

RESOLUTION NO. 11-1990

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, ORDERING THE IMPROVEMENT OF THE HEREINAFTER NAMED STREET, PROVIDING FOR ASSESSMENT OF A PORTION OF THE CURB AND GUTTER COST AGAINST ABUTTING PROPERTY OWNERS; THE NAME OF THE STREET TO BE SO IMPROVED BEING AS FOLLOWS, TO-WIT: U. S. HIGHWAY 277 FROM TEXAS AVENUE TO F. M. HIGHWAY 3438; APPROVING AN ESTIMATE OF COSTS OF SAID PROPOSED IMPROVEMENTS; APPROPRIATING FUNDS IN THE SUM OF ONE HUNDRED TWENTY-ONE THOUSAND NINE HUNDRED NINETY-SEVEN AND 12/100 DOLLARS (\$121,997.12) FOR THE CITY OF ABILENE'S PORTION OF SUCH ESTIMATED COSTS; AND CALLING A PUBLIC HEARING TO CONSIDER AN ORDINANCE LEVYING PROPOSED ASSESSMENTS AGAINST THE ABUTTING PROPERTY OWNERS.

WHEREAS, the City of Abilene deems it necessary to permanently improve the hereinafter named street, within the corporate limits of said City; and,

WHEREAS, it is necessary to assess a portion of the cost against abutting property owners, which property is set forth in the attached Exhibit "A", under the "Front Foot" Plan; and,

WHEREAS, the City Engineer of the City of Abilene, Texas, at the direction of the City Council, has reviewed an estimate of costs for the improvement to the above-named street, and it is proposed an assessment be levied against abutting owners of said street, or portion thereof, which does not exceed nine-tenths (9/10ths) of the estimated cost of such improvement, and it is the opinion of the City Council that said estimate of costs should be approved, and that the proposed assessments shall be just, equitable and reasonable, and, in all respects, meet the requirements of the law, and that a public hearing should be called to consider the proposed assessments and to consider an ordinance levying said proposed assessments against the abutting property owners; and,

WHEREAS, the City Council approved, on July 27, 1989, the expenditure in the estimated sum of One Hundred Twenty-one Thousand Nine Hundred Ninety-Seven and 12/100 Dollars (\$121,997.12); now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the following named street, or portion thereof, lying and being situated in the City of Abilene, Texas, be and the same is hereby, ordered to be improved, in the following manner, to-wit: curb and gutter improvements to U. S. Highway 277 from Texas Avenue to F. M. Highway 3438.

PART 2: That the cost of the improvements ordered above shall be paid as follows, to-wit:

- (a) Not more than all the cost of constructing, reconstructing, repairing and realigning curbs and gutters, and nine-tenths (9/10ths) of the remaining costs of such improvements, as shown by the Estimate of Costs, shall be assessed against abutting property and the owners thereof.
- (b) The City of Abilene shall pay all remaining costs of the improvements.
- (c) The costs which shall be assessed against abutting owners and their property shall be assessed in accordance with what is known as the "Front Foot" Plan, in proportion to the frontage of the property of each owner to the whole frontage improved; said assessments shall be payable in full, or in monthly installments not to exceed thirty-six (36), and, in no event, shall any such monthly

payment be less than Ten Dollars (\$10.00) per month. Payment in full or the first monthly installment payment shall be paid within thirty (30) days from the date of acceptance of said improvements by the Director of Public Works of the City of Abilene. In the case of monthly installments, one installment shall be paid each month thereafter until paid in full, together with interest thereon at the rate of five percent (5%) per annum, with the provision that any of said installments may be paid at any time before maturity by payment of the principal and accrued interest thereon. Any property owner against whom, and upon whose, property an assessment has been levied may pay the whole assessment chargeable to him, without interest, within thirty (30) days after acceptance of said improvements by the Director of Public Works.

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 said Council to assess and apportion said costs in such a 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, said owners.

