

RESOLUTION NO. 39-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT WITH THE CITY OF DALLAS.

WHEREAS, the City of Mesquite ("Mesquite") has been receiving wholesale wastewater service from the City of Dallas ("Dallas") since 1972; and

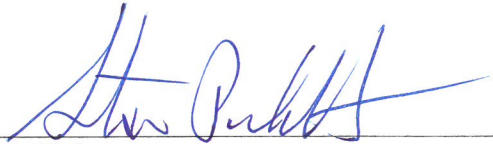
WHEREAS, with the passage of Resolution No. 65-2006 on October 3, 2006, Mesquite entered into a 30-year Wholesale Wastewater Contract with Dallas for wastewater transmission and treatment service; and

WHEREAS, Mesquite and Dallas desire to add a new Exhibit "F" to the current Wholesale Wastewater Contract to include a Reciprocal Water and/or Wastewater Service Agreement.

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

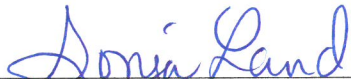
SECTION 1. That the City Manager is hereby authorized to execute the Reciprocal Water and/or Wastewater Service Agreement, which will be Exhibit "F" to the Wholesale Wastewater Contract approved by the City Council on October 3, 2006, with the passage of Resolution No. 65-2006, with the City of Dallas.

DULY RESOLVED by the City Council of the City of Mesquite, Texas on the 6th day of September, 2016.




Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney

APPROVED BY CITY COUNCIL

DATE 9/6/2016

AGENDA ITEM NO. 10

STATE OF TEXAS § SUPPLEMENTAL AGREEMENT NO. 1
 § TO WHOLESAL WASTEWATER
COUNTY OF DALLAS § CONTRACT

THIS SUPPLEMENTAL AGREEMENT No. 1 to that certain Contract, dated June 14, 2006, authorized by Dallas City Council Resolution No. 06-1596, adopted on June 14, 2006, (“the Contract”), by and between the CITY OF DALLAS, TEXAS, a Texas municipal corporation, hereinafter called “City”, and the CITY OF MESQUITE, TEXAS a Texas municipal corporation, hereinafter called “Customer”, evidences the following:

1. The scope of services is hereby amended as follows:

Customer and City agree to the terms of the Reciprocal Water and/or Wastewater Service Agreement with the City for providing water and/or wastewater service to customers along the public streets, roadways, alleys and easements forming a common city limit boundary between the City and Customer, when mains of the servicing entity are currently in place and upon written request of either party of the other, on the terms provided in **Exhibit F, Reciprocal Water and/or Wastewater Service Agreement**, attached to and made a part of the Contract.

2. All other terms, provisions, conditions, and obligations of the Contract between City and Customer shall remain in full force and effect, and said Contract and this Supplemental Agreement No. 1 shall be construed together as a single contractual agreement.

[Remainder of page is intentionally blank. The Signatures are on the following page.]

EXECUTED this the 25th day of Sept, 2016, by CITY, signing by and through its City Manager, duly authorized to execute same by Council Resolution No. 14-0524, adopted by the Dallas City Council on March 26, 2014, and by CUSTOMER, acting through its duly authorized officials.

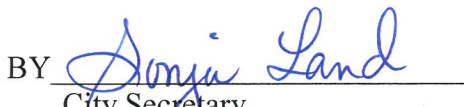
**APPROVED AS TO FORM:
CHRISTOPHER D. BOWERS,
Interim City Attorney**

BY 
Assistant City Attorney

**CITY OF DALLAS
A. C. GONZALEZ,
City Manager**

BY 
Assistant City Manager

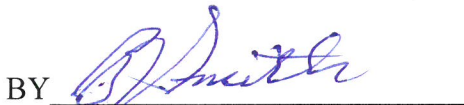
Attest:

BY 
City Secretary

**CUSTOMER:
CITY OF MESQUITE**

BY 
City Manager

APPROVED AS TO FORM:

BY 
City Attorney

WHEREAS, the City of Dallas and the City of Mesquite currently provide reciprocal water and/or wastewater services under a Reciprocal Water and/or Wastewater Agreement which will expire on March 1, 2014; and,

WHEREAS, from time-to-time, both the City of Dallas and the City of Mesquite continue to have need to request the other to furnish water and/or wastewater service to each other and to each other's customers along common boundary lines wherein only one city has facilities available; and,

WHEREAS, both Dallas and Mesquite desire to continue providing reciprocal water and/or wastewater services; and,

WHEREAS, the City of Mesquite currently purchases wholesale wastewater service from the City of Dallas, and Dallas currently provides wholesale wastewater service to Mesquite as set forth under the terms, covenants, and conditions stated in a Wholesale Wastewater Contract between the City of Dallas and City of Mesquite, dated June 14, 2006; and,

WHEREAS, both the City of Dallas and the City of Mesquite desire to amend the current Wholesale Wastewater Contract by Supplemental Agreement No. 1 to include the Reciprocal Water and/or Wastewater Agreement; and,

WHEREAS, approval of the Supplemental Agreement No. 1 to add the Reciprocal Water and/or Wastewater Agreement to the Wholesale Wastewater Contract between the City of Dallas and City of Mesquite would be in the best interest of both the City of Dallas and the City of Mesquite.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City Manager is hereby authorized to approve Supplemental Agreement No. 1 to the current Wholesale Wastewater Contract with the City of Mesquite to include the Reciprocal Water and Wastewater Agreement after approval of the contract documents by the City Attorney.

