

RESOLUTION NO. 50-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AND APPROVE THE SECOND AMENDMENT TO THE PROJECT SPECIFIC AGREEMENT WITH DALLAS COUNTY FOR THE PURPOSE OF REPAVING CERTAIN SPECIFIC “TYPE B” ROADWAYS WITHIN THE CITY OF MESQUITE.

WHEREAS, Chapter 791 of the Texas Government Code and Texas Transportation Code, Article 251, provides authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street projects; and

WHEREAS, on September 10, 2013, Dallas County (“**County**”) and the City of Mesquite (“**City**”) entered into a Master Interlocal Agreement (“**Original Master Interlocal Agreement**”) whereby the County agreed to provide partial funding for such duly qualified “Type B” road and bridge maintenance projects within the territorial limits and jurisdiction of the City; and

WHEREAS, on April 17, 2017, the City Council approved the Project Specific Agreement (“**PSA**”) with Dallas County that committed both parties to allocating \$447,500.00 each to participate in the mill and asphalt overlay on three road segments that included (i) Northwest Drive from IH-30 to Oates Drive; (ii) Gus Thomasson Road from Karla Drive to the City limits; and (iii) Gus Thomasson Road from Whitson Way to IH-30; and

WHEREAS, on December 31, 2017, the Original Master Interlocal Agreement terminated and on February 20, 2018, the City and County entered into a new Master Interlocal Agreement (“**Agreement**”) whereby the County agreed to provide partial funding for such duly qualified “Type B” road and bridge maintenance projects within the territorial limits and jurisdiction of the City; and

WHEREAS, on August 20, 2018, the City Council approved the First Amendment to the PSA to increase the agreement amount due to increased concrete work completed on Northwest Drive; and

WHEREAS, the estimated cost to complete the rehab of Gus Thomasson Road (from Karla Drive to the City limits and from Whitson Way to IH-30) have exceeded the original cost estimate due to purposely delayed repairs to avoid the heavy construction equipment on the new rehabbed roadway and to avoid conflicts between multiple contractors at connection points; and

WHEREAS, the County and City wish to execute a Second Amendment to the PSA to provide for the additional needed funding (“**Second Amendment**”); and

WHEREAS, the County shall allocate an additional \$390,384.76 for a total Dallas County contribution of \$1,037,884.76 toward the repair of the three segments; and

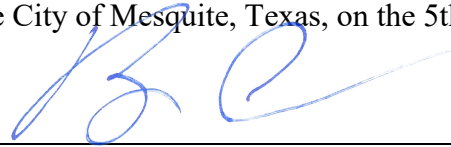
WHEREAS, the City shall match the additional \$390,384.76 in funds provided by the County for a new total City contribution in the amount of \$1,037,884.77; and

WHEREAS, the funding for this project is included in the City's Capital Improvement Plan.

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

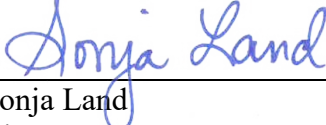
SECTION 1. The City Council authorizes the City Manager to execute and approve the Second Amendment to the Project Specific Agreement ("PSA") with Dallas County, attached hereto as Exhibit A, for the purpose of repaving "Type B" roadways within the City with an additional City project funding commitment in the amount of \$390,384.76.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 5th day of October 2020.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT “A”

**SECOND AMENDMENT
TO THE PROJECT SPECIFIC GRANT**

**Re: “Type B” Public Roadway, R&B Project #014
Made Pursuant to Master Road & Bridge Interlocal Maintenance Agreement
Between
Dallas County, Texas, and City of Mesquite, Texas**



COURT ORDER 2020-1185

Second Amendment to the Project Specific Agreement between Dallas County (County) and City of Mesquite (City) [Road & Bridge District #1] R&B Project #014

Re: Street Repairs as Described on Attachment "A-2", Type "B" Public Roadway – Made Pursuant to Dallas County's Master Road & Bridge Interlocal Maintenance Agreement with the City of Mesquite, Texas

On a motion made by Commissioner Dr. Theresa Daniel, and seconded by Commissioner Dr. Elba Garcia, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: November 10, 2020

FUNDING SOURCE: Fund 105, Project #014

Be it resolved and ordered that the Dallas County Commissioners Court does hereby Authorize the County Judge to execute the attached First Amendment to the Project Specific Agreement (PSA) between Dallas County, Road & Bridge District #1, and the City of Mesquite, Texas, pertaining to street repairs on "Type B" public roadway, R&B #014, as more fully set forth and described in Attachment "A-2" and situated within the territorial limits of the City of Mesquite, Texas. County and City mutually agree that the initial and anticipated cost of this Project is approximately \$2,075,769.53. City shall be totally responsible for the construction and maintenance of said Project, and shall be responsible for an amount not to exceed \$1,037,884.77, and that County shall only be responsible to City for a contribution, in the form of reimbursements, for an amount not to exceed \$1,037,884.76, less \$60,000.00 which will be In-House Project Delivery (IHPD) costs, and which amount shall not exceed Fifty Percent (50%) of the initial and anticipated Project cost and which will be paid from Fund 105, Project #014.

