ORDINANCE NO. 087-050

AN ORDINANCE CALLING A PUBLIC HEARING OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, IN RELATION TO THE IMPROVEMENT OF RATLIFF LANE, WITHIN SAID CITY AND MAKING CERTAIN FACT FINDINGS IN CONNECTION THEREWITH, ORDERING SUCH IMPROVEMENTS TO BE MADE; APPROVING AND ADOPTING THE ENGINEER'S REPORT SHOWING THE ESTIMATE OF TOTAL COST OF ALL IMPROVEMENTS, THE ESTIMATE OF COST PER FOOT PROPOSED TO BE ASSESSED AGAINST THE ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF; DETERMINING THE NECESSITY OF LEVYING AN ASSESSMENT AGAINST THE ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF FOR PART OF SAID COST OF APPORTIONED TO THEM; 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 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; ADOPTING THE PRELIMINARY ASSESSMENT ROLE IN CONNECTION WITH THE IMPROVEMENT OF RATLIFF LANE; ORDERING AND SETTING A HEARING FOR THE REAL AND TRUE OWNERS AND ABUTTING PROPERTY AND ALL OTHERS INTERESTED IN SAID ABUTTING PROPERTY OR IN THE PROCEEDINGS AND CONTRACTS CONCERNING SAID ASSESSMENTS, PROCEEDINGS AND IMPROVEMENTS; DIRECTING THE CITY SECRETARY TO GIVE NOTICE OF SAID HEARING; ENACTING OTHER PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.

published 9/3/87

WHEREAS, the City Council of the Town of Addison has heretofore declared the necessity for and ordered the improvement of Ratliff Lane within the limits of the City in the manner and according to the plans and specifications therefor, which plans and specifications were approved and adopted by the said City Council; and

WHEREAS, the City Council, after advertising for bids in the manner required by law, did award the contract for the construction of said improvements to Harrod Paving Company, Inc.; and

WHEREAS, H. Wayne Ginn, P.E., City Engineer, has prepared and filed with this Council his engineer's report showing the estimate of cost of such improvements and a proposed assessment roll on which has been shown the proposed amounts to be assessed against the several parcels of abutting property and the real and true owners thereof, together with a description of said properties, number of feet abutting the proposed improvements and other matters; and

WHEREAS, the Council has carefully considered the estimate filed by the engineer and determined that the same has been prepared based upon the contract between the City and Harrod Paving Company, Inc., the expenses of engineering, which expenses are now found to be expenses which are incident to the construction of the improvements, and such estimate is hereby accepted and approved by this Council; and

WHEREAS, the Council has also considered the tentative assessment role filed by the Tax Assessor and the same is hereby accepted and approved subject to a final hearing and determination on the matter as required by law; now, therefore,

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

SECTION 1. Every recital and finding contained in the preamble of this ordinance is hereby found as a fact and brought forward, adopted and made a part of this ordinance to the same extent and with like effect as though written again at length under this ordaining clause. Without anywise limited the generality of the foregoing, it is hereby found and determined that Ratliff Lane, to wit: Ratliff Lane-beginning at the intersection of Ratliff Lane and Addison Road, west to a point 846 feet west of the intersection is to be improved by filling, grading, raising, paving, repaving, and repairing in a permanent manner and realigning curbs and gutters and by widening, narrowing, straightening and by constructing appurtenances and incidentals to such improvements, including drains and and culverts in the manner and to the extent described in the plans and specifications on file with the City Engineer heretofore and hereby approved by the Council, and such improvements shall be made and ordered to be made by this Council.

SECTION 2. The written statement and report of the City Engineer, described in the preamble hereof and on file with the City Council showing the estimated total cost of the improvements of Ratliff Lane is hereby in all things approved and adopted; and is hereby found and determined by the City Council that the estimated cost of said improvements are as follows:

Construction Cost per Bid opening	$131,553.35
Engineering, Inspection, Testing	14,470.87
Total Project Cost	$146,024.22
90% of Total Project Cost for Assessments	$131,421.80

Computed Front Foot Assessment = $\frac{\$131,421.80}{(819.50 \text{ ft})(2)}$ = $80.18/FF

The City Council hereby finds and determines that the estimated amount per front foot proposed to be assessed against the abutting property owners thereof is $80.18 and that such proposed amount is set forth in the written Engineer's Report prepared by the City Engineer, a copy of which is attached hereto and marked Attachment "A" and made a part of this ordinance as though written verbatim herein and said matters shown on such report are hereby in all things approved and adopted by the City Council. All assessments, however, are to be made and levied by the City Council as it may deem just and equitable, having in view the special benefits and enhanced value to be received and burdens imposed, all in accordance with the provisions of Article 1105b, V.A.T.C.S.

SECTION 3. Only a portion of the total cost to the City of the improvements to Ratliff Lane are to be paid by the abutting properties and the real and true owners thereof. The City Council hereby finds and determines that the proposed per foot assessment is less than the nine-tenths (9/10) of the remainder of the cost of the improvements which could be assessed in accordance with the provisions of Article 1105b, V.A.T.C.S.; however, no assessment shall be made against abutting property or the real and true owners thereof for cost in excess of the benefits to such property in enhanced value thereof by means of such improvements. The amount of such assessment shall constitute a first and prior lien upon such properties and a personal liability of the true and real owners thereof, whether correctly named or not (all as provided in the aforementioned statute), and shall be payable as heretofore mentioned. The balance of the cost of the improvements shall be paid by the Town of Addison, Texas.

SECTION 4. 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 the assessed against abutting or benefited 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 valorum taxes; and shall be payable as follows, to-wit: When the improvements herein ordered for any street herein designated have been completed and accepted by the Town of Addison, the amount of the assessment against each property abutting thereon and the real and true owners thereof shall become payable in eight (8) equal semi-installments the first of which shall be payable on or before the 30th day after the date of completion of said improvements and acceptance by the Town of Addison and continuing regularly and semi-annually thereafter until paid, together with interest on each installment from the date of acceptance until paid at the rate of 9.312% per annum, payable semi-annually as it accrues; 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 5. 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 6. The City Council of the Town of Addison is of the opinion that is necessary to levy an assessment against the property and owners thereof abutting upon the following:

See Exhibit "A" attached hereto and made a part hereof for all purposes.

SECTION 7. A hearing shall be held and given to the real and true owners of abutting property or their agents or attorneys and all persons interested in said matters, as to the amount to be assessed against each owner and his abutting property and as to the special benefits, if any, to said property to be received from said improvements, and concerning any error and invalidity, irregularity or deficiency in any proceedings or contract with reference thereto or concerning any matter or thing connected therewith, which hearing shall be held by the City Council of the Town of Addison in the Council Chamber of Town Hall at 7:30 P.M. on the 22nd day of September, 1987, at which time and place all persons, firms, corporations or estates owning or claiming any such abutting property, or any interest therein, or their agents

or attorneys and persons interested in said proceedings, shall be notified to appear and to be heard in person or by Council, and may offer evidence; and said hearing may be adjourned from day to day and from time to time and kept open until all evidence and protests have been duly offered and heard; and the City Secretary is hereby directed to give notice of said hearing by publication of notice in a newspaper of general circulation in the published City, the said publication to appear at least three (3) times prior to the date of the hearing; the date of the first publication being at least twenty-one days before the hearing, and such notice shall be in substantially the following form:

NOTICE

WHEREAS, the City Council of the Town of Addison, Texas, has heretofore determined the necessity for improvement of Ratliff Lane within said City by constructing a 27' wide street. The improvement shall involve paving said street from curb-to-curb with eight-inch thick reinforced concrete over a prepared lime subgrade six inches thick, with utility improvements. It is of the opinion that it is necessary to levy an assessment against the property and the owners thereof abutting the proposed improvements for a part of cost thereof; and

WHEREOF, the Engineer of the City has filed his report with the City Council setting forth the cost of such improvements together with a proposed assessment roll showing the names and description of the property and the amounts to be assessed against each lot or parcel of land and its owners and all other matters as required by law, and the same having been approved by the City Council;

Ratliff Lane-beginning at the intersection of Ratliff Lane and Addison Road west to a point 846 feet west of the intersection is to be improved and that the estimated total cost of such improvements are determined as follows and the amount to be assessed per foot against the owner or owners of the abutting property for the improvements to be constructed are as follows:

Construction Cost per Bid opening	$131,553.35
Engineering, Inspection, Testing	14,470.87
Total Project Cost	$146,024.22
90% of Total Project Cost for Assessments	$131,421.80

Computed Front Foot Assessment = $\frac{\$131,421.80}{(819.50\ ft)\ (2)}$ = $80.18/FF

ALL ASSESSMENTS, however, are to be made and levied by the City Council as may be deemed just and equitable, having in view the special benefits and enhanced value to be received by such parcels of property and the owners thereof, the equities of such owners and the adjustment of the apportionment of the cost of the improvements so as to produce a substantial equality of benefits received and burdens imposed.

YOU WILL FURTHER TAKE NOTICE that a hearing shall be held and given to the real and true owners thereof, and all persons owning or claiming any interest in, and property abutting upon said street within the limits above defined, and to all others owning, claiming or interested in said property and the real and true owners thereof, and as to special benefits, if any, to said property to be received from said improvements, and concerning any error, invalidity, irregularity, or deficiency in any proceedings or contract with reference thereto or concerning any matter or thing connected therewith, which hearing shall be held by the City Council of the Town of Addison at Town Hall in said City at 7:30 P.M. on the 22nd day of September, 1987, at which time and place all persons, firms, corporations or estates owning or claiming any such abutting property or an interest therein, and their agents or attorneys, and persons interested in said proceedings, shall appear and be heard in person or by counsel, any may offer evidence; and said hearing shall be adjourned from day to day and from time to time and kept open until all evidence and protest have been duly offered and heard.

THE IMPROVEMENTS to be constructed are fully described in the plans and specifications, heretofore approved by the City Council, which may be examined at the City Engineer's Office.

THIS NOTICE is issued by the undersigned pursuant to an ordinance adopted by the City Council on the 25th day of August, 1987, and recorded in the Minutes of the said Council, which ordinance is hereby incorporated by reference.

_____
Jacque Kruse
City Secretary
Town of Addison, Texas

SECTION 8. No assessment shall in any case be made against any abutting or benefited property, or the real and true owner or owners thereof, in excess of the special benefits accrued 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 an 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 jointly by one or more persons. Firms or corporations may be assessed jointly.

SECTION 9. 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 or 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.

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

SECTION 11. 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 and 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 sum which may thereafter be paid to said City as payment on or of such assessments.

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 and urgent public necessity, requiring that this ordinance be passed and take effect as an emergency measure, and this ordinance is, accordingly, passed as an emergency measure and shall take effect and be in force immediately from and after its passage.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, on this the 25th day of August, 1987.

MAYOR

ATTEST:

Jacque Kruse

CITY SECRETARY