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CONTRACTS - TEXAS

City of Willow Park v. E.S.

Court of Appeals of Texas, Fort Worth - February 6, 2014 - S.W.3d - 2014 WL 468878

Engineering firm that had entered into consulting services contract with city for preparation of an engineering feasibility report brought action for breach of contract and quantum meruit based upon city's alleged failure to pay amount due under contract. City filed plea to the jurisdiction, asserting governmental immunity. The District Court denied plea. City appealed.

The Court of Appeals held that:

- Section of parties' consulting services contract purportedly providing that city did not waive its governmental immunity by entering into contract was void as against public policy, such that firm could maintain breach of contract claim against city;
- City was immune from suit on engineering firm's attorney fees claim; and
- City was immune from suit on engineering firm's quantum meruit claim.

Legislature, in enacting section of Local Government Code providing that a local governmental entity that enters into a contract waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of such contract, clearly expressed public policy of ensuring that contractors who completed a project pursuant to a contract with a governmental entity have opportunity for redress if the entity refused to pay, and parties could not override legislative policy or contract around statutory waiver of immunity through terms of their contract.

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