

FRANCHISE

From

THE CITY OF ADDISON, TEXAS

To

THE CITY OF DALLAS, TEXAS

ORDINANCE NO. 226

Passed by City Council

October 14, 1975

ORDINANCE NO. 226

AN ORDINANCE GRANTING TO THE CITY OF DALLAS, TEXAS A FIFTY (50) YEAR FRANCHISE FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, ERECTING, REPAIRING, MAINTAINING AND OPERATING THE WATER SUPPLY SYSTEM AND SANITARY SEWERAGE SYSTEM AND ALL APPURTENANCES THERETO AND ANY TYPE OF INSTALLATIONS NORMALLY ASSOCIATED WITH WATER SUPPLY SYSTEMS AND SANITARY SEWERAGE SYSTEMS ALONG, ACROSS, ON, OVER, THROUGH, ABOVE AND UNDER THE PUBLIC STREETS, AVENUES, WAYS, ALLEYS, GROUNDS, AND PUBLIC PLACES IN THAT AREA OF THE CITY OF ADDISON, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN, PRESCRIBING THE PRIVILEGES CONFERRED UNDER THIS FRANCHISE, PRESCRIBING THE CONDITIONS GOVERNING THE OPERATION OF THE BUSINESS OF THE GRANTEE OF THIS FRANCHISE INSOFAR AS IT AFFECTS THE USE OF PUBLIC PROPERTY FOR THE PURPOSE OF SUCH BUSINESS, REQUIRING THAT THE RATES CHARGED THE GRANTEE'S CUSTOMERS IN THE AREA DESCRIBED IN EXHIBIT "A" NOT EXCEED ONE AND ONE-HALF (1-1/2) TIMES THE RATE CHARGED FOR SIMILAR SERVICES PROVIDED LIKE CUSTOMERS OF THE GRANTEE, AND TO PROVIDE THAT THE CITY OF DALLAS SHALL BE THE OWNER OF ANY AND ALL SEWERS, WATERLINES, WATER MAINS, INSTALLATIONS, APPURTENANCES AND OTHER CONSTRUCTION PLACED BY THE DEVELOPER ALONG, ACROSS, ON, OVER, THROUGH, ABOVE AND UNDER THE PUBLIC STREETS, AVENUES, WAYS, ALLEYS, GROUNDS AND PUBLIC PLACES IN THE AREA DESCRIBED IN EXHIBIT "A".

WHEREAS, it is desirable that the area described in Exhibit "A", the inhabitants thereof and persons and corporations conducting business therein, be provided with continuous, economical and effective water supply and sanitary sewerage services and that the City of Addison is both financially and physically incapable of providing such services to such persons in said area; and

WHEREAS, it is desirable that the City of Addison, acting by and through its governing body, grant to the City of Dallas a fifty (50) year franchise and privilege to erect, construct and maintain its structures, plants, equipment and appurtenances in the public streets, highways, alleys and public grounds relating to the water supply and sewerage disposal systems so as to provide and continue to provide, for the term of the franchise, local water supply and sanitary sewerage services to the area described in Exhibit "A"; and

WHEREAS, the City of Addison desires that the City of Dallas be the owner of any sewers, waterlines, water mains, installations, appurtenances and other construction placed by the Developer along, across, on, over, through, above and under the public streets, avenues, ways, alleys, grounds and public places in the Development.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ADDISON AS FOLLOWS:

Section 1. When used in this ordinance, unless the context otherwise requires:

- (a) "Grantee" means the City of Dallas, Texas.
- (b) "The City" means the City of Addison, Texas.
- (c) "City Council" means the City Council of the City of Addison, Texas.
- (d) "Councilman" or "Councilmen" mean any member or members of the City Council of the City.
- (e) "Mayor" means the mayor of the City or any official exercising like or similar powers with respect to the City.
- (f) "Development" means the area described in Exhibit "A".
- (g) "The Developer" means Robert S. Folsom, the person or enterprise who has undertaken to develop and has developed or will develop the area described in Exhibit "A".

