

RESOLUTION NO. 41-2000

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CITY/COUNTY AGREEMENT BETWEEN DALLAS COUNTY AND THE CITY OF MESQUITE FOR CITY USE OF ASPHALT ROAD SURFACING MATERIALS; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite maintains almost 90 miles of concrete and asphalt roadways and thoroughfares; and

WHEREAS, the Street Services Division of the City of Mesquite endeavors to maintain these roadways and thoroughfares in the most cost-efficient manner; and

WHEREAS, Dallas County has entered into contracts for the purchase of asphalt road surfacing materials at costs substantially less than the City of Mesquite has obtained; and

WHEREAS, Dallas County will allow the City of Mesquite to purchase asphalt road surfacing materials at Dallas County's cost through the City/County Agreement between Dallas County and the City of Mesquite for City use of County asphalt road surfacing materials; and

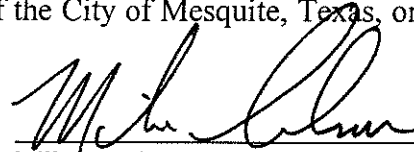
WHEREAS, the City of Mesquite benefits from this arrangement by obtaining needed materials at costs lower than the City of Mesquite can buy on its own.

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 the City/County Agreement between Dallas County and the City of Mesquite for City use of County asphalt road surfacing materials in an amount not to exceed \$125,000.


SECTION 2. That this resolution shall take effect immediately from and after its passage.


DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 19th day of September, 2000.


 Mike Anderson
 Mayor

ATTEST:

APPROVED:


 Ellen Williams
 City Secretary


 B.J. Smith
 City Attorney

STATE OF TEXAS

COUNTY OF DALLAS

CITY/COUNTY AGREEMENT
BETWEEN DALLAS COUNTY AND CITY OF MESQUITE
FOR CITY USE OF COUNTY ASPHALT PRODUCTS

WHEREAS, the County of Dallas, hereinafter called "County" has entered into a competitive bid for acquisition of road surfacing products; and

WHEREAS, the City of Mesquite, Texas, hereinafter called "City", has requested that the County allow City to directly acquire road surfacing products in accordance with such procurement, and

WHEREAS, County and City desire to enter into an agreement to permit the City to utilize Dallas County's Annual Contract for Asphalt Road Surfacing Products, County Bid No. 2000-101; and

WHEREAS, Chapter 791 of the Texas Government Code, as amended, authorized contracts between local government agencies to perform governmental functions and services such as streets, roads and drainage, inclusive of Section 791.025, Texas Government Code which permits agreements between local governments for the purchase of goods and services and satisfies and the requirement of local governments to seek competitive bids for the purchase of such goods and services.

NOW, THEREFORE, THIS AGREEMENT is hereby made and entered into by City and County upon and for the mutual consideration stated herein:

WITNESSETH

City Use of County Contract

I.

County and City contract and agree that City may utilize Dallas County's Annual Contract for Asphalt Road Surfacing Products obtained by County Bid No. 2000-101 for the procurement of materials and services for construction of overlay of various City streets by directly ordering products from said contractor as bid for County Road and Bridge District No.2.

II.

City agrees that County has furnished to City a copy of the County's Annual Contract for Asphalt under Bid No. 2000-101, which is incorporated herein as if fully reproduced; that City has read and understands the terms and conditions of said contract and hereby agrees to fulfill each and every requirement contained therein as if City was the original procuring agency.

III.

City agrees, at its sole cost and expense, to independently administer all construction and change orders, provide for all inspection, and to pay contractor directly, paying for such goods and services from current revenues, for all work performed by the County's contractor in accordance with the terms and conditions of the contract and bid specifications under Bid No. 2000-101, which has been provided to the City.

IV.

Term of this Contract shall commence on the date of execution by the last party to sign. Termination of this agreement shall be concurrent with the termination of County's Annual Contract for Asphalt under Bid No. 2000-101, but no later than April 19, 2001. County reserves the right to terminate the Contract prior to its expiration date under the terms and conditions of Bid No. 2000-101 and County procurement policy.

V.

County and City agree that in the event of a dispute between County's contractor and City, or claim filed by contractor, resulting from materials or services furnished to City by contractor that City will notify County of such event. City agrees to resolve such dispute by negotiations, if possible. City further agrees that in the event of any mediation, arbitration, litigation or other action resulting from the City's procurement of materials and/or services from contractor that City will, at its sole cost and expense, enter and defend such action, including the interest of Dallas County, and shall pay all cost and expense, including attorneys fees, claims, demands or judgments arising out of the utilization of the Contract by City. City agrees that City will pay to County all direct and indirect cost, including attorneys fees, associated with County actions required for resolution of such event.

VI.

County and City agree and acknowledge that each entity is not an agent of the other entity and that each entity is responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the utilization of County's Annual Contract for Asphalt Road Surfacing Products obtained by Bid No. 2000-101 except as hereinafter provided.

VII.

City and County agree that no County funds, equipment or personnel will be utilized in the performance of the work or acquisition of goods or services.

VIII.

BINDING AGREEMENT: AUTHORITY: PARTIES BOUND This Agreement has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties. That each person executing this agreement on behalf of each party represents and warrants that they have full right and authority to enter into this agreement.

AMENDMENT This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by the parties hereto.

APPLICABLE LAW This agreement shall be expressly subject to City and County's Sovereign Immunity, Title 5 of the TEXAS CIVIL PRACTICES AND REMEDIES CODE and all applicable federal and state law.

This agreement shall be governed by and construed in accordance with the laws of the State of Texas and venue of any legal action filed by either City or County shall be in Dallas County, Texas.

SEVERABILITY In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of the Agreement shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in force and effect.

The City of Mesquite, Texas, has executed this agreement pursuant to duly authorized City Council Resolution 41-2000 dated the 19th day of September, 2000.

The County of Dallas, Texas, has executed this agreement pursuant to Commissioners Court Order No. _____, passed on the _____ day of _____, 2000.

COUNTY OF DALLAS

CITY OF MESQUITE

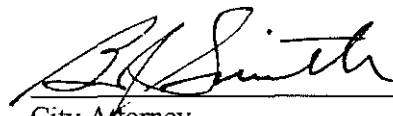
BY: _____
Lee F. Jackson
County Judge

BY: 
Ted Barron
City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Dallas County District Attorney
Civil Section



City Attorney