

ORDINANCE NO. 465

AN ORDINANCE CLOSING HEARING AND LEVYING ASSESSMENT FOR PART OF THE COST OF IMPROVING CERTAIN STREETS OR PORTIONS THEREOF IN THE CITY OF ADDISON, TEXAS WITHIN THE LIMITS AND AS OUTLINED IN DETAIL IN THE BODY OF THIS ORDINANCE; FIXING A CHARGE AND LIEN AGAINST THE PROPERTY ABUTTING THEREON AND AGAINST THE OWNER THEREOF FOR THE PAYMENT OF SUCH OWNER'S SHARE OF SUCH IMPROVEMENT; PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES IN EVIDENCE OF SUCH OWNER'S SHARE AND PRESCRIBING THE FORM THEREOF; MAKING CERTAIN FINDINGS AND RATIFYING CERTAIN ACTIONS AND PROCEEDINGS HERETOFORE HAD IN CONNECTION WITH THE PROPOSED IMPROVEMENTS; ENACTING PROVISIONS INCIDENT AND RELATED TO THE SUBJECT; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Addison, Texas has heretofore determined the necessity for the improvement of certain streets or portions thereof in the City of Addison, Texas in the manner in accordance to the specifications therefor which have previously been approved and adopted by the City Council as evidenced by the ordinances to the effect adopted on the 14th day

of November, 1978, and

WHEREAS, a notice, duly executed by the City Secretary of the City of Addison, of the enactment of the above described ordinances, was filed on the 6th day of December, 1978, with the County Clerk of Dallas County, Texas, the county in which the said City of Addison is situated; and,

WHEREAS, the City Council, after having advertised for bid in the manner required by law, authorized and approved the execution of a contract with Texas Bitulithic Company and Charles Cohen, Inc. (hereinafter referred to as "Contractor") for the construction of the aforesaid improvements, and

WHEREAS, this City Council has heretofore caused the engineer of the said City to prepare and file his estimate of cost of such improvements and his estimate of the amount per front proposed to be assessed against the property abutting said street within the limits defined, and against the real and true owners thereof; and,

WHEREAS, upon the filing of the said estimates, this Council approved the estimates of the engineer and set forth the estimates at length in an ordinance adopted on the 25th day of November, 1978, which ordinance provided for and ordered a hearing to be held at 7:00 p.m. on the 9th day of January at City Hall in the City of Addison, Texas at which time and place, all interested property owners, their agents or attorneys were to appear and be heard in person or by Council, and such ordinance directed the City Secretary to give notice of such hearing in the manner provided by law; and,

WHEREAS, the notice of the hearing was published in the Suburban News, a newspaper of general circulation in and published in the City of Addison, at least three (3) times, the date of the first publication being at least twenty-one (21) days before the date set for the hearing, the dates of such publications being December 13, 1978, December 20, 1978, December 27, 1978, respectively, and additionally, the City Secretary of the City of Addison caused notice of said hearing to be given by mailing letters containing a copy of such notice to each known property owner to be assessed at his last known address, and such letters having been mailed a full fourteen (14) days prior to the date set for said hearing; and,

WHEREAS, at the time and place designated in said notice of hearing, the City Council of the City of Addison convened in session and all persons owning or claiming any property to be assessed or any interest therein were given an opportunity to be heard either in person or through an agent or an attorney, and all of such persons were given an opportunity to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, and at said hearing persons appeared and testified as follows:

(a) The City Secretary, Jacque Sharp, announced that notice of hearing had been published as aforesaid in the manner provided by law and that notice had also been given by mail to each of the owners of the property abutting the proposed improvements and that such notice contained the proposed rate per front foot to be assessed against the abutting property and its owners.

(b) The Engineer of the City of Addison, Texas, Wayne Ginn, briefly described the improvements proposed to be constructed, and then explained the method of apportionment of the cost of such improvements between the City and the abutting property and the owners thereof.

