Randall Lowry
Manager, Engineering
Suncor Energy (U.S.A.) Pipeline Co.
1715 Fleischli Parkway
Cheyenne, Wyoming 82001
(307) 775-8105
rlowry@suncor.com

Paul Deeley
Regional Transportation District
1765 West 121st Ave., Suite 300
Westminster, CO 80234

May 11, 2018

Subject: Suncor Easement Encroachment ID No. 557A, Consent Request for Corridor Improvements in SUNCOR RMCSE PE Property, Utility Owner – Public Service Company of Colorado (PSCo)

Dear Paul,

RTD submitted the above-mentioned consent request review package to construct a 16-in. diameter steel pipeline in 88th Avenue via open cut construction method. The anticipated construction date is not indicated, but it is stated that it will not be prior to receipt of Suncor's consent request approval. RTD's subject submittal includes a plan drawing and map that depicts the location of the 16-in. diameter, 0.375-in. wall thickness steel pipeline crossing the Suncor easement on the north side of 88th Avenue. The submittal package indicates that the 16-in. pipeline will be constructed by the open cut methodology, with a minimum cover of 36-in. below the 88th Ave pavement surface. The drawings provided by RTD were not to scale, so the location of the 16-in. PSCo pipeline could only be approximated within 88th Avenue.

Suncor's pipeline was constructed by horizontal directional drilling through this encroachment, and it is approximately 20-ft below the proposed existing road grade. The proposed 16-in. PSCo pipeline will be located above the Suncor pipeline, with a vertical separation of over 15-ft if constructed with 36-in. of cover.

Due to the significant depth of the Suncor pipeline through the encroachment, Suncor approves the construction of the 16-in. PSCo pipeline with the following conditions:

- RTD shall provide 48 hour written notice of activity within the Suncor easement to allow Suncor personnel to be on-site to witness any work within the Suncor easement;
- Written notice shall include a detailed schedule of the activities planned in the Suncor easement, with durations and updates in the event that the schedule is revised;
- At all times during construction RTD shall maintain a minimum cover of 14-ft over the Suncor Pipeline. In the event that RTD encounters unknown obstacles below the 88th Avenue surface that require RTD to exceed the 36-in. minimum cover by more than 3-ft, Suncor shall be notified in writing for approval;

- Since the drawings provided are not to scale, RTD shall confirm in writing (via email is acceptable) that the pipeline is constructed in the north edge of the 88th Avenue roadway;
- This consent is for construction of the 16-in. PSCo pipeline in 88th Avenue only, any other features in the Suncor easement shall be under a separate submittal.

Attached you will find the Suncor Record drawing of the 88th Avenue crossing with the approximate location of the PSCo pipeline depicted, and Suncor's pipeline as it currently sits in relation to the proposed work.

Sincerely,

Randall Lowry

cc: General Counsel
1600 Blake Street
Denver, CO 80202

Legal Affairs
Suncor Energy (U.S.A.) Pipeline Company
717 Seventeenth Street, Suite 2900
Denver, CO 80202

Right of Way Coordinator
Suncor Energy (U.S.A.) Pipeline Company
1715 Fleischli Parkway
Cheyenne, WY 82001

Execution Copy

Recording requested by and return to:

SUNCOR ENERGY (U.S.A.) PIPELINE COMPANY
ATTN: Legal Department
717 Seventeenth Street
29th Floor
Denver, Colorado 80202
Tract #: _____
AFE #: 12-00032

PIPELINE EASEMENT AGREEMENT

REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of Colorado (the "Grantor"), owns or controls certain real property located in Adams County, Colorado and Weld County, Colorado as described on **Exhibit A** hereto and incorporated herein (the "Property") and SUNCOR ENERGY (U.S.A.) PIPELINE COMPANY, a Colorado corporation (the "Grantee") are parties to this Pipeline Easement Agreement (this "Agreement") dated as of the ____ day of December, 2013 (the "Effective Date"). For purposes of this Agreement, Grantor and Grantee may be referred to individually as a "Party," and collectively as the "Parties."

RECITALS

WHEREAS, Grantor owns or controls the Property and intends to construct, operate, own, maintain, and repair mass transportation facilities, including, without limitation, the north metro rail line which consists of a commuter rail transit facility connecting Denver Union Station in downtown Denver and 162nd Avenue in the City of Commerce City (the "North Metro Rail Line"), roads, catenary lines, paths, and electrical facilities, and to relocate third party utilities contained within the Property (collectively, the "Corridor Improvements") upon, along, over, under, through or across parts of the Property for use by Grantor and its directors, officers, employees, contractors, and agents (each a "Grantor Party," and, together with Grantor and its successors and permitted assigns, collectively the "Grantor Parties") and Grantee's tenants, licensees and invitees;

WHEREAS, Grantor acquired certain rights in the Property (a) in Adams County pursuant to a Quitclaim Deed from the Union Pacific Railroad Company (the "UP") dated June 25, 2009 and recorded on June 26, 2009 at Reception No. 2009000046216 (the "Adams County Deed") and (b) in Weld County pursuant to a Quitclaim Deed from the UP dated June 25, 2009 and recorded on June 26, 2009 at Reception No. 3632827, and Correction Quitclaim Deed from the UP dated June 25, 2009 and recorded on October 15, 2009 at Reception No. 3654328 (collectively, the "Weld County Deeds") (collectively, the Adams County Deed and Weld County Deeds, the "Deeds"), and the Deeds are hereby incorporated herein by this reference;

WHEREAS, Grantor owns or controls the Property subject to the reservations, restrictions and indemnifications contained in the Deeds and subject to easements reserved by the UP, and operates all or portions of the Property pursuant to a Shared Use Agreement dated

June 25, 2009 between the Grantor and the UP (the "Shared Use Agreement"), and the Shared Use Agreement is hereby incorporated herein by this reference;

AND WHEREAS, the Parties desire for Grantor to grant the Easements (as defined below) to Grantee for the installation of one (1) sixteen inch (16") crude oil high pressure pipeline, one (1) ten inch (10") crude oil high pressure pipeline, and related facilities on separate portions of the Property; all pursuant to the terms of this Agreement.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, Grantor and Grantee hereby agree as follows:

1. Permanent Easement. Grantor hereby grants to Grantee, its successors and assigns forever, as of the Effective Date, a non-exclusive, perpetual easement on, over, under, through and across that portion of the Property (approximately twenty feet (20') to thirty feet (30') wide, in accordance with the Project Plans (as defined below)) (the "Permanent Easement") as more particularly described and depicted on **Exhibit B** attached hereto and incorporated herein (the "PE Property"), for the following uses and purposes by Grantee and, except as otherwise provided herein, at Grantee's sole discretion, Grantee's directors, officers, employees, contractors, subcontractors, and agents (each a "Grantee Party," and, together with Grantee and its successors and permitted assigns, collectively the "Grantee Parties") and Grantee's licensees and invitees:

Surveying, clearing, excavating, laying, removing vegetation, constructing, installing, operating, maintaining, protecting, inspecting, testing, drilling, undertaking environmental activities (including investigations, sampling, monitoring, response, and remedial activities), repairing, altering, improving, upgrading, removing, replacing, re-laying, relocating, substituting, renewing, abandoning, and all other related and similar activities solely for one (1) sixteen inch (16") high pressure pipeline to be located within the permanent easement as shown and described on sheets 1 through 4 of the Weld County Parcels of **Exhibit B** and within the permanent easements #1, #2, #3, and #4 as shown on sheets 1 through 28, and as described on sheets 1 through 40, of the Adams County Parcels of **Exhibit B** (the "Sixteen Inch Pipeline") and one (1) ten inch (10") high pressure pipeline to be located within the permanent easements #3 and #4 as shown on sheet 28, and described on sheets 28 through 40, of the Adams County Parcels of **Exhibit B** (the "Ten Inch Pipeline") to be located within **Exhibit B** attached hereto and incorporated herein, both at a minimum depth of sixty inches (60") below the surface for the transportation of crude oil and by-products thereof, water and other substances, with appurtenances including drips, valves, fittings, metering equipment, electrical cable, cathodic equipment, communication equipment, compressor or booster equipment or stations, and other related and similar equipment and appurtenances as may be necessary or convenient for the foregoing purposes, including any upgrades or replacements of such equipment (collectively, the "Pipelines", and each a "Pipeline") at only that specific location within the PE Property as indicated in the Project Plans (as defined below), except as otherwise provided in this Agreement; provided, however, that the diameter of the Sixteen Inch Pipeline shall remain a sixteen inch (16") high pressure pipeline, the diameter of the Ten Inch Pipeline shall remain a ten

inch (10") high pressure pipeline, and the Pipelines' respective diameters shall not be enlarged or diminished without prior written consent by, and additional reasonable compensation to, Grantor, which consent shall not be unreasonably withheld;

Subject to the other terms and conditions of this Agreement, the Superior Rights (as defined below), applicable law, the Deeds and the Shared Use Agreement including without limitation, all reservations, restrictions and indemnifications contained in the Deeds and the Shared Use Agreement.

