

RESOLUTION NO. 40-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A PROJECT SPECIFIC AGREEMENT AMENDING THE MASTER INTERLOCAL AGREEMENT GOVERNING THE MAJOR CAPITAL TRANSPORTATION IMPROVEMENT PROGRAM FOR THE CONSTRUCTION OF TRANSPORTATION IMPROVEMENTS FOR THE MESQUITE HERITAGE TRAIL PHASE 2, TRAIL AND PRESERVE PROGRAM (TAPP) PROJECT 90154.

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 July 2, 2023, Dallas County (the “**County**”) and the City of Mesquite (the “**City**”) entered into an Interlocal Agreement for the Development of the Under 80-Town East Trail Connection (“**ILA**”) to reallocate budgeted funds to the Under 80 Trail for the purpose of constructing a trail that would connect the existing South Mesquite Creek Trail with the Upcoming Mesquite Heritage Trail; and

WHEREAS, the ILA automatically terminated pursuant to the termination language in Article XII, as the County Trail Funds were not expended or obligated within three years of the ILA as required by funding language in Article V; and

WHEREAS, on July 6, 2021, the County and the City entered into a Master Interlocal Agreement (“**Agreement**”) for the purpose of transportation improvements on roads inside Dallas County; and

WHEREAS, the City now desires the County to provide partial funding for the construction of transportation improvements for the Mesquite Heritage Trail Phase 2, Trail and Preserve Program (TAPP) Project 90154; and

WHEREAS, the City will be responsible to pay \$4,186,876.00 and the County’s portion will be \$2,500,000.00.

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 finalize and execute the Project Specific Agreement (“**PSA**”) to the Master Interlocal Agreement Governing the Major Capital Transportation Improvement Program with Dallas County, attached hereto as Exhibit 1 and incorporated herein by reference, for the construction of transportation improvements for the Mesquite Heritage Trail Phase 2, Trail and Preserve Program (TAPP) Project 90154 with a City project funding commitment in the amount of \$4,186,876.00.

Public Works / PSA w-/Dallas County / Mesquite Heritage Trail Phase 2, (TAPP) Project 90154  
September 5, 2023  
Page 2 of 2

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 5th day of September 2023.

DocuSigned by:

*Daniel Aleman Jr.*

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Daniel Alemán, Jr.  
Mayor

ATTEST:

DocuSigned by:

*Sonja Land*

C2518095973F46A...

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Sonja Land  
City Secretary

APPROVED AS TO LEGAL FORM:

DocuSigned by:

*David Paschall*

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David L. Paschall  
Interim City Attorney



## **COURT ORDER 2023-1218**

### **Mesquite Heritage Trail-Phase 2 TAPP Project 90165 Project Specific Agreement (PSA) with the City of Mesquite District 1**

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

BRIEFING DATE: October 17, 2023

FUNDING SOURCE: Fund 196 TAPP 90165

Be it resolved and ordered that the Dallas County Commissioners Court does hereby Approve and authorize the execution of this Project Specific Agreement (PSA) between Dallas County and City of Mesquite for the construction of the Mesquite Heritage Trail-Phase 2, TAPP Project 90165. The current estimated total construction for the Mesquite Heritage Trail-Phase 2 Project is Six Million Six Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$6,686,876.00). The County's total obligation to this Project is to provide funding in the amount not to exceed Two Million Five Hundred Thousand Dollars and no cents (\$2,500,000.00), reduced by the County's in-house project delivery costs, which are estimated to be One Hundred Thousand Dollars and no cents (\$100,000.00). The County's obligation will be towards construction of Segments A and B only. The City agrees to provide funding to this Project in the amount of at least Four Million One Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$4,186,876.00).

Funding for the County's share will be provided from TAPP Fund 196 Project 90165.

A transfer is necessary from Fund 196 Project 8201 to TAPP Fund 196 Project 90165.

Done in open Court October 17, 2023 by the following vote:

IN FAVOR: County Judge Clay Jenkins, Commissioner Dr. Theresa Daniel, Commissioner John Wiley Price, Commissioner Dr. Elba Garcia, and Commissioner Andrew Sommerman



**Dallas County**  
**BRIEFING / COURT ORDER**  
**Commissioners Court - Oct 17 2023**

- Resolution
- Solicitation/Contract
- Executive Session
- Addendum

**Mesquite Heritage Trail-Phase 2 TAPP Project 90165**  
**Project Specific Agreement (PSA) with the City of Mesquite**  
**District 1**

**Briefing Date:** Oct 17 2023  
**Funding Source:** Fund 196 TAPP 90165  
**Originating Department:** Public Works  
**Prepared by:** Linette Malloy, Financial Manager  
**Recommended by:** Alberta Blair, Director of Public Works

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**BACKGROUND INFORMATION:**

This Project Specific Agreement (PSA) between the City of Mesquite and Dallas County is for the purpose of construction of Mesquite Heritage Trail-Phase 2, TAPP Project 90165. Segment A is from South Mesquite Trail to Town Centre Drive, Segment B is from Gus Thomasson Road to I-635 Service Road, and Segment C is along Jane Street from Gross Road to proposed parking lot along Jane Street. The City has requested that it be designated as the Lead Agency for the Project and will provide the Project Manager.

Pursuant to Commissioners Court Order 2021-0697, the City and County entered into a Master Agreement Governing Major Capital Improvement Program on July 6, 2021, for the purpose of transportation improvements on roads inside Dallas County.

Pursuant to Commissioners Court Order 2013-1139, the City and County entered into a Interlocal Agreement for the Development of the Under 80-Town East Trail Connection (ILA) on July 2, 2013, to reallocate budgeted funds to the Under 80 Trail for the purpose of constructing a trail that will connect the existing South Mesquite Creek Trail with the upcoming Mesquite Heritage Trail.

The Interlocal Agreement for the Development of the Under 80-Town East Trail Connection (ILA) by Commissioners Court Order 2013-1139, automatically terminated pursuant to the termination language in Article XII., as the County Trail Funds were not expended or obligated within three years of the execution of the ILA, as required by funding language in Article V.

**OPERATIONAL IMPACT:**

The PSA between Dallas County and the City of Mesquite must be executed to secure funding commitments.

**FINANCIAL IMPACT:**

The current estimated total for the construction cost of the Mesquite Heritage Trail-Phase 2, TAPP Project 90165 is Six Million Six Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$6,686,876.00).

The County is to provide funding in the amount not to exceed Two Million Five Hundred Thousand Dollars and no cents (\$2,500,000.00), reduced by the County's in-house project delivery costs (IHPD), which are estimated to be One Hundred Thousand Dollars and no cents (\$100,000.00). The County's obligation will be towards construction of Segments A and B only. The County will reimburse the City after segments A and B are completed.

The City of Mesquite is to provide funding in the amount of at least Four Million One Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$4,186,876.00). The City shall be responsible for 100% construction costs for Segment C (sidewalk and proposed parking).

The Project will be funded from TAPP 196 Project 90165.

**LEGAL IMPACT:**

The Dallas County District Attorney's Office, Civil Division, has reviewed the contents and the PSA has been approved as to form.

**PROJECT SCHEDULE:**

The City of Mesquite plans to begin bidding for Mesquite Heritage Trail-Phase 2 Project by summer 2023.

**SBE PARTICIPATION:**

Participation is subject to City policies since this Project is being led by the City.

**MISSION, VISION, VALUE COMPLIANCE:**

Dallas County partners with the City of Mesquite and many other cities in Dallas County to implement transportation projects, which is consistent with Dallas County's Mission, Vision, Value Compliance in that Dallas County is a proactive regional partner, Dallas County is the destination of choice for businesses and residents, and improve people's lives.

**RECOMMENDATION:**

Approve and authorize the execution of this Project Specific Agreement (PSA) between Dallas County and City of Mesquite for the construction of the Mesquite Heritage Trail-Phase 2, TAPP Project 90165. The current estimated total construction for the Mesquite Heritage Trail-Phase 2 Project is Six Million Six Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$6,686,876.00). The County's total obligation to this Project is to provide funding in the amount not to exceed Two Million Five Hundred Thousand Dollars and no cents (\$2,500,000.00), reduced by the County's in-house project delivery costs, which are estimated to be One Hundred Thousand Dollars and no cents (\$100,000.00). The County's obligation will be towards construction of Segments A and B only. The City agrees to provide funding to this Project in the amount of at least Four Million One Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$4,186,876.00).

Funding for the County's share will be provided from TAPP Fund 196 Project 90165.

A transfer is necessary from Fund 196 Project 8201 to TAPP Fund 196 Project 90165.

**MOTION:**

**On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:**

Be it resolved and ordered that the Dallas County Commissioners Court does hereby Approve and authorize the execution of this Project Specific Agreement (PSA) between Dallas County and City of Mesquite for the construction of the Mesquite Heritage Trail-Phase 2, TAPP Project 90165. The current estimated total construction for the Mesquite Heritage Trail-Phase 2 Project is Six Million Six Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$6,686,876.00). The County's total obligation to this Project is to provide funding in the amount not to exceed Two Million Five Hundred Thousand Dollars and no cents (\$2,500,000.00), reduced by the County's in-house project delivery costs, which are estimated to be One Hundred Thousand Dollars and no cents (\$100,000.00). The County's obligation will be towards construction of Segments A and B only. The City agrees to provide funding to this Project in the amount of at least Four Million One Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$4,186,876.00).

Funding for the County's share will be provided from TAPP Fund 196 Project 90165.

A transfer is necessary from Fund 196 Project 8201 to TAPP Fund 196 Project 90165.

