

RESOLUTION NO. 24-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE TOWN OF SUNNYVALE, TEXAS, FOR IMPROVEMENTS AT THE INTERSECTION OF BELT LINE ROAD AND TRIPP ROAD.

WHEREAS, the City of Mesquite and the Town of Sunnyvale want to make improvements to the intersection of Belt Line Road and Tripp Road; and

WHEREAS, the improvements contemplated are to make roadway improvements to add left turn lanes on Tripp Road on each side of Belt Line Road and to install traffic signal improvements; and


WHEREAS, the intersection improvements are located in both the City of Mesquite and the Town of Sunnyvale; and

WHEREAS, the City of Mesquite and the Town of Sunnyvale will each share the costs of the proposed intersection improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Council of the City of Mesquite authorizes Ted Barron, City Manager of the City of Mesquite, to execute an interlocal agreement with the Town of Sunnyvale for the Belt Line Road and Tripp Road intersection improvements in the form attached hereto as Exhibit "A".

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 6th day of July, 1999.



Mike Anderson
Mayor

ATTEST:



Ellen Williams
City Secretary

APPROVED:



B.J. Smith
City Attorney

APPROVED BY CITY COUNCIL

DATE 7/6/99

CITY SEC. _____

STATE OF TEXAS)

COUNTY OF DALLAS)

**INTERLOCAL AGREEMENT
BETWEEN CITY OF MESQUITE AND TOWN OF SUNNYVALE
FOR
BELT LINE ROAD / TRIPP ROAD INTERSECTION IMPROVEMENT**

WHEREAS, the City of Mesquite, Texas, hereinafter called "Mesquite" and the Town of Sunnyvale, Texas, hereinafter called "Sunnyvale" desire to enter into an interlocal agreement for the purpose of constructing improvements for the intersection of Belt Line Road and Tripp Road in connection with the Traffic Signal Improvements at the intersection of Belt Line Road and Tripp Road, hereinafter called "Project"; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791.001 et seq. of the Texas Government Code, provides authorization for local governments to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, funding for the intersection improvements of Belt Line Road and Tripp Road is to be provided by Mesquite and Sunnyvale out of current revenues;

NOW, THEREFORE, THIS AGREEMENT is hereby made and entered into by Mesquite and Sunnyvale for the mutual considerations stated herein:

WITNESSETH:

I.

DESCRIPTION OF PROJECT

The Project shall consist of all work necessary to construct roadway paving and traffic signal improvements on Tripp Road from Belt Line Road to the east approximately 428 feet. These improvements include the installation of six inch (6") and ten inch (10") concrete pavement, twelve inches (12") of flexible base material, Type B and D asphalt pavement, storm sewer pipe/inlets, pavement striping, traffic pavement signal loop and signal head assembly for crosswalks. Details of the scope of work are to be contained in the drawings, plans and specifications as prepared by Mesquite.

II.

PROJECT MANAGEMENT

Mesquite hereby agrees to assume all responsibilities for project management and administration including but not limited to: construction contract administration, construction inspection, and materials testing except as otherwise provided for herein. Sunnyvale hereby agrees to designate Mesquite as agent to act on behalf of Sunnyvale while performing project management and administration responsibilities

III.

PROJECT COSTS

Sunnyvale shall reimburse Mesquite the total project costs. The total project costs shall include the construction contract amount plus material costs, but shall not

include project management and administration expense and design expense which will be borne by Mesquite. The estimated total project cost to construct Sunnyvale's portion of these intersection improvements is estimated to be \$74,292.15. Should the bids received to construct these intersection improvements exceed the estimated amount, Sunnyvale shall be contacted and allowed to discuss any value engineering options before proceeding with construction.

IV.

RIGHTS-OF-WAY, EASEMENTS AND UTILITIES

Sunnyvale and Mesquite will provide all right-of-way and easements necessary for the Project on their respective sides of the intersection. Sunnyvale and Mesquite will be responsible for the relocation and adjustment costs of its respective utilities. Utility adjustments may be included in the construction contract at the request of Sunnyvale or Mesquite. Utility relocations and adjustments will be in accordance with Mesquite's utility franchise or agreements with the utility companies.

V.

BIDDING OF PROJECT AND AWARD OF CONTRACT

Mesquite hereby agrees to prepare all the construction documents, to provide for advertisement for bids, to award and execute a contract for construction of the Project and to perform all responsibilities for project management and administration, construction inspection, and materials testing necessary to complete the construction in accordance with the approved plans and specifications.

Sunnyvale hereby authorizes Mesquite to act as its agent in awarding and executing a construction contract between the successful bidder, or Contractor, and Mesquite on behalf of both Mesquite and Sunnyvale. Mesquite will provide a copy of two (2) sets of construction documents and all material testing reports for the Belt Line Road/Tripp Road Intersection to a single contact person for Sunnyvale.

VI.

PAYMENTS TO CONTRACTOR

Upon commencement of construction, each request for payment of work completed by the Contractor shall be submitted to Mesquite. Mesquite shall then certify such amount(s) and pay the Contractor. Mesquite shall furnish to Sunnyvale complete copies of the certified partial payment(s) itemized according to bid items. Not later than thirty (30) days after receiving a copy of a certified, final payment, Sunnyvale shall pay to Mesquite Sunnyvale's share of the total project costs and any other costs as provided herein.

VII.

CHANGE ORDERS

Mesquite shall have the authority to approve change orders which do not substantially change the concept of the Project and which do not cause the adjusted contract amount to vary more than five percent (5%) from the original contract amount, or when a change affects only one party and the change is agreed to by that party. The contact person designated by Sunnyvale as provided in Paragraph V above will be notified by telephone by Mesquite in the event of such a change order.

