

RESOLUTION NO. 28-77

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, DETERMINING A NECESSITY FOR CERTAIN WATER AND SANITARY SEWER SYSTEM IMPROVEMENTS; DETERMINING A NECESSITY FOR THE LEVY OF ASSESSMENTS AGAINST PROPERTY BENEFITED BY SAID IMPROVEMENTS AND THE OWNERS THEREOF; DEFINING THE MANNER IN WHICH SUCH IMPROVEMENTS ARE TO BE EFFECTED; APPORTIONING THE COSTS OF SAID IMPROVEMENTS AND PROVIDING AN ASSESSMENT PLAN THEREFOR; DIRECTING THE PREPARATION OF PLANS FOR SAID IMPROVEMENTS; PROVIDING FOR A PUBLIC HEARING ON SAID IMPROVEMENTS AND DIRECTING THE CITY SECRETARY TO GIVE NOTICE OF SAID PUBLIC HEARING; AND PROVIDING THE EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite deems it necessary to permanently improve the hereinafter named water and sanitary sewer system within the City of Mesquite by construction of improvements to the said water and sanitary sewer system by the installation of water and sanitary sewer mains and appurtenances in Forney Avenue as described more particularly herein.

WHEREAS, the City Council of the City of Mesquite is of the opinion that it is necessary to levy an assessment against the benefited property and the owners thereof abutting upon the aforesaid Forney Avenue for improvements to the sanitary sewer system from Treasury Row southwesterly to a point 1250 feet south of Chase Road and for improvements to the water distribution system from Town East Boulevard southwesterly to a point 1400 feet south of Chase Road, for a part of the cost of improving said water and sanitary sewer system, fixing a time for the hearing of the owners of said benefited property 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 prepared by the City Engineer for the improvements of said water and sanitary sewer system and,

WHEREAS, the City Engineer of the City of Mesquite in accordance with the law, has filed his report with the City Council setting forth the participation by the owners of the benefited property on the cost thereof, together with the names of the owners and the description of said benefited 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.

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

SECTION 1. That the said water and sanitary sewer system shall be improved in the following manner, to-wit:

Install water and sanitary sewer systems in Forney Avenue as follows:

1. 8" and 10" diameter sanitary sewer main and all necessary appurtenances as specified, with 4" service laterals for existing development terminating at the street right of way line.
2. 12" diameter water main and all necessary appurtenances.

Sanitary sewer main to be constructed in Forney Ave. from Treasury Row southwesterly to a point 1250 ft. south of Chase Road.

Water main to be constructed in Forney Ave. from Town East Blvd. southwesterly to a point 1400 ft. south of Chase Road.

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 City of Mesquite shall pay ten per cent (10%) of the cost of all such improvements plus total costs of oversize participation.

(b) Ninety (90) percent of the cost of improving said water and sanitary sewer system save and except that part of costs paid by City for oversize participation shall be paid by the owners of the benefited property abutting said Forney Avenue.

(c) That portion of costs of improvements assessed to the owners of the benefited property shall be paid by said owners in the following manner:

The cost shall be assessed against said owners and their benefited property respectively, in accordance with what is known as the "Front-Foot Plan", in such proportion as the frontage of the benefited property of each owner

to the total costs of improvements to be assessed to all of said owners, 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 ten per cent (10%) per annum, 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 for purposes of computing the amount of the assessment to be made under such front foot plan, each parcel of benefited property shall be assessed according to the number of lineal feet of each such parcel abutting upon a public street irrespective of the location of improvements constructed hereunder relative to such parcel so long as such improvements provide water and sewer service, either or both, to the parcel to be assessed; provided however, that corner lots shall be assessed only for the shorter side of same abutting upon a public street.

Provided further 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 benefited property, until after the notice and hearing provided by law, and no assessment shall be made against an owner of benefited 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 City Engineer. 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 City Engineer. 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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That part of the cost of the improvements that shall be determined to be assessed against the owners of benefited 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. Assignable 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 water and sewer 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 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 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 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 Director of Finance on the date and hours specified and shall be presented to the Council in a public meeting of the City Council.