(c) The Mayor then asked if there were other parties present who desired to be heard, and he further stated if the persons desiring to be heard on any matter in connection with the improvements to be constructed would have full and complete opportunity to be heard at such hearing, at which time the following named persons testified, to-wit:

1. A representative from White Rock Lodge #234 contested the assessment on the grounds that the organization could not afford the assessment.
2. The Pastor of Addison Baptist Church contested the assessment on the grounds that the church could not afford the assessment.
3. Robert Wood, homeowner on Addison Road, contested the assessment on the grounds that he could not afford the assessment.

and other than the above mentioned person, no other persons present indicated any desire or wish to be heard.

WHEREAS, no protest, objections or testimony was offered at the hearing as to the proposed improvements, the contract or assessment therefor or as to any of the proceedings in reference thereto except as hereinabove specified, and the City Council of the City of Addison, Texas, has heard all the parties who appeared and desired to testify, object or protest as to the special benefit in enhanced value to accrue to said abutting property and the real and true owners thereof, as compared with the portion of the cost of constructing said improvements proposed to be assessed against said abutting property and the owners thereof, and has heard all parties appearing and offering testimony together with all objections and protests relative to such matters and relative to any errors, invalidities or irregularities in any of the proceedings and contract for said improvements, and has given a full and fair hearing to all parties making or desiring to make any such protest or objection or to offer testimony and the said Council has fully examined and considered all of said evidence, matters and testimony and objections offered, and based upon the evidence, matters, testimony and objections considered at said hearing, the Council of said City found and determined that:

(1) All irregularities, invalidities, or deficiencies in the proceedings have been corrected and that all proceedings and contracts are proper and in accordance with law, and that the corrected and adjusted assessment rolls are in all respects valid and regular and in accordance with the directives of the City Council in reference to the said improvements.

(2) That the properties and each and every parcel of such property abutting the streets or portions thereof of which are to be improved, to-wit:

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

Addison Road from its intersection with the south right-of-way line of Keller Springs Road to the north right-of-way line of Belt Line Road

Keller Springs Road from its intersection with the east right-of-way line of Addison Road to the west right-of-way line of Dallas Parkway

will be enhanced in value and specially benefitted by the construction of the aforesaid improvements in an amount in excess of the amount of the cost of such improvements proposed to be and hereafter assessed against each of the parcels of property abutting on said streets or portions thereof and the real and true owners thereof.

(3) That the amount to be assessed against abutting property and the owners thereof may be apportioned among the parcels of abutting property and the owners thereof in accordance with the Front Foot Plan or Rule without injustice or inequality to any of such property or owners and further the Council finds that said plan or rule will produce substantial equality of benefits received and burdens imposed in view of the special benefits in enhanced value to be received by such parcels of property and the owners thereof and the equities of such owners; therefore,

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

SECTION 1: Every recital, finding, and conclusion contained in the preamble of this ordinance is hereby brought forward, adopted and made a part of this ordinance to the same

extent and with like effect as though again written at length under the ordaining clause.

SECTION 2: The said hearing granted to the real and true owners of the properties abutting said streets or portions thereof within the limits hereinabove specified, and to all persons, firms, corporations and estates, owning or claiming same or any interest therein, shall be, and the same is hereby closed. All protest and objections whether mentioned herein or not shall be and the same are hereby overruled and denied.

SECTION 3: The Front Foot Plan or Rule for assessing abutting properties and the owners thereof is hereby adopted in connection with the improvements to be constructed, as described in the preamble of this ordinance.

SECTION 4: The City Council of the City of Addison, Texas as a result of the evidence adduced at the hearing described in the preamble hereof, specifically finds and determines with reference to each and every parcel of property abutting upon streets or portions thereof designated in the preamble of this ordinance, and more particularly herein-after described, that the enhancement in value to accrue to the said property and the real and true owners thereof by virtue of the construction of the improvements as hereinabove described, will be in excess of the amount of the cost



of said improvements proposed to be and by the provisions of this ordinance herein assessed and levied against said abutting properties and the real and true owners thereof, and that the owners of the property abutting the said improvements will be fully compensated for the cost of said improvements in the enhancement of the values of the real estate and property affected by the said improvements; and this Council further specifically finds that the apportionment of the costs of the said improvements and the assessment herein made and assessed are just and equitable and produce substantial equality of benefits received and burdens imposed, and are in accordance with the laws of the State of Texas and said Council further finds that all proceedings and contracts heretofore had with reference to said improvements are in all respects regular, proper and valid and that all prerequisites to the fixing of the assessments liens against the said abutting properties and the personal liability of the real and true owners thereof, whether named or correctly named herein or not, have been in all things regularly had and performed in compliance with law and the proceedings of said City Council.

