

RESOLUTION NO. 51-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AND APPROVE AN INTERLOCAL AGREEMENT WITH THE MESQUITE INDEPENDENT SCHOOL DISTRICT FOR A SAFE ROUTES TO SCHOOL PROJECT.

WHEREAS, the Texas Department of Transportation (“TxDOT”) has issued a call for projects to provide the Safe Routes to School (“SRTS”) Program, to promote pedestrian safety and encouragement toward active modes of transportation that will lead to a number of positive benefits for both children and the community at large; and

WHEREAS, the City of Mesquite (the “City”), in partnership with Mesquite Independent School District (“MISD”), has submitted an application to TxDOT under the 2019 SRTS program to design and construct a pedestrian trail along sections of East Cartwright Road serving multiple elementary and middle schools (the “Project”); and

WHEREAS, TxDOT has accepted the preliminary application for the SRTS program through its first selection phase; and

WHEREAS, it is necessary to execute an Interlocal Agreement with MISD prior to participating in the Project; and

WHEREAS, MISD and the City have jointly agreed to provide funding for the development of the detailed SRTS application costs in the amount of \$24,900.00; and

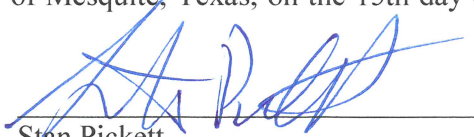
WHEREAS, the City has determined that participating in the Project is in the best interest of the citizens of Mesquite.

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

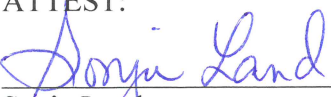
SECTION 1. That the City Council authorizes the City Manager to execute and approve the Interlocal Agreement with the Mesquite Independent School District, attached hereto as Exhibit “A,” for a Safe Routes to School Project in the City of Mesquite.

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

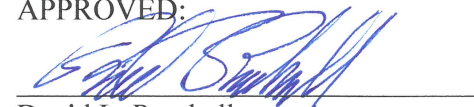
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 15th day of July 2019.



Stan Pickett
Mayor

ATTEST:


Sonja Land
City Secretary

APPROVED:


David L. Paschall
City Attorney

STATE OF TEXAS §
 COUNTY OF DALLAS §

APPROVED BY CITY COUNCIL
 DATE 7.15.19
 AGENDA ITEM NO. 6

**INTERLOCAL AGREEMENT
 BETWEEN THE CITY OF MESQUITE AND MESQUITE INDEPENDENT SCHOOL
 DISTRICT FOR FUNDING PARTICIPATION IN 2019 SAFE ROUTES TO SCHOOL
 DETAILED APPLICATION**

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 financially participating in the development of a detailed safe Routes to School application.

WHEREAS, this Agreement is entered into by the authority of the Interlocal Cooperation Act, V.T.C.A., Texas Government Code, Chapter 791, authorizing governmental units, such as cities and counties, to enter into agreements for the purpose of improving the efficiency and effectiveness of local governments.

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

WITNESSETH

The City, and the District, jointly agree to provide funding for the development of the detailed Safe Routes to School application (hereinafter called the "Project").

I. DISTRICT'S CONTRIBUTION

District agrees to reimburse City for the costs of Project development in an amount projected to be \$12,450.00, which is 50 percent of the estimated total Project cost of \$24,900.00. The District will also be responsible for 50 percent of the cost of any additional services provided that are not covered in the scope of services detailed in the Contract for Professional Engineering Services. Additional services will be provided on an hourly basis plus reimbursable expenses as agreed in writing at the time such services are authorized.

Acceptance of City's invoices is contingent upon compliance with District's invoicing procedures. City's invoices to District shall provide complete information and documentation to substantiate City's charges. Invoice period cannot be for less than a 30-day period. District may withhold any disputed amounts, but shall pay all undisputed amounts. Following approval of invoices by District, payment to the City will be handled promptly, i.e., within 30 days of District's approval of invoice. City agrees that a temporary delay in making payments due to District's accounting and disbursement procedures shall not place the District in default of this Agreement.

II. DISTRICT'S OBLIGATIONS

District agrees to participate in monthly meeting and to provide input throughout the application development process.

III. CITY'S CONTRIBUTION

City agrees to contribute the additional funding, which is 50 percent of the estimated total Project cost of \$24,900.00. The City will also be responsible for 50 percent of the cost of any additional services provided that are not covered in the scope of services detailed in the Contract for Professional Engineering Services. Additional services will be provided on an hourly basis plus reimbursable expenses as agreed in writing at the time such services are authorized. All expenditures by the City for the performance of these governmental functions of this Project shall be made from current revenues available to the City.

IV. CITY'S OBLIGATIONS

City agrees to be responsible for, including but not limited to, the following: (1) management of the detailed application development; (2) conduct kickoff meeting; (3) conduct monthly meeting; (4) and ensure that delivery schedule is met.

