

ORDINANCE NO. 443

AN ORDINANCE DECLARING AND DETERMINING THE NECESSITY FOR THE IMPROVEMENT OF CERTAIN STREETS AND ROADS OR PORTIONS THEREOF WITHIN THE CITY OF ADDISON, TEXAS, IN THE MANNER, TO THE EXTENT AND WITHIN THE LIMITS PROVIDED IN THE SAID ORDINANCE; ORDERING THE STREET IMPROVEMENTS MADE; PROVIDING THE MANNER IN WHICH AND BY WHOM THE COST OF SUCH IMPROVEMENT SHALL BE PAID AND PROVIDING FOR THE ASSESSMENT OF A PORTION OF SUCH COST AGAINST ABUTTING PROPERTIES AND THE OWNERS THEREOF; PROVIDING FOR THE ASSESSMENT OF THE PORTION OF COST TO BE BORNE BY THE PROPERTY OWNERS AND FOR THE FIXING OF A LIEN TO SECURE PAYMENT OF SUCH ASSESSMENTS, STATING THE TIME AND MANNER PROPOSED FOR THE PAYMENT OF ALL SUCH COSTS, DIRECTING THE CITY SECRETARY TO CAUSE THE NOTICE OF THE ENACTMENT OF THIS ORDINANCE TO BE FILED IN THE DEED OF TRUST RECORDS OF DALLAS COUNTY; ENACTING PROVISIONS INCIDENTAL AND RELATED TO THE SUBJECT; DECLARING AN EMERGENCY AND THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON ITS PASSAGE.

WHEREAS, the City of Addison, Texas is an incorporated Home Rule City under the constitution and laws of Texas, a major portion of its territory being situated within Dallas County, the

population of which is in excess of 700,000 according to the preceding federal census; and

WHEREAS, said City is duly empowered to construct street improvements and make assessments for the payment thereof under the provisions of Article 1105b, V.A.T.C.S., and Article 2, Section 2.08s of its City Charter; and

WHEREAS, the City Engineer, has heretofore been directed to prepare plans and specifications for the improvement of certain designated streets within the City, and such plans and specifications have been prepared by said engineer and have been submitted to the City Council; and

WHEREAS, the City Council has fully examined the plans and specifications and found them to be in accordance with the wishes of the Council and in all things right and proper; therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ADDISON, TEXAS:

SECTION 1. That a necessity exists for the permanent improvement of portions of those certain public streets hereinafter listed by filling, grading, raising, paving, repaving and repairing in a permanent manner and by constructing, reconstructing, repairing and realigning curbs and gutters and by widening, narrowing, straightening and by constructing appurtenances and incidentals to any of such improvements, including drains and culverts, the portions of public streets to be so improved being designated and defined by street units as follows:

Unit 1. ADDISON ROAD from its intersection with the south right-of-way line of Keller Springs Road to the north city limits line of the City of Addison.

Unit 2. ADDISON ROAD from its intersection with the south right of way line of Keller Springs Road to the north right-of-way of Belt Line Road.

Unit 3. KELLER SPRINGS ROAD from its intersection with the east right- of- way of Addison Road to the west right-of-way of Dallas Parkway.

SECTION 2. That it is hereby ordered that such hereinabove named streets or roads or portions thereof within the limits hereinabove described be improved by draining and paving or permanently repairing or repaving the same and/or by constructing curbs and/or gutters, where there are no existing curbs and gutters, and where necessary by reconstructing and realigning existing curbs and gutters; and by widening said streets or roads or portions thereof where necessary, so as to attain the width herein specified; and by constructing necessary and proper appurtenances and incidents to such improvements including drains and culverts; said paving to consist of the following:

Approximately six (6) inches of lime stabilized subgrade, 45 feet from back of curb to back of curb wide four-lane road with left turn lanes at certain intersections, undivided road consisting of approximately eight (8) inches of asphaltic concrete with curbs and gutters and storm sewers, together with off-sight storm water drainage.

All improvements are hereby ordered made and they shall be of

such nature and type of construction in each particular unit of improvements as shown in the plans and specifications of the City's engineer, which plans and specifications for all such improvements heretofore prepared by the engineer and now on file with the City Council are hereby in all things approved.

SECTION 3. The City Secretary is hereby authorized and directed to advertise for bids for the improvement work herein described, the advertising, receiving and opening of such bids in the manner provided by law, and the work shall be done with the materials and according to the plans and methods selected by the City Council after the bids are opened.

SECTION 4. The Engineer of said City is hereby directed to prepare and file with the City Council his estimate of total cost of the improvements herein ordered.

SECTION 5. The cost of said improvements shall be paid as follows, to-wit:

(a) The properties abutting on the streets or portions thereof and the real and true owners thereof, shall have assessed against them in accordance with the front foot plan or rule (except as otherwise herein provided) not exceeding all of the cost of constructing and reconstructing of the concrete curb and gutter and not exceeding nine-tenths (9/10) of the estimated cost of the remainder of the street improvements. No assessments shall

be made against any abutting property or the real and true owner thereof for costs in excess of the benefits to such property enhances value thereof by means of such improvements.