SECTION 5: Pursuant to the proceedings heretofore had and enacted by the City Council of the City of Addison with respect to said improvements, and under and by virtue of all the powers vested in the said City with respect to said improvements by the laws of the State of Texas, particularly

the provisions of Chapter 106, Acts of the 40th Legislature of the State of Texas, First Called Session, as amended (codified by Vernon as Article 1105b, V.A.T.C.S.), there shall be and there is hereby levied, assessed and taxed against the respective parcels of property hereinafter described and abutting upon the said streets or portions thereof within the limits described herein and within the limits below defined and against the real and true owners of such properties whether such real and true owners be named or correctly named, or said properties be correctly described herein or not, the several sums of money hereinbelow mentioned and itemized opposite the description of the respective parcels of said property, the assigned parcel number of Tax Assessor and Collector of the City of Addison which number with the supporting information on file with the City's Tax Assessor's Office, which reference is made hereto, constitutes the description of said property, the number of front feet for each, the several amounts assessed against the same and the real and true owners thereof, and the names of the apparent owners thereof, all as corrected and adjusted by the City Council, being as follows, to-wit:

Preliminary Assessment Role  
Addison Road & Keller Springs Road

<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
1-18-0011	82	Joe-Don, Inc. % Joe Spillman Pizza Inn, Inc. Stemmons Fwy. Dallas, TX	\$2460
1-18-0010	71	Joe-Don, Inc. % Joe Spillman Pizza Inn, Inc. Stemmons Fwy. Dallas, TX	\$2130
1-18-0009	79	Calvin Sells Box 20594 Dallas, TX 75220	\$2370
1-18-0008	147.5	James Sauls 1937 Las Palms Dallas, TX 75235	\$4425
1-18-0007	100	Joe Ben Ashby Box 846 Addison, TX 75001	\$3000
1-18-0006	88.6	Myrtle Atkins Box 111 Addison, TX 75001	\$2658
1-18-0005	45	A.E. Marcy Addison, TX 75001	\$1350
1-18-0004	134	A.E. Marcy Addison, TX 75001	\$4020
1-18-0003	255	Milton Noell Box 33 Addison, TX 75001	\$7650
1-18-0002	394	Milton Noell Box 33 Addison, TX 75001	\$11,820
Railroad	120	St. Louis and South- western Railroad Box 959 Tyler, Texas 75701	\$3600
1-12-0004	205.4	J.W. Gallop 1042 Oseola Carrollton, TX 75006	\$6162

<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
1-12-0003	72.8	Robert F. Brown Box 305 White Oak, TX 75693	\$2184
1-12-0002	100.1	White Rock Masonic Lodge P.O. Box 27 Addison, TX 75001	\$3003
1-12-0001	71.6	City of Addison	\$2148
Airport	2297.5	City of Addison	\$68,925.00
1-04-0001	432	City of Addison	\$12,960
1-04-0002	187.65	United Contracting Co. 4311 Brookview Dallas, TX 75220	\$5,629.50
1-04-0006	187.65	John P. Wilson Box 217 Addison, TX 75001	\$5,629.50
1-04-0007	1000.9	Charles McKamy Box 537 Addison, TX 75001	\$30,117
1-04-0013	332.4	First Federal Savings & Loan 8300 Preston Road Dallas, TX 75225	\$9,972
1-04-0010	307.44	City of Addison	\$9,223.20
1-01-0008	675.16	Blackland Properties Cotton Exchange Bldg. Dallas, TX 75201	\$20,254.80
1-01-0017	338	Blackland Properties Cotton Exchange Bldg. Dallas, TX 75201	\$10,140.00
1-01-0014	676	George Chadick 3201 Lovers Lane Dallas, TX 75205	\$20,280
1-01-0013	338	Talon Construction Co. Box 556 Addison, TX 75001	\$10,140
1-01-0012	667	Riggs Rylander 718 University Tower Dallas, TX 75206	\$20,310

<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
1-01-0011	677.2	Trinity Christian Academy 11306 Inwood Rd. Dallas, TX 75229	\$20,316
1-01-0010	339.4	A.J. Galvani 5331 Yolanda Dallas, TX 75229	\$10,182
1-01-0009	121.2	Jack Pogue Two Turtle Creek Suite 1212 Dallas, TX 75219	\$3,636
1-01-0019	239.5	Martha Caldwell 3131 Maple Ave. Dallas, TX 75201	\$7,185
1-02-0001	665.95	R.S. Folsom P.O. Box 400408 Dallas, TX 75240	\$19,948.50
BTO, II	470.06	R.S. Folsom P.O. Box 400408 Dallas, TX 75240	\$14,101.80
1-03-0002	249.5	Minta Harkness 5923 Willow Lane Dallas, TX 75240	\$7,485
1-03-0001	199.5	Kemp Engineering Box 172 Addison, TX 75001	\$5,985
1-03-0017	445.99 & 189.7	R.S. Folsom P.O. Box 400408 Dallas, TX 75240	\$19,070.70
Part of 1-03-0022	220	DAC Group 2515 One Main Place Dallas, TX 75250 % Jim Vandemeer	\$6600
1-03-0020	208.71	Morton Rachofsky 2700 Mercantile Nat'l Bank Dallas, TX 75201	\$6,261.30
Part of 1-14-0001	664.97 & 780.23	Horchow Corp. 4435 Simonton Dallas, TX 75240	\$43,356
1-14-0005	200	Chaney and Hope P.O. Box 427 Addison, TX 75001	\$4,800

<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
1-14-0006	160	% Grover Hope P.O. Box 427 Addison, TX 75001	\$4,800
1-14-0012	104.5	C.B. Dedman Superior Airparts Box 363 Addison, TX 75001	\$3,135
1-14-0013	104.5	Louis O. Rubin Associated Enterprises 909 Stemmons Tower S. Dallas, TX 75207	\$3,135
1-14-0014	108.75	D.A. Cody Box 246 Addison, TX 75001	\$3,262.50
part of 1-03-0022	657.08 & 421.25	Walter Henrion P.O. Box 400329 Dallas, TX 75240	\$32,349.90
1-14-0015	145	D.A. Cody Box 246 Addison, TX 75001	\$4,350
1-14-0016	72.5	Air Services, Inc. Joe Truhill, Pres. Box 2 Addison, TX 75001	\$2,175
1-14-0017	72.25	Samuel Parras Box 86 Addison, TX 75001	\$2,167.50
1-14-0018	85	Claude Fulton 2618 Manana Dallas, Tx. 75220	\$2,550
1-14-0019	60	A.J. Airoidi 4835 LBJ Suite 925 Dallas, TX 75234	\$1,800
1-14-0020	72.5	A.J. Airoidi 4835 LBJ Suite 925 Dallas, TX 75234	\$2,175
1-14-0021	72.5	Associated Radio Serv. Box 20718 Dallas, TX 75229	\$2,175
1-14-0022	150	George Clark 1516 N. Buckner Dallas, TX 75218	\$4,500