In the event that additional services are requested, City agrees to coordinate with the District to determine the course of action. At the termination of the Project, City will provide District with a final cost accounting of the Project.

V. TERM

The term of this Agreement shall be from the date of execution of this Agreement up to 30 days past the submission of the detailed application on August 15, 2019.

VI. DISTRICT AUDIT

District, its Auditor or its designated representative(s) shall have the right to audit any and all accounting or other records regarding any funds paid or claimed under this Agreement including but not limited to all books, records, reports, tickets, deposits, expenditures, budget or any item therein, supporting data, computer records and programs, and all items of hardware, software or firmware, or any other item utilized by the City regarding this Agreement. City contracts and agrees that all records shall be kept and maintained for a period of time not less than four years from the date of the termination of this Agreement. Such records shall be provided to the District, and available for any audit at any reasonable time upon request.

The results of any audit may be furnished to City for comment. In the event that any audit shall determine that moneys are owed to District, such sums are deemed to be due and payable to Mesquite Independent School District, within 30 days of the date of an invoice for such cost being deposited in the U. S. Mail, Certified Mail, Return Receipt Requested. District agrees that

a temporary delay in making payments due to City's accounting and disbursement procedures shall not place the City in default of this Agreement.

The audit provisions of this Agreement shall survive the termination of this Agreement until all claims brought by the District are fully paid or reduced to judgment not subject to appeal.

VII. LIABILITY

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 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.

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 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.

VIII. MISCELLANEOUS

- A. Fiscal Funding.** Notwithstanding anything to the contrary herein, this Agreement is expressly contingent upon the availability of District funding for each item and obligation contained herein. City shall have no right of action against the District as regard this Agreement, specifically including any funding by District of the Project in the event that the District is unable to fulfill its obligations under this Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure of District to budget or authorize funding for this Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the District, at its sole discretion, may provide funds from a separate source or terminate this Agreement by written notice to City at the earliest possible time prior to the end of its fiscal year.

- B. Immunity and Venue.** This Agreement is expressly made subject to District and City's Sovereign Immunity, Title 5 of the Texas Civil Remedies Code and all applicable State of Texas and Federal laws. This Agreement and all matters pertinent thereto shall be construed and enforced in accordance with the laws of the State of Texas and venue shall lie exclusively in Dallas County, Texas.
- C. Not an Agent.** District 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 performance of work covered under this Agreement.
- D. No Third Party Beneficiaries.** The terms and provisions of this Agreement are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of District and City that any entity other than District or City receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only. This Agreement is intended only to set forth the contractual right and responsibilities of the Agreement parties.
- E. Assignment.** City may not under any circumstances assign its interest in, or rights or obligations under, this Agreement without prior written consent of the District.
- F. Entire Agreement.** This Agreement and any attachments contain the entire agreement between the parties respecting the subject matter of this Agreement and supersede all prior and contemporaneous understandings and agreements, whether oral or in writing, between the parties respecting the subject matter of this Agreement.
- G. Severability.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or enforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- H. Waiver of Covenants or Conditions.** The waiver by one party of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant or condition under this Agreement.
- I. Amendment.** This Agreement may be amended at any time by the written agreement of the District and City. All amendments, changes, revisions and discharges of this Agreement in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties thereto.
- J. Notice.** All notices, requests, demands and other communication under this Agreement shall be in writing and shall be deemed to have been duly given, delivered in person, or three days after mailing (certified mail postage prepaid, return receipt requested) to the respective parties as follows:

MESQUITE INDEPENDENT SCHOOL DISTRICT:

Superintendent
Mesquite Independent School District
3819 Towne Crossing Blvd.
Mesquite, Texas 75150

CITY OF MESQUITE:

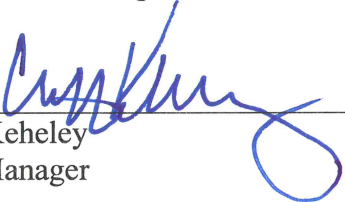
City Manager
City of Mesquite
1515 North Galloway Avenue
Mesquite, Texas 75149

The City of Mesquite, State of Texas, has executed this Agreement pursuant to duly authorized City Council Resolution No. 51-2019, Minutes _____ dated the 15th day of July, 2019.

The Mesquite Independent School District has executed this Agreement pursuant to Board Resolution adopted the date of the _____ day of _____, 2019.

CITY OF MESQUITE

MESQUITE INDEPENDENT SCHOOL DISTRICT



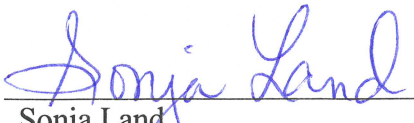
Cliff Keheley
City Manager



Kathryn Bohling
Assistant Superintendent for Business Services

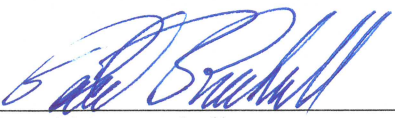
ATTEST:

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO FORM:



David L. Paschall
City Attorney