

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

**DEPARTMENT:** International Bridges

**AGENDA DATE:** October 29, 2019

**PUBLIC HEARING DATE:**

**CONTACT PERSON NAME AND PHONE NUMBER:** David Coronado, 212-7505; Paul Stresow, 212-7502

**DISTRICT(S) AFFECTED:** District 8

**STRATEGIC GOAL:** #1 Create an Environment Conducive to Strong, Sustainable Economic Development

**SUBGOAL:**

**SUBJECT:**

That The City Council approve a resolution authorizing the City Manager to sign a license agreement between the City of El Paso (the "City") and Transtelco, Inc. (the "Licensee"), to maintain fiber optic conduit running across the Stanton Street International Bridge.

**BACKGROUND / DISCUSSION:**

The City Council initially approved a license agreement between the City and Transtelco to install fiber optic conduit at the Stanton Street Bridge on January 9, 2006 and has constructed and operated telecommunications facilities that are the subject of this license agreement since that date. The second license agreement entered was in December of 2011, that expired unintentionally, by the Licensee, Transtelco in December of 2018. The Licensee therefore wishes to re-enter into a new license agreement with the City.

**PRIOR COUNCIL ACTION:**

City Council originally approved a license agreement with Transtelco to install fiber optic conduit at that Stanton Street Bridge in January of 2006. On December 20, 2011, the City Council approved a second license agreement for the same fiber optic conduit.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

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

**DEPARTMENT HEAD:** David A. Coronado

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

## RESOLUTION

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

That the City Manager be authorized to sign a License Agreement between the City of El Paso (the "City") and Transtelco, Inc. (the "Licensee"), for Licensee to install, repair and maintain fiber optic conduit running across the Stanton Street International Bridge. The term of the License Agreement shall commence upon approval of the Agreement by Council and shall terminate December 31, 2025, with the option of three additional five year terms. Licensee shall pay an "Annual Fee" and a separate annual "Bridge Fee." The initial "Annual Fee" shall be \$41,484.42 and the initial "Bridge Fee" shall be \$11,486.30, with fee amounts increasing annually as specified within the License Agreement.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

CITY OF EL PASO

\_\_\_\_\_  
Dee Margo  
Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
*Roberta Brito*  
Roberta Brito  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
*Monica Lombraña*  
Monica Lombraña, Managing Director  
Aviation and International Bridges

THE STATE OF TEXAS     )  
                                      )  
COUNTY OF EL PASO     )

**LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2019, by and between the CITY OF EL PASO, Texas, a municipal corporation, in the State of Texas (hereinafter referred to as "**City**"), and TRANSTELCO, INC. (hereinafter called "**Licensee**"). The parties agree as follows:

**SECTION 1. SCOPE AND PURPOSE**

A. The City hereby grants to Licensee, a non-exclusive license (hereinafter referred to as "**Agreement**") to operate, repair, replace and maintain across and along a portion of the City-owned Stanton International Bridge, bridge administration building, bridge approach and all other City-owned related real property (hereinafter referred to as "**Stanton Bridge**" or "**City Property**") all necessary or desirable wires, cables, 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, between the City of El Paso and Cd. Juarez including, but not limited to, a single one-inch conduit interduct in a shared duct system and an on-site connection with the Licensee's fiber located in the City's right-of-way at a splice box to be located at the Stanton Bridge administration building on the bridge approach, all as to be further shown on the approved Plans, and as generally shown in Exhibit "A", hereinafter referred to as the "**Infrastructure**".

B. This Agreement shall not permit or be construed to permit any other private use of the City Property, which impairs its function as an international bridge, or the right-of-way, bridge management or any other use that otherwise interferes with the City's use of the City Property. Other than maintenance and repair, Licensee 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 Licensee except as provided herein.

C. The Licensee's use of any public right-of-way within the City of El Paso permitted under state law shall not be subject to this Agreement.

D. All parties acknowledge that this license is not a franchise pursuant to Texas law nor is it a permit to string or bury telecommunications lines in the public right-of-way. Any such franchise or permit shall be obtained separately from the appropriate local or state authority.