<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
1-13-0002	100	Robert Wood Box 25 Addison, TX 75001	\$3,000
1-13-0001	100	Robert Wood Box 25 Addison, TX 75001	\$3,000
1-13-0036	200	Addison Baptist Church	\$6,000
1-13-0035	60	J.W. Gallop Box 105 Addison, TX 75001	\$2,250
1-13-0034	140	A.F. Hopkins 5323 N. Central Expy. Dallas, TX 75205	\$4,200
1-13-0033	75	J.W. Gallop Box 105 Addison, TX 75001	\$2,250
1-13-0032	50	J.W. Gallop Box 105 Addison, TX 75001	\$1,500
1-13-0031	100	A.R. Atkins % Mrs. Carl Cook 1713 Francis St. Carrollton, TX 75006	\$3,000
1-13-0030	50	Eva Mae Perdue Box 72 Addison, TX 75001	\$1,500
1-13-0029	100.1	Effie Scarborough 12600 Dunlap #875 Houston, TX 77035	\$3,003
1-16-0001	118	Moses & Cline P.O. Box 8 Addison, TX 75001	\$3,540
Railroad	138.2	St. Louis & Southwestern Railroad Box 959 Tyler, TX 75701	\$4,146
1-16-0002	127.7	Anderson Realty Box BI Malakoff, TX 75148	\$3,831
1-17-0001	748.15	Moses & Cline P.O. Box 8 Addison, Tx 75001	\$22,444.50

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<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
1-17-0004	290.07	St. Louis & South-Western RR Box 959 Tyler, TX 75701	\$8,702.10
1-17-0006	180.02	David Albert 6510 LBJ, Suite 200 Dallas, TX 75240	\$5,400
1-03-0023	435.6	A.M. Grayson 3200 Grand Ave. Dallas, TX 75210	\$13,968
1-03-0008	205.5	Paul Robinson 5908 Meadowcreek Dallas, TX 75240	\$6,165
1-03-0007	582.45	Lincoln Property Two Turtle Creek Village Dallas TX 75219 % Mark Pogue	\$17,473.50
1-03-0006	281	Dorchester 7430 Greenville Dallas, TX 75231	\$8,430
1-14-0002	1242.37	Harris Data Communication 16001 Dallas Parkway Dallas, TX 75240 % Don Shapiro	\$37,271.10
1-02-0003 & pt. of 1-02-0004	763.64	Park Tree North Joint Venture Brilliant Sales 13645 Omega Dallas, TX 75240	\$22,909.20
Part of 1-02-0004	629.75	Charles Ziff Incentive Investments 15889 Preston Road Dallas, TX 75240	\$18,892.50
Part of 1-02-0004	300	David Davidson Sunchild Real Estate & Development 4211 Manning Lane Dallas, TX 75220	\$9,000
part of 1-02-0004	1709.56	Bent Tree Joint Venture Folsom Investments P.O. Box 400408 Dallas, TX 75240	\$51,286.80



<u>Description of Property</u>	<u>Frontage Feet</u>	<u>Owner &amp; Address</u>	<u>Assessment</u>
Part of 1-03-0022	332.87	Folsom Investments P.O. Box 400408 Dallas, TX 75240	\$9986.10
Part of 1-14-0001	400 & 230.02	Hank Dickerson 12900 Preston Rd. Suite 1000 Dallas, TX 75230	\$18,900.60

27,065.44 feet = \$811,963.20

SECTION 6: Where more than one person, firm or corporation owns an interest in any of the property hereinabove described, each said person, firm or corporation shall be jointly liable only for the total assessment against such property.

SECTION 7: The assessments levied in this ordinance are for a portion of the cost of said improvements hereinabove described in the particular unit upon which the property described abuts and the assessments in one unit are in no way related to or connected with the improvements or assessments in other units or projects of the City of Addison, and in levying such assessments, the amounts so assessed for the improvements in any one unit have been in no wise affected by any fact or thing in any way connected with the improvements therefor in any other unit or project of the City of Addison. The omission of any of the improvements in any of said streets or units as a whole shall in no wise affect or impair the validity of the assessment in any other unit or project and the omission of the improvement in the front of any parcel of property exempt from the lien of such assessments, or against which a valid property assessment cannot be levied, shall in no wise effect or impair the validity of the assessments herein levied against the other abutting properties in such unit.

SECTION 8: The several sums mentioned in Section 5 hereof which are assessed against said parcels of abutting property and the real and true owners thereof, whether the owners

against the property abutting shall be and become due and payable in installments and with interest as above provided; however any owner of such property shall have the right to pay off the entire amount of any such assessment, or any installment thereof before maturity by paying principal and accrued interest to date of said payment; and provided further that if default shall be made in the payment of any installment of principal or interest when due, then the entire amount of said assessment upon which such default is made, at the option of said Contractor, or its assigns, shall be and become immediately due and payable and shall be collectible, together with reasonable attorney's fees and all costs and expenses of collection, if incurred.