(b) The City of Addison shall pay the remainder of the cost of said street, after deducting the amounts herein specified to be assessed against the abutting or benefited property and the real or true owners thereof.

There is included within the meaning of the terms "cost" or "cost of improvements" or "cost of remaining improvements", when such terms are used herein, the engineer fees, legal fees, fiscal fees or other costs and expenses and incident to the construction of the improvements.

SECTION 6. The amount of any assessments provided for herein shall constitute a first and prior lien upon all such properties and a personal liability of the real and true owners thereof, whether correctly named or not. The amounts payable by and assessed against abutting or benefitted properties and by the real and true owners thereof shall constitute a lien on the property assessed, which lien shall be prior to all other liens and claims except those securing the payment of the state, city, school district and county ad valorem taxes; and shall be payable as follows, to-wit: When the improvements herein ordered for any street unit herein designated have been completed and accepted by the City of Addison, the amount of the assessment against each property abutting thereon and the real and true owners thereof shall become

payable in monthly installments not to exceed forty-eight (48) in number, the first of which shall be payable within thirty (30) days of the date of completion of said improvements and acceptance by the City of Addison and one installment each month thereafter until paid, together with interest on each installment from the date of acceptance until paid at the rate of eight (8%) percent per annum, payable monthly; provided, however, that the owners of any said property shall have the privilege of paying all or any part of said installment at any time before maturity thereof by paying the total amount of principal of such installment, together with the interest accrued on the date of payment. Any property owner against whom or 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. Further, if default is made in the payment of any installment principal or interest when due, then at the option of the holder of the certificate of special assessment issued to evidence such assessment, the entire principal amount of such certificate together with accrued interest shall be and become immediately due and payable, together with a reasonable attorney's fees and cost of collection, if incurred.

SECTION 7. No assessment shall in any case be made against any abutting or benefitted property or the real and true owner or owners thereof in excess of the special benefits to accrue to such property and the enhanced value thereof resulting from said

improvements. If the application of the front foot rule or plan will, in the opinion of the City Council in particular cases, result in injustice or inequity, such costs shall be apportioned and assessed in a just and equitable manner as determined by the City Council, having in view the special benefit and enhanced value to be received by such parcels of property and the owners thereof and the equities of such owners and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed.

In the levying and making of said assessments, if the name of any owner be unknown, it shall be sufficient to so state the fact; and if any property be owned by an estate or by any firm or corporation, it shall be sufficient to so state, and it shall not be necessary to give the correct name of any owner, but the real and true owners of the property assessed shall be liable and the assessment against the property shall be valid, whether such owner is correctly named or not. Assessments against several parcels of property may be made in one assessment when owned by the same person, firm, corporation or estate, and property owned jointly by one or more persons, firms or corporations may be assessed jointly.

SECTION 8. It is hereby provided that said improvements and the assessments levied therefor in any one unit or in no wise related to or connected with the improvements or assessments levied therefor in any other unit. That the amount so assessed and the

validity of such assessments in any one of said unit shall not be in anywise affected by any fact or manner with the improvements or the assessments therefor in any other unit, and the omission of part of all of said improvements in any unit shall in no wise affect or impair the improvements of or the validity of the assessments therefor in any other unit.

It is further found and determined that the improvements ordered made have been divided into units as for the sole convenience of the City so as to enable the City to designate which units are to be given priority in construction so the same will conform with other phases of the City improvements program, and to enable the City to make settlement with the contractor on the basis of work completed in particular units without the necessity of completing all the improvements ordered made.

The contractor shall not be compelled to construct the improvements herein ordered to be made where the property to be assessed is exempt from a lien of special assessment unless satisfactory financial arrangements are made, and the city reserves the right to delete improvements are portions thereof where no lien can be procured to secure the payment of the assessment, but in no event shall the omission of any such improvements for this cause effect the improvements ordered made in the remainder of that or in any other unit.

SECTION 9. The contractors 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 retainage fee, ten (10%) percent of such monthly estimates to be held by the City of Addison until the contract is performed and executed to the satisfaction of the City Engineer.

SECTION 10. The City does not guarantee the collection of the assessments levied against the owners of abutting and benefited properties and such properties, but will exercise and exhaust all of its lawful powers to aid in enforcing collection and will hold for the contractor or its assigns any sums collected between the date of the acceptance of the improvements and the date of delivery of the certificate of special assessment to the contractor or its assigns, as well as any sums which may thereafter be paid to said City as payment on or of such assessments.

SECTION 11. The City Secretary is hereby directed to prepare and file notice of enactment of this ordinance and to file said notice with the County Clerk of Dallas County, Texas among the Deed of Trust Records of said county.

SECTION 12. The fact that the streets and portions thereof to be improved as herein provided for are in bad and dangerous condition and should be improved without delay at the earliest possible date for the immediate preservation of public business, property, health and safety of the citizens of Addison constitute and create an emergency