**CONTRACT DETAILS:**

Contract Title:

Description:

Transaction Type:

Contract Number:

Start Date:

Vendor:

Total Cost:

Expiration Date:

**ATTACHMENTS:**

[ID 1805 Mesquite Heritage Trail-Phase 2 TAPP MCIP 90165 PSA City Led v.9](#)

**DALLAS COUNTY CAPITAL IMPROVEMENT  
PROJECT SPECIFIC AGREEMENT  
TO THE MASTER AGREEMENT GOVERNING  
MAJOR CAPITAL TRANSPORTATION IMPROVEMENT PROGRAM**

This Project Specific Agreement (“PSA”) to the Master Agreement Governing Major Capital Transportation Improvement Program (“Master Agreement”) is made by and between the City of Mesquite, Texas, (“City”), and the County of Dallas, Texas, (“County”), acting by and through its duly authorized officials, for the purpose of constructing transportation improvements on Mesquite Heritage Trail-Phase 2, TAPP Project 90165, Segment A-from South Mesquite Trail to Town Centre Drive, Segment B – from Gus Thomasson Road to I-635 Service Road, and Segment C - From Gross Road to proposed parking lot along Jane Street (“Project”).

**WHEREAS**, the Project is located within the City of Mesquite;

**WHEREAS**, the City has requested that it be designated as the Lead Agency for the Project and will provide the Project Manager;

**WHEREAS**, the City and County entered into a Master Agreement Governing Major Capital Improvement Program (“Master Agreement”) on July 6, 2021, by Commissioners Court Order 2021-0697, for the purpose of transportation improvements on roads inside Dallas County;

**WHEREAS**, the City and County entered into a Interlocal Agreement for the Development of the Under 80-Town East Trail Connection (ILA) by Commissioners Court Order 2013-1139, on July 2, 2013, to reallocate budgeted funds to the Under 80 Trail for the purpose of constructing a trail that would connect the existing South Mesquite Creek Trail with the upcoming Mesquite Heritage Trail.

**WHEREAS**, the Interlocal Agreement for the Development of the Under 80-Town East Trail Connection (ILA) by Commissioners Court Order 2013-1139, on July 2, 2013, automatically terminated pursuant to the termination language in Article XII., as the County Trail Funds were not expended or obligated within three years of the execution of the ILA, as required by funding language in Article V.

**WHEREAS**, Chapter 791 of the Texas Government Code and Chapters 251 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.

**NOW THEREFORE, THIS PSA** is made by and entered into by the City and the County for the mutual consideration stated herein.

**Article I.  
Project Specific Agreement**

This PSA is to specifically identify the Project, changes in the rights and responsibilities of each of the parties as set forth in the Master Agreement and any additions thereto as incorporated herein. This PSA will be an addition to the Master Agreement and incorporate each of its terms and conditions. All

terms of the Master Agreement remain in full force and effect except as modified herein. In the event of any conflict between the Master Agreement and this PSA, this PSA shall control.

**Article II.**  
**Incorporated Documents**

This PSA incorporates, as if fully reproduced herein word for word and number for number, the following items:

1. Master Agreement authorized by Commissioners Court Order 2021-0697 dated July 6, 2021, and additions thereto, which is incorporated herein by reference.
2. Project Scoping Sheets, which are attached and incorporated herein by reference as Attachment "A."
3. Current Cost Estimates and Funding Sources, which is attached and incorporated herein by reference as Attachment "B."
4. Project vicinity map, which is attached and incorporated herein by reference as Attachment "C."
5. Interlocal Agreement for the Development of the Under 80-Town East Trail Connection (ILA) authorized by Commissioners Court Order 2013-1139, which is attached and incorporated herein by reference as Attachment "D."
6. Easement and Right of Way executed by Oncor Electric Delivery Company LLC and the City of Mesquite, which is attached and incorporated herein by reference as Attachment "E."
7. General Restrictions Within Brazos Electric Cooperative's Transmission Line Easements and email string depicting that approval is all that is required from Brazos Electric Cooperative, which is attached and incorporated herein by reference as Attachment "F."

**Article III.**  
**Term of Agreement**

This PSA shall become effective when signed by the last party whose signature makes the respective agreement fully executed and shall terminate upon the completion and acceptance of the Project by Dallas County Commissioners Court or upon the terms and conditions in the Master Agreement, Article IV, Section A, Termination.

**Article IV.**  
**Project Description**

This PSA is entered into by the parties to develop public transportation improvements within the City of Mesquite, Texas. This Project is the Mesquite Heritage Trail-Phase 2, TAPP Project 90165 and is divided into Three Segments. Segment A runs from South Mesquite Trail to Town Centre Drive. Segment A is 0.83 mile of 12' wide trail with retaining wall, culverts, safety signs, safety railings, and an overlook for trail users. Segment B runs from Gus Thomasson Road to I-635 Service Road. Segment B is 0.38 mile with 6'-12' wide sidepath with handicap ramps and safety crosswalks and a pedestrian bridge. Segment C runs from Gross Road to proposed parking lot along Jane Street. Segment C is 176 lf. of sidewalk along Jane street leading to the proposed parking lot for trail users. This Project was formerly known as the Under 80-Town East Trail Connection.

This Project will facilitate the movement of public transportation to benefit both the City and County. The City does hereby give its approval for expenditure of County funds for the construction, improvement, maintenance, or repair of a street located within the municipality.



**Article V.**

**Fiscal Funding**

Notwithstanding anything to the contrary herein, this PSA is expressly contingent upon the availability of County funding for each item and obligation contained herein. City shall have no right of action against the County of Dallas as regards this PSA, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this PSA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this PSA or failure of any funding party to budget or authorize funding for this PSA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the County, at its sole discretion, may provide funds from a separate source or terminate this PSA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Notwithstanding anything to the contrary herein, this PSA is expressly contingent upon the availability of City funding for each item and obligation contained herein. County shall have no right of action against the City as regards this PSA, specifically including any funding by City of the Project in the event that the City is unable to fulfill its obligations under this PSA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this PSA or failure of any funding party to budget or authorize funding for this PSA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the City, as its sole discretion, may provide funds from a separate source or terminate this PSA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

**Article VI.**

**Agreements**

I. **County and City Responsibilities:**

1. City will be the Lead Agency for the Project from commencement of planning to completion of construction.
2. City and County mutually agree that the Project limits include: Segment A-from South Mesquite Trail to Town Centre Drive, Segment B – from Gus Thomasson Road to I-635 Service Road, and Segment C- From Gross Road to the proposed parking lot along Jane Street.
3. The design shall be the agreed upon Standard Basic Project Design for the Project and specifically does not include Road or Street Amenity, Paving and Drainage Amenities or Utility Betterments as defined in the Master Agreement. If the City adds relocation or adjustment of City Utilities or Utility Betterments, the City agrees that it will pay 100% of the costs of these additions.
4. The City agrees that County may include any such item as an optional item to the construction bidding. City further agrees to review the bids submitted, the bid specifications, quantities, bid amount and any other item the City shall choose to review and furnish a written acceptance or rejection of the bid within ten (10) days of receipt. In the event the bid is accepted, City agrees to encumber an amount adequate for the total estimated project costs as indicated in Attachment "B."
5. The Project will require the acquisition of transportation/road right-of-way which is specifically all real property needed or convenient for Trail/roadway and/or drainage purposes as shown in the Project design or right-of-way plans and specifically includes all real property outside of the designed right-of-way needed, if applicable, or convenient to the

construction, drainage, interface with adjoining streets or alleys, driveways or other access ways or other Project permanent or temporary easements which is approved by City and County. Such right-of-way acquisition shall be the responsibility of the City as Lead Agency. The City shall coordinate any necessary City-owned utility adjustments for construction of the Project. Such acquisitions will be transferred into the City's name as owner as the City will be solely responsible for maintenance after construction is completed.

6. In order to certify compliance with the expenditure of the Project funding for this PSA, the City agrees to furnish to the County, its Auditor, or its designated representative(s) the unrestricted right to audit any and all accounting and other records regarding any funds paid or claimed under this agreement, including, but not limited to all books, records, reports, tickets, deposits, expenditure, 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 PSA (records). City contracts and agrees that all records shall be kept and maintained for a period of time not less than four (4) years from the date of the termination of this PSA. Such records shall be provided to the County in Dallas County, Texas and available for any audit at any time upon request.
7. 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 County, such sums are deemed to be due and payable to Dallas County, Texas, within thirty (30) days of the date of an invoice for such cost being deposited in the United States mail, via certified mail, with return receipt requested.
8. The audit provisions of this agreement shall survive the termination of this agreement until all Project claims to which the County is or may be a party, are fully paid or reduced to judgment not subject to appeal and barred by the Texas statute regarding limitation of actions.

## II. City Responsibilities:

1. City shall be the Lead Agency for the Project. As the Lead Agency, City will provide project management of the Project from commencement of planning to completion of construction.
2. City will execute the necessary agreements, subject to City Council approval, for the implementation of design and construction of the Project mutually agreed upon and incorporated herein by this PSA, including for the acquisition of right-of-way and any utility relocation.
3. City will accomplish all tasks and responsibilities of the Lead Agency as set forth in the Master Agreement. City will provide management in accordance with the 5 Phase Project Delivery System detailed in Attachment "A" of the Master Agreement.
4. City shall provide a City Council Resolution commitment to meet the Project funding subject to City Council authorization of required additional funds.
5. This PSA is City approval of the preferred alignment and the proposed estimated budget and funding.
6. City agrees that it shall be responsible for contractual requirements with each party utilized or related to the completion of the Project. City further agrees that it will include in its contractual or procurement specification all items necessary for full compliance with the rules, regulations and requirements of all City, state, and federal laws.
7. City shall coordinate any necessary utility adjustments for construction of the Project.
8. City will work to ensure design and construction are completed in a timely and effective manner.
9. City shall allow the County an opportunity to review and comment on the design plans, change orders, and amendments.
10. City shall inform County of all Project activity and approvals.

