

**EASEMENT AGREEMENT BETWEEN THE EL PASO COUNTY WATER IMPROVEMENT  
DISTRICT NO. 1 AND THE COUNTY OF EL PASO RELATING TO THE T-131 CANAL**

**WHEREAS**, EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 is a political subdivision of the State of Texas organized and existing pursuant to Article XVI, Section 59, of the Constitution of the State of Texas, hereinafter referred to as the "District" and the COUNTY OF EL PASO, TEXAS is a political subdivision of the State of Texas created pursuant to Article IX Section 1 of the Constitution of the State of Texas, hereinafter referred to as the "County"; and

**WHEREAS**, the United States of America conveyed to the District by a deed without warranty dated 19th day of January, 1996, recorded in Book 3002, at Page 1029 of the Deed Records of El Paso County, Texas, certain irrigation canals, laterals, and drains, together with other property, collectively hereinafter referred to as the "District's Properties" or "District Property"; and

**WHEREAS**, the District requires that easements for public crossings of the District's Properties be granted only to entities with the power of eminent domain; and

**WHEREAS**, the County is an entity with the power of eminent domain; and

**WHEREAS**, the District requires that the County to maintain any structures or facilities constructed pursuant to any such easement; and

**WHEREAS**, the District and the County previously entered into that certain INTERLOCAL AGREEMENT FOR GRANTING OF EASEMENT AND CONSTRUCTION OF UNDERGROUND PLACEMENT OF A PORTION OF T-131 LATERAL CANAL AND OTHER WORK and have complied with all conditions precedent therein for granting this easement.

**NOW, THEREFORE**, in consideration of the terms and conditions set forth herein and the payment to the District simultaneously with the execution and delivery of this easement to the County of the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is acknowledged, and to avoid condemnation, the District hereby grants to the County an easement for fifty (50) years from the effective date of this easement in the District's T-131 canal, hereinafter referred to as the "Crossing", described more particularly in the field notes and survey plat attached hereto as Exhibit A and by reference incorporated herein, on the following terms and conditions:

1. The sole purpose of this easement shall be for (i) constructing, reconstructing, installing, maintaining, inspecting, repairing, operating, replacing, or removing, a public street across District Property, and within the Crossing (ii) erecting, constructing,

installing, replacing, repairing, operating, using, inspecting, reconstructing, modifying, removing, and maintaining any and all public utilities, as defined in Section 11.004 of the Texas Utility Code, in Section 101.003 (7), and in Section 13.002 of the Texas Water Code, subject to the limitations of this easement and, if the utility provider is in compliance with applicable city, state and federal rules, regulations, ordinances, and statutes, the County and each utility provider may use the surface of the District Property contiguous and within seventy-five (75) feet of the limits Crossing, as may be reasonably necessary, in connection with the construction, reconstruction, installation, maintenance, repair, removal, or replacement of the Crossing. Such use of the District's Property is subject to the County or utility providers restoring the District Property to the condition such property was in prior to the County or the utility providers use of such property.

2. The construction drawings and specifications for said Crossing shall be in accordance with the applicable city, state, and federal rules, regulations, and County specifications, including but not limited to the El Paso County Subdivision Regulations, the policies adopted by the District, the District's Design Standards, and in accordance with drawings and specifications approved in writing by the County and the District prior to construction of the Crossing. A copy of the drawings and specifications for the Crossing, as approved by the District included in Exhibit A attached to this easement.

3. This easement does not include a right in favor of any utility service, including without limitation any gas, electric, or telecommunications utility service, except to the extent any such utility service is wholly contained within the Crossing. The County and its employees, agents, contractors, or subcontractors may use such portions of the easement as may be reasonably necessary in connection with the construction, reconstruction, installation, maintenance, repair, removal, or replacement of the Crossing, subject to the limitations of the easement and the perpetual maintenance and repair by the County, or its contractor, or by any utility provider.

4. The District reserves the right of full use and enjoyment of the property encumbered by this easement, subject only to the use by the public of the crossing and to utility services expressly permitted by this easement. The District, its employees, agents, contractors, and invitees shall at all times have access from the District's Properties to and through the easement, including without limitation ditch realignment, grading, dredging, raising, or lowering the invert grades, and neither the County nor any utility provider shall prohibit or interfere with ingress to or egress by the District from the District Properties because of construction or for any other reason.

5. This easement is supplementary to the rights and privileges of the County with respect to the construction of crossings of the Franklin Canal as provided in the Ordinance of November 9, 1939, recorded in Minute Book Z-2, and by or pursuant to the Quit-Claim Deed from the City of El Paso to the United States of America, dated November 9, 1939, with respect to the Franklin Canal, from the headgates as constructed in 1914 to the city limits as they existed at the date of the Quit-Claim Deed, and to the

rights and privileges of the County pursuant to any existing valid license agreement between the United States of America and the City of El Paso.

