

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AND APPROVE THE LOCAL PROJECT ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION TO DESIGN AND CONSTRUCT A DIAMOND INTERCHANGE ALONG INTERSTATE HIGHWAY 20 AT THE FUTURE LOOP 9 IN THE CITY OF MESQUITE TO SERVICE DEVELOPMENT.

WHEREAS, the City of Mesquite (City) desires to encourage and facilitate commercial development in southeast Mesquite; and

WHEREAS, the City entered into a Master Development Agreement (MDA) with the Mesquite Independent School District, the Falcon's Lair Utility and Reclamation District, Falcon's Lair, LP and Koll Development Company on October 7, 2002, to develop approximately 491 acres adjacent to Interstate Highway (IH 20); and

WHEREAS, under the MDA the City is obligated to enter into a Local Project Advance Funding Agreement with the Texas Department of Transportation (TxDOT) to design and construct a diamond interchange along IH 20 to service the development; and

WHEREAS, this diamond interchange with IH 20 has been located along the future alignment of Loop 9, a regionally significant transportation project; and

WHEREAS, the City previously entered into a Master Advanced Funding Agreement with TxDOT on June 12, 2002; and

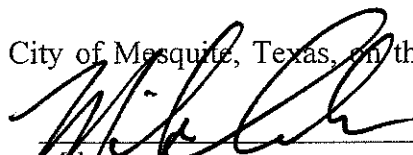
WHEREAS, the City has determined that participation in the development is in the best interests of the citizens of Mesquite.

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

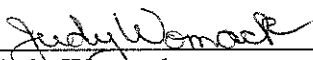
SECTION 1. That the City Council authorizes the City Manager to execute and approve the Local Project Advance Funding Agreement with the Texas Department of Transportation to design and construct a diamond interchange along Interstate Highway 20 at the future Loop 9 in the City of Mesquite to service development.

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

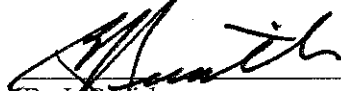
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 16th day of June, 2003.


 Mike Anderson
 Mayor

ATTEST:


 Judy Wornack
 City Secretary

APPROVED:


 B. J. Smith
 City Attorney

APPROVED BY CITY COUNCIL
DATE 6/16/03
CITY SEC. _____

THE STATE OF TEXAS §
THE COUNTY OF TRAVIS §

LOCAL PROJECT ADVANCE FUNDING AGREEMENT (LPAFA) FOR VOLUNTARY TRANSPORTATION IMPROVEMENT PROJECTS (ON-SYSTEM)

THIS AGREEMENT IS MADE BY AND BETWEEN the State of Texas, acting through the Texas Department of Transportation, hereinafter called the State, and the City of Mesquite, acting by and through its duly authorized officials, hereinafter called the Local Government.

WITNESSETH

WHEREAS, Transportation Code, Chapter 201 and Transportation Code, Chapter 221 authorizes the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

WHEREAS, Commission Minute Order Number 108812 authorizes the State to undertake and complete a highway improvement generally described as the construction of a diamond interchange on I.H. 20 at Future Loop 9 in the City of Mesquite; and,

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as preparing preliminary engineering (design schematic, environmental documents), plans, specifications and estimates (PS&E), and contributing to the construction cost of the construction of a diamond interchange on I.H. 20 at Future Loop 9 in the City of Mesquite, hereinafter called the "Project"; and,

WHEREAS, Transportation Code, §201.209 allows the State to enter into an interlocal agreement with a Local Government; and,

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

AGREEMENT

Article 1. Time Period Covered. The period of this LPAFA is as stated in the MAFA, without exception.

Article 2. Project Funding and Work Responsibilities. The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract.

In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

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Texas Government Code, Chapter 2106 requires the State to recover indirect costs associated with this agreement as calculated based on prevailing rates specified in the State's Indirect Cost Recovery Program.

Article 3. Right of Access. If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work. The Local Government will provide for all necessary right-of-way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

Article 4. Responsibilities of the Parties. Responsibilities of the Parties will be under the conditions as provided for in the MAFA, without exception.

Article 5. Document and Information Exchange. The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local entity creates the documents with its own forces or by hiring a consultant or professional provider.

Article 6. Interest. Interest will be under the conditions as provided for in the MAFA, without exception.

Article 7. Inspection and Conduct of Work. Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated herein by reference, or special specifications approved by the State.

Article 8. Increased Costs. Increased cost will be under the conditions as provided for in the MAFA, without exception.

Article 9. Maintenance. Project Maintenance will be under the conditions as provided for in the MAFA, without exception.