11. City shall provide a final accounting of Project costs once the planning is complete and accepted by the County. The accounting shall have sufficient detail for the County Auditor to verify Project costs.
12. City shall be responsible for maintaining the roadway, transportation improvements, grading area, drainage structures, striping, sidewalks, and signage after the Project is complete.
13. City will facilitate inspection during construction.
14. City entered into an Easement and Right Away agreement with Oncor Electric Delivery Company LLC, which is Attachment "E" and received General Restrictions Within Brazos Electric Cooperative's Transmission Line Easements and email string depicting that approval is all that is required from Brazos Electric Cooperative, which is Attachment "F."
15. City is responsible for reviewing the plans for everything related to Utilities.
16. City is responsible to acquire ROW required for the Mesquite Heritage Trail-Phase2.
17. City is responsible for all required coordination with Texas Department of Licensing and Regulations (TDLR) to be American Disability Act (ADA) compliant.
18. City shall own and operate the Mesquite Heritage Trail – Phase 2 and its appurtenances.
19. City is responsible for Construction of Mesquite Heritage Trail – Phase 2.
20. City will enter separately (not part of this project) into an AFA with TxDOT for Trail extension within TxDOT's ROW.

III. County Responsibilities:

1. County agrees to participate in the City led project as a funding participant.
2. The County will attend task force meetings, field construction meetings and will retain right during construction to confirm progress through inspection and to review and provide comments to plans, change orders, and amendments in a timely manner.
3. The review of, comments to, and approval or acceptance of work performed by the City, its contractors or subcontractors, by the County shall not constitute nor be deemed either controlling or a release of the responsibility, and liability of City regarding its consultant, employees, subcontractors, agents, and consultants for the accuracy and competency of their work. Nor shall such approval and acceptance be deemed to be an assumption of such responsibility by the County for any defect, error or omission in the work prepared.
4. County will not provide funding for City Utilities, Design, Environmental or ROW.
5. County will provide any necessary coordination with franchise utilities to help avoid utility conflicts during construction.
6. County will review Plans, Specifications and Estimate (PS&E) and provide feedback to the City.
7. County will facilitate necessary approvals for PS&E after all comments have been responded.

**Article VII.**

**Funding**

County and City mutually agree to proportionately fund the Direct Project and Program cost as follows and as summarized in Attachment "B":

1. Notwithstanding any provision in the Master Agreement, this PSA, any amendment thereto, or any other agreement between the parties regarding this Project, the total Project cost is estimated to be Six Million Six Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$6,686,876.00) as shown in Attachment "B."
2. The County is to provide funding in the amount not to exceed Two Million Five Hundred Thousand Dollars and no cents (\$2,500,000.00), reduced by the County's in-house project delivery costs, which are estimated to be One Hundred Thousand Dollars and no cents

- (\$100,000.00). County's obligation will be towards construction of Segments A and B only. The County will reimburse the City after segments A and B are completed.
3. The County in-house Project delivery ("IHPD") costs may include, but are not limited to, design costs, preliminary scoping and research, preliminary design services, design review, special services, site inspection, meetings, and preliminary utility coordination.
  4. The City agrees to provide funding to this Project in the amount of at least Four Million One Hundred Eighty Six Thousand Eight Hundred Seventy Six Dollars and no cents (\$4,186,876.00).
  5. The City shall be responsible for any additional Project costs if such additional funding commitments are approved by Administrative Action signed by the Mayor or by resolution of the City Council.
  6. The City shall be responsible for 100% construction for Segment C (sidewalk and proposed parking).
  7. The County will not participate in the funding of the segment C and construction inside TxDOT's ROW.
  8. If the total Project costs excluding paving and drainage amenities or utility betterments should exceed the total Project cost, the City and County agree to amend the Project's scope to remain within the current estimated not to exceed amount.
  9. Any payments to be made by any party hereto shall be from current revenue or other lawfully available funds in accordance with Chapter 791 of the Texas Government Code.

**Article VIII.**  
**Miscellaneous**

- I. **Indemnification. County and City agree that each shall be responsible for its own negligent acts or omissions or other tortious conduct in the course of performance of this PSA, without waiving any governmental/sovereign immunity available to the County or City or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses under Texas or other law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.**
- II. No Third Party Beneficiaries. The terms and provisions of this PSA are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of the City and County that any entity other than the City or County receiving services or benefits under this PSA shall be deemed an incidental beneficiary only. This PSA is intended only to set forth the contractual right and responsibilities of the parties hereto.
- III. Applicable Law. This PSA is and shall be expressly subject to the Sovereign Immunity of the County and the Governmental Immunity of the City, pursuant to Title 5 of the Texas Civil Practice and Remedies Code, as amended, and all applicable federal and state laws. This PSA 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 PSA filed by either the City or County shall be in Dallas County, Texas.
- IV. Notice. Any notice provided for in this PSA to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or two (2) business days after being deposited in the United States Mail, postage prepaid, by certified mail, return receipt requested; or by registered mail; and addressed as follows:

To: County: County of Dallas  
Director of Public Works  
Dallas County Records Building  
500 Elm Street, Suite 5300  
Dallas County, Texas 75202

To: City: City of Mesquite  
Director of Public Works  
Address: 1515 N. Galloway Ave.  
Mesquite, TX 75149

Either party may change its address for notice by giving the other party written notice thereof.

- V. Assignment. This PSA may not be assigned or transferred by either party without the prior written consent of the other party.
- VI. Binding Agreement; Parties Bound. When this PSA has been duly executed and delivered by both parties, this PSA shall constitute a legal, valid and binding obligation of the parties, their successors and permitted assigns.
- VII. Amendment. This PSA may not be amended except in a written instrument specifically referring to this PSA and signed by the parties hereto.
- VIII. Number and Gender. Words of any gender used in this PSA shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise.
- IX. Effective Date. This PSA shall commence on the Effective Date. The Effective Date of this PSA shall be the date it is expressly executed by the last of the parties. Reference to the date of execution shall mean the Effective Date.
- X. Counterparts. This PSA may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- XI. Severability. If one or more of the provisions in this PSA shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this PSA to be invalid, illegal or unenforceable, but this PSA shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this PSA, which shall remain in full force and effect.
- XII. Entire Agreement. This PSA embodies the complete agreement of the parties, and supersedes all oral or written previous and contemporary agreements between the parties and relating to matters in the PSA.
- XIII. No Joint Enterprise/Venture. City and County agree that neither party is an agent, servant, or employee of the other party. No joint enterprise/venture exists between the City and the County.
- XIV. Contingent. This PSA is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the City Council. This PSA is expressly subject to and contingent upon the Easement and Right of Way executed by Oncor Electric Delivery Company LLC and the City. The PSA is also expressly subject to the General Restrictions Within Brazos Electric Cooperative's Transmission Line Easements and email string depicting approval is all that is required from Brazos Electric Cooperative. If any agreement terminates, then this PSA shall also terminate.


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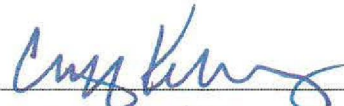
The City of Mesquite, State of Texas, has executed this PSA pursuant to duly authorized City Council Resolution 40-2023 Minutes \_\_\_\_\_ dated the 5<sup>th</sup> day of September, 2023.

The County of Dallas, State of Texas, has executed this PSA pursuant to Commissioners Court Order Number 2023-1218 and passed on the 17 day of October, 2023.

**County of Dallas:**

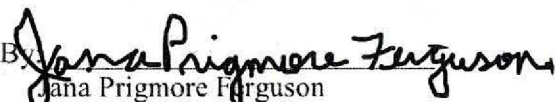
**City of Mesquite:**


  
\_\_\_\_\_  
Clay Lewis Jenkins, County Judge  
10/17/2023  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
By: Cissy King  
Title: City Manager  
9-18-23  
\_\_\_\_\_  
Date

Approved as to Form\*:  
John Creuzot  
District Attorney

Attest:

  
\_\_\_\_\_  
Jana Prigmore Ferguson  
Assistant District Attorney

  
\_\_\_\_\_  
By: Paul Buckell  
Title: City Attorney

\*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"

## Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

Project Name: Mesquite Heritage Trail-Phase 2

MCIP Project No: TAPP 90165

### TRAIL PAVEMENT AND ALIGNMENT TOPICS

#### GENERAL INFORMATION

DESIGN STANDARDS TO BE USED (IN ORDER OF PRECEDENCE):

City of Mesquite, NCTCOG, TxDOT

IS THE PATH ON A ROAD FACILITY? YES  NO

IS TRAIL ADJACENT TO BACK OF CURB? YES  NO  NA

AWAY FROM ROADWAY? YES  NO  NA

If yes, specify distance: Varies

SHARED USE PATH? YES  NO

ROADWAY CROSSINGS INVOLVED? YES  NO

MID BLOCK CROSSINGS INVOLVED? YES  NO

DRIVEWAY CROSSINGS INVOLVED? YES  NO

RAILROAD CROSSINGS INVOLVED? YES  NO

IS A TRAFFIC STUDY REQUIRED? YES  NO

# ATTACHMENT "A"

## **Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects**

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

**Project Name:** Mesquite Heritage Trail-Phase 2

**MCIP Project No:** TAPP 90165

TRAIL ACCESS CONNECTIONS? YES  NO

If yes, list the access points below:

Various trail/sidewalk connections, possible parking lot.

