewer than ten (10) days before canceling, failing to renew, or reducing policy limits. The certificate shall state the policy number; name of insurance company; name and address of the agent or

authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.

All policies shall name the City of El Paso, its officers, agents, servants and employees as an additional insured. Grantee shall file an original of the policy or certificate of insurance with the City Clerk, the Street Department, the Development Services Department, and the City Attorney prior to any commencement of the installation of the Infrastructure. The policy shall contain a provision that the policy will not be terminated without providing the City with thirty (30) prior written notice of termination.

Grantee shall file a performance bond in the estimated cost of the work with an effective date prior to the commencement of construction of the Infrastructure for a period of thirty (30) days after the City's final inspection and approval of the work. Such bond shall guarantee the restoration of the City Property in accordance with this Agreement. The surety shall be authorized to do business in the State of Texas.

Notwithstanding anything in this Agreement to the contrary, Grantee may elect to self-insure against any or all of the risks, or any portion thereof, against which the Grantee is required to insure pursuant to this Agreement provided the Grantee delivers to the City a Certificate of Owned Risk, certified as true and correct regarding Grantee's self-insurance policies, prior to the commencement of any work in the City Property.

SECTION 7. RIGHTS IN THE EVENT OF ABANDONMENT

As an express condition of this Agreement, and not as a mere covenant, in the event Grantee abandons the Infrastructure or any portion thereof to be installed hereunder or the Infrastructure placed in the City Property hereby ceases to be used by Grantee for the purposes enumerated herein for any period of six (6) consecutive months or longer, other than the time elapsing between the Effective Date and the installation of the Infrastructure which shall be no greater than twelve (12) months unless otherwise authorized in writing by the Director of Engineering, the Infrastructure shall be deemed abandoned and shall automatically become the property of the City, free and clear of any right, title, or interest in Grantee, without the necessity of any notice to Grantee or any re-entry by the City.

In the event that the City closes or abandons any portion of the City Property, which contains any existing Infrastructure of Grantee, any conveyance of land containing, such closed or

abandoned City Property may be subject to the rights of Grantee under this Agreement. City agrees that the Grantee may file a memorandum of lease in the property records of El Paso County, Texas as notice of Grantee's interest in the City Property. Such memorandum may be filed without prior notice or consent of the City; however, Grantee agrees to provide the City with a copy of the recorded memorandum. The copy of the memorandum shall be delivered to the City Attorney.

SECTION 8. TERMINATION

Grantee shall have the option to terminate this Agreement at any time upon giving the City written notice thirty (30) days in advance of such termination. The City shall have the right to terminate this Agreement at any time if necessary to secure efficiency of public service at reasonable rates, or to assure that the City Property is maintained in good order throughout the life of the grant; provided however, if City elects to terminate the Agreement, the City will reimburse Grantee, the prorated amount of the Total Fee paid to the City. The reimbursement of the Total Fee shall include, but not be limited to, a prorated reimbursement of the Over Sizing Cost, deducting any costs for removal of the Infrastructure by the City, subtracting the Bridge Fee and Annual Fee for the term through the date of termination, and subject to depreciation of the Infrastructure. However, notwithstanding the foregoing, if the City terminates the Agreement due to reasons outside of the City's control, such as but not limited to, requirements by the Federal Government, then the City shall not be required to reimburse the Grantee for any portion of the Total Fee, and Grantee may remove the Infrastructure at their own cost. The City shall give Grantee thirty (30) days written notice to cure any default by Grantee of any material provision or requirement contained in this Agreement. If the default is such that it cannot be cured in thirty (30) days, Grantee shall not be deemed in default provided that Grantee has commenced and is diligently pursuing the cure. The time for curing the default shall be extended for such period of time as is reasonably necessary to complete the cure. If the Agreement is terminated early, the Total Fee shall be prorated to the date of termination.

Upon termination of this Agreement, prior to the expiration of the Initial Term, Grantee shall abandon the Infrastructure together with any improvements thereto, made or erected during the term of this Agreement located within the City Property and such property shall become the property of the City with no encumbrances of any sort. In the City's discretion, the Director may require the removal of such Infrastructure from said City Property and restoration of all pavement

or base, damaged or removed during this Agreement, as determined by the City, at Grantee's own cost and expense. Any such restoration shall be subject to the reasonable approval of the Director.