Section 2. That there is hereby granted to the City of Dallas, a municipal corporation, hereinafter called "Grantee", a fifty (50) year right, privilege and franchise to have, acquire, construct, reconstruct, repair, maintain, use and operate in the area described in Exhibit "A" being a part of the City of Addison, Texas, local water supply and sewerage disposal systems in connection with the Grantee's water supply and sewerage disposal systems for the City of Dallas, and such extensions thereof and additions thereto as shall hereafter be made, and to have, acquire, construct, reconstruct, repair, maintain, use and operate in, over, under, along and across the present and future streets, highways, alleys, bridges and public ways of the City all necessary or desirable sewers, waterlines, water mains, manholes and other structures and appurtenances in connection with such water supply and sewerage disposal systems.

Section 3. The work done in connection with the construction and reconstruction of said systems, shall be subject to and governed by law, rules, regulations of the City of Dallas now in force, or that may be hereafter passed and adopted, for the government and regulation thereof, and not consistent herewith.

All maintenance, operation and repair of said systems shall be subject to and governed by the standards, laws, rules and regulations of the City of Dallas that govern water and sewer service now in force, or that may be hereafter passed and adopted, for the government and regulation thereof, and not inconsistent herewith.

All sewers, waterlines, water mains, manholes and other structures and appurtenances in connection with said systems shall be so placed and all excavations and other construction in the streets, shall be so carried on, as to interfere as little as possible with the use of the streets and sidewalks and with the use of private property.

Grantee shall promptly restore to its good condition as before working thereon, and to the reasonable satisfaction of the City Council, all streets excavated by it.

Section 4. The City of Dallas shall be the sole owner of any sewers, waterlines, water mains, installations, appurtenances and other construction placed by the Developer along, across, on, over, through, above or under the public streets, avenues, ways, alleys, grounds and public places in the Development.

Section 5. The Grantee shall at all times furnish water supply and sewerage disposal services to the Development, the inhabitants thereof and persons and corporations therein demanding the same, subject to the same standards and conditions applicable to similar services provided in the City of Dallas. Grantee shall not be liable for interruptions or fluctuations in service caused by acts of God or the public enemy, strikes, riots or other unavoidable contingencies which could not in the ordinary course of commercially prudent management have been foreseen and prevented.

Section 6. The City reserves the right to lay, and permit to be laid, cables, gas and other non-water and non-sewer pipelines, and to do and permit to be done any underground work that may be deemed necessary or proper by the governing body of the City, in, across, along, or under any street, alley, highway, or public place occupied by the Grantee to change any curb or sidewalk or the grade of any street. In permitting such work to be done, the City shall be liable to the Grantee for any damage so occasioned, but the City shall require that any permittee protect the water and sewerage supply systems and repair any damage thereto.

Section 7. Grantee shall indemnify and save the City whole and harmless from any and all claims for injury or damage to persons or property occasioned by, or arising out of the sole negligence of Grantee in the construction, reconstruction, maintenance, operation, or repair of the said water supply and sewerage disposal systems or by the conduct of Grantee's business with respect to said systems within the Development, except for which Grantee would be immune if said claim had arisen in the City of Dallas.

Section 8. All meters for the registration of water shall be furnished by Grantee on the same basis, and subject to the same standards and conditions, as same are furnished to citizens of the City of Dallas, and the installation, operation and maintenance of

same shall be governed by all ordinances of the City of Dallas with respect thereto now in existence or that may hereafter be passed, the City shall have the right at all times to witness the inspection, tests and repair of the meters.

Section 9. It shall be the right of the governing body of the City at all times to keep fully informed as to all matters in connection with or affecting the construction, reconstruction, maintenance, operation and repair of the properties of the Grantee in the Development.

If extensions of the water supply and/or sewerage disposal systems are found necessary to be made within the Development, the same shall be made in accordance with the then existing ordinances, standards and laws of the City of Dallas with respect thereto. There is no duty placed on the City of Dallas to extend any line whatsoever.

Section 10. Without setting out any schedule of rates that the Grantee shall be authorized to charge for the various services that it may render to the inhabitants of the Development, the governing body hereby expressly grants to the City of Dallas the right, power and authority to regulate and fix the rate and charges for the services to its subscribers within the Development; provided that the rate so charged the Grantee's customers residing in or conducting business in the Development shall not exceed one and one-half (1-1/2) times the rate charged for similar services provided like customers of Grantee.