2. Access Easement. In addition to the Permanent Easement and Temporary Easement (as defined below), Grantor hereby grants to Grantee, its successors and assigns forever, a non-exclusive, perpetual easement over and across the Property (the "Access Easement") as more particularly described and depicted on **Exhibit C** attached hereto and incorporated herein (the "Access Property"), solely for purposes of ingress and egress to and from the PE Property and/or the TCE Property (as defined below) by means of dirt or paved roads, lanes and pathways thereon, if existing (collectively, the "Existing Roads"), or otherwise by such route or routes as Grantee may, upon completion of the requirements contained in Section 6, construct or improve from time to time for the purposes permitted hereunder, as a matter of right but not of obligation, for use by Grantor, the Grantor Parties, Grantee and, at Grantee's sole discretion, each of the other Grantee Parties (collectively, the "New Roads"). Grantor retains the right to amend the Access Easement by modifying and/or relocating the Access Property provided that (i) any such modification and/or relocation of the Access Property provides Grantee with access to the same Temporary Easement and/or Permanent Easement, as applicable, previously served by such Access Easement, and in substantially the same height and width, as Grantee enjoyed prior to any such modification and/or relocation reasonably sufficient for purposes of ingress and egress, at no additional cost or expense to Grantee, (ii) Grantor shall complete, at its sole cost and expense, a survey of the Access Property as modified and/or relocated and shall record in the real property records of the Office of the Clerk and Recorder of Adams County, Colorado an updated **Exhibit C** containing the legal description of the Access Property, which shall replace and supersede for all purposes **Exhibit C** attached to this Agreement, and (iii) Grantor shall provide Grantee at least thirty (30) days prior written notice before making any such amendment to the Access Easement, and shall consult and work with Grantee in connection with the preparation with the updated **Exhibit C.**

3. Temporary Easement. In addition to the Permanent Easement and Access Easement, Grantor hereby grants to Grantee a non-exclusive, temporary easement on, over, under, through and across, and right to use the Property consisting of additional temporary work space adjacent to and along one and/or both sides of the PE Property and such other work space (the "Temporary Easement") as more particularly described and/or depicted as temporary work space or additional temporary work space on **Exhibit B** attached hereto and incorporated herein (the "TCE Property"). Grantee and, except as otherwise provided herein, at Grantee's sole discretion, each of the other Grantee Parties shall have the right to use the TCE Property for the purpose of surveying, excavating, laying and constructing the Pipelines and related construction activities. Grantee agrees that the right to use the TCE Property shall terminate effective as of the date of Grantee's recordation of the As-Built Certification (as defined in Section 20 below) (the "Completion Date") in the real property records of the Office of the Clerk and Recorder of Weld and Adams Counties, Colorado (the "Records"). From time to time, Grantee may request

from Grantor additional temporary easement(s) for work space in connection with Pipeline maintenance, repair, and other work authorized by this Agreement (each, an "Additional Temporary Easement") on such real property within the Property as mutually agreed by the Parties ("Additional TCE Property") for such duration as mutually agreed by the Parties, which Additional Temporary Easements may or may not be granted in Grantor's sole and absolute discretion. Any Additional Temporary Easements granted by Grantor shall be subject to the terms and conditions of this Agreement. For purposes of this Agreement, the Permanent Easement, Access Easement, Temporary Easement, and any Additional Temporary Easements may be referred to collectively herein as the "Easements," and the TCE Property, Access Property, PE Property, and any Additional TCE Property may be referred to collectively herein as the "Easement Property."

4. Subject to Existing Rights. The Easements are subject to (a) all documents recorded against the Property in the real property records of Adams County and Weld County as of the Effective Date (if, and to the extent that the rights contained in such documents touch and concern the Easement Property), (b) all of the unrecorded documents (if, and to the extent that the rights contained in such documents touch and concern the Easement Property) provided to Grantee by Grantor (the "Unrecorded Documents") and Grantee hereby acknowledges that (i) it has received copies of the Unrecorded Documents from Grantor and (ii) Grantor makes no representation or warranty as to whether or not the Unrecorded Documents provided are comprehensive and that additional, unrecorded instruments may touch and concern or otherwise burden the Easement Property; provided, however, Grantor warrants that it has given Grantee all Unrecorded Documents in its possession, (c) in the cases of both (a) and (b) above, the rights in such documents, including those in favor of licensees and lessees of all or part of the Property (if, and to the extent that the rights contained in such documents touch and concern the Easement Property), and (d) the right of the Grantor to renew and extend any and all of the foregoing (collectively, the "Superior Rights").

5. Retained Rights. Subject to the terms of this Agreement, Grantor retains all rights to use, convey and enjoy the Easement Property.

6. Use of Property. The Pipelines, New Roads and any improvements or modifications to the Existing Roads requested by Grantee (the "Existing Road Improvements," and together with the New Roads, the "Access Improvements") shall be designed and constructed by Grantee at its sole cost and expense. Grantee, through its contractors, shall construct the Pipelines and any Access Improvements in connection therewith (collectively, the "Project") pursuant to the final design plans titled, dated December 12, 2013 (the "Design Plans," together with the approved Construction Schedule (as defined below) collectively the "Project Plans"). The Parties acknowledge and agree that Grantee has submitted to Grantor the Design Plans, and they have been reviewed and accepted by Grantor. Grantee shall submit to Grantor one hundred percent (100%) design plans for any additional Access Improvements not part of the Project ("Additional Access Plans") for review and acceptance or rejection by Grantor. Prior to any construction pursuant to the Project Plans or any Additional Access Plans, as applicable, Grantee shall provide Grantor the applicable construction schedule (the "Construction Schedule") and construction means and methods ("Means and Methods") and Grantor shall have ten (10) business days thereafter to review and accept them, which acceptance shall not be unreasonably withheld, conditioned or delayed. In the event Grantee desires to make

any changes to the Construction Schedule or Means and Methods, Grantee shall provide Grantor such changes and Grantor shall have (a) with respect to the Construction Schedule five (5) business days (or as otherwise mutually agreed by the Parties), and (b) with respect to the Means and Methods three (3) business days (or as otherwise mutually agreed by the Parties); to review and accept or reject such changes, as applicable, which acceptance shall not be unreasonably withheld, conditioned or delayed. In each case of review of the Construction Schedule or Means and Methods or changes thereto, as applicable, by Grantor, Grantor's response shall be limited to: (i) acceptance, or (ii) if not accepted, a detailed explanation of Grantor's reasonable concerns, any additional information reasonably required by Grantee to make a determination of the foregoing, and recommendations for measures that will address Grantor's reasonable concerns. In the event that Grantor fails to provide acceptance or rejection to Grantee within the applicable time period, then the Construction Schedule or Means and Methods or changes thereto, as applicable, shall be deemed accepted. Construction of the Project shall not commence until Grantee has satisfied, and is compliance with, its insurance obligations pursuant to Section 22 below. The date on which the Construction Schedule and Means and Methods have been approved by Grantor shall be the "Construction Commencement Date". If the Project Plans so require, Grantee shall obtain all permissions and pay all costs to amend, terminate, remove, relocate, etc., any or all third party Superior Rights (excluding those of Grantor) that conflict with the Project, or revise the Project Plans to accommodate any and all conflicting Superior Rights.

a. Subject to the terms of this Agreement, Grantor and each other Grantor Party under Grantor's employ or supervision shall not unreasonably interfere with Grantee's rights in the Easements herein granted.

b. Subject to the terms of this Agreement, Grantee and each other Grantee Party shall not unreasonably interfere with the Grantor's use and enjoyment of the Property, including without limitation, the Easement Property and the Corridor Improvements thereon. Grantee shall use reasonable efforts not to disturb or alter the Easement Property, except as otherwise provided for in the accepted Project Plans. Subject to the terms of this Agreement, Grantee shall, at its sole cost and expense, restore the Easement Property and any adjacent property and facilities of Grantor and any improvements thereon after any disturbance by Grantee or the Grantee Parties, to substantially the same state and condition as existed prior to the disturbance, except for improvements constructed pursuant to the accepted Project Plans.

