

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

DEPARTMENT: Engineering

AGENDA DATE: May 11, 2010

CONTACT PERSON NAME AND PHONE NUMBER: R. Alan Shubert, P.E., City Engineer X4423

DISTRICT(S) AFFECTED: 1 & 8

SUBJECT:

That the City Manager be authorized to sign the following three licenses from the El Paso County Water Improvement District Number 1 to the City:

1. License L-1124: A five foot by five foot concrete box culvert and headwall structures within the Montoya main lateral canal at station 159+32: 50 year term at a total cost to the City of \$7,470.00.
2. License L-1125: One (1) Sixty inch reinforced concrete pipe and two (2) thirty-six inch reinforced concrete pipes within Montoya drainage canal at station 241+20: 50 year term at a total cost to City of \$20,160.00.
3. License L-1126: One sixty inch reinforced concrete pipe within the Montoya lateral canal "branch A" at Station 30+29: 50 year term at a total cost of \$9,312.00.

BACKGROUND / DISCUSSION:

City Council approved the construction award for Upper Valley Drainage Improvements Phase 4 (Lindberg and Equestre) March 2, 2010. The project includes the replacement of three existing El Paso County Water Improvement District #1 crossings. This item provides the approval of the license agreements for the construction and roadway crossings.

PRIOR COUNCIL ACTION:

City Council approved the construction award for Upper Valley Drainage Improvements Phase 4 (Lindberg and Equestre) March 2, 2010.

AMOUNT AND SOURCE OF FUNDING:

2006 Storm
508027-267264-14200500-PSTM06 PW26-0B

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



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

Information copy to appropriate Deputy City Manager

RESOLUTION

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

That the City Manager be authorized to sign the following three licenses from the El Paso County Water Improvement District Number 1 to the City:

1. License L-1124: A five foot by five foot concrete box culvert and headwall structures within the Montoya main lateral canal at station 159+32: 50 year term at a total cost to the City of \$7,470.00.
2. License L-1125: One (1) Sixty inch reinforced concrete pipe and two (2) thirty-six inch reinforced concrete pipes within Montoya drainage canal at station 241+20: 50 year term at a total cost to City of \$20,160.00.
3. License L-1126: One sixty inch reinforced concrete pipe within the Montoya lateral canal "branch A" at Station 30+29: 50 year term at a total cost of \$9,312.00.

ADOPTED THIS _____ DAY OF _____ 2010.

CITY OF EL PASO:

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:



Mark Shoosmith
Assistant City Attorney

APPROVED AS TO CONTENT



R. Alan Shubert, P.E.
City Engineer

LICENSE FOR PRIVATE-USE OF DISTRICT REAL PROPERTY
The City of El Paso - 1 - 5' X 5' Concrete Box Culvert and Headwall
Structures

Within Montoya Main Lateral Canal at Station 159+32

This License is entered into between the El Paso County Water Improvement District No. 1, a political subdivision of the State of Texas existing pursuant to Article XVI, Section 59, of the Constitution of the State of Texas ("District"), and The City of El Paso ("Licensee"), a home-rule municipal corporation.

WITNESSETH

In consideration of the mutual covenants and agreements of this License and other good and valuable consideration, the parties agree as follows:

1.0 PURPOSE OF LICENSE

Subject to the terms and conditions described herein, this License is for the sole purpose of the Licensee's use to construct, operate, install, maintain, inspect, repair, replace, or remove 1 - 5' X 5' Concrete Box Culvert and Headwall Structures at the location shown as the "Easement" described and depicted on the survey drawings and field notes attached as Exhibit "A", being a total surface area of 4980 square feet, and engineering drawing attached as Exhibit "B"; all of which are fully incorporated herein by this reference. The purpose of the Easement is limited to the private use of the Licensee and the Easement shall not be used for public, community, or third-party purposes, except in accordance with Section 11 below. Any substantial or significant addition or changes to the use set forth in the application for this License may require administrative review and a reasonable fee for such review.

2.0 TERM OF LICENSE

The term of this License shall be for fifty (50) years commencing on April 28, 2010, (the Commencement Date) and expiring at midnight April 27, 2060, (the Expiration Date).

3.0 CONSIDERATION

This License is granted for good and valuable consideration including Licensee's payment to District of the sum of \$7,470.00 upon execution of this License.

4.0 LICENSE RENEWAL

Licensee may request that the District renew this License for a fifty (50) year term so long as Licensee has not breached the terms and conditions of this License during the initial term. Licensee shall make such request by written notice to the District at least sixty (60) days prior to the Expiration Date. Prior to the effective date of any renewal of this License, Licensee shall pay to the District a fee to be negotiated by the District and Licensee. **THE DISTRICT RETAINS THE RIGHT TO DENY ANY REQUEST TO RENEW THIS LICENSE FOR ANY REASON.** Nothing in this License shall prevent Licensee from exercising its eminent domain powers.

5.0 RIGHT OF INGRESS AND EGRESS

The District grants to Licensee the right of ingress and egress to the Easement for the purposes identified in this License in Section 1.0 set out above, provided that the Licensee shall not disturb or interfere with District's use of the Easement or any other property of District, including without limitation any surface, subsurface or aerial portions.

6.0 COORDINATION OF CONSTRUCTION

6.1 Licensee agrees to give notice to the District and coordinate with the District's Maintenance Supervisor forty-eight (48) hours prior to any construction by Licensee, its agent(s) or contractor(s) on the Easement. To the extent any construction on the Easement may have already commenced, the District shall have the right to inspect and review such construction to determine whether the same meets the District's Design Standards in effect at the time such inspection or review is done by the District. If the District determines that any part of such construction does not meet the District's Design Standards, then within twenty-one (21) calendar days after written notification from District, the Licensee shall modify or reconstruct any such construction in a manner consistent with the District's Design Standards, as well as applicable federal, state, local laws, and the National Electrical Safety Code (NESC) standards.

6.2 If the District determines that any part of such construction does not comply with the Application To Use District Property submitted by Licensee, does not meet the District's Design Standards, or interferes with the operation, maintenance or administration by the District of its facilities, the District shall have the right to order, on not less than three (3) hours written notice from the District's General Manager, that all construction cease until corrective action taken by Licensee, its contractors or agents which, in the sole and absolute judgment of the District's licensed engineer, is adequate to remedy the problem cited for the work stoppage.

7.0. OPERATING RULES AND LAWS

Licensee represents, warrants, and agrees that it will conduct its activities on the Easement in compliance with all applicable environmental laws, ordinances, rules, regulations and policies and shall comply with all federal, state and local laws, ordinances, rules, regulations and policies applicable to its construction and operations under this License.

8.0 CULTURAL VALUES

Should evidence of historical, archeological, or paleontological sites be discovered in the course of Licensee's construction or use of the Easement, Licensee shall immediately suspend construction or operations and advise the District. Licensee acknowledges the existence of an agreement between the District and the State of Texas and/or the State Historical Preservation Officer for the State of Texas and accepts this License subject to all provisions of such agreement.

9.0 CONCEALED CONDITIONS OR OBSTACLES

Licensee accepts the Easement in its existing condition. Except to the extent liable under the Texas Tort Claims Act, District shall not be responsible for any condition (open or concealed), defects, or obstacles encountered by Licensee, and District makes no warranties or representations related to any condition of the Easement. .

10.0 INTERFERENCE PROHIBITED

Licensee's activities shall be conducted so as not to interfere with the operation, maintenance or administration by District of its water improvement district and its facilities. Licensee shall reimburse District for any documented repairs, maintenance or expense required or incurred by District, which repair, maintenance, or expense is caused by Licensee's activities on the Easement. Licensee shall make such reimbursement within 30 days after written notice to Licensee.

11.0 USE LIMITATION

11.1 Use of the Easement by Licensee is limited to those uses specified in this License. This License (a) does not grant any rights to water; and (b) does not allow Licensee to restrict entry or use by District, its agents, servants, employees, constructors, or invitees to the Easement, or any surface, subsurface or aerial portions of it.

11.2 Licensee shall never dedicate, grant, or convey any right to this Easement to a third party without the prior written consent of District. Any dedication, grant, or conveyance of any right to this Easement by the Licensee, including but not limited to, dedication,

grant, or conveyance of a public highway, street, or roadway, without the prior written consent of District shall not be valid and shall constitute a breach of the obligations imposed upon Licensee under this License and entitle District to invoke any remedy District may have under the terms of this License or otherwise by law.

12.0 INDEMNITY AND INSURANCE

12.1 To the maximum extent allowable by law, Licensee agrees to indemnify and hold the District and its officers, directors, employees, engineers, attorneys, and agents harmless from any and all liability, loss, claims, demands or actions arising out of or resulting from injury to or death of persons, or damage to or loss of property, including environmental damage, in connection with Licensee's use of or presence on the Easement; but in each instance, only to the extent the liability, loss, claim, demand, or action is determined attributable to Licensee's negligence, gross negligence, strict liability in tort or willful misconduct. This provision shall survive the expiration or earlier termination of this License.

12.2 At all times during the term of this License, Licensee agrees to procure and maintain in force, at its expense, a commercial general liability insurance policy adequate to protect District against liability for damage claims through use of or arising out of accidents occurring in and around the Easement, in minimum coverage amounts acceptable to District. Such insurance policy shall name District as an additional insured and contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days' prior written notice has been given to District. Licensee shall provide to District, at the time this License is presented for approval by District's governing body, a certificate evidencing such insurance coverage. Licensee shall ensure that District is furnished evidence, satisfactory to District, of continuation of such insurance each year during the term of this License. If the Licensee is a governmental entity and is self-insured, then at all times during the term of this License, Licensee agrees to self insure against liability for damage claims through use of or arising out of accidents occurring in and around the Easement in minimum amount of coverage amounts acceptable to the District. Licensee shall provide to District, at the time this License is presented for approval by District's governing body, a letter evidencing such self insurance coverage. Licensee shall ensure that District is furnished evidence, satisfactory to District, of continuation of such insurance each year during the term of this License. The insurance requirements contained herein are not intended nor shall inure to the benefit of any third party.

12.3 District shall have no liability to Licensee for any damage to Licensee's property on the Easement, and Licensee shall hold District, its officers, directors, employees,

engineers, attorneys, and agents harmless from any claim, damage, or demand resulting from such damage.

13.0 MAINTENANCE

13.1. Licensee shall be responsible for any and all maintenance associated with Licensee's use of its facilities in the Easement. Such maintenance shall include, but not be limited to: (a) repair and upkeep of the Easement and Licensee's facilities located thereon; (b) removal of deposited sediment, trash, weeds, and other debris from within the Easement; (c) control of vectors and other pests associated with the Easement and Licensee's facilities located thereon. Such maintenance shall be conducted by Licensee as needed, annually or on written request by District, between the end of each irrigation season and December 31, or at other times upon written notification by District or Licensee. Such maintenance shall not interfere in any manner whatsoever with the construction, operation, and maintenance of any part of District's facilities or the Rio Grande Reclamation Project. District shall be notified at least forty-eight (48) hours in advance of any planned maintenance, unless under emergency conditions when notification shall be timely. Any violation by Licensee of its maintenance obligation as set forth in this section shall constitute a breach of this License by Licensee and shall entitle District to invoke any and all remedies provided under this License or otherwise by law.

13.2 Damage to District's Facilities. In addition to all other remedies provided under this License and by law to District, Licensee shall repair or reimburse the District for the repair costs and any other actual damages to the District's facilities, which damages are caused by Licensee's maintenance, operation, or use of the Easement, whether or not such damages are caused by Licensee's negligence or Act of God.

14.0 NO WARRANTY OF TITLE

District makes no warranties or representations of title or interest in the Easement or legal authority to make this License. This License is granted only to the extent of District's interest, if any, in the Easement and is subject to all prior and existing leases, easements, licenses, and other rights of use pertaining to the site of the Easement.

