

**AMMENDMENT TO INTERLOCAL DEVELOPMENT AGREEMENT
(Water and/or Sewer Facilities Extension)**

This is an amendment to a Development Agreement, of even date, between the City of El Paso acting through its El Paso Water Utilities-Public Service Board as Trustee of the City's Water and Wastewater System, ("PSB" or "EPWU"), and the County of EL Paso, Texas ("OWNER"). To the extent that this Amendment differs from the Development Agreement, this Amendment shall control.

1. INDEMNIFICATION. County shall not indemnify EPWU/PSB except as provided by this section. Specifically, and without limitation, Section 9 (B), page 5, of the Development Agreement, is deleted and replaced with the following. To the extent permitted, and only to that extent, by the laws and the constitution of the State of Texas, particularly Section 7 of Article XI of the Texas Constitution, and with the mutual understanding that the County of El Paso is a political subdivision of the State of Texas, and that this indemnity obligation cannot be paid from current revenues and that no tax nor interest and sinking fund has been set, adopted or established for the payment of this indemnity obligation, the County shall indemnify EPWU.

2. NO WAIVER. Except for paragraph 1 of this Amendment, immediately above, notwithstanding anything else to the contrary in the Development Agreement, by signing the Agreement, Owner is not agreeing to waive immunity or to expand any existing waiver of immunity, of any kind or nature, from suit or liability.

IN WITNESS HEREOF, The Parties have caused this agreement to be executed by their duly authorized representatives on this ___ day of February 2013.

COUNTY OF EL PASO

**EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD**

Hon. Veronica Escobar,
El Paso County Judge

Authorized Signature
Printed Name:
Title:

APPROVED AS TO FORM ONLY

Assistant County Attorney

Attorney for EPWU/PSB

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COUNTY OF EL PASO

**EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD**

Hon. Veronica Escobar,
El Paso County Judge

Authorized Signature
Printed Name:
Title:

APPROVED AS TO FORM ONLY

Assistant County Attorney

Attorney for EPWU/PSB

INTERLOCAL DEVELOPMENT AGREEMENT
(Water and/or Sewer Facilities Extensions)

STATE OF TEXAS:
COUNTY OF EL PASO:

This is a Development Agreement executed as of the ____ day of _____, 20__ between the City of El Paso acting through its El Paso Water Utilities-Public Service Board as Trustee of the City's Water and Wastewater System, ("PSB or "EPWU"), a municipal corporation operating in the City and County of El Paso, and the Owner/Developer, ("Owner"), COUNTY OF EL PASO, TEXAS

WHEREAS, Owner has requested to be permitted to install water and/or sewer mains ("Facilities" or "Work") in Owner's property known as EL PASO COUNTY SPORTSPARK within the City and/or County of El Paso, Texas, in lieu of extension charges required by EPWU's Rules and Regulations No. 7, Section II-F & G and Section III-D & F, and EPWU agrees that the Owner or his contractor may perform the Work for and in consideration of the promises and covenants set out herein;

WHEREAS, Owner, as a Subdivision of the State of Texas, will enter into a contract for construction for development of the property in accordance with the competitive sealed bidding procedure of Chapter 252 of the Local Government Code.

NOW, THEREFORE, for and in consideration of the promises and covenants set forth herein, the Owner and EPWU agree as follows:

SECTION 1 - SYSTEM DESIGN, REVIEW, AND INSPECTION:

A. The EPWU will review and approve the Owner's engineer design plans for the water and wastewater public mains. The plans shall comply with Texas Commission on Environmental Quality (TCEQ) and EPWU requirements and submit the plans for EPWU approval. The EPWU will review the plans at a charge of 2% of the construction cost estimated by EPWU. **Owner must first make written application for service in order to initiate the review process.** A full set of subdivision improvement plans, as defined in the City's Subdivision Ordinance, Chap. 19.8.1(b), approved by the City of El Paso Development Services Department for submission to City Planning Commission, and including plat, grading and drainage plans and street grades, must be submitted to the EPWU Engineering Department along with an AutoCadd file in electronic format or mylars of the plans, a current construction schedule, and a concept plan. Before the final design is released for construction, the Owner must submit one set of Final subdivision plans, including Phasing, if any, as approved by City of El Paso Development Services Department to EPWU for review. Once EPWU has reviewed and approved the final Plans, and the review fee, other fees and any fees assessed by other entities through the EPWU have been paid, the EPWU will execute this Interlocal Development Agreement. The Owner will construct the Facilities or Work under the supervision of EPWU's Utility Engineering Division Manager, strictly in accordance with the Plans and in compliance with the most current "Standard General Specifications and Contract Documents" promulgated by EPWU. The Owner hereby acknowledges he has received copies of these documents. Commencement of the construction is deemed to be approval and acceptance of the Plans by the Owner and his contractor. The unit prices for the Work are set forth in Exhibit A, which is attached hereto and made part of this Agreement for all purposes. If the Owner fully complies with the terms and conditions of this Agreement, EPWU will refund any amounts which may become due in accordance with Section II-G and III-E of the PSB's Rules and Regulations No. 7, or other applicable laws and regulations. Applicable refunds are set forth on the Refund Supplement attached hereto as Exhibit B and made a part of this Agreement for all purposes. Attached hereto as Exhibit C, and made a part of this Agreement for all purposes, is a listing of EPWU imposed design fee, and other charges, if applicable.

B. These Plans include the following Facilities or Work:

I. Water distribution system showing mains and sizes thereof, location in street, location of valves, fire hydrants and other information.

EPWU Water Job No. 12-5092
EPWU Description EL PASO COUNTY SPORTSPARK
Pages: CU-101 Proposed Utilities;
CU-102 Utilities Plan; CU-502 Water Details

II. Sewer collection system showing mains and size thereof, location in street, manholes, and profiles which show elevations of invert and ground and grades.

EPWU Sewer Job No. 12-9064
EPWU Description EL PASO COUNTY SPORTSPARK
Pages: CU-102 Utilities Plan;
CU-104 Sewer Line A Plan & Profile; CU-501 Sewer Details

C. Easements are required. Easements will be by standard Utility Easement forms with metes and bounds, attached to this Agreement.

