

ASSIGNMENT , RENEWAL, & AMENDMENT  
OF PIPE LINE EASEMENT  
Document Title

Document Number

ASSIGNMENT,  
RENEWAL, AND AMENDMENT  
OF PIPE LINE EASEMENT

Recording Area

Name and Return Address

Department of City Development  
(Szallai)  
809 N. Broadway, 2<sup>nd</sup> Floor  
Milwaukee, WI 53202

This instrument was drafted by:  
City of Milwaukee, Office of the City Attorney

Tax Identification Number (TIN)  
684-9999-000

ASSIGNMENT, RENEWAL, AND AMENDMENT OF PIPE LINE EASEMENT

This Assignment, Renewal, and Amendment of Pipe Line Easement (“**Agreement**”) is dated \_\_\_\_\_, by and between Equilon Enterprises LLC, 910 Louisiana, Houston, Texas 77002 (“**Grantee**”) and The City of Milwaukee, 809 N. Broadway, Milwaukee, Wisconsin 53202 (“**Grantor**”) for the purposes and consideration herein set forth:

WHEREAS, by Pipe Line Easement dated August 9, 1972, recorded on August 14, 1972 as document number 04697528 with the Milwaukee County Register of Deeds, The City granted to The Union Oil Company of California (“**Unocal**”), its successors and assigns, a Pipe Line Easement (the “**Easement**”), a copy of which is attached as **Exhibit A**.

WHEREAS, Unocal sold its interest in the terminal, pipe line, and related facilities (collectively, the “**Facilities**”) located near Mitchell Field Airport to Shell Oil Company

("Shell") effective October 16, 1995, wherein Shell assumed the rights for the pipe line covered under the said Easement.

WHEREAS, Shell conveyed all of its interest in the Facilities to Grantee, effective July 1, 1998, wherein Grantee assumed the rights for the pipe line covered under said Easement.

WHEREAS, the initial twenty-five (25) year term of the Easement expired August 8th, 1997, and the terms of the Easement allow for its renewal.

WHEREAS, Grantee and Grantor mutually agree to renew the Easement, such renewal to be effective as of August 9, 1997, to confirm the assignment of the Easement from Shell to Grantee, effective as of the date that Grantee was conveyed Shell's interests in the pipe line, and to amend the Easement as set forth below;

NOW, THEREFORE, Grantor and Grantee agree as follows:

1. This Agreement shall reflect the current owner of the Facilities and current grantee under the Easement as Grantee, as the successor and assign to Unocal and Shell. Grantor also confirms its consent to the assignment of the Easement from Shell to Grantee.

2. The renewal term for the Easement shall be twenty-five (25) years, from August 9, 1997 to August 8, 2022 ("**First Renewal Term**").

3. Upon expiration of the First Renewal Term, the Easement may be further renewed, by mutual agreement of the parties hereto or their respective successors or assigns, provided written notice of intent to renew is provided to Grantor prior to the expiration of the First Renewal Term.

4. The Easement is hereby amended by adding the following sections:

### **Indemnification**

A. For purposes of this section "Indemnification", the following definitions apply:

"Hazardous Material" means any substance: (i) the presence of which requires investigation or remediation under any Federal, State or local statute, regulation, or ordinance, order, action, or policy; or (ii) which is or becomes defined as a "hazardous waste" or "hazardous substance" under any Federal, State or local statute, regulation or ordinance or amendments thereto, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.), and/or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.); or (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department,

commission, board, agency or instrumentality of the United States, the State of Wisconsin, or any political subdivision thereof with appropriate jurisdiction; or (iv) which contains gasoline, diesel fuel or other petroleum hydrocarbons.

"Environmental Requirements" means all applicable past, present and future statutes, regulations, rules, ordinances, codes, and any licenses, permits, orders, approvals, plans, authorizations, concessions, franchises authorized under applicable statute, regulation, rules, ordinances and codes and all applicable judicial and administrative and regulatory decrees, judgments and orders relating to the protection of the environment including, without limitation: (i) all requirements, including, but not limited to , those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of hazardous materials, chemical substances, pollutants, contaminants or hazardous or toxic substances, materials, or wastes, whether solid, liquid or gaseous in nature; and (ii) all environmental related requirements pertaining to the protection of the health and safety of employees or the public.

"Environmental Contamination" means areas on, upon or under the premises subject to this Easement, including the soil, other surfaces or groundwater which contain or are otherwise affected by Hazardous Materials in excess of those amounts allowed or otherwise specified by Environmental Requirements, including but not limited to "action levels" or "clean up levels".

"Environmental Damages" means all claims, judgments, damages, losses, penalties, fines, cleanup costs, liabilities (including strict liability), fees and expenses of defense of any claim and of any settlement or judgment, including, without limitation, reasonable attorneys' fees and consultants; fees, any of which are incurred at any time arising out or as a result of (a) the existence or migration of Environmental Contamination, or (b) the existence of a violation of Environmental Requirements pertaining to the premises that are the subject of this Easement

"Migrates, Migrating or Migration" means any Contamination that flows, percolates, diffuses or in any way moves.

