

**TEMPORARY RIGHT-OF-ENTRY & ACCESS AGREEMENT**

STATE OF TEXAS \*

**KNOW ALL MEN BY THESE PRESENTS:**

COUNTY OF WEBB \*

This Temporary Access Agreement ("**Agreement**") is made and entered into as of the latter signature date hereof (the "**Effective Date**") by and between Webb County, Texas a Political Subdivision of the State of Texas, in their capacity as Trustee for the Webb School Lands, having a mailing address of 1000 Houston St., 2<sup>nd</sup> Floor, Laredo, Texas 78040 ("**Grantor**") and Escondido Resources Operating Co., LLC, with a mailing address of 2002 West Grand Parkway North, Suite 200, Katy, Texas 77449, ("**Grantee**") (each, a "**Party**", and collectively, the "**Parties**").

**RECITALS**

**WHEREAS**, Grantor owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the, "**Property**"); and,

**WHEREAS**, Grantee desires to construct and operate a pipeline across certain lands in Webb County, Texas, as shown on **Exhibit B** ("the Pipeline"), and a survey of the pipeline tract is necessary for those purposes; and,

**WHEREAS**, Grantee desires for Grantor to grant it a temporary right of entry and access to a strip of land 40 feet in width paralleling the south fence of the subject property, more or less, in order to conduct said survey.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**Definitions.** The foregoing recitals and definitions are incorporated herein by reference and made a part of this Agreement for all purposes.

**Term.** The Grantee and any of its affiliates, customers, tenants, subtenants, lessees, licensees, and contractors, together with any of the employees, contractors, consultants and/or agents of the foregoing (collectively, the, "**Permitted Parties**") shall have the right to use the Access Area for up to six (6) months from the Effective Date (the, "**Term**"), after which this Agreement shall automatically terminate without the need for further action by either Party.

**Use of Access Area.** Grantor agrees that Grantee and any of the Permitted Parties may enter upon the Access Area at all times during the Term on a seven (7) days a week, twenty-four (24) hours per day basis for pedestrian and vehicular (including, without limitation, trucks and other construction vehicles and equipment) ingress and egress to and from the Access Area for the purposes of conducting a survey for the proposed pipeline (the "**Permitted Activities**").

Grantee agrees to be responsible for any and all costs, whether related to or caused by, directly or indirectly, the Permitted Activities.

**General Compliance.** Grantee and Permitted Parties shall make reasonable efforts to comply with local, state and federal laws, rules and ordinances in connection with the Permitted Activities. Grantee further agrees to exercise reasonable care in the performance of all Permitted Activities on the Property.

**Interference.** Grantee agrees that they will make reasonable efforts to not interfere with the activities of the Grantor or Grantor's customers, invitees, employees, contractors and other associated third parties (collectively, the "***Owner Parties***") on the Property. Grantor and Owner Parties agree that they will make reasonable efforts to not interfere with the Permitted Activities of Grantee and its Permitted Parties.

**Restoration of the Property.** Grantee agrees that it will remove all equipment used in connection with the Permitted Activities and repair any disturbances to the Property caused in connection with the Permitted Activities.

**Insurance.** Grantee shall secure, and maintain at all times, while the Agreement is in force, at Grantee's sole cost and expense, insurance coverage of the nature and with minimum limits equal to or in excess of the requirements set forth: (i) Worker's Compensation Insurance in compliance with all applicable state and federal laws and employers' liability insurance with minimum limits of One Million and No / 100 Dollars (\$1,000,000.00) per accident/occurrence and Two Million and No / 100 Dollars (\$2,000,000.00) in the aggregate; (ii) Commercial General Liability Insurance with limits of liability of not less than Two Million and No / 100 Dollars (\$2,000,000.00) general aggregate and Two Million and No / 100 Dollars (\$2,000,000.00) per occurrence (iii) automobile insurance in compliance with all applicable state and federal laws with minimum limits of One Million and No / 100 Dollars (\$1,000,000.00) per accident/occurrence and Two Million and No / 100 Dollars (\$2,000,000.00) in the aggregate; and (iv) Excess Liability Insurance with limits of liability of not less than Ten Million and No/100 Dollars (\$10,000,000.00) per occurrence and general aggregate for Bodily Injury and/or Property Damage in excess of the coverage outlines in Sections 7 (i) - (iii) above. All the above limits can be met by a combination or primary and excess insurance. All insurance coverage carried by Grantee, to the extent allowed by law, shall name Grantor as additional insured, insofar as work performed under the Agreement is concerned, so that said insurance, with regard to the types of coverage required hereby, be made to extend to and protect Grantor to the same extent Grantee is covered relative to transactions governed by the Agreement. Said insurance coverage shall also be primary as to any other existing, valid and collectible insurance otherwise available to Grantor and shall be endorsed to waive, to the extent beneficial to Grantee but not otherwise, any and all claims by the underwriters or insurers against Grantor relative to transactions governed by the Agreement. Any failure of Grantor to insist upon strict adherence to the requirements of this Section and/or to police adherence to the requirements hereof, as to Grantee shall in no event be construed as a waiver of any said requirements, nor may the requirements hereof be waived other than in writing by a duly authorized officer of the Grantor. The insurance required hereby shall, however, in no way be construed to limit Grantee's obligation pursuant to the Agreement except and unless such a limitation is expressly provided for in the Agreement or required by applicable

