



RIGHT-OF-WAY AGREEMENT

This Right-of-Way Agreement is made and entered into this 8TH day of January, 1998, by and between (Grantor) Hill Development Corporation whose address is 3725 Camels View, Colorado Springs, Colorado 80904 and the City of Colorado Springs on Behalf of its Utilities, whose address is 703 East Las Vegas, Colorado Springs, Colorado 80903 (the "Utilities").

Recitals

WHEREAS, The Utilities has determined that the Utilities facilities described in paragraph #1 should, for engineering and maximum efficiency purposes, be constructed along a certain pipeline corridor; and

WHEREAS, Grantor owns real property (the "Property") through which the Utility facilities described in paragraph #1, as approved by the Utilities, will pass; and

WHEREAS, the parties to this Agreement hereby enter into this Right-of-Way Agreement.

Covenants

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements contained herein, the parties agree as follows:

1. Conveyance of Permanent Easement and Right-of-way. For good and valuable consideration, Grantor hereby grants and conveys to the Utilities, its successors and assigns, a perpetual non-exclusive easement, and right-of-way (the "Permanent Right-of-Way") to enter, occupy and use the property described in this paragraph 1 to construct, reconstruct, use, operate, maintain, repair, patrol, replace, enlarge or remove one or more pipelines, conduits, poles, vaults, or manholes and all necessary underground or aboveground cables, wires and appurtenances thereto, including, but not limited to, electric or other control systems, cables, wires, connections and surface appurtenances (the "Improvements") in, through, over and across the following described parcel of land in El Paso County, Colorado:

Exhibit "A" - Legal Description

2. Conveyance of Temporary Construction Easement. For other good and valuable consideration, Grantor grants and conveys, to the Utilities, its successors and assigns, the following temporary right and easement (the "Temporary Construction Easement"):

Exhibit "A" Continued If Applicable

The Temporary Easement may be used to operate all necessary machinery and equipment to install the Improvements, for access and for the temporary deposition of backfill, including, but not limited to, soil, dirt, gravel, debris and rubble. The Utilities's right to use the Temporary Easement shall commence upon the date of this Agreement and shall expire two years from the date of this Agreement or upon completion of construction of the Improvements, issuance of Preliminary Acceptance, whichever date is earlier. Upon 30 days prior written notice, the Utilities may request an extension or renewal of the Temporary Easement upon such terms and conditions as are reasonably necessary for additional construction. The parties will negotiate in good faith toward any requested extension or renewal of the Temporary Easement.

3. Right-of-Way and/or Temporary Easement Map. Exhibit B, attached hereto and by this reference made a part hereof, is a graphic representation, for illustrative purposes only, of the aforementioned Permanent Right-of-Way and Temporary Easement. The legal description referred in Paragraph 1 describes, exclusively, the Permanent Right-of-Way, and the legal description referred in Paragraph 2 describes, exclusively, the Temporary Easement. In the event that the legal descriptions set forth in Paragraphs 1 or 2, Exhibit "A" are inconsistent with the property depicted in Exhibit B, said legal descriptions shall control.

4. Ingress and Egress. The Utilities, its successors and assigns and their employees, agents, contractors, and representatives shall have and exercise the right of reasonable ingress and egress in, to, through, over, under and across Grantor's property for access to and from any roads, highways, streets, alleys or any other point to the Permanent Right-of-Way & Temporary Easement in order to perform construction, reconstruction, operation, use, maintenance, repair, replacement or removal of the improvements. Except in emergencies, the Utilities shall give Grantor reasonable advance notice prior to exercising its rights of ingress and egress. To the maximum practicable extent, the Utilities shall use existing gates, roads, trails and facilities to avoid disruption of Grantor's operations on the property.

5. Additional Construction. The Utilities shall have the right to lay, construct, maintain, operate, alter, repair, patrol, remove, change the size of and replace, at any time or from time to time, one or more additional improvements and appurtenances thereto within the Permanent Right-of-Way. Such right shall not be lost by mere passage of time, and Grantor shall not stop, hinder or impede construction of such additional improvements or limit same.

6. Grantor's Rights Unaffected. Except as provided in Paragraph 7 hereof, Grantor shall retain the right to make full use of the servient property, except for such use as might endanger or interfere with the rights of Utilities in its construction, operation or maintenance of the improvements. However, Grantor shall not perform or permit by other persons or entities construction or other work within the Permanent Right-of-Way without the express prior written permission of the Utilities.