## **SECTION 2. TERM**

The Effective Date of this Agreement is the date that City Council approves the Agreement. The initial term of this Agreement shall commence on the Effective Date and shall end at 11:59 p.m. on December 31, 2025 ("*Initial Term*"), unless terminated earlier as provided herein. At the end of the Initial Term, Licensee shall have the option ("*Option*") to extend this Agreement for three (3) additional five (5) year terms (each an "*Option Term*"). Licensee 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 or the applicable Option Term. Should Licensee fail to submit its notice of its intent to exercise its Option, the Agreement shall expire by its own terms.

## **SECTION 3. CITY'S USE OF CITY PROPERTY**

A. Nothing herein contained shall be construed as granting an exclusive use or right to the Licensee to the City Property, and the City may grant an additional license or other interest to any other applicant in its discretion for the same City Property described herein; provided however, that such additional grant of use does not interfere with the Licensee'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 Licensee; provided however, that such work will not interfere with Licensee's use of the City Property.

B. 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 Licensee. The City

shall not be liable to Licensee for any damage resulting thereof, nor shall the City be liable to Licensee 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 Licensee's Infrastructure.

C. If the City requires Licensee 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, Licensee shall make the alterations or changes as soon as practicable when ordered in writing by the International Bridges Director ("Director"), without claim for reimbursement or damages against the City. A prorated portion of the Total Fee (as defined below in Section 4) shall be refunded for the time period for which the Licensee does not have use of its communication system due to the City's written requirement that Licensee remove, alter, change, adapt, or conform its Infrastructure because of City-initiated changes, modifications, or repairs 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.

D. Licensee's failure to make the alterations or changes as soon as practicable when ordered in writing by the Director to do so pursuant to Section 3.C, above, shall constitute an Event of Default.

#### **SECTION 4. FEES**

A. Annual Fee: Commencing on the Effective Date, Licensee shall pay the City an Annual Fee. The Annual Fee for 2019 is due in full thirty (30) days after the Effective Date. Beginning January 1, 2020, Licensee shall pay the Annual Fee by January 15 of each year. The payment of the Annual Fee by January 15 of each year is the payment due for the current year. (For example, the Annual Fee paid by January 15, 2020 is the Annual Fee for 2020; the Annual Fee paid by January 15, 2021 is the Annual Fee for 2021, etc.)

B. Should the Licensee exercise its Option to extend the Initial Term pursuant to Section 2 of this Agreement, the Annual Fee for each additional year shall be a 5% increase of the Annual Fee for the preceding year, with payments due in full by January 15 of each year.

C. In addition to the Annual Fee, the Licensee shall pay an annual Bridge Fee. The Bridge Fee for 2019 is due in full thirty (30) days after the Effective Date. Beginning January 1, 2020, Licensee shall pay the Bridge Fee by January 15 of each year. The payment of the Bridge Fee by January 15 of each year is the payment due for the current year. (For example, the Bridge Fee paid by January 15, 2020 is the Bridge Fee for 2020; the Bridge Fee paid by January 15, 2021 is the Annual Fee for 2021, etc.)

D. Should the Licensee exercise its Option to extend the Initial Term pursuant to Section 2 of this Agreement, the Bridge Fee for each additional year shall be a 5% increase of the Bridge Fee for the preceding year, with payments due in full by January 15 of each year.

E. The Annual Fee and the Bridge Fee are collectively referred to as the “**Total Fee**.” The payment schedule for the Total Fee (as detailed in Sections 4.A through 4.D, above) is as follows:

<b>YEAR</b>	<b>ANNUAL FEE</b>	<b>BRIDGE FEE</b>	<b>TOTAL FEE</b>	<b>DUE DATE</b>
2019	\$41,484.42	\$11,486.30	\$52,970.72	Within 30 days of Effective Date
2020	\$43,558.64	\$12,060.62	\$55,619.25	January 15, 2020
2021	\$45,736.57	\$12,663.65	\$58,400.22	January 15, 2021
2022	\$48,023.40	\$13,296.83	\$61,320.23	January 15, 2022
2023	\$50,424.57	\$13,961.67	\$64,386.24	January 15, 2023
2024	\$52,945.80	\$14,659.75	\$67,605.55	January 15, 2024
2025	\$55,593.09	\$15,392.74	\$70,985.83	January 15, 2025

F. Full payment of the Total Fee is due by Licensee in the amount and on the day provided in this Section without the requirement of an invoice from the City.

G. If Licensee fails to make full and timely payment of the Total Fee in accordance with this Agreement, then within seven days after the Total Fee is due, Licensee shall pay the City a late fee of ten percent of the Total Fee (“Late Fee”) in addition to the Total Fee payment.