15.0 DEFAULT

In the event of any breach by Licensee in the performance of any term or condition of this License which breach continues for thirty (30) days after written notice from District of such breach, District may declare a default and terminate this License without further notice, and/or invoke any other remedy provided by this license or law or equity,

including without limitation, injunctive relief and damages without refund of any consideration or of any amounts previously paid to District by Licensee.

16.0 USE OF EASEMENT BY DISTRICT

District retains and reserves all right, title and interest in the Easement and in the site of the Easement, and shall continue to enjoy the use of the Easement, including all surface, subsurface and aerial portions, for any and all purposes not inconsistent with the use granted to Licensee by this License. District shall have the right to use the Easement without payment to Licensee.

17.0 NOTICES

17.1 All notices, requests, demands, and other communications required by or made in connection with this License shall be in writing and shall be deemed given in personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Licensee, to:

The City of El Paso
2 Civic Center Plaza, 4th Floor of City Hall
El Paso, Texas 79901
Phone (915) 541-4200
Fax (915) 541-4441

If to District, to:

General Manager
El Paso County Water Improvement District No. 1
P.O. Box 749
Clint, Texas 79836-0749
Phone (915) 872-4000
Fax (915) 851-0816

17.2 Any notice given in accordance with this Section shall be deemed received upon receipt if by personal delivery, two (2) days after deposit in the U.S. Mail if sent certified mail, or the following business day if sent by overnight carrier.

17.3 District and Licensee shall promptly notify the other party of any changes in address, telephone number or facsimile number.

18.0 EXPIRATION OR TERMINATION

18.1 Within sixty (60) days after expiration or termination of this License, Licensee shall remove all of the Licensee's facilities from the Easement and shall restore the site of the Easement to the condition that such Easement existed at the commencement of this License or to a condition that is reasonably close to the condition that such Easement existed at the commencement of this License and is approved in writing by the District. Upon Licensee's failure to remove its facilities from the Easement within sixty (60) days after the expiration, termination, or revocation of this License, Licensee shall pay District for all of District's expenses related to removal of the facilities.

18.2 Any illegal use of or illegal activity by the License on the Easement or the site of the Easement shall be cause for immediate termination of this License.

19.0 ENTIRE AGREEMENT

This License contains the entire agreement between the parties and supersedes previous agreements or licenses, if any, relating to the subject matter of this License. Any oral representations or modifications concerning this License shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by the parties.

20.0 ASSIGNMENT

The Licensee may assign this License to any successor to the Licensee whether by merger, consolidation, sale of assets, or otherwise; provided that successor shall be bound by and comply with the terms of this License, that the successor is in good standing with the District, and that the Licensee first obtain the written approval of the District.

21.0 TEXAS LAW TO APPLY

This License is to be construed under Texas law. Venue for any suit brought on this License by either party shall be El Paso County, Texas in a court of competent jurisdiction.

22.0 SEVERABILITY

If any one or more of the provisions contained in this License are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision of this License, which will be construed as if it had not included the invalid, illegal, or unenforceable provision, provided such provision or provisions are not essential to the substance of this License. If such provision or provisions are essential to the substance of this License, this License

shall be deemed null and void, and there shall be no refund of any consideration paid in connection with this License.

23.0 RIGHTS AND REMEDIES CUMULATIVE

The rights and remedies provided by this License are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

24.0 ATTORNEY'S FEES

If, as a result of either party's default under this License, the other party employs an attorney or attorneys to enforce its rights under this License, then the party adjudged to be in default will pay the other party the reasonable attorney's fees and costs incurred to enforce the License.

25.0 TITLES

The titles of the articles, paragraphs, and sections of this License are intended for the convenience of the parties and shall have no effect and shall neither limit nor amplify the provisions of this License.

26.0 RECORDING OF LICENSE

The District may record this License with the Real Property Records of El Paso County, Texas.

27.0 APPLICATION TO USE DISTRICT REAL PROPERTY

This License is granted, in part, based in the reliance on the information supplied and the interpretation made by the Licensee to the District in the Licensee's "Application to Use District Property" and that such information was true and correct. Should any part of such information be determined by the District to be incorrect or wrong, this License may be reevaluated by the District. If this License, based on the correct information, is found by the District to be detrimental to the District interests, then the Licensee may be determined by the District to be in breach and invoke the provisions of Section 15 of this License.

28.0 DISCHARGE OF NON-AGRICULTURAL STORM WATER OR RUNOFF

This license does not permit the discharge of any kind into the District's drainage or irrigation canals or other facilities. Such prohibited discharges included, but are not limited to, non-agricultural storm water, runoff from non agricultural land, groundwater, effluent, sewage, or chemicals of any kind, with the single exception that if the location of the easement in consideration under this License is within the City of El Paso's Extra Territorial Jurisdiction, and the Licensee plans on discharging storm water runoff, the Licensee must obtain written permission from the City of El Paso for the term of this License to discharge storm water and the Licensee must provide a copy of such permission to the District. All types of discharge other than storm water permitted and approved by the City of El Paso are prohibited and any other discharge by the Licensee shall be reasons for immediate termination, without notice, of this License by the District.

29.0 ADEQUACY OF FACILITIES

By executing this License, the Licensee acknowledges that District makes no warranty, promises, or conditions regarding the adequacy of the District's facilities, including but not limited to the District's drainage and irrigation canals, to convey water, including storm water runoff or flood water. The Licensee further acknowledges that during flooding water may flow from the District facilities and flood the easement under considered under this license, the Licensee's land, property, and/or facilities, and to the maximum extent allowable by law, Licensee agrees to indemnify and hold the District and its officers, directors, employees, engineers, attorneys, and agents harmless from any and all liability, loss, claims, demands or actions arising out of or resulting from injury to or death of persons, or damage to or loss of property, including environmental damage, in connection with any flooding or storm water that may result, in part or in full, because of the Licensee use of the easement considered under this License.

30.0 CONSTRUCTION CONTRACTOR

Licensee shall incorporate the terms and conditions of this License in any construction contract applicable to this License. Any contractor employed by Licensee shall, in its contract with Licensee, expressly assume performance of the work subject to the terms and conditions of this License.

IN WITNESS WHEREOF, the parties have executed this License in duplicate counterparts, each of which has the full force and effect of an original. This License is effective on the date written below on the signature line for the District:

El Paso County Water Improvement District No. 1

By: _____ Date: _____

JOHNNY STUBBS
President, Board of Directors

Licensee: The City of El Paso

By: _____ Date: _____

Printed Name: _____ Title: _____

WITNESS THE FOLLOWING SIGNATURES:

LICENSEE: CITY OF EL PASO:

Joyce Wilson, City Manager

Date: _____

APPROVED AS TO FORM:



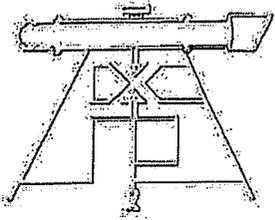
Mark Shoemith
Assistant City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer

EXHIBIT "A"



Frank X. Spencer, P.E., R.P.L.S.

Frank X. Spencer & Associates, Inc.

Consulting Civil Engineers & Surveyors
1130 Montana * El Paso, Texas 79902

(915) 533-4600
FAX (915) 533-4673
e-mail: elpaso@fxsa.com

METES AND BOUNDS DESCRIPTION

A 0.114 ACRES (4,980 S.F.) OF LAND OUT OF MONTOYA MAIN LATERAL, WITHIN BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

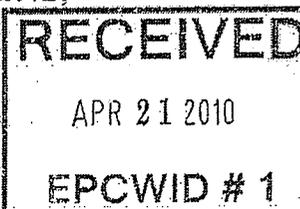
COMMENCING at a recovered $\frac{1}{2}$ " iron pipe at the centerline intersection of {Country Club Drive a (60-foot right-of-way) and Love Road (60-foot right-of-way) (called for on the original County Surveyors field notes, Field Book No. PS19, Page 27, for the maps of Upper Valley Surveys Block 4, dated November 1929, and Block 5 dated December 1929)} from which a county monument at the intersection of Country Club Drive and Country Club Place a 50-foot right-of-way (called for on the original County Surveyors field notes, Field Book No. PS19, Page 27, for the maps of Upper Valley Surveys Block 4, dated November 1929, and Block 5, dated December 1929) bears North $74^{\circ}04'25''$ West, (North $77^{\circ}17'00''$ West Record) a distance of 1106.89 feet; **Thence**, North $28^{\circ}42'50''$ East, a distance of 2349.94 feet to a $\frac{5}{8}$ " rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the common boundary line of the Montoya Main Lateral (60-foot right-of-way, Book 325, Page 62, and Book 320, Page 87, Deed Records, El Paso County, Texas) and Tract 33A, Block 5, Upper Valley Surveys, Book 4718, Page 850, Deed Records, El Paso County, Texas, for the **POINT OF BEGINNING** of this description, having a State Plane coordinate value of N: 10,690,650.94, E: 356,393.89 (Texas Central Zone 4203) from which Horizontal Control Station "Chino" bears North $04^{\circ}59'12''$ East, a distance of 27,167.74 feet, having a State Plane value of N: 10,717,710.86, E: 358,754.95;

THENCE, North $27^{\circ}27'59''$ West, along the common boundary line of the westerly right-of-way line of the Montoya Main Lateral and the easterly boundary line of said Tract 33A, a distance of 33.69 feet, to a $\frac{5}{8}$ " rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the southerly right-of-way of Lindbergh Drive (60-Foot right-of-way) and the northeast corner of Tract 33A, Block 5, Upper Valley Surveys.

THENCE, North $27^{\circ}13'13''$ West, a distance of 48.58 feet, to a $\frac{5}{8}$ " rebar with aluminum cap marked "FXSA R.P.L.S. 2198";

THENCE, North $59^{\circ}44'07''$ East, a distance of 60.26 feet, to a point on the common boundary line of Tract 7B Upper Valley Surveys; Book 1195 Page 1184, Deed Records, El Paso County, Texas, and the easterly right-of-way line of the Montoya Main Lateral;

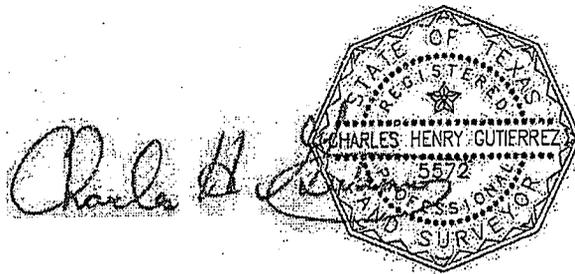
THENCE, South $28^{\circ}37'59''$ East, along the said common boundary line, a distance of 29.54 feet, to a $\frac{5}{8}$ " rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the northerly right-of-way line of Lindbergh Drive, and the southwesterly corner of said Tract 7B;



THENCE, South 26°28'35" East, along the easterly right-of-way line of the Montoya Main Lateral, a distance of 52.75 feet, to a 5/8 "rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the easterly right-of-way line of the Montoya Main Lateral.

THENCE, South 59°44'07" West, a distance of 60.15 feet, to the **POINT OF BEGINNING**, containing 0.114 Acres (4,980 S.F.) of land, more or less.

Frank X. Spencer & Associates, Inc.



