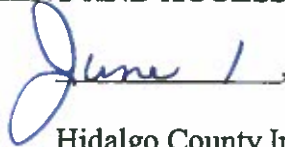


**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**EASEMENT AND ACCESS AGREEMENT**

Date:

 2011

First Party:

Hidalgo County Irrigation District No. One

First Party's Mailing Address:

Hidalgo County Irrigation District No. One  
P. O. Box 870  
Edinburg, Hidalgo County, Texas 78540

Second Party:

Hidalgo County

Second Party's Mailing Address:

Hidalgo County  
Attention: County Judge  
100 E. Cano, 2<sup>nd</sup> Floor  
Edinburg, Hidalgo County, Texas 78541

First Party's Property:

That certain real property located in Hidalgo County, Texas and being more particularly described on Exhibit A which is attached hereto and made a part hereof for all purposes.

Easement Purpose:

For providing free and uninterrupted pedestrian and vehicular ingress to, over and across First Party's Property.

Consideration:

Good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties.

Reservations from Conveyance of First Party's Property:

For First Party and First Party's successors and assigns forever, a reservation of all oil, gas, and other minerals in and under and that may be produced from the First Party's Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease and all benefits from it.

Grants of Easements:

First Party, for the Consideration grants, sells, and conveys to Second Party and Second Party's successors, and assigns an easement to, over, and across First Party's Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way

belonging, to have and to hold the easement, rights, and appurtenances to Second Party and Second Party's, successors, and assigns forever.

The easements, rights, and appurtenances hereby granted by First Party are referred to herein as the "Easements." First Party's Property is sometimes referred to herein collectively as the "Properties." First Party and Second Party are sometimes referred to herein individually as a "Party" and collectively as the "Parties." The conveyance of this Easement is made by First Party excluding any warranty of title, express or implied. All warranties that might arise by common law as well as the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded.

Terms and Conditions: The following terms and conditions apply to the Easements granted by this Agreement:

1. *Duration of Easement.* The Easements shall continue only so long as Second Party uses First Party's Property for the Easement Purpose as provided herein.

2. *Nonexclusiveness of Easements.* The Easements are nonexclusive, and First Party reserves for itself and its successors and assigns the right to use all or part of the Easements in conjunction with Second Party and the right to convey to others the right to use all or part of the Easements in conjunction with the Second Party, as long as such further conveyance is subject to the terms of this Agreement and does not interfere with the Easement Purpose. Notwithstanding anything herein to the contrary, Second Party acknowledges and agrees that it shall not grant any third party easement rights on, under or over the Easement Property and that any public use and/or rights to the Easement Property shall not include the installation of electric, mineral, fiber optic or other utility lines because of the limited purpose of the Easements.

3. *Use and Location of Easements.* Second Party may make improvements to First Party's Property, including but not limited to the right to erect, construct, install, expand, dig and maintain a roadway and thereafter use, operate, reconstruct, excavate, dig, inspect, repair, expand, maintain, replace and remove a roadway only to the extent that such improvements will not unreasonably interfere with or restrict the use of First Party's irrigation system.

4. *Rights Reserved.* First Party reserves for itself, successors, and assigns the right to continue to use and enjoy the surface of First Party's Property for all purposes that do not unreasonably interfere with or interrupt the use or enjoyment of the Easements granted herein to Second Party.

5. *Equitable Rights of Enforcement.* These Easements may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the Parties to or those benefited by this Agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

6. *Attorneys' Fees.* If either Party retains an attorney to enforce this Agreement, the Party prevailing in litigation is entitled to recover reasonable attorneys' fees and court and other costs.

7. *Binding Effect.* This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns.

8. *Choice of Law.* This Agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any other jurisdiction. Venue is in the county or counties in which the Properties are located.

9. *Counterparts.* This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

10. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting Party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement or provided by law.

11. *Further Assurances.* Each signatory Party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement.