SECTION 2 - INSURANCE AND CHANGES IN THE WORK:

The Owner warrants that he will enter into a construction contract for this Work with a utility contractor who is experienced in performing similar water and sewer construction. The contractor is an independent contractor and shall be required in the construction contract to hold the City of El Paso and EPWU-PSB harmless from any damages or claims which may arise during construction. The Owner's contractor shall execute a Hold Harmless Agreement, attached hereto as Exhibit D, and the contractor's subcontractor(s), when applicable, shall execute a Hold Harmless Agreement, attached hereto as Exhibit D-1, which shall become part of this Development Agreement. The Owner agrees to integrate this Development Agreement into his construction contract and require expressly in the construction contract that the contractor will be bound to comply with the provisions hereof. The Owner and his contractor confirm that they are familiar, and will fully comply, with the additional insurance and other requirements set forth on Exhibit E, which is attached hereto and made a part of this Agreement for all purposes. The EPWU shall be provided with a copy of the Insurance Certificate evidencing coverage for the full term of the project and shall be named as an additional insured on the Owner's General Liability and Automobile Liability policies.

Notwithstanding anything in this Agreement to the contrary, Owner agrees and represents that Owner remains responsible for additional work on the facilities at the site as may be required by EPWU due to changes in the Work, unforeseen conditions, or for other reasons determined by the EPWU to be necessary in order to ensure that the Work is constructed satisfactorily and in accordance with the terms of this Agreement.

The Owner has engaged the following contractor for this Work:

Sunlight Enterprises

Contractor's Name

201-B N. Clark

Address

915-779-3296

Phone Number

SECTION 3 - COORDINATION OF CONSTRUCTION:

The Owner is responsible for coordinating the construction with the Engineering Department of EPWU. Curbs must be installed and the streets graded to, but not more than, six inches above subgrade. Five working days advance notice must be given to the EPWU field engineering crews to stake out the water and/or sewer mains, prepare cut sheets, and provide other directions as may be necessary. The EPWU is entitled to inspect and observe the Work at all times; but it is understood and agreed that the responsibility for conforming the Work to the Plans is the sole responsibility of the Owner. The fact that EPWU has inspected the Work at any stage shall not be deemed to be acceptance or approval by EPWU of the Work performed. Approval and acceptance of the Work shall be effective only when done so in writing, as provided for below. Nothing herein shall make the EPWU responsible for the Owner or his contractor's failure to perform the Work in accordance with the Plans and Standard General Specifications and Contract Documents, nor shall EPWU be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety precautions incident thereto.

In the performance of the Work, the subject of this Agreement, the Owner agrees to indemnify and hold harmless the City of El Paso, EPWU/PSB, its officers, agents, employees, and contractors from any and all liability of whatever nature, claim, or kind resulting from the Owner's or his contractor's or subcontractor's prosecution of the Work.

SECTION 4 - PAVING CUTS:

If any paved city streets are to be cut during the conduct of the Work under this Agreement, the Owner shall provide reasonable advance notice to the City Engineering Department of the location and nature of the cut, when it is to be done, and the name of the contractor that will perform the paving. The Owner's contractor shall continuously, and not less frequently than once daily, maintain backfilled cuts in streets or alleys in order to assure a smooth riding surface for vehicular traffic. Alternatively, the Owner may use steel plates sufficient to cover the cut area with asphaltic edge. He shall also wet down the surface of unpaved cuts regularly in order to minimize dust, and make every effort to have the street surface repaved as soon as possible. In no case shall a cut be left unpaved for more than seven days after the initial backfilling. On arterial streets, a temporary paving patch of HMA or cold mixed asphaltic concrete shall be placed immediately after backfill, to be removed when the permanent patch is placed. When any cut in a street is not so maintained or repaired within the required time, EPWU is entitled to authorize the City Street Department to procure services to perform the repairs, or to perform the repairs with its own forces, at the expense of the Owner, including a charge for reasonable overhead. The Owner shall pay this expense within ten (10) days of receipt of an invoice for such repairs.

SECTION 5 - AFFIDAVIT OF COMPLETION:

It is understood and agreed by the parties that the purpose of this Agreement is to ultimately assure that the public utilities and streets involved will be constructed in accordance with the Plans, in a workmanlike manner, utilizing normal industry standards, and dedicated to the City entities as fit for their intended use, free and clear of any liens or encumbrances.

Once the Work is complete, and upon receipt of a Completion Certificate from its Field Inspector certifying that all facilities have been constructed in compliance with the Plans, EPWU will issue a Paving Release to the City Engineer with a copy to the Owner. The Owner shall then cause his contractor to set the manholes and valve boxes to final grade; verify that meter boxes are in a condition acceptable to EPWU for setting meters; and certify that the streets are acceptable to the City of El Paso for dedication or for public vehicular use. EPWU will then send a request to the Owner asking that title to the Facilities or Work be conveyed to EPWU, in writing, and certify that the Work is free and clear of all liens and encumbrances.

Owner will then execute and deliver to EPWU its affidavit stating that the Facilities or Work have been completed in accordance with the Plans and in accordance with the terms of this Development Agreement, the specifications, and all applicable laws; that all final adjustments have been made as requested; that the Owner has paid for all labor and materials; that there are no outstanding claims relating to the Work; and that all debts with EPWU have been paid. The Owner must include a specific Release of Liens from its utility contractor with the signed Conveyance Form.

The EPWU Field Inspector will make a final inspection of the Work. Once the Work is found to be in compliance with all terms of this Agreement and acceptable to EPWU for inclusion into its system, EPWU will issue a Letter of Final Acceptance of the Facilities. EPWU will then set meters upon a request to activate service, allow sewer services to be connected by others, and admit water to the system. The Owner or his Contractor may, at the discretion of the EPWU, install water services, subject to the approval of the EPWU Engineering Department and in accordance with its standards. No meters will be installed until the system has been bacteriologically and pressure tested and a Letter of Acceptance has been issued.