The Infrastructure shall be considered to be improperly installed, repaired, upgraded or maintained if:

a. The installation, repairs, upgrade or maintenance endangers people;

b. The Infrastructure does not meet applicable City, state or federal laws or regulations;

c. The Infrastructure is not capable of being located using standard industry practices;

d. The Infrastructure is not located in the proper place in accordance with the approved Plans; or

e. The Infrastructure is placed in an area that interferes with City owned facilities and infrastructure such as water or sewer lines or streets. The Infrastructure shall be considered to interfere with City owned facilities if the privately owned facility is within three feet horizontally.

SECTION 9. RECORDS

The Director and City Engineer shall be kept fully informed by Grantee as to matters pertaining in any way to Grantee's exercise of its rights under this Agreement, including the installation, replacement, maintenance and repair of the Infrastructure on the City Property. Grantee shall keep complete and accurate maps, construction drawings and specifications describing the location of Infrastructure within the City Property. The City shall have the right, at reasonable times to inspect such maps, construction drawings and specifications.

SECTION 10. NOTICE

Any notice or communication required in the administration of this Agreement shall be sent as follows:

City of El Paso
ATTN: City Manager
2 Civic Center Plaza
El Paso, Texas 79901-1196

with copies to:

City of El Paso
ATTN: Director of Streets Department
7969 San Paulo
El Paso, Texas 79907

City of El Paso
ATTN: City Clerk
2 Civic Center Plaza
El Paso, Texas 79901-1196

and: Ethicon Endo Surgery, Inc.
c/o Networking & Computing Services
A Division of Johnson & Johnson Services, Inc.
P.O. Box 17970
El Paso, Texas 79917

or to such other addresses as the parties designate from time to time by written notice.

SECTION 11. ASSIGNMENT

A. The rights granted by this Agreement inure to the benefit of Grantee, and any parent, subsidiary, or successor entity now or hereafter existing. The rights shall not be assigned without the express written consent of the El Paso City Council, which consent shall not be unreasonably delayed or withheld, except Grantee may assign its rights under this Agreement to a parent, subsidiary, affiliate, successor, entity or pursuant to a sale leaseback or other financing transaction without such consent, so long as such parent, subsidiary, affiliate, successor or transferee (i) assumes all obligations of Grantee hereunder, and (ii) is bound to the same extent as Grantee hereunder and provided that the assignment is not to a certificated telecommunications provider or to an entity that will provide local service. A written copy of any such assignment must be filed with the City. Any required consent shall be evidenced in writing by the City Manager that fully recites the terms and conditions, if any, upon which consent is given.

B. In the event that Grantee assigns its interest pursuant to a sale-leaseback or other financing transaction, City agrees that, upon written notice to it specifying (i) name(s) and address(es) of the assignee(s) of such interest (the "Transferee(s)" and (ii) the name and address of the representative or agent of the Transferee(s) (the "Agent"), City will simultaneously give to the Agent any notices required to be given to Grantee under this Agreement. City shall accept payment or performance by Agent of any obligation of Grantee as though paid or performed by Grantee, provided such payment and/or performance shall be made within the applicable cure periods allowed by this Agreement. The Agent shall have the right to cure any default by Grantee within the applicable cure periods allowed by this Agreement.

C. If any such Transferee(s) shall obtain possession and use of all or any part of the Infrastructure (the "Affected Portion"), then, so long as all of the obligations of Grantee under this Agreement with respect to the Affected Portion are being performed, (i) such Transferee(s) shall agree to be bound by and to observe and perform the obligations of Grantee under this Agreement with respect to the Affected Portion and (ii) City shall not disturb the possession or use of the Affected Portion by such Transferee(s) and shall recognize such Transferee(s)'s right to possession and use thereof, subject, nevertheless, to the terms of this Agreement and the respective rights of the parties herein.

SECTION 12. LEASE, SALE OR DEDICATION OF INFRASTRUCTURE

Grantee, without the consent of the El Paso City Council, shall not lease, sell or dedicate the use of all or a portion of the Infrastructure, to any non-Grantee person or entity. Grantee shall not allow the placement of any additional cable without the written consent of the Director.