7. Parallel Activities and Crossings. Except to the extent required by a Corridor Improvement, the Superior Rights or applicable law, and as expressly permitted by the Pathway Plan and the Crossing(s) (both as defined below), the Parties agree that the Permanent Easement shall prohibit, other than the Pipelines, any other pipelines, wires, any other utilities, rail, roads, or any other use running in a generally parallel direction to the Pipelines within, in, on, over, under, or across the PE Property (the "Parallel Activities") and any buildings or structures within, in, on, over, under, or across the PE Property ("Buildings"), and Grantor shall not, and shall not approve, grant, sell, convey, or assign to others the right to, construct or install any of the foregoing within, in, on, over, under or across the PE Property; provided, however, the foregoing prohibition shall not apply to such activities (except Buildings), including, without limitation, Corridor Improvements, running in a generally perpendicular direction to the Pipeline within, in, on, over, under, or across the PE Property ("Crossing(s)"). For clarity, Crossings may

include limited Parallel Activities solely to the extent necessary to accomplish, and for the sole purpose of facilitating, a Crossing. In addition, the term "Crossing" shall include any Material repair, maintenance, modification, or replacement of any Crossing or Corridor Improvement. Before Grantor constructs or installs (or approves, grants, sells, conveys, or assigns to others the right to construct or install) any Crossing or Corridor Improvement, as applicable, Grantor shall submit (or require the third party to submit) the request for a Crossing or Corridor Improvement to the Right of Way and Public Awareness Coordinator at Suncor Energy (U.S.A.) Pipeline Company at 1715 Fleischli Parkway, Cheyenne, Wyoming 82001 (Phone: 307.775.8117) with a copy to Attn: Legal Affairs, Suncor Energy (U.S.A.) Pipeline Company at 717 17th Street, Suite 2900, Denver, CO 80202 (or to such other contact as Grantee may designate in writing to Grantor) for Grantee to determine whether or not the proposed activities may damage the Pipeline or impair its safe operation, including in accordance with the current American Petroleum Institute guidelines, which may include a concern that underground Crossings cross below, and not above, the Pipelines (collectively, a "Safety Concern"), which request shall include detailed engineering drawings of the Crossing or Corridor Improvement if such drawings are available (collectively, a "Request"), and obtain Grantee's written consent to the Request, which consent may only be withheld, conditioned, or delayed for, and to the extent required to address, a reasonable Safety Concern or a reasonable request for Additional Information (as defined below), subject to the terms of this Section. Grantor shall use commercially reasonable efforts to limit the impact of any Request for a Corridor Improvement on Grantee. To the extent Grantee denies a Request for any Corridor Improvement due to a Safety Concern, Grantor may invoke its rights under the Section 15 (Relocation) of this Agreement, subject to the terms and requirements of that Section. For clarity, subject to applicable law, Grantee's written consent shall not be required for (a) repairs, maintenance, modifications, or replacements to accepted Crossings that are not Material, (b) for emergency Material repairs, maintenance, modifications, or replacements to accepted Crossings or accepted Corridor Improvements, or (c) any work with respect to any Improvements required by Superior Rights or required by applicable Law; provided, however, in each instance where such consent is not required (but only where the construction, installation, repair, maintenance, modification, or replacement of the Crossing or Corridor Improvement is to occur within, in, on, over, under or across the PE Property), Grantor shall provide Grantee ten (10) business days prior written notice (or if ten (10) business days prior written notice is impracticable, notice as soon as is reasonably practicable) to the contact information set forth in this Section above; and Grantor shall work together with Grantee in good faith to address any Safety Concern raised within ten (10) business days after completion of any emergency Material repairs, maintenance, modifications, or replacements to accepted Crossings or accepted Corridor Improvements. Grantee shall have ten (10) business days from receipt of a Request in which to respond (which response may be deemed delivered upon successful transmission via e-mail or facsimile to the email address or facsimile number of the individual making the request on behalf of Grantor), and Grantee's response shall be limited to: (i) acceptance, or (ii) if not accepted, a detailed explanation of Grantee's reasonable concerns as to how, and to what extent, the proposed activities may pose a Safety Concern, any additional information reasonably required by Grantee to make a determination of the foregoing ("Additional Information") and, if such concerns may be addressed in order to proceed with the Crossing or Corridor Improvement, recommendations for measures that will address Grantee's reasonable concerns. Grantee shall be obligated to work together with Grantor, in good faith, to propose solutions to resolve any reasonable Safety Concern. If Grantee fails to respond in such

ten (10) business day period, the Crossing or Corridor Improvement shall be deemed accepted by Grantee. Grantee shall not have the right to charge Grantor or any third party a fee for Crossings or Corridor Improvements. For the purposes of this Agreement, with respect to any repair, maintenance, modifications or replacements to any Crossings, Corridor Improvement, or Improvements (as defined in Section 12 below), "Material" means that it substantially expands the length, width, or height, or substantially changes the location, of the Crossing, Corridor Improvement, or Improvements (as defined below) from that existing prior to the repair, maintenance, modification, or replacement.

8. Pathway Plan. Grantor and Grantee shall enter into a plan (the "Pathway Plan") for the installation of a gravel pedestrian/bicycle pathway on the surface of the PE Property above the Sixteen Inch Pipeline (the "Pathway") upon terms mutually agreed by the Parties; provided that: (a) the Pathway Plan shall provide that, subsequent to the Completion Date, no tree or deep rooted vegetation shall be planted within fifteen (15) feet of the centerline of the Sixteen Inch Pipeline and other equipment and facilities related thereto within the PE Property (Grantee shall be responsible, at its sole cost and expense, for removal of such vegetation prior to construction of the Pipelines), (b) Grantee shall be permitted to remove any vegetation (including trees and deep rooted vegetation) within the PE Property, at its sole cost and expense, that may impose safety risks on the Pipelines or decrease the ability to inspect the Pipelines, (c) prior to construction of the Pathway, Grantor and Grantee (only to the extent that the Pathway is within the PE Property) shall have the right to approve the design and construction plans for the Pathway, including the means and methods, which approval shall not be unreasonably withheld, conditioned, or delayed by either Party, and (d) Grantee's sole obligation with respect to the installation, repair, or maintenance of the Pathway shall be to make a one time payment to Grantor in the amount of $500,000 within ten (10) business days after the Effective Date, which shall be used towards Grantor's (or its designee's) installation, repair, and maintenance of the Pathway and any related improvements pursuant to the Pathway Plan.

9. Hazardous Substances. Grantor and Grantee understand and agree that the Pipelines will be used to transport crude oil, other hydrocarbons, and their by-products and such substances will be within the Pipelines. Grantee shall not cause or knowingly permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Easement Property and/or the Property by Grantee or a Grantee Party in violation of applicable law. If other Hazardous Substances are used, stored, generated or disposed of on or in the Easement Property, or if the Easement Property becomes contaminated in any manner including without limitation any spills on the Property, the Access Improvements, or the Easement Property, or leaks from a Pipeline and/or the Pipelines due to the actions or inactions of the Grantee or any Grantee Party, Grantee shall immediately notify Grantor by contacting Assistant General Manager, Safety Security and Facilities Administration, Regional Transportation District, 1600 Blake Street, Denver, CO 80202, 303-299-4038 and indemnify and hold harmless Grantor from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or loses (including, without limitation, a decrease in value of the Property and any and all sums paid for settlement of claims (subject to the prior written approval of any settlement of claims by Grantee, which approval shall not be unreasonably withheld, conditioned or delayed), attorneys' fees, consultant, and expert fees) to the extent arising as a result of those actions or inactions by Grantee or any Grantee Party. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a

federal, state or local agency or political subdivision. Without limitation of the foregoing, to the extent Grantee or any Grantee Party causes any Hazardous Substance on the Easement Property and/or the Property in violation of applicable law that results in contamination, Grantee shall promptly, at its sole expense, take any and all necessary actions to return the Easement Property and/or the Property to the condition existing prior to the presence of any such Hazardous Substance. Grantee shall first obtain Grantor's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is defined as "toxic", "hazardous waste" or a "hazardous substance" or that is toxic, ignitable, reactive, or corrosive, and is regulated by any local government, the State of Colorado or the United States, including asbestos, asbestos containing material, polychlorobiphenyls ("PCB"), and petroleum, however vehicles using petroleum products may be used for construction and maintenance, repair, and replacement of the Pipelines and crude oil, other hydrocarbons, and their by-products may be within the Pipelines. This Section shall survive termination of this Agreement.

