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RESOLUTION NO. 17-88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS DETERMINING A NECESSITY FOR THE CONSTRUCTION OF A CERTAIN STREET AND THOROUGHFARE IN THE CITY AND THE NECESSITY FOR ASSESSMENT AGAINST ABUTTING PROPERTY OWNERS AND ANY RAILWAY COMPANY WHOSE TRACKS OCCUPY SAID STREET; DIRECTING THE PREPARATION OF PLANS AND SPECIFICATIONS AND THE ADVERTISEMENT FOR BIDS THEREON AND DECLARING THE EFFECTIVE DATE THEREOF.

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

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

SECTION 1. That the following street:

Kearney Street - From Kimbrough to SH 352

shall be cut or filled so as to bring same to grade.

That said street 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 street and its intersections with other streets as is occupied by the rails and tracts 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) That not more than all of the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks, and up to nine-tenths of the remaining estimated cost of said improvements shall be assessed against abutting property and the owners thereof 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.

(c) The City of Mesquite shall pay the remaining costs of improvement.

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 burdens by and burdens imposed upon such owners.

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That no such assessment shall be made against any owners of abutting property, or of a driveway, 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.

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, provisions 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 judgement 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.

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 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 shall be filed with the City Secretary on the date and hours specified and shall be opened and read in the presence of the Council in a public meeting of the City Council.

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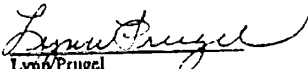
SECTION 4. That this resolution shall take effect from and after its passage, as in the Charter in such cases is made and provided.

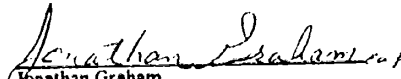
DULY PASSED by the City Council of the City of Mesquite, Texas, on the 16th day of May, 1988.


George A. Venner, Sr.
Mayor

ATTEST:

APPROVED:


Lynn Prugel
City Secretary


Jonathan Graham
City Attorney