BRIDGES OR GRADE SEPARATIONS? YES  NO

If yes, please specify facility(ies) below:

Pedestrian bridge at South Mesquite Creek.

### PAVEMENT SECTION

#### PAVEMENT WIDTH

Existing: NA

Proposed: 12' TYP

BICYCLE DESIGN SPEED: NA

#### PAVEMENT CROSSFALL:

PROPOSED: 1.50%

MINIMUM: 1.50%

MAXIMUM: 2%



# ATTACHMENT "A"

## **Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects**

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

**Project Name:** Mesquite Heritage Trail-Phase 2

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**GRADE REQUIREMENTS:**

Any deep cuts, high fills?

YES  NO

**VERTICAL GRADE:**

MINIMUM 0.00%

MAXIMUM 5.00%

**WILL SWITCHBACKS BE NECESSARY TO COMPLY  
WITH GRADE REQUIREMENTS:**

YES  NO

**MINIMUM RAIL HEIGHT:** 42"

**SIGNAGE AND/OR DISTANCE MARKERS?**

YES  NO

If yes, please specify types and generally describe locations:

Signage, distance, and emergency markers as required and specified.

**TRAIL HEAD?**

YES  NO

**PARKING?**

YES  NO

**PAVEMENT STRUCTURE**

**MAINTENANCE VEHICLE TRAFFIC?**

YES  NO

**MINIMUM PAVEMENT STRUCTURE THICKNESS:** 6"

# ATTACHMENT "A"

## Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects

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CONCRETE REINFORCEMENT TYPE: #4 bars on 12" centers  
(E.G. REBAR OR FIBER)

EXPANSION JOINT INTERVALS: Varies, as required

EXPANSION JOINT MATERIAL: Redwood

SAWED DUMMY JOINT INTERVALS: 15' spacing

### DRAINAGE TOPICS

DRAINAGE DESIGN CRITERIA:

TXDOT  CITY  HYDRO-35  TP-40  TR-55

SIDE DITCHES? YES  NO

BRIDGES/ BOX CUVERTS INVOLVED? YES  NO

If yes, specify involvement:  BRIDGE(S)  BOX CULVERT(S)  BOTH

MINIMUM COVER FOR CROSS DRAIN CULVERT: Varies

FLOODPLAIN CONSIDERATION? YES  NO

If yes, what is the design storm frequency? 100-year

If yes, how many feet of freeboard are required? NA

# ATTACHMENT "A"

## **Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects**

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

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#### PERMITS

USACE 404 PERMIT YES  NO

TCEQ PERMIT YES  NO

CDC PERMIT YES  NO

ENVIRONMENTAL IMPACT STATEMENT YES  NO

TDLR ARCHITECTURAL BARRIERS REVIEW REQUIRED? YES  NO

ANY OTHER PERMITS FROM OTHER AGENCIES SUCH AS TxDOT, DFW AIRPORT,  
DART, UTILITY COMPANIES, ETC? YES  NO

If yes, please document below:

#### ADDITIONAL TOPICS OF CONCERN

LANDSCAPING (OTHER THAN SODDING)? YES  NO

EXPOSED AGGREGATE DRIVEWAYS, SIDEWALKS? YES  NO

STAMPED/COLORED CONCRETE? YES  NO

IRRIGATION? YES  NO

# ATTACHMENT "A"

## Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

**Project Name:** Mesquite Heritage Trail-Phase 2

**MCIP Project No:** TAPP 90165

BRICK PAVERS?

YES

NO

If yes, please define location(s)

TRAIL LIGHTING?

YES

NO

If yes, define location(s) and spacing of lighting poles:

Towne Centre Drive, spacing varies.

TRAFFIC SIGNALS?

YES

NO

MID-BLOCK SIGNALS?

YES

NO

CROSSWALK MARKINGS?

YES

NO

ON-STREET DEDICATED BIKE LANES?

YES

NO

If yes, specify width: \_\_\_\_\_

BUS STOPS OR BUS SHELTERS?

YES

NO

RETAINING WALLS?

YES

NO

If yes, please specify wall type (stone, blocks, gabions, proprietary types, etc.)

Concrete with stone form liner, blocks.

**ATTACHMENT "A"**

**Project Specific Agreement to Master Agreement Governing  
Transportation Major Capital Improvement Projects**

**PROJECT SCOPING SHEETS FOR SHARED USE PATHS**

**Project Name:** Mesquite Heritage Trail-Phase 2

**MCIP Project No:** TAPP 90165

DECORATIVE RAILINGS? YES  NO

MONUMENT? YES  NO

WATER FOUNTAIN? YES  NO

**EASEMENT TOPICS**

DOES THE TRAIL EXIST IN UTILITY OR RAILROAD RIGHT OF WAY OR OTHER  
INDEPENDENTLY OWNED PROPERTY? YES  NO

If yes, specify owner and R.O.W. width:

OUTLINE BELOW ANY ADDITIONAL GUIDELINES TO BE FOLLOWED DUE TO  
TRAIL'S EXISTENCE IN INDEPENDENTLY OWNED PROPERTY:

# ATTACHMENT "A"

## Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

**Project Name:** Mesquite Heritage Trail-Phase 2

**MCIP Project No:** TAPP 90165

RIGHT OF WAY CONSTRAINTS, IF ANY, PROVIDE A LIST AND DESCRIPTION ALONG WITH DATA FOR RISK ASSESSMENT: YES  NO

ANY NON-ROUTINE, i.e., CEMETARY, JUNK YARD, OLD CHURCHES, SERVICE STATIONS, CONTAMINATED SOILS, LANDFILLS, NOISE WALL CONSIDERATIONS, TRAILER PARKS, TREE ORDINANCES? YES  NO

If yes, please define below:

Trail crosses U.S. 80. That section of trail will be constructed by TxDOT with U.S. 80 construction.

ANY NON-CONFORMING ISSUES?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
ANY WATER WELLS?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
EASEMENT/R.O.W. MAP NEEDED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
FIELD NOTES NEEDED?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
R.O.W. PLATS NEEDED?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
R.O.W. ACQUISITION?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
PARKING/LOSS OF PARKING CONSIDERATIONS?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
HISTORICAL SITE CONSIDERATIONS?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

# ATTACHMENT "A"

## **Project Specific Agreement to Master Agreement Governing Transportation Major Capital Improvement Projects**

### PROJECT SCOPING SHEETS FOR SHARED USE PATHS

**Project Name:** Mesquite Heritage Trail-Phase 2

**MCIP Project No:** TAPP 90165

### ADDITIONAL REMARKS

--

**ATTACHMENT "B"**  
**Dallas County Capital Improvement Program**  
**Project Specific Agreement**

**CURRENT COST ESTIMATES & FUNDING SOURCES**

**PROJECT NAME: Mesquite Heritage Trail – Phase 2, TAPP 90165**

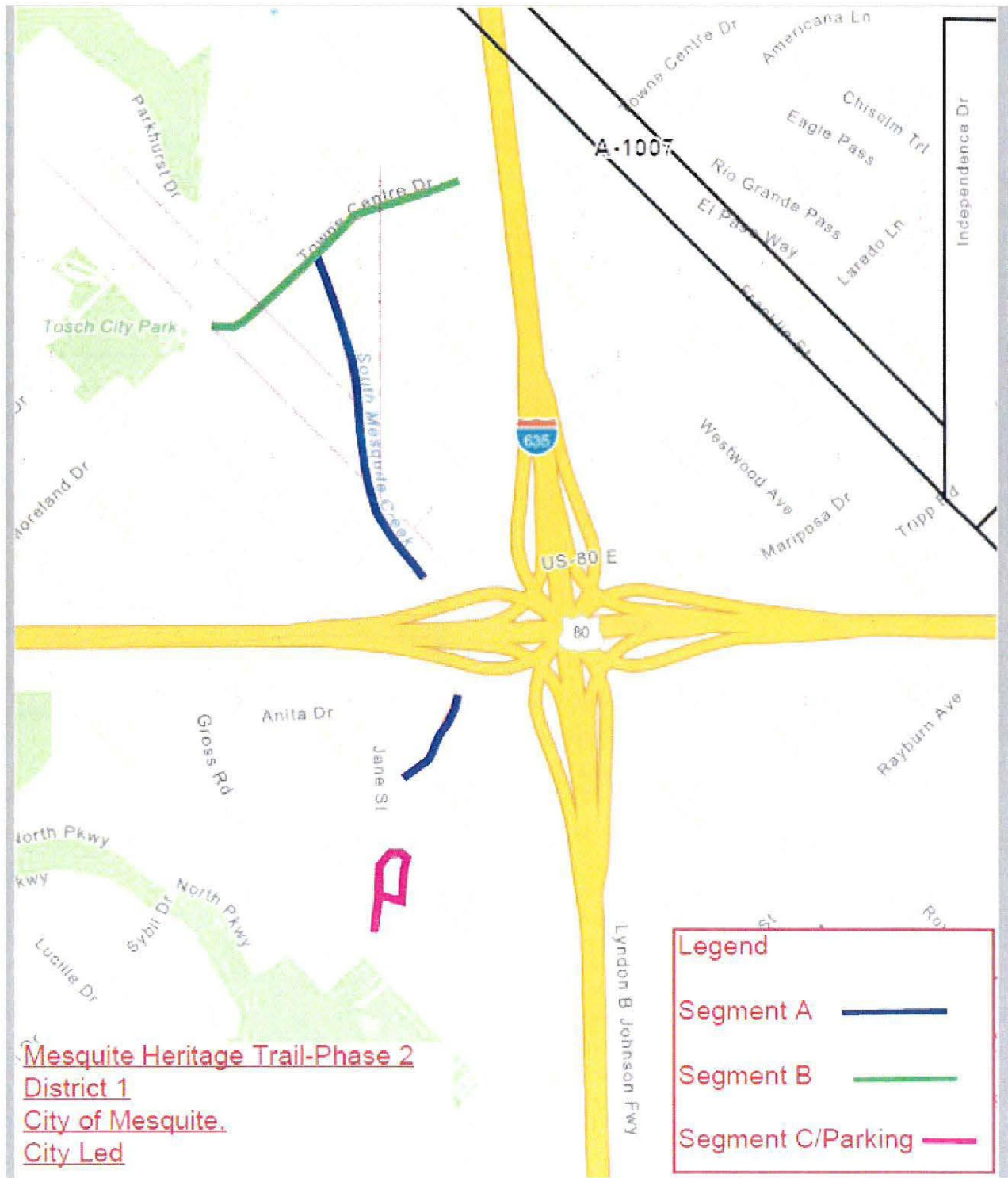
<b>Total Estimated Project Cost</b>	<b>Estimated Cost</b>
Construction	\$ 5,204,124.00
**Construction (within TxDOT ROW)	\$572,465.00
Design (City)	\$535,380.00
*IHPD (County)	\$100,000.00
ROW(City)	\$274,907.00
<b>TOTAL</b>	<b>\$ 6,686,876.00</b>
<b>Total Project Funding Source</b>	<b>Committed Amount</b>
*Dallas County	\$ 2,500,000.00
City of Mesquite	\$ 4,186,876.00
<b>TOTAL</b>	<b>\$ 6,686,876.00</b>