SECTION 2. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED BY
CITY COUNCIL

MAR 26 2014

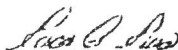

City Secretary

EXHIBIT F

RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT

1. **RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT FOR SINGLE FAMILY RESIDENCES OR DUPLEXES – WHEN SERVICING ENTITY HAS MAINS IN PLACE**

The City of Dallas, Texas, hereinafter called “Dallas” and the City of Mesquite, hereinafter called “Customer”, hereby mutually agree, that when mains of the servicing entity are currently in place, to provide water and/or wastewater service to customers along the public streets, roadways, alleys and easements forming a common city limit boundary of Dallas and Customer upon written request of either party to the other, provided that neither party will be required to provide such service to customers of the other party if doing so would result in a need for substantial construction or diminution of the level of service being provided to other customers of said entity.

The class of service contemplated by this Paragraph 1 anticipates a temporary connection until such time as the entity requesting service will have water and/or wastewater mains available. This category of service requires consideration on an individual case basis. Determination will be rendered upon written request being made by the entity in which the potential customer is located.

Nothing contained in this Agreement shall require that either entity will be compelled to accept a customer classed under this Paragraph 1 after a determination by the servicing entity that service is not economical or otherwise not in the best interest of the servicing entity.

- A. Service will be provided to single family residences or duplexes situated on no more than one acre of land located immediately adjacent to the common boundary.
- B. The entity providing the water and/or wastewater service contemplated under this Paragraph shall charge the customer so served the same rates and associated charges as charged customers whose property lies within its own areas and boundaries and who are in the same category of service.
- C. The customer being served will be required to pay all applicable fees related to the services provided including a connection service charge to the entity furnishing service. The connection service charge shall be the then current amount established by the servicing entity’s ordinances. If a service charge is not specified by the current ordinances for the size or type service to be provided, the service charge shall be the servicing entity’s actual cost for rendering the service.

2. **RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT FOR: (1) SINGLE FAMILY RESIDENCES OR DUPLEXES WHERE MAINS ARE NOT IN PLACE, (2) COMMERCIAL AND INDUSTRIAL COMPLEXES, (3) RESIDENTIAL SUBDIVISIONS, APARTMENTS OR TOWNHOUSES AND OTHER MULTI-DWELLING RESIDENTIAL UNITS.**

Dallas and Customer hereby mutually agree to provide temporary water or wastewater service, or both, to customers along the public streets, roadways, alleys and easements forming a common city limit boundary of Dallas and Customer upon written request of either entity to the other, provided that neither entity will be required to provide such service to customers of the other entity if doing so would result in a need for substantial construction or diminution of the level of service being provided to other customers of said entity.

The class of service contemplated by this Paragraph 2 anticipates a temporary connection until such time as the entity requesting service will have water and/or wastewater mains available. This category of service requires consideration on an individual case basis. Determination will be rendered upon written request being made by the entity in which the potential customer is located. Nothing contained in this Agreement shall require that either entity will be compelled to accept a customer classed under this Paragraph 2 after a determination by the servicing entity that service is not economical or otherwise not in the best interest of the servicing entity.

- A. Service will be provided to the following type customers whose properties are located immediately adjacent to or in reasonable proximity of the common boundary:
 - (1) Single family residences or duplexes where mains are not in place.
 - (2) Individual commercial and industrial properties containing no more than 200,000 square feet of building floor space, provided that commercial or industrial facilities in excess of 200,000 square feet consuming only nominal amounts of water or contributing only nominal amounts of wastewater may be considered as an exception to this provision.
 - (3) Specific residential subdivisions consisting of no more than 20 single family units and apartment complexes, townhouses or other types of multiple dwelling units consisting of no more than 35 single family units in the immediate area for which service is being requested.
- B. The entity providing the water and/or wastewater service contemplated under this Paragraph shall charge the customer served the same rates and associated charges as charged customers whose property lies within its own areas and boundaries and who are in the same category of service.
- C. As a precondition of receiving service, the customer being served may also be required to pay all or part of the costs determined to be necessary to extend service and to pay the normal service charges for the type service being offered. Applicability of costs of extending service shall be determined by the officials designated in Paragraph 4.B. of this Agreement. Normal service costs will be determined as contemplated by Paragraph 2.B and connection service costs will be determined as contemplated by Paragraph 1.C. All construction work shall meet the specifications of the entity within whose boundaries the facilities are constructed.

