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EASEMENT AGREEMENT

STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF EL PASO)

RECITALS:

WHEREAS, of even date herewith, Ysleta Independent School District ("*Grantor*") has purchased from El Paso County Water Improvement District #1 ("*Grantee*") the parcel of real property located in El Paso County, Texas more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes (the "*Fee Simple Property*") pursuant to the terms and conditions of that certain Unimproved Property Contract by and between Grantor and Grantee (the "*Contract*"); and

WHEREAS, pursuant to the terms of the Contract, Grantee, at Grantee's sole cost and expense, is required within six (6) months of the date hereof to fill in the existing irrigation ditch located on the Fee Simple Property and to re-route the irrigation water through a buried conduit system designed by Grantee and for which Grantee shall be responsible; and

WHEREAS, pursuant to the terms of the Contract, Grantor has agreed to grant Grantee a perpetual easement across a portion of the Fee Simple Property for the purpose of constructing, installing, maintaining and repairing the buried conduit system.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. **Grant of Easement.** Subject to the terms and conditions set forth hereinafter, Grantor, does hereby grant, sell and convey unto Grantee an easement upon and under a portion of the Fee Simple Property (the "*Easement*"), which Easement covers the area more particularly described on Exhibit "B" attached hereto and incorporated herein by reference for all purposes (the "*Easement Area*"). Grantor hereby also grants to Grantor access across the Fee Simple Property to the Easement Area, provided, however, such access right shall not be interpreted to prevent Grantor and/or Grantor's successors and assigns from building structures or otherwise utilizing and/or developing all or any portion of the Fee Simple Property, so long as Grantee still has at least the minimum access necessary to exercise its rights on and under the Easement Area as provided herein. Grantor may from time to time, and at any time, at Grantor's sole discretion, designate or relocate Grantee's access to the Easement Area.

2. **Purpose of Easement.** The Easement Area shall be used only for the purpose of constructing, installing, maintaining and repairing the buried conduit system for the flow of water under the surface of the Easement Area and for responding and remedying the complaints of downstream users of the water flowing through the buried conduit system within the Easement Area. Upon completion of any construction, installation, repair and/or maintenance by Grantee in the Easement Area, Grantee shall, at Grantee's sole cost and expense, restore the surface of the Easement Area to the condition it was in prior to such construction, installation, repair and/or maintenance. Grantee covenants to maintain the Easement Area and the underground improvements related thereto in good repair so that no unreasonable damage will result from its use to the Fee Simple Property of Grantor and Grantor's successors and assigns. Further, Grantee and its successors and assigns shall be responsible to address and satisfy all

issues, complaints, claims and causes of action asserted by any user of the water carried through the buried conduit system.

3. **Duration of Easement.** The rights and privileges herein granted by Grantor to Grantee with respect to the Easement Property shall be perpetual. Grantor hereby binds itself, its successors and assigns, to warrant and defend the above described Easement and related rights to Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

4. **Non-Exclusiveness of Easement.** The Easement and related rights and privileges granted herein are non-exclusive, and Grantor reserves and retains the right to convey similar and/or unrelated rights and easements to such other persons as Grantor may deem proper as long as the grant of any additional easements and rights by Grantor on, over and/or under all or any portion of the Fee Simple Property does not deny Grantee the right to exercise its Easement rights granted herein with respect to the Easement Area.

5. **Termination.** The Easement and the rights related thereto granted hereunder shall terminate when, or at such time, as the purposes hereof cease to exist, are abandoned by Grantee, or become impossible of performance.

6. **Rights Reserved.** Grantor shall not construct under the surface of the Easement Area any improvement which would obstruct Grantee's Easement granted herein; provided, however, the grant of the Easement herein by Grantor to Grantee shall not be interpreted to prevent and Grantor hereby retains, reserves and shall continue to enjoy the use of the surface of the Fee Simple Property, including, without limitation, the surface of the Easement Area, for any and all purposes, including, without limitation, the right to improve all or any portion of the Fee Simple Property, including, without limitation, the Easement Area, with curbs, sidewalks, parking areas, asphalt, concrete pavement and/or landscaping. Grantor agrees that any improvements to the Fee Simple Property as authorized in this paragraph 6 will not result in denying Grantee access to the Easement Area comparable to the minimum access that Grantee now requires to exercise its rights granted herein with respect to the Easement Area.

7. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Easement Agreement shall be of no force and effect. This Agreement may be amended only in writing signed by all of the parties hereto or their respective successors and assigns.

8. **Attorney's Fees.** In the event of any controversy, claim or dispute relating to this Easement Agreement or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

9. **Governing Law.** This Easement Agreement shall be construed and interpreted according to the laws of the State of Texas

10. **Binding Effect.** This Easement Agreement shall bind and inure to the benefit of the respective parties and their respective successors and assigns.