H. Licensee’s failure to make full payment of the Total Fee and the Late Fee within seven days after Total Fee payment is due shall constitute an Event of Default.

## **SECTION 5. DEPOSIT**

The Licensee shall pay to the City a Security Deposit in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) within thirty (30) days of the Effective Date. Failure to pay the Security Deposit shall constitute an Event of Default.

## **SECTION 6. ADDITIONAL COSTS**

A. Licensee 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, subject to any appeal or challenge of any taxes or assessments pertinent to this Agreement by Licensee.

B. Licensee shall pay any and all costs of obtaining required permits, plans and other approvals necessary to conform to any applicable City, state or federal ordinances and regulations.

C. In the event the Licensee 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 Licensee ceases all use of the Infrastructure, or another agreement is executed.

## **SECTION 7. INSTALLATION, REPAIRS, UPGRADES, AND MAINTENANCE**

A. Licensee shall properly install, repair, upgrade, and maintain the Infrastructure throughout the Term and Option Term(s) of this Agreement.

B. The Infrastructure shall be considered improperly installed, repaired, upgraded and maintained if:

- i. The installation, repairs, upgrade or maintenance endangers people;
- ii. The Infrastructure does not meet applicable City, state or federal laws or regulations;
- iii. The Infrastructure is not capable of being located using standard industry practices;
- iv. The Infrastructure is not located in the proper place in accordance with the approved Plans; or
- v. The Infrastructure is placed in an area that interferes with City owned facilities and infrastructure.

C. Licensee's failure to properly install, repair, upgrade, and maintain the Infrastructure throughout the Term and Option Term(s) of this Agreement shall be considered an Event of Default.

#### **SECTION 8. INDEMNIFICATION AND INSURANCE**

**LICENSEE 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 LICENSEE'S, LICENSEE'S AGENTS, SERVANTS OR EMPLOYEES OR ANY ORGANIZATION'S 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, Licensee 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 one million dollars (\$1,000,000.00) per occurrence bodily injury liability/\$1,000,000.00 per occurrence property damage liability and five million dollars (\$5,000,000.00) excess or umbrella per occurrence liability policy. These amounts are not a limitation upon Licensee's agreement to indemnify and hold the City harmless.

Licensee 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 that 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 thirty (30) 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. Licensee shall file an original of the policy or certificate of insurance with the City Clerk, the International Bridges Department, and the Capital Improvement Department prior to any commencement of the use or maintenance of the Infrastructure. The policy shall contain a provision that the policy will not be terminated without providing the City with thirty (30) days prior written notice of termination.

In the event Licensee's maintenance work of the Infrastructure will require any construction, Licensee 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.

#### **SECTION 9. RIGHTS IN THE EVENT OF ABANDONMENT**

As an express condition of this Agreement, and not as a mere covenant, in the event Licensee abandons the Infrastructure or any portion thereof or in the event the Infrastructure placed in the City Property hereby ceases to be used by Licensee for the purposes enumerated herein for any period of six (6) consecutive months or longer, the Infrastructure shall be deemed abandoned and, at the City's option, the City may require Licensee to remove the Infrastructure and restore the City Property to its original condition; or the abandoned property shall automatically become the property of the City, free and clear of any right, title, or interest in Licensee, without the necessity of any notice to Licensee or any re-entry by the City.

#### **SECTION 10. TERMINATION**

A. Either party may terminate this Agreement prior to the end of its Initial Term or Option Term for any reason upon six (6) months written notice to the other party in advance of such termination.

B. If Licensee terminates this Agreement for any reason, except for an Event of Default by the City, any Total Fees, including any Late Fees, as well as the Deposit, that have been previously paid to the City shall be retained by the City. If City terminates this Agreement for any reason, except for an Event of Default by the Licensee, the City will reimburse the Licensee the prorated amount of the Total Fee for the current year previously paid to the City. The City shall retain the Deposit and any Late Fee paid for the current year.

C. Upon termination of this Agreement for any reason, including as a result of an Event of Default by either party, Licensee shall abandon the Infrastructure together with any improvements thereto, made or erected during the Agreement, located within or on 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 Licensee's own cost and expense. Any such restoration shall be subject to the reasonable approval of the Director.