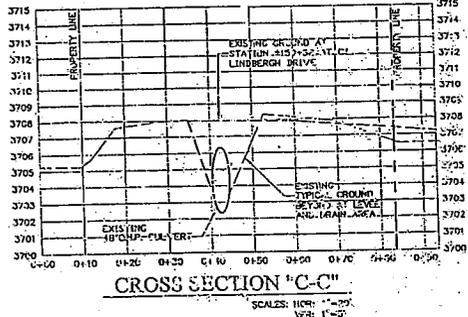
Charles Gutierrez, RPLS
Texas License No. 5572

Date: 04/21/10

RECEIVED
APR 21 2010
EPCWID # 1

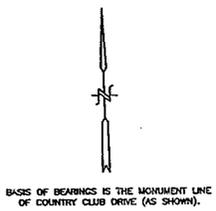
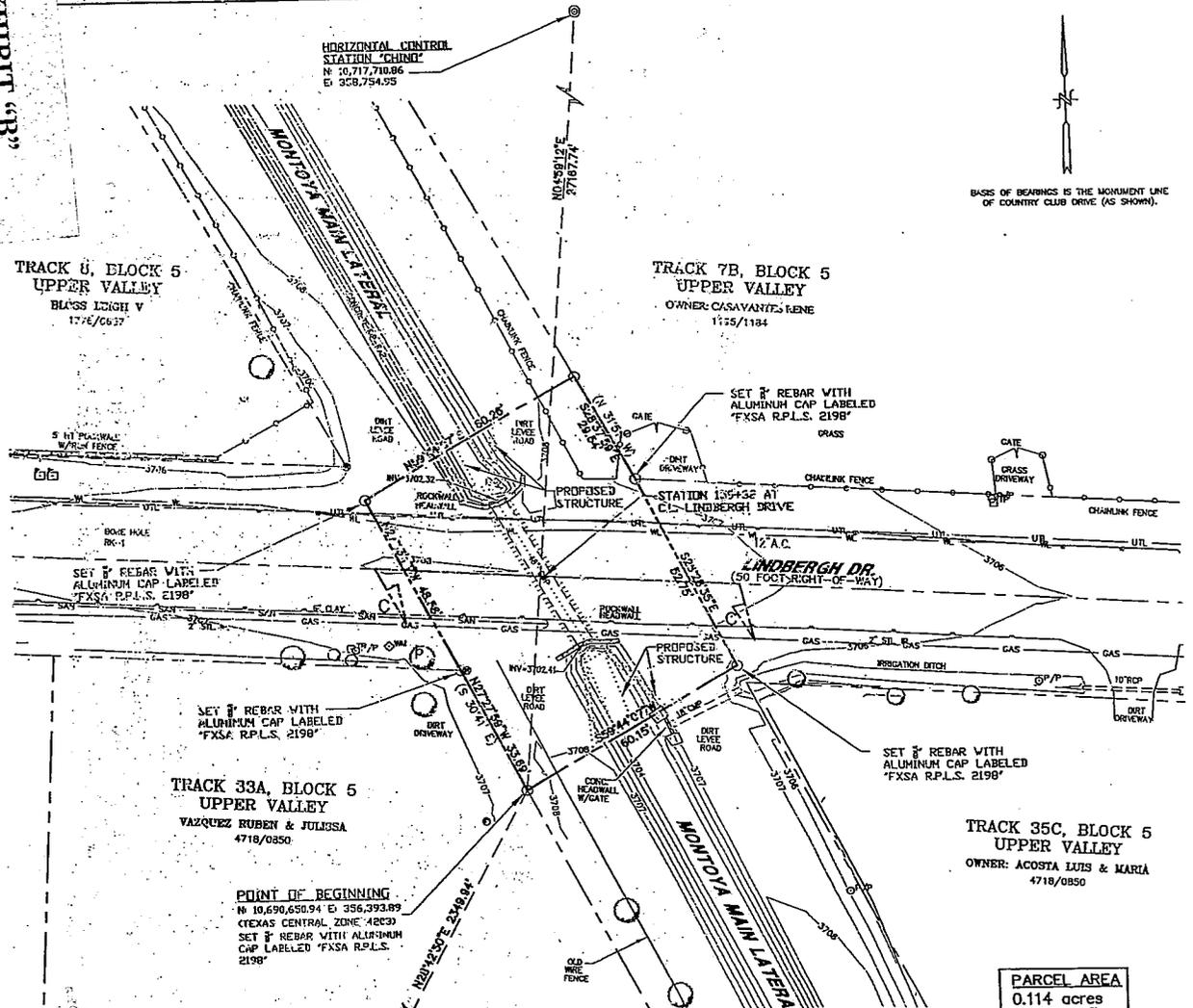
A1124

EXHIBIT "B"



NOTE:
 BENCHMARKS: DESIGNATION: WEST 4
 LOCATED IN EL PASO, TX AT THE INTERSECTION OF DONIPHAN DRIVE AND REDD ROAD, 17.6M (57.7 FT) EAST OF THE DRIVE CENTERLINE, 5.2M (20.2 FT) SOUTH OF THE CENTER OF WESTBOUND LANES OF THE ROAD, 6.5M (21.3 FT) NORTH OF THE CENTERLINE OF THE EASTBOUND LANES OF THE ROAD, 2.9M (9.5 FT) EAST OF THE WEST END OF THE MEDIAN CURB OF THE ROAD, AND 0.9M (3.0 FT) EAST OF A SIGN POST. NOTE: ACCESS TO THE MONUMENT IS THROUGH A 10 FOOT MARKING COVER PRECAST CITY OF EL PASO HORIZONTAL CONTROL.
 ELEVATION= 3709.22 U.S.B.R.
 DESIGNATION: CHINO
 LOCATED AT 6.8KM (0.35MI) SOUTHERLY ALONG DONIPHAN DRIVE (STATE HIGHWAY 20) FROM THE POST OFFICE IN CANUTILLO, THENCE 1.6KM (1.0MI) EASTERLY ALONG STATE HIGHWAY LOOP 375, THENCE 1.7KM (1.0MI) NORTHEAST ALONG THE EAST INTERSTATE HIGHWAY 10 FRONTAGE ROAD, 16.5M (53.7FT) EAST OF THE ROAD CENTERLINE, 8.5M (27.9FT) WEST OF REFERENCE MARK 1, 7.6M (24.9 FT) SOUTH OF REFERENCE MARK 2, 3.6M (9.8 FT) ABOVE THE LEVEL OF ROAD, 0.24 (0.7 FT) WEST OF A WITNESS POST, AND THE MONUMENT IS RECESSED 0.1M (0.3 FT) BELOW THE GROUND SURFACE.
 ELEVATION= 3902.41 U.S.B.R.
 (TO CONVERT TO NAVD 1988 ADD 43.70 TO UNITS STATES RECLAMATION SERVICE DATUM).

LEGEND
 (C) RECOVERED MONUMENT, AS NOTED



TRACK 33A, BLOCK 5 UPPER VALLEY
 VAZQUEZ RUBEN & JULISSA
 4718/0350

POINT OF BEGINNING
 N 10,690,650.94 E 356,393.89
 TEXAS CENTRAL ZONE 48C3
 SET 3 REBAR WITH ALUMINUM CAP LABELED "FXSA R.P.L.S. 2198"

POINT OF COMMENCEMENT
 RECOVERED 1/2" IRON PIPE COUNTY MARKER AT CENTERLINE INTERSECTION OF COUNTRY CLUB DRIVE AND LOVE ROAD CALLED FOR ON THE MAP OF UPPER VALLEY BLOCK 4 DATED NOVEMBER 1925 AND BLOCK 5 DATED DECEMBER 1929

TRACK 35C, BLOCK 5 UPPER VALLEY
 OWNER: ACOSTA LUIS & MARIA
 4718/0850

PARCEL AREA
 0.114 acres
 4,980 sq.ft.

RECEIVED
 APR 21 2010
 EPCWID # 1

SURVEY PLAT OF A 0.114 ACRES (4,980 S.F.) OF LAND OUT OF MONTOYA MAIN LATERAL, WITHIN BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS

I HEREBY CERTIFY TO THE EL PASO COUNTY WATER MONUMENT LISTED IN TITLE THIS SURVEY PLAT MEETS ALL CURRENT DISTRICT SURVEY REQUIREMENTS ENACTED BY THE DISTRICT LAWRRENCE JOHNSON CHAPTER 205, SUBCHAPTER 205.001, 205.002, 205.003, 205.004, 205.005, 205.006, 205.007, 205.008, 205.009, 205.010, 205.011, 205.012, 205.013, 205.014, 205.015, 205.016, 205.017, 205.018, 205.019, 205.020, 205.021, 205.022, 205.023, 205.024, 205.025, 205.026, 205.027, 205.028, 205.029, 205.030, 205.031, 205.032, 205.033, 205.034, 205.035, 205.036, 205.037, 205.038, 205.039, 205.040, 205.041, 205.042, 205.043, 205.044, 205.045, 205.046, 205.047, 205.048, 205.049, 205.050, 205.051, 205.052, 205.053, 205.054, 205.055, 205.056, 205.057, 205.058, 205.059, 205.060, 205.061, 205.062, 205.063, 205.064, 205.065, 205.066, 205.067, 205.068, 205.069, 205.070, 205.071, 205.072, 205.073, 205.074, 205.075, 205.076, 205.077, 205.078, 205.079, 205.080, 205.081, 205.082, 205.083, 205.084, 205.085, 205.086, 205.087, 205.088, 205.089, 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LICENSE FOR PRIVATE-USE OF DISTRICT REAL PROPERTY

**The City of El Paso - 1 -60" Reinforced Concrete Pipe (RCP) and 2- 36"
RCP's**

Within Montoya Drainage Canal at Station 241+20

This License is entered into between the El Paso County Water Improvement District No. 1, a political subdivision of the State of Texas existing pursuant to Article XVI, Section 59, of the Constitution of the State of Texas ("District"), and The City of El Paso ("Licensee"), a home-rule municipal corporation.

WITNESSETH

In consideration of the mutual covenants and agreements of this License and other good and valuable consideration, the parties agree as follows:

1.0 PURPOSE OF LICENSE

Subject to the terms and conditions described herein, this License is for the sole purpose of the Licensee's use to construct, operate, install, maintain, inspect, repair, replace, or remove 1 -60" Reinforced Concrete Pipe (RCP) and 2- 36" RCP's at the location shown as the "Easement" described and depicted on the survey drawings and field notes attached as Exhibit "A", being a total surface area of 13440 square feet, and engineering drawing attached as Exhibit "B"; all of which are fully incorporated herein by this reference. The purpose of the Easement is limited to the private use of the Licensee and the Easement shall not be used for public, community, or third-party purposes, except in accordance with Section 11 below. Any substantial or significant addition or changes to the use set forth in the application for this License may require administrative review and a reasonable fee for such review.

2.0 TERM OF LICENSE

The term of this License shall be for fifty (50) years commencing on April 28, 2010, (the Commencement Date) and expiring at midnight April 27, 2060, (the Expiration Date).

3.0 CONSIDERATION

This License is granted for good and valuable consideration including Licensee's payment to District of the sum of \$20,160.00 upon execution of this License.

4.0 LICENSE RENEWAL

Licensee may request that the District renew this License for a fifty (50) year term so long as Licensee has not breached the terms and conditions of this License during the initial term. Licensee shall make such request by written notice to the District at least sixty (60) days prior to the Expiration Date. Prior to the effective date of any renewal of this License, Licensee shall pay to the District a fee to be negotiated by the District and Licensee. **THE DISTRICT RETAINS THE RIGHT TO DENY ANY REQUEST TO RENEW THIS LICENSE FOR ANY REASON.** Nothing in this License shall prevent Licensee from exercising its eminent domain powers.

5.0 RIGHT OF INGRESS AND EGRESS

The District grants to Licensee the right of ingress and egress to the Easement for the purposes identified in this License in Section 1.0 set out above, provided that the Licensee shall not disturb or interfere with District's use of the Easement or any other property of District, including without limitation any surface, subsurface or aerial portions.

6.0 COORDINATION OF CONSTRUCTION

6.1 Licensee agrees to give notice to the District and coordinate with the District's Maintenance Supervisor forty-eight (48) hours prior to any construction by Licensee, its agent(s) or contractor(s) on the Easement. To the extent any construction on the Easement may have already commenced, the District shall have the right to inspect and review such construction to determine whether the same meets the District's Design Standards in effect at the time such inspection or review is done by the District. If the District determines that any part of such construction does not meet the District's Design Standards, then within twenty-one (21) calendar days after written notification from District, the Licensee shall modify or reconstruct any such construction in a manner consistent with the District's Design Standards, as well as applicable federal, state, local laws, and the National Electrical Safety Code (NESC) standards.