Article 10. Termination. Termination of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

Article 11 Notices. Notices of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

Local Government: City of Mesquite
Manager of Traffic Engineering
1515 North Galloway
P.O. Box 850137
Mesquite, Texas 75185-0137

Article 12. Sole Agreement. Sole Agreement of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

Article 13. Successors and Assigns. The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the

successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

Article 14. Amendments. Amendments to this LPAFA shall be made as described in the MAFA, without exception.

Article 15. Incorporation of Master Agreement Provisions. This LPAFA incorporates all relevant provisions of the Master Advance Funding Agreement (MAFA) in effect on the date of final execution of this LPAFA, unless such MAFA provision is specifically excepted herein. Any conflict between the terms of the MAFA and this LPAFA shall be governed and controlled by this LPAFA.

Article 15. Signatory Warranty. The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party they represent.

IN WITNESS WHEREOF, THE STATE AND THE LOCAL GOVERNMENT have executed duplicate counterparts to effectuate this agreement.

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By Jay R. Nelson
Jay R. Nelson, P.E.
Dallas District Engineer
Date 6/20/03

THE LOCAL GOVERNMENT – City of Mesquite

By: Ted Barron

Ted Barron
Typed/Printed Name

City Manager
Typed/Printed Title

Date: 6/18/03

ATTEST:

By: Judy Womack
City Secretary

Attachment A

**Payment Provisions and
Work Responsibilities**

1. Description of the Cost of the Items of Work

The total estimated cost of the Project is \$10,000,000. The Local Government will contribute \$9,000,000 towards the construction cost of the Project.

The Local Government, at no cost to the State, and in accordance with the most current American Association of State Highway and Transportation Officials (AASHTO) guidelines and all applicable TxDOT design standards, will provide to the State completed and approved preliminary engineering (design schematic, environmental documents), plans, specifications and estimates (PS&E), for the construction of the diamond interchange on I.H. 20 at Future Loop 9 in the City of Mesquite.

<u>Description</u>	<u>Estimated Total Cost</u>	<u>Local Government</u>
PE/PS&E/ROW/Utility Adj.	\$1,000,000.00	\$1,000,000.00
Construction	\$9,000,000.00	\$9,000,000.00

All necessary right-of-way purchases and utility adjustments shall be the responsibility of the Local Government. Acquisition of right-of-way and utility adjustments shall be in accordance with applicable Federal and State laws governing the acquisition policies of acquiring real property. The State will not reimburse the Local Government for the purchase of right-of-way and utility adjustments.

2. Schedule of Payment – Incremental Payment

Construction responsibilities will be carried out by the State. The Local Government shall pay the best construction cost estimate of \$9,000,000.00 in installments as provided herein below:

- (a) The Local Government, sixty (60) days prior to letting, will transmit to the State a warrant or check made payable to the "Texas Department of Transportation" in the amount of \$3,000,000.00, one-third (1/3) of the total construction cost as shown in (1) above.
- (b) The Local Government, upon award of bid, will pay an additional one-third (1/3) of construction cost of \$3,000,000.00 plus or minus any adjustments due to the actual bid prices received for the Project.
- (c) The Local Government, one hundred and eighty (180) days after the award of bid, shall remit the remaining one-third (1/3) balance of the construction cost due to the State.

The Local Government will not contribute towards the State's preliminary engineering review costs and the State's construction engineering and contingencies costs.

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3. Increased Construction Costs

Should the total estimated construction cost for the Project increase, the Local Government agrees to contribute hundred (100%) percent of the increased construction cost. Within thirty (30) days upon written notification from the State, the Local Government shall present a check or warrant for any additional construction costs.

4. No Reimbursement of Funds

The Local Government agrees not to seek reimbursement from the State at any time in the future from those Project items of work to include the preparation of preliminary engineering (design schematic, environmental documents), plans, specifications and estimates (PS&E) and any necessary right-of-way purchases and utility adjustments.

