

FILE
SEWER
CAPACITY

Total Capacity 260,000,000
Existing Sewer Flow 204,000,000

✓	Lots Remaining	135	12,320,000
	Lots under construction	100	9,120,000
	GRAND Ph. III	70	6,390,000
✓	K-Mart Residential	43	3,920,000
	K-Mart Phase I		
	• K-Mart		12,000,000
	• Winn Dixie	7.5 million	
	• AppleBees		
	• I-Hop		
	• Spec space		
	• Blockbusters		
	• Famous		
	• Hoffbrau		3,000,000
	• Outback		3,000,000
✓	Les Lacs City Homes		12,520,000

Other Projects

- Fresh Choice
- Paul Stevens Tract
- K-Mart Phase II
- Spring Creek B Blue

12/2004

Sue Ellen Fairley

To: Mike Murphy
Subject: FARMERS BRANCH - WHOLESALE TREATED WATER CONTRACT

Importance: High

M:

Tanya advises the reason Farmers Branch does not have a signature on subject contract is because they protested the contract and refused to sign.

Even though Farmers Branch was in violation of a contract, Dallas could not terminate their water service because it was an "Endanger the health of..." situation.

In August 1990, Dallas and Farmers Branch did reach an agreement and a contract was signed.

Tanya was not comfortable with faxing a copy of the new contract until she had talked to someone from F.B.

I advised her not to worry about it unless she heard from you.

Sue Ellen

FILE
MARSHLANE
INTERCEPTOR

Licensor: City of Farmers Branch, Texas
Licensee: Town of Addison
Reference Nos: Tract No. _____
Temporary Construction Tract No. _____

AFTER FILING RETURN TO:
ROGER E. BEECHAM
HUTCHISON BOYLE BROOKS & FISHER
1700 PACIFIC AVENUE, STE. 3900
DALLAS, TEXAS 75201-4622

STATE OF TEXAS)
)
COUNTY OF DALLAS)

SEWER INTERCEPTOR RIGHT-OF-WAY LICENSE AGREEMENT

KNOW ALL BY THESE PRESENTS THAT:

WHEREAS, the North Dallas County Water Supply Corporation, a non-profit water supply corporation under 1434a, Vernon's Texas Civil Statutes, an administrative agency for the City of Farmers Branch, Texas and the Town of Addison, Texas, pursuant to the Interlocal Cooperation Act, Article 4413(32c), Vernon's Texas Civil Statutes, now Texas Government Code, Art. 791.001, et. seq. is responsible for the preparation and implementation of a sewer interceptor project within the City of Farmers Branch; and

WHEREAS, the Town of Addison, Texas, being part of the North Dallas County Water Supply Corporation, as one of the elements of constructing, maintaining and replacing the sewer interceptor project must acquire rights for the purpose of designing, constructing, maintaining and replacing an underground sanitary sewer to connect to the sewer interceptor; and,

WHEREAS, the below named Licensor, is desirous of granting such rights for use of the below described property for this purpose to the Town of Addison; and,

WHEREAS, the parties have agreed to the granting of these licensed rights under certain limited terms and conditions;

NOW, THEREFORE WITNESSETH:

That this agreement is made by and between the City of Farmers Branch, Texas, a municipal corporation, (hereinafter whether one or more referred to as "Licensor") and the Town of Addison, Texas, a municipal corporation, (hereinafter referred to as "Licensee") agree as follows:

1. Licensor, in consideration of (1) ONE AND NO/100 (\$1.00) DOLLARS cash in hand paid by Licensee to Licensor, and (2) the faithful performance by Licensee of all of the

covenants and agreements contained in this Agreement to be performed by Licensee, Licensor hereby grants a license to Licensee for the purpose of designing, constructing, maintaining and replacing one sanitary sewer pipeline and associated connections (the "Permitted Improvement") located in Farmers Branch, Dallas County, Texas, more particularly described as shown in Exhibit "A" attached hereto and incorporated herein for all pertinent purposes, (the "Property").

2. Interest Granted to Licensee. Licensor grants to Licensee only the interest it has in and under the Property. This grant is made without warranty, including but not limited to, fitness for a particular purpose, suitability and inhabitability.

3. Term. The term of this license shall be perpetual subject however, to termination by either party as provided herein.

4. Non-Exclusive License. This license is non-exclusive and is subject to (a) any existing street utility, drainage or communication facility located in, on, under, or upon the Property owned by Licensor, any railroad, utility, or communication company, public or private; (b) to all vested rights presently owned by any railroad, utility or communication company, located within the boundaries of the Property; and (c) to any existing lease, license or other interest in the Property granted by Licensor to any individual, corporation or other entity, public or private.

5. Design, Construction, Maintenance and Replacement.

5.01 All design, construction, reconstruction, replacement, removal, operation and maintenance of the Permitted Improvement on the Property shall be done in such a manner so as not to interfere in any way with the operations of Licensor or other utility or communications operations, if any.

5.02 By acceptance of this license, Licensee agrees to design and construct the Permitted Improvement in such a manner so as not to create a hazard to the use of the Property, and further agrees to pay any damages which may arise by reason of Licensee's use of the Property under this Agreement.

5.03 Absence of markers does not constitute a warranty by Licensor that there are no subsurface installations on the Property.