SECTION 3. That the report or statement filed by the City Engineer having been duly examined is hereby approved.

SECTION 4. That it is hereby found and determined that the estimated cost of improvements on the hereinabove described water and sanitary sewer system, with the amount or amounts per front foot proposed to be assessed for such improvements against benefited property and the owners thereof, are as set out on Exhibit A hereto which is incorporated herein for all purposes.

SECTION 5. That a hearing shall be given to said owners of benefited property, or their agents or attorneys and all persons interested in said matter, as to the amount to be assessed against each owner and his benefited property, and as to the benefits to said benefited 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 21st day of November, A.D., 1977, at 1:30 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 Fifty-Eighth Legislature of the State of Texas, and known as Chapter 192 of the Acts of said Session, together with any amendments thereto, now shown as Article 1110c of Vernon's Texas Civil Statutes, which said law, as an alternative method for the construction of water and sewer improvements in the City of Mesquite, Texas, has been adopted and made a part of the Charter of said City, being Section 16, 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 at least ten (10) days before the date of said hearing. Said notice shall comply with and be in accordance with the terms and provisions of said Act.

The City Secretary is hereby further directed to give notice of said hearing by mailing to said owners, their agents or attorneys, a copy of said notice by mail, deposited in the Post Office at Mesquite, Texas, ten (10) 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.

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SECTION 6. 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 Fifty-Eighth Legislature of the State of Texas, and known as Chapter 192 of the Acts of said Session, together with any amendments thereto, now shown as Article 1110c of Vernon's Texas Civil Statutes, which said law, as an alternative method for the construction of water and sewer improvements in the City of Mesquite, Texas, has been adopted and made a part of the Charter of said City, being Section 16, Article III of said Charter.

SECTION 7. 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 7th day of November, A.D., 1977.


B. J. SMITH
MAYOR

ATTEST:

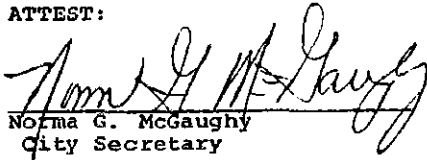

Norma G. McGaughy
City Secretary

EXHIBIT "A"