7. Surface Installations in Permanent Right-of-Way. Grantor shall not construct or place any structure or building on any part of the above-described Permanent Right-of-way. Any such installation placed on the above-described Permanent Right-of-Way after the date of this Agreement, may be removed by the Utilities without liability of damages arising therefrom. If Grantor places any installation within the Permanent Right-of-Way, Grantor shall reimburse the Utilities for its expenses in removing such installation. Grantor reserves for Grantor and Grantor's successors, heirs, and assigns, across (but not longitudinally along) said Right-of-Way and Easement, rights for underground pipelines, farm, grazing or pasture fences, and roads, provided, however, that the exercise of such rights does not interfere with or endanger, in the opinion of the Grantee, the exercise of any of the rights herein granted by the Grantor.

8. Surface Restoration to Land. The Utilities shall repair or reimburse Grantor for the reasonable cost of repair for any physical damage done by or resulting from actions or operations of the Utilities, its agents, employees, or assigns to Grantor's property outside the Permanent Right-of-Way. The Utilities shall repair or replace damaged property or reimburse Grantor for the reasonable cost of repair or replacement of physical damage to growing crops, livestock, grazing land, and landscaping whether within or without the Permanent Right-of-Way caused by laying, repairing, replacing, maintaining or removing of Improvements. The Utilities, in constructing the improvements, shall promptly restore, replace, or repair the surface to the original condition as near as may be reasonably possible.

9. Maintenance of Permanent Right-of-Way. The Utilities shall have the right from time to time to cut, trim, control, and remove trees, brush and other obstructions which may injure or interfere with the Utilities's use, occupation or enjoyment of the Permanent Right-of-Way and the operation, maintenance, repair and patrolling of the Utilities's Improvements.

10. Subjacent and Lateral Support. The Grantor shall not impair the lateral or subjacent support for the Improvements.

11. Assignability. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.

12. Dominant Easement. The Utilities's rights hereunder shall be construed to be in the nature of a dominant estate. Exercise of any rights in the subject property other than those retained by the Grantor shall be within the sound discretion of the Utilities. The Utilities agrees to permit and authorize such other uses of the subject property, not reserved in the Grantor, as will not impair the Utilities's rights, upon the payment of reasonable compensation to the Utilities and Grantor and upon such reasonable terms, limitations, and conditions as the Utilities and Grantor shall find reasonably necessary to protect the right of occupancy of the subject property for the purposes of the Utilities without undue or unnecessary injury to or impairment of the estate retained by the Grantor.

13. Warranty of Title. Grantor warrants that it has full right and lawful authority to make the grant contained herein, and promises and agrees to defend the Utilities in the exercise of its rights hereunder against any defect in its title to the land involved or its right to make the grant contained herein.

14. Mechanic's and Materialmen's Liens. In no event shall the Utilities allow any mechanic's or materialmen's liens to attach against the property for materials supplied or work performed at the request of, or for the benefit of, the Utilities, and the utilities shall indemnify and hold Grantor harmless from any cost or expense, incurred by Grantor to release any such mechanic's or materialmen's liens against the Property.



EXHIBIT "A"

An easement for public utilities 50 feet in width, 25 feet on both sides of the following described center lines all located across Lot 13, Kissing Camels Subdivision Filing No. 2, City of Colorado Springs, El Paso County, Colorado, more particularly described as follows:

No.1 BEGINNING at a point on the west boundary line of The Courtyard at Kissing Camels Estates Filing No. 1, being N18°54'43"E, 20.00 feet from the northwest corner of Lot 13, said Filing No. 1, thence N71°05'17"W a distance of 185.00 feet and the terminus of said center line.

No.2 BEGINNING at a point on the west boundary line of The Courtyard at Kissing Camels Estates Filing No. 1, being S18°54'43"W, 50.00 feet from the southwest corner of Lot 13, said Filing No. 1, thence N71°05'17"W a distance of 185.00 feet; thence N58°35'58"W a distance of 183.26 feet and the terminus of said center line.

No.3 BEGINNING at a point on the east Right-of-Way line of Chilson Lane being N66°47'28"W, 199.64 feet from the southwest corner of the Courtyard at Kissing Camels Estates Filing No. 1, thence N31°04'06"E a distance of 185.00 feet to a point of curve; thence on said curve to the left having a central angle of 120°09'23", a radius of 200.00 feet for a distance of 42.43 feet; thence N18°54'43"E a distance of 297.64 feet and the terminus of said center line.