SECTION 6 - PARTIAL OR CONDITIONAL ACCEPTANCE:

When Partial or Conditional Acceptance of a Facility is agreed upon between the EPWU and the Owner, it is understood and agreed that the one year warranty period will not begin until Final Acceptance of all Facilities or Work to be installed under this Development Agreement.

The Developer shall submit a letter of request to EPWU and shall include a highlighted map of the area to be conditionally accepted with the number of linear feet, valve to valve, and/or manhole to manhole, to be conveyed to EPWU. He shall also provide the address for each requested temporary construction water meter. Upon approval by the Engineering Division Manager, the Field Inspector will certify that portion of line as acceptable for inclusion in the EPWU's system and will issue a Partial Conditional Completion Certificate indicating the Facilities and addresses to be released for temporary water services. The Developer shall deliver a signed Conveyance Form and a Partial Release of Liens and EPWU will issue a Partial Conditional Acceptance Letter. The Developer may then authorize his agents or assigns to contact EPWU Customer Service to request a construction meter(s).

SECTION 7 - ONE YEAR WARRANTY:

A. Owner represents and warrants to EPWU that all Work was performed in a good and workmanlike manner, in accordance with the Plans, or as otherwise provided in this Agreement. This warranty shall remain in full force and effect for a period of one year from and after the date of Final Acceptance by EPWU of all the Facilities or Work shown on the plans under this Development Agreement. The Owner will not allow any mechanics liens to be threatened or filed against the subdivision or property which is the subject of this Agreement. It is understood and agreed that, notwithstanding the acceptance of the Facilities or Work by EPWU, Owner shall remain responsible for a period of one year from the date of the issuance of the Letter of Final Acceptance by EPWU for conforming the Work to the Plans and otherwise complying with the warranty set out in this paragraph. Owner further agrees to be fully responsible for the repair and maintenance of the Facilities for a period of one year from the date of issuance of the Letter of Final Acceptance.

The Owner may include additional applicable warranty provisions in its contracts with other utilities, paving or other contractors employed by him on the Work. However, EPWU will look to the Owner for correction of defects or damage to the Facilities constructed under this Development Agreement.

Thirty (30) days prior to the expiration of the one year warranty period, Owner agrees to an inspection of the Facilities or Work by EPWU.

B. PERFORMANCE BOND:

The Owner shall post an acceptable Performance Bond with EPWU in accordance with Chapter 2253 Government Code V.A.T.C.S., to ensure completion and warranty of the Facilities when the EPWU's contribution exceeds \$100,000.00, or the amount under Article 5160, as may be amended above which Performance Bonds are required on such municipal contracts. The bond must be executed by a corporate surety licensed to do business in Texas and in accordance with Article 5160, Revised Statutes. The bond shall be in substantially the form of Exhibit F, which is attached hereto and made a part of this Agreement for all purposes when applicable, and the surety's and principal's obligation to correct any defective workmanship and materials under the bond shall remain in effect for the full one year warranty period set forth in Section 7.

The Owner agrees to promptly execute his rights and remedies under this bond and, at the option of EPWU, to assign to EPWU all rights and remedies under this bond upon the issuance of the Letter of Final Acceptance or to include EPWU as an obligee on the Bond.

SECTION 8 - DEFAULT

In the event Owner or his contractor fail to comply with the provisions hereof, the EPWU may take such actions to which it may be entitled by law or equity, including, but not limited to: stopping the work; seeking specific performance of this Agreement; or suing for damages.

SECTION 9 - INDEPENDENT CONTRACTOR/INDEMNIFICATION

A. INDEPENDENT CONTRACTOR:

The Owner, and his contractor, shall operate as an independent contractor, not subject to the direct or continuous supervision and control of EPWU. The parties agree that in no event shall the Owner or his contractor be deemed to be an agent, officer or employee of EPWU. This Agreement shall never be interpreted to mean a partnership or joint venture exists between the Owner, contractor, or EPWU/PSB.

B. INDEMNIFICATION:

The Owner, for himself, his contractor, subcontractors, officers, agents, employees and representatives, hereby indemnifies and holds harmless the City of El Paso, EPWU/PSB, its officers, agents and employees from and against all claims, damages, losses and expenses (including attorney's fees, expert fees and overhead) in any way arising out of or resulting from their performance under this Agreement, including the construction of the Facilities by the contractor, any subcontractor, anyone directly or indirectly employed by the contractor, or anyone for whose acts the contractor or subcontractor may be liable, including any claims, damages, losses or expenses resulting in injury or death.

SECTION 10 - TITLE:

Owner represents that it currently holds title, or has presented evidence that it has entered into a contract to purchase and obtain title, to the property in exactly the same manner in which it signs this Agreement. The terms and provisions thereof shall be binding upon, and inure to the benefit of, the parties hereto and their successors, assigns, heirs and personal representatives.

SECTION 11 - ASSIGNABILITY:

The Owner shall not assign any interest in this Agreement (whether by assignment or novation) without the prior written consent of EPWU/PSB.

SECTION 12 - COMPLIANCE WITH LAWS:

The Owner shall comply with all applicable laws, ordinances, rules and regulations and codes of the federal, state, and local governments, as they may now read or hereinafter be amended.

SECTION 13 - VENUE:

Venue and jurisdiction of any suit or right or cause of action arising under or in connection with this Agreement shall be exclusively in a court of competent jurisdiction sitting in El Paso County, Texas; and this Agreement shall be interpreted in accordance with the laws of the State of Texas.

SECTION 14 - SEVERABILITY:

The sections, paragraphs, sentences, clauses, and phrases of this Agreement are severable and if any phrase, clause, sentence, paragraph or section of this Agreement should be declared invalid by a final decision of a court of competent jurisdiction, such invalidity will not affect any of the remaining provisions of the Agreement.

SECTION 15 - CAPTIONS:

The captions of this Agreement are for informational purposes only and shall not in any way affect the substantial terms and conditions of this Agreement.

IN WITNESS HEREOF, THE EL PASO WATER UTILITIES-PUBLIC SERVICE BOARD has caused this Agreement to be executed by its President/CEO and by the Owner, or by their duly authorized representatives on this _____ day of _____, 20____.