6. The County shall maintain all bridge, crossing, street, road, or walkway structures and shall cause all utility providers to maintain all utilities constructed or installed pursuant to this easement and shall immediately clean and unplug any obstruction that may develop under the Crossings so that the movement of irrigation water through the District Property shall never be obstructed. The District shall allow those parties identified by written notice to the District by the County, including without limitations County employees, agents, contractors, or subcontractors and any other party designated in writing by the County as authorized to access to the bridge and its abutments for construction and maintenance of the Bridge provided that the area of access shall not extend to a greater distance than seventy-five (75) feet from the portion of District Property described in Exhibit A; and further provided that no one shall have the right under this easement to interfere with the District's use of the T-131 Canal for transporting water or with the District's right to maintain said canal as may be reasonably necessary to cause the canal to be usable by the District for transportation of water at all times.

7. The District makes no representation or warranty of any nature regarding its interest in the property subject to this easement, which shall be subject in all respects to any agreement, deed, easement, or other legal instrument which may affect, define, or prohibit the granting of this easement. The District is not aware of any legal document or instrument which prohibits the granting of this easement, but if there is any such document or legal instrument which prohibits or does not permit the granting of this easement, then this easement shall be deemed null and void from its inception to the extent prohibited or not permitted.

8. Notwithstanding anything to the contrary herein, the primary use of the property in which this easement is granted is and shall always remain such use as may be required by the District to transport, deliver, or store water for irrigation and for delivery of water for non-irrigation purposes to any party with whom the District has contracted to deliver water, including without limitation the County of El Paso, Texas, the Lower Valley Water District, the City of El Paso, and the Hudspeth County Conservation and Reclamation District No. 1 and this easement shall never be construed to allow any interference with or impediment to such use by the District.

9. In the event the County should fail to repair, clear, and maintain the Crossing or a utility provider should fail to repair and maintain its utility facilities in accordance with this easement, and such interference materially interferes with the District's right to deliver water under the Crossing, the District will give the County twenty-four (24) hours notice to remedy the interference with water delivery. If the County fails to remedy the interference in such time, the District shall have the right to remedy the interference and recover its reasonable costs from the County.

10. The District acknowledges, subject to the terms and conditions of this easement, that this easement may be dedicated as a public right-of way and may be accepted by the County for maintenance and public use. The County shall not assign this easement without the prior written consent of the District, except in the event that the assignment is to a municipality, the County, the state, or the federal government.

11. Any and all negotiations and prior agreements concerning the subject of this easement are merged herein, and this easement may not be modified or amended hereafter except by a written memorandum executed by the District and the County, acknowledged before a Notary Public, and recorded in the Real Property Records of El Paso County, Texas.

12. Notwithstanding anything to the contrary herein, in the event that the County has not completed the Crossing and public street or road referred to in paragraph 1 hereinabove and accepted the Crossing and public street or road for maintenance by the County within three (3) years after the effective date of this easement, then the easement granted herein shall, without entry or suit, immediately revert to and vest in the District and its successors, and this instrument shall be null and void. No act or omission upon the part of the District or its successors or assigns shall be a waiver of the operation or enforcement of this paragraph. Upon completion of the Crossing and written acceptance by the District that the Crossing was constructed as specified in Exhibit A, and by written acceptance of the Crossing and public street or road for maintenance by the County, either the District or the County shall have the right to record an instrument certifying that this right of reverter has terminated.

13. This easement shall become effective on the later date of execution by the District or the County.

**[Signatures on the following page.]**

**WITNESS THE FOLLOWING SIGNATURES AND SEALS:**

**Attest:**

**El Paso County Water Improvement  
District No. 1**

\_\_\_\_\_  
**Secretary  
Board of Directors**

**By:**\_\_\_\_\_  
**President** **Date**  
**Board of Directors**

**Attest:**

**County of El Paso, Texas**

\_\_\_\_\_  
**Delia Briones  
County Clerk**

**By:**\_\_\_\_\_  
**Anthony Cobos** **Date**  
**County Judge**

**Approved as to Form:**

**Approved as to Content:**

\_\_\_\_\_  
**Assistant County Attorney**

\_\_\_\_\_  
**Deputy Director for Engineering**

**ACKNOWLEDGEMENT**

STATE OF TEXAS )  
COUNTY OF EL PASO )