\*Dallas County District 1 Funding (Within City's Jurisdiction Excluding State ROW) - This includes IHPD cost. Dallas County District 1 Funds will be expanded towards construction of Segment A and B. only.

\*\* Dallas County will not participate in funding of Segment C and construction inside TxDOT ROW.



# ATTACHMENT "C"



COURT ORDER

ORDER NO: 2013 1139

DATE: July 2, 2013

STATE OF TEXAS

§  
§  
§

COUNTY OF DALLAS

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, Texas, held on July 2, 2013, on motion made by John Wiley Price, District #3, and seconded by Dr. Elba Garcia, District #4, the following Order was adopted:

WHEREAS, on May 7, 2013, the Dallas County Commissioners Court was briefed on a recommendation to reallocate the \$2.5 million that had previously been budgeted in FY2012 for the Crosstown Trail in Mesquite to the Under 80 Trail that would also be located in Mesquite; and

WHEREAS, reallocating this funding to the Under 80 Trail would create a continuous 9.5-mile trail that would connect with multiple neighborhoods and Town East-Mall and that would be one of the longest trails in Dallas County; and

WHEREAS, reallocating this funding to the Under 80 Trail is consistent with the County's strategic plan which specifically recommended that the County create a comprehensive trail system as a means for having the County become the destination of choice for businesses and residents.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Dallas County Commissioners Court approves the reallocation of the \$2.5 million budgeted in Fund 196 for the Crosstown Trail to the Under 80 Trail and authorizes the County Judge to sign the related interlocal agreement with the City of Mesquite for this project.

DONE IN OPEN COURT this the 2nd day of July, 2013.

Clay Lewis Jenkins  
County Judge

Dr. Theresa M. Daniel  
Commissioner District #1

Mike Cantrell  
Commissioner District #2

John Wiley Price  
Commissioner District #3

Dr. Elba Garcia  
Commissioner District #4

Recommended by:

# **INTERLOCAL AGREEMENT FOR THE DEVELOPMENT OF THE UNDER 80-TOWN EAST TRAIL CONNECTION**

## **INTRODUCTION**

This Agreement (hereinafter referred to as the "Agreement"), which is authorized under the Interlocal Cooperation Act, Texas Government Code, Chapter 791, is made by and entered into between the City of Mesquite, Texas (hereinafter referred to as "City") and Dallas County, Texas (hereinafter referred to as "County") for the purpose of constructing a trail (hereinafter referred to as "Trail") that will connect the existing South Mesquite Creek Trail with the upcoming Mesquite Heritage Trail.

NOW THEREFORE, in consideration of the foregoing and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree to the following:

### **I. TERM OF AGREEMENT**

The term of this Agreement shall be for a period of twenty-five (25) years commencing on the last day all of the parties have executed this Agreement, unless terminated earlier as provided herein.

### **II. DESIGN/ALIGNMENT OF TRAIL**

The Trail that will be constructed under this Agreement will extend the City's existing South Mesquite Creek Trail by approximately 1.5 miles so that it connects with the City's upcoming Heritage Trail. The Trail that will be constructed under this Agreement shall have the general alignment as denoted in the attached map in Exhibit A incorporated herein by reference. The Trail shall be constructed of reinforced concrete and shall generally have a width of at least ten (10) feet, with twelve (12) feet being preferred if sufficient funding is available. This Trail shall be known as the Under 80-Town East Trail Connection for the period that this Agreement is in effect.

### **III. TRAIL USE**

The Trail shall be accessible to all users, free of charge, regardless of residence and shall be used for public recreational activities, including, but not limited to hiking, walking, jogging, biking, and roller-blading and for non-motorized alternative transportation purposes. City reserves the right to establish hours of operation that are consistent with other park and recreational facilities in its jurisdiction.

#### IV. TRAIL IMPLEMENTATION RESPONSIBILITIES

City shall be responsible for surveying, proposing the alignment of the Trail, designing the Trail (or selecting a consultant engineer and overseeing the design of the Trail), obtaining or conducting any special drainage, hydrology, engineering, and/or erosion studies, obtaining any needed floodplain clearance, proposing needed signage, coordinating the review of the Trail's design with the Texas Department of Transportation and obtaining any needed approval from that agency, securing any property needed for the Trail, and funding and/or installing any amenities that are not provided for under the terms of this Agreement.

County shall be responsible for reviewing and approving the Trail's proposed alignment and design plans (and shall signify its approval by signing said plans), bidding and awarding the construction contract for the Trail, administering the construction contract, and overseeing the construction of the Trail.

#### V. FUNDING

County will provide an amount not to exceed Two-Million-Five-Hundred-Thousand Dollars (\$2,500,000) from its FY2012 major capital improvement program (hereinafter "County Trail Funds"). The County Trail Funds may be used solely for the construction and signage of the Trail. The County Trail Funds may not be used to conduct environmental assessments or to alleviate any environmental hazard, to construct or install any other capital improvement or amenity, or for land acquisition.

Should sufficient funding not be available or if field conditions present design constraints which prevent the construction of the Trail as described in Article II, then the scope of the project may be revised with the mutual consent of the parties, one or more parties may provide additional funding, or the Trail project may be terminated.

The County Trail Funds provided under this Agreement shall only be made available for a period of three (3) years from the date this Agreement is executed by all parties unless one or more of the following events occur: (i) the County Trail Funds are obligated or expended before then; (ii) the Trail project is terminated or completed; or (iii) this provision is otherwise formally extended.

The County Trail Funds under this Agreement are available from Fund 196. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code. This Agreement will have no effect or impact any future budget. Notwithstanding anything to the contrary herein, this Agreement is expressly contingent upon the availability of County funding for each item and obligation contained herein. City shall have no right of action against the County with respect to this Agreement, including, without limitation, the inability of the County to provide any funds under this Agreement due to insufficient funds or for failure 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 in part, the County, at its sole discretion, may provide funds from a separate source or terminate this Agreement.

#### **VI. OWNERSHIP/OPERATION/MAINTENANCE**

City shall own and maintain the Trail and all related amenities and improvements located within its jurisdiction. The City's ownership and maintenance responsibility shall commence immediately upon the completion of construction and its acceptance by its Director of Parks and Recreation or his/her designee.

City shall be responsible for operating the Trail as a public recreational facility for a period of at least twenty-five (25) years after the date this Agreement is executed by both parties, unless this Agreement is terminated at an earlier date in accordance with Article XII.

City shall also be responsible for adequately maintaining the Trail and its amenities in accordance with its standard trail maintenance practices.

#### **VII. TRAIL SYSTEM ACKNOWLEDGEMENT**

Once opened for public use, signs that acknowledge that the Trail is a City of Mesquite facility and a component of the Dallas County Trail System shall be posted at the Trail's various starting and ending points and at key entrances and City shall maintain those signs located within its jurisdiction as long as the Trail is operated under the terms of this Agreement.

#### **VIII. AMENDMENTS AND CHANGES IN THE LAW**

This Agreement may be amended; however, no modification, amendment, novation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the parties hereto. Any alteration, addition, or deletion to the terms of this Agreement which are required by changes in federal or State law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

#### **IX. AGENCY AND LIABILITY**

County and City agree 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 under this Agreement.

County agrees to be responsible for any liability or damages County may suffer as a result of claims, demands, costs or judgments against the County, including workers' compensation claims, arising out of the performance of the work 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 in connection with this Agreement and caused by sole negligence of the County, its agents, officers and/or employees.

City agrees to be responsible for any liability or damages it may suffer as a result of claims, demands, costs or judgments against it, including workers' compensation claims, arising out of the performance of the work 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 in connection with this Agreement and caused by sole negligence of City, its agents, officers and/or employees.

County and City agree that such liability or damages as stated above occurring during the performance of this Agreement caused by the joint or comparative negligence of their employees, agents and officers shall be determined in accordance with the comparative responsibility laws of the State of Texas.

Nothing herein shall be deemed in any manner to constitute a waiver of immunity or defense which may be asserted by County or City pursuant to law; nor shall this provision be in any manner construed to create a cause of action for the benefit of any person not a party to this Agreement or to create any rights for the benefit of any person not a party to this Agreement.

#### **X. VENUE AND APPLICABLE LAW**

This Agreement is made subject to and shall be construed under and in accordance with the laws of the State of Texas, and the exclusive venue for any legal action between the parties arising from this Agreement shall be in a state or federal court of competent jurisdiction in Dallas County, Texas.

#### **XI. SOVEREIGN IMMUNITY**

This Agreement is expressly made subject to the County's sovereign immunity, Title 5 of the Texas Civil Practice and Remedies Code and all applicable State and federal law. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that the parties or the County has by operation of law.

## **XII. TERMINATION**

This Agreement shall, if applicable, automatically terminate in accordance with Article V, if the County Trail Funds have not been expended or obligated within three years of the execution of this Agreement. This Agreement may also be terminated before commencement of construction with the mutual written consent of the parties; or by any party to this Agreement providing thirty (30) days prior written notice to the other party.

## **XIII. SHORTENING TRAIL AFTER COMPLETION**

City may close or cease to operate all of or a portion of the Trail after the Trail has been completed by providing thirty (30) days prior written notice to County and by either posting appropriate signage and barricades or by removing those improvements that will no longer be used as a Trail.

## **XIV. REIMBURSEMENT**

In the event City terminates this Agreement or ceases to operate all or a portion of this Trail prior to completion of the 25-year period prescribed in Article VI, then City shall reimburse County within sixty (60) days after such termination or cessation of Trail operation for the County's share of the costs of any improvements that are affected by this termination/closure less depreciation. Depreciation shall be calculated by dividing the County's Trail Funds expended for the development of the Trail by the total number of months City is required to operate the Trail under the terms of this Agreement commencing on the date the Trail was accepted by City, and multiplying this figure by the number of months the City has operated the Trail until the termination/closure goes into effect. Reimbursement for portions of the Trail that City no longer operates will be calculated in a similar manner on a pro-rata basis.

In the event County seeks to terminate this Agreement under Article XII on the grounds that City is not operating the Trail in the manner prescribed by this Agreement, then County shall provide that City thirty (30) days written notice of its intent to terminate this Agreement and shall give City sixty (60) days to cure the situation. If City does not cure this situation, then City shall be required to reimburse County within one-hundred-twenty (120) days of the termination date contained in the County's notice in the manner described in the above paragraph.

## **XV. NOTICE**

Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below, or by hand-delivery, or upon receipt of facsimile transmission thereof:

Director of Parks & Recreation  
City of Mesquite  
Parks & Recreation  
1515 N. Galloway  
Mesquite, TX 75149

Director of Planning & Development  
Dallas County  
Planning & Development  
411 Elm Street, 3<sup>rd</sup> floor  
Dallas, TX 75202

#### **XVI. SEVERABILITY**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

#### **XVII. PREVIOUS AGREEMENTS**

This Agreement embodies the complete understanding of the parties hereto, superseding all oral or written, previous and contemporary, agreements between the parties relating to the matters in this Agreement, and except as otherwise provided herein, cannot be modified without written agreement of the parties.

#### **XVIII. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

#### **XIX. INSURANCE**

County does self-insure to the extent permitted by applicable law under a plan of self-insurance, maintained in accordance with sound accounting practices. County shall not be required to maintain separate insurance.

#### **XX. ASSIGNMENT**

This Agreement may not be assigned without prior written consent of the parties.

#### **XXI. PREVENTION OF FRAUD AND ABUSE**

City shall establish, maintain and utilize internal management procedures sufficient to provide for the proper, effective management of all activities funded under this Agreement. Any known or suspected incident of fraud or program abuse involving City's




employees or agents shall be reported immediately to the County for appropriate action. City and County agree that any persons who, as part of his/her employment, receive, disburse, handle or have access to funds collected pursuant to this Agreement do not participate in accounting or operating functions that would permit him/her to conceal accounting records and the misuse of said funds. City shall, upon notice by County, refund expenditures of the City that are contrary to this Agreement and deemed inappropriate by the County during the 3 year term detailed in Article 5.


**XXII. EFFECTIVE DATE**

This Agreement shall become effective on the date of the last authorized signature by the appropriate representative of the City and the County ("Effective Date").

**FOR DALLAS COUNTY**

  
\_\_\_\_\_  
Clay Lewis Jenkins  
County Judge  
Date: July 2, 2013

**FOR THE CITY OF MESQUITE**

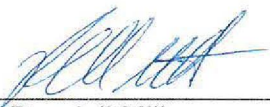
  
\_\_\_\_\_  
Ted Barron  
City Manager  
Date: 8-15-13

Approved as to form:\*

Approved as to form:

**CRAIG WATKINS  
DISTRICT ATTORNEY**

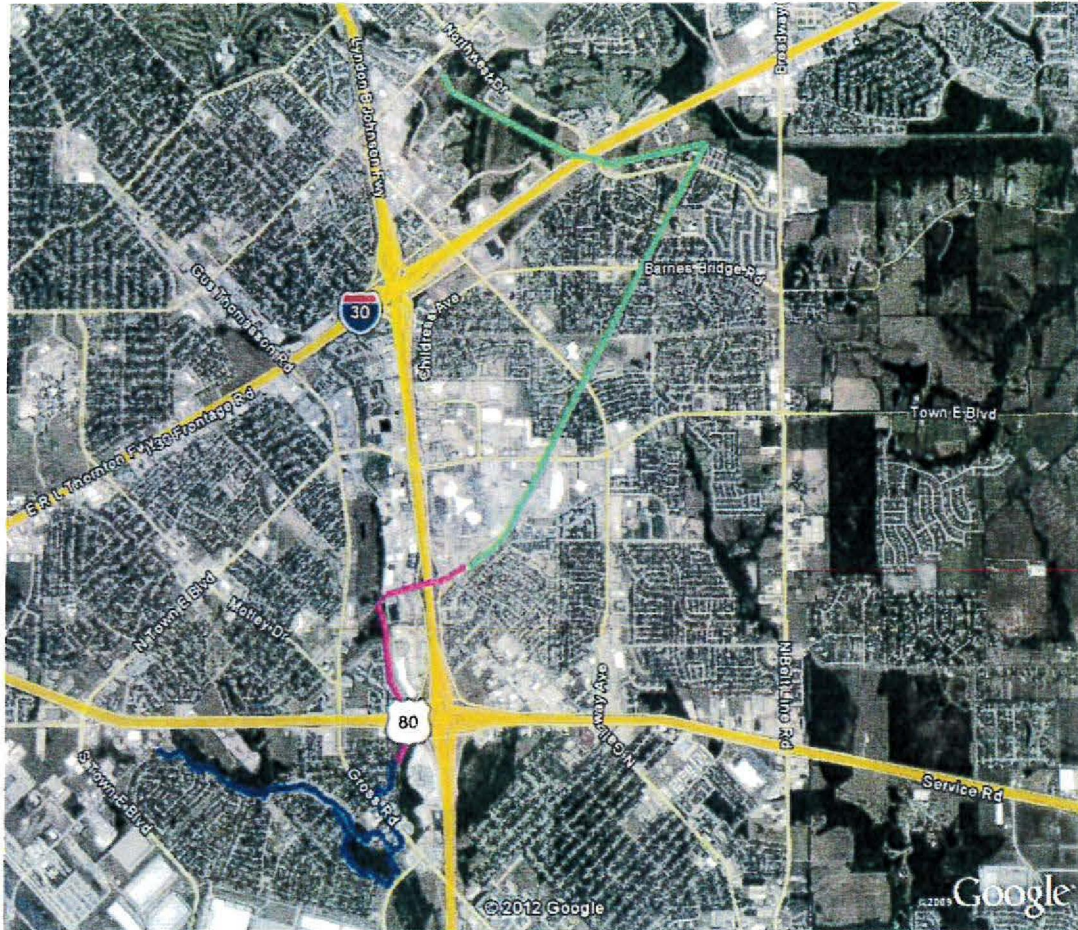
**TERESA GUERRA SNELSON  
CHIEF, CIVIL DIVISION**

  
\_\_\_\_\_  
By: Randall Miller  
Assistant District Attorney

\_\_\_\_\_  
City Attorney

\* *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)*

# Exhibit A UNDER 80-TOWN EAST TRAIL CONNECTION



	Existing South Mesquite Creek Trail
	Proposed trail connection
	Upcoming Heritage Trail

Doc #201900245650  
Filed 02/25/2019

Parkdale – Lake Hubbard 138kV (South)  
S-9.8  
2018-1126RT

**EASEMENT AND RIGHT OF WAY**

**STATE OF TEXAS**           §  
  §           **KNOW ALL MEN BY THESE PRESENTS**  
**COUNTY OF DALLAS**       §

That **ONCOR ELECTRIC DELIVERY COMPANY LLC**, a Delaware limited liability company, hereinafter referred to as Grantor, for and in consideration of **TEN AND NO/100 DOLLARS (\$10.00)**, and other good and valuable consideration to it in hand paid by the **CITY OF MESQUITE**, a Texas Municipal Corporation, hereinafter referred to as Grantee, has granted, sold and conveyed and by these presents does hereby grant, sell and convey unto said Grantee a nonexclusive twenty-four (24) foot wide easement and right of way for the purpose of constructing, reconstructing, replacing, maintaining and operating a Hike and Bike Trail crossing, hereinafter referred to as Grantee's Facility, in, over, under, across and along the property described on the attached Exhibit A, and as shown on the attached Exhibit B:

**SEE ATTACHED EXHIBIT "A & B"**

There is also granted to Grantee, its successors or assigns, a nonexclusive easement to use only so much of Grantor's adjoining land, during temporary periods, as may be necessary for the construction, maintenance, and repair of said Grantee's Facility. Such use shall not interfere with Grantor's use of such property in the operation of its business and Grantee shall properly maintain such property during construction and at the conclusion of such construction remove all construction debris and other materials from such property and restore such property to the same condition it was in prior to the commencement of Grantee's construction thereon or in proximity thereto. Additional general construction limitations on easement are described and listed, but not limited to, in **Exhibit "C"**, attached hereto and by reference made a part hereof. Use of draglines or other boom-type equipment in connection with any work to be performed on Grantor's property by the Grantee, its employees, agents, representatives or contractors must comply with Chapter 752, Texas Health and Safety Code, the National Electrical Safety Code and any other clearance requirements. Notwithstanding anything to the contrary herein, in no event shall any equipment be within fifteen (15) feet of the Oncor 138,000 volt or less power lines or within twenty (20) feet of the Oncor 345,000 volt power lines situated on the aforesaid property. Grantee must notify Forney Transmission, (972)564-7050 at least 48 hours prior to the use of any boom-type equipment on Grantor's property except in an emergency. Grantor reserves the right to refuse Grantee permission to use boom-type equipment.

Grantee shall locate its Facility within the easement so as not to interfere with any of Grantor's facilities. Grantee shall not place its facility within 25 feet of any pole or tower leg. Grantee shall reimburse Grantor for any and all costs and expenses incurred by Grantor for any relocation or alteration of its facilities located on or near the easement that Grantor, in its sole discretion, determines are subject to interference from the said Grantee's Facility or from the exercise by Grantee of any of its rights hereunder.

This easement is granted upon the conditions that Grantee's Facility to be constructed shall be maintained and operated by Grantee at no expense to Grantor and Grantor shall not be responsible for any costs of construction, reconstruction, operation, maintenance or removal of Grantee's Facility.

To the extent permitted by law, Grantee agrees to defend, indemnify and hold Grantor, its officers, agents and employees, harmless against any and all claims, lawsuits, judgements, costs, and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons that may arise out of, or be occasioned, by any negligent act or omission of Grantee, its officers, agents, associates, employees or subconsultants; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of Grantor, its officers, agents, or employees or separate contractors, and in the event of joint and concurrent negligence of both Grantor and Grantee, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity or other defenses available to the parties under Texas Law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Grantee shall, at its own cost and expense comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said premises because of Grantee's use thereof.

This easement, subject to all liens of record, shall continue only so long as Grantee shall use this right of way for the purpose herein described and the same shall immediately lapse and terminate upon cessation of such use.

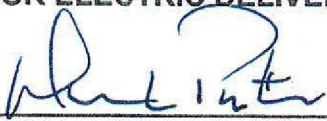
TO HAVE AND TO HOLD the above described easement and rights unto the Grantee, its successors and assigns, for the purposes aforesaid and upon the conditions herein stated until the same shall be abandoned for use by the Grantee for the purpose herein stated, then and thereupon this conveyance shall be null and void and the use of said land and premises shall absolutely revert to Grantor herein, its successors and assigns, and no act or omission on the part of them shall be construed as a waiver of the enforcement of such condition.

AND Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the above described easement and rights unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor but not otherwise.

EXECUTED as of this 12 day of FEBRUARY, 2018.<sup>9</sup>

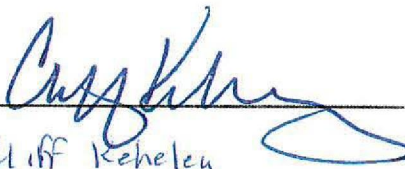
GRANTOR:

**ONCOR ELECTRIC DELIVERY COMPANY LLC**

By:   
Dennis L. Patton  
Attorney-in-Fact

GRANTEE:

**CITY OF MESQUITE**

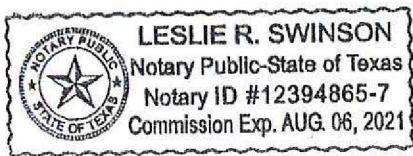
By:   
Name: Cliff Keheley  
Title: City Manager

STATE OF TEXAS  
COUNTY OF DALLAS

§  
§  
§

BEFORE ME, the undersigned authority, on this day personally appeared Cliff Keholey, as the City Manager of City of Mesquite, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he/she is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16th day of January, A. D. 2018<sup>9</sup>.



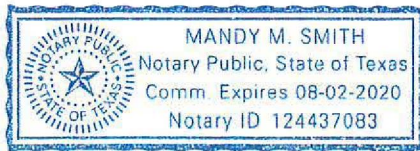
Leslie R Swinson  
Notary Public in and for the State of Texas

STATE OF TEXAS  
COUNTY OF TARRANT

§  
§  
§

BEFORE ME, the undersigned authority, on this day personally appeared Dennis L. Patton, as the Attorney-In-Fact of **Oncor Electric Delivery Company LLC**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12<sup>th</sup> day of February, A. D. 2018<sup>9</sup>.



Mandy M Smith  
Notary Public in and for the State of Texas

LEGAL DESCRIPTION

Exhibit A

BEING a 0.0697 acres tract or parcel of land situated in the Daniel Tanner League Survey, Abstract No. 1462, in the City of Mesquite, Dallas County, Texas, and being part of the Dallas Power & Light Company Right-Of-Way as recorded in Volume 5547, Page 38, Deed Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found cap for a northerly corner of a tract of land conveyed to MRP Barons | LLC, as recorded in Instrument Number 20070184973, Deed Records, Dallas County, Texas, said point also being the northerly corner of Block 1, Lot 2 of The Barons Addition an addition to the City of Mesquite, as recorded in Volume 2002194, Page 92, Deed Records, Dallas County, Texas, said point also being the northeasterly corner of a tract of land conveyed as Block A, Lot 1, Apple Grove Villas, as recorded in Instrument Number 20130024363, Deed Records, Dallas County, Texas, said point also being in the south line of the Dallas Power & Light Company Right-Of-Way as recorded in Volume 5529, Page 630, Deed Records, Dallas County, Texas;

THENCE North 44°07'24" East along the south line of said Dallas Power & Light Company Right-Of-Way and the northerly line of said Block 1, Lot 2 a distance of 971.58 feet to a 5/8 inch iron rod found cap for a north corner of said Block 1, Lot 2 and the the southwest corner of said Dallas Power & Light Company Right-of-Way recorded in Volume 5547, Page 38;

THENCE North 74°25'44" East continuing along the south line of Dallas Power & Light Company Right-Of-Way and the northerly line of said Block 1, Lot 2 a distance of 280.32 feet to the POINT OF BEGINNING;

THENCE North 08°30'50" West crossing said Dallas Power & Light Company Right-Of-Way a distance of 108.84 feet to a point for corner, said point being at the beginning of a tangent curve to the left whose chord bears North 12°04'27" West, 17.50 feet;

THENCE in a Northwesterly direction along said curve to the left having a central angle of 04°29'47", a radius of 223.00 feet, an arc length of 17.50 feet to a point for corner in the northerly line of said Dallas Power & Light Company Right-Of-Way, said point also being in a southerly line of Block A, Lot 3, Mesquite Commons Addition an addition to the City of Mesquite, as recorded in Volume 2002079, Page 4, Deed Records, Dallas County, Texas;

THENCE North 74°33'34" East along the northerly line of said Dallas Power & Light Company Right-Of-Way and the southerly line of said Block A, Lot 3 a distance of 24.00 feet to a point for corner, said point being at the beginning of a non-tangent curve to the right whose chord bears South 12°05'45" East, 20.13 feet;

THENCE in a Southwesterly direction departing the northerly line of said Dallas Power & Light Company Right-Of-Way and the southerly line of Block A, Lot 3 and crossing said Dallas Power & Light Company Right-Of-Way along said curve to the right having a central angle of 04°40'14", a radius of 247.00 feet, an arc length of 20.13 feet to a point for corner;

THENCE South 08°30'50" East continuing crossing said Dallas Power & Light Company Right-Of-Way a distance of 106.23 feet to a point for corner, said point being in the southerly line of said Dallas Power & Light Company Right-Of-Way, said point also being in the northerly line of Block 1, Lot 2;

THENCE South 74°25'44" West along the southerly line of said Dallas Power & Light Company Right-Of-Way and the northerly line of said Block 1, Lot 2 a distance of 24.18 feet to the POINT OF BEGINNING and containing 3,034 square feet or 0.0697 acres of land more or less.

*David F. McCullah*  
David F. McCullah,  
Texas Registered Professional Land  
Surveyor No. 4023  
4-5-18



**TRACT 1**

**0.0697 ACRES (3,034 SQ. FT.)**  
**IN THE DANIEL TANNER SURVEY, ABST. NO. 1462**  
**CITY OF MESQUITE, DALLAS COUNTY, TEXAS**  
**APRIL 2018**



**Brown & Gay Engineers, Inc.**  
2595 Dallas Pkwy., Suite 204, Frisco, TX 75034  
Tel: 972-464-4800 • www.browngay.com  
TBPLS Registration No. 10193953

BEARING BASIS:  
BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM,  
NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983, (2011).

JOB No. 2163-01 DFM/SPR Copyright 2017 SHEET 1 OF 3

EXHIBIT "B"

Line Table		
Line #	Length	Direction
L1	108.94'	N8°30'50"W
L2	24.00'	N74°33'34"E
L3	106.23'	S8°30'50"E
L4	24.18'	S74°25'44"W

Match Line ~ Sheet 2

MRP BARONS I LLC  
INST. NO. 20070184973

BLOCK 1, LOT 2

THE BARONS ADDITION  
VOL. 2002194, PG 92  
D.R.D.C.T.

DALLAS POWER & LIGHT COMPANY  
RIGHT-OF-WAY  
VOL. 5529, PG. 630  
D.R.D.C.T.

N 74°25'44" E  
280.32'  
21' DRAINAGE EASEMENT  
VOL. 2000152, PG. 2150

P.O.B.  
N: 6978327.4852  
E: 2542926.7592

TRACT 1  
(3,034 SF OR  
0.0697 ACRES)

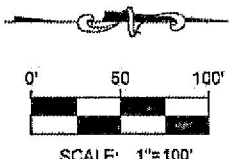
CAVENDER INVESTMENT  
PROPERTIES LTD  
VOL. 2005134, PG. 5065  
D.R.D.C.T.

BLOCK A, LOT 3  
MESQUITE COMMONS  
ADDITION  
VOL. 2002079, PG. 4  
D.R.D.C.T.

DALLAS POWER & LIGHT  
COMPANY RIGHT-OF-WAY  
VOL. 5547, PG. 38  
D.R.D.C.T.

120' DRAINAGE  
EASEMENT  
VOL. 51180, PG. 3344  
D.R.D.C.T.

DRAINAGE EASEMENT  
VOL. 97038, PG. 1176  
D.R.D.C.T.



Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	17.50'	223.00'	4°29'47"	N12°04'27"W	17.50'
C2	20.13'	247.00'	4°40'14"	S12°05'45"E	20.13'

LEGEND

- INST. NO. INSTRUMENT NUMBER
- D.R.D.C.T. DEED RECORDS, DALLAS COUNTY, TEXAS
- O.P.R.D.C.T. OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS
- PG. PAGE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- VOL. VOLUME
- IRF IRON ROD FOUND
- (CM) CONTROLLING MONUMENT
- M.R.D.C.T. MAP RECORDS, DALLAS COUNTY
- ROW RIGHT OF WAY
- IPF IRON PIN FOUND
- PT. PART

BEARING BASIS:

BEARINGS ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983, (2011).

**TRACT 1**

0.0697 ACRES (3,034 SQ. FT.)  
IN THE DANIEL TANNER SURVEY, ABST. NO. 1462  
CITY OF MESQUITE, DALLAS COUNTY, TEXAS  
APRIL 2018



Brown & Gay Engineers, Inc.  
2695 Dallas Pkwy., Suite 204, Frisco, TX 75034  
Tel: 972-464-4800 • www.browngay.com  
TBPLS Registration No. 10193953

JOB No. 2163-01 DFM/SPR Copyright 2017  
SHEET 3 OF 3



**CONSTRUCTION LIMITATIONS ON**  
**Oncor ELECTRIC DELIVERY COMPANY RIGHT OF WAY**  
**EXHIBIT "C"**

1. You are notified, and should advise your employees, representatives, agents, and contractors, who enter the property that they will be working in the vicinity of high voltage electrical facilities and should take proper precautions, included but not limited to the following stipulations and in compliance, at all times, with Chapter 752, V.T.C.A., Health & Safety Code.
2. Blasting is not to be permitted on Oncor right-of-way or under Oncor lines.
3. Construction on electric transmission line easements acquired by Oncor after January 1, 2003 shall comply with the requirements of Public Utility Commission Substantive Rules §25.101, as amended from time to time.
4. No crossing less than 45 degrees to the centerline of the right-of-way.
5. Grading will be done in order to leave the right-of-way as near as possible to present condition. Spoil dirt will be removed from the right-of-way and no trash is to be left on right-of-way. Slopes shall be graded so that trucks can go down the right-of-way when required and such that the slopes can be mechanically maintained.
6. Equipment and materials will not be stored on the right-of-way during construction without written approval of the Supervisor of Regional Transmission.
7. Street or road crossings are to be based on drawings submitted. Any change in alignment or elevation will be resubmitted for approval.
8. No signs, lights or guard lights will be permitted on the right-of-way.
9. Power line safety equipment operations: hazard assessment and precautions inside the work zone area must be performed and in compliance with OSHA Standard §1926.1408 at all times. Equipment shall not be placed within fifteen (15) feet of the Oncor 138,000 volt or less power lines or within twenty (20) feet of the Oncor 345,000 volt power lines.

10. Any pre-approved fencing will not exceed eight (8) feet in height, and if metal in nature, will be grounded, at ten (10) feet intervals, with an appropriate driven ground. Gates should be at least sixteen (16) feet in width to allow Oncor access to the right-of-way.
11. No dumpsters will be allowed on Oncor right-of-way or fee owned property.
12. Draglines will not be used under the line or on Oncor right-of-way.
13. The existing grade shall not be disturbed, excavated or filled within 25 feet of the nearest edge of any Oncor transmission structure (tower, pole, guy wire, etc...).
14. Right-of-way will be protected from washing and erosion by Oncor approved method before any permits are granted. No discharging of water will be allowed within any portion of the right of way. Drainage facilitation will not be allowed to discharge into/onto Oncor right-of-way.
15. No obstruction shall be installed on the right-of-way that would interfere with access to Oncor structures or prevent mechanical maintenance.
16. Before any work is done under Oncor lines or by Oncor structures notify the Region Transmission Department, (972)564-7050.
17. No hazardous materials will be stored on the right of way.
18. For purposes of this document, "Hazardous Materials" means and includes those substances, including, without limitation, asbestos-containing material containing more than one percent (1%) asbestos by weight, or the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, chemicals known to cause cancer or reproductive toxicity and includes any items included in the definition of hazardous or toxic waste, materials or substances under any Hazardous Material Law. "Hazardous Material Laws" collectively means and includes any present and future local, state and federal law relating to the environment and environmental conditions including, without limitation, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, ("CERCLA"), 42 U.S.C. §§9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Material Transportation Act, 49 U.S.C.

§6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §741 et seq., the Clean Water Act, 33 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601-2629, the Safe Drinking Water Act, 42 U.S.C. §§300f-330j, and all the regulations, orders, and decrees now or hereafter promulgated thereunder.

19. Brush and cut timber is not to be piled or stacked on Oncor right-of-way nor is it allowed to be burned upon or in close proximity to the conductors or towers.
20. No structures or obstructions, such as buildings, garages, barns, sheds, swimming pools, playground equipment, guard houses, etc., will be permitted on the right-of-way.
21. Landscaping on Oncor right-of-way is permitted when Oncor approves landscaping plans in writing. No lighting or sprinkler systems are allowed on the right-of-way.
22. No park or park designation will be permitted on the right-of-way.
23. Gas Pipeline Protective Barrier; Grantee, at Grantee's sole expense, shall provide one of the following protective barriers; **1)** a concrete protective barrier between the surface and the pipe that is a minimum of one (1) foot thick by one (1) foot wide, if pipe is wider than one (1) foot, then width of pipe, with the top of the concrete barrier to be at least one (1) foot below the surface or final grade, **2)** construct the gas pipeline inside of a proper protective steel casing, **3)** where electric facilities are located above ground, install the pipeline a minimum of ten (10) feet below the ground surface, or **4)** where electric facilities are located below ground, install the pipeline at a depth that provides for a minimum of a ten (10) foot clearance between the pipeline and the underground electric facilities.
24. No fire hydrants or manholes will be permitted within the right-of-way.
25. Any drainage feature that allows water to pond, causes erosion, directs stormwater toward the right-of-way or limits access to or around Oncor's facilities is prohibited. Drainage facilitation will not be allowed to discharge into/onto Oncor right-of-way.
26. No boring pits or other type of pits will be permitted within the right-of-way.

## Attachment F

### GENERAL RESTRICTIONS WITHIN BRAZOS ELECTRIC COOPERATIVE'S ELECTRIC TRANSMISSION LINE EASEMENTS:

- No trash dumpsters, toxic substances or flammable materials will be allowed on the Brazos Electric easement.
- The grade or elevation of the easement area shall not be raised unless approved in writing by Brazos Electric.
- No permanent improvements, including any pipeline related appurtenances, shall be placed above ground within the Brazos electric easement.
- There will be no activity, including but not limited to trenching, within twenty feet (20') of any transmission line structure.
- Access along the Brazos Electric easement shall not be impeded at any time due to construction activities or at any other time thereafter.
- **Use of draglines, backhoes or other boom-type equipment in connection with any work to be performed on the Brazos Electric easement by any employees, agents, representatives or contractors must comply with Chapter 752, Texas Health and Safety Code, the National Electrical Safety Code, current OSHA requirements and any other clearance requirements. Brazos Electric's dispatcher in Waco, Texas, telephone number 254/750-6500 shall be notified at least forty eight (48) hours prior to the use of any boom-type equipment on Brazos Electric's easement. This notice and phone number shall be placed on every sheet of the construction drawings where Brazos Electric's facilities are involved. Brazos Electric reserves the right to refuse permission to use boom-type equipment.**
- Brazos Electric makes no representations or warranties as to the Brazos Electric easement or any rights conferred therein, and by this agreement confers no rights in or to the Brazos Electric easement. Your company/client/city shall be solely responsible for obtaining its rights, permits, etc. from any governmental authority for all property affected by its construction within the Brazos Electric easement, including the right to construct and use any improvements.