Done in open Court November 10, 2020 by the following vote:

IN FAVOR:	County Judge Clay Jenkins, Commissioner Dr. Theresa Daniel, Commissioner JJ Koch, Commissioner John Wiley Price, and Commissioner Dr. Elba Garcia
OPPOSED:	None
ABSTAINED:	None
ABSENT:	None

APPROVED BY CITY COUNCIL

DATE 10.5.2020

AGENDA ITEM NO. 7

**SECOND AMENDMENT
TO THE PROJECT SPECIFIC AGREEMENT**

Re: "Type B" Public Roadway, R&B Project #014

**Made Pursuant to Master Road & Bridge Interlocal Maintenance Agreement between
Dallas County, Texas and City of Mesquite, Texas**

This Second Amendment to the Project Specific Agreement ("Second Amendment") is entered into this 10th day of November, 2020 to amend the Project Specific Agreement ("PSA") between the City of Mesquite, Texas ("City"), and the County of Dallas ("County") acting by and through their duly authorized representatives and officials for the purpose of transportation-related maintenance, repairs, and improvements to be undertaken on certain designated blocks of enumerated public roadway as more fully set forth and described in Attachment "A-2," which is attached hereto and incorporated herein by reference regarding R&B Project #014 ("Project").

WHEREAS, Chapter 791 of The Texas Government Code and Chapters 241 and 472 of the Texas Transportation Code provide authorization for local governments to contract with each other for the performance of governmental functions and services, as well as joint funding of road construction or improvements of road or street projects; and

WHEREAS, pursuant to Dallas County Commissioners Court Order 2018-0237 dated February 20, 2018, the County acting by and through the Dallas County Commissioners Court, and the City entered into a Master Interlocal Agreement ("Agreement"), whereby County agreed to provide partial funding for duly qualified "Type B" road and bridge maintenance projects, said project within the territorial limits and jurisdiction of City; and

WHEREAS, pursuant to Dallas County Commissioners Court Order No. 2017-0754 dated June 6, 2017, the County and the City entered into a Project Specific Agreement for street repairs in the City of Mesquite, R&B Project #014 ("Project"); and

WHEREAS, pursuant to Dallas County Commissioners Court Order No. 2018-1179 dated October 2, 2018, the County and the City entered into a First Amendment to the Project Specific Agreement for street repairs in the City of Mesquite, R&B Project #014 ("Project"); and

NOW THEREFORE, this Second Amendment is made by and entered into by the City and the County for the mutual consideration stated herein.

I. PURPOSE

The additional amount needed for the Project will cover costs associated with material and labor market adjustments and construction methods. City and County both mutually agree to amend said PSA in accordance with the terms of the existing Agreements, except as modified below.

II. AMENDED PROVISIONS

- A. Article II. - "Incorporated Documents" of the PSA shall be amended by deleting and replacing the language with the following:

2. Project Scope and Cost Estimate, as shown in Attachment "A-2".

B. Article VI - "Agreements", Section III. "Funding" of the PSA is amended by deleting it in its entirety and replacing it with the following:

County and City mutually agree to proportionately fund the Direct Project and Program cost as follows:

Notwithstanding any provision in the Master Agreement, this PSA, any amendment thereto, or any other agreement between the Parties, the total cost of the Project is estimated to be Two Million, Seventy Five Thousand, Seven Hundred Sixty Nine Dollars and Fifty-Three Cents (\$2,075,769.53) as set forth in Attachment "A-2". The parties further agree that City shall be totally responsible for the construction and maintenance of said Project and shall be responsible to provide funding for the Project in an amount not to exceed One Million, Thirty Seven Thousand, Eight Hundred Eighty Four Dollars and Seventy-Seven Cents (\$1,037,884.77). The parties further agree that the County's total obligation to this Project is that it shall only be responsible to the City for a contribution, in the form of reimbursements, in an amount not to exceed One Million, Thirty Seven Thousand, Eight Hundred Eighty Four Dollars and Seventy-Six Cents (\$1,037,884.76), less \$60,000.00, of which will be in-house project delivery (IHPD) costs. IHPD costs are County costs and may include all County project delivery costs, including but not limited to, preliminary scoping and research, preliminary design services, right-of-way (ROW) services, special services, primary design services, inspection, laboratory services, and construction costs. City and County further agree as follows:

1. Should the total Project costs exceed the anticipated, estimated Project costs herein, the City agrees to either reduce the scope of the Project, or to see additional funding to facilitate its completion. In either event, City shall be solely responsible for all such costs in excess thereof, and County shall bear no additional responsibilities beyond those contemplated herein.
2. City shall submit invoices to County, which invoices shall provide complete information and documentation to substantiate City's charges. County's acceptances of City's invoices are contingent upon City's compliance with County's invoicing procedures. County may withhold any disputed amounts until such time as the underlying dispute is resolved to County's satisfaction, but shall pay all undisputed amounts timely.