SECTION 9: The City of Addison, Texas, shall not in any manner be liable for the payment of any sums hereby validly assessed against any abutting property and the real and true owner or owners thereof, but Contractor or its assigns, shall look to such property and the real and true owner or owners thereof, for payment of any sum validly assessed against said respective parcels of property. The City hereby covenants and agrees that upon default in the payment of any installments of principal or interest thereon, and/or the maturity of such certificates, however same may occur, the assessment lien against this property therein described with the personal lia-

bility and charge of the real and true owner thereof, whether named or correctly named therein or not may be enforced in accordance with the provisions of said certificate and the laws of the State of Texas pertaining thereto in any court having jurisdiction by Contractor, or its assigns, and further at the option of and upon request of said Contractor, or its assigns, the City of Addison will exercise its powers to enforce and collect this certificate by suit in its own name for the benefit of the legal holders of such certificate and to this end will take all actions required to enforce the lien created against the property and the personal liability of the owner or owners thereof by suit or by sale of the property assessed in the manner provided by law for sale of property for ad valorem city taxes and in such respect the City agrees that the necessary proceedings will be promptly instituted and carried to completion by it.

SECTION 10: For the purpose of evidencing said assessments, the liens securing same and the several sums assessed against the said parcels of property, and the real and true owner or owners thereof, and the time and terms of payment, and to aid in the enforcement thereof, assignable certificates shall be issued by the City of Addison, to Contractor upon the completion and acceptance of said improvements, which certificates shall be executed by the Mayor in the name of the City,

attested by the City Secretary with the Corporate Seal, and which shall declare the amounts of said assessments and the times and terms thereof, the rate of interest thereon, the date of the completion and the acceptance of the improvements for which the certificate is issued, and shall contain the name of the apparent owner or owners as accurately as possible, and the description of the property assessed by lot and block number or front foot thereof, or such other description as may otherwise identify the same, and if the said property shall be owned by an estate or firm, then to so state the fact shall be sufficient, and no error or mistake in describing any such property or in giving the name of any owner or owners, or otherwise, shall in anywise invalidate or impair the assessment levied hereby or the certificate issued in evidence thereof.

The said certificate shall provide substantially that if default shall be made in the payment of any installment of principal or interest when due, then at the option of Contractor, or its assigns, or the holder thereof, the whole of said assessment evidenced thereby shall at once become due any payable and shall be collectible with reasonable attorney's fees and all expenses and costs of collection, if incurred; and said certificate shall set forth and evidence the personal liability of the real and true owner or owners of such property, whether named or correctly named therein or not,

and the lien upon such property, and that said lien is first and paramount thereon, superior to all other liens, titles and charges, except for State, county, school district and city ad valorem taxes, from and after the date said improvements were ordered by said City Council, and shall provide in effect, that if default shall be made in the payment thereof, the same may be enforced, at the option of Contractor, or its assigns, either by the sale of the property therein described in the manner provided, for the collection of ad valorem city taxes, or by suit in any court having jurisdiction; shall recite in effect that all the proceedings with reference to making said improvements have been regularly had in compliance with the law in force in said City and proceedings of the City Council of said City, and that all prerequisites to the fixing of the assessment lien against the property and the personal liability of the real and true owner or owners thereof, evidenced by such certificates, have been regularly done and performed, which recitals shall be evidence of all the matters and facts so recited, and no further proof thereof shall be required in any court.

SECTION 11: All amounts due to the Contractor or its assigns by reason of the installments on the certificates authorized to be issued by virtue of the provisions hereof, and all interest due to the contractor or its assigns as aforesaid,

shall be payable at the office of the Finance Director of the City of Addison.