12. *Integration.* This Agreement contains the complete Agreement of the Parties and cannot be varied except by written Agreement of the Parties. The Parties agree that there are no oral Agreements, representations, or warranties that are not expressly set forth in this Agreement.

13. *Legal Construction.* If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

14. *Notices.* Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address

for notice may be changed by written notice delivered as provided herein.

15. *Recitals.* Any recitals in this Agreement are represented by the Parties to be accurate, and constitute a part of the substantive Agreement.

16. *Time.* Time is of the essence. Unless otherwise specified, all references to “days” mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

17. *Acceptance by Second Party Without Warranty.* Second Party, by its acceptance hereof, accepts the Property in its physical condition as of the date hereof, AS IS, WHERE IS AND WITH ALL FAULTS, and acknowledges that it has no recourse whatsoever against First Party in the event of discovery of any defects of any kind, latent or patent. Second Party acknowledges and agrees that First Party has not made and does not make any representation, warranty or covenant of any kind or character whatsoever, whether expressed or implied, with respect to the physical condition, use or usefulness of the First Party’s Property or any portion thereof, and (1) FIRST PARTY HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF CONDITION, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WITH RESPECT TO THE VALUE, PROFITABILITY OR MARKETABILITY OF THE PROPERTY, AND (2) FIRST PARTY HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY WITH REGARD TO COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING OR DISPOSING OF ANY HAZARDOUS WASTE OR SUBSTANCE.

18. *Indemnity.* Second Party shall, to the extent allowed by law, indemnify, protect, defend and hold harmless First Party, and its directors, partners, officers, employees, agents, successors and assigns (the “Indemnified Parties”), from and against any and all claims, costs, liabilities, losses, damages, injuries, judgments, and expenses (collectively, “Claims”) including, without limitation, attorneys’ fees, court costs, including those incurred at the trial and appellate levels and in any bankruptcy, reorganization, insolvency or other similar proceedings, and other legal expenses, arising out of or resulting from any injury or death to any person or injury to any property, received or sustained by any person or persons or property, arising out of, occasioned by, or related in any way, directly or indirectly, to the entry on First Party’s Property by Second Party, its agents, employees or contractors. The Indemnified Parties shall give Second Party prompt notice of any Claims coming within the purview of this indemnity. Upon the written request of the Indemnified Parties, Second Party shall, to the extent allowed by law, assume the defense of any Claims against the Indemnified Parties with counsel reasonably acceptable to the Indemnified Parties and will permit the Indemnified Parties, at their expense, to participate in the defense thereof. The provisions of this Section 18 shall survive the expiration of this Agreement and shall be binding upon Second Party and its successors and assigns.

19. *Insurance.* Second Party shall provide First Party, on or before the execution of this Agreement, with a certified copy of Second Party's commercial general liability insurance policy with all endorsements attached thereto, which policy shall have at least One Million and No/100ths Dollars (\$1,000,000.00) single limit liability for each occurrence. Such insurance policy shall list First Party as an additional insured under the policy, which policy shall include a contractual liability endorsement to cover Second Party's obligations under this Agreement. Coverage under the policy as it pertains to First Party shall apply on a primary and noncontributory basis with any other insurance available to First Party, and the insurer will not seek contribution from any other insurance of First Party, whether primary, excess, or contingent, and even though such other insurance provides that it is primary insurance. Coverage under the policy shall be on an occurrence rather than a claims made basis. The policy shall also be endorsed to provide that First Party will be notified of the cancellation or any restrictive amendment of the policy at least thirty (30) days before the effective date of such cancellation or amendment. Second Party shall not violate, or permit to be violated, any conditions of said insurance policy, and Second Party shall at all times satisfy the requirements of the insurance company writing said policy. The failure to provide such policy in the manner and time required or to maintain the insurance coverage specified herein shall be deemed a material breach of this Agreement.