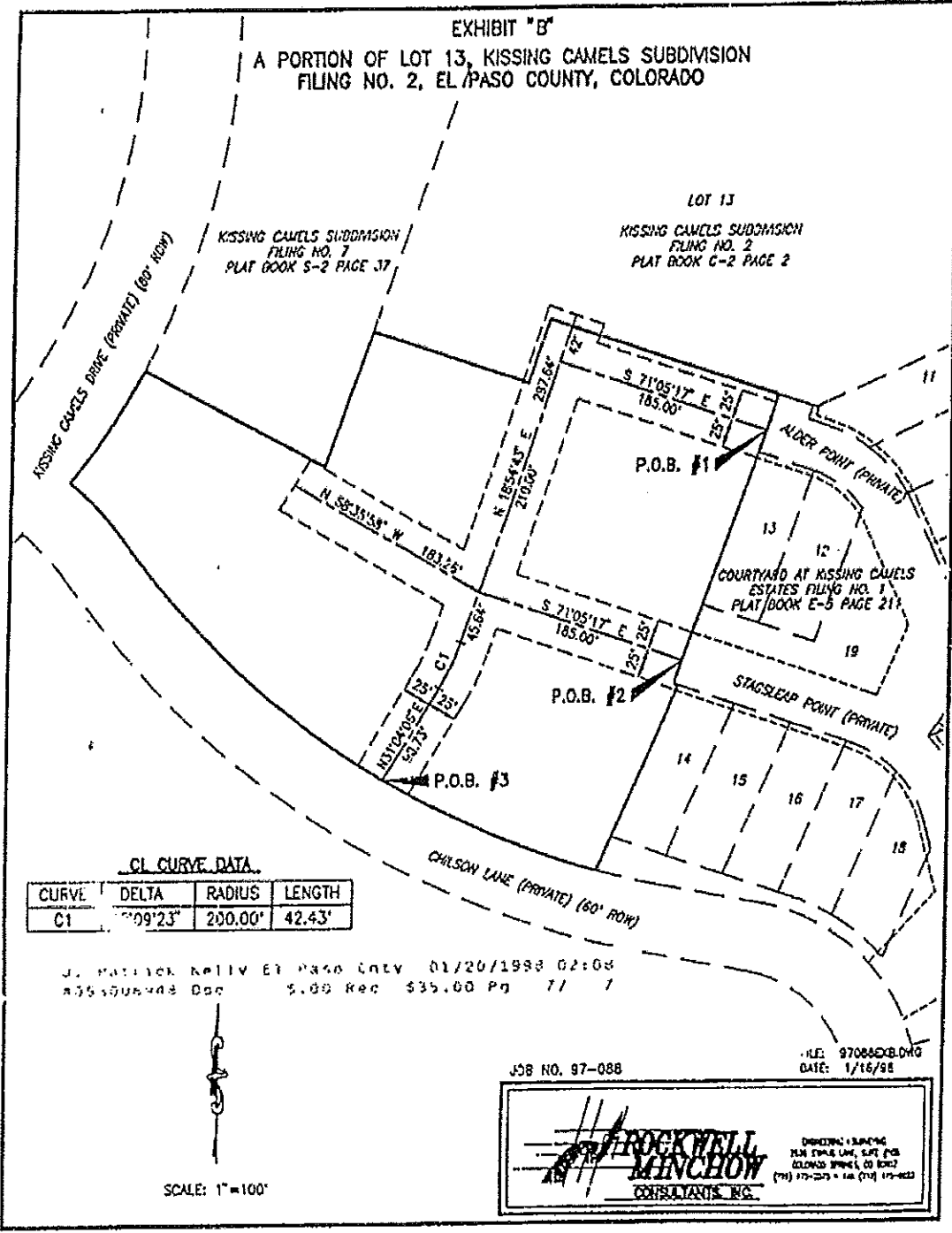
The above easements will be vacated when the area described by these easements is platted.

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9/9/2010

EXHIBIT "B"

A PORTION OF LOT 13, KISSING CAMELS SUBDIVISION  
 FILING NO. 2, EL PASO COUNTY, COLORADO



CL CURVE DATA

CURVE	DELTA	RADIUS	LENGTH
C1	99°23'	200.00'	42.43'

J. Patrick Kelly El Paso CO COV 01/20/1988 02:08  
 335 508448 Doc 5.00 Rec 535.00 Pa 71 7



SCALE: 1"=100'

JOB NO. 97-088

FILE: 97088C3.DWG  
 DATE: 1/16/98

**ROCKWELL MINCHOW**  
 CONSULTANTS, INC.  
 ENGINEERING & ARCHITECTURE  
 1000 TEXAS LINK, SUITE 200  
 EL PASO, TEXAS 79902  
 (915) 775-2275 • FAX (915) 775-9222