SECTION 13. GRANTEE'S ACCESS AND SECURITY

Grantee shall have twenty-four (24) hour access to the Infrastructure for purposes of maintenance and repair, subject to any Federal requirements or regulations. The City may coordinate with the Grantee and designate specific access points and establish the times of access, with at least one point having twenty-four hour access. The City agrees that access shall not be provided to any third party to the Infrastructure without providing seventy-two (72) hours advance notice to Grantee. Grantee shall have the right to supervise the City and any third party's access to the Infrastructure and City Strands for security purposes.

SECTION 14. MISCELLANEOUS

Remedies: This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties or by an appropriate action at law or in equity to secure the performance of the restrictions, conditions and covenants herein contained.

In the event a Party (the "Defaulting Party") commits a breach of this Agreement, the other Party (the "Non-Defaulting Party"), shall, prior to bringing suit or pursuing any other remedy, provide written notice of such breach to the Defaulting Party. Following receipt of such notice, the Defaulting Party shall have thirty (30) days within which to cure the breach. If the breach cannot be cured within such thirty (30) day period, the Defaulting Party shall commence

to cure such breach within said period and thereafter diligently continue such cure to completion. In the event the Defaulting Party fails to cure the breach within said period, then the Non-Defaulting Party may pursue any remedy provided at law or in equity.

Force Majeure: In the event any Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, it is agreed that on such Party's giving of notice and the full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied upon, then the obligations of the Party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance a the earliest practicable time, shall be suspended during the continuance of any inability but for no longer period.

The term "force majeure" as used herein, shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, war, terrorism, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, explosions, breakage or damage to machines or pipelines and any other inabilities of either Party, whether similar to those enumerated or otherwise, and not within the reasonable control of the Party claiming such inability.

Severability: If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, provided that any invalid provisions are not deemed by the City or the Grantee to be material to the overall purpose and operation of this Agreement. If the City or Grantee determines that the invalid provision is material, then, if the City has made such determination, the City shall have the option to terminate this Agreement. If the Grantee has made such determination, the Grantee shall have the option to terminate this Agreement. Such judgment or decree shall relieve the City and the Grantee from performance under such invalid provision of this Agreement.

Entire Agreement: This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the

subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties.

Governing Law, Jurisdiction & Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, as it applies to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in El Paso County, Texas and hereby submit to the jurisdiction of the courts of that County, and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.

No Third Party Beneficiary: This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.

Waiver: Any failure by a Party hereto to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof or of any provision hereof, and such Party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

Incorporation of Exhibits and Other Documents by Reference: All exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

Headings: The headings as to contents of particular articles or sections herein are inserted only for convenience, and they are in no way to be construed as a limitation on the scope of the particular articles or sections to which they refer.

Ambiguities: In the even of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any Party on the basis that such Party did or did not author the same.

Counterparts: It is understood and agreed that this Agreement may be executed in any number of counterparts; each shall be deemed an original for all purposes.

Authority for Execution: Each Party hereby certifies, represents, and warrants that the execution of this Agreement has been duly authorized.

Administration: The Director is the principal City official responsible for the administration of this Agreement and Grantee recognizes that questions regarding the interpretation or application of this Agreement shall be referred to the Director or his designee.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and have caused this instrument to be executed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year first above written.

THE CITY OF EL PASO

_____
Joyce Wilson
City Manager

ACKNOWLEDGEMENT

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument is acknowledged before me on this ____ day of _____, 2006, by Joyce Wilson as City Manager on behalf of the **CITY OF EL PASO.**

_____
Notary Public, State of Texas

_____
Notary's Printed or Typed Name:

_____
My Commission Expires:

APPROVED AS TO FORM:

Carolyn J. Crosby
Assistant City Attorney

Gonzalo Cedillos
Financial Services,
Capital Assets Management

APPROVED AS TO CONTENT:

for George Sarmiento, AICP, Deputy
Director/Planning Division

Daryl Cole, Director
Streets Department

ACCEPTANCE

The attached Agreement, with all conditions thereof, is hereby accepted this 7th day of April, 2006.

GRANTEE: ETHICON ENDO SURGERY, INC.

