

RESOLUTION NO. 19-72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING MAYOR GEORGE BOYCE TO EXECUTE AN AGREEMENT WITH COMMERCIAL PARKS, INC., REGARDING THE PROJECTION OF ROCKNE LANE, THE EXTENSION OF AN EXISTING ALLEY AND DRAINAGE CONSTRUCTION AND IMPROVEMENTS AS SET OUT IN SAID AGREEMENT; AND PROVIDING THAT THIS RESOLUTION TAKE EFFECT IMMEDIATELY.


WHEREAS, it is in the public interest that an agreement be made with Commercial Parks, Inc. regarding the projection of Rockne Lane, drainage improvements to be made, construction of a cul de sac and storm drainage therefrom and extension of an existing alley;


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

SECTION 1. That the Honorable George Boyce, Mayor, is hereby authorized to execute the attached agreement on the part of the City of Mesquite.

SECTION 2. That this Resolution shall take effect from and after date of passage as the law in such cases provides.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 10 day of July A.D., 1972.


George Boyce
Mayor

ATTEST:


Norma G. McGaughy
City Secretary

AGREEMENT

WITNESSETH:

That the City of Mesquite, Texas, a municipal corporation and Commercial Parks, Inc., by and through Bayard M. Smith, President, hereinafter called Landowners enter into and make the following agreement:

WHEREAS, Landowners have requested that said Rockne Lane not be constructed through Landowners' property, but that Landowners be allowed to construct commercial building(s) on the land through which said Rockne Lane was projected;

Now, therefore, Landowners have and do offer the following inducement to the City of Mesquite to abandon all plans and intentions to extend Rockne Lane through Landowners' property and to issue a building permit for construction of commercial building(s) as aforesaid:

1. Landowners, at their sole expense will cause to be constructed a cul de sac at the point where Rockne Lane dead-ends in accordance with the plans and specifications of the City of Mesquite.
2. Landowners, at their sole expense, will cause to be constructed storm drainage from said cul de sac to the existing drainage channel in accordance with applicable City of Mesquite specifications for storm drainage.
3. Landowners will cause to be extended at their sole expense the existing alley now dead-ended at or near Landowners' property line so that said alley will connect with Rockne Lane.
4. Landowners will cause to be constructed and repaired that portion of the existing concrete drainage channel through and across

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Landowners' property to the extent that said channel will meet the requirements of Ordinance 858, Code of the City of Mesquite, or in the alternative, said channel will meet such requirements as may satisfy the Director of Public Works, whichever may be less expensive to Landowners.

It is agreed and understood that the issuance of a building permit is expressly conditioned upon the foregoing numbered provisions. By Acceptance of a building permit, Landowners agree and covenant to satisfactorily perform each and every obligation. Said obligation shall be binding upon Landowners' successors in title and shall run with the land.

In the event Landowners fail to perform any of the listed obligations the City of Mesquite is authorized to cause the improvements to be made at Landowners expense. Further, the City of Mesquite may obtain specific performance through a court of equity, or a combination thereof, or the City may pursue such other remedy as the law may provide. In any event, a final certificate of occupancy shall not be issued until the provisions herein have been performed.

In consideration thereof, the City of Mesquite, Texas, does, upon satisfactory compliance by Landowners, abandon all plans and intentions to extend Rockne Lane through and across Landowners property and agrees that Landowners may construct a commercial building on the space wherein said street was projected, subject to the conditions set forth. In addition, the construction and repair of said drainage ditch by Landowners as set forth shall satisfy and extinguish any claim by the City of Mesquite against Bayard M. Smith for the original cost of construction of said drainage channel; which

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It is further agreed that the construction and repair of the drainage channel to the satisfaction of the Director of Public Works and acceptance thereof shall constitute compliance with Ordinance 858, at such time as the residential property adjacent to said channel may be rezoned, should said land be rezoned.

The City of Mesquite, upon satisfaction of the obligations herein, shall furnish to Landowners a certificate of compliance properly acknowledged, so that same may be filed for record.

It is agreed and stipulated herein that in addition to any act or acts the parties may be required by law to perform or any rights the parties may have at law, there is, nevertheless, mutual consideration for the contractual obligations undertaken by this agreement.

To witness same we hereunto set our hands this 22nd day of June, 1972.

Attest:

C. R. Barnett
Secretary

Commercial Parks Inc.

by Bayard W. Smith
Bayard W. Smith, President

Attest:

Norma McGaughey
Norma McGaughey
City Secretary

City of Mesquite, Texas

by George Boyce
George Boyce, Mayor