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RESOLUTION NO. 9-73

RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MESQUITE, TEXAS

WHEREAS, the City of Mesquite deems it necessary to permanently improve the hereinafter named street within the City of Mesquite by paving the said street with: 3,000 P.S.I. reinforced concrete pavement meeting the City's Standard Specifications; with 6-inch high integral curbs; with concrete driveway approaches, where specified; with concrete sidewalks, where specified; and with necessary drainage facilities, where specified. Any existing paving in place, meeting these specifications and which can be utilized, shall be left in place and corresponding credits to the property owners shall be allowed on the assessments; and

WHEREAS, the City Council of the City of Mesquite is of the opinion that it is necessary to levy an assessment against the property and the owners thereof abutting upon the following street: New Market Road from South Galloway Avenue to Hickory Tree Road and against railway companies whose tracks occupy said street, if any, for a part of the cost of improving said street, fixing a time for the hearing of the owners of said property, and the said railway companies, concerning the same, and directing the City Secretary to give notice of said hearing, as required by law; and

WHEREAS, plans and specifications shall be made by the Director of Public Works for the improvements of said street; and,

WHEREAS, the Director of Public Works of the City of Mesquite in accordance with the law, has filed his report with the City Council setting forth the participation by the railway companies, if any, and the property owners on the cost thereof, together with the names of the owners and the description of said property and the work to be done adjacent thereto, and the amounts to be assessed against each lot or parcel of land, and its owner, and all other matters required by law, now, therefore;

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

SECTION 1. That the following street: New Market Road from South Galloway Avenue to Hickory Tree Road shall be improved in the following manner, to-wit:

- (1) That said street shall be cut or filled so as to bring the same to grade.
- (2) That said street shall be paved with 3,000 P.S.I. reinforced concrete pavement meeting the City's Standard Specifications, any existing paving in place, meeting these specifications, or which can be utilized, shall be left in place, if any, and corresponding credits to the property owners shall be allowed on the assessments.

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That bids shall be taken for the construction of the work for the type of construction enumerated above, and the work shall be done with the materials and according to plans and methods selected by the City Council after the bids are opened.

That the cost of said improvements shall be paid for as follows; to wit:

(a) The cost of improving so much of said street and its intersection with other streets and alleys as is occupied by the rails and tracks of railways, if any, occupying said street, and between the same and two (2) feet on the outside thereof, shall be paid by the owners of said railways respectively.

(b) The City of Mesquite shall pay ten per cent (10%) of the estimated cost of all such improvements exclusive of curb, gutters and sidewalks.

(c) That after deducting the proportion of the cost provided for in said Subsections (a) and (b) above, the whole remaining cost, including the cost of concrete curbs or curbs and gutters, driveways, and sidewalks shall be paid by the owners of property abutting on said street named to be paved, in the following manner, to-wit:

The cost shall be assessed against said owners and their property respectively, in accordance with what is known as the "Front-Foot Plan", in proportion as the frontage of the property of each owner is to the whole frontage improved and shall be payable in monthly installments not to exceed twenty-four (24) in number, the first of which shall be payable within thirty (30) days from the date of the completion of said improvements and their acceptance by the City of Mesquite, and one installment each month thereafter until paid, together with interest thereon at the rate of six percent, with provision that any of said installments may be paid any time before maturity by the payment of the principal and the accrued interest thereon. Any property owner against whom and whose property an assessment has been levied may pay the whole assessment chargeable to him without interest within thirty (30) days after the acceptance and completion of said improvements.

Provided that, if the application of the above mentioned rule of apportionment between property owners would, in the opinion of the City Council, in particular cases be unjust or unequal, it shall be the duty of the said Council to assess and apportion said cost in such manner as it may deem just and equitable, having in view the special benefits in enhanced value to be received by each owner of such property, the equities of owners, and the adjustment of such apportionment, so as to produce a substantial equality of benefits received by and burdens imposed upon such owners.

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That no such assessment shall be made against any owner of abutting property, or of a railway, if any, until after the notice and hearing provided by law, and no assessment shall be made against an owner of abutting property in excess of the benefits to such property in enhanced value thereof by means of such improvements.

That the contractor shall be paid for the work performed under the specifications, upon monthly estimates to be prepared by the Director of Public Works. That there shall be deducted as a retainage fee, ten (10%) percent of such monthly estimates, to be held by the City of Mesquite until the contract is performed and executed to the satisfaction of the Director of Public Works. The monthly estimates shall be paid on or before the 10th day of the next succeeding month for the work performed during the previous month.

For that part of the cost of the improvements that shall be determined to be levied against the owners of abutting property and their property shall be levied by assessment as herein provided, and said improvements may further be secured by Mechanic's Liens to be executed in favor of the City of Mesquite, provided by law in accordance with the terms and provisions of this resolution. Paving certificates evidencing the assessment shall be issued in favor of the City of Mesquite for the amount of the assessment, whether the property owners have executed Mechanic's Liens to secure the payment or not, and shall be payable for the use and benefit of the fund established for the purpose of financing paving improvements.

That the Director of Public Works is hereby directed to prepare at once plans and specifications and file the same with the City Council for the hereinabove described pavement and improvements. That in the specifications prepared, provision shall be made to require all contractors to give a maintenance bond for a term not longer than five (5) years for all pavements and improvements hereinabove described, if, in the judgment of the City Council, it is deemed advisable to require said maintenance bond.

That such specifications shall require the bidder to make a bid upon the improvements above described, with maintenance bond as herein provided.

That the specifications shall also state the amount of the performance payment and bonds which shall equal the amount of the bid as well as the method by which it is proposed to pay the cost of said improvements, said method being in accordance with this resolution, and said performance and payment bonds shall comply with the terms and provisions of Article 5106 of Vernon's Texas Civil Statutes.

SECTION 2. That the plans and specifications so presented to the City Council of the City of Mesquite by the Director of Public Works and prepared by him for the improvements of said streets enumerated above, as hereinbefore defined, having been carefully considered by the City Council, be, and the same are hereby approved and adopted as the specifications for the improvement of said streets.

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SECTION 3. That the City Secretary be, and she is hereby instructed to advertise for sealed bids for the construction of the improvements called for by this resolution, such advertisement for bids to be published in the Mesquite Daily News, the official publication of the City of Mesquite, which is a newspaper of general circulation in the City of Mesquite. The advertisement shall run one time each week for two weeks, and the bids shall be received not earlier than fourteen (14) days from the date of the first publication. All bids shall be received subject to the terms and provisions of the Charter of the City of Mesquite, and the standard specifications of the City, and shall be filed with the Purchasing Agent on the date and hours specified and shall be presented to the Council in a public meeting of the City Council.

SECTION 4. That the report or statement filed by the Director of Public Works having been duly examined is hereby approved.

SECTION 5. That it is hereby found and determined that the estimated cost of improvements on the hereinafter described street, with the amount or amounts per front foot proposed to be assessed for such improvements against abutting property and the owners thereof, and against railway companies whose tracks occupy said street, if any, are as follows, to-wit: (See attached schedule)

SECTION 6. That a hearing shall be given to said owners of abutting property, and of railways, if any, or their agents or attorneys and all persons interested in said matter, as to the amount to be assessed against each owner and his abutting property and railways, and as to the benefits to said property by reason of said improvement, or any other matter or thing in connection therewith, which hearing shall be held in the Council Chamber of the City Hall of the City of Mesquite, County of Dallas, on the 7 day of May, A.D. 19 73, at 7 o'clock p.m. at which time all the said owners, their agents or attorneys or other interested persons are notified to appear and be heard, and at said hearing said owners and other persons may appear, by counsel or in person, and may offer evidence, and said hearing shall be adjourned from day to day until fully accomplished.

The City Secretary of the City of Mesquite is hereby directed to give notice of the time and place of such hearing and of other matters and facts in accordance with the terms and provisions of the Act passed at the First Called Session of the Fortieth Legislature of the State of Texas, and known as Chapter 106 of the Acts of said Session, together with any amendments thereto, now shown as Article 1105b of Vernon's Texas Civil Statutes, which said law, as an alternative method for the construction of street improvements in the City of Mesquite, Texas, has been adopted and made a part of the Charter of said City, being Section 12, Article III of said Charter. Said notice shall be by advertisement inserted at least three times in a newspaper published in the City of Mesquite, Texas, the first publication to be made a least twenty-one (21) days before the date of said hearing. Said notice shall comply with and be in accordance with the terms and provisions of said Act.

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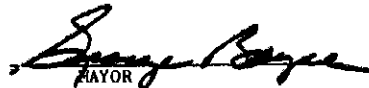
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The City Secretary is hereby further directed to give notice of said hearing by mailing to said owners, their agents or attorneys, and to said railway companies, their agents or attorneys, if any, a copy of said notice by mail, deposited in the Post Office at Mesquite, Texas, fourteen (14) days prior to the date of said hearing, provided, however, that any failure of the property owners to receive said notice, shall not invalidate these proceedings.

SECTION 7. The City Council, in initiating this proceeding, is acting under the terms and provisions of the Act passed at the First Called Session of the Fortieth Legislature of the State of Texas, and known as Chapter 106 of the Acts of said Session, together with any amendments thereto, now shown as Article 1105b of Vernon's Texas Civil Statutes, which said law, as an alternative method for the construction of street improvements in the City of Mesquite, Texas, has been adopted and made a part of the Charter of said City, being Section 12, Article III of said Charter.

SECTION 8. That this resolution shall take effect from and after its passage, as in the Charter in such cases is made and provided.

DULY passed by the City Council on the 2nd day of
April, 1973.


MAYOR

ATTEST:


CITY SECRETARY

ASSESSMENT SCHEDULE FOR RECONSTRUCTION
OF EXISTING SUBSTANDARD STREET

LC121

New Market Road from South Galloway Avenue to Hickory Tree Road

Residentially Developed Property

1. Front Yard \$5.00 /foot
2. Side Yard 3.00 /foot
3. Rear Yard 2.00 /foot
4. All Other Property 7.00 /foot
5. Driveway Approaches 10.00 /S.Y.

Assessment rates for "residentially developed property" shall be applicable to a maximum dimension of 150 linear feet for any single tract or lot; property frontage in excess of 150 feet shall be assessed at the rate established above for "all other properties".