OWNER

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

COUNTY OF EL PASO

Company Name (*Print or Type*)

Daniel Avila, P.E.
Chief Technical Officer

Authorized Signature

Date

Typed or Printed Name and Title

Date

Owner's Address

Phone Number

Fax Number

E-mail: _____

EXHIBIT A

DEVELOPMENT AGREEMENT (WATER AND/OR SEWER FACILITIES EXTENSIONS)

PROJECT DESCRIPTION: _____

EPWU WATER JOB NUMBER: 12-5092

EPWU SEWER JOB NUMBER: 12-9064

A. WATER MAINS - PRICE SCHEDULE

The unit prices the Owner agrees to pay his contractor are:

Size	Material Type	Quantity	Pipe Cost	Installation Cost	Total Cost
4"	_____	LF _____	\$ _____ /LF	\$ _____ /LF	\$ _____
6"	_____	LF _____	\$ _____ /LF	\$ _____ /LF	\$ _____
8"	<u>C900/DR18</u>	LF <u>1659</u>	\$ <u>6.69</u> /LF	\$ <u>7.31</u> /LF	\$ <u>23,226.00</u>
12"	" "	LF <u>162</u>	\$ <u>16.86</u> /LF	\$ <u>10.14</u> /LF	\$ <u>4,374.00</u>
Other	_____	_____	\$ _____ /LF	\$ _____ /LF	\$ _____
	_____	_____	\$ _____ /LF	\$ _____ /LF	\$ _____
	_____	_____	\$ _____ /LF	\$ _____ /LF	\$ _____
Services - Sizes	<u>8"</u>	Qty <u>1</u>	\$ <u>7000.00</u> EA Installed		\$ <u>7,000.00</u>
	<u>6"</u>	<u>1</u>	<u>6800.00</u>		<u>6,800.00</u>
	<u>4"</u>	<u>1</u>	<u>6600.00</u>		<u>6,600.00</u>
B. FIRE HYDRANTS:		Qty <u>2</u>	\$ <u>5000</u> EA Installed		\$ <u>10,000.00</u>

C. SEWER MAINS - PRICE SCHEDULE

8"	<u>PVC/SOR35</u>	LF <u>223</u>	\$ <u>3.32</u> /LF	\$ <u>7.18</u> /LF	\$ <u>2,341.50</u>
12"	_____	LF _____	\$ _____ /LF	\$ _____ /LF	\$ _____
15"	_____	LF _____	\$ _____ /LF	\$ _____ /LF	\$ _____
18"	_____	LF _____	\$ _____ /LF	\$ _____ /LF	\$ _____
Other	_____	_____	\$ _____ /LF	\$ _____ /LF	\$ _____
	_____	_____	\$ _____ /LF	\$ _____ /LF	\$ _____
	_____	_____	\$ _____ /LF	\$ _____ /LF	\$ _____
Services - Sizes	<u>8"</u>	Qty <u>1</u>	\$ <u>5000.00</u> EA Installed		\$ _____
D. SEWER MANHOLES:		Qty <u>1</u>	\$ <u>2,500.00</u> EA	\$ <u>1500.00</u>	\$ <u>4,000.00</u>
E. SEWER MANHOLES DEPTH OVER 6':		VF <u>1</u>	\$ <u>400.00</u> /VF	\$ <u>250.00</u> /VF	\$ <u>650.00</u>
F. TRENCH SAFETY:		LF <u>223</u>	\$ <u>2.25</u> /LF	\$ <u>1.00</u> /LF	\$ <u>724.75</u>

G. OTHER WORK (include price):

2 500K slurry 5580' / BRICKWORKS 2900' /
Steel Plates 5000' / ASPHALT CUT/PATCH 24827' 38,307.00

TOTAL COST: \$ 104,023.25

It is agreed that if the Work is done on a "cost plus" or other basis, then the unit prices above are estimated. Quantities are estimated.

EXHIBIT B

DEVELOPMENT AGREEMENT (WATER AND/OR SEWER FACILITIES EXTENSIONS)
REFUND SUPPLEMENT

In accordance with Section 2 of the Agreement and Section II-G and III-E of the El Paso Water Utilities-Public Service Board Rules and Regulations No. 7, as amended, the Developer may become eligible for the following refunds:

II-G-1 for Water Boundary Lines NONE

III-E-2 for Sewer Boundary Lines NONE

II-G-2 for Water "Off Site Line" NONE

III-E-3 for Sewer "Off-Site Line" NONE

II-G-3 for Water Mains Larger than 8-inch Size 162 LF OF 12-INCH PVC ALONG SAINT VITUS ST.
FRONTAGE RATE: \$15.08/LF. REFUND = ACTUAL COST INSTALLED - (FRONTAGE RATE X PIPE
LENGTH) = ACTUAL COST PENDING - (\$15.08/LF X 162 LF) = \$

III-E-3 for Sewer Mains Larger than 8-inch Size NONE

OWNER: COUNTY OF EL PASO

500 E. San Antonio Street

El Paso, Texas 79901

Property/Subdivision: EL PASO COUNTY SPORTSPARK

EPWU Job Numbers: WATER: 12-5092

SEWER: 12-9064

Date: October 25, 2012

EXHIBIT C

EL PASO WATER UTILITIES - PUBLIC SERVICE BOARD

ENGINEERING SERVICES FEE
INVOICE

Date: October 25, 2012

Invoice No. 12-029

Owner's Name COUNTY OF EL PASO Mailing Address 500 E. San Antonio St., EPT 79901
Last Name First Name Zip Code

LEGAL DESCRIPTION OF PREMISES

Official Address _____ Name of Addition/Property EL PASO COUNTY SPORTSPARK

Addition Block Number _____ Lot Numbers _____ Addition Block Number _____ Lot Numbers _____
Addition Block Number _____ Lot Numbers _____ Addition Block Number _____ Lot Numbers _____
Addition Block Number _____ Lot Numbers _____ Addition Block Number _____ Lot Numbers _____
Addition Block Number _____ Lot Numbers _____ Addition Block Number _____ Lot Numbers _____

WATER SYSTEM:

ENGINEERING SERVICES FEE

EPWU JOB REQUEST NO. 12-5092

ESTIMATED CONSTRUCTION COST \$ 83,569.68 x 02 % = \$ 1,671.39

SEWER SYSTEM:

EPWU JOB REQUEST NO. 12-9064

ESTIMATED CONSTRUCTION COST \$ 71,115.42 x 02 % = \$ 1,422.31

TOTAL ENGINEERING SERVICES FEES \$ 3,093.70

PERMIT FEES DUE: \$ _____

\$ _____

\$ _____

*TOTAL FEES: \$ 3,093.70

* TOTAL FEES must be paid before copies of the final approved design plans are released for construction.