Section 11. In the case of default of Grantee in the doing and performing of any of the terms and conditions herein stipulated to be performed by them, or required under any ordinance lawfully regulating Grantee in the furnishing of water supply and/or sewerage disposal service hereunder, and in case such default shall be persisted in after the fact of default shall have been established, the rights herein granted shall become subject to forfeiture; provided, however, in the event of any such forfeiture the City of Addison shall pay to the City of Dallas the depreciated cost of all water and sewer mains and appurtenances thereto and all other equipment used in connection with the rendering of such service located in the Development.

Section 12. The Grantee covenants that it will at all times keep and maintain its water supply and sewerage disposal systems and other property in good and business like working order and condition, comparable to services provided within the City of Dallas; and to this end will, from time to time, make such replacements and renewals of property as may be reasonably necessary in addition to ordinary repairs provided for herein.

Section 13. The rights, privileges and franchise as herein granted are personal to the Grantee, and except as in this ordinance provided, shall not be transferred or assigned without the express written consent of the governing body of the City, such consent to be evidenced by resolution spread upon the minutes of the City Council, which said resolution shall fully recite the terms and conditions upon which such consent is given, if any.

Section 14. The rights, privileges and franchise granted by this ordinance to the Grantee are for a period of fifty (50) years and the provisions of this ordinance hereby prohibit the City from granting other, different or similar rights, privileges and franchises to any other person, firm, association or corporation, so long as the Grantee provides water supply and sewerage disposal services to the Development, the inhabitants thereof and persons and corporations therein. At the termination of this franchise for whatever reason,

City shall pay Grantee the depreciated costs of all mains, appurtenances and other equipment used in rendering these services located in the Development. Any pumping stations, elevated tanks or other facilities necessary to serve the Development will be built at the total cost of the City provided, however, title to such facilities located in the City of Dallas shall remain unto the Grantee at termination of this franchise.

Section 15. The term of this franchise shall be fifty (50) years.

Section 16. The Grantee shall, within thirty (30) days after the taking effect of this franchise, file in the office of, or with the City Secretary, a written instrument signed and acknowledged by its proper officers in substantially the following form:

"To the Honorable Mayor and City Council of the City of Addison: The Grantee, the City of Dallas, Texas, does hereby accept that certain ordinance entitled 'An ordinance granting to the City of Dallas, Texas, a fifty (50) year franchise for the purpose of acquiring, constructing, erecting, repairing, maintaining and operating the water supply system and sanitary sewerage system and all appurtenances thereto and any type of installations normally associated with water supply systems and sanitary sewerage systems along, across, on, over, through, above and under the public streets, avenues, ways, alleys, grounds, and public places in that area of the City of Addison, more particularly described in Exhibit "A", attached hereto and by this reference incorporated herein prescribing the privileges conferred under this franchise, prescribing the conditions governing the operation of the business of the Grantee of this franchise insofar as it affects the use of public property for the purpose of such business, requiring that the rates charged the Grantee's customers in the area described in Exhibit "A" not to exceed one and one-half (1-1/2) times the rates charged for similar services provided like customers of the Grantee, and to provide that the City of Dallas shall be the owner of any and all sewers, waterlines, water mains, installations, appurtenances and other construction placed by the Developer along, across, on, over, through, above and under the public streets, avenues, ways, alleys, grounds and public places in the area described in Exhibit "A".'"

Such acceptance shall be duly acknowledged by the person executing same. In the event such acceptance is not filed within the said period, this ordinance and the rights, privileges and franchise as hereby granted shall, ipso facto, be, and become terminated, null and void; provided, however, that the governing body may, by ordinance or resolution, extend the time herein allowed for the filing of such acceptance for a period of thirty (30) days and no longer.

Section 17. This ordinance is passed subject to the provisions of the constitution, the State laws and the charter provisions of the City of Addison, and subject to such future amendments of either or all of the above sources of power to deal with the subject matter covered by this franchise.

