

RESOLUTION NO. 26-2002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH MESQUITE INDEPENDENT SCHOOL DISTRICT TO PARTICIPATE IN THE INSTALLATION OF STREET LIGHTS, IRRIGATION AND LANDSCAPING IN THE MEDIAN OF TWIN OAKS DRIVE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the Mesquite Independent School District (MISD) competitively bid and awarded a contract to construct Twin Oaks Drive from Bonnie Gentry Elementary School to Cartwright Road; and

WHEREAS, MISD has worked with the City of Mesquite (City) to coordinate the installation of the street lights, irrigation and landscaping in the median of Twin Oaks Drive; and

WHEREAS, the Interlocal Agreement Act, V.T.C.A., Texas Government Code, Chapter 791, provides authorization for any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, an Interlocal Agreement between the City and MISD will allow for the installation of street lights, irrigation and landscaping in the median of Twin Oaks Drive in conjunction with the construction of Twin Oaks Drive from Bonnie Gentry Elementary School to Cartwright Road in an amount not to exceed \$100,000.00.

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

SECTION 1. That the Mayor is hereby authorized to execute the Interlocal Agreement attached hereto as Exhibit "A" between the City of Mesquite and Mesquite Independent School District (MISD) providing for the installation of street lights, irrigation and landscaping in the median of Twin Oaks Drive in conjunction with the construction of Twin Oaks Drive from Bonnie Gentry Elementary School to Cartwright Road in an amount not to exceed \$100,000.00.


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

DULY RESOLVED by the City Council of the City of Mesquite, Texas on the 3rd day of June, 2002.

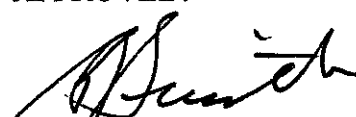


Mike Anderson
Mayor

ATTEST:


Ellen Williams
City Secretary

APPROVED:


B. J. Smith
City Attorney

00174

STATE OF TEXAS)

COUNTY OF DALLAS)

INTERLOCAL AGREEMENT
BETWEEN CITY OF MESQUITE AND MESQUITE INDEPENDENT SCHOOL DISTRICT
FOR
INSTALLATION OF MEDIAN IMPROVEMENTS
ALONG TWIN OAKS DRIVE

WHEREAS, the City of Mesquite, Texas, hereinafter called "City", and the Mesquite Independent School District, hereinafter called "District", desire to enter into an interlocal agreement for the purpose of installing median improvements along Twin Oaks Drive within the City, 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, the Project will consist of installation of median improvements (street lighting, landscaping and irrigation for approximately 1,300 linear feet) along Twin Oaks Drive to be constructed by the District at the City's expense and a portion of such expenses to be reimbursed by the District out of future reimbursements;

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

WITNESSETH:

I.

DESCRIPTION OF PROJECT

The Project shall consist of all work necessary to install median improvements (street lighting, landscape and irrigation systems) for approximately 1,300 feet along Twin Oaks Drive.

II.

PROJECT MANAGEMENT

District hereby agrees to assume all responsibilities for project management and administration including but not limited to: construction contract administration, installation and materials testing except as otherwise provided for herein. City hereby agrees to designate District as agent to act on behalf of City while performing project management and administration responsibilities. City shall designate a single contact person that will communicate with the District.

III.

PROJECT COSTS

District shall reimburse City a portion (70%) of the cost for the Project, the total cost of which shall be in an amount not to exceed \$100,000.00. The total project costs shall include the construction contract amount plus material costs, but shall not include project management and administration expense that will be borne by the District.

Reimbursements will be made to the City as they are received by the District, on a prorated basis, based on the City share to the total cost of the roadway project.

IV.

EASEMENTS AND UTILITIES

Utility relocations and adjustments will be in accordance with City's utility franchise or agreements with the utility companies.

V.

BIDDING OF PROJECT AND AWARD OF CONTRACT

District hereby agrees to prepare all the contract documents, to provide for advertisement for bids, to award and execute a contract for the installation of the median improvements and to perform all responsibilities for project management and administration, installation, and materials testing necessary to complete the installations. City hereby authorizes District to act as its agent in awarding and executing a contract with the successful bidder on behalf of both City and District.

VI.

PAYMENTS TO CONTRACTOR

Upon installation and acceptance of the street lighting, landscape and irrigation systems, the invoice for City's portion of work completed by the District shall be submitted to City. Not later than thirty (30) days after receiving an invoice, City shall pay to District its costs of the project and any other costs as provided herein.

VII.

CHANGE ORDERS

District 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 City as provided in Paragraph III above will be notified by telephone by District 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

City and District shall each be responsible for inspection of the Project as the work progresses; District will assign appropriate personnel to coordinate all inspection activity with City. Upon determination by City of satisfactory completion of the Project, the completed improvements shall be accepted by District and City as provided below in Paragraph IX.

IX.

ACCEPTANCE AND FINAL PAYMENT

City will participate with District in the final inspection and acceptance of the project improvements. Acceptance of the improvements by City shall be evidenced by a letter of

approval from the appropriate representative of City. This letter of approval shall include an authorization for final payment to the District in the amount of all sums due the District. Final settlement between City and District shall be based upon cost responsibilities of each entity as set forth in Paragraph III.

X.

OPERATION AND MAINTENANCE

After acceptance, the operation and maintenance of the improvements constructed herein shall be provided by City. Costs for replacement of such improvements shall be borne by City.

XI.

LIABILITY OF MESQUITE

City agrees to be responsible for any liability or damages City may suffer as a result of claims, demands, costs or judgements, including all reasonable attorney's fees, against City, including workers' compensation claims, arising out of the performance of the installation 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 City, its agents, officers and/or employees. City 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

City and District shall be determined in accordance with the comparative responsibility laws of the State of Texas.

XII.

LIABILITY OF DISTRICT

District agrees to be responsible for any liability or damages District may suffer as a result of claims, demands, costs or judgements, including reasonable attorney's fees, against District, including workers' 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 District, its agents, officers and/or employees. District 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 City and District shall be determined in accordance with the comparative responsibility laws of the State of Texas.

XIII.

TERM OF AGREEMENT

It is agreed by City and District that no work will commence hereunder until this agreement has been fully executed by both parties hereto.

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 City and District 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 City or District shall be in Dallas County, Texas.

Executed this 3rd day of June, 2002 by the City of Mesquite, pursuant to City Council Resolution No. 26-2002, and by the Mesquite Independent School District pursuant to Board Resolution adopted May 13, 2002.

CITY OF MESQUITE

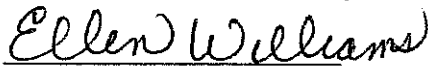
MESQUITE INDEPENDENT SCHOOL DISTRICT

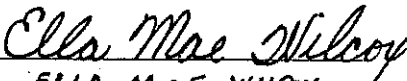
By: 
Mike Anderson
Mayor

By: 
Michael Coffey
Assistant Superintendent
Administration Services

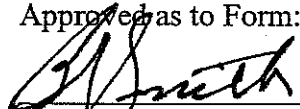
Attest:

Attest:


Ellen Williams
City Secretary


ELLA MAE WILCOX
COORDINATOR CONSTRUCTION SERVICES

Approved as to Form:


B.J. Smith
City Attorney