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

DEPARTMENT: **Engineering Department**

AGENDA DATE: **August 25, 2008**

CONTACT PERSON/PHONE: **R. Alan Shubert, P.E. - ext. 4423**

DISTRICT(S) AFFECTED: **District 2**

SUBJECT:

That the City Manager be authorized to sign an agreement for electric service and an agreement granting a transformer and underground electrical easement to the El Paso Electric Company for the purpose of providing electrical service to the Texas Cable Partners, L.P. (Time Warner), an Airport Industrial Park lease holder, at 7010 Airport Road, El Paso, Texas. Said property being more particularly described as a portion of Lot 4, Block 6 of the Butterfield Trail Industrial Park, Replat A, El Paso, El Paso County, Texas.

BACKGROUND / DISCUSSION:

The easement is necessary in order to install a transformer to provide additional service to Time Warner.

PRIOR COUNCIL ACTION:

None

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

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

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

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

That the City Manager be authorized to sign an agreement for electric service and an agreement granting a transformer and underground electrical easement to the El Paso Electric Company for the purpose of providing electrical service to the Texas Cable Partners, L.P (Time Warner), an Airport Industrial Park lease holder, at 7010 Airport Road, El Paso, Texas. Said property being more particularly described as a portion of Lot 4, Block 6 of the Butterfield Trail Industrial Park, Replat A, El Paso, El Paso County, Texas.

ADOPTED THIS _____ DAY OF _____, 2009.

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E.,
City Engineer

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

UNDERGROUND ELECTRICAL EASEMENT

For and in consideration of the sum of One Dollar and No/100 ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the City of El Paso (Grantor) grants unto El Paso Electric Company (Grantee), its successors and assigns, the right and privilege to enter and erect, relocate, construct, operate, remove, inspect, access, and maintain an underground electric system consisting of transformers (conventional or pad mount), ducts, conduits, fixtures, manholes, handholes, vaults, and any other usual appurtenances pertaining thereto, and underground crossings with all necessary cables, lines, conduit, wires pertaining thereto, with the right of access, ingress, and egress thereto, for the installation, operation, inspection, repair, maintenance, replacement, renewal or removal thereof, for the distribution of electricity, for any and all purposes for which same is or may hereafter be used, over, upon, and along a ten (10) foot wide area and a sixteen foot by twenty foot transformer area in the following described premises at 7010 Airport Road, El Paso County, Texas, to wit:

> A portion of Lot 4, Block 6, Butterfield Trail Industrial Park, Replat A, El Paso, El Paso County, Texas and more particularly shown on Exhibit "A", which is attached hereto and incorporated herein for all purposes.

With the right to trim any trees and flora around said electrical facilities so as to keep the electrical facilities cleared and to do anything proper and necessary to operate and maintain same.

This easement shall be for the term of the Grantee's franchise and any extension and renewal thereof by the Grantor. In accepting this easement, the Grantee agrees that upon written and reasonable request it will relocate any of its facilities located within the easement at no cost to the Grantor.

In accepting this grant, Grantee agrees that it will replace or repair, as reasonable, landscaping and paving if disturbed by Grantee's construction, maintenance or repairs of or to its facilities in and upon such easement. Grantee agrees to call for utility spotting by a third party prior to any excavation by Grantee in the easement.

Grantor reserves the right to full use and enjoyment of said property except for the purposes herein granted. Grantee agrees not to interfere with any structure or tangible personal property of Grantor within the easement. Grantor agrees not to erect permanent structures on or over Grantee's underground facilities.

Grantor will not be held responsible for any damage to Grantee's underground facilities from excessive erosion due to flood run-off.

Should Grantee abandon the easement, then the easement hereinabove described shall revert to Grantor or its successors and assigns. Such abandonment shall be conclusively presumed following non-use by the Grantee for one year and with use not being resumed within sixty (60) days following receipt of notice of abandonment from Grantor to Grantee, and on such

abandonment, Grantee will then execute any and all necessary documents to evidence such abandonment.

Grantee shall maintain the surface over the length and width of the easement to the satisfaction, as reasonable, of Grantor and in accordance with applicable City Code provisions.

WITNESS THE FOLLOWING SIGNATURES AND SEAL on the dates entered below.

GRANTOR:
THE CITY OF EL PASO

_____
Joyce A. Wilson, City Manager

APPROVED AS TO FORM:

Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E.
City Engineer

ACKNOWLEDGMENT

THE STATE OF TEXAS)
) s.s.
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2009 by Joyce A. Wilson as City Manager of the City of El Paso.

_____
Notary Public, State of Texas

The above instrument, together with all conditions thereto is hereby accepted on the date entered below.