[Signature Page Follows]

**FIRST PARTY:**

Hidalgo County Irrigation District No. One

By: Robert L. Bell, Jr.  
Robert L. Bell, Jr., President

ACCEPTANCE:

Grantee hereby accepts the foregoing conveyance subject to the reservations therein set forth, and agrees to be bound by the terms and conditions thereof.

**SECOND PARTY:**

Hidalgo County

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO   §

This instrument was acknowledged before me on June 1, 2011 by Robert L. Bell, Jr., President of HIDALGO COUNTY IRRIGATION DISTRICT NO. ONE, in the capacity therein stated.



Estella Garza  
Notary Public, State of Texas

STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO   §

This instrument was acknowledged before me on \_\_\_\_\_, 2011 by \_\_\_\_\_, of HIDALGO COUNTY, in the capacity therein stated.

\_\_\_\_\_  
Notary Public, State of Texas

AFTER RECORDING RETURN TO:

A. Kirby Cavin  
Atlas & Hall, L.L.P.  
P. O. Box 3725  
McAllen, Texas 78502-3725

**EXHIBIT A**



**METES AND BOUNDS DESCRIPTION  
0.034 ACRES OF LAND  
HIDALGO COUNTY WATER CONTROL  
& IMPROVEMENT DISTRICT  
HIDALGO COUNTY, TEXAS**

A tract of land containing 0.034 acre of land situated in Hidalgo County, Texas and also being a part or portion of **HIDALGO COUNTY WATER CONTROL & IRRIGATION DISTRICT No. 1**, and said 0.034 acre of land also being more particularly described as follows:

**BEGINNING** on the North right-of-way line of U.S. Highway 83 and the West right-of-way line of said H.C.W.C. & I.D. No. 1 and East right-of-way line of a 40.00 foot right-of-way, recorded in Volume 8, Page 47, H.C.M.R., for the southwest corner of this tract and **POINT OF BEGINNING**;

**THENCE**, N 53° 08' 52" E, along the common line of said H.C.W.C. & I.D. No. 1 and said 40.00 foot right-of-way, a distance of 183.42 feet to an outside corner of said H.C.W.C. & I.D. No. 1, for the most northerly corner of this tract;

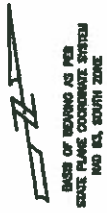
**THENCE**, S 47° 55' 16" W, a distance of 178.46 feet to the North right-of-way line of said U.S. Highway 83, for the southeast corner of this tract;

**THENCE**, N 56° 11' 54" W, along the North right-of-way line of said U.S. Highway 83, a distance of 17.23 feet to the **POINT OF BEGINNING**, containing 0.034 acres of land, more or less.

Bearing basis as per **TEXAS STATE PLANE COORDINATES SYSTEM NAD 1983, South Zone**.