10. Release.

a. Grantee shall neither hold nor attempt to hold Grantor or the Grantor Parties liable for any injury or damage, either proximate or remote, occurring through or caused by injury, accident or other cause to a Pipeline and/or the Pipelines or personal property of Grantee or any Grantee Party kept or stored on the Easement Property, whether by reason of the negligence or fault of the owners or occupants thereof, or by any other person or otherwise, except to the extent resulting from the negligent or willful acts or omissions of Grantor or Grantor Parties on or after the Effective Date. Grantee hereby waives any and all rights of recovery, claim, action or cause of action against Grantor and the Grantor Parties, for any loss or damage to a Pipeline and/or the Pipelines and/or the personal property of Grantee or any Grantee Party, or loss of use, occurring out of the use of the Easement Property, except to the extent resulting from the negligent or willful acts or omissions of Grantor or the Grantor Parties on or after the Effective Date. Grantee covenants that no insurer shall hold any right of subrogation against Grantor or the Grantor Parties. This Section shall survive termination of this Agreement.

b. Grantee hereby releases Grantor and Grantor Parties from and against any and all losses, damages, liens, claims, demands, debts, obligations, liabilities, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever (including reasonable attorneys' fees) related to or arising from Grantee's or the Grantee Parties' use of the Easement Property (including the presence, operation, and maintenance of a Pipeline and/or the Pipelines) or any Work (as defined below), except to the extent caused by the negligence or willful acts or omissions of the Grantor and the Grantor Parties on or after the Effective Date. Grantee hereby further releases Grantor and the Grantor Parties from and against any and all losses, damages, liens, claims, demands, debts, obligations, liabilities, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever (including reasonable attorneys' fees) related to or arising from Grantee's or the Grantee Parties' use of the Easement Property (including the presence, operation, and maintenance of a Pipeline and/or the Pipelines) or any Work (as defined below) asserted by any Grantee Party (other than Grantee), any invitees or licensees of Grantee, or any trespasser, except to the extent resulting from the negligence or willful acts or omissions of Grantor or the Grantor Parties on or after the Effective Date. Grantee hereby waives and releases all claims against Grantor and the Grantor Parties, with respect to all matters for which Grantee

has disclaimed liability pursuant to this Agreement. This Section shall survive termination of this Agreement.

c. Notwithstanding anything in this Section 10 to the contrary, the releases in this Section shall not apply to any breach of this Agreement by Grantor or any of the Grantor Parties.

11. Access. Except in the case of an emergency, Grantee shall obtain an access permit from Grantor prior to entering the Easement Property to undertake construction, inspection, repair, maintenance, or any other work on a Pipeline and/or the Pipelines (collectively, "Work") and shall abide by Grantor's and its contractors' standard safety rules and regulations pertaining to Work on the Easement Property and provided to Grantee. Notwithstanding the foregoing, an access permit will not be required for inspection and related work (not constituting construction, repair, or maintenance work) that is either: (a) conducted at least twenty-five feet (25") from the centerline of any of Grantor's track, or (b) conducted by employees and contractors of Grantee who have obtained an annual track safety certification to be offered by Grantor; provided that, if an access permit is not required, Grantee shall notify Grantor of any intended entry upon the Property prior to such entry by contacting the RTD Security Command Center at 303-299-2911 (or at such other contact as designated by Grantor to Grantee in writing). Grantor shall have thirty (30) calendar days from receipt of Grantee's application (which, in the case of construction, shall include detailed engineering drawings) for an access permit in which to respond (which response may be deemed delivered upon successful transmission via e-mail or facsimile to the email address or facsimile number of the individual making the request on behalf of Grantee), and Grantor's response shall be limited to: (i) acceptance, or (ii) if not accepted, a detailed explanation of Grantor's reasonable concerns with the Work, and, if applicable, a request for any additional information reasonably required by Grantee to make a determination of the foregoing, and, if such concerns may be addressed in order to proceed with the Work, recommendations for measures that will address Grantor's reasonable concerns. If Grantor fails to respond in such thirty (30) calendar day period, the access permit shall be deemed granted by Grantor. In the case of an emergency where Grantee reasonably determines that such action cannot wait, Grantee shall provide Grantor with reasonable notice to the RTD Security Command Center at 303-299-2911 as soon as is practical under the circumstances, and as soon as is reasonably practicable thereafter, Grantee shall obtain an access permit from Grantor. Grantor shall not have the right to charge Grantee or any Grantee Party for access permits.

12. Construction, Operation and Maintenance.

a. General. Grantee shall pay for and be responsible for all costs to construct, reconstruct, repair, inspect and maintain the Pipelines and any Access Improvements in good order, condition and repair and conduct all other Work in compliance with the Project Plans or other accepted design plans, as applicable, the terms of this Agreement, all laws and regulations, and keep the Property free of mechanics' or materialmen's liens pursuant to Section 16 below. Grantee shall provide a copy of the annual report for hazardous liquid pipeline systems that it submits to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration ("PHMSA") within thirty (30) calendar days after such submission to Assistant General Manager, Safety Security and Facilities Administration,

Regional Transportation District, 1600 Blake Street, Denver, CO 80202, 303-299-4038. Grantor reserves the right to (i) have Grantor personnel present during construction, maintenance, inspection, modification, repair, relocation, or removal of the Pipelines and the Access Improvements or any other Work, and (ii) remove employees, agents or contractors from the work done by or on behalf of Grantee whom Grantor determines to be incompetent, careless, insubordinate, unsuitable, unacceptable, or for any other nondiscriminatory reason. To the greatest extent possible, any operational tracks must be left in place and undisturbed. Grantor's mass transit construction, repair, maintenance, and operations across, on or along the Property shall not be impaired by Grantee except as necessary to accomplish required construction, repairs, and maintenance. Any equipment, tools and/or materials stored on Easement Property shall be kept at least twenty-five (25) feet from center line of any operable track. Explosives or other highly inflammable substances (excluding crude oil, other hydrocarbons, and their by-products within the Pipelines or work equipment) shall not be utilized or stored on the Easement Property without the prior approval of Grantor. Grantee shall remove all tools, equipment and materials from the Easement Property promptly upon completion of Work.

b. Conduct of Work and Operations. Grantee and the Grantee Parties shall conduct all Work with respect to the Pipelines and Access Improvements pursuant to the applicable accepted Project Plans, Additional Access Plans, and access permits for such Work. All such Work shall be performed during such hours as reasonably agreed by the Parties. All such Work shall be performed, and the Pipelines and Access Improvements shall be operated, repaired, and maintained, in good order, condition and repair, in accordance with current applicable industry standards. In addition, except for the Express Exceptions (as defined below), all such Work shall be performed, and the Pipelines and Access Improvements shall be operated, repaired, and maintained in such manner, not to cause any unreasonable interference with, interruption to, or impairment of any of the following (each, an "Interference"), each as determined in Grantor's reasonable discretion: (1) the construction, operation and maintenance of the Corridor Improvements outside of the Easement Property and any subsequent repairs, maintenance, modifications, or replacements thereto or thereof, (2) any improvement, including without limitation the Corridor Improvements, structure, building, equipment, pipelines or related facilities within, in, on, over, under or across the Property (including the function and operability thereof), whether owned or operated by Grantor, any Grantor Party, or any third party (collectively, "Improvements") existing as of the Effective Date, and any subsequent repairs, maintenance, modifications, or replacements thereto or thereof, (3) any Improvements, Corridor Improvements, or Crossings installed or otherwise located within, in, on, over, under or across the Easement Property that Grantee has accepted or has been deemed to have accepted pursuant Section 7 of this Agreement, and any subsequent repairs, maintenance, modifications, or replacements thereto or thereof, or (4) any Improvements required by the Superior Rights or applicable law installed or otherwise located within, in, on, over, under or across the Property after the Effective Date, and any subsequent repairs, maintenance, modifications, or replacements thereto or thereof. For purposes of this Section, the "Express Exceptions" means except as, and to the extent, (i) expressly provided for in the applicable accepted Project Plans or Additional Access Plans, (ii) expressly permitted by this Agreement, (iii) permitted or authorized pursuant to a separate legal right of Grantee, or as otherwise mutually agreed by the Parties, (iv) of any Crossings, Corridor Improvements, or Improvements (as defined below) added after the Effective Date and made in violation of, and otherwise expressly subject to, Section 7 of this Agreement regarding Parallel Activities and Crossings or Corridor Improvements (including