Accumulative change orders causing more than a five percent (5%) variance must be approved by all parties.

VIII.

INSPECTION OF THE PROJECT

Mesquite and Sunnyvale shall each be responsible for inspection of the Project as the work progresses; however, all communication with the Contractor shall be only through Mesquite or it's designated representative. Sunnyvale will assign appropriate personnel to coordinate all construction inspection activity with Mesquite. Upon determination by Mesquite of satisfactory completion of the Project by the Contractor, which determination will not be unreasonably withheld or delayed, the completed improvements shall be accepted by Sunnyvale as provided below in Paragraph IX.

IX.

ACCEPTANCE AND FINAL PAYMENT

Sunnyvale will participate with Mesquite in the final inspection and acceptance of the improvements. Acceptance of the improvements on Sunnyvale's respective side of the intersection shall be evidenced by a letter of approval from the appropriate department of Sunnyvale. This letter of approval shall include an authorization for final payment to the Contractor to be made by Mesquite in the amount of all sums due the Contractor, less any sums retained for liquidated damages or deducted for any other reason. Final settlement between Mesquite and Sunnyvale shall be based

upon cost responsibilities of each city as set forth in Paragraphs III and IV above and shall be made pursuant to the procedure set forth in Paragraph VI above.

X.

OPERATION AND MAINTENANCE

After acceptance, the operation and maintenance of the improvements constructed herein shall be provided by each city on their respective sides of the intersection for such improvements located within their respective municipal boundaries.

XI.

LIABILITY OF MESQUITE

Mesquite agrees to be responsible for any liability or damages Mesquite may suffer as a result of claims, demands, costs or judgements, including all reasonable attorney's fees, against Mesquite, including worker's compensation claims, arising out of the performance of the construction and services under this agreement, or arising from any accident, injury or damage, whatsoever, to any person or persons, or to the property of any person(s) or corporation(s) occurring during the performance of this agreement and caused by the sole negligence of Mesquite, its agents, officers and/or employees. Mesquite agrees that any liability or damages as stated above occurring during the performance of this agreement caused by the joint or comparative negligence of the employees, agents and officers of Mesquite and Sunnyvale shall be determined in accordance with the comparative responsibility laws of the State of Texas.

Nothing herein contained or otherwise shall confer upon any third party any additional rights or remedies against Mesquite or Sunnyvale and nothing herein contained or otherwise shall be deemed to waive, diminish, or impair Mesquite's limit of liability with respect to such third parties under laws respecting governmental immunity.

XII.

LIABILITY OF SUNNYVALE

Sunnyvale agrees to be responsible for any liability or damages Sunnyvale may suffer as a result of claims, demands, costs or judgements, including reasonable attorneys fees, against Sunnyvale, including worker's compensation claims, arising out of the performance of the construction and services under this agreement, or arising from any accident, injury or damage, whatsoever, to any person or persons, or to the property of any person(s) or corporations(s) occurring during the performance of this agreement and caused by the sole negligence of Sunnyvale, its agents, officers and/or employees. Sunnyvale agrees that any liability or damages as stated above occurring during the performance of this agreement caused by the joint or comparative negligence of the employees, agents and officers of Mesquite and Sunnyvale shall be determined in accordance with the comparative responsibility laws of the State of Texas.

Nothing herein contained or otherwise shall confer upon any third part any additional rights or remedies against Mesquite or Sunnyvale and nothing herein

contained or otherwise shall be deemed to waive, diminish, or impair Sunnyvale's limit of liability under laws requesting governmental immunity.

XIII.

TERM OF AGREEMENT

It is agreed by Mesquite and Sunnyvale that no work will commence hereunder until this agreement has been fully executed by both parties hereto. This agreement shall terminate upon the performance of all obligations as set forth herein.

XIV.

ASSIGNMENT AND AMENDMENT

This agreement may not be assigned, embodies the entire agreement between the parties, and may not be amended except in writing.

XV.

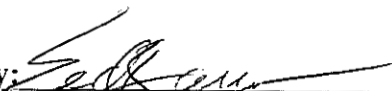
APPLICABLE LAW AND VENUE

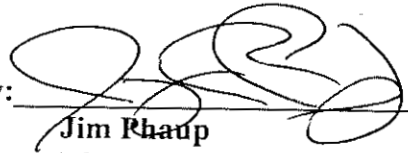
This agreement shall be expressly subject to the governmental immunity of Mesquite and Sunnyvale as provided for in the Texas Torts Claims Act, and all other applicable state and federal law. This agreement shall be governed by and construed in accordance with the laws and case decisions of the State of Texas. Exclusive venue for any legal action regarding this agreement filed by either Mesquite or Sunnyvale shall be in Dallas County, Texas.

Executed this 15th day of July, 1999 by the City of Mesquite, pursuant to City Council Resolution No. 24-99, and by the Town of Sunnyvale pursuant to City Council Resolution adopted on 6-14-99.

CITY OF MESQUITE

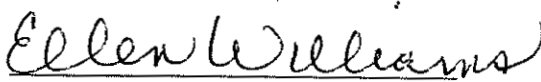
TOWN OF SUNNYVALE

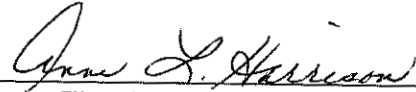
By: 
Ted Barron
City Manager

By: 
Jim Rhaup
Mayor

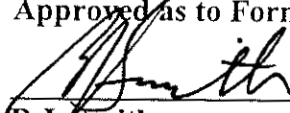
Attest:

Attest:


Ellen Williams
City Secretary


Anne Harrison
City Secretary

Approved as to Form:


B.J. Smith
City Attorney