

ORDINANCE NO. 83

AN ORDINANCE OF THE CITY OF COAHOMA, TEXAS, ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF IMPROVING THE SANITARY SEWER SYSTEM IN THE CITY OF COAHOMA, TEXAS, TO-WIT: BY THE LAYING OF MAINS, LATERALS, AND EXTENSIONS AND ALL APPLIANCES AND NECESSARY ADJUNCTS REQUIRED FOR LOTS 2 – 6 AND 19 – 23, BLOCK 4, FOSTER ADDITION, TO THE CITY OF COAHOMA; PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE, AND FIXING A CHARGE AND LIEN AGAINST SAID PROPERTY AND MAKING SAID CHARGE A PERSONAL LIABILITY OF THE PROPERTY OWNERS OWNING PROPERTY BENEFITED BY SAID IMPROVEMENTS, AND PROVIDING FOR THE COLLECTION THEREOF.

WHEREAS, a motion was duly adopted by the City Council ordering improvements to the sanitary sewer system; and

WHEREAS, pursuant to the motion, specifications and an estimate of the cost of the improvements were prepared by the City's engineering firm Parkhill, Smith & Cooper, filed with the Council, examined, approved, and adopted by it, all as required by applicable law; and

WHEREAS, in compliance with the law the Parkhill, Smith & Cooper prepared its statements or lists showing the names of owners of benefited property in Foster Addition, the description of their property, the total cost of the improvements, the cost per front foot and cost to each property owner, with the statements possessing all the other requisites required by law; and

WHEREAS, thereafter the statements were filed with the City Council and by them examined and approved and a resolution was passed by the Council determining the necessity of making an assessment for part of the cost of the improvements against property owners and their property, and fixing a time and providing for a hearing to such property owners, all in accordance with the terms of applicable law, at which hearing, the owners were to be heard as to the benefits of the improvements to their property, as to any error or invalidity in the proceedings, or to any matter or thing connected with the improvements; and

WHEREAS, the resolution in connection with the improvement of the sanitary sewer system was duly adopted in compliance with the law on the 27th day of January, 2009; and

WHEREAS, in accordance with the terms of the law, the City Secretary of the City of Coahoma gave notice to the owners of benefited property of Foster Addition of the public hearing, by publishing notice in the Big Spring Herald, a daily paper of general circulation in the City of Coahoma, three times prior to the day set for the hearing on the 10th day of February, 2009, and the City Secretary also gave notice of the hearing by mailing letters containing the notice to property owners at least ten (10) days before the hearing; provided, however, that any failure of the property owners to receive the notices shall not invalidate these proceedings; and

WHEREAS, the public hearing was held at the time and place mentioned in the resolution and notice, being the 10th day of February, 2009 at 6 o'clock p.m. at the Council Chamber in the City Hall of the City of Coahoma, Texas, and was then closed; and

WHEREAS, at the hearing, all desiring to contest the assessments, correct the same, or in any manner be heard concerning the benefits thereof, or in any related matter, were heard, and all matters of error or mistake or inequalities or other matters requiring rectification which were called to the attention of the Council were rectified and corrected;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COAHOMA, TEXAS:

SECTION 1. That the action of the City Council closing the hearing and overruling the protests at the public hearing on the 10th day of February, 2009, in these proceedings is hereby ratified and confirmed by this ordinance. That the City Council, from the evidence, finds that the assessments levied should be made and levied against the respective parcels of property benefited by the improvements and against the owners thereof; that such assessments and charges are right and proper, and are substantially in proportion to the benefits to the respective parcels of property by means of the improvement for which such assessments are levied, and establish substantial justice, equality, and uniformity between the respective owners of the respective properties and between all parties concerned, considering the benefits received and burdens imposed. The Council further finds that in each case the benefited property assessed is specifically benefited in enhanced value to the properties by means of the improvements for which assessment is levied and charge made, in a sum in excess of the assessment and charge made against the property by this ordinance. The Council further finds that the apportionment of the cost of the improvements is in accordance with the law in force in this City and that the proceedings of the City had with reference to the improvements are in all respects valid and regular.

SECTION 2. There shall be and is hereby levied and assessed against the parcels of property below mentioned, and against the real and true owners, whether such owners be correctly named or not, the sums of money below mentioned and itemized shown opposite the description of the respective parcels of property, and the several amounts assessed against the same, and the owners thereof, as far as such owners are known, being as set out in Exhibit "A," which is incorporated herein for all purposes.

SECTION 3. Where more than one person, firm or corporation owns an interest in any property above described, each person, firm or corporation shall be personally liable only for its, his or her pro rata of the total assessment against such property in proportion as its, his or her respective interest bears to the total ownership of such property, and its, his or her respective interest in such property may be released from the assessment lien upon payment of such proportionate sum.

SECTION 4. The sums above mentioned and assessed against the parcels of property and the owners, together with reasonable attorney's fees and costs of collection, if incurred, are hereby declared to be and are made a lien upon the respective parcels of property against which the same are assessed, and a personal liability and charge against the real and true owners of such property, whether such owners be named herein or not, and the liens shall be and constitute the first

enforceable lien and claim against the property on which such assessments are levied, and shall be a first and paramount lien thereon, superior to all other liens and claims except State, County, School District, and City ad valorem taxes.

The sums so assessed against the benefited property and the owners thereof shall be and become due and immediately payable upon completion of the connection to the City of Coahoma's sanitary sewer system. Provided, however, that any owner having not paid the sums so assessed before 60 days from the date of connection to the City of Coahoma sanitary sewer system, shall be in default and at the option of the said City of Coahoma, or its assigns, shall be collectible, together with reasonable attorney's fees and costs of collection, if incurred.