Section 18. This ordinance shall take effect as provided by law.

ATTEST:

Joyce H. Stevens

CITY OF ADDISON, TEXAS

By

Jay Redding

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)
)
CITY OF ADDISON)

I, Joyce H. Devers, Secretary of the City of Addison, Texas, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. _____, which was passed by the City Council of the City of Addison on _____, 1975, and correctly enrolled in Ordinance Book 6, Page _____, of the Ordinance Records of the City of Addison, Dallas County, Texas.

Witness my hand and seal of the City of Addison, Texas, this the 14 day of October, 1975.

Joyce H. Devers
City Secretary of the
City of Addison, Texas.

TRACT 1

Being a tract of land situated in the A. J. Clark Survey, Abstract No. 360, Dallas County, Texas, and being located in the City of Addison, Texas, and being more particularly described as follows:

COMMENCING at the intersection of the east line of Dallas Parkway and the north line of Keller Springs Road; THENCE N 89° 29' 15" E along said north line 1104.15 feet; THENCE N 00° 09' 30" W, 897.44 feet to the place of beginning;

THENCE FROM THE PLACE OF BEGINNING S 86° 35' 30" W, 450.08 feet;

THENCE N 00° 09' 30" W, 275.00 feet;

THENCE N 43° 43' 31" E, 540.05 feet;

THENCE N 39° 03' 12" E, 118.63 feet;

THENCE S 00° 09' 30" E, 730.64 feet to the place of beginning and containing 5.127 acres of land.

TRACT 2

Wilburn Survey, Abstract No. 1580, Dallas County, Texas and being more particularly described as follows:
 Being a tract of land situated in the Robert
 Beginning at a point that is N. 89° 59' 41" E., 1728.42 feet from the intersection of the south
 line of Keller Springs Road, a 50 foot right-of-way, and the present east line of Dallas North Parkway,
 a 200 foot right-of-way;
 THENCE N. 89° 59' 41" E., 1457.26 feet along the said south line of Keller Springs Road to an iron
 pin for corner;
 THENCE S. 0° 07' 00" W., 940.99 feet to an iron pin, said point being in the northerly line St. Louis
 and Southwestern R.R., a 100 foot right-of-way;
 THENCE along the said northerly line of St. Louis and Southwestern R.R., the following courses and
 distances: S. 54° 04' 44" W., 433.29 feet to the beginning of a curve to the right, having a central angle
 of 12° 33' and a radius of 2814.93 feet; Thence along said curve, 616.58 feet to the end of said curve;
 Thence S. 66° 37' 44" W., 613.83 feet;
 THENCE leaving said northerly line of St. Louis and Southwestern R.R., N. 0° 12' 12" W., 1742.94
 feet to the point of beginning and containing 46.419 acres of land.

	CHORD BEARING	CHORD DISTANCE	RADIUS	CENTRAL ANGLE	ARC	TAX
1	S 60° 21' 14" W	615.35	2814.93	12° 33' 00"	616.58	309.53
2	S 60° 30' 50" W	96.59	186.57	39° 00' 19"	37.70	50.09
3	S 72° 05' 49" W	119.96	60.00	183° 08' 55"	179.96	183.13
4	S 73° 13' 20" W	46.43	60.00	45° 31' 25"	77.67	43.06
5	S 15° 20' 08" W	69.97	60.00	21° 00' 00"	30.64	192.48
6	S 15° 30' 00" E	378.51	1068.52	22° 00' 00"	391.63	198.04
7	S 15° 30' 00" E	389.46	1098.52	21° 00' 00"	402.63	203.60
8	S 15° 30' 00" E	400.32	1098.52	21° 00' 00"	377.27	191.00
9	S 13° 00' 10" E	374.02	801.49	25° 59' 41"	363.63	193.00
10	S 13° 00' 10" E	360.52	771.49	25° 59' 41"	350.02	178.08
11	S 13° 00' 10" E	347.03	771.49	25° 59' 41"	350.02	178.08
12	S 18° 23' 54" W	118.39	362.50	18° 47' 48"	118.92	60.00