

# ASSIGNMENT OF IRRIGATION WATER FOR CONVERSION TO DOMESTIC, MUNICIPAL, AND INDUSTRIAL USE BY LOWER VALLEY WATER DISTRICT

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This Assignment is made between the Lower Valley Water District, a conservation and reclamation district and municipal utility district organized and existing under the laws of the State of Texas ("Assignee"), and \_\_\_\_\_ {owner of fee title or of right to contract for use of irrigation rights} ("Assignor"), (collectively "the Parties").

1. **PROPERTY.** Assignor warrants that he/she either owns in fee simple the following described parcel of real property ("Property"), or otherwise holds an interest in the Property or a legal right that provides Assignor the authority and power to execute the Assignment {legal descriptions} listed on the following page. Assignor further warrants that the Property constitutes no more than two acres of land within the boundaries of Assignee and the El Paso County Water Improvement District No. 1 ("the District"), is classified by the District as having first-class water rights and is entitled to receive annual allotments of irrigation water from the District ("Irrigation Water").
2. **AUTHORITY.** The Parties agree that this Assignment is made pursuant to and subject to Contract No. 9-07-40R0680, "Contract Regarding Delivery of Water to the El Paso County Lower Valley Water District Authority," dated November 29, 1988 between the United States, the District and Assignee ("the 1988 Contract"), and all other applicable federal and state law.
3. **ASSIGNMENT AND TERM.** Assignor irrevocably assigns to Assignee for 75 years the right to delivery of the Irrigation Water that the Property would be entitled to receive from the District, subject to the limits of the 1988 Contract.
4. **RENEWAL.** Upon expiration of the original term, this Assignment shall be renewed automatically for successive 75-year terms unless specifically canceled in writing by Assignor, the District or Assignee, with notice to the others within six months prior to the expiration date. Such renewal or cancellation, as the case may be, shall be recorded by Assignee with the Real Property Records of El Paso County, Texas.
5. **CONSIDERATION.** Assignee shall pay to the District on Assignor's behalf all delinquent, current and future taxes, assessments and charges levied or assessed by the District against the Property; provided that Assignee's obligation for payment shall be limited to the term of this Assignment; and further provided that if the term of this Assignment expires after Assignee has paid any taxes, charges or assessments for the year in which this Assignment expires, then Assignor shall refund to Assignee, pro rata from the date this Assignment expires, any sums paid by Assignee to the District on Assignor's behalf. In no event shall Assignee have a right of recovery against the District for such sums paid.
6. **COVENANT NOT TO IRRIGATE.** Assignor covenants with Assignee and the District that Assignor will not order, accept, divert or use any Irrigation Water in respect of the Property during the term of this Assignment. Violation of this covenant constitutes not only a breach of contract but also an unlawful taking of water under the Texas Water Code for which the District may seek any and all remedies that may be provided by statute, common law, the 1988 Contract or any other applicable contract.
7. **IRREVOCABILITY.** This Assignment is irrevocable by the Parties and can be terminated by the Parties prior to its expiration only by the Parties' mutual written agreement, recorded with the Real Property Records of El Paso County, Texas.
8. **COVENANT RUNNING WITH THE LAND.** This Assignment shall be a covenant running with the land.
9. **BINDING EFFECT.** This Assignment shall be binding upon the successors in interest and assigns of the Parties upon its recording with the Real Property Records of El Paso County, Texas.
10. **DISPUTE.** If a dispute arises between Assignee and Assignor or anyone claiming any right, title or interest in or to the rights to water appurtenant to the Property, the District will deliver to Assignee the quantity of water to which the Property may be entitled until the question is determined, and Assignee will at its sole expense have the question settled and will hold the United States and the District harmless from any failure to make deliveries pending final settlement of the dispute.
11. **COMMUNITY DITCHES.** Assignee expressly acknowledges its obligations under the 1988 Contract to participate in the expense of operation and maintenance of the ditch to the extent and responsibility of Assignor or the fee owner of the Property had this Assignment not been executed.
12. **DESIGNATED AGENT.** Assignor designates Assignee as Assignor's authorized agent for receipt of all District notices concerning the Property, including tax statements and notices of assessments and charges.
13. **RESOLUTION OF AUTHORITY.** If Assignor is a legal entity other than an individual, Assignor shall provide as an exhibit to this Assignment a Certificate of Resolution stating the authority of the person or persons to execute this Assignment on Assignor's behalf.

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**PROPERTY LEGAL DESCRIPTION(S)**

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**ASSIGNOR:**

\_\_\_\_\_  
{Signature of Assignor}

\_\_\_\_\_  
{Signature of Assignor's Spouse}

\_\_\_\_\_  
{Date}

**ASSIGNEE: LOWER VALLEY WATER DISTRICT**

**By:** \_\_\_\_\_  
{Signature of President}

**ATTEST:** \_\_\_\_\_  
{Signature of Secretary of the Board}

**APPROVED: EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1**

**By:** \_\_\_\_\_  
{Signature of Authorized Representative}

\_\_\_\_\_  
{Date}

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**CERTIFICATE OF RESOLUTION OF AUTHORITY**

I, \_\_\_\_\_, Secretary of \_\_\_\_\_, certify that the following is a true and correct copy of a resolution adopted by the Board of Directors of \_\_\_\_\_ {name of entity} at a duly called meeting of the Board, attended by a quorum of the Directors, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

"BE IT RESOLVED that the Board of Directors of \_\_\_\_\_ {name of entity} accept and approve the Assignment of Irrigation Water for Conversion to Domestic, Municipal and Industrial Uses to the Lower Valley Water District and authorize \_\_\_\_\_ to execute such Assignment on behalf of \_\_\_\_\_ {name of entity}.

This Certificate executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_."

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{Signature of Secretary}

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**ACKNOWLEDGEMENTS**

STATE OF TEXAS §

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COUNTY OF EL PASO §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, President of the Lower Valley Water District, and acknowledged to me that he/she executed the foregoing instrument in his/her official capacity, as the act and deed of the Lower Valley Water District, for the purposes and consideration so expressed.

Given under my hand this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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**ACKNOWLEDGEMENTS CONT.**

STATE OF TEXAS §

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COUNTY OF EL PASO §

BEFORE ME, the undersigned authority, on this day personally appeared

\_\_\_\_\_ {Assignor} known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she is legally competent to execute the instrument and that he/she executed the same for the purposes and consideration so expressed.

Given under my hand this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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**ACKNOWLEDGEMENTS CONT.**

STATE OF TEXAS §

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COUNTY OF EL PASO §

BEFORE ME, the undersigned authority, on this day personally appeared

\_\_\_\_\_ {Assignor's Spouse} known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she is legally competent to execute the instrument and that he/she executed the same for the purposes and consideration so expressed.

Given under my hand this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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**ACKNOWLEDGEMENTS CONT.**

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 is the authorized agent for Assignor empowered with the right all authority to execute the foregoing instrument on behalf of Assignor and that he/she has executed the instrument in he/her official at capacity for the purposes all consideration so expressed.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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