

Appendix B

AGREEMENT NO. 03-CF-40-210

AGREEMENT

between

UNITED STATES OF AMERICA

and

EL PASO COUNTY WATER IMPROVEMENT DISTRICT NUMBER 1

for

PRELIMINARY COORDINATION AND CONSULTATION BY THE UNITED STATES FOR FEDERAL COMPLIANCE ISSUES AND FOR REVIEW OF PROJECT PLAN AND PROJECT REPORT

This AGREEMENT is made pursuant to the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (P.L. 106-576), hereinafter referred to as "the Act", and is between the UNITED STATES OF AMERICA, acting through the Bureau of Reclamation, Department of Interior, hereinafter referred to as "Reclamation" and, EL PASO COUNTY WATER IMPROVEMENT DISTRICT NUMBER 1, hereinafter referred to as the "District", a Water Improvement District organized and existing under and by virtue of Article XVI, Section 59, of the Texas Constitution, and governed in part by Chapters 49 and 55 of the Texas Water Code.

RECITALS

WHEREAS, as the District has identified an opportunity to improve the District's supply of water within the program area by project for canal lining and water conservation project for the Riverside Canal, El Paso County, Texas;

WHEREAS, the District desires that Reclamation review a document to be prepared by the District and entitled "El Paso County Water Improvement District No. 1 Draft of its Project Plan" for determination that the project could qualify for funding under the "Guidelines for Preparing and Reviewing Proposals for Water Conservation and Improvements Projects under Public Law 106-576" (June 2001), hereinafter referred to as "Guidelines" and prepare a Preliminary Review of the Project Plan. In addition the District desires that Reclamation begin coordination



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with the District as regards the National Environmental Protection Act (NEPA) and other federal requirements for compliance and consultation;

WHEREAS, after Reclamation has determined that the Project Plan is sufficient to qualify under the Act, the District shall prepare a report (the "Project Report"), containing detailed descriptions, assessments, cost estimates, feasibility level engineering designs, and documentation of environmental and cultural resource compliance must be prepared and submitted by the District to Reclamation for review. District desires that Reclamation meet with and advise the District as to requirements and course of action during the preparation of this report. District desires that Reclamation review the Project Report, and complete all other requirements in the process, including the final step of prioritizing under the Act; and

WHEREAS, the District has entered into a contract with the Texas Water Development Board dated July 16, 2003 and labeled TWDB CONTRACT NO. G18500 (attached to this AGREEMENT as Exhibit B and made a part herein) for a grant for engineering services which includes conditions under which the Texas Water Development Board will reimburse the District for all cost considered under this AGREEMENT due from the District to Reclamation.

NOW, THEREFORE, the parties agree as follows:

A. Reclamation agrees that this AGREEMENT is subject to the conditions and provisions of the TWDB CONTRACT NO. G18500, and that any payment by the District to Reclamation under this AGREEMENT is subject to approval by the Texas Water Development Board.

B. Activities to be performed under this AGREEMENT by Reclamation shall include, but are not limited to:

1. Designation of a Reclamation representative responsible for coordinating with District as regards the project. The designated representative will be the principal contact for this AGREEMENT and any modifications.

2. Review of the Project Plan, as required under the Act. On or before sixty days after the date of the last signature on this AGREEMENT, and receipt by Reclamation of advance funds provided for herein, Reclamation will complete a review of the Project Plan. If the Project Plan can be qualified for federal funding, a letter so stating will be forwarded to the District and the project will be accepted

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into the program under the Guidelines. If there are changes, additions or corrections required in the Project Plan, Reclamation will notify District and make arrangements for further discussions and delivery of written suggestions as to such changes, additions or corrections. Within thirty (30) days of the re-submittal of the amended Project Plan, Reclamation will complete a review of the amended Project Plan. If the Project Plan, as amended, can be qualified, a letter accepting the document as the Final Project Plan will then be forwarded to the District.

3. Preliminary coordination with District for the purpose of discussion of anticipated environmental and cultural resource compliance requirements under all applicable federal and state laws, and necessary documentation required in the Project Report. Such compliance activities shall be commensurate with the requirements of the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). Work items and costs necessary in order to achieve environmental and cultural compliance for the project will be negotiated.

4. Conducting any site visits and attending any meetings as necessary and appropriate with District and/or other agencies and interested groups regarding the development of the proposed Project Report.