6.2 If the District determines that any part of such construction does not comply with the Application To Use District Property submitted by Licensee, does not meet the District's Design Standards, or interferes with the operation, maintenance or administration by the District of its facilities, the District shall have the right to order, on not less than three (3) hours written notice from the District's General Manager, that all construction cease until corrective action taken by Licensee, its contractors or agents which, in the sole and absolute judgment of the District's licensed engineer, is adequate to remedy the problem cited for the work stoppage.

7.0. OPERATING RULES AND LAWS

Licensee represents, warrants, and agrees that it will conduct its activities on the Easement in compliance with all applicable environmental laws, ordinances, rules, regulations and policies and shall comply with all federal, state and local laws, ordinances, rules, regulations and policies applicable to its construction and operations under this License.

8.0 CULTURAL VALUES

Should evidence of historical, archeological, or paleontological sites be discovered in the course of Licensee's construction or use of the Easement, Licensee shall immediately suspend construction or operations and advise the District. Licensee acknowledges the existence of an agreement between the District and the State of Texas and/or the State Historical Preservation Officer for the State of Texas and accepts this License subject to all provisions of such agreement.

9.0 CONCEALED CONDITIONS OR OBSTACLES

Licensee accepts the Easement in its existing condition. Except to the extent liable under the Texas Tort Claims Act, District shall not be responsible for any condition (open or concealed), defects, or obstacles encountered by Licensee, and District makes no warranties or representations related to any condition of the Easement.

10.0 INTERFERENCE PROHIBITED

Licensee's activities shall be conducted so as not to interfere with the operation, maintenance or administration by District of its water improvement district and its facilities. Licensee shall reimburse District for any documented repairs, maintenance or expense required or incurred by District, which repair, maintenance, or expense is caused by Licensee's activities on the Easement. Licensee shall make such reimbursement within 30 days after written notice to Licensee.

11.0 USE LIMITATION

11.1 Use of the Easement by Licensee is limited to those uses specified in this License. This License (a) does not grant any rights to water; and (b) does not allow Licensee to restrict entry or use by District, its agents, servants, employees, constructors, or invitees to the Easement, or any surface, subsurface or aerial portions of it.

11.2 Licensee shall never dedicate, grant, or convey any right to this Easement to a third party without the prior written consent of District. Any dedication, grant, or conveyance of any right to this Easement by the Licensee, including but not limited to, dedication,

grant, or conveyance of a public highway, street, or roadway, without the prior written consent of District shall not be valid and shall constitute a breach of the obligations imposed upon Licensee under this License and entitle District to invoke any remedy District may have under the terms of this License or otherwise by law.

12.0 INDEMNITY AND INSURANCE

12.1 To the maximum extent allowable by law, Licensee agrees to indemnify and hold the District and its officers, directors, employees, engineers, attorneys, and agents harmless from any and all liability, loss, claims, demands or actions arising out of or resulting from injury to or death of persons, or damage to or loss of property, including environmental damage, in connection with Licensee's use of or presence on the Easement; but in each instance, only to the extent the liability, loss, claim, demand, or action is determined attributable to Licensee's negligence, gross negligence, strict liability in tort or willful misconduct. This provision shall survive the expiration or earlier termination of this License.

12.2 At all times during the term of this License, Licensee agrees to procure and maintain in force, at its expense, a commercial general liability insurance policy adequate to protect District against liability for damage claims through use of or arising out of accidents occurring in and around the Easement, in minimum coverage amounts acceptable to District. Such insurance policy shall name District as an additional insured and contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days' prior written notice has been given to District. Licensee shall provide to District, at the time this License is presented for approval by District's governing body, a certificate evidencing such insurance coverage. Licensee shall ensure that District is furnished evidence, satisfactory to District, of continuation of such insurance each year during the term of this License. If the Licensee is a governmental entity and is self-insured, then at all times during the term of this License, Licensee agrees to self insure against liability for damage claims through use of or arising out of accidents occurring in and around the Easement in minimum amount of coverage amounts acceptable to the District. Licensee shall provide to District, at the time this License is presented for approval by District's governing body, a letter evidencing such self insurance coverage. Licensee shall ensure that District is furnished evidence, satisfactory to District, of continuation of such insurance each year during the term of this License. The insurance requirements contained herein are not intended nor shall inure to the benefit of any third party.

12.3 District shall have no liability to Licensee for any damage to Licensee's property on the Easement, and Licensee shall hold District, its officers, directors, employees,

engineers, attorneys, and agents harmless from any claim, damage, or demand resulting from such damage.

13.0 MAINTENANCE

13.1. Licensee shall be responsible for any and all maintenance associated with Licensee's use of its facilities in the Easement. Such maintenance shall include, but not be limited to: (a) repair and upkeep of the Easement and Licensee's facilities located thereon; (b) removal of deposited sediment, trash, weeds, and other debris from within the Easement; (c) control of vectors and other pests associated with the Easement and Licensee's facilities located thereon. Such maintenance shall be conducted by Licensee as needed, annually or on written request by District, between the end of each irrigation season and December 31, or at other times upon written notification by District or Licensee. Such maintenance shall not interfere in any manner whatsoever with the construction, operation, and maintenance of any part of District's facilities or the Rio Grande Reclamation Project. District shall be notified at least forty-eight (48) hours in advance of any planned maintenance, unless under emergency conditions when notification shall be timely. Any violation by Licensee of its maintenance obligation as set forth in this section shall constitute a breach of this License by Licensee and shall entitle District to invoke any and all remedies provided under this License or otherwise by law.

13.2 Damage to District's Facilities. In addition to all other remedies provided under this License and by law to District, Licensee shall repair or reimburse the District for the repair costs and any other actual damages to the District's facilities, which damages are caused by Licensee's maintenance, operation, or use of the Easement, whether or not such damages are caused by Licensee's negligence or Act of God.

14.0 NO WARRANTY OF TITLE

District makes no warranties or representations of title or interest in the Easement or legal authority to make this License. This License is granted only to the extent of District's interest, if any, in the Easement and is subject to all prior and existing leases, easements, licenses, and other rights of use pertaining to the site of the Easement.

15.0 DEFAULT

In the event of any breach by Licensee in the performance of any term or condition of this License which breach continues for thirty (30) days after written notice from District of such breach, District may declare a default and terminate this License without further notice, and/or invoke any other remedy provided by this license or law or equity,

including without limitation, injunctive relief and damages without refund of any consideration or of any amounts previously paid to District by Licensee.

16.0 USE OF EASEMENT BY DISTRICT

District retains and reserves all right, title and interest in the Easement and in the site of the Easement, and shall continue to enjoy the use of the Easement, including all surface, subsurface and aerial portions, for any and all purposes not inconsistent with the use granted to Licensee by this License. District shall have the right to use the Easement without payment to Licensee.

17.0 NOTICES

17.1 All notices, requests, demands, and other communications required by or made in connection with this License shall be in writing and shall be deemed given in personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Licensee, to:

The City of El Paso
2 Civic Center Plaza, 4th Floor of City Hall
El Paso, Texas 79901
Phone (915) 541-4200
Fax (915) 541-4441

If to District, to:

General Manager
El Paso County Water Improvement District No. 1
P.O. Box 749
Clint, Texas 79836-0749
Phone (915) 872-4000
Fax (915) 851-0816

17.2 Any notice given in accordance with this Section shall be deemed received upon receipt if by personal delivery, two (2) days after deposit in the U.S. Mail if sent certified mail, or the following business day if sent by overnight carrier.

17.3 District and Licensee shall promptly notify the other party of any changes in address, telephone number or facsimile number.

18.0 EXPIRATION OR TERMINATION

18.1 Within sixty (60) days after expiration or termination of this License, Licensee shall remove all of the Licensee's facilities from the Easement and shall restore the site of the Easement to the condition that such Easement existed at the commencement of this License or to a condition that is reasonably close to the condition that such Easement existed at the commencement of this License and is approved in writing by the District. Upon Licensee's failure to remove its facilities from the Easement within sixty (60) days after the expiration, termination, or revocation of this License, Licensee shall pay District for all of District's expenses related to removal of the facilities.

18.2 Any illegal use of or illegal activity by the License on the Easement or the site of the Easement shall be cause for immediate termination of this License.

19.0 ENTIRE AGREEMENT

This License contains the entire agreement between the parties and supersedes previous agreements or licenses, if any, relating to the subject matter of this License. Any oral representations or modifications concerning this License shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by the parties.

20.0 ASSIGNMENT

The Licensee may assign this License to any successor to the Licensee whether by merger, consolidation, sale of assets, or otherwise; provided that successor shall be bound by and comply with the terms of this License, that the successor is in good standing with the District, and that the Licensee first obtain the written approval of the District.

21.0 TEXAS LAW TO APPLY

This License is to be construed under Texas law. Venue for any suit brought on this License by either party shall be El Paso County, Texas in a court of competent jurisdiction.

22.0 SEVERABILITY

If any one or more of the provisions contained in this License are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision of this License, which will be construed as if it had not included the invalid, illegal, or unenforceable provision, provided such provision or provisions are not essential to the substance of this License. If such provision or provisions are essential to the substance of this License, this License

shall be deemed null and void, and there shall be no refund of any consideration paid in connection with this License.

23.0 RIGHTS AND REMEDIES CUMULATIVE

The rights and remedies provided by this License are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

24.0 ATTORNEY'S FEES

If, as a result of either party's default under this License, the other party employs an attorney or attorneys to enforce its rights under this License, then the party adjudged to be in default will pay the other party the reasonable attorney's fees and costs incurred to enforce the License.

25.0 TITLES

The titles of the articles, paragraphs, and sections of this License are intended for the convenience of the parties and shall have no effect and shall neither limit nor amplify the provisions of this License.

26.0 RECORDING OF LICENSE

The District may record this License with the Real Property Records of El Paso County, Texas.

27.0 APPLICATION TO USE DISTRICT REAL PROPERTY

This License is granted, in part, based in the reliance on the information supplied and the interpretation made by the Licensee to the District in the Licensee's "Application to Use District Property" and that such information was true and correct. Should any part of such information be determined by the District to be incorrect or wrong, this License may be reevaluated by the District. If this License, based on the correct information, is found by the District to be detrimental to the District interests, then the Licensee may be determined by the District to be in breach and invoke the provisions of Section 15 of this License.

28.0 DISCHARGE OF NON-AGRICULTURAL STORM WATER OR RUNOFF

This license does not permit the discharge of any kind into the District's drainage or irrigation canals or other facilities. Such prohibited discharges included, but are not limited to, non-agricultural storm water, runoff from non agricultural land, groundwater, effluent, sewage, or chemicals of any kind, with the single exception that if the location of the easement in consideration under this License is within the City of El Paso's Extra Territorial Jurisdiction, and the Licensee plans on discharging storm water runoff, the Licensee must obtain written permission from the City of El Paso for the term of this License to discharge storm water and the Licensee must provide a copy of such permission to the District. All types of discharge other than storm water permitted and approved by the City of El Paso are prohibited and any other discharge by the Licensee shall be reasons for immediate termination, without notice, of this License by the District.

29.0 ADEQUACY OF FACILITIES

By executing this License, the Licensee acknowledges that District makes no warranty, promises, or conditions regarding the adequacy of the District's facilities, including but not limited to the District's drainage and irrigation canals, to convey water, including storm water runoff or flood water. The Licensee further acknowledges that during flooding water may flow from the District facilities and flood the easement under considered under this license, the Licensee's land, property, and/or facilities, and to the maximum extent allowable by law, Licensee agrees to indemnify and hold the District and its officers, directors, employees, engineers, attorneys, and agents harmless from any and all liability, loss, claims, demands or actions arising out of or resulting from injury to or death of persons, or damage to or loss of property, including environmental damage, in connection with any flooding or storm water that may result, in part or in full, because of the Licensee use of the easement considered under this License.