6. Governmental Licenses, Permits, Approvals. Licensee, at its sole cost and expense, shall be responsible for and shall obtain, any and all licenses, permits, or other approvals from any and all Federal government agencies and agencies of the State of Texas required to carry on any activity permitted herein.

7. City of Farmers Branch Permit. Licensee, at its sole cost and expense, must obtain a written permit from the City of Farmers Branch, and must comply with the provisions of that permit, to carry on each and every activity permitted within this license agreement.

8. Licensee's Insurance. At such time as this license is granted, it is agreed, and a condition hereof, that Licensee shall procure and keep in full force and effect commercial general liability insurance coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Farmers Branch and issued in the standard form approved by the State Board of Insurance. The insured provisions of this policy must name the City of Farmers Branch, its officers and employees as additional insureds protecting the City of Farmers Branch against any and all claims for damages to persons or property as a result of or arising out of the use, operation, and maintenance by Licensee of the Property and Licensee's installations, improvements, landscaping, and equipment in connection therewith and located therein. The commercial general liability coverage must provide combined single limits of liability for bodily injury and property damage of not less than \$500,000 for each occurrence, \$1,000,000 annual aggregate. The coverage must be on an "occurrence" basis and must include coverage for premises operations, independent contractors, products/completed operations, personal injury, contractual liability, and medical payments. This insurance shall also include coverage for underground, explosion, and collapse hazards and pollution. Each policy must include a cancellation provision in which the insurance company is required to notify Licensee and the City of Farmers Branch in writing not fewer than 30 days before canceling, failing to renew, or making a material change to the insurance policy. Licensee shall carry said insurance at its expense and shall furnish the City Farmers Branch proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or Licensee fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the City Manager of Farmers Branch may terminate the license granted herein. No work on the Property or within the City of Farmers Branch shall be commenced by the Licensee or any contractor for Licensee until certificates of insurance are provided to the City of Farmers Branch.

9. Duty of Care in Construction. If the Licensee or its contractor causes any damage, including pollution, to the Property or any other property, the Licensee and/or its contractor shall immediately replace or repair the damage at no cost or expense to Licensor. If Licensee or its contractor fails or refuses to make such replacement, Licensor shall have the right, but not the obligation, to make or effect any such repair or replacement at the sole cost and expense of Licensee, which cost and expense Licensee agrees to pay to Licensor upon demand.

10. Environmental Protection.

10.01 Licensee shall not use or permit the use of the Property for any purpose that may be in violation of any present or future laws pertaining to health or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Resource Conservation and Recovery Act of 1976 ("RCRA"), the Texas Water Code and the Texas Solid Waste Disposal Act.

10.02 Licensee warrants that the Permitted Use of the Property will not result

in the disposal or other release of any liquid waste, solid waste, or hazardous substance or solid waste on or to the Property or any other property and that it will take all steps necessary to insure that no liquid waste, solid waste, or hazardous substance will ever be discharged onto the Property or any other property by Licensee or its Contractors.

10.03 The terms "hazardous substance" and "release" shall have the meanings specified in CERCLA, or future laws pertaining to the health and environment, and the terms "liquid waste", "solid waste" and "disposal" (or "disposed") shall have the meanings specified in the RCRA, or future laws pertaining to the health and environment; PROVIDED, HOWEVER, that in the event either CERCLA, RCRA, or future laws pertaining to the health and environment, is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and PROVIDED FURTHER, that to the extent that the present or future laws of the State of Texas establish a meaning for "hazardous substance", "release", "liquid waste", "solid waste", or "disposal", which is broader than that specified in either CERCLA, RCRA, or future laws pertaining to the health and environment such broader meaning shall apply.

10.04 Licensee shall indemnify and hold Licensor harmless against all cost of environmental clean up to all property resulting from Licensee's use of the Property under this Agreement. The indemnification provisions shall remain in effect in the event of a termination of the License.

11. Maintenance of Completed Improvements. After the Permitted Improvement has been constructed, the improvements and the Property shall be maintained by the Licensee in such a manner as to keep the Property in a good and safe condition with respect to Licensee's use.

12. Future Use by Licensor.

12.01 This License is made expressly subject and subordinate to the right of Licensor to use the Property for any purpose whatsoever.

12.02 In the event that Licensor shall, at any time subsequent to the date of this Agreement, at its sole discretion, determine that the relocation of the Permitted Improvement shall be necessary or convenient for Licensor's use of the Property, the Licensee shall bear such cost and expense to relocate said Permitted Improvement so as not to interfere with Licensor's or Licensor's assigns' use of the property. A minimum of one hundred twenty (120) days written notice for the exercise of the above actions shall be given by Licensor to Licensee.

13. Compliance with Laws and Regulations. Licensee agrees to abide by and be governed by all laws, ordinances and regulations of any and all governmental entities having jurisdiction over the Licensee and Licensee agrees to indemnify and hold Licensor harmless from any failure to so abide and all actions resulting therefrom.

14. Indemnification. Licensee does hereby protect, save and keep Licensor harmless and indemnified against and from any penalty or damage or charge imposed for any violation of any law or ordinance, whether occasioned by the neglect of Licensee, its employees, officers, agents, contractors, or assigns, or those holding under Licensee and the Licensee does hereby at all times protect, indemnify and it is the express intention of the parties hereto that Licensee does hereby hold Licensor harmless against and from any and all loss, cost, damage or expense, including attorney's fees, arising out of or from any accident or occurrence on or about said Property, caused or contributed to by the presence or operation of