3. TEMPORARY RECIPROCAL SERVICES PROVIDED (1) DIRECTLY TO BORDERING CITIES AND (2) TO COMMERCIAL, INDUSTRIAL OR OTHER COMPLEXES NOT CONTEMPLATED BY PARAGRAPH 2.

When services are requested and it is determined by the entity from which service is requested that the service is appropriate and can be offered without diminution of the level of service being provided to other customers of the servicing entity, Dallas and Customer hereby mutually agree to provide temporary water and/or wastewater service on a reciprocal basis when (1) the service to be furnished is to be provided directly to the reciprocating entity as the customer or, (2) the service to be furnished is for a commercial, industrial, or other customer not meeting the criteria for service consideration in Paragraph 2.

The class of service contemplated by this Paragraph 3 shall be offered at the option of the servicing entity. Determination of service feasibility will be rendered upon written request being made by the entity requiring service. Nothing contained in this Agreement shall require that either entity will be compelled to offer service after a determination by the servicing entity that service is not economical or otherwise not in the best interest of the servicing entity.

The entity providing the water or wastewater service contemplated under this Paragraph shall charge the customer served the same rate and associated charges as charged customers whose property lies within its own areas and boundaries.

The entity requesting the service shall pay full cost of any extension, facilities or improvements required to make the service available. The amount of the charges for the extension, facilities or improvements shall be determined by the officials designated in Paragraph 4.B. of this Agreement. All construction work shall meet the specifications of the entity within whose boundaries the facilities are constructed.

4. GENERAL TERMS AND CONDITIONS

Service will be provided from mains in the public streets, roadways, alleys and easements existing along the common boundaries of Dallas and Customer under the following terms and conditions, which shall apply equally to either entity:

- A. Neither party to this Agreement is obligated to provide water or wastewater service to the other party, and each party has the right to refuse to provide water or wastewater service, under this Agreement, to the other party.
- B. The entity requiring services shall initiate the request for reciprocal services by forwarding a written request for service. The request shall be accompanied by a map which identifies the location of the proposed properties. Approval of requests for service shall be in writing and will be forwarded or approved by the following:

If for Dallas:
Dallas Water Utilities
Director of Utilities
1500 Marilla Street, Room 4/A/N
Dallas, Texas 75201

If for Customer:
City of Mesquite
Attn: City Manager
P. O. Box 850317
Mesquite, Texas 75185

- C. Meter boxes, service lines, laterals and other facilities necessary to provide service shall, upon installation, become the property of the entity furnishing service if accepted or agreed to by said entity.
- D. The customer to be served will sign a contract with the entity furnishing service, agreeing to abide by all the ordinances of that entity which relate to the furnishing of said service.
- E. The entity requesting service under this Agreement hereby grants to the entity providing such service authorization to go upon the public streets, roadways, alleys and easements of the former entity for the purpose of installing, maintaining and removing water and/or wastewater facilities as are necessary to provide service.

Customer agrees that, with prior written approval of Customer, Dallas may use streets, alleys and public rights-of-way within Customer's boundaries for the purposes detailed in this Agreement to provide retail water and wastewater service to Customer or to other customers without charges or tolls, provided that Dallas makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of a license Customer duly grants for such purposes.

Dallas agrees that, with prior written approval of Dallas, Customer may use streets, alleys and public rights-of-way within Dallas' boundaries for the purposes detailed in this Agreement to provide retail water and wastewater service to Dallas or to other customers without charges or tolls, provided that Customer makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of a license Dallas duly grants for such purposes.

- F. If at any time the entity requesting service under this Agreement shall construct a main capable of providing water and/or wastewater service to any customer being served under the terms of this Agreement, then upon request, the entity so providing the service shall terminate same, reserving the right to remove its meters and materials from the property previously served; provided, the customer shall have a reasonable time, not to exceed one month, to connect to the new service.
- G. In the cases where a customer receives water service from one entity and wastewater service from the other, the entity furnishing water service will provide the other entity with monthly meter readings and water consumption information on such customers and will permit appropriate employees of the entity furnishing wastewater service to read and examine the meters serving such customers to determine the accuracy of readings so furnished and to permit appropriate employees of the entity furnishing wastewater service to examine water consumption records of such customers, provided that no meter shall be removed or adjusted except by the entity furnishing water service.

5. CLAIMS OF LIABILITY

It is further mutually agreed by Dallas and Customer that insofar as the services contemplated hereunder are performed by either entity within the jurisdiction of the other

entity and to that extent only, to the extent allowed under Texas law, Dallas and Customer hereby mutually agree that they will release, hold harmless and defend the other entity from all claims of liability which result from damage to property (real or personal) or persons arising directly or indirectly from the performance of the services provided for under this Agreement.

6. TERMINATION OR MODIFICATION

This Agreement is to remain in force for the term of the Contract to which it is attached.