GRANTEE:
EL PASO ELECTRIC COMPANY

APPROVED AS TO FORM 8-19-09
OFFICE OF THE GENERAL COUNSEL SEP

By: _____
Printed Name: H. WAYNE SOZA

50509 EPEC easement 7010 Airport MSHO 8/09

Title: Director

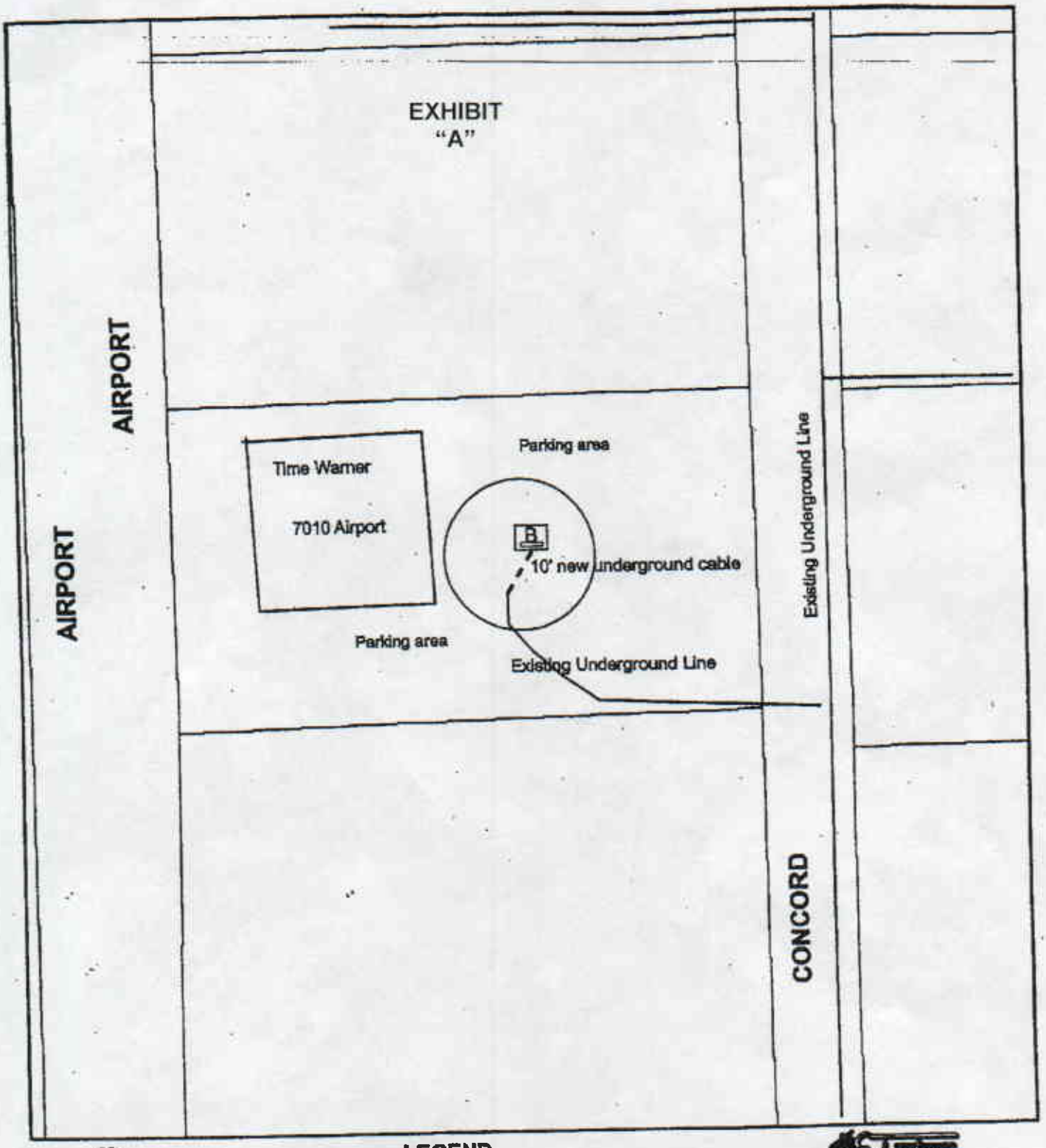
ACKNOWLEDGMENT

STATE OF TEXAS)
) **s.s**
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 19 day of August, 2009 by H. Wayne Sorm as Director of **El Paso Electric Company,** on behalf of the El Paso Electric Company, a Texas corporation.

WILLIAM C. EGGLESTON
NOTARY PUBLIC
In and for the State of Texas
My commission expires
December 22, 2010

William C. Eggleston
Notary Public, State of Texas



LEGEND

- - - - - PROPOSED EPE CO. 10 FT. UTIL. ESMNT.

B PROPOSED 16'X20' TRANSFORMER ESMNT.

SCALE: NONE

DATE: 8/5/2009

W.O. #DT009776

Return to:
El Paso Electric Co.
P.O. Box 982-Loc 501
El Paso, Texas 79960

EL PASO ELECTRIC CO. R.O.W.

A PORTION OF:

Lot 4

Block 6

Butterfield Trail Industrial Park Replat A

EL PASO COUNTY, TEXAS