5. Review of the Project Report, as required under the Act. With the advance of the necessary funds, and the completion of the review and qualification of the Project Plan, District will begin work on the Project Report. Within 45 days of submittal by District to Reclamation, Reclamation will complete a review of the Project Report. Once the Project Report is approved by Reclamation, a determination of financial capability will be made by Reclamation, and a cost share AGREEMENT for construction will be prepared for signature by Reclamation and the District. A letter will be given to the District stating that all requirements of the Act have been met and showing the prioritization of this project under the Guidelines.

6. Provide District with regular reports of actual expenditures and services required to accomplish the terms of this AGREEMENT until such activities and expenditures are complete.

7. Accept advance funding. Provide District with timely requests for additional advance funding in order that no hiatus may occur in the tasks enumerated above. Refund to District, after completion of the tasks enumerated in this AGREEMENT, any funds not expended or obligated. Reclamation has provided District an estimate of \$20,000 for the review of the Project Plan and Report and

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completion of coordination and environmental compliance activities. Such payment of \$20,000 by the District to Reclamation shall be in accordance with all provision of the contract between the District and the Texas Water Development Board dated July 16, 2002 (Exhibit B of this AGREEMENT).

8. Review comments and requirements by the Texas Water Development Board that might require changes and amendments to this AGREEMENT between Reclamation and the District, to the Project Plan or the Project Report. Reclamation will coordinate with the District's Representative and Engineer-of-Record in its attempt to satisfy such comments and requirements.

9. Reclamation shall schedule any meetings regarding work performed under this AGREEMENT with the District's Representative and the Engineer-of-Record.

10. Reclamation shall provide to the District Representative and the Engineer-of-Record at least copy, each, of all correspondence, reports, reviews, or any other work products prepared by Reclamation under this AGREEMENT.

C. Activities to be performed under this AGREEMENT by District shall include, but are not limited to:

1. Provide a sum not to exceed \$20,000 for the tasks to be performed by Reclamation as regards the review of the Project Plan and Report and the coordination and environmental compliance activities described in this document. Exhibit A of this AGREEMENT, attached and made apart itemizes the Reclamation estimate An AGREEMENT signed by Reclamation and the District, evidence of approval by the District's Board of the signatures on the AGREEMENT, and an advance of \$20,000 will be made prior to any work by Reclamation. After this AGREEMENT has been signed and funds advanced, such funds will be used by Reclamation for its costs, expenses, obligations and services related to the tasks enumerated in this AGREEMENT or any amendment thereof. Additional funds will be advanced by District when notified by Reclamation that such additional funds are needed for continuation of the activities under the AGREEMENT, and if District desires Reclamation to continue the tasks under this AGREEMENT, District will advance the requested funds within fifteen days of such notification.

2. Provide arrangements and assistance to Reclamation personnel during any site visits or meetings.

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3. Notify Reclamation of any problems that may change the plan for the project.

DISTRICT'S REPRESENTATIVE

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DISTRICT'S ENGINEER-OF-RECORD FOR PROJECT

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Axiom-Blair Engineering, L.P.
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TERMINATION

This AGREEMENT may be modified or terminated upon written mutual AGREEMENT of the parties hereto. The AGREEMENT may be terminated or suspended, at Reclamation's option, if District elects not to advance monies within fifteen days of notification by Reclamation of the need for additional advance funds. If Reclamation elects to suspend the AGREEMENT, all work by Reclamation will cease until it is in receipt of the next required start-up funds. The AGREEMENT, unless amended, will in any event terminate upon completion and transmittal to District of the letter approving and prioritizing the Project Report. All duties and obligation of the parties under this AGREEMENT will cease at that time except as to provisions related to accounting and reimbursing and refunding of funds.

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GENERAL PROVISIONS

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or shall be a part of this AGREEMENT or receive any benefit that may arise from this AGREEMENT other than as a water user or landowner in the same manner as other water users or landowners.

This AGREEMENT shall become effective on the date of the last signature hereto.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT in duplicate.

THE UNITED STATES OF AMERICA

By: *[Signature]* Date: 6/19/03

EL PASO COUNTY WATER IMPROVEMENT DISTRICT NUMBER 1

By: *[Signature]* Date: 6/11/03