C0013

ASSESSMENT LIST

PROPERTY ABUTTING FORNEY AVENUE

| <u>Property Owner</u> | <u>Property Description</u> | <u>Utility</u> | <u>Front Footage</u> | <u>Cost/ Front Foot</u> | <u>Total Assessment</u> |
|---|-----------------------------|----------------|----------------------|-------------------------|--|
| <u>D. Tanner Survey</u> | | | | | |
| <u>Abstract 1462</u> | | | | | |
| Rosewood Corporation 1401 Elm St. Dallas, Texas 75202 | Sheet 14-C Tract 25 | Water Sewer | 686.9 1166.9 | \$ 7.44 \$ 6.97 | \$ 5,110.54 \$ 8,133.29 \$ 13,243.83 |
| Williams-Nay Assoc., Tr. 3635 Noble Ave., Suite 135 Dallas, Texas 75204 | Sheet 14-E Tract 18 | Water Sewer | 905.1 905.1 | \$ 7.44 \$ 6.97 | \$ 6,733.94 \$ 6,308.55 \$ 13,042.49 |
| V. & V. Inc. 1531 Buckner Blvd. Dallas, Texas 75218 | Sheet 14-E Tract 17 | Water Sewer | 900.0 900.0 | \$ 7.44 \$ 6.97 | \$ 6,696.00 \$ 6,273.00 \$ 12,969.00 |
| Texas Power & Light Co. Box 63331 Dallas, Texas 75222 | Sheet 14-E Tract 37 | Water Sewer | 150.0 150.0 | \$ 7.44 \$ 6.97 | \$ 1,116.00 \$ 1,045.50 \$ 2,161.50 |
| Buckner Orphans Home P. O. Box 18267 Dallas, Texas 75218 | Sheet 14-E Tract 35 | Water Sewer | 200.0 80.0 | \$ 7.44 \$ 6.97 | \$ 1,488.00 \$ 557.60 \$ 2,045.60 |
| Rosewood Corporation 1401 Elm Street Dallas, Texas 75202 | Sheet 14-D Tract 3 | Water Sewer | 202.0 682.0 | \$ 7.44 \$ 6.97 | \$ 1,502.88 \$ 4,753.54 \$ 6,256.42 |
| Lettieri, Lettieri, Potrano, 1916 No. Peak Dallas, Texas 75204 | Sheet 14-E Tract 26 | Water Sewer | 306.2 306.2 | \$ 7.44 \$ 6.97 | \$ 2,278.13 \$ 2,134.21 \$ 4,412.34 |
| R.W. Carpenter, Trustee Box 152 Richardson, Texas 75080 | Sheet 14-E Tract 27-28 | Water Sewer | 501.3 501.3 | \$ 7.44 \$ 6.97 | \$ 3,729.67 \$ 3,494.06 \$ 7,223.73 |
| Mary McDermott 4020 Old Forney Road Mesquite, Texas 75149 | Sheet 14-E Tract 31 | Water Sewer | 208.7 208.7 | \$ 7.44 \$ 6.97 | \$ 1,552.73 \$ 1,454.64 \$ 3,007.37 |
| Francis McDermott 4020 Old Forney Road Mesquite, Texas 75149 | Sheet 14-F Tract 30 | Water Sewer | 208.7 208.7 | \$ 7.44 \$ 6.97 | \$ 1,552.73 \$ 1,454.64 \$ 3,007.37 |
| Rosewood Corporation 1401 Elm Street Dallas, Texas 75202 | Sheet 14-E Tract 6 | Water Sewer | 463.6 463.6 | \$ 7.44 \$ 6.97 | \$ 3,449.18 \$ 3,231.29 \$ 6,680.47 |
| E. H. Mims 2333 Royal Lane Dallas, Texas 75229 | Sheet 14-E Tract 7 | Water Sewer | 275.7 275.7 | \$ 7.44 \$ 6.97 | \$ 2,051.21 \$ 1,921.63 \$ 3,972.84 |

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EXHIBIT "A"ASSESSMENT LISTPROPERTY ABUTTING FORNEY AVENUE

| <u>Property Owner</u> | <u>Property Description</u> | <u>Utility</u> | <u>Front Footage</u> | <u>Cost/ Front Foot</u> | <u>Total Assessment</u> |
|-------------------------|-----------------------------|----------------|----------------------|-----------------------------|-------------------------|
| <u>D. Tanner Survey</u> | | | | | |
| <u>Abstract 1462</u> | | | | | |
| New Delaware Leasing | Sheet 14-E | Water | 275.7 | \$ 7.44 | \$ 2,051.21 |
| Box 18313 | Tract 8 | Sewer | 275.7 | \$ 6.97 | \$ 1,921.61 |
| Dallas, Texas 75218 | | | | | \$ 3,972.82 |
| W. T. Griffin | Sheet 14-E | Water | 160.4 | \$ 7.44 | \$ 1,193.38 |
| 3208 Hawthorn | Tract 9 | Sewer | 160.4 | \$ 6.97 | \$ 1,117.90 |
| Amarillo, Texas 79109 | | | | | \$ 2,311.37 |
| Howard Mims, Jr. | Sheet 14-E | Water | 200.0 | \$ 7.44 | \$ 1,488.00 |
| Rt. 4, Box 190 | Tract 10 | Sewer | 80.0 | \$ 6.97 | \$ 557.60 |
| Dallas, Texas 75211 | | | | | \$ 2,045.60 |