

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Manager / Development & Infrastructure Services
AGENDA DATE: June 29, 2010
CONTACT PERSON NAME AND PHONE NUMBER:
Patricia D. Adauto, Deputy City Manager, (915) 541-4853
DISTRICT(S) AFFECTED: All Districts

SUBJECT:

Resolution: That the City Manager be authorized to sign an Interlocal Agreement by and between the CITY OF EL PASO ("City") and the EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 ("EPCWID"), for engineering work related to cataloging and identifying City street crossings over EPCWID facilities within the City of El Paso.

BACKGROUND / DISCUSSION:

The City has approximately 400 street and road crossings over facilities of the EPCWID (drains, canals, ditches, etc.) within the City Limits. These crossings are authorized by previous license agreement, easement, permit or other legal instrument between the City and the EPCWID, most of which are expiring or have expired. In negotiations with the EPCWID to permit these crossings under one master agreement, it was discussed and agreed by the parties that research of the engineering and license archives was necessary to fully inventory the crossings. It was also agreed that EPCWID could more easily facilitate the work necessary and review the records of the US Bureau of Reclamation – El Paso Field Office.

Because this review will require the performance of extensive engineering services by the EPCWID, the City proposes to reimburse the EPCWID up to an amount of \$30,000 for use of staff, consultants, or temporary employees to perform the work. The duration of the Agreement is one year, however the EPCWID has committed to having the final work product completed within a 3 to 6 month time period. Should the City be responsible for this work and utilize its own consultant, the cost would likely be in excess of \$100,000 and take upwards of a year or more to complete. Payment for these services is a critical investment to having these expired licenses renewed and finally inventoried.

Following performance under this Agreement, the City and EPCWID will continue its negotiations to develop a master agreement that will: set an agreed upon term; identify the rate, method and schedule to which payments for the crossings will be made; list any exemptions, deductions or discounts agreed upon for the crossings; and create a process for allowing new crossings as an addendum. A new master agreement is anticipated within the first quarter of FY 2011.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Contingency Account: 99010273-504405.

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an Interlocal Agreement between the City of El Paso ("City") and the El Paso County Water Improvement District No. 1 for engineering work related to cataloging and identifying City street crossings over El Paso County Water Improvement District No. 1 facilities within the City. The cost to the City shall not exceed \$30,000.00.

ADOPTED this _____ day of _____, 2010.

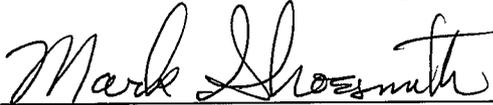
THE CITY OF EL PASO

John Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:



Patricia D. Adauto, Deputy City
Manager for Development and
Infrastructure Services

**INTERLOCAL AGREEMENT FOR ENGINEERING WORK RELEATED TO
CATALOGING AND IDENTIFYING CITY STREET CROSSING OVER EI
PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 FACILITIES
WITHIN THE CITY OF EL PASO**

This Interlocal Agreement ("Agreement") is entered into by the CITY OF EL PASO (City) a municipal corporation within the State of Texas and EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 ("EPCWID"), a political subdivision of the State of Texas organized and existing pursuant to Article XVI, Section 59 of the Texas Constitution and being subject to Chapters 49 and 55 of the Texas Water Code and collectively referred to in this Agreement as the "Parties."

RECITALS

Whereas, the EPCWID and the City are both "local governments" as defined by the Interlocal Cooperation Act, Chapter 791 Texas Government Code;

Whereas, each party to this Agreement paying for the performance of services will make those payments from current revenues available to the paying party

Whereas, irrigation canals and drains are of critical importance to EPCWID and to many owners of irrigable land within EPCWID boundaries;

NOW, THEREFORE in consideration of the mutual terms and conditions hereinafter set forth, the Parties contract and agree as follows:

AGREEMENT

1. ENGINEERING WORK TASKS

EPCWID shall research its engineering and license archives and make copies of all documents related to existing or previous licenses, permits, easements, or other legal instruments in regard to any street crossings or roads (crossings) located with the limits of the City of El Paso that are commonly known or used by the public. EPCWID shall include in its research any readily available records available for the Unites States Bureau of Reclamation El Paso Field Office, and any records or documents provided to EPCWID

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by the City. EPCWID shall organize these records in both digital (pdf) and paper (3 ring binder) formats and shall provide the City with 2 paper copies and 10 DVDs or CD-ROMs of the digital copies. EPCWID shall prepare a master list of all crossings. The purpose of the master list is to assist the City and EPCWID in preparing license agreements for all portions of the City's streets that are located on property owned by EPCWID. EPCWID shall deliver a draft of the master list to the City within 120 days after this agreement is executed by both parties.

2. TERM

Subject to applicable law, the term of this Agreement shall commence upon the date of execution hereof by both parties and shall terminate 1 year thereafter.

3. COST AND PAYMENT FOR ENGINEERING SERVICES

Pursuant to this Agreement, EPCWID agrees to perform the engineering services required. EPCWID shall invoice the City for all cost related to perform the work tasks identified in Section 1 of this Agreement. EPCWID may use staff, consultants, or temporary employees to perform the work. Such cost shall not exceed \$30,000 without the prior written approval of the City.

4. NO LIABILITY

EPCWID shall not be liable for any damages or other loss caused by its failure to provide complete records described in Part 1 or for the accuracy of any records or other information provided under this Agreement.

5. FORCE MAJEURE

If a Party, through no fault of its own, is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, then the obligations of the Party, so far as they are affected by such force majeure, shall be suspended during the time reasonably necessary to remedy such inability, but for no longer period. "Force majeure" means acts of God, wars, insurrections, riots, epidemics, landslides, lightning,

makes no warranty as to the quality or utility of the Construction Work that is the subject of this Agreement.

5. FORCE MAJEURE

If a Party, through no fault of its own, is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, then the obligations of the Party, so far as they are affected by such force majeure, shall be suspended during the time reasonably necessary to remedy such inability, but for no longer period. "Force majeure" means acts of God, wars, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, hazardous spills, explosions, and unforeseeable failure of machinery, structures or other water conveyance facilities.

6. VENUE AND CHOICE OF LAW

Any civil action based upon, concerning or arising from this Agreement shall be filed only in a court of competent jurisdiction in El Paso City, Texas. This Agreement shall be construed in accordance with the laws of Texas.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, and this Agreement becomes effective on the final date of execution by both parties.

**EL PASO CITY WATER
IMPROVEMENT DISTRICT NO. 1**

By: Johnny Stubbs Date 6/22/10
Johnny Stubbs
President of the Board of Directors

**CITY OF EL PASO
STATE OF TEXAS**

By: _____ Date _____

SUPPLEMENTAL PAGE TO INTERLOCAL AGREEMENT FOR ENGINEERING
WORK RELATED TO CATALOGING AND IDENTIFYING CITY STREET
CROSSING OVER EL PASO COUNTY WATER IMPROVEMENT DISTRICT
NO. 1 FACILITIES WITHIN THE CITY OF EL PASO.

CITY OF EL PASO

Joyce Wilson, City Manager

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Mark Shoosmith
Assistant City Attorney



Patricia D. Adauto, Deputy City
Manager for Development and
Infrastructure Services

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