11. **Legal Construction.** In case any one or more of the provisions contained in this Easement Agreement shall for any reason be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Easement Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Whenever required by the context as used in this Easement Agreement, the singular

number shall include the plural and neuter and shall include the masculine or feminine gender, and vice versa. Section headings appearing in this Easement Agreement are for convenient reference only and are not intended to restrict or define the text of any section. This Easement Agreement shall not be construed more or less favorably between the parties by reason of authorship or origin of language.

12. **Waiver.** Any waiver as to any of the terms or conditions of this Easement Agreement shall not operate as a future waiver of the same terms and conditions or prevent the future enforcement of any of the terms and conditions hereof.

13. **Recitals.** Any recitals in this Agreement are represented by the parties hereto to be accurate, and constitute a part of the substantive agreement.

14. **Further Assurances.** Each party hereto agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Easement Agreement.

IN WITNESS WHEREOF, this Agreement is executed this 10th day of June, 2005.

GRANTOR:

**YSLETA INDEPENDENT
SCHOOL DISTRICT**


By: 

Name: HECTOR MONTENEGRO

Title: SUPERINTENDENT

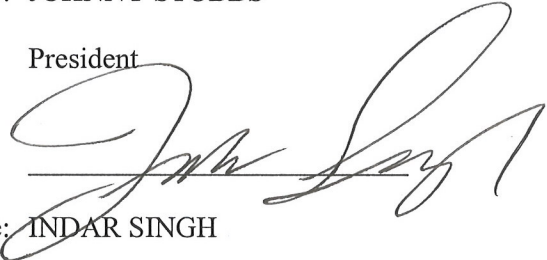
GRANTEE:

**EL PASO COUNTY WATER
IMPROVEMENT DISTRICT #1**

By: 

Name: JOHNNY STUBBS

Title: President

By: 

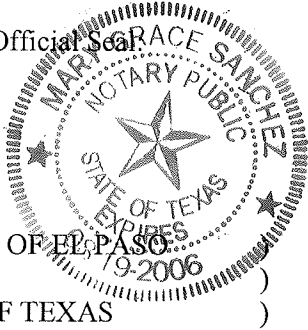
Name: INDAR SINGH

Title: Secretary

COUNTY OF EL PASO)
)
STATE OF TEXAS)

This instrument was acknowledged before me on the 10th day of June, 2005, by Mary Grace Sanchez of Ysleta Independent School District, on behalf of said Ysleta Independent School District.

Notary's Official Seal:

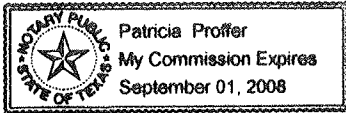


Mary Grace Sanchez
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

COUNTY OF EL PASO)
)
STATE OF TEXAS)

This instrument was acknowledged before me on the 25th day of May, 2005, by Johnny Stubbs, President of El Paso County Water Improvement District #1, on behalf of said El Paso County Water Improvement District #1.

Notary's Official Seal:

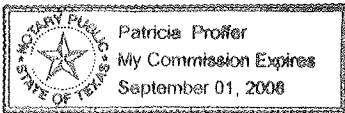


Patricia Proffer
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

COUNTY OF EL PASO)
)
STATE OF TEXAS)

This instrument was acknowledged before me on the 25th day of May, 2005, by Indar Singh, Secretary of El Paso County Water Improvement District #1, on behalf of said El Paso County Water Improvement District #1.

Notary's Official Seal:



Patricia Proffer
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

El Paso County Water Improvement District #1
294 Candelaria, El Paso, Texas 79907
Attn: Mr. Jesus Reyes, General Manager

EXHIBIT "A"

Description of Fee Simple Property

FRANK X. SPENCER & ASSOCIATES, INC.

Consulting Civil Engineers & Surveyors

1001 Montana • El Paso, Texas 79902

(915) 533-4600

FAX (915) 533-4673

e-mail: elpaso@fxsa.com

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

FIELD NOTE DESCRIPTION

Tract of Land for the Ysleta Independent School District
Out of a part of the El Paso County Water Improvement District No. 1
South Side Feeder Canal
Containing 35,605.89 square feet of land or 0.8173 acre

Tract of Land being a part of the El Paso County Improvement District No. 1, South Side Feeder Canal with 60.00 feet in width, for the Ysleta Independent School District (YISD), and being 594.60 feet in length on the West side and 592.35 feet in length on the East side of the South Side Feeder Canal (SSFC) and is located along the West right-of-way line of South Side Road with 40.00 feet Right-of-Way and East of Tract 24, Block 42, Ysleta Grant, City of El Paso, El Paso County, Texas, said Tract contains 35,605.89 square feet of land or 0.8173 acre situated in the City of El Paso and in the County of El Paso, Texas it is referenced to the US State Plane 1983, Texas Central Zone. The distances are ground and the basis of bearings is grid with a convergence angle of (-) 03°05'00.1". To convert ground distance to grid multiply ground distance by 0.99978138. Triangulation point LV-6, a horizontal monument is the basis for the State Plane Coordinates.

