

ORDINANCE NO. 119

AN ORDINANCE PROVIDING FOR THE CONSTRUCTION AND MAINTENANCE OF THE PORTION OF U. S. HIGHWAY NO. 80 IN THE CITY OF MESQUITE,

HEREINABOVE REFERRED TO AS "THE STREET PROJECT" AND AUTHORIZING THE MAYOR OF THE CITY TO EXECUTE AND THE CITY SECRETARY TO AFFIX THE CORPORATE SEAL AND ATTEST THE SAME, A CERTAIN CONTRACT BETWEEN THE CITY AND THE STATE OF TEXAS PROVIDING FOR THE INSTALLATION, CONSTRUCTION, MAINTENANCE, EXISTENCE AND USE OF THE SAID STREET PROJECT; FOR THE INDEMNIFICATION OF THE STATE OF TEXAS, BY THE CITY, AGAINST ALL DAMAGES TO ADJOINING, ABUTTING AND OTHER PROPERTY, AND FOR EXPENSES IN CONNECTION WITH ANY CLAIM OR SUIT THEREOF; AND DECLARING AN EMERGENCY AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE FROM AND AFTER ITS PASSAGE.

WHEREAS, the public convenience, safety and necessity of the city, and the people of the City require that the portion of U. S. 80 from the West City Limits to the East City Limits be constructed. Since the existing street constitutes a danger and serious inconvenience to the public, it is urgently required to be remedied; and

WHEREAS, the City has requested the State of Texas to contribute financially in the street project; and

WHEREAS, the State of Texas has made it known to the City that it will assist the City in the street project by furnishing the necessary funds for actual construction, reconstruction and maintenance; and by supervising construction, providing the City approves the plans, grades and alignment for said project; and

WHEREAS, the City, in consideration of the providing of said project, agrees to indemnify the State of Texas against all damages or claims for damage to adjoining, abutting or other property for which the State is liable, arising out of, incident to, and in any way connected with the installation, the construction, the existence, the use and maintenance of the street project or the passage and enforcement of this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL:

Section 1. That since the public convenience, safety and necessity of the City and the people of the City require it, said street shall be constructed.

Section 2. That the State of Texas be and is hereby authorized to enter upon construct and maintain the street project at the location and in the manner shown on the plans, attached hereto and marked "Exhibit A" and made a part hereof in all respects.

Section 3. That nothing in this ordinance shall be construed to obligate the State of Texas to pay any direct, incidental, or consequential damages to adjoining, abutting or other property in enforcement of this ordinance or by reason of the installation, construction, existence, use and maintenance of the street project authorized herein.

Section 4. For and in consideration of the mutual covenants herein contained, the City does hereby agree to indemnify the State of Texas against all damages and claims for damages to adjoining, abutting, or other property for which the State of Texas is liable, arising out of, incident to, or in any way connected with the installation, the construction,

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existence, use and maintenance of said street project and does hereby agree to indemnify the State of Texas against all court costs, attorneys' fees and all expenses in connection with suits for such damages, and shall, if requested to do so in writing, assist or relieve the State of Texas from defending any such suits brought against it.

Section 5. Nothing contained herein shall ever be construed to place upon the State of Texas any manner of liability for injury to or death of persons or for damages to, or loss of property arising out of or in any manner connected with the maintenance or use of the street project and the City will save the State of Texas harmless from any damages arising out of said maintenance and/or use of said street project.

Section 6. The Mayor of the City be and is hereby authorized to execute for and on behalf of the City an agreement and contract with the State of Texas in accordance with and for the purpose of carrying out the terms and provisions of this ordinance, in the form attached hereto and marked "Exhibit B". The City Secretary is hereby directed to attest the agreement and contract and to affix the proper seal of the City hereto.

Section 7. The Mayor of the City, having requested in writing that this ordinance take effect forthwith and there being in fact an emergency and imperative necessity that the work herein provided for be begun and carried out promptly and with expedition and that the contract aforesaid shall be immediately made, executed and delivered to the end that such work herein provided for may be begun and carried out promptly and with expedition. The reading of the ordinance on three several days is hereby dispensed with and the same shall be in full force and effect from and after its passage.

Section 8. That since the public convenience, safety of the City and the people of the City require it, said Project within the corporate limits and as located by the Texas Highway Department is hereby designated and constructed as a "Freeway", supplemented by "Frontage Streets", as defined by House Bill No. 451, 52nd Legislature, Regular Session.

Section 9. That since the public convenience, safety and necessity of the City and the people of the City require it, an ordinance requiring the parallel parking of vehicles within the limits of this project is hereby passed and same will be enforced after completion of this project.

PASSED AND APPROVED this 19th day of April, 1955.

T. O. Williams

T. O. Williams
Mayor

ATTEST:

(Mrs.) Norma Gene McLaughly
(Mrs.) Norma Gene McLaughly
City Secretary