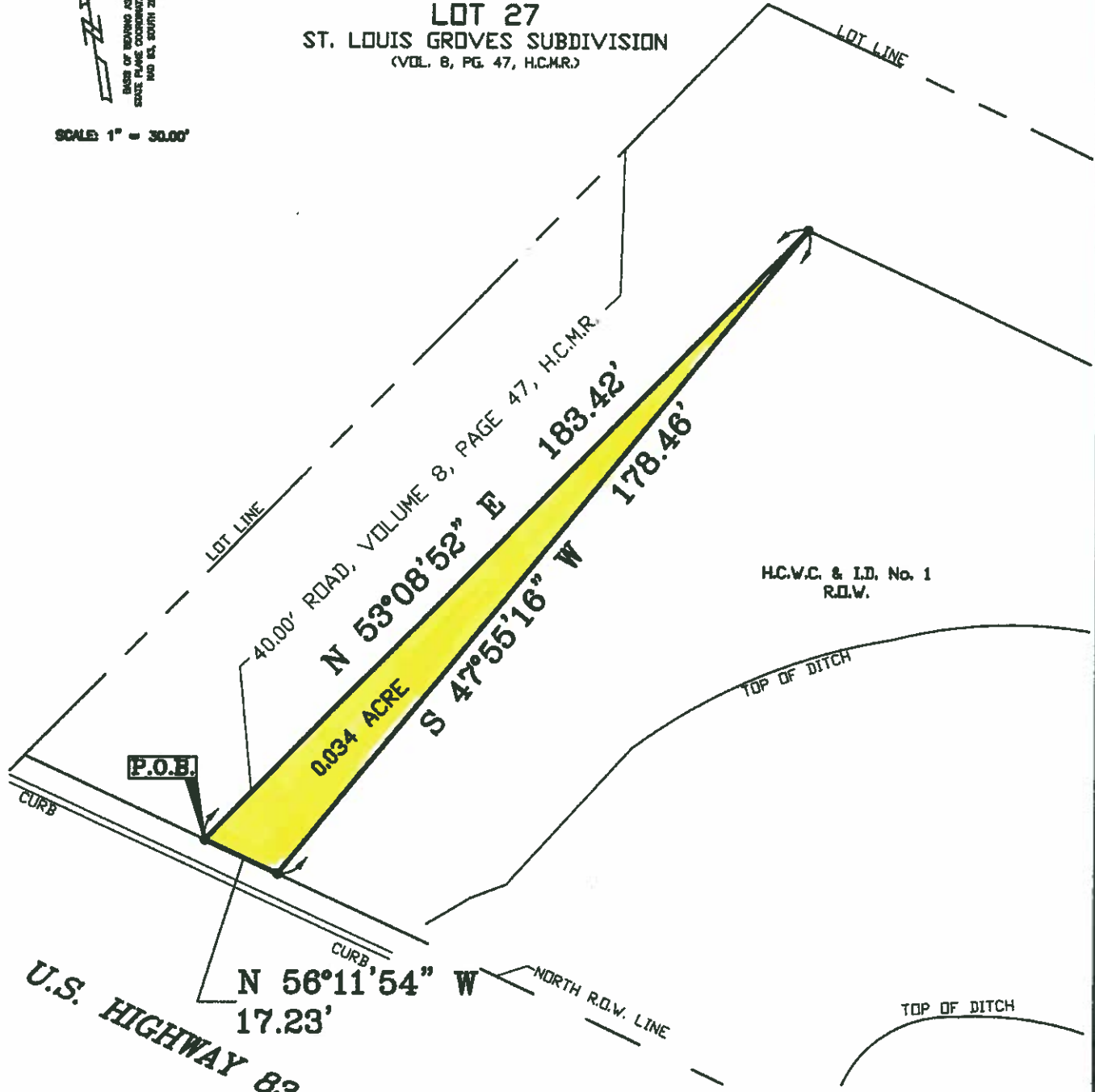
**THE ABOVE DESCRIPTION WAS SURVEYED ON THE GROUND UNDER MY DIRECTION ON APRIL 19, 2011.**

**Carlos Vásquez, R.P.L.S. No. 4608  
CVQ Land Surveyors, LLC**



SCALE: 1" = 30.00'

**LOT 27**  
**ST. LOUIS GROVES SUBDIVISION**  
(VOL. 8, PG. 47, H.C.M.R.)



H.C.W.C. & I.D. No. 1  
R.O.W.

**U.S. HIGHWAY 83**

**PLAT SHOWING**  
**0.034 OF ONE ACRE**  
**OUT OF H.C.W.C. & I.D. No. 1 CANAL R.O.W.**  
**HIDALGO COUNTY, TX**

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Fax (202) 918-1247  
www.cvqllc.com

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|----------------|----------|
| SURVEYED DATE: | 04/20/11 |
| JOB No.:       | 101004   |
| DRAWN BY:      | PT       |
| CHECKED BY:    | C.V.     |
| REVISIONS:     |          |
|                |          |
|                |          |