law in order for an underlying obligation to be enforceable, in which event the Grantee's relevant obligation shall be so limited.

**Indemnification.** Grantee hereby agrees to hold harmless and indemnify Grantor, their officers, agents, servants, employees, manager, and attorneys, above and from any liability, including any and all costs, expenses, damages, attorney's fees, judgments, and/or other liabilities arising from or related to Grantee's access or use of the Access Area for conducting a survey and from the granting of this access agreement. This indemnification applies whether or not the claim at issue is based upon the alleged negligence of the Grantor, singly or jointly, together or with others, or upon alleged strict liability, or upon some other theory.

**Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein; To Grantor at: Webb County Civil Legal Division, c/o Webb County Civil Legal Department, 1000 Houston Street, 2<sup>nd</sup> Floor, Laredo, Texas 78040; To Grantee at: Escondido Resources, 2002 West Grand Parkway North, Suite 200, Katy, Texas 77449. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

**Governing Law/Venue.** The Parties agree that the interpretation and construction of this Agreement shall be governed by the laws of the state or commonwealth in which the Property is located without regard to its conflicts of law provisions, and that any and all litigation regarding this agreement shall lie exclusively in the District Courts of Webb County, Texas.

**Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall either Party be liable to the other for, and each Party hereby waives to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.

**Severability.** If any term of this Agreement is found to be void or invalid, or ineffective as to third parties such provision shall be fully severable here from and such invalidity shall not affect the remaining terms of the Agreement, which shall continue in full force and effect, and the Agreement shall be reformed and construed as if such invalid provision had never been contained herein, and if possible, such provisions shall be reformed to the maximum extent permitted under applicable law to render same valid, operative and enforceable to reflect the intent of the Parties as expressed herein.

**Counterparts.** This Agreement may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Agreement by electronic means such as .pdf or similar format. Each of the Parties agrees that

the delivery of the Agreement by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Agreement by all Parties to the same extent as an original signature.

**Non-Exclusiveness of Access.** This Agreement and privileges conveyed by Grantor herein are non-exclusive, and Grantor reserves and retains for itself rights of access to the Access Area, subject to any and all reasonable safety measures put in place by Grantee.

**Rights Reserved.** Grantor retains, reserves, and shall continue to enjoy the use of the surface of access area for any and all purposes that do not interfere with and prevent Grantees' safe performance of a survey.

**Failure to Perform.** Should Grantee fail to perform the survey by reasonable means or in a safe and workman matter within a reasonable period of time, it shall constitute a breach of contract and Grantee shall be liable for consequential damages.

**Non-Assignability and Binding Effect.** This Agreement shall not be assignable by the Grantee, and any attempted assignment shall terminate the Agreement and Grantee's right to use the Access Area herein. This Agreement shall bind and inure to the benefit of the Grantor.

**Authority.** Both Parties have the full power and authority to enter into and perform its obligations under this Agreement, and the person executing this Agreement on behalf of its respective Party has the authority to enter into and delivery this Agreement on that Party's behalf.

**Miscellaneous.** This Agreement constitutes the entire agreement of the Parties hereto. Any modification of the Agreement must be in writing and executed by the Parties in order to be effective.

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

**GRANTOR:**

**WEBB COUNTY, TEXAS**

\_\_\_\_\_  
**TANO E. TIJERINA**  
**WEBB COUNTY JUDGE**

Date: April \_\_, 2020

**GRANTEE:**  
**ESCONDIDO RESOURCES OPERATING CO., LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: April \_\_\_\_, 2020

**ATTESTED:**

\_\_\_\_\_  
Margie Ramirez-Ibarra  
Webb County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ray Rodriguez, Asst. General Counsel  
Webb County Civil Legal Division

\*By law, this office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

*Passed and approved by the Webb County Commissioners Court on  
April 27th, 2020; Item No. /Right-of-Entry/Escondido*

**EXHIBIT "A"**

The Property

*4,428.4 acres, more or less, being all of Survey 1383, Abstract 503 situated in Webb County, Texas.*

**EXHIBIT "B"**

The Pipeline

(in red)