30.0 CONSTRUCTION CONTRACTOR

Licensee shall incorporate the terms and conditions of this License in any construction contract applicable to this License. Any contractor employed by Licensee shall, in its contract with Licensee, expressly assume performance of the work subject to the terms and conditions of this License.

IN WITNESS WHEREOF, the parties have executed this License in duplicate counterparts, each of which has the full force and effect of an original. This License is effective on the date written below on the signature line for the District:

El Paso County Water Improvement District No. 1

By: _____ Date: _____

JOHNNY STUBBS
President, Board of Directors

Licensee: The City of El Paso

By: _____ Date: _____

Printed Name: _____ Title: _____

WITNESS THE FOLLOWING SIGNATURES:

LICENSEE: CITY OF EL PASO:

Joyce Wilson, City Manager

Date: _____

APPROVED AS TO FORM:



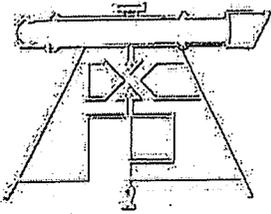
Mark Shosmith
Assistant City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer

EXHIBIT "A"



Frank X. Spencer, P.E., R.P.L.S.

Frank X. Spencer & Associates, Inc.

Consulting Civil Engineers & Surveyors
1130 Montana * El Paso, Texas 79902

(915) 533-4600
FAX (915) 533-4673
e-mail: elpaso@fxsa.com

METES AND BOUNDS DESCRIPTION

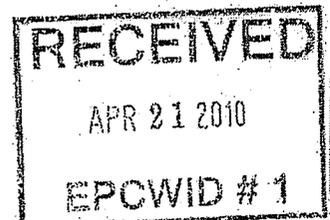
A 0.309 ACRES (13,440 S.F.) OF LAND OUT OF MONTOYA DRAIN, WITHIN BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a recovered ½" iron pipe at the centerline intersection of {Country Club Drive a (60-foot right-of-way) and Love Road (60-foot right-of-way) (called for on the original County Surveyors field notes, Field Book No. PS19, Page 27, for the maps of Upper Valley Surveys Block 4, dated November 1929, and Block 5 dated December 1929)} from which a county monument at the intersection of Country Club Drive and Country Club Place a 50-foot right-of-way (called for on the original County Surveyors field notes, Field Book No. PS19, Page 27, for the maps of Upper Valley Surveys Block 4, dated November 1929, and Block 5, dated December 1929) bears North 74°04'25" West, (North 77°17'00" West Record) a distance of 1106.89 feet; **Thence**, North 40°55'45" West, a distance of 2958.00 feet to a concrete nail set on the top of wall on the common boundary line of the Montoya Drain, Book 946, Page 704, Deed Records, El Paso County, Texas, and the westerly boundary line of Lot 4, Block 4, Country Club Estates Unit Two, Book 58, Page 55, Plat Records, El Paso County, Texas, for the **POINT OF BEGINNING** of this description, having a State Plane coordinate value of N: 10,690,824.77, E: 353,327.59 (Texas Central Zone 4203) from which Horizontal Control Station "Chino" bears North 11°24'45" East, a distance of 27,433.47 feet, having a State Plane value of N: 10,717,710.86, E: 358,754.95;

THENCE, North 83°54'33" West, a distance of 120.84 feet, to a 5/8 "rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the common boundary line of a 20 foot ditch as shown on the plat of Los Arcos Unit Three, Book 34, Page 12, Plat Records, El Paso County, Texas and the and the westerly right-of-way line of the Montoya Drain.

THENCE, North 00°43'08" East, along the westerly right-of-way line of the Montoya Drain, a distance of 20.13 feet, to a 5/8 "rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the southerly right-of-way line of Lindbergh Drive (60-foot right-of-way);

THENCE, North 02°04'53" East, along the westerly right-of-way line of the Montoya Drain a distance of 49.56 feet, to a 5/8 "rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the northerly right-of-way line of Lindbergh Drive and the easterly boundary line of a 20 foot Ditch shown on the plat of the Supplementary Map of Thomas Place Subdivision in Book 16, Page 3, Plat Record, El Paso County, Texas;



All 25

THENCE, North 03°57'39" East, along the westerly right-of-way line of the Montoya drain, a distance of 42.30 feet, to a point;

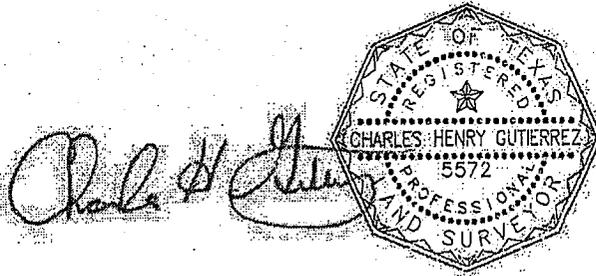
THENCE, South 83°46'44" East, a distance of 119.97 feet, to a 5/8 " rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the common boundary line of the westerly line of tract of land known as Warrior Road, in Book 1251, Page 0129, Deed Records, El Paso County, Texas, and the easterly right-of-way line of Montoya Drain.

THENCE, South 03°46'28" West, along the easterly right-of-way line of Montoya Drain, a distance of 36.25 feet, to a point on the northerly right-of-way line of Lindbergh Drive and the southwest corner of Warrior Road,

THENCE, South 01°32'44" West, along the easterly right-of-way line of Montoya Drain, a distance of 49.60 feet, to a 5/8 " rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the southerly right-of-way line of Lindbergh Drive and the northeasterly corner of a 10 foot street dedication in, Country Club Estates Unit 2, and the original southerly right-of-way.

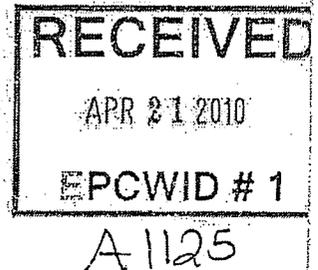
THENCE, South 00°46'17" West, along the easterly right-of-way line of Montoya Drain, a distance of 25.93 feet, to the **POINT OF BEGINNING**, containing 0.309 Acres (13,440 S.F.) of land, more or less.

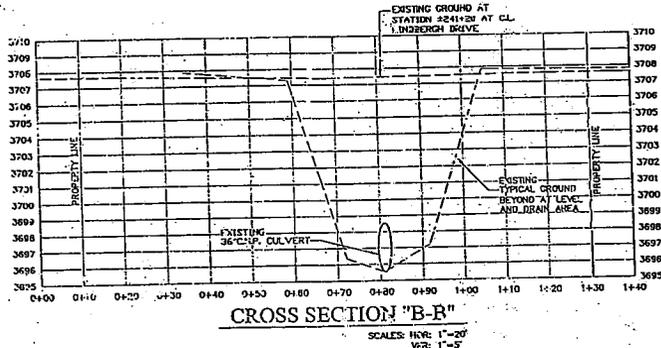
Frank X. Spencer & Associates, Inc.



Charles Gutierrez, RPLS
Texas License No. 5572

Date: 04/21/10





SURVEY REPORT:

Montoya Drain
 The map of Block 5, Upper Valley dated October 1929, done for tax map purposes, was used for this survey. After intense investigation, it was discovered that everything west from the Montoya Drain did not match everything east of the Montoya Drain Monument. Along Country Club Drive and monumentation along Lindbergh Drive was found and revealed a discrepancy that the centerline alignment of Lindbergh from the Rail Road to the Montoya Drain did not match North and South.

In addition, the map of Block 5, Upper Valley never indicates a mathematical distance across the Montoya Drain. The only mathematical connection is in the physical monuments in the ground along Country Club Drive and monumentation within Tierras Place Subdivision and physical monuments throughout the entire Block 5, Upper Valley Survey. The mathematical projections somewhat match line bearings and distances given for in the original County Surveyor's field notes, (field Book No. 1519 Page 27, for the map of Upper Valley Block 4, dated November 1929, and Block 5, dated December 1929, from the Rail Road to the Montoya Road within 1.5').

This survey was conducted by the method of "best fit scenario," so there may be minor discrepancies shown because of existing physical monumentation. On this survey discovery indicates large sections of land within Montoya Drain area north of Lindbergh Drive near Warrior Road. The deed for Warrior Road (Block 2254, Page 2125, Field Records, El Paso County, Texas) calls to adjoin the Montoya Drain. Therefore, within the Montoya Drain were held as approximately 126,000 sq. ft. respecting all four physical monuments. The physical monuments were also inspected and indicated an access of land between the two highways.

Physically Warrior Road is adjacent to the Montoya Drain, but technically it does by a cutting in adjacent to the road. In my professional opinion, under the rules of apportionment or land, when dealing with access, public right are not entitled to any apportionment and are not needed for this survey. Therefore, a gap or a gap exists between the Montoya Drain and Warrior Road north of Lindbergh Drive.

NOTE:

BENCHMARK:
 DESIGNATION: WEST 4

LOCATED IN EL PASO, TX AT THE INTERSECTION OF DONIPHAN DRIVE AND REDD ROAD, 17.6M (57.7 FT) EAST OF THE DRIVE CENTERLINE, 9.2M (30.2 FT) SOUTH OF THE CENTER OF WESTBOUND LANES OF THE ROAD, 9.5M (21.3 FT) NORTH OF THE CENTERLINE OF THE EASTBOUND LANES OF THE ROAD, 2.5M (8.5 FT) EAST OF THE WEST END OF THE MEDIAN CURB OF THE ROAD, AND 0.9M (3.0 FT) EAST OF A SIGN POST. NOTE: ACCESS TO THE MONUMENT IS THROUGH A 10 FOOT MANHOLE COVER PRECAST CITY OF EL PASO HORIZONTAL CONTROL.

ELEVATION= 3702.22 U.S.F.T.
 DESIGNATION: CSDNO

LOCATED AT 0.6KM (0.35MI) SOUTHERLY ALONG DONIPHAN DRIVE (STATE HIGHWAY 201) FROM THE POST OFFICE IN CANUTILLO, THENCE 1.9KM (1.19MI) EASTERLY ALONG STATE HIGHWAY LOOP 375, THENCE 1.7KM (1.05MI) NORTHERLY ALONG THE EAST INTERSTATE HIGHWAY TO FRONTAGE ROAD, 18.2M (59.7 FT) EAST OF THE ROAD CENTERLINE, 8.5M (27.9 FT) WEST OF REFERENCE MARK 1, 7.6M (24.9 FT) SOUTH OF REFERENCE MARK 2, 3.0M (9.8 FT) ABOVE THE LEVEL OF ROAD, 0.2M (0.7 FT) WEST OF A WITNESS POST, AND THE MONUMENT IS RECESSED 0.1M (0.3 FT) BELOW THE GROUND SURFACE.

ELEVATION= 3902.41 U.S.F.T.

(TO CONVERT TO NAVD 1988 ADD 43.70 TO UNITS STATES RECLAMATION SERVICE DATUM).