Commencing from a recovered 5/8" rebar with flagging at the Southeast Corner of Alexander Addition being the Southeast Corner of Lot 129, Block 6, Alexander Addition to City of El Paso, El Paso County, Texas, Thence from said 5/8" rebar North 76°48'26" West a distance of 17.21 feet to a 5/8 inch iron rod with an aluminum cap marked "FXSA RPLS 2198" set for the Northwest corner of this Tract being described and being the POINT of BEGINNING from which a City of El Paso monument at the monument line in Carmelita Street and Gonzales Street bears North 29°56'51" West, a distance of 198.87 feet from said five-eighth inch road and aluminum cap, National Geodetic Survey Monument PID No. CE 0501, Point Designation Number LV-6, bears North 49°18'30" East a distance of 2,950.26 feet.


Thence South 76°48'26" East, at distance of 17.21 feet pass a 5/8 inch re-bar with flagging recovered at the said Southeast Corner of Alexander Addition to the City of El Paso, El Paso County, Texas, 60.07 feet in all to a 5/8 inch iron rod with an aluminum cap marked "FXSA RPLS 2198" set for the Northeast corner of this Tract, from which a City of El Paso monument at the monument line in South Side Road and Carranza Loop bears South 10°51'14" East a distance of 62.05 feet;

Thence South 10°20'04" West, a distance of 592.35 feet to a "x" marked in concrete for the Southeast Corner;

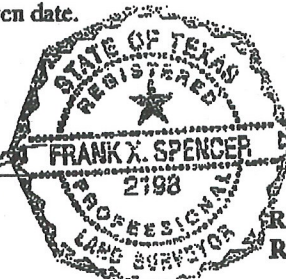
Thence North 78°57'26" West, a distance of 60.00 feet to a 5/8 inch iron rod with an aluminum cap marked "FXSA RPLS 2198" set for the Southwest corner;

Thence North 10°20'04" East, a distance of 594.60 feet to the POINT of BEGINNING and containing 35,605.89 square feet of land or 0.8173 acre.

This description accompanies a plat of survey of even date.


Frank X. Spencer, P.E., RPLS

1-07-04 Date



REVISED DATE 12-09-04
REVISED DATE 01-07-05

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EXHIBIT "A"

EXHIBIT "B"

Description of Easement Area

FRANK X. SPENCER & ASSOCIATES, INC.
Consulting Civil Engineers & Surveyors
1001 Montana • El Paso, Texas 79902

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

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

FIELD NOTES DESCRIPTION

Easement for the El Paso County Water Improvement District No. 1
Containing 17,844.07 square feet of land or 0.4096 acres

The acquisition of an easement 30.00 feet in width for the El Paso County Water Improvement District No.1, out of the South Side Feeder Canal located along the East Line of Block 42, Ysleta Grant, City of El Paso, El Paso County, Texas, and a strip of land along the East Line of Tract 24, of said Block 42, the Northwest corner of this easement being located South $76^{\circ}48'26''$ East, a distance of 7.90 feet from the Northeast corner of Tract 24, Block 42, Ysleta Grant, City of El Paso, El Paso County, Texas, the Southwest corner of this easement being located South $78^{\circ}57'26''$ East, a distance of 13.27 feet from the Southeast corner of said Tract 24, said easement containing 17,379.79 square feet of land or 0.3990 acres out of the South Side Feeder Canal and 464.28 square feet of land or 0.0106 acres strip of land along the East Line of said Tract 24, for a total of 17,844.07 square feet of land or 0.4096 acres, it is referenced to the US State Plane 1983, Texas Central Zone. The distances are ground and the basis of bearings are grid with a convergence angle of $(-)$ $03^{\circ}05'00.1''$. To convert ground distance to grid multiply ground distance by 0.99978138. Triangulation point LV-6, a horizontal monument is the basis for the State Plane Coordinates.