EXHIBIT D

EL PASO WATER UTILITIES - PUBLIC SERVICE BOARD

HOLD HARMLESS AGREEMENT

Sunlight Enterprises Co., Inc Name of Firm, an independent Contractor, has been retained
by The County of El Paso Name of Owner/Developer, Owner, to install water

and/or sewer lines and appurtenances in the development/property known as EL Paso County Sports Park at 1780 N Zaragoza
in El Paso, Texas.

The Work will be performed in connection with a Development Agreement between the OWNER and the El Paso Water Utilities-Public Service Board in accordance with the plans and specifications under EPWU Job # 12-5092 for water and EPWU Job # 12-9064 for sewer.

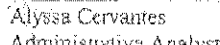
The Contractor hereby certifies that it, its principals, heirs and assigns will hold the City of El Paso, the El Paso Water Utilities-Public Service Board, their officers, employees, agents and assigns, harmless from any and all damages or claims which may arise out of the performance of this Work.

CONTRACTOR:

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

Sunlight Enterprises Co., Inc.
Name of Contractor (printed or typed)


Authorized Signature


Alyssa Cervantes
Administrative Analyst

Pote Reyes III
Name (printed or typed)

Project Manager
Title

Date

JAN 29, 2013
Date

EXHIBIT E

INSURANCE REQUIREMENTS

The contractor shall not commence work under the Agreement until he/she has obtained all the insurance required under this Agreement and satisfactory evidence of such has been provided and the insurance has been approved by the Owner/Developer and/or EPWU; nor shall the contractor allow any subcontractor to commence work on his/her subcontract until the insurance required of the subcontractor has been so obtained and approved.

COMPENSATION INSURANCE:

The contractor shall procure and maintain during the period of performance of said Agreement Workers' Compensation Insurance as required by applicable State law for all his/her employees to be engaged in Work; in the case of any work sublet, the contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees to be engaged in such Work unless such employees are covered by the protection afforded by the contractor's Workers' Compensation Insurance. In case any class of employees engaged in hazardous work on the project under said Agreement is not protected under the Workers' Compensation Statute, the contractor shall provide, and shall cause each subcontractor to provide, adequate Employers' Liability Insurance for the protection of such of his/her employees as are not otherwise protected.

CONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE AND VEHICLE LIABILITY INSURANCE:

The contractor shall procure and maintain during the period of performance of said Agreement contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance in the amounts specified herein, or if said limits are subsequently superseded by statute such new limits shall apply:

LIMITS OF COVERAGE FOR ALL CONSTRUCTION PROJECTS	AUTOMOBILE (5.04.A.6) (Combined Single Limit) Per Accident	COMMERCIAL GENERAL LIABILITY (5.04.A.3 through 5.04.A.5) (Combined Single Limit) Per Project	WORKERS' COMPENSATION (5.04.A.1 through 5.04.A.2) {Employers' Liability} Per Accident Per Employee Per Disease	UMBRELLA (5.04.7) {Combined Single Limit}
CONTRACTS LESS THAN \$100,000: Occurrence *General Aggregate Products/Completed Operations Aggregate	\$ 300,000	\$ 500,000 \$ 500,000 \$1,000,000	\$ 500,000 \$ 500,000 \$ 500,000	N/A
CONTRACTS LESS THAN \$500,000: Occurrence *General Aggregate Products/Completed Operations Aggregate	\$ 500,000	\$ 500,000 \$1,000,000 \$1,000,000	\$ 500,000 \$ 500,000 \$ 500,000	N/A
CONTRACTS \$500,000 TO \$10,000,000: Occurrence *General Aggregate Products/Completed Operations Aggregate	\$1,000,000	\$1,000,000 \$2,000,000 \$2,000,000	\$1,000,000 \$1,000,000 \$1,000,000	\$2,000,000 \$2,000,000
CONTRACTS OVER \$10,000,000: Occurrence *General Aggregate Products/Completed Operations Aggregate	\$1,000,000	\$1,000,000 \$2,000,000 \$2,000,000	\$1,000,000 \$1,000,000 \$1,000,000	\$5,000,000 \$5,000,000

SUBCONTRACTOR'S PUBLIC LIABILITY, PROPERTY DAMAGE INSURANCE, AND VEHICLE LIABILITY INSURANCE:

The contractor shall either: 1) require each of his/her subcontractors to procure and to maintain, during the life of his/her subcontract, Public Liability and Property Damage Insurance and Vehicle Liability Insurance in the amounts specified; or 2) insure the activities on the contractor's own policy.

SCOPE OF INSURANCE AND SPECIAL HAZARDS:

The insurance required under the above referenced paragraphs shall provide adequate protection for the contractor and his/her subcontractors against damage claims which may arise from operations under this Agreement whether such operations are by the insured or by anyone, directly or indirectly, employed by him/her; and also against any of the special hazards which may be encountered in the performance of this contract as enumerated herein:

HAZARD: _____

AMOUNT: _____

BUILDER'S RISK INSURANCE (FIRE AND EXTENDED COVERAGE):

This insurance shall only be required only for building projects as opposed to street, bridge, water and drainage projects.