C. Article VII - "Miscellaneous" of the PSA is amended by adding the following:

- XII. Effective Date. The PSA shall commence on the Effective Date. The effective Date of this PSA shall be the date it is executed by the last of the parties. Reference to the date of execution shall mean the Effective Date.
- XIII. No Joint Enterprise/Venture. The parties agree that no party is an agent, servant, or employee of the other parties. The parties, including their agents, servants, or employees, are independent contractors, and not an agent, servant, joint enterprise/venture, or employee of any other party, and are responsible for their own acts, forbearance,

negligence, and deeds, and for those of their agents, servants, or employees in conjunction with this PSA. No joint enterprise/venture exists between the parties.

III. EFFECT OF AMENDMENT

This Second Amendment shall not change or waive any contractual provisions, clauses or conditions of the original PSA, unless otherwise provided for herein. In the event of any conflict between the original PSA and this Second Amendment to the PSA, this Second Amendment shall control. The original PSA, including any and all incorporated or referenced documents and any and all exhibits, attachments and amendments that by their terms have been incorporated into any of the foregoing documents, are collectively referred to herein as the PSA. All provisions of the PSA shall remain in full force and effect throughout the term of the PSA, as well as any duly authorized amendments or extensions, including this Second Amendment.

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(signatures appear on the following page)

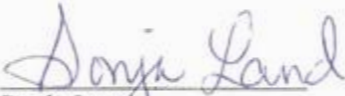
The County of Dallas, State of Texas, has executed this Second Amendment pursuant to Commissioners Court Order Number 2020-1185 and passed on the 10th day of November, 2020.

The City of Mesquite, State of Texas, has executed this Second Amendment pursuant to duly authorized City Council Resolution No. 50-2020, and passed on the 5th day of October 2020.

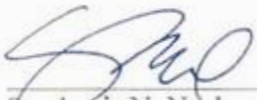
City of Mesquite


Cliff Keheley
City Manager
10-19-2020
Date

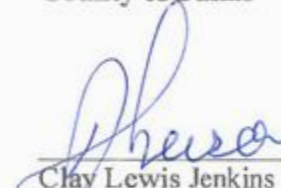
Attest:

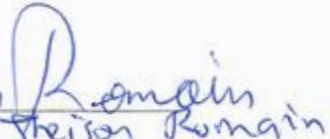

Sonja Land
City Secretary

Approved as to Form:
David Paschall
City Attorney


Stephanie N. Neal
Assistant City Attorney

County of Dallas


Clay Lewis Jenkins
Dallas County Judge
pursuant to Local Govt Code Sec. 81.028
11/10/2020
Date


Sheison Romain
Designee for County Judge

Approved as to Form*:
John Creuzot
District Attorney

/s/ Jana Prigmore
Ferguson

Jana Prigmore Ferguson
Assistant District Attorney

Digitally signed by /s/ Jana Prigmore Ferguson
DN: cn=/s/ Jana Prigmore Ferguson, o=District Attorney's Office, Dallas County, Texas, ou=Assistant District Attorney, email=jana.ferguson@dallascounty.org, c=US
Date: 2020.10.30 11:10:00 -0500

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

ATTACHMENT A-2

City of Mesquite PSA (Court Order 2017-0754, 2018-1179)
Street Repairs on Gus Thomasson – Additional Funding Request

Project Costs	Limits	Original PSA (Court Order 2017-0754)	Current PSA (Court Order 2018-1179)	Requested Amendment	Difference
Northwest Drive	IH-30 to Oates	\$ 300,000.00	*\$500,000.00	\$410,769.53	(\$89,230.47)
Gus Thomasson	Karla to City Limits	\$ 420,000.00	*\$795,000.00	\$1,665,000.00	\$870,000.00
Gus Thomasson	Whitson to IH-30	\$ 175,000.00			
Total Project Costs		\$895,000.00	\$1,295,000.00	\$2,075,769.53	\$780,769.53
City Share		\$447,500.00	\$647,500.00	\$1,037,884.77	\$390,384.77
County Share		\$387,500.00	\$587,500.00	\$977,884.76	\$390,384.76
County IHPD Costs		\$60,000.00	\$60,000.00	\$60,000.00	\$ -
Total County Share + IHPD		\$895,000.00	\$647,500.00	\$1,037,884.76	\$390,384.76

- Includes \$200,000.00 each in contingency from Current PSA (Court Order 2018-1179)