SET #1 REBAR WITH ALUMINUM CAP LABELED 'FXSA R.P.L.S. 2198'

SET #2 REBAR WITH ALUMINUM CAP LABELED 'FXSA R.P.L.S. 2198'

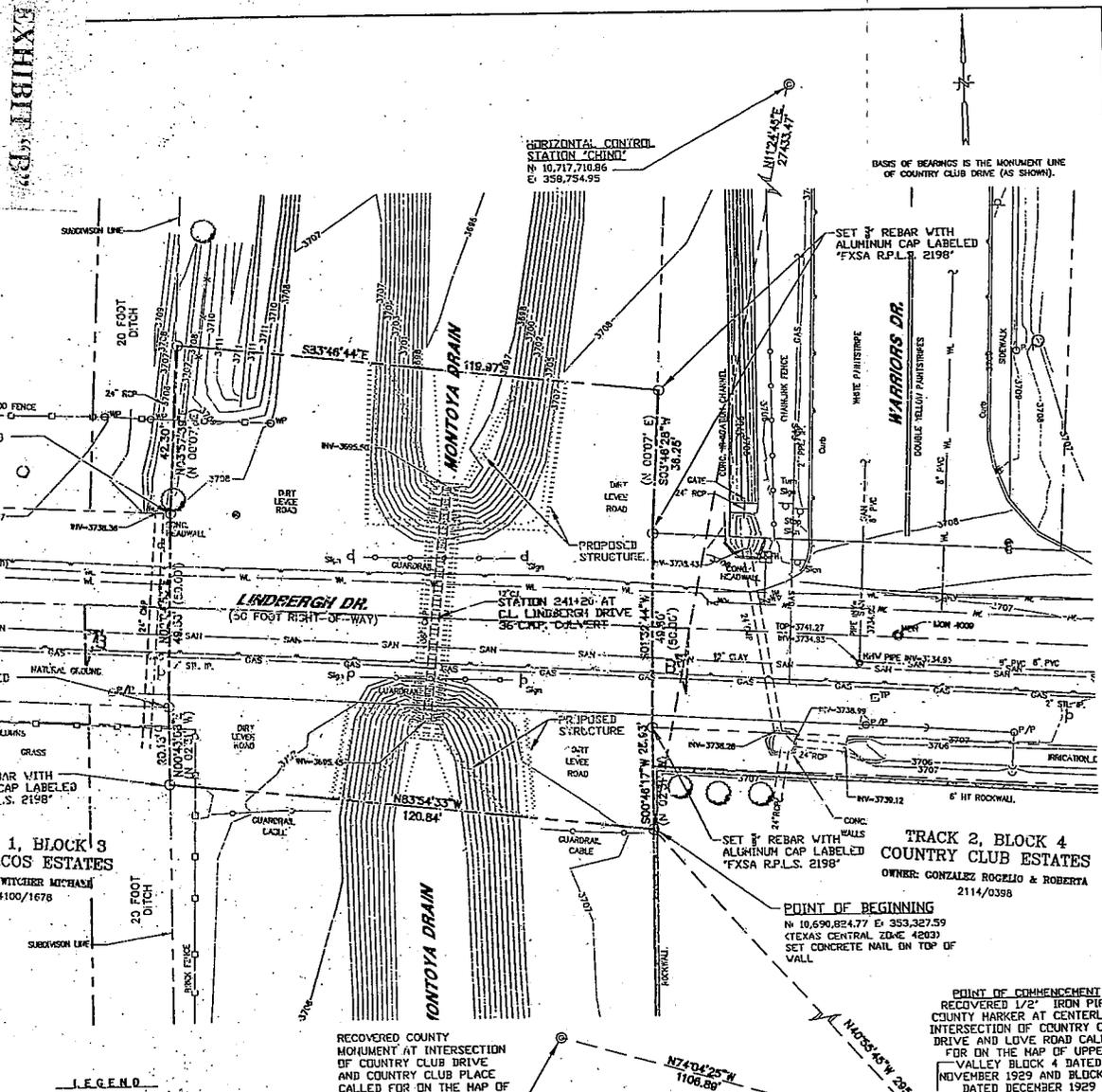
SET #3 REBAR WITH ALUMINUM CAP LABELED 'FXSA R.P.L.S. 2198'

**TRACK 1, BLOCK 3
 LOS ARCOS ESTATES**
 OWNER: WITCHER MCRAM
 4100/1678

**TRACK 2, BLOCK 4
 COUNTRY CLUB ESTATES**
 OWNER: GONZALEZ ROGELIO & ROBERTA
 2114/0388

POINT OF BEGINNING
 N 10.690,82477 E 353,327.59
 (TEXAS CENTRAL ZONE 4203)
 SET CONCRETE NAIL ON TOP OF WALL

POINT OF COMMENCEMENT
 RECOVERED 1/2" IRON PIPE COUNTY HARKER AT CENTERLINE INTERSECTION OF COUNTRY CLUB DRIVE AND LOVE ROAD CALLED FOR ON THE MAP OF UPPER VALLEY BLOCK 4 DATED NOVEMBER 1929 AND BLOCK 5 DATED DECEMBER 1929



LEGEND

RECOVERED MONUMENT AS NOTED

I HEREBY CERTIFY TO THE EL PASO COUNTY WATER IMPROVEMENT DISTRICT THAT THIS SURVEY PLAT MEETS ALL CURRENT DISTRICT SURVEY REQUIREMENTS ENACTED IN THE DISTRICT'S ENGINEERING DEPARTMENT STANDARD OPERATING PROCEDURES.

THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 2 CONDITION IV SURVEY.

SURVEYED APRIL 2010



04/21/10 DATE
 CHARLES HENRY GUIASABIEZ
 Registered Professional Land Surveyor #5572

PARCEL AREA
 0.309 acres
 13,440 sq.ft.

SURVEY PLAT OF A 0.309 ACRES (13,440 S.F.) OF LAND OUT OF MONTOYA DRAIN, WITHIN BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS

DATE: 04-21-2010
 SCALE: 1"=20'
 SURVEY DATE: APRIL 09, 2010

FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Land Surveyors
 1100 MONTANA AVE.
 EL PASO, TEXAS 79902
 P.O. BOX 533-4800
 TEL: 915-533-4812
 FAX: 915-533-4812

RECEIVED
 APR 21 2010
 EPCWID # 1

A1125

LICENSE FOR PRIVATE-USE OF DISTRICT REAL PROPERTY

The City of El Paso - 1 -60" Reinforced Concrete Pipe

Within Montoya Lateral Canal "Branch A" at Station 30+29

This License is entered into between the El Paso County Water Improvement District No. 1, a political subdivision of the State of Texas existing pursuant to Article XVI, Section 59, of the Constitution of the State of Texas ("District"), and The City of El Paso ("Licensee"), a home-rule municipal corporation.

WITNESSETH

In consideration of the mutual covenants and agreements of this License and other good and valuable consideration, the parties agree as follows:

1.0 PURPOSE OF LICENSE

Subject to the terms and conditions described herein, this License is for the sole purpose of the Licensee's use to construct, operate, install, maintain, inspect, repair, replace, or remove 1 -60" Reinforced Concrete Pipe at the location shown as the "Easement" described and depicted on the survey drawings and field notes attached as Exhibit "A", being a total surface area of 6208 square feet, and engineering drawing attached as Exhibit "B"; all of which are fully incorporated herein by this reference. The purpose of the Easement is limited to the private use of the Licensee and the Easement shall not be used for public, community, or third-party purposes, except in accordance with Section 11 below. Any substantial or significant addition or changes to the use set forth in the application for this License may require administrative review and a reasonable fee for such review.

2.0 TERM OF LICENSE

The term of this License shall be for fifty (50) years commencing on April 28, 2010, (the Commencement Date) and expiring at midnight April 27, 2060, (the Expiration Date).

3.0 CONSIDERATION

This License is granted for good and valuable consideration including Licensee's payment to District of the sum of \$9,312.00 upon execution of this License.

4.0 LICENSE RENEWAL

Licensee may request that the District renew this License for a fifty (50) year term so long as Licensee has not breached the terms and conditions of this License during the

initial term. Licensee shall make such request by written notice to the District at least sixty (60) days prior to the Expiration Date. Prior to the effective date of any renewal of this License, Licensee shall pay to the District a fee to be negotiated by the District and Licensee. **THE DISTRICT RETAINS THE RIGHT TO DENY ANY REQUEST TO RENEW THIS LICENSE FOR ANY REASON.** Nothing in this License shall prevent Licensee from exercising its eminent domain powers.

5.0 RIGHT OF INGRESS AND EGRESS

The District grants to Licensee the right of ingress and egress to the Easement for the purposes identified in this License in Section 1.0 set out above, provided that the Licensee shall not disturb or interfere with District's use of the Easement or any other property of District, including without limitation any surface, subsurface or aerial portions.

6.0 COORDINATION OF CONSTRUCTION

6.1 Licensee agrees to give notice to the District and coordinate with the District's Maintenance Supervisor forty-eight (48) hours prior to any construction by Licensee, its agent(s) or contractor(s) on the Easement. To the extent any construction on the Easement may have already commenced, the District shall have the right to inspect and review such construction to determine whether the same meets the District's Design Standards in effect at the time such inspection or review is done by the District. If the District determines that any part of such construction does not meet the District's Design Standards, then within twenty-one (21) calendar days after written notification from District, the Licensee shall modify or reconstruct any such construction in a manner consistent with the District's Design Standards, as well as applicable federal, state, local laws, and the National Electrical Safety Code (NESC) standards.

6.2 If the District determines that any part of such construction does not comply with the Application To Use District Property submitted by Licensee, does not meet the District's Design Standards, or interferes with the operation, maintenance or administration by the District of its facilities, the District shall have the right to order, on not less than three (3) hours written notice from the District's General Manager, that all construction cease until corrective action taken by Licensee, its contractors or agents which, in the sole and absolute judgment of the District's licensed engineer, is adequate to remedy the problem cited for the work stoppage.

7.0. OPERATING RULES AND LAWS

Licensee represents, warrants, and agrees that it will conduct its activities on the Easement in compliance with all applicable environmental laws, ordinances, rules, regulations and policies and shall comply with all federal, state and local laws, ordinances, rules, regulations and policies applicable to its construction and operations under this License.

8.0 CULTURAL VALUES

Should evidence of historical, archeological, or paleontological sites be discovered in the course of Licensee's construction or use of the Easement, Licensee shall immediately suspend construction or operations and advise the District. Licensee acknowledges the existence of an agreement between the District and the State of Texas and/or the State Historical Preservation Officer for the State of Texas and accepts this License subject to all provisions of such agreement.

9.0 CONCEALED CONDITIONS OR OBSTACLES

Licensee accepts the Easement in its existing condition. Except to the extent liable under the Texas Tort Claims Act, District shall not be responsible for any condition (open or concealed), defects, or obstacles encountered by Licensee, and District makes no warranties or representations related to any condition of the Easement. .

10.0 INTERFERENCE PROHIBITED

Licensee's activities shall be conducted so as not to interfere with the operation, maintenance or administration by District of its water improvement district and its facilities. Licensee shall reimburse District for any documented repairs, maintenance or expense required or incurred by District, which repair, maintenance, or expense is caused by Licensee's activities on the Easement. Licensee shall make such reimbursement within 30 days after written notice to Licensee.

11.0 USE LIMITATION

11.1 Use of the Easement by Licensee is limited to those uses specified in this License. ~~This License (a) does not grant any rights to water; and (b) does not allow Licensee to restrict entry or use by District, its agents, servants, employees, constructors, or invitees to the Easement, or any surface, subsurface or aerial portions of it.~~

11.2 Licensee shall never dedicate, grant, or convey any right to this Easement to a third party without the prior written consent of District. Any dedication, grant, or conveyance of any right to this Easement by the Licensee, including but not limited to, dedication,

grant, or conveyance of a public highway, street, or roadway, without the prior written consent of District shall not be valid and shall constitute a breach of the obligations imposed upon Licensee under this License and entitle District to invoke any remedy District may have under the terms of this License or otherwise by law.

12.0 INDEMNITY AND INSURANCE

12.1 To the maximum extent allowable by law, Licensee agrees to indemnify and hold the District and its officers, directors, employees, engineers, attorneys, and agents harmless from any and all liability, loss, claims, demands or actions arising out of or resulting from injury to or death of persons, or damage to or loss of property, including environmental damage, in connection with Licensee's use of or presence on the Easement; but in each instance, only to the extent the liability, loss, claim, demand, or action is determined attributable to Licensee's negligence, gross negligence, strict liability in tort or willful misconduct. This provision shall survive the expiration or earlier termination of this License.