Until this project is completed and accepted by the Owner, the contractor is required to maintain Builder's Risk Insurance (Fire and Extended Coverage) on a one hundred percent (100%) completed value basis on the insurable portion of the project for the benefit of the Owner, the contractor and the subcontractor, as their interests may appear. The contractor shall not include any costs for Builder's Risk Insurance premiums during construction unless the contractor is required to provide such insurance; however, this provision shall not release the contractor from his specifications for the project covered by the contract. The contractor and the surety shall be obligated to full performance of the contractor's undertaking.

PROOF OF CARRIAGE OF INSURANCE:

The contractor shall furnish the Owner with certificates, and the Owner shall provide the EPWU a copy of such certificates, or other satisfactory evidence of insurance, showing the type, amounts, class of operations covered, effective dates, and dates of expiration of insurance policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this Certificate will not be canceled or materially altered except after ten (10) consecutive calendar days' written notice of intent to cancel or materially alter said insurance has been provided to the Owner."

Workers' Compensation and Employers' Liability policies shall be endorsed to provide that insurer waives any right of subrogation it may acquire against the EPWU in the Work, by reason of any payment made on account of injury, including death resulting therefrom, sustained by any employee of the insured.

If employees will be provided through a leasing company, provide evidence of their Texas State License and a copy of their Workers' Compensation certificate insuring its employees.

Barragan & Associates Inc.

Land Planning & Land Surveying

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax (915) 591-5706

METES AND BOUNDS DESCRIPTION (PROPOSED 20' WATER LINE EASEMENT)

DESCRIPTION of an easement within Tract 16-A, Section 8, Block 79, Township 3, Texas and Pacific Railroad Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING for reference at a found city monument at the centerline intersection of Covey Way and Valley Quail Drive, from **WHENCE** a found city monument at the centerline intersection of Valley Quail Drive and Wood Quail Way, bears S 52°03'51" E (Bearing Basis), along the centerline of Valley Quail Drive, a distance of 1121.00 feet; **THENCE**, N 45°46'03" W, leaving said centerline, a distance of 1416.63 feet to a found "X" mark for the Northwesterly corner of said Tract 16-A (Book 4257, Page 0326 Real Property Records of El Paso County, Texas); **THENCE**, S00°36'19" E (S 00°36'07" E-Rec.), along the Westerly line of said Tract 16-A, a distance of 737.44 feet to point, said point being also being the **POINT OF BEGINNING** of this description;

THENCE, N 90°00'00" E, leaving said Westerly line of Tract 16-A, a distance of 52.59 feet to a point;

THENCE, S 34°21'28" E, a distance of 75.13 feet to a point;

THENCE, S 10°38'32" W, a distance of 200.53 feet to a point;

THENCE, S 00°36'19" E, a distance of 292.82 feet to a point;

THENCE, N 90°00'00" E, a distance of 65.24 feet to a point;

THENCE, S 00°00'00" E, a distance of 20.00 feet to a point;

THENCE, N 90°00'00" W, a distance of 65.03 feet to a point;

THENCE, S 00°36'19" E, a distance of 519.97 feet to a point;

THENCE, N 90°00'00" E, a distance of 14.61 feet to a point;

THENCE, S 00°00'00" E, a distance of 20.00 feet to a point;

THENCE, N 90°00'00" W, a distance of 14.40 feet to a point;

THENCE, S 00°36'19" E, a distance of 102.93 feet to a point;

THENCE, S 45°36'19" E, a distance of 243.80 feet to a point;

THENCE, S 89°56'02" E, a distance of 128.04 feet to a point;

THENCE, S 00°03'58" W, a distance of 83.81 feet to a point at the Southerly line of said Tract 16-A;

THENCE, N 89°57'03" W, along the Southerly line of said Tract 16-A, a distance of 31.64 feet to a point;

THENCE, N 00°00'00" E, leaving said Southerly line of Tract 16-A, a distance of 63.94 feet to a point;

THENCE, N 90°00'00" W, a distance of 104.47 feet to a point;

THENCE, N 45°36'19" W, a distance of 260.24 feet to a point;

THENCE, N 00°36'19" W, a distance of 965.98 feet to a point;

THENCE, N 10°38'32" E, a distance of 194.22 feet to a point;


THENCE, N 34°21'28" W, a distance of 56.29 feet to a point;

THENCE, N 90°00'00" W, a distance of 41.83 feet to a point at the Westerly line of Tract 16-A;

THENCE, N 00°36'19" W, along the said Westerly line of Tract 16-A, a distance of 20.00 feet to the **POINT OF BEGINNING** of this description, and containing in all 0.84 acres of land more or less.

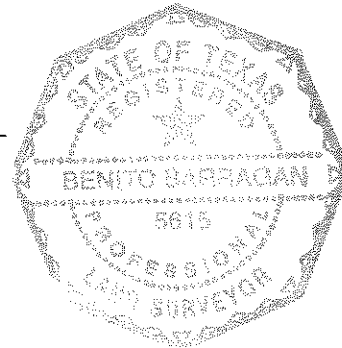
Notes:

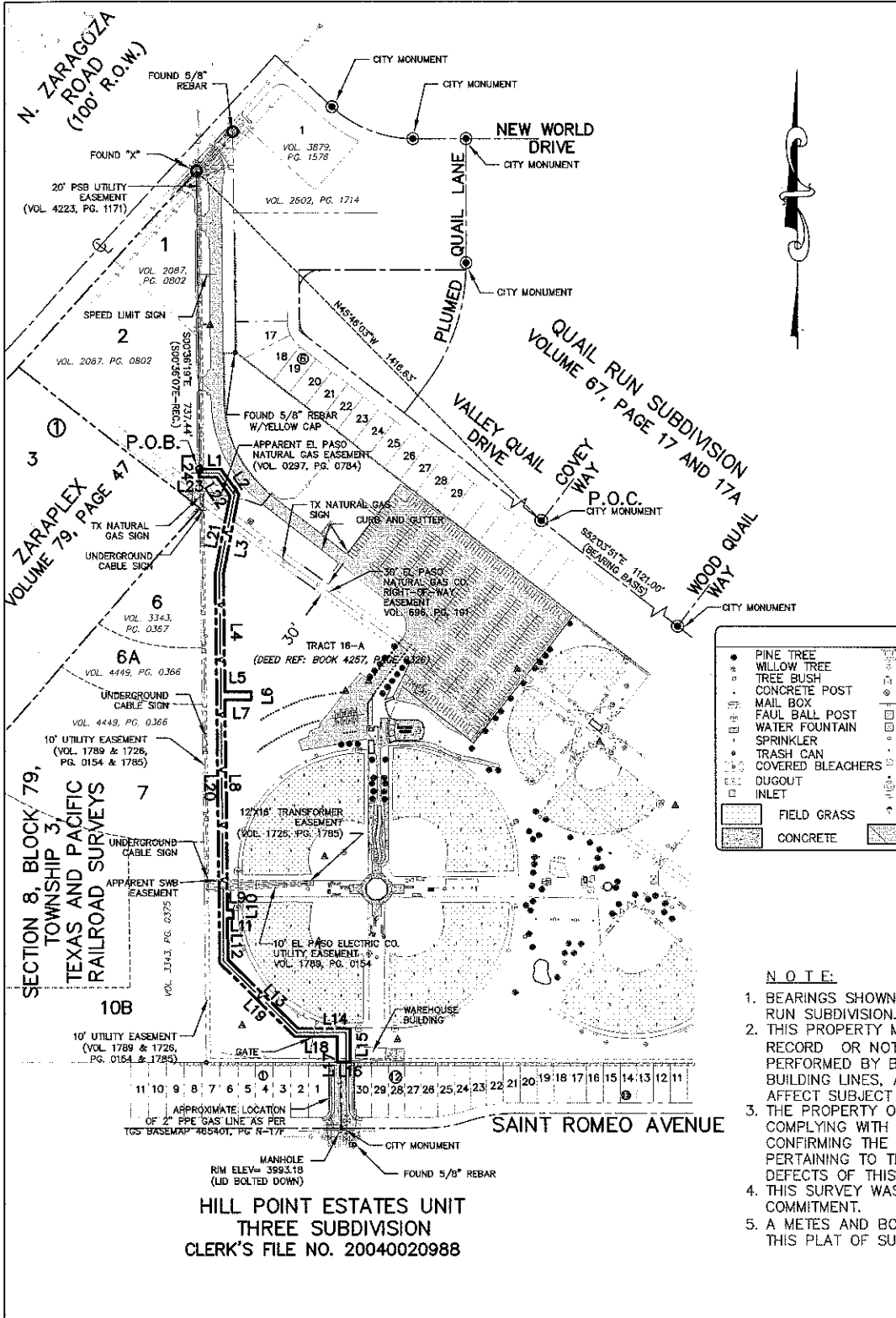
1. Bearings recited herein are based on the filed plat for Quail Run Subdivision.
2. A Plat of Survey of even date accompanies this Description.
3. This property may be subject to easements whether of record or not, (Not Shown). No Additional Research was performed by B&A Inc. for any reservations, restrictions, building lines, and or easements which may or may not affect subject parcel.
4. This description does not intend to be a subdivision process which may be required by the City of El Paso Ordinance, and is the Clients/Owners responsibility to comply with this Ordinance if required.



Benito Barragan

Benito Barragan TX R.P.L.S. 5615, November 28, 2012
El Paso County Sports Plex PSB Easement





LINE TABLE		
LINE	BEARING	LENGTH
L1	N90°00'00"E	52.59'
L2	S34°21'28"E	75.13'
L3	S10°38'32"W	200.53'
L4	S00°36'19"E	292.82'
L5	N90°00'00"E	65.24'
L6	S00°00'00"E	20.00'
L7	N90°00'00"W	65.03'
L8	S00°36'19"E	519.97'
L9	N90°00'00"E	14.61'
L10	S00°00'00"E	20.00'
L11	N90°00'00"W	14.40'
L12	S00°36'19"E	102.93'
L13	S45°36'19"E	243.80'
L14	S89°56'02"E	128.04'
L15	S00°03'58"W	83.81'
L16	N89°57'03"W	31.64'
L17	N00°00'00"E	63.94'
L18	N90°00'00"W	104.47'
L19	N45°36'19"W	280.24'
L20	N00°36'19"W	965.98'
L21	N10°38'32"E	194.22'
L22	N34°21'28"W	56.29'
L23	N90°00'00"W	41.83'
L24	N00°36'19"W	20.00'

LEGEND		
● PINE TREE	○ FIRE HYDRANT	▲ CONTROL POINT
○ WILLOW TREE	○ MAN HOLE	○ CHAINLINK FENCE
○ TREE BUSH	○ WATER VALVE	○ IRON FENCE
○ CONCRETE POST	○ WATER METER	○ EDGE OF PAVEMENT
○ MAIL BOX	○ SIGN	○ CURB & GUTTER
○ FAUL BALL POST	○ PED	○ BLOCK WALL
○ WATER FOUNTAIN	○ ELECTRICAL BOX	○ ROCK WALL
○ SPRINKLER	○ LAMP	○ GUARD RAIL
○ TRASH CAN	○ METAL POST	○ POWER LINE
○ COVERED BLEACHERS	○ IRRIGATION BOX	○ WIRE FENCE
○ DUGOUT	○ WOODEN POST	○ WATER LINE
○ INLET	○ GAS METER	○ POWER POLE
○ FIELD GRASS	○ ANCHOR	○ SEWER LINE
○ CONCRETE	○ PAVEMENT	

- NOTE:**
1. BEARINGS SHOWN ARE BASED ON THE FILED PLAT FOR QUAIL RUN SUBDIVISION.
 2. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS WHETHER OF RECORD OR NOT, (NOT SHOWN). NO ADDITIONAL RESEARCH WAS PERFORMED BY B&A INC. FOR ANY RESERVATIONS, RESTRICTIONS, BUILDING LINES, AND OR EASEMENTS WHICH MAY OR MAY NOT AFFECT SUBJECT PARCEL.
 3. THE PROPERTY OWNERS ARE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL TITLE COMMITMENT PROVISIONS AND CONFIRMING THE SIZE AND USE OF ALL RECORDED EASEMENTS PERTAINING TO THIS PROPERTY, IN SPITE OF THE ACCURACY OR DEFECTS OF THIS PLAT.
 4. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
 5. A METES AND BOUNDS DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT OF SURVEY.