On this the \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned officer, personally appeared Anthony Cobos, known to me to be the same person whose name is subscribed to the foregoing, who being by me duly sworn did depose and say that he is the County Judge of the COUNTY OF EL PASO, that he is duly designated, empowered, and authorized to execute the foregoing and sign his name thereto, and that he signed his name thereto and acknowledges that he executed the foregoing instrument for and on behalf of the COUNTY OF EL PASO for the purposes and uses therein described.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

(Notary Seal)

**ACKNOWLEDGEMENT**

STATE OF TEXAS )  
COUNTY OF EL PASO )

On this the \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned officer, personally appeared \_\_\_\_\_, known to me to be the same person whose name is subscribed to the foregoing, who being by me duly sworn did depose and say that he is the President of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1, that he is duly designated, empowered, and authorized by a resolution adopted by the Board of Directors of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 to execute the foregoing and sign his name thereto, and that he signed his name thereto and acknowledges that he executed the foregoing instrument for and on behalf of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 for the purposes and uses therein described.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

(Notary Seal)

**EASEMENT AGREEMENT BETWEEN THE EL PASO COUNTY WATER IMPROVEMENT  
DISTRICT NO. 1 AND THE COUNTY OF EL PASO RELATING TO THE I-341 CANAL**

**WHEREAS**, EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 is a political subdivision of the State of Texas organized and existing pursuant to Article XVI, Section 59, of the Constitution of the State of Texas, hereinafter referred to as the "District" and the COUNTY OF EL PASO, TEXAS is a political subdivision of the State of Texas created pursuant to Article IX Section 1 of the Constitution of the State of Texas, hereinafter referred to as the "County"; and

**WHEREAS**, the United States of America conveyed to the District by a deed without warranty dated 19th day of January, 1996, recorded in Book 3002, at Page 1029 of the Deed Records of El Paso County, Texas, certain irrigation canals, laterals, and drains, together with other property, collectively hereinafter referred to as the "District's Properties" or "District Property"; and

**WHEREAS**, the District requires that easements for public crossings of the District's Properties be granted only to entities with the power of eminent domain; and

**WHEREAS**, the County is an entity with the power of eminent domain; and

**WHEREAS**, the District requires that the County to maintain any structures or facilities constructed pursuant to any such easement; and

**WHEREAS**, the District and the County previously entered into that certain INTERLOCAL AGREEMENT FOR GRANTING OF EASEMENT AND CONSTRUCTION OF UNDERGROUND PLACEMENT OF A PORTION OF I-341 LATERAL CANAL AND OTHER WORK and have complied with all conditions precedent therein for granting this easement.

**NOW, THEREFORE**, in consideration of the terms and conditions set forth herein and the payment to the District simultaneously with the execution and delivery of this easement to the County of the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is acknowledged, and to avoid condemnation, the District hereby grants to the County an easement for fifty (50) years from the effective date of this easement in the District's I-341 canal, hereinafter referred to as the "Crossing", described more particularly in the field notes and survey plat attached hereto as Exhibit A and by reference incorporated herein, on the following terms and conditions:

1. The sole purpose of this easement shall be for (i) constructing, reconstructing, installing, maintaining, inspecting, repairing, operating, replacing, or removing, a public street across District Property, and within the Crossing (ii) erecting, constructing, installing, replacing, repairing, operating, using, inspecting, reconstructing, modifying,

removing, and maintaining any and all public utilities, as defined in Section 11.004 of the Texas Utility Code, in Section 101.003 (7), and in Section 13.002 of the Texas Water Code, subject to the limitations of this easement and, if the utility provider is in compliance with applicable city, state and federal rules, regulations, ordinances, and statutes, the County and each utility provider may use the surface of the District Property contiguous and within seventy-five (75) feet of the limits Crossing, as may be reasonably necessary, in connection with the construction, reconstruction, installation, maintenance, repair, removal, or replacement of the Crossing. Such use of the District's Property is subject to the County or utility providers restoring the District Property to the condition such property was in prior to the County or the utility providers use of such property.

2. The construction drawings and specifications for said Crossing shall be in accordance with the applicable city, state, and federal rules, regulations, and County specifications, including but not limited to the El Paso County Subdivision Regulations, the policies adopted by the District, the District's Design Standards, and in accordance with drawings and specifications approved in writing by the County and the District prior to construction of the Crossing. A copy of the drawings and specifications for the Crossing, as approved by the District included in Exhibit A attached to this easement.

3. This easement does not include a right in favor of any utility service, including without limitation any gas, electric, or telecommunications utility service, except to the extent any such utility service is wholly contained within the Crossing. The County and its employees, agents, contractors, or subcontractors may use such portions of the easement as may be reasonably necessary in connection with the construction, reconstruction, installation, maintenance, repair, removal, or replacement of the Crossing, subject to the limitations of the easement and the perpetual maintenance and repair by the County, or its contractor, or by any utility provider.