SECTION 5. That if default be made in the payment of any of the sums assessed against the property owners and their property, collection shall be enforced either by suit in any court having jurisdiction or by lien foreclosure.

SECTION 6. That for the purpose of evidencing the several sums payable by said property owners and the time and terms of payment, and to aid in the enforcement thereof, assignable certificates may be issued by the City of Coahoma upon the completion and acceptance of the improvements, which shall be executed by the Mayor, signing the same or by his facsimile signature impressed thereon, attested by the City Secretary, under the impress of the corporate seal, and shall be payable to the City of Coahoma, or its assigns, which certificate shall declare the amounts and the time and terms of payment, and the rate of interest payable, if any, and shall contain the name of the owner and the description of his property by Lot or Block Number of front feet, or such description as may otherwise identify the same by reference to any other fact, and if said property shall be owned by an estate, then the description thereof as so owned shall be sufficient.

And the certificates shall further provide that if default shall be made in the payment of the assessment, the assessment shall be collectible with reasonable attorney's fees and costs, if incurred.

And the certificates shall further set forth and evidence the personal liability of the owner and the lien upon his premises, and shall provide that if default shall be made in the payment, the same may be enforced as above provided.

And the said certificates shall further recite that the proceedings with reference to making the improvements have been regularly had in compliance with the terms of the applicable law, and that all prerequisites to the fixing of the lien and claims of personal liability evidenced by such certificates have been performed, which recitals shall be prima facie evidence of the facts so recited and no further proof shall be required.

That the certificates shall also provide the amounts payable shall be paid to the City Secretary of the City of Coahoma, who shall credit the payments upon the certificates, and shall immediately deposit the amounts collected with the City Treasurer of the City of Coahoma, to be kept and held by him in a special fund, and which payments shall be by the Treasurer paid to the said City of Coahoma or other holder of the certificates, on presentation to him, duly credited by the City Secretary, the credit by the City Secretary being the Treasurer's Warranty for making such payment and the City of Coahoma or other holder of certificate, shall receipt in writing to the

Treasurer when paid, in full, together with all costs of collection.

And the certificates shall further provide that the City of Coahoma shall exercise all legal power, when requested to do so by the holder of the certificate, to aid in the collection; but the City of Coahoma shall in no way be liable to the holder of the certificates in any manner for payment of the amount evidenced by the certificates or for any costs or expense in the premises, or for any failure of the City Council or any of its officers in connection therewith.

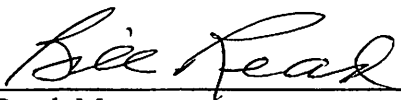
Full power to make and levy reassessments, and to correct mistakes, errors, invalidities or irregularities, either in the assessments or in the certificates issued, is in accordance with the law in force in this City, vested in the City.

SECTION 7. All assessments levied are a personal liability and charged against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

SECTION 8. The assessments levied are made and levied under and by virtue of the terms, powers, and provisions of Texas Local Government Code, Section 402.061 through Section 402.075.


SECTION 9. The fact that the existing city sewer system is inadequate to provide those services to the areas affected creates an urgency and an emergency for the preservation of the public health, safety and welfare and requires that this ordinance shall take effect immediately from its passage as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Coahoma, Texas on the 31st day of March, 2009.

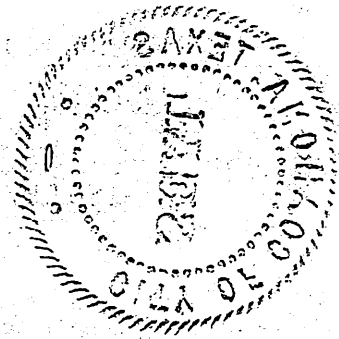


Bill Read, Mayor

ATTEST:



City's Secretary



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EXHIBIT "A"

Owner of Property	Address of Owner	Description of Benefitted Property	Total Cost of Improvement per Property	Total Assessment per Property	Property's Front Footage	Assessment per Front Foot
C&H Enterprises	2009 S. McGregor, Coahoma, Texas 79511	Lot 19, Block 4, Foster Addition	\$ 3,179.33	\$ 2,860.00	197	\$14.52
		Lot 20, Block 4, Foster Addition	\$ 3,179.33	2,860.00	197	\$14.52
		Lot 21, Block 4, Foster Addition	\$ 3,179.33	2,860.00	197	\$14.52
		Lot 22, Block 4, Foster Addition	\$ 3,179.33	2,860.00	197	\$14.52
		Lot 23, Block 4, Foster Addition	\$ 2,695.17	2,425.00	167	\$14.52
			<u>\$ 15,412.50</u>	<u>\$ 13,865.00</u>		
Charles Ray	504 Ray, Big Spring, Texas 79720	Lot 2, Block 4, Foster Addition	2,695.17	2,425.00	167	\$14.52
		Lot 3, Block 4, Foster Addition	3,179.33	2,860.00	197	\$14.52
			<u>\$ 5,874.50</u>	<u>\$ 5,285.00</u>		
Gary Tate	Rt. 12, Box 46, Abilene, Texas 79601	Lot 4, Block 4, Foster Addition	<u>\$ 3,179.33</u>	<u>\$ 2,860.00</u>	197	\$14.52
H&H Construction	5901 North Service Rd., Big Spring, Texas 79720	Lot 5, Block 4, Foster Addition	3,179.33	2,860.00	197	\$14.52
		Lot 6, Block 4, Foster Addition	3,179.33	2,860.00	197	\$14.52
			<u>\$ 6,358.67</u>	<u>\$ 5,720.00</u>		
		TOTALS: COST VS. ASSESSED	<u>\$ 30,825.00</u>	<u>\$ 27,730.00</u>	1910	\$14.52