12.2 At all times during the term of this License, Licensee agrees to procure and maintain in force, at its expense, a commercial general liability insurance policy adequate to protect District against liability for damage claims through use of or arising out of accidents occurring in and around the Easement, in minimum coverage amounts acceptable to District. Such insurance policy shall name District as an additional insured and contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days' prior written notice has been given to District. Licensee shall provide to District, at the time this License is presented for approval by District's governing body, a certificate evidencing such insurance coverage. Licensee shall ensure that District is furnished evidence, satisfactory to District, of continuation of such insurance each year during the term of this License. If the Licensee is a governmental entity and is self-insured, then at all times during the term of this License, Licensee agrees to self insure against liability for damage claims through use of or arising out of accidents occurring in and around the Easement in minimum amount of coverage amounts acceptable to the District. Licensee shall provide to District, at the time this License is presented for approval by District's governing body, a letter evidencing such self insurance coverage. Licensee shall ensure that District is furnished evidence, satisfactory to District, of continuation of such insurance each year during the term of this License. The insurance requirements contained herein are not intended nor shall inure to the benefit of any third party.

12.3 District shall have no liability to Licensee for any damage to Licensee's property on the Easement, and Licensee shall hold District, its officers, directors, employees,

engineers, attorneys, and agents harmless from any claim, damage, or demand resulting from such damage.

13.0 MAINTENANCE

13.1. Licensee shall be responsible for any and all maintenance associated with Licensee's use of its facilities in the Easement. Such maintenance shall include, but not be limited to: (a) repair and upkeep of the Easement and Licensee's facilities located thereon; (b) removal of deposited sediment, trash, weeds, and other debris from within the Easement; (c) control of vectors and other pests associated with the Easement and Licensee's facilities located thereon. Such maintenance shall be conducted by Licensee as needed, annually or on written request by District, between the end of each irrigation season and December 31, or at other times upon written notification by District or Licensee. Such maintenance shall not interfere in any manner whatsoever with the construction, operation, and maintenance of any part of District's facilities or the Rio Grande Reclamation Project. District shall be notified at least forty-eight (48) hours in advance of any planned maintenance, unless under emergency conditions when notification shall be timely. Any violation by Licensee of its maintenance obligation as set forth in this section shall constitute a breach of this License by Licensee and shall entitle District to invoke any and all remedies provided under this License or otherwise by law.

13.2 Damage to District's Facilities. In addition to all other remedies provided under this License and by law to District, Licensee shall repair or reimburse the District for the repair costs and any other actual damages to the District's facilities, which damages are caused by Licensee's maintenance, operation, or use of the Easement, whether or not such damages are caused by Licensee's negligence or Act of God.

14.0 NO WARRANTY OF TITLE

District makes no warranties or representations of title or interest in the Easement or legal authority to make this License. This License is granted only to the extent of District's interest, if any, in the Easement and is subject to all prior and existing leases, easements, licenses, and other rights of use pertaining to the site of the Easement.

15.0 DEFAULT

In the event of any breach by Licensee in the performance of any term or condition of this License which breach continues for thirty (30) days after written notice from District of such breach, District may declare a default and terminate this License without further notice, and/or invoke any other remedy provided by this license or law or equity,

including without limitation, injunctive relief and damages without refund of any consideration or of any amounts previously paid to District by Licensee.

16.0 USE OF EASEMENT BY DISTRICT

District retains and reserves all right, title and interest in the Easement and in the site of the Easement, and shall continue to enjoy the use of the Easement, including all surface, subsurface and aerial portions, for any and all purposes not inconsistent with the use granted to Licensee by this License. District shall have the right to use the Easement without payment to Licensee.

17.0 NOTICES

17.1 All notices, requests, demands, and other communications required by or made in connection with this License shall be in writing and shall be deemed given in personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Licensee, to:

The City of El Paso
2 Civic Center Plaza, 4th Floor of City Hall
El Paso, Texas 79901
Phone (915) 541-4200
Fax (915) 541-4441

If to District, to:

General Manager
El Paso County Water Improvement District No. 1
P.O. Box 749
Clint, Texas 79836-0749
Phone (915) 872-4000
Fax (915) 851-0816

17.2 Any notice given in accordance with this Section shall be deemed received upon receipt if by personal delivery, two (2) days after deposit in the U.S. Mail if sent certified mail, or the following business day if sent by overnight carrier.

17.3 District and Licensee shall promptly notify the other party of any changes in address, telephone number or facsimile number.

18.0 EXPIRATION OR TERMINATION

18.1 Within sixty (60) days after expiration or termination of this License, Licensee shall remove all of the Licensee's facilities from the Easement and shall restore the site of the Easement to the condition that such Easement existed at the commencement of this License or to a condition that is reasonably close to the condition that such Easement existed at the commencement of this License and is approved in writing by the District. Upon Licensee's failure to remove its facilities from the Easement within sixty (60) days after the expiration, termination, or revocation of this License, Licensee shall pay District for all of District's expenses related to removal of the facilities.

18.2 Any illegal use of or illegal activity by the License on the Easement or the site of the Easement shall be cause for immediate termination of this License.

19.0 ENTIRE AGREEMENT

This License contains the entire agreement between the parties and supersedes previous agreements or licenses, if any, relating to the subject matter of this License. Any oral representations or modifications concerning this License shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by the parties.

20.0 ASSIGNMENT

The Licensee may assign this License to any successor to the Licensee whether by merger, consolidation, sale of assets, or otherwise; provided that successor shall be bound by and comply with the terms of this License, that the successor is in good standing with the District, and that the Licensee first obtain the written approval of the District.

21.0 TEXAS LAW TO APPLY

This License is to be construed under Texas law. Venue for any suit brought on this License by either party shall be El Paso County, Texas in a court of competent jurisdiction.

22.0 SEVERABILITY

If any one or more of the provisions contained in this License are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision of this License, which will be construed as if it had not included the invalid, illegal, or unenforceable provision, provided such provision or provisions are not essential to the substance of this License. If such provision or provisions are essential to the substance of this License, this License

shall be deemed null and void, and there shall be no refund of any consideration paid in connection with this License.

23.0 RIGHTS AND REMEDIES CUMULATIVE

The rights and remedies provided by this License are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

24.0 ATTORNEY'S FEES

If, as a result of either party's default under this License, the other party employs an attorney or attorneys to enforce its rights under this License, then the party adjudged to be in default will pay the other party the reasonable attorney's fees and costs incurred to enforce the License.

25.0 TITLES

The titles of the articles, paragraphs, and sections of this License are intended for the convenience of the parties and shall have no effect and shall neither limit nor amplify the provisions of this License.

26.0 RECORDING OF LICENSE

The District may record this License with the Real Property Records of El Paso County, Texas.

27.0 APPLICATION TO USE DISTRICT REAL PROPERTY

This License is granted, in part, based in the reliance on the information supplied and the interpretation made by the Licensee to the District in the Licensee's "Application to Use District Property" and that such information was true and correct. Should any part of such information be determined by the District to be incorrect or wrong, this License may be reevaluated by the District. If this License, based on the correct information, is found by the District to be detrimental to the District interests, then the Licensee may be determined by the District to be in breach and invoke the provisions of Section 15 of this License.

28.0 DISCHARGE OF NON-AGRICULTURAL STORM WATER OR RUNOFF

This license does not permit the discharge of any kind into the District's drainage or irrigation canals or other facilities. Such prohibited discharges included, but are not limited to, non-agricultural storm water, runoff from non agricultural land, groundwater, effluent, sewage, or chemicals of any kind, with the single exception that if the location of the easement in consideration under this License is within the City of El Paso's Extra Territorial Jurisdiction, and the Licensee plans on discharging storm water runoff, the Licensee must obtain written permission from the City of El Paso for the term of this License to discharge storm water and the Licensee must provide a copy of such permission to the District. All types of discharge other than storm water permitted and approved by the City of El Paso are prohibited and any other discharge by the Licensee shall be reasons for immediate termination, without notice, of this License by the District.

29.0 ADEQUACY OF FACILITIES

By executing this License, the Licensee acknowledges that District makes no warranty, promises, or conditions regarding the adequacy of the District's facilities, including but not limited to the District's drainage and irrigation canals, to convey water, including storm water runoff or flood water. The Licensee further acknowledges that during flooding water may flow from the District facilities and flood the easement under considered under this license, the Licensee's land, property, and/or facilities, and to the maximum extent allowable by law, Licensee agrees to indemnify and hold the District and its officers, directors, employees, engineers, attorneys, and agents harmless from any and all liability, loss, claims, demands or actions arising out of or resulting from injury to or death of persons, or damage to or loss of property, including environmental damage, in connection with any flooding or storm water that may result, in part or in full, because of the Licensee use of the easement considered under this License.

30.0 CONSTRUCTION CONTRACTOR

Licensee shall incorporate the terms and conditions of this License in any construction contract applicable to this License. Any contractor employed by Licensee shall, in its contract with Licensee, expressly assume performance of the work subject to the terms and conditions of this License.

IN WITNESS WHEREOF, the parties have executed this License in duplicate counterparts, each of which has the full force and effect of an original. This License is effective on the date written below on the signature line for the District:

El Paso County Water Improvement District No. 1

By: _____ Date: _____

JOHNNY STUBBS
President, Board of Directors

Licensee: The City of El Paso

By: _____ Date: _____

Printed Name: _____ Title: _____

WITNESS THE FOLLOWING SIGNATURES:

LICENSEE: CITY OF EL PASO:

Joyce Wilson, City Manager

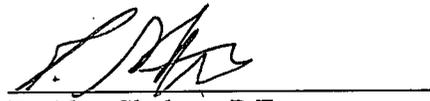
Date: _____

APPROVED AS TO FORM:



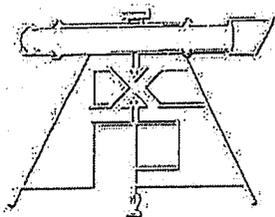
Mark Shosmith
Assistant City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer

EXHIBIT
"A"



Frank X. Spencer & Associates, Inc.

Consulting Civil Engineers & Surveyors
1130 Montana * El Paso, Texas 79902

Frank X. Spencer, P.E., R.P.L.S.

(915) 533-4600
FAX (915) 533-4673
e-mail: elpaso@fxsa.com

METES AND BOUNDS DESCRIPTION

A 0.143 ACRES (6,208 S.F.) OF LAND OUT OF MONTOYA LATERAL BRANCH "A", WITHIN BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

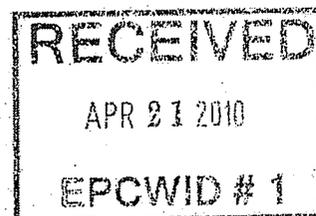
COMMENCING at a recovered 1/2" iron pipe at the centerline intersection of {Country Club Drive a (60-foot right-of-way) and Love Road (60-foot right-of-way) (called for on the original County Surveyors field notes, Field Book No. PS19, Page 27, for the maps of Upper Valley Surveys Block 4, dated November 1929, and Block 5 dated December 1929)} from which a county monument at the intersection of Country Club Drive and Country Club Place a 50-foot right-of-way (called for on the original County Surveyors field notes, Field Book No. PS19, Page 27, for the maps of Upper Valley Surveys Block 4, dated November 1929, and Block 5, dated December 1929) bears North 74°04'25" West, (North 77°17'00" West Record) a distance of 1106.89 feet; **Thence**, North 52°56'00" West, a distance of 3816.82 feet to a 5/8" rebar with aluminum cap marked "FXSA R.P.L.S. 2198" set on the easterly right-of-way line of Montoya Lateral Branch "A" being the **POINT OF BEGINNING** of this description, having a State Plane coordinate value of N: 10,690,390.49, E: 352,220.09 (Texas Central Zone 4203) from which Horizontal Control Station "Chino" bears North 13°41'36" East, a distance of 27,610.10 feet, having a State Plane value of N: 10,717,710.86, E: 358,754.95;

THENCE, North 85°48'04" West, a distance of 60.01 feet, to MAG nail in asphalt set on the westerly right-of-way of the Montoya Lateral Branch "A";

THENCE, North 03°13'01" East, along said right of way, a distance of 103.47 feet, to a MAG nail in asphalt;

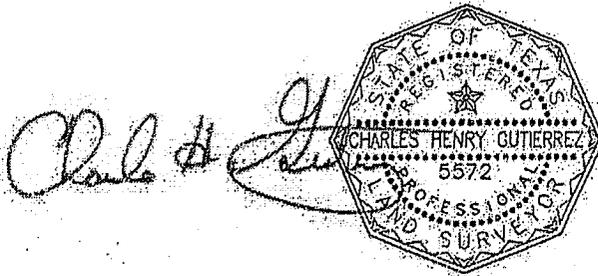
THENCE, South 85°48'04" East, a distance of 60.01 feet, to a 5/8" rebar with aluminum cap marked "FXSA R.P.L.S. 2193" set on the easterly right-of-way of the Montoya Lateral Branch "A";

THENCE, South 03°13'01" West, a distance of 103.47 feet, to the **POINT OF BEGINNING**, containing 0.143 Acres (6,208 S.F.) of land, more or less.



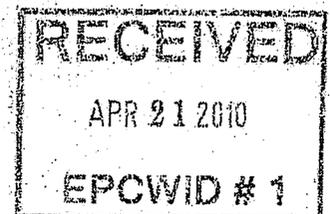
A1126

Frank X. Spencer & Associates, Inc.



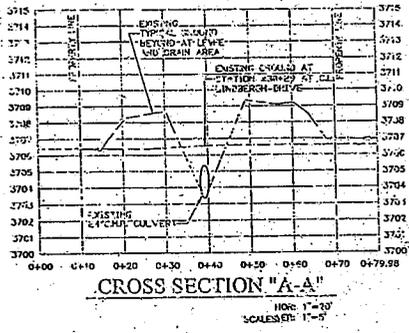
Charles Gutierrez, RPLS
Texas License No. 5572

Date: 04/21/10



A/Ble

EXHIBIT "B"



SURVEY REPORT:

Montoya Lateral Branch "A"
 A search was conducted at the El Paso County Water Improvement District No. 1 and at the El Paso County Court House at the Deed and Records, El Paso County, Texas, for the Montoya Lateral Branch "A" deed. No deed was found. What was found was a map or a blue line from Department of the Interior United States Reclamation Service, Rio Grande Project HM-7X, Montoya Main Lateral BR A Right of Way, dated March 25, 1918 showing the Montoya Lateral Branch "A" with a specified width of 60 feet. The blue line drawing shows a section line and to the east of this section line there is a 20 foot gap. Next to the gap it shows the Montoya Lateral Branch "A" centerline with 30' foot on each side adjoining the 20 foot gap, which means the centerline of the lateral being 60' foot from the section line. Block 5, Upper Valley Surveys shows Montoya Road being 40 feet and the Montoya Lateral Branch "A" being also 40 feet, which makes 80' foot vs. 90 foot USBR.

May it be noted that Block 5, Upper Valley Survey dated December 1929, for tax purpose and the Thomas Place subdivision dated February 6, 1930, Book 16, Page 36, and the Supplemental of Thomas Place Subdivision dated June 10, 1939, Book 16, Page 3, Plat Records, El Paso County, Texas, at 1/4 mile 1/40 foot width for Montoya Drive and a 40 foot width for Montoya Lateral Branch "A".

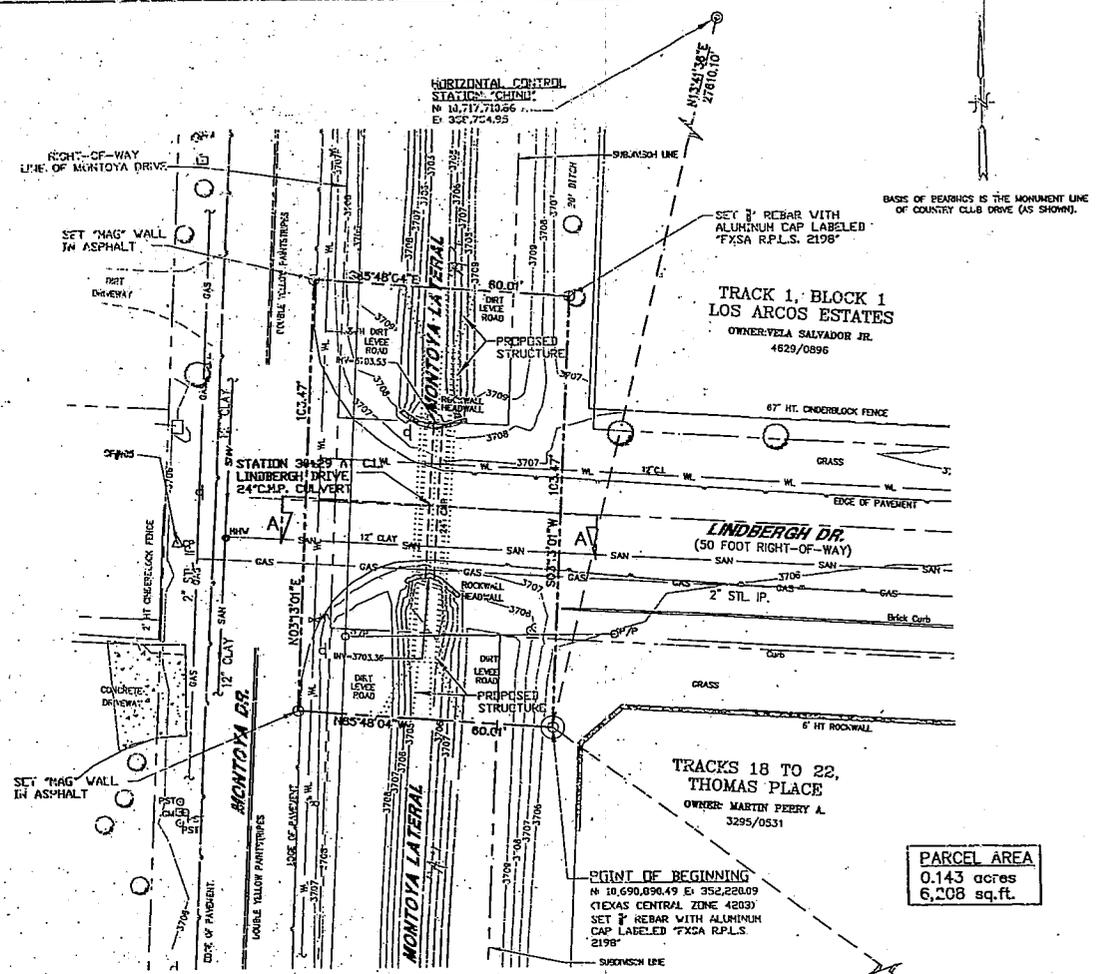
For the purpose of this survey and maintaining the intended 60 foot Right-of-Way the centerline of the lateral itself and the centerline of Lindbergh drive was held and the boundary was placed according to both centerlines. According to the El Paso County Water Improvement District No. 1's license (Annual page 6, "physical monuments related to corners of record property" is non-existent, therefore, the only explicit monumentation of any type is the existing location of the lateral itself.

NOTES:

BENCHMARKS:
 DESIGNATION: WEST 4
 LOCATED IN EL PASO, TX AT THE INTERSECTION OF DONIPHAN DRIVE AND REDD ROAD, 17.64 (57.7 FT), EAST OF THE DRIVE CENTERLINE, 9.24 (30.2 FT) SOUTH OF THE CENTER OF WESTBOUND LANES OF THE ROAD, 6.5M (21.3 FT) NORTH OF THE CENTERLINE OF THE EASTBOUND LANES OF THE ROAD, 2.9M (9.5 FT) EAST OF THE WEST END OF THE MEDIAN CURB OF THE ROAD, AND 0.9M (3.0 FT) EAST OF A SIGN POST. PUBLIC ACCESS TO THE MONUMENT IS THROUGH A 10 FOOT MANHOLE COVER PRECAST CITY OF EL PASO HORIZONTAL CONTROL.

ELEVATION= 3703.22 U.S.B.R.
DESIGNATION: OHIO
 LOCATED AT 0.85M (2.82M) SOUTHERLY ALONG DONIPHAN DRIVE, (STATE HIGHWAY 20) FROM THE POST OFFICE IN CANUTILLO, THENCE 1.85M (1.03M) EASTERLY ALONG STATE HIGHWAY LOOP 375, THENCE 1.75M (1.09M) NORTHERLY ALONG THE EAST INTERSTATE HIGHWAY 20 FRONTAGE ROAD, 19.2M (62.77) EAST OF THE ROAD CENTERLINE, 8.5M (27.92 FT) WEST OF REFERENCE MARK 1, 7.6M (24.9 FT) SOUTH OF REFERENCE MARK 2, 3.02M (9.9 FT) ABOVE THE LEVEL OF ROAD, 0.2M (0.7 FT) WEST OF A WITNESS POST, AND THE MONUMENT IS RECESSED 3.1M (10.3 FT) BELOW THE GROUND SURFACE.

ELEVATION= 3502.41 U.S.B.R.
 (TO CONVERT TO NAVD 1988 ADD 43.79 TO UNITS STATES RECLAMATION SERVICE DATUM).



I HEREBY CERTIFY TO THE EL PASO COUNTY WATER IMPROVEMENT DISTRICT, THAT THIS SURVEY PLAT MEETS ALL CURRENT DISTRICT SERVICE REQUIREMENTS SUBMITTED IN THE DISTRICT'S ENGINEERING DEPARTMENT STANDARD OPERATING PROCEDURES.

THIS SURVEY SUBSTANTIALLY COMPLES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 2 CONVEYANCE SURVEY.

SURVEYED: APRIL 2010



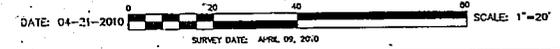
DATE: 03/10/10
 CHARLES HENRY GUTIERREZ
 Registered Professional Land Surveyor #5572

RECOVERED COUNTY MONUMENT AT INTERSECTION OF COUNTRY CLUB DRIVE AND COUNTRY CLUB PLACE CALLED FOR ON THE MAP OF UPPER VALLEY BLOCK 4 DATED NOVEMBER 1929 AND BLOCK 5 DATED DECEMBER 1929

POINT OF COMMENCEMENT RECOVERED 1/2" IRON PIPE COUNTY MARKER AT CENTERLINE INTERSECTION OF COUNTRY CLUB DRIVE AND LOVE ROAD CALLED FOR ON THE MAP OF UPPER VALLEY BLOCK 4 DATED NOVEMBER 1929 AND BLOCK 5 DATED DECEMBER 1929

RECEIVED
 APR 21 2010
 EPCWID #1

SURVEY PLAT OF A 0.143 ACRES (6,208 S.F.) OF LAND OUT OF MONTOYA LATERAL BRANCH "A", WITHIN BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS



FRANK X. SPENCER & ASSOCIATES, INC.
 CONSULTING CIVIL ENGINEERS & LAND SURVEYORS
 (BY E.P. 3534, TPL#1, 100496-04)
 1100 MONTOYA AVE.
 EL PASO, TEXAS 79902
 PHONE: 915-333-4203
 FAX: 915-333-4472
 e-mail: fspencer@fxsa.com

drawn by: C.J. CM, C.R.

Attest