Material repairs, maintenance, modifications, and replacements), and (v) of any relocation pursuant to Section 15 of this Agreement.

c. Interference Cure Work. If any Work results in, or any Grantee Party (including Grantee) otherwise causes, any Interference, Grantee shall be responsible (as between Grantor and Grantee) at its sole cost and expense, for the purchase, construction, installation, repair and/or replacement of Improvements to fully cure the Interference ("Interference Cure Work") with the quality, function, and operability of such Improvements to be no less than that prior to the Interference, and the Parties further agree that: (1) ownership and title to all Improvements purchased, constructed, installed, repaired and/or replaced pursuant to this Section 12.c. shall be held by Grantor or the owner of the original Improvements (if such owner is not Grantor), (2) unless otherwise mutually agreed by the Parties, the Interference Cure Work shall be sequenced and performed, to the extent practicable, so as to prevent, and not to cause, any further Interference (including any interruption of the construction, operation and maintenance of the Corridor Improvements), (3) unless otherwise directed in writing by Grantor, the Interference Cure Work shall be subject to all requirements of Work under this Agreement, (4) if reasonably required for the Interference Cure Work or to place Grantor in substantially the same position prior to or absent an Interference, Grantee shall cause or otherwise arrange, at its sole cost and expense, for Grantor to be granted permanent rights in other real property upon terms reasonably acceptable to Grantor, (5) subject to applicable law, Grantor shall have the right, but not the obligation, to conduct all or any part of the Interference Cure Work, at (as between Grantor and Grantee) Grantee's sole cost and expense, and (6) Section 17 and Section 21 of this Agreement shall apply to any and all losses, damages, liens, claims, demands, debts, obligations, liabilities, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever (including reasonable attorneys' fees) relating to or arising from any Interference, Interference Cure Work or any other Work, including any damage to Improvements, damage to the Property, or damage to any other personal or real property of Grantor, any Grantor Party, or any third party.

d. Self-Help. Without limiting any of Grantor's rights under this Agreement, if Grantee does not perform its obligations to perform restoration work pursuant to Section 6.b., its obligations with respect to Interference Cure Work pursuant to Section 12.c., its obligations to restore the Easement Property and any adjacent property and facilities of Grantor and any improvements thereon after any disturbance as set forth in Section 6.b. or to repair and maintain the Pipelines and any Access Improvements in good order, condition and repair as set forth in this Section, Grantor shall give written notice to Grantee describing the specific issues that Grantor asserts are required to be addressed. If, within thirty (30) calendar days after receipt of such notice, Grantee fails to complete any required repairs, maintenance or Interference Cure Work specified in the notice or, if any such required repairs, maintenance or Interference Cure Work cannot be reasonably completed within thirty (30) calendar days, Grantee fails to both provide Grantor a plan to complete such required repairs, maintenance or Interference Cure Work and commence efforts with respect to such plan, then Grantor shall have the right to retain contractors, which have satisfied all requirements (including obtaining all required certifications and permits and completing all required training) under applicable law ("Qualified Contractors"), to conduct such repairs, maintenance or Interference Cure Work and will charge and collect the actual cost thereof from Grantee; provided, however, in cases of emergency, immediately upon delivery of such notice, Grantor may, using Qualified Contractors, make required repairs, maintenance or Interference Cure Work to Grantor's property, facilities, and improvements (but

in no event to the Pipelines) and collect the actual cost thereof from Grantee; provided, further, that Grantor shall not be released from any liability resulting from such work. Grantee shall coordinate with Grantor in connection with the performance of any such work. Grantee shall promptly reimburse Grantor for any actual costs due pursuant to this Section. Any amount payable hereunder which is not paid within thirty (30) calendar days after billing shall bear interest at eighteen percent (18%) per annum.

e. Catenary System. Grantee understands that the Grantor rail catenary system is electrified twenty-four (24) hours per day by a 25 kv ac line. The catenary system shall be considered live at all times and cannot be de-energized except in cases of emergency.

f. Compliance with Laws. Grantee shall perform, and shall contractually require its contractors to perform, all Work and operate and maintain the Pipelines in compliance with all laws (including the Occupational Safety and Health Act of 1970 and the regulation for Hazardous Waste Operations and Emergency Response) and any and all approvals, consents, easements, licenses, permits, rights-of-way, servitudes, and other authorizations required by law to be obtained from any governmental authority or other third party ("Authorizations").

g. Authorizations. Grantee shall obtain, and shall contractually require its contractors to obtain, all required Authorizations for the conduct of any Work. To the extent any such Authorizations affect the Property, or the Corridor, Grantee shall, and shall contractually require its contractors, to coordinate and cooperate with Grantor in obtaining any such Authorizations.

h. Approvals. No inspection made, acceptance of Work, approval of Project Plans, issuance of access permits, or other approval or acceptance by Grantor in connection with this Agreement shall relieve Grantee or the Grantee Parties of any of their obligations under this Agreement or law, and shall not be considered an assumption of risk or liability by Grantor and shall not constitute any representation or warranty by Grantor about the sufficiency, accuracy, completeness, safety, condition, or compliance with laws of any Work, Project Plans, or other matter that is the subject of an inspection, acceptance, issuance, or approval. Such risks and obligations shall remain solely with Grantee and the Grantee Parties.

i. As-Built Drawings. At the time of completion of any Work, Grantee shall give Grantor a complete printed set of as-built drawings, stamped by a professional land surveyor, and an electronic copy of the as-built drawings in AutoCAD format for such Work as an accurate record of the Work and the then current Pipelines on the Easement Property with "As-Built" clearly printed on each sheet. In addition, upon completion of installation and construction of the Pipelines on the Easement Property, Grantee shall provide Grantor a certification stamped by a Professional Engineer that the Pipelines on the Easement Property were built in accordance with applicable industry standards and regulatory requirements, which will be identified in the certification.

13. Abandonment of Easement. Failure of Grantee to complete either or both of the Pipelines on the Easement Property within fifteen (15) years after the Effective Date of this Agreement shall constitute abandonment of that portion of the Easements on which each such Pipeline is to be located (provided that both Pipelines are not completed or, if only one Pipeline

is not completed, such Pipeline is the only Pipeline to be located on such portion), and all right, privileges and interest granted herein related to such portions of the Easements shall automatically terminate. In addition, abandonment of the either or both of the Pipelines on the applicable Easement Property for a period of five (5) consecutive years beginning at any time after completion of each such Pipeline shall constitute abandonment of that portion of the Easements on which each such Pipeline is located (provided that both Pipelines are abandoned or, if only one Pipeline is abandoned, such Pipeline is the only Pipeline located on such portion), and all right, privileges and interest granted herein related to such portions of the Easements shall automatically terminate. Such abandonment of either Pipeline described in the immediately preceding sentence shall only be deemed to occur as described in standards outlined in the Operator Standards Manual, dated January 2012, published by PHMSA (the "PHMSA Standards"). In addition, if the Easements are no longer useful to Grantee for the purposes stated herein, as determined by Grantee in its sole discretion, Grantee shall notify Grantor of such termination and, whether the Easements are terminated by abandonment or by Grantee's discretion, Grantee shall execute and record terminations of this Agreement in the Records, as applicable. Grantee may, but shall have no obligation to, remove the Pipelines in connection with such termination. If Grantee decides it will not remove the Pipelines, Grantee shall close the Pipelines in accordance with all laws applicable to abandonment or closure of a crude oil and hydrocarbons pipeline, including 49 C.F.R. § 195. If Grantee removes or closes either or both of the Pipelines, Grantee agrees that Grantee shall (a) unless mutually agreed by the Parties, remove or close the closed Pipeline within two hundred and seventy (270) calendar days of such decision (b) unless otherwise requested by Grantor, grade the surface of the PE Property on which the Easements are located back to the ground level and contour as existed immediately prior to such removal within two hundred and seventy (270) calendar days following the completion of removal or filling, (c) unless otherwise requested by Grantor, reseed the property with native grasses, and (d) comply with all federal, state, or local laws applicable to such removal.

14. Dominant Estate. Grantee acknowledges that Grantor acquired the Property for public transportation purposes and that Grantor's use and benefit of the Property for public transportation purposes including, when necessary, requiring relocation, protection or modification of the Pipelines to accommodate public transportation uses as such uses may change from time to time is necessary, in the public interest, and Grantor's property interests shall at all times constitute the dominant estate whether or not this is in derogation of common law.

15. Relocation. At any time after the fifth anniversary of the Effective Date, Grantor may for public purposes require Grantee to relocate all or part of either or both of the Pipelines to another location within the PE Property at Grantee's sole cost and expense. In addition, Grantor may for public purposes require Grantee to relocate all or part of either or both of the Pipelines (i) to a location outside of the PE Property at any time during the effectiveness of this Agreement, or (ii) to a location within the PE Property prior to the fifth anniversary of the Effective Date; both (i) and (ii) at Grantor's sole cost and expense. The determination of the need for relocation of either or both of the Pipelines and the new location of either or both of the Pipelines for public purposes under this Section shall be reasonable. Any relocation of all or part of either or both of the Pipelines shall not inhibit the normal operation and function of the Pipelines for the purposes stated in this Agreement. In the event of any relocation of all or part of either or both of the Pipelines to a location outside of the PE Property, Grantor shall grant to

Grantee and/or arrange for Grantee to be granted rights, at least equivalent to those granted to Grantee under this Agreement, in one or more parcels of contiguous real property that: (a) at the origin of the relocation, is adjacent to the PE Property, (b) at end of the relocation, is adjacent to the real property upon which the relocated Pipeline is located (whether or not located on the PE Property), and (c) is sufficient to permit the safe operation, maintenance, and repair of the relocated Pipeline, including the safe connection of the relocated Pipeline at the origin and end of the relocation. The Parties shall reasonably cooperate in any relocation of either or both of the Pipelines under this Section to minimize (x) any interruption of supply by either or both of the Pipelines, as applicable, to the petroleum refinery located in Commerce City, Colorado currently owned and operated by one of Grantee's affiliates and (y) Grantor's mass transit construction, repair, maintenance, and operations across, on or along the Property.

16. Liens. Nothing contained herein shall authorize any third party acting through, with or on behalf of Grantee or any Grantee Party to subject the Property, any other real property of Grantor, or any portion thereof to mechanic's or materialmen's liens. If any such lien shall be filed against the Property or any other real property of Grantor, or any portion thereof, Grantee shall cause such lien to be discharged, bonded over, or otherwise released from record. In the event such lien is not discharged, bonded over, or otherwise released within sixty (60) calendar days after Grantee's receipt of notice of the filing of a lawsuit seeking to foreclose on the lien, then Grantor, at its option, and at the reasonable cost and expense of Grantee, may enter into, defend, prosecute or pursue any effort or action which Grantor deems reasonably necessary to defend the Property from and against such lien.

17. Indemnification and Waiver. Grantee shall hold harmless and indemnify Grantor and the Grantor Parties, and to the fullest extent required by the Shared Use Agreement the UP, its officers, directors employee and agents (the "Indemnified Parties") from and against any and all losses, damages, liens, claims, demands, debts, obligations, liabilities, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever (including reasonable attorneys' fees) ("Claims") related to or arising from Grantee's or the Grantee Parties' use of the Easement Property (including, without limitation, the presence, operation, and maintenance of either or both of the Pipelines), except to the extent caused by the negligence or willful acts or omissions of the Indemnified Parties on or after the Effective Date. Grantee shall further hold harmless and indemnify the Indemnified Parties from and against any and all Claims of any kind whatsoever related to or arising from Grantee's or the Grantee Parties' use of the Easement Property (including the presence, operation, and maintenance of either or both of the Pipelines) asserted by any Grantee Party (other than Grantee), except to the extent resulting from the gross negligence or willful acts or omissions of the Indemnified Parties on or after the Effective Date. Grantee hereby waives and releases all claims against the Indemnified Parties, with respect to all matters for which Grantee has disclaimed liability pursuant to this Agreement. This Section shall survive termination of this Agreement.

18. No Warranty. Grantor makes no representation or warranty of any kind with respect to the condition of the Easement Property. The Grantee accepts the Easement Property in its "AS-IS" condition, WITH ALL FAULTS AND AT THE GRANTEE'S OWN RISK, without any warranty, express or implied, including without limitation, any warranty of merchantability, liability, fitness or fitness for a particular purpose, the quality, value, physical aspects or conditions of the Easement Property or the Easements granted herein, all such warranties being

hereby expressly disclaimed by Grantee. Grantor does not grant or purport to grant any right not specifically set forth herein. Procurement of any applicable regulatory permission or consent is the sole responsibility of Grantee. Grantee agrees that Grantee has not relied upon any representation, warranty, statement or promise of Grantor or anyone acting for or on behalf of Grantor with regard to the Easement Property or the Easements conveyed herein. GRANTEE ACKNOWLEDGES AND UNDERSTANDS THAT THE SOIL ENCUMBERED BY THIS AGREEMENT MAY CONTAIN HAZARDOUS SUBSTANCES, INCLUDING HYDROCARBONS. GRANTEE HEREBY ACKNOWLEDGES AND AGREES THAT IT HAS MADE A COMPLETE INSPECTION OF THE SUBJECT INTERESTS FOR ALL PURPOSES AND IS IN ALL RESPECTS SATISFIED THEREWITH, INCLUDING WITHOUT LIMITATION ITS PHYSICAL AND ENVIRONMENTAL CONDITION, AND THAT GRANTEE IS TAKING THE SUBJECT INTERESTS "AS IS", "WHERE IS" AND WITH ALL FAULTS, IN ITS PRESENT CONDITION AND STATE OF REPAIR, AND THAT GRANTOR DISCLAIMS ANY LIABILITY FOR THE CONDITION OF THE PROPERTY EXISTING ON OR BEFORE THE EFFECTIVE DATE. THE PARTIES ACKNOWLEDGE AND AGREE THAT DISCLAIMERS OF THE WARRANTIES CONTAINED IN THIS SECTION ARE "CONSPICUOUS" DISCLAIMERS FOR THE PURPOSES OF ANY APPLICABLE LAW, RULE OR ORDER.

19. Successors and Assigns; Covenants Running with the Land; Assignment. The rights granted in this Agreement are covenants running with the land and shall extend to and be binding upon, and inure to the benefit of, Grantor and Grantee and each of their respective heirs, executors, administrators, personal representatives, successors and assigns. Any grant, sale, conveyance, assignment, or other disposition of all or part of the PE Property or the Access Property or any interest therein by Grantor shall be subject to this Agreement and the Easements granted herein. Except as provided below, Grantee shall not have the right to grant, sell, convey or assign to any Grantee Party or third party any of Grantee's rights hereunder or the Easements herein granted, either in whole or in part, without Grantor's prior, written consent, which consent may be withheld in Grantor's sole discretion. No grant, sale, assignment, or conveyance shall release Grantee from any responsibility or liability hereunder arising prior to the date thereof. Any grant, sale, conveyance, assignment, or other disposition in violation of this Agreement (including this Section) shall be null and void *ab initio*. Notwithstanding the foregoing, Grantor's prior written consent shall not be required for a grant, sale, conveyance, or assignment (a "transfer") by Grantee of all of its rights, title, and interest in this Agreement, in its entirety, to any corporation, limited liability company, general or limited partnership, limited liability partnership, trust, or other entity (the "transferee") that (a) controls or is controlled by, or is under common control with Grantee, or (b) purchases substantially all of Grantee's assets located on the Easement Property; provided that Grantee shall provide Grantor written notice within ten (10) calendar days prior to the closing date of the proposed transfer, which notice shall include the identity of the transferee and evidence that it shall satisfy the insurance obligations under Section 22 hereof as of the closing date. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Grantee, whether through ownership of voting securities, by contract or otherwise.

20. Recording of Agreement; As-Built Certification. Grantee shall cause this Agreement to be recorded in the Records as soon as practicable following the Effective Date. In

addition, Grantee shall, and Grantor hereby authorizes Grantee to, execute and record in the Records an as-built legal description of the final location of the PE Property and the Pipelines within the PE Property, which instrument shall reference this Agreement (the "As-Built Certification"). The As-Built Certification shall be recorded by Grantee in the Records within ninety (90) days following the completion of each Pipeline and the date of such recording shall be the "Completion Date" of such Pipeline.

21. Breach. No breach of this Agreement shall entitle either Party to cancel, rescind or otherwise terminate this Agreement or the Easements, but such limitation shall not affect in any manner any other rights or remedies which such Party may have hereunder or pursuant to applicable law by reason of such breach of this Agreement. Except to the extent the following categories of damages are recoverable pursuant to the insurance policies required in this Agreement, neither Party shall be liable to the other Party (or the Grantor Parties, Grantee Parties, or Indemnified Parties, as applicable) for consequential (except for fixed payments to third party operators), incidental, indirect, exemplary, or punitive damages in tort, in contract, in equity, or under any legal theory, and all such damages are hereby excluded and waived by the Parties hereto with respect to this Agreement and/or the exercise of rights hereunder.

22. Insurance.

a. Grantee's Insurance Coverage – Prior to Commencement of Construction. In addition to Grantee's insurance obligations set forth in Section 22.d. below, subject to Section 22.e. below, Grantee, at its sole cost and expense, shall procure and maintain, for the period beginning on the Effective Date and continuing through the Construction Commencement Date, the following insurance coverages:

i. Liability Insurance. Commercial general liability (CGL) with a limit of not less than $50,000,000 each occurrence and an aggregate limit of not less than $50,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage) or an ISO claims made form CG 00 02 12 04 (or a substitute form providing equivalent coverage). Grantee also agrees to purchase an extended reporting period if the retroactive date is advanced or if the policy is canceled or not renewed and not replaced by another claims-made policy with the same (or an earlier) retroactive date during the term of the Agreement. The policy must also contain the following endorsement, which must be stated on the certificate of insurance: "Contractual Liability Railroads" ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing the "Shared Use Facilities" (as defined by the Shared Use Agreement) as the Designated Job Site.

ii. Workers' Compensation and Employers' Liability Insurance. Coverage must include but not be limited to: Grantee's statutory liability under the workers' compensation laws of the state of Colorado, and Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 each employee by disease and a policy limit $500,000 by disease. If Grantee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

b. Grantee's Insurance Coverage - During Construction. In addition to the provisions set forth in Section 22.d. below, subject to Section 22.e. below, Grantee, at its sole cost and expense, shall procure and maintain, for the period beginning on the Construction Commencement Date and continuing through the Completion Date, the following insurance coverages:

i. Liability Insurance. Commercial general liability (CGL) with a limit of not less than $200,000,000 each occurrence and an aggregate limit of not less than $200,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 or an ISO claims made form CG 00 02 12 04 (or substitute forms providing equivalent coverage). If Grantee utilizes a claims made form to meet this requirement, Grantee warrants that any retroactive date applicable to coverage under the policy precedes the Effective Date of this Agreement. Grantee also agrees to purchase an extended reporting period if the retroactive date is advanced or if the policy is canceled or not renewed and not replaced by another claims-made policy with the same (or an earlier) retroactive date during the term of this Agreement. The policy must also contain the following endorsement, which must be stated on the certificate of insurance: "Contractual Liability Railroads" ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing the "Shared Use Facilities" (as defined by the Shared Use Agreement) as the Designated Job Site, and the policy must be endorsed to provide coverage for Grantor's personal property (including but not limited to foreign rolling stock) that may, for any reason, be in Grantee's care, custody or control.

ii. Automobile Insurance. Business automobile coverage written on ISO form CA 00 01 03 06 (or substitute form providing equivalent liability coverage) with a limit not less $200,000,000 for each accident. Such insurance shall cover liability arising out of any automobile (including owned, hired, and non-owned automobiles). The policy must contain the following endorsements, which must be stated on the certificate of insurance: Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or substitute form providing equivalent coverage) showing the "Shared Use Facilities" (as defined by the Shared Use Agreement) as the Designated Job Site, and Motor Carrier Act Endorsement-Hazardous materials clean up (MCS-90) if required by law.

iii. Workers' Compensation and Employers' Liability Insurance. Coverage must include but not be limited to: Grantee's statutory liability under the workers' compensation laws of the state of Colorado, Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 employee for disease and $500,000 policy limit for disease. If Grantee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

iv. Railroad Protective Liability Insurance. Grantee must maintain "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or substitute form providing equivalent coverage) on behalf of Grantor as Named Insured, with a limit of not less than $25,000,000 per occurrence and an aggregate of $25,000,000. A Binder of Insurance stating the policy is in place must be submitted to Grantor before work may be commenced and until the original policy is received by Grantor.

c. Grantee's Insurance Coverage - Post-Completion Date. In addition to the provisions set forth in Section 22.d. below, subject to Section 22.e. below, Grantee, at its sole cost and expense, shall procure and maintain, for the period beginning on the Completion Date and continuing until termination of this Agreement, the following insurance coverages:

i. Liability Insurance. Commercial general liability (CGL) with a limit of not less than $400,000,000 each occurrence and an aggregate limit of not less than $400,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 or ISO claims made form CO 00 02 12 04 (or substitute forms providing equivalent coverage). Grantee also agrees to purchase an extended reporting period if the retroactive date is advanced or if the policy is canceled or not renewed and not replaced by another claims-made policy with the same (or an earlier) retroactive date during the term of this Agreement. The policy must also contain the following endorsement, which must be stated on the certificate of insurance: "Contractual Liability Railroads" ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing the "Shared Use Facilities" (as defined by the Shared Use Agreement) as the Designated Job Site, and the policy must be endorsed to provide coverage for Grantor's personal property (including but not limited to foreign rolling stock) that may, for any reason, be in Grantee's care, custody or control.

ii. Automobile Insurance. Business automobile coverage written on ISO form CA 00 01 03 06 (or substitute form providing equivalent liability coverage) with a limit not less than $400,000,000 for each accident. Such insurance shall cover liability arising out of any automobile (including owned, hired, and non-owned automobiles). The policy must contain the following endorsements, which must be stated on the certificate of insurance: Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or substitute form providing equivalent coverage) showing the "Shared Use Facilities" (as defined by the Shared Use Agreement) as the Designated Job Site, and Motor Carrier Act Endorsement-Hazardous materials clean up (MCS-90) if required by law.

iii. Workers' Compensation and Employers' Liability Insurance. Coverage must include but not be limited to: Grantee's statutory liability under the workers' compensation laws of the state of Colorado, Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 employee for disease. If Grantee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

d. The following applies to all insurance coverages required to be obtained by Grantee pursuant to this Section:

i. Umbrella or Excess Insurance. If Grantee utilizes umbrella or excess policies to comply with limits of coverage required, these policies must "follow form" and afford no less coverage than the primary policy.

ii. All policy(ies) required above (except worker's compensation and employer's liability) must include Grantor and, to the extent required by the terms of the Shared

Use Agreement, the UP as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage).

iii. Any punitive damages exclusion must be deleted (and the deletion indicated on the certificate of insurance), unless insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement.

iv. Prior to commencing any Work on the Property, Grantee shall furnish Grantor with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement or a letter of self-insured retention as contemplated in Section 22.d.vii. below.

v. All insurance policies must be written by a reputable insurance company acceptable to Grantor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state of Colorado.

vi. Subject to and without waiving the terms and conditions of this Agreement relating to or affecting the applicability of the insurance coverages required under this Agreement (including the limitations to the indemnities contained herein), Grantee hereby waives all rights against Grantor, and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella or excess liability insurance obtained by Grantee required by this Agreement (which must be stated on the certificate of insurance).