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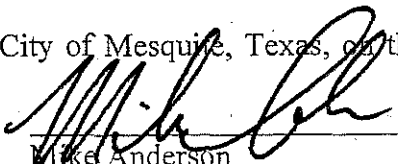
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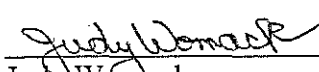
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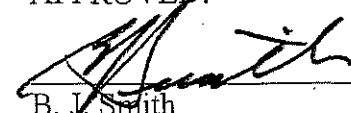
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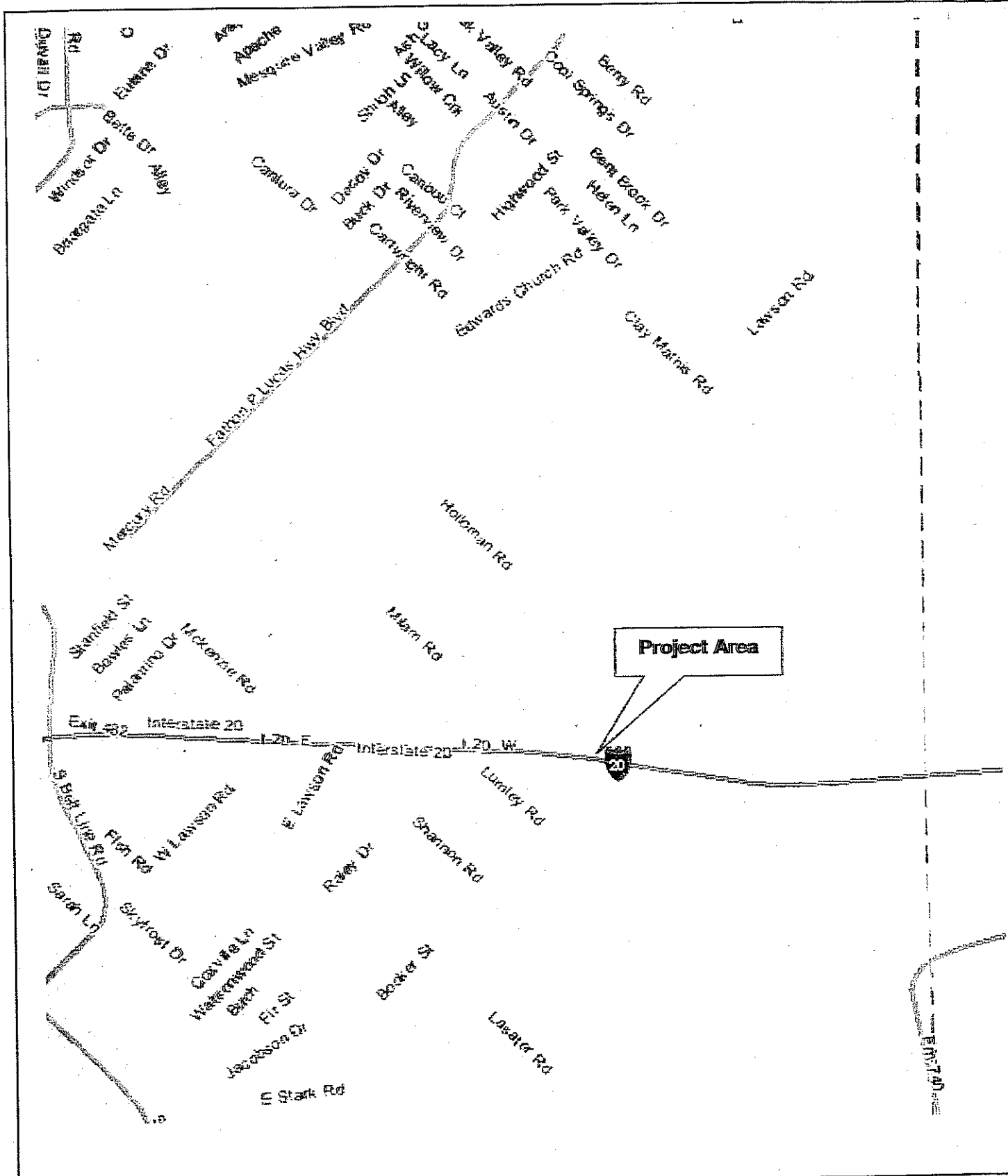
Mike Anderson
Mayor

ATTEST:


Judy Womack
City Secretary

APPROVED:


B. J. Smith
City Attorney



Attachment C
Project Location Map

Local Area Map
 Loop 9 Interchange
 Dallas County, Texas

CSJ: 0095-13-024
Project #: CC 95-13-24



Texas Department of Transportation

P.O. BOX 133067 • DALLAS, TEXAS 75313-3067 • (214) 320-6100

June 23, 2003

MS
6-23-03

Mr. Jerry Dittman
Manager of Traffic Engineering
City of Mesquite
1515 North Galloway
P.O. Box 850137
Mesquite, Texas 75185-0137

RECEIVED

JUN 23 2003

ENGINEERING DIVISION
CITY OF MESQUITE

RE: CSJ: 0095-13-024
I.H. 20 Interchange at Future Loop 9

Dear Mr. Dittman,

Attached, for your use, is a fully executed Local Project Advance Funding Agreement (LPAFA) for the I.H. 20 Interchange at Future Loop 9 project.

If you have any questions or require additional information, please call at Paul Williams, P.E. at 214-320-6241 or Polita Flemming at 214-320-4433.

Sincerely,

Moosa Saghian, P.E.
Director of Administration

Attachments

- PCF
- CC: Hall/Stauder – Advance Project Development
- McClure – Programming
- Williams – Northeast Area Office
- Contract Files