4. The District reserves the right of full use and enjoyment of the property encumbered by this easement, subject only to the use by the public of the crossing and to utility services expressly permitted by this easement. The District, its employees, agents, contractors, and invitees shall at all times have access from the District's Properties to and through the easement, including without limitation ditch realignment, grading, dredging, raising, or lowering the invert grades, and neither the County nor any utility provider shall prohibit or interfere with ingress to or egress by the District from the District Properties because of construction or for any other reason.

5. This easement is supplementary to the rights and privileges of the County with respect to the construction of crossings of the Franklin Canal as provided in the Ordinance of November 9, 1939, recorded in Minute Book Z-2, and by or pursuant to the Quit-Claim Deed from the City of El Paso to the United States of America, dated November 9, 1939, with respect to the Franklin Canal, from the headgates as constructed in 1914 to the city limits as they existed at the date of the Quit-Claim Deed, and to the rights and privileges of the County pursuant to any existing valid license agreement



between the United States of America and the City of El Paso.

6. The County shall maintain all bridge, crossing, street, road, or walkway structures and shall cause all utility providers to maintain all utilities constructed or installed pursuant to this easement and shall immediately clean and unplug any obstruction that may develop under the Crossings so that the movement of irrigation water through the District Property shall never be obstructed. The District shall allow those parties identified by written notice to the District by the County, including without limitations County employees, agents, contractors, or subcontractors and any other party designated in writing by the County as authorized to access to the bridge and its abutments for construction and maintenance of the Bridge provided that the area of access shall not extend to a greater distance than seventy-five (75) feet from the portion of District Property described in Exhibit A; and further provided that no one shall have the right under this easement to interfere with the District's use of the I-341 Canal for transporting water or with the District's right to maintain said canal as may be reasonably necessary to cause the canal to be usable by the District for transportation of water at all times.

7. The District makes no representation or warranty of any nature regarding its interest in the property subject to this easement, which shall be subject in all respects to any agreement, deed, easement, or other legal instrument which may affect, define, or prohibit the granting of this easement. The District is not aware of any legal document or instrument which prohibits the granting of this easement, but if there is any such document or legal instrument which prohibits or does not permit the granting of this easement, then this easement shall be deemed null and void from its inception to the extent prohibited or not permitted.

8. Notwithstanding anything to the contrary herein, the primary use of the property in which this easement is granted is and shall always remain such use as may be required by the District to transport, deliver, or store water for irrigation and for delivery of water for non-irrigation purposes to any party with whom the District has contracted to deliver water, including without limitation the County of El Paso, Texas, the Lower Valley Water District, the City of El Paso, and the Hudspeth County Conservation and Reclamation District No. 1 and this easement shall never be construed to allow any interference with or impediment to such use by the District.

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**[Signatures on the following page.]**

**WITNESS THE FOLLOWING SIGNATURES AND SEALS:**

**Attest:**

**El Paso County Water Improvement  
District No. 1**

\_\_\_\_\_  
**Secretary  
Board of Directors**

**By:**\_\_\_\_\_  
**President** **Date**  
**Board of Directors**

**Attest:**

**County of El Paso, Texas**

\_\_\_\_\_  
**Delia Briones  
County Clerk**

**By:**\_\_\_\_\_  
**Anthony Cobos** **Date**  
**County Judge**

**Approved as to Form:**

**Approved as to Content:**

\_\_\_\_\_  
**Assistant County Attorney**

\_\_\_\_\_  
**Deputy Director for Engineering**

**ACKNOWLEDGEMENT**

STATE OF TEXAS )  
COUNTY OF EL PASO )

On this the \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned officer, personally appeared Anthony Cobos, known to me to be the same person whose name is subscribed to the foregoing, who being by me duly sworn did depose and say that he is the County Judge of the COUNTY OF EL PASO, that he is duly designated, empowered, and authorized to execute the foregoing and sign his name thereto, and that he signed his name thereto and acknowledges that he executed the foregoing instrument for and on behalf of the COUNTY OF EL PASO for the purposes and uses therein described.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

(Notary Seal)

**ACKNOWLEDGEMENT**

STATE OF TEXAS )  
COUNTY OF EL PASO )

On this the \_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned officer, personally appeared \_\_\_\_\_, known to me to be the same person whose name is subscribed to the foregoing, who being by me duly sworn did depose and say that he is the President of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1, that he is duly designated, empowered, and authorized by a resolution adopted by the Board of Directors of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 to execute the foregoing and sign his name thereto, and that he signed his name thereto and acknowledges that he executed the foregoing instrument for and on behalf of the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 for the purposes and uses therein described.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

(Notary Seal)