vii. Grantee may elect to self-insure without limitation all of its insurance obligations under this Agreement by providing a letter of self-insured retention to Grantee. To the extent Grantee does not self-insure, Grantee will provide Grantor with certificates of such excess insurance (on standard forms) annually as such policies are renewed.

e. Limitations on Applicability of Insurance.

i. Notwithstanding anything in this Agreement to the contrary, Grantee's obligations to procure and maintain any of the insurance coverages in Section 22 a., b., and c. shall terminate upon the earlier of the following: (a) the termination of the Shared Use Agreement, or (b) the end of Grantor's obligation to maintain any such insurance coverage under the Shared Use Agreement. Upon written request from Grantee, Grantor shall promptly provide Grantor written confirmation if any of the events in Section 22.e.i.(a) or (b) have occurred.

ii. Upon the termination of Grantee's obligations to procure and maintain the applicable insurance coverages in Section 22. a., b., or c., Grantee shall be required to procure and maintain the following coverages:

(1) Liability Insurance. Commercial general liability (CGL) with a limit of not less than $10,000,000 each occurrence and an aggregate limit of not less than $25,000,000. CGL insurance must be written on ISO occurrence form CG 00 0112 04 or ISO claims made form CO 00 02 12 04 (or substitute forms providing equivalent coverage). Grantee also agrees to purchase an extended reporting period if the retroactive date is advanced or if the

policy is canceled or not renewed and not replaced by another claims-made policy with the same (or an earlier) retroactive date during the term of this Agreement.

(2) Automobile Insurance. Business automobile coverage written on ISO form CA 00 01 03 06 (or substitute form providing equivalent liability coverage) with a limit not less $10,000,000 for each accident. Such insurance shall cover liability arising out of any automobile (including owned, hired, and non-owned automobiles).

(3) Workers' Compensation and Employers' Liability Insurance. Coverage must include but not be limited to: Grantee's statutory liability under the workers' compensation laws of the state of Colorado, Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 employee for disease. If Grantee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided.

iii. Notwithstanding anything in this Agreement to the contrary, the insurance policies (except Workers Compensation and Employers' Liability insurance) required under Section 22 a., b., and c. shall only apply in coverage amounts in excess of those set forth in Section 22.e.ii above to any Claim upon, and to the extent of, the occurrence of all of the following: (a) Grantee is liable pursuant to Section 16 of this Agreement, (b) Grantor is liable under Article 7 of the Shared Use Agreement, and (c) there is coverage for the Claim under the terms of the applicable insurance policy, subject to all other terms and conditions of this Agreement. Otherwise, the coverage limits of the applicable policies as set forth in Section 22.e.ii shall apply.

23. Notices. Except as otherwise expressly provided herein, all notices required or permitted hereunder must be given by certified mail, postage prepaid, return receipt requested, or by overnight express delivery by a nationally recognized overnight courier, addressed as follows:

If intended for Grantor, to:

Regional Transportation District
Manager of Real Property
1560 Broadway, Suite 650
Denver, CO 80202

with a copy to:

General Counsel
1600 Blake Street
Denver, CO 80202

If intended for Grantee, to:

Suncor Energy (U.S.A.) Pipeline Company
717 Seventeenth Street
29th Floor
Denver, CO 80202
Attn: Legal Department

With a copy to:

Suncor Energy (U.S.A.) Pipeline Company
1715 Fleischli Parkway
Cheyenne, Wyoming 82001-3355
Attn: Right of Way Coordinator

Such notices delivered by (i) certified mail in accordance with the foregoing procedures shall be deemed to have been duly given on the date that such notice is deposited with the United States Post Office, or (ii) overnight express delivery by a nationally recognized overnight courier shall be deemed to have been duly given one (1) business day after such notice is deposited with such overnight courier with instructions to deliver such notice the next following business day. Any Party may specify a different address for notices by delivery of written notice to the other Party.

24. Severability and Construction. If any provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to persons or situations other than those to which it shall have been held invalid or unenforceable, shall not be affected thereby, but shall continue to be valid and enforceable to the fullest extent permitted by law. This Agreement shall not be construed against either Party in the event of an ambiguity or other form of dispute as to its interpretation.

25. Governing Law, Entire Agreement, Amendments. This Agreement shall be governed by the laws of the State of Colorado and constitutes the entire agreement between Grantor and Grantee relating to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations, representations, statements, and discussions between the Parties, whether oral or written, except for this Agreement, the Pathway Plan, the As-Built Certification or other amendment(s) depicting as-built locations of the Pipelines recorded pursuant to this Agreement. This Agreement may be modified, supplemented or amended only by a writing signed by each of the Parties hereto, except for the As-Built Certification.

26. Further Assurances. The Parties hereto shall execute and deliver such further and additional instruments, agreements, and other documents, and shall take such further and additional actions, as may be reasonably required to carry out the purposes, terms, and conditions of this Agreement.

27. Authority. Grantor and Grantee represent to one another that each has the power and authority to execute and deliver this Agreement and to perform its respective obligations under this Agreement, this Agreement has been duly authorized by all actions of each such Party, such Party has obtained all approvals necessary to enter into this Agreement, and the person or persons signing for each Party has been duly authorized by such Party to do so.

28. Headings; Construction; Definitions. The article, section, and subsection headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement. Whenever appropriate from the context, the use of any gender (including neuter) shall include any other or all genders, and the singular number shall include the plural, and the plural shall include the singular. Unless otherwise expressly provided,

the words “include” or “including” mean “including, without limitation,” and does not limit the preceding words or terms. All capitalized terms used in this Agreement shall have the respective meanings for such terms given herein.

29. Waiver. The delay or failure of any Party to enforce any of its rights under this Agreement arising from any default or breach by the other Party shall not constitute a waiver of any such default, breach, or any of the Party’s rights relating thereto. No custom, practice, course of dealing or course of performance that may arise between the Parties in the course of their dealings or relationship under this Agreement or otherwise will be construed to waive any Parties’ rights to either ensure the other Party’s strict performance with the terms and conditions of this Agreement, or to exercise any rights granted to it as a result of any breach or default under this Agreement. Neither Party shall be deemed to have waived any right conferred by this Agreement or under any applicable law unless such waiver is set forth in a written document signed by the Party to be bound, and delivered to the other Party. No express waiver by either Party of any breach or default by the other Party shall be construed as a waiver of any future breaches or defaults by such other Party.

30. Incorporation. The recitals, exhibits attached to this Agreement, and As-Built Certification are, by this reference, expressly incorporated into and form a part of this Agreement.

31. No Third Party Rights. Except as expressly set forth herein, the representations, warranties, terms and provisions of this Agreement are for the exclusive benefit of the Parties, or their respective successors or permitted assigns, and no other person or entity shall be deemed a third party beneficiary of this Agreement or have any right or claim against either Party by reason of any of these terms and provisions of this Agreement or have any right to enforce any of those terms and provisions against either Party.

32. Counterparts. This Agreement may be executed in any number of counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Grantor:

REGIONAL TRANSPORTATION DISTRICT,
a political subdivision of the State of Colorado

By: _____
Name: Phillip A. Washington
Title: General Manager

Approved as to Legal Form:

By: _____
Name: Lori L. Graham
Title: Associate General Counsel

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by _____ _____, _____ of Regional Transportation District, a political subdivision of the State of Colorado, this ____ day of _____, 2013.

Witness my hand and official seal.

_____
Notary Public

My commission expires:_____

SEAL

Grantee:

SUNCOR ENERGY (U.S.A.) PIPELINE COMPANY,
a Colorado corporation

By:_____
Name: _____
Title: _____

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by _____ _____, _____ of Suncor Energy (U.S.A.) Pipeline Company, a Colorado corporation, this ____ day of _____, 2013.

Witness my hand and official seal.

_____
Notary Public

My commission expires:_____

SEAL

EXHIBIT A

TO EASEMENT AGREEMENT

THE PROPERTY

EXHIBIT B

TO EASEMENT AGREEMENT

CENTERLINE LEGAL DESCRIPTION AND/OR DEPICTION OF PE PROPERTY AND TCE PROPERTY

[Note: There is a separate Exhibit B for both Weld County and Adams County, which together collectively comprise this Exhibit B.]

EXHIBIT C

TO EASEMENT AGREEMENT

DESCRIPTION AND/OR DEPICTION OF ACCESS PROPERTY

(PERMANENT AND TEMPORARY)