By: _____
GREGG LITCHFIELD
(Printed Name and Title)
VICE PRESIDENT

ACKNOWLEDGEMENT

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument is acknowledged before me on this 7th day of April, 2006, by Gregg Litchfield as Vice President on behalf of **ETHICON ENDO SURGERY, INC.**, as Grantee.

_____
Notary Public, State of ~~Texas~~ Ohio

Tina Gleberman
Notary's Printed or Typed Name:

10/6/08
My Commission Expires:

EXHIBIT "B"
METES AND BOUNDS

EXHIBIT B

FIELD NOTES

A +/- 3312.5 LINEAR FOOT CENTERLINE DESCRIPTION OF THE INTERNATIONAL BOUNDARY, AND TRACTS: 5A3, 5A4, 5A2A, 5A2 (LOOP 375, RIGHT-OF-WAY) 5A1A3B (LOOP 375, RIGHT-OF-WAY) AND 5A1A3 (F.M 269-ZARAGOSA ROAD RIGHT-OF-WAY) YSLETA GRANT, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at an International Boundary and Water Commission Brass cap in concrete stamped "STA 221+29.13" found on the United States levee monument line, from which a found International Boundary and Water Commission brass cap along said monument line bears South 17°46'30" East, a distance of 968.17 feet (968.12 feet record) Thence, South 11°25'30" East, at a distance of 2444.76 feet, to a point on the expansion joint to the international bridge and said point being the **POINT OF BEGINNING** of this description;

THENCE, South 88°09'02" East, a distance of 258.37 feet, to a point;

THENCE, along the arc of a curve to the right passing the United States levee monument line at 35.64 feet, a total distance of 46.62 feet, having a radius 32.00 feet, a central angle of 83°27'51", and a chord which bears North 45°04'37" East, a distance of 42.60 feet, to a point,

THENCE, North 86°48'32" East, a distance of 28.79 feet, to a point;

THENCE, 67.54 feet along the arc of a curve to the left, having a radius of 180.00 feet, a central angle of 21°29'51", and a chord which bears North 76°03'36" East, a distance of 67.14 feet, to a point;

THENCE, 154.27 feet along the arc of a curve to the left, having a radius of 120.00 feet, a central angle of 73°39'22", and a chord which bears North 28°28'59" East, a distance of 143.86 feet, to a point;

THENCE, North 08°20'42" West, a distance of 21.83 feet passing the International Boundary and Water Commission right-of-way line (Treaty between the United States of America and Mexico, dated February 3, 1944) a total distance of 34.04 feet, to a point;

THENCE, North 17°46'30" West, a distance of 162.24 feet, passing the southerly right-of-way line of (F.M. 659, Zaragoza Road, 120-foot right-of-way, described November 24, 1965, in Book 100, Page 565, Deed Records, El Paso County, Texas) and a distance of 293.98 feet, passing the southerly line of a certain parcel of land described (June 22, 1990, in Book 2192, Page 940, Deed Records, El Paso County, Texas) a total distance of 474.51 feet, to a point;

THENCE, North 15°47'01" East, a distance of 140.20 feet, to a point;

THENCE, South 75°11'18" East, a distance of 18.08 feet, to a point;

THENCE, North 13°21'12" East, a distance of 124.48 feet, to a point;

THENCE, North 06°36'44" East, a distance of 46.46 feet, to a point;

THENCE, North 00°40'19" East, a distance of 53.64 feet, passing the southwesterly boundary line of a certain parcel of land described (March 11, 1975, in Book 581, Page 899, and November 12, 1993, in Book 2645, Page 166, Deed Records, El Paso County, Texas) a total distance of 275.73 feet, to a point;

THENCE, North 04°36'33" East, a distance of 55.12 feet, to a point;

THENCE, 5.07 feet along a curve to the left, passing the northeasterly line of a certain parcel of land described (January 12, 1993, in Book 2645, Page 166, Deed Records, EL Paso County, Texas) a total distance of 10.89 feet, having a radius 10.00 feet, a central angle of 62°24'36", and a chord which bears North 26°35'45" West, a distance of 10.36 feet, to a point;

THENCE, North 57°48'03" West, at a distance of 8.22 feet, to a point;

THENCE, North 32°12'50" East, a distance of 88.04 feet, passing a certain parcel of land described (October 25, 1993, in Book 2645 Page 158, Deed Records, El Paso County, Texas) a total distance of 263.06 feet, to a point;