Commencing from a City of El Paso monument at the intersection of Carmelita Street and Gonzales Street, Whence another City of El Paso monument on Gonzales Street, bears North $10^{\circ}05'00''$ East, a distance of 618.24 feet, Thence South $31^{\circ}33'51''$ East, a distance of 204.35 feet, to a $5/8''$ iron rebar with aluminum cap marked "FXS RPLS 2198", set at the Northwest corner of this easement for the POINT of BEGINNING from Whence a 1 inch pipe recovered on the North Line of said Tract 24, bears North $76^{\circ}56'51''$ West, at 7.90 feet, pass a $5/8$ inch iron rebar with an aluminum cap marked "FXS RPLS 2198" found on the Northeast corner of said Tract 24, 447.64 feet in all, from said set corner a National Geodetic Survey Monument PID No. CE 0501, Point Designation Number LV-6, bears North $49^{\circ}11'03''$ East, a distance of 2,945.61 feet.

Thence South $76^{\circ}48'26''$ East, a distance of 30.03 feet, to a $5/8$ inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for the Northeast corner of this easement, from Whence a City of El Paso monument at the intersection of South Side Road and Carranza Loop bears South $26^{\circ}44'15''$ East, a distance of 73.90 feet;

Thence South $15^{\circ}39'54''$ West, a distance of 91.25 feet, to a $5/8$ inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an interior corner of this easement;

Thence South $11^{\circ}45'55''$ West, a distance of 79.22 feet, to a $5/8$ inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an interior corner of this easement;

Thence South $09^{\circ}46'22''$ West, a distance of 234.55 feet, to a $5/8$ inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an interior corner of this easement;

Thence South $08^{\circ}14'34''$ West, a distance of 63.55 feet, to a $5/8$ inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an interior corner of this easement;

EXHIBIT "B"

Thence South 05°08'16" West, a distance of 125.68 feet, to a 5/8 inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for the Southeast corner of this easement;

Thence North 78°57'26" West, a distance of 30.16 feet, to a 5/8 inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for the Southwest corner of this easement, from Whence a 1 inch iron pipe recovered at the Southwest Corner of Tract 23-B, Block 42, Ysleta Grant, bears North 78°55'43" West, at 13.27 feet, pass a 5/8 inch iron rebar with an aluminum cap marked "FXS RPLS 2198" found on the Southeast corner of said Tract 24, 1,471.85 feet in all, from Whence a recovered 1 1/2 inch iron pipe bears North 00°59'26" East, a distance of 71.73 feet;

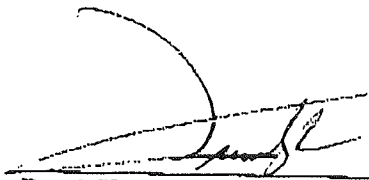
Thence North 05°08'16" East, a distance of 123.39 feet, to a 5/8 inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an exterior corner of this easement;

Thence North 08°14'34" East, at 57.40 feet, pass the intersection of the east line of said Tract 24 common with the west line of South Side Feeder Canal and the west line of this Easement, 64.76 feet in all, to a 5/8 inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an exterior corner of this easement;

Thence North 09°46'22" East, a distance of 235.47 feet, to a 5/8 inch iron rebar with aluminum cap marked "FXS RPLS 2198", set for an exterior corner of this easement;

Thence North 11°45'55" East, a distance of 80.76 feet, to a mag nail with flagging set on top of the rock wall, for an exterior corner of this easement;

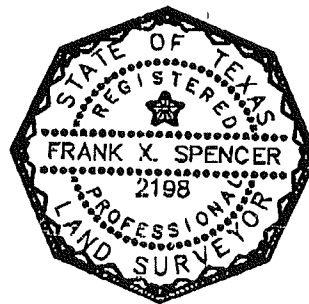
Thence North 15°39'54" East, at 6.03, pass the intersection of the east line of said Tract 24 common with the west line of South Side Feeder Canal, and the west line of this Easement, 90.97 feet in all to the POINT of BEGINNING and containing 17,379.79 square feet of land or 0.3990 acres out of the South Side Feeder Canal and 464.28 square feet of land or 0.0106 acres strip of land along the East Line of said Tract 24, for a total of 17,844.07 square feet of land or 0.4096 acres.



Frank X. Spencer, P.E., RPLS

02-03-05

Date



SCANNED

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#Pages 9 #NFPages 1
7/19/2005 3:24:37 PM
Filed & Recorded in
Official Records of
EL PASO COUNTY
WALDO ALARCON
COUNTY CLERK
Fees \$30.00

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I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded by document number in the Official Public Records of Real Property in El Paso County.



EL PASO COUNTY, TEXAS

Waldo Alarcon

After Recording Return To:
El Paso County Water Improvement District #1
29th Candalaria
El Paso, Texas 79907
Attn: Mr. Jesus Leyes, General Manager