Grantee shall defend, indemnify and hold harmless Grantor, its parent, affiliates, successors and assigns, against any loss or expense (including, but not limited to, Environmental Damage) incurred as a result of any claim, action, demand, judgment, suit or the violation of any Environmental Requirement caused or alleged to have been caused by the use or occupancy of the Land by Grantee and/or arising from or in connection with Grantee's use or misuse, handling or mishandling, storage, leakage, spillage, discharge, seepage into water bodies or ground supplies, or release into the atmosphere of any Hazardous Material and/or creation of Environmental Contamination. Grantee, at its expense, shall defend any such claim, action, demand, judgment or suit against an indemnified party and shall pay any Environmental Damage, or other loss or expense, resulting therefrom. If, after Grantee has both defended any such suit and paid any Environmental Damages, loss or expense, it is judicially determined that such Environmental Contamination described above was caused in whole or in part by the negligence or willful misconduct of an indemnified party, then Grantor shall reimburse Grantee

for its portion of the judgment and for reasonable defense of any such claim or suit. Grantor may elect to defend against any claim or suit with attorneys of its own selection without relieving Grantor of any obligation hereunder. Grantee shall cooperate with Grantor in Grantor's investigation and defense of any claim or suit. Grantee's obligations hereunder shall survive any termination or expiration of this Lease. Grantor and Grantee enter into this section all without waiving any governmental immunity or other right available to Grantor under Wisconsin law.

### **Insurance**

Grantee shall maintain insurance as required by law, as well as third party liability insurance covering bodily injury and property damage with coverage and limits deemed adequate by Grantee to cover its liabilities and obligations under the contract and at law. To the extent permitted under the law, Grantee shall maintain the option to self-insure the above insurances. Upon request, a memorandum of insurance shall be provided

### **Inspections**

Upon request, Grantee shall provide Grantor with all results of in-line pipeline inspections, regardless of whether such inspection identifies an anomaly or area of concern within the Easement area, and Grantee shall provide Grantor with any technical assistance necessary to interpret the inspection results. Additionally, in the event that Grantee becomes aware of any pipeline integrity issues within the Easement area by any other means of inspection, Grantee agrees to notify Grantor in a timely manner and provide additional details upon request.

In the event, Grantor's operations near the Easement make it necessary to relocate the Easement and/or Grantee's improvements or equipment, Grantee shall, within one hundred-eighty (180) days after receipt of written notice from Grantor, and at the expense of Grantor, relocate the Easement or raise, lower, or relocate Grantee's improvements or equipment that Grantor reasonably deems necessary to accommodate such improvements or avoid interference with such operations. In the event relocation of the Easement is necessary, Grantor shall provide a reasonably comparable and mutually acceptable alternative location on the land for the portions of the pipelines and/or utility lines and related appurtenances to be relocated, subject to the terms of this Easement. Grantee reserves the right to recover the costs of relocation, raising, or lowering from Grantor and/or any third party requesting the relocation.

### **Easement Fee**

Grantee shall pay an annual easement fee of \$12,009.08. The first easement fee shall be due upon execution of this Agreement and annual payments thereafter shall be due on the anniversary of the execution of this Agreement.

5. All provisions of the Easement, which are not inconsistent with this Agreement, shall remain in full force and effect.

6. All notices and other communications required under this Agreement or under the Easement shall be in writing, and delivered personally or sent via certified mail to the party set forth below:

**CITY OF MILWAUKEE**

Department of City Development  
809 N. Broadway, 2<sup>nd</sup> Floor  
Milwaukee, WI 53202

With a copy to:

Office of the City Attorney  
841 N. Broadway, 7<sup>th</sup> Floor  
Milwaukee, WI 53202-3653

**EQUILON ENTERPRISES LLC**

Attn: Land & Permitting  
910 Louisiana, OSP \_\_\_\_  
Houston, TX 77002

The terms, conditions, and provisions of this Agreement shall extend to and be binding upon the successors, and assigns of the parties hereto. This Agreement shall be construed pursuant to the laws of the state of Wisconsin, without regard to its conflict of laws principles. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and together constitute one and the same instrument. The Easement and rights herein granted may be assigned or conveyed by either Grantor or Grantee, in whole or in part, provided written notice has been given to the other party.

**[Signature Page Follows]**

IN WITNESS WHEREOF, there parties hereto have caused this Agreement to be executed as of the day and date first set forth above by their duly authorized officers.

**EQUILON ENTERPRISES LLC**

**CITY OF MILWAUKEE**

By: \_\_\_\_\_  
Stephen Van Stone  
Its: Attorney in Fact

\_\_\_\_\_  
Tom Barrett, Mayor

\_\_\_\_\_  
James R. Owczarski, City Clerk

Countersigned:

\_\_\_\_\_  
Martin Matson, Comptroller

Signatures of Tom Barrett, James R. Owczarski, and Martin Matson, authenticated this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Jeremy R. McKenzie, Assistant City Attorney  
State Bar No. 1051310

Approved as to form, content and execution  
this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Assistant City Attorney

STATE OF TEXAS           §

COUNTY OF HARRIS       §

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for said County and State aforesaid, on this \_\_\_\_ day of \_\_\_\_\_, 2015 personally came and appeared Stephen Van Stone, to me known, who, being by me duly sworn, declared and acknowledged to me, Notary, that he is **ATTORNEY-IN-FACT** for **EQUILON ENTERPRISES LLC**, and that said instrument was signed on behalf of said company and Stephen Van Stone acknowledged said instrument to be the free act and deed of said company.

\_\_\_\_\_  
Notary #: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**EXHIBIT A**  
**Existing Pipe Line Easement**

1089-2015-2024:223022