THENCE, South 62°24'03" East, a distance of 108.57 feet to a point;

THENCE, 100.28 feet along the arc of a curve to the left, having a radius of 87.73 feet, a central angle of 65°29'47", and a chord which bears North 65°08'21" East, a distance of 94.91 feet to a point;

THENCE, North 16°21'36" East, a distance of 21.50 feet, passing the southerly line of that certain parcel of land described (June 22, 1990, in Book 2192, Page 940, Deed Records, El Paso County, Texas) a total distance of 27.33 feet, to a point;

THENCE, North 12°08'58" East, a distance of 89.50 feet, to a point;

THENCE, North 14°30'58" East, a distance of 232.55 feet, to a point;

THENCE, North 53°14'52" East, a distance of 16.42 feet, to a point;

THENCE, North 14°38'24" East, a distance of 429.80 feet, to a point;

THENCE, North 11°54'31" East, a distance of 140.80 feet, passing the westerly line of the Playa Drain described (April 22, 1928, in Book 497, Page 148, Deed Records, EL Paso County, Texas) a total distance of 219.93 feet to a point;

THENCE, South 80°02'12" East, a distance of 81.74 feet, to the **POINT OF TERMINATION** of this description containing (+/- 3312.5 Linear Feet).

NOTE:

BEARINGS WERE BASED ON GLOBAL POSITIONING SYSTEM OBSERVATIONS.

THIS IS NOT A GROUND SURVEY.

FRANK X. SPENCER ASSSOCIATES

Charles H Gutierrez, R.P.L.S.

K:/2006/S0607EP/zaragosa conduit additional services/field notes/E00536EPCTRlINEDES.doc

EXHIBIT "C"
COST BREAKDOWN

Additional Cost				Budgeted Cost			
Qty	Description	Unit Price	Line Total	Unit Price	Line Total	Description	Qty
2796 ft	Provided: 2 -4 inch Conduit w/4 1¼ inch inner ducts in each	$13.50 ft.	$37,746.00	$10.25 ft	$28,659.00	Provided and Installed: 2 -2 inch Conduit at 3 ft depth	2796 ft
2796 ft	Installed: 2 -4 inch Conduit w/4 1¼ inch inner ducts in each	$11.00 ft.	$30,756.00	$17.00 ft	$7,650.00	Provided and Installed: 1 -3 inch EMT ridged pipe	450 ft
180 yds	Slurry filler	$85.00 yd.	$15,300.00	NA	NA	Slurry filler	NA
450 ft	Provided: 1 – 4 inch EMT ridged pipe w/4 1¼ inner ducts in each	$23.50 ft.	$10,575.00	NA	NA	Provided: 1 – 4 inch EMT ridged pipe w/4 1¼ inner ducts in each	450 ft
450 ft	Installed: 1 - 4 inch EMT ridged pipe w/4 1¼ inner ducts in each	$12.50 ft.	$5,625.00	NA	NA	Installed: 1 - 4 inch EMT ridged pipe w/4 1¼ inner ducts in each	450 ft
2	Provided: 36 " x 36" x 10" Junction Boxes	$250.00 ea.	$500.00	$450.00 ea.	$450.00	Provided: 24 " x 24" x 10" Junction Boxes	1
2	Installed: 36" x 36" x 10" Junction Boxes	$250.00 ea.	$500.00	NA	NA	Installed: 36" x 36" x 10" Junction Boxes	NA
3	Provided: 3' x 5' x 2' Traffic Bearing Handholes	$ 1,600.00 ea.	$4,800.00	$2,200.00 ea	$4,400.00	Provided: 3' x 5' x 2' Traffic Bearing Handholes	2
3	Installed: 3' x 5' x 2' Traffic Bearing Handholes	$600.00 ea.	$1,800.00	NA	NA	Installed: 3' x 5' x 2' Traffic Bearing Handholes	NA
1	Engineering (to include: Surveying, Permits and Asbuilts)	$5,600.00	$5,600.00	$5,600.00	$5,600.00	Engineering (to include: Surveying, Permits and Asbuilts)	1
		Subtotal			Subtotal		
		Sales Tax			Sales Tax		
		Total	$113,202.00		Total	$46,759.00	

EXHIBIT "C"