That no assessment shall be made against any owner of abutting property until after the notice and hearing required by law, and no assessment shall be made against an owner of abutting property in excess of the benefits of such property, in enhanced value thereof, by virtue of said improvements.

That part of the costs of the improvements, determined to be levied against abutting property and the owners thereof, 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 Abilene, as provided by law, in accordance with the terms and provisions of this resolution. Paving certificates evidencing the assessments shall be issued in favor of the City of Abilene for the amount of 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.

PART 3: That the City Council finds there is a necessity to assess a portion of the cost of said proposed improvements against abutting property owners under the "Front Foot" Plan, as provided in Article 1105b, V.A.T.S., and hereby proposes to assess said costs, against abutting property owners, which property is set forth in the attached Exhibit "A", which contains the legal description of the property abutting said street or portion thereof.

PART 4: That the sum of One Hundred Twenty-One Thousand Nine Hundred Ninety-Seven and 12/100 Dollars (121,997.12), which includes the amount of such bid and all engineering expenses to be

incurred by the City of Abilene in connection with such project, be, and the same is hereby, appropriated from the Paving Assessment Fund for the City of Abilene's portion of such estimated costs.

PART 5: That the City Secretary of the City of Abilene be, and she is hereby, directed to publish a Notice of Public Hearing, to be held in the Council Chambers of the City Hall, Abilene, Texas, on the 14th day of June, A.D., 1990, at 9:00 o'clock A.M., at which time all of the owners, their agents or attorneys, or any persons owing any interest therein, whose properties are subject to an assessment, as set out in Exhibit "A", attached hereto, may appear before the City Council, and may be heard on any matter as, to which hearing, is a constitutional prerequisite to the validity of any assessment authorized by Article 1105b, V.A.T.S., and to contest the amounts of the proposed assessments; the liens and liability thereof; the special benefits to the abutting property, and owners thereof, by means of the improvement for which assessments are to be levied, and the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and proposed assessments. Said notice shall be published in the official newspaper of the City of Abilene at least three (3) times, the first publication to be made at least twenty-one (21) days before the date of the hearing, and additional written notice of such hearing shall be given by depositing in the United States Mail, at least fourteen (14) days before the date of the hearing, written notice of such hearing, postage prepaid, in an envelope addressed to the owners of the respective properties abutting such street, or portions thereof,

to be improved, as the names of such owners are shown on the then current rendered tax rolls of the City and at the addresses so shown, or, if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the City at the addresses shown thereon. Such notice shall describe, in general terms, the nature of the improvements for which assessments are proposed to be levied and to which such notice relates; shall state the street, street portion or portions thereof to be improved; shall state the estimated amount, or amounts, per front foot proposed to be assessed against the owner, or owners, of abutting property and such property on each street, or portion thereof, with reference to which hearing is to be held; shall state the estimated total cost of the improvements on each such street, portion or portions thereof, and, if the improvements are to be constructed in any part of the area between and under railway tracks, double tracks, turn-outs, switches, and two (2) feet on each side thereof of any railway, street railway or inter-urban, shall also state the amount proposed to be assessed therefor, and shall state the time and place at which such hearing shall be held. Said notice shall be sufficient, valid and binding upon all persons owning or claiming such abutting property, or any interest therein, and upon all owners, or those claiming such railway, street railway or inter-urban properties, or any interest therein. The notice to be mailed may consist of a copy of the published notice. In those cases in which an owner of property abutting a street, or portion thereof, which is to be improved is listed as "unknown" on the then


current City Tax Roll, or the name of an owner is shown on the City Tax Roll, but no address for such owner is shown, no notice need be mailed. In those cases where the owner is shown to be an estate, the mailed notice may be addressed to such estate.

PART 6: That the City Council, in initiating this proceeding, is acting under the terms and provisions of Article 1105b, Vernon's Annotated Texas Statutes, and Section 5 of the Charter of the City of Abilene, Texas.

PART 7: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 12th day of April, A.D., 1990.

ATTEST:




CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY