

ORDINANCE NO. 085-076

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, GRANTING A FRANCHISE TO EXPLORER PIPELINE CO., P. O. BOX 2650, TULSA, OKLAHOMA, 74101, TO CONSTRUCT, OPERATE AND MAINTAIN PIPELINE OR PIPELINES UNDER STREETS, ALLEYS AND PUBLIC WAYS IN THE TOWN OF ADDISON, COUNTY OF DALLAS, TEXAS, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE, PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY.

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

SECTION 1. Duration of franchise. This ordinance and the rights, privileges and obligations pursuant to it will be in full force and effect for a period of 20 years after the enactment of the ordinance and the acceptance of this ordinance by the pipeline company named in Section 2 hereof.

SECTION 2. Privileges granted to company. Explorer Pipeline Co., a corporation authorized to do business in the State of Texas, is hereby granted the privilege to install, maintain and operate its pipelines and to repair, replace and operate existing pipelines under the surfaces of the streets, alleys and other public ways in the Town of Addison. The pipelines may be used for the transportation of petroleum and petroleum products, natural gas or other similar products. The foregoing grant is

further made subject to the right of the City to cancel the grant in the event of violation of the pipeline company herein of any of the terms and provisions of this ordinance.

SECTION 3. The location of pipelines and other equipment.
The location of proposed pipelines, fixtures and any other equipment and the construction thereof shall be subject to the approval of the City Manager or his designee.

The company shall place on file with the City Secretary plans showing the location, depth and character of all proposed and existing pipelines, fixtures and any other equipment.

Sec. 4. Relocation of pipelines; restoration of property.
The company agrees that in all cases where the municipality shall change the grade or width of any street, alley, or other public way, the company will, promptly and at its own expense, unless otherwise by ordinance provided, change or move its structures so as to conform thereto, and all sidewalks, parkways or pavements disturbed by the company, at its sole expense, shall be restored by it to a good condition, and in the event that any such sidewalk, parkway or pavement shall become uneven, unsettled, or otherwise require repairing because of such disturbance by the company, then the company shall promptly, upon receipt of notice from the municipality so to do, cause said sidewalk, parkway or pavement to be repaired or restored to a good condition. The company shall comply with all ordinances of the city in performance of such work. The company further agrees that it will, in

advance of any paving or repaving of any street, alley or other public way, and upon reasonable notice thereof, install and construct, at its own expense, all conduits and pipelines reasonably necessary for its future use in said street, alley, or other public way, so as to prevent, so far as possible, the disturbance by the company of any pavement.

SECTION 5. Indemnification and hold harmless agreement.

The company shall, at its own expense, indemnify and save harmless the municipality from any and all damages, judgments, costs and expenses of every kind, which may arise or result by reason of or in consequence of the acts or neglect of the company, its agents or servants to fully comply with the provisions of this ordinance, and will save and keep harmless the municipality from any and all damages, judgments, costs and expenses caused by, or incident to, or in any manner resulting from, the erection or the laying of such conduits or pipelines and the maintenance thereof, provided prompt notice in writing of all claims for such damages, costs and expenses, and reasonable opportunity to defend against the same are given the company by the municipality, together with all information thereon in its possession. This section shall not operate to relieve the City from its own negligence.

The company hereby expressly waives and releases any and all claims which it now has against the municipality, arising from or growing out of any damages to the property of the company

resulting from any act or omission of the municipality, its agents and employees, occurring prior to the date of the passage and acceptance of this ordinance.

SECTION 6. Scheduling. Except in an emergency situation, at least 30 days notice shall be given to the city before any work is scheduled on any street, alley or other public way on the pipeline covered by this franchise. The pipeline company will coordinate with the city street department to assure that its construction work will not conflict with work scheduled by the City street department. Where new pavements and pipelines are proposed in the same street, the schedule shall be coordinated so that the pipeline will be installed before the new pavement is constructed.

SECTION 7. Quality of work. All work to be done under the provisions of this ordinance shall be performed in a good and workmanlike manner with materials suited for the purpose, and full compliance with the provisions of all federal laws, state laws and city ordinances relating to construction. No City water main, sewer main or other City property shall be damaged in any way by the pipeline company, and if any such facility is damaged in violation of this section the pipeline company shall reimburse the City for all costs of repair of the damage, provided that at the option of the city the City Manager may notify the pipeline company to make the repairs promptly at the pipeline company's expense and the pipeline company shall thereupon perform all the

required repairs to the City's specifications at the pipeline company's expense.

SECTION 8. Maintenance and operation. The pipeline company agrees to maintain and operate the pipeline in a safe manner at all times and in full compliance with the Department of Transportation Safety Regulations.

SECTION 9. Default. In the event that the company shall make default in the observance or performance of any one or more of the agreements, duties or obligations imposed upon it by any of the provisions or conditions of this ordinance, and if any such default or defaults shall continue for a period of six (6) months (exclusive of all times during which the company may be delayed or interfered with, without its connivance, by unavoidable accidents, act of God or the public enemy, labor strikes or the orders or judgments of any commission or court entered in any suit or proceeding brought without its connivance) after written notice thereof to the company from the municipality, stating the alleged default on the part of the company, then and in each and every such case the municipality in addition to all other rights and remedies allowed by law, shall be entitled to terminate the grant made to the company in and by this ordinance, and all rights and privileges of the company under this ordinance, and all rights and privileges of the company under this ordinance shall thereupon be at an end.

SECTION 10. Procedure upon termination. Upon expiration of

the franchise, if the company shall not have acquired an extension or renewal thereof and accepted the same, the company may enter upon the streets and public ways of the City, for the purpose of removing said property therefrom any and all of its property and otherwise. In so removing said property, the company shall refill, at its own expense, any excavation that shall be made by it, and shall leave said streets and public ways and places in as nearly as possible as good condition as that prevailing prior to the company's removal of its property.

SECTION 11. Approval of transfer. The company shall not sell or transfer its pipeline or system covered by this Franchise to another, other than a parent company or wholly owned subsidiary of the company, nor transfer any rights under this franchise to another, nor transfer more than 20% of the outstanding stock of the company in any one year, except as security for monies borrowed without first notifying the City in writing thirty (30) days prior to such transfer.

SECTION 12. Any person, firm or corporation violating any of the provisions of this Ordinance, shall upon commission be deemed guilty of a misdemeanor, and shall be subject to a fine not to exceed the sum of Two Hundred and no/100 Dollars (\$200.00) for each offense, and each day such violation continues shall constitute a separate offense.

SECTION 13. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or

be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this the 8th day of October, 1985.

[Signature]
MAYOR

ATTEST:

[Signature]
CITY SECRETARY

Agreed to by Explorer Pipeline Co. this 6th day of January, 1986, a ~~TEXAS CORPORATION~~ Delaware corporation.

By *[Signature]* ^{ESW}
President

By *[Signature]*
Secretary

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