D. Upon termination of this Agreement, neither party shall have any further obligation to the other party.

## **SECTION 11. RECORDS**

The Director shall be kept fully informed by Licensee as to matters pertaining in any way to Licensee's exercise of its rights under this Agreement, including the use, replacement, maintenance and repair of the Infrastructure on the City Property. Licensee 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 12. NOTICE**

Any notice or communication required in the administration of this Agreement shall be in writing and deemed to be duly delivered, if delivered in person, by overnight courier or by certified or registered mail as follows:

City of El Paso  
ATTN: City Manager

P.O. Box 1890  
El Paso, Texas 79950-1890

with copies to: City of El Paso  
ATTN: International Bridges Director  
1001 South Stanton Street  
El Paso, Texas 79901

and: Transtelco, Inc.  
Attn: Vice President of Finance and Asset Management  
500 W. Overland Ave., Ste. 310  
El Paso, Texas 79901

with copies to: Michael J. Hutson  
5809 Acacia Cir.  
El Paso, Texas 79912

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

### **SECTION 13. ASSIGNMENT**

A. The rights granted by this Agreement inure to the benefit of Licensee, 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, 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. 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 Licensee 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 Licensee 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 14. LEASE, SALE OR DEDICATION OF INFRASTRUCTURE**

Licensee, without the consent of the El Paso City Council, shall not lease, license, sublicense, sell or dedicate or in any manner permit the use of all or a portion of the Infrastructure, to any non-Licensee person or entity. Notwithstanding the foregoing, Licensee shall be allowed, without the consent of the El Paso City Council, (i) to lease, license, sublicense, and permit the use of Licensee's fiber optic cable installed within the Infrastructure to Licensee's customers, provided that Licensee retains sole ownership of such fiber optic cable at all times; and (ii) Licensee shall be allowed to provide services to its customers through Licensee's fiber optic cable installed within the Infrastructure. Licensee shall not allow the placement of any additional cable without the written consent of the Director.

#### **SECTION 15. LICENSEE'S ACCESS AND SECURITY**

Licensee 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 Licensee 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 Licensee. City shall have the right to supervise the Licensee's and any third party's access to the Infrastructure for security purposes.

#### **SECTION 16. EVENTS OF DEFAULT; REMEDIES**

A. **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.

B. **Events of Default.** Each of the following events shall constitute an "Event of Default": (i) The failure by Licensee to pay when due any Annual Fee, Bridge Fee, Deposit, Late Fee, or other payment required by this Agreement, which failure is not cured after the City gives written notice demanding such payment. (ii) The failure by either party to observe or perform when

due its obligations under this Agreement, which failure is not cured after its receipt of written notice of breach from the other party.

C. 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 (“*Cure Period*”). 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. Any breach involving the failure of Licensee to pay a required fee or deposit must be cured within the thirty (30) day Cure Period with no extension thereof. 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.

D. **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 at 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 inability of either Party, whether similar to those enumerated or otherwise, and not within the reasonable control of the Party claiming such inability.

#### **SECTION 17. MISCELLANEOUS**

A. **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 Licensee to be material to the overall purpose and operation of this Agreement. If the City or Licensee 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 Licensee has made such determination, the Licensee shall have the option to terminate this Agreement. Such judgment or decree shall relieve the City and the Licensee from performance under such invalid provision of this Agreement.

**B. 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.

**C. 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.

**D. 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.

**E. 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.

**F. 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.

**G. 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.

H. **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.

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

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

*[Signatures on Following Pages]*

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2019.

**THE CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

Roberta Brito  
Roberta Brito  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

David A. Coronado  
David Coronado, Director  
International Bridges

**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS    )**

**COUNTY OF EL PASO    )**

This instrument is acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2019, by Tomás González 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:



**ACCEPTANCE**

The attached Agreement, with all conditions thereof, is hereby accepted this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

**LICENSEE: TRANSTELCO, INC.**

By: \_\_\_\_\_  
Jorge Robles Nettel  
VP of Finance & Asset Management

**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS    )**  
**COUNTY OF EL PASO    )**

This instrument is acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2019, by  
Jorge Robles Nettel as Vice President of Finance and Asset Management on behalf of  
TRANSTELCO, INC., as Licensee.

\_\_\_\_\_  
Notary Public, State of Texas

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

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

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

## Exhibit “A” Schematic