Barragan & Associates Inc.
 LAND PLANNING & SURVEYING
 10950 Pellicano Dr. Building-F,
 El Paso, Tx 79935
 Phone (915) 591-5709 Fax (915) 591-5706

Plat of Survey

PROPOSED 20' WATER LINE EASEMENT
 PORTION OUT OF
 TRACT 16-A, SECTION 8,
 BLOCK 79, TOWNSHIP 3,
 TEXAS AND PACIFIC RAILROAD SURVEYS,
 CITY OF EL PASO,
 EL PASO COUNTY, TEXAS.
 AREA 0.84 ACRES ±

Plat Reference Vol/Bk N/A Pages N/A
 Scale: 1"=400' Date: 11/28/12 Drawn By: BM

I hereby certify that the foregoing survey was made on the ground and under my supervision and is true and correct to the best of my knowledge and belief.

Barragan
 Barragan, R.P.L.S. No. 5615

Job No. 121129-01 Copy Rights ©

EASEMENT

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

That the undersigned, hereinafter called Grantor, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration paid by the CITY OF EL PASO, a municipal corporation, for the use and benefit of its Public Service Board (El Paso Water Utilities), hereinafter called Grantee, the receipt and sufficiency of which is hereby acknowledged by Grantor, and the further benefits to be derived by the remaining property as a result of projected public improvements, do (es) hereby grant and convey unto said Grantee, its successors and assigns forever, an easement to construct, build, install, repair, reconstruct, and perpetually use, maintain and operate a water (and sewer) line or lines with appurtenances and improvements thereto, being hereinafter sometimes collectively called the "Easement", over, under, across, and through the following described property in the County of El Paso, Texas:

REFER TO METES AND BOUNDS ATTACHED

Except as modified herein, this grant shall carry with it the right of ingress and egress, to and from the Easement at all reasonable times, with the right to use existing roads for the purpose of constructing, reconstructing, installing, operating, inspecting, repairing, and maintaining the facilities; and the removal or replacement of same either in whole or in part. Grantee may use such portion of the property along and adjacent to said Easement, as may be reasonably necessary, in connection with the construction, reconstruction, installation, maintenance, repair, removal, or replacement of the facilities.

Grantee shall indemnify, defend, and hold harmless the Grantor from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties or to Grantor which may be caused by or arise out of the maintenance and existence of said pipelines in the easement area.

Should one or more of the Grantors herein be natural persons and not be joined by the respective spouse, it is conclusively presumed that the land herein conveyed is not the residence or business homestead of such Grantor(s) and that the Grantors have full authority to convey this easement as their separate property. Should one or more of the Grantors herein be a legal entity other than a natural person, it shall be conclusively presumed that the person signing on behalf of such party has been duly and legally authorized to so sign and there shall be no necessity for a seal or attestation. The payment of the consideration for the property conveyed herein shall be considered full compensation for same and for any diminution in value that may result to remaining property by virtue of the project, construction, installation, and repair of utility lines and improvements, grade alignment, or the alteration of drainage patterns and facilities.

Grantor further grants to Grantee the right to construct, maintain, and operate on said Easement, additional pipelines and appurtenances and Grantee shall, in such case, have the same rights, with respect to such additional lines and appurtenances to be constructed, as with the original line or lines.

To have and to hold, the above-described Easement(s) together with all and singular, the rights and appurtenances thereto in anywise belonging unto the said Grantee, its successors and assigns forever; and Grantors is (are) hereby bound, together with all heirs, personal representatives, executors, administrators, successors, and assigns to warrant and forever defend the above-described easement and rights unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. Such rights and Easement shall be covenants running with the land and be binding upon the Grantor, his personal representatives, heirs, executors, administrators, successors, and assigns.

Grantor reserves the right to full use and enjoyment of the property encumbered by the Easement, except as otherwise provided herein, and such use shall not hinder, conflict, or interfere with the exercise of Grantee's rights hereunder, and no building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on said Easement without Grantee's written consent. Grantor and Grantor's employees, agents, and invitees, shall at all times, have access from Grantor's property to the land covered by this Easement and Grantee shall not prohibit ingress to or egress from Grantor's adjacent land because of construction or for any other reason.

The undersigned represents and warrants to Grantee that the undersigned is the owner of record of the property above-described and has the full power and authority to grant this Easement.

When the context requires, singular nouns and pronouns include the plural.

WITNESS THE EXECUTION HEREOF the _____ day of _____, 2013.

Project Name:
Job No:
Date:
w/o Construction Easement
Description By:

Corporate Acknowledgement

STATE OF TEXAS }
 }
COUNTY OF EL PASO }

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act and deed of _____, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 2013.

(SEAL)

Notary Public in and for
The State of Texas

My Commission Exp: _____

Acknowledgement

STATE OF TEXAS }
 }
COUNTY OF EL PASO }

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for as his/her act and deed for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 2013.

(SEAL)

Notary Public in and for
The State of Texas

My Commission Exp: _____



**COMMISSIONERS COURT
COMMUNICATION**

AGENDA DATE : _____

CONSENT OR REGULAR: _____

CONTRACT REFERENCE NO
(IF APPLICABLE): _____

SUBJECT:

BACKGROUND/DISCUSSION OF TOPIC: To include statutory requirement, operational impact, or performance goal.

FISCAL IMPACT:

PRIOR COMMISSIONERS COURT ACTION (IF ANY):

RECOMMENDATION:

COUNTY ATTORNEY APPROVAL

The attached document has been given legal review by the El Paso County Attorney's Office on behalf of the County of El Paso, its officers, and employees. Said legal review should not be relied upon by any person or entity other than the County of El Paso, its officers, and employees.

COUNTY ATTORNEY:

LEGAL REVIEW:

LEGAL REVIEW NOTES (If Applicable):

DATE:

SUBMITTED BY: