

RESOLUTION NO. 38-74

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WHEREAS, the City of Mesquite deems it necessary to permanently improve the hereinafter named alley within the City of Mesquite; Now, therefore,

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

SECTION 1. That the following alley:

Alley between Harvey Drive and Scottsdale Drive from Modlin Street to Harvey Drive and Scottsdale Drive shall be improved in the following manner, to-wit:

(1) That said alley shall be cut or filled so as to bring same to grade.

(2) That said alley shall be paved with 3,000 P.S.I. Reinforced Concrete Pavement meeting the City's Standard Specifications, and 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.

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 alley and its intersections with other streets and alleys as is occupied by the rails and tracks of railways, if any, occupying said alley, 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 only an amount equal to the cost of storm sewers, and also all the cost of improving intersections of said alley with other streets and alleys, and partial adjusted frontages on side property, except so much thereof as shall be borne by railways, as provided in Subsection (a).

(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 the property abutting on said alley named to be paved, in the following manner, to-wit:

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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 6 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.

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 Community Development. 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 Community Development. 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.

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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 City Engineer 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 and payment 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.

SECTION 2. 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 and 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.


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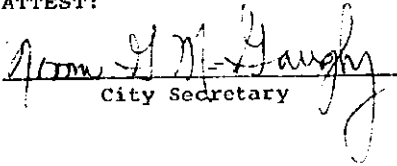
SECTION 3. That this resolution shall take effect from and after its passage, as in the Charter in such cases is made and provided.

Duly passed by the City Council on the 4 day of November, 19 74.



Mayor

ATTEST:



City Secretary