SECTION 12: That the form of such certificates shall be substantially as follows:

NUMBER

DOLLARS

CITY OF ADDISON, TEXAS

CERTIFICATE OF SPECIAL ASSESSMENT

For the improvement of certain streets or portions thereof within said City

Issued to

TEXAS BITULITHIC COMPANY  
and  
CHARLES COHEN, INC.

THIS IS TO CERTIFY: That by virtue of an ordinance of the City Council of the City of Addison, Texas, duly adopted on the 9th day of January, 1979, there was levied an assessment in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars against property situated in said City, fronting \_\_\_\_\_ feet on \_\_\_\_\_ Street and described as follows:

and against the real and true owners thereof, named as follows:

That the said special assessment is payable to Contractor, or its assigns, in eight (8) equal semi-annual installments after the \_\_\_\_ day of \_\_\_\_\_, 1979, (the date that the improvements in a unit were completed in full in compliance with the terms of the contract between the City and Contractor and accepted by the City Council of the City of Addison) as follows: The first payment to be due and payable on or before 180 days after said date, and continuing regularly and semi-annually thereafter until the said assessment has been duly paid, together with interest thereon from the date at the rate of eight (8%) percent per annum, payable semi-annually, past due principal and interest to bear interest at the same rate per annum until paid. Said owners have the right to pay any installment before maturity with accrued interest to date of payment.

The said assessment was levied pursuant to proceedings of the City Council including an ordinance adopted on the 14th day of November, 1978, and thereafter amended and ratified and confirmed by an ordinance adopted on the 9th day of January, 1979, ordering the improvement of said streets, notice of which was filed for record with the County Clerk of Dallas County, Texas, on the 6th day of December, 1978, in the Deed of Trust Records of said County, and by virtue of an ordinance and other proceedings of said City Council providing for payment by the real and true owner or owners of said property, whether named or correctly



named or not, of his or their prorata share of the cost of improving said street under the contract between said City and Contractor, dated the \_\_\_\_\_ day of \_\_\_\_\_, 1979.

That by said proceedings said assessment is made payable as aforesaid and, together with interest, all costs and expense of collection, and reasonable attorney's fees, if incurred, is declared to be a first and prior lien on said property, superior to all other liens, titles or charges except State, County, School District, and City ad valorem taxes, and a personal liability and charge of the real and true owners thereof, whether named or correctly named herein or not, said lien and personal liability relating back to and becoming effective as of the date said improvements were ordered by the City Council of said City. Should more than one person own an interest in the above described property on such date, each such person shall be jointly liable for the total assessment. That in accordance with the provisions of said ordinance it is hereby declared that if default shall be made in the payment of any installments of principal or interest hereon when due, then, at the option of said Contractor, or other legal holder, this certificate shall at once be collectible with reasonable attorney's fees and all expenses and costs incident to collection, if incurred.

It is hereby recited that all proceedings with reference to the making of such improvements referred to in this certificate

have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described herein and the personal liability of the owner or owners thereof have been performed and these recitals shall be evidence of such matters and facts and no further proof thereof shall be required in any court.

That the sums evidenced hereby shall be paid to the Finance Director of said City, who shall issue his receipt therefor, which receipt shall be evidence of such payment on any demand for the same. Said Finance Director shall immediately deposit the amounts so collected in a special fund, which is hereby designated as the "Assessment Certificate Payment Fund" and which payment shall be paid to the Contractor or other holder of said certificates, on presentation thereof to him. When the full amount due hereon has been paid, said Contractor, or other legal holder hereof, shall surrender this Certificate to the Finance Director for owner of said property, and upon presentation thereof to said Finance Director a receipt in full for such assessment shall be issued.

That by the provisions of said ordinance and the law in force in said City under which said proceedings were had, upon default in payment of any installment of principal or interest hereon when due and/or the maturity of this Certificate, however same may occur, the assessment lien against the property

herein described and the personal liability and charge of the real and true owner or owners thereof, whether named or correctly named herein or not, may be enforced in accordance with the provisions of this Certificate and the laws of the State of Texas in any court having jurisdiction by Contractor, or its assigns, and at the option of and upon request of said Contractor, or its assigns, the City of Addison will exercise its powers to enforce and collect this Certificate by suit in its own name for the benefit of the legal holders of such Certificate and to this end will take all actions required to enforce the lien created against the property and the personal liability of the owner or owners thereof by suit or by sale of the property assessed in the manner provided by law for the sale of property for ad valorem city taxes and in such respect the City agrees that the necessary proceedings will be promptly instituted and carried to completion by it.

DONE as of this \_\_\_\_\_ day of \_\_\_\_\_, 1979, pursuant to authorization of the City Council of the City of Addison, Texas.

CITY OF ADDISON, TEXAS

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

SECTION 13: Each certificate shall also have an assignment thereon which shall read substantially as follows:

FOR VALUE RECEIVED, Texas Bitulithic Company and Charles Cohen, Inc. do hereby assign the within Certificate with the indebtedness, lien and remedies for their enforcement evidenced thereby, without recourse, to the City of Addison, Texas or its assigns.

TEXAS BITULITHIC COMPANY

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

CHARLES COHEN, INC.

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

SECTION 14: All such assessments levied are, and shall be a personal liability and charge against the respective real and true owner or owners of said abutting properties, notwithstanding such owner or owners may not be named or correctly named,

and any irregularity in the name of the property owner, or the description of any property or the amount of any assessment, or in any other matter or thing shall not in anywise invalidate or impair any assessment levied hereby or any certificate issued, and any such mistake, or error, invalidity or irregularity, whether in such assessment or in the certificate issued in and any irregularity in the name of the property owner, or the description of any property or the amount of any assessment, or in any other matter or thing shall not in anywise invalidate or impair any assessment levied hereby or any certificate issued, and any such mistake, or error, invalidity or irregularity, whether in such assessment or in the certificate issued in evidence thereof, may be, but is not required to be, in order to be enforceable, corrected at any time by the City Council of the City of Addison, Texas.

The total amounts assessed against the respective parcels of property abutting the improvements herein described and the real and true owner or owners thereof are the same, or less than, the estimates of said assessments prepared by the Engineer and approved and adopted by said City Council, and are in accordance with the proceedings of said City relative to said improvements and assessments therefor, and with the terms, powers and provisions of said Chapter 106, of the Acts of the First Called Session of the 40th Legislature of the State of

Texas, known as Article 1105-b of Vernon's Annotated Civil Statutes of Texas, under which terms, provisions and powers of said Acts said improvements and assessments were had and made by said City Council.

AND BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF ADDISON:

SECTION 15: That all actions had and taken by the City Council of the City of Addison in the passage and adoption of the various resolutions and ordinances in relation to the improvements herein described for which assessments are levied against abutting properties and the real and true owners thereof by the provisions of this ordinance, and all actions of the various city officials pursuant to the directives of said Council (all as more fully described and detailed in the preamble of this ordinance) are hereby in all things ratified and confirmed. The action of the city officials in connection with the execution of the aforementioned contract with Contractor is specifically ratified and confirmed.

Section 16: If for any reason any section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance for it is the intent of the City Council that every section, paragraph, subdivision, clause, phrase,

are named or correctly named, or said properties be correctly described herein or not, together with interest thereon at the rate of eight (8%) percent per annum and with reasonable attorney's fees and all costs and expense of collection, if incurred, are hereby declared to be and made a first and prior lien upon the respective parcels of property against which same are assessed from and after the date said improvements were ordered by the City Council of the City of Addison, and a personal liability and charge against the real and true owners thereof, whether such owners be named or correctly named herein, paramount and superior to all other liens, claims or titles except for lawful State, County, School District, and City ad valorem taxes; that the sums so assessed shall be payable to the Contractor or its assigns, as follows, to-wit: in eight (8) semi-annual installments, the first payable on or before 30 days after completion and acceptance by the City Council of the said improvements within a unit, and the remaining installments regularly and semi-annually thereafter until the principal sum of the said assessment has been duly paid, deferred payments to bear interest from such date at the rate of eight (8%) percent per annum, payable semi-annually, past due installments of principal and interest at the same rate per annum until paid, so that upon completion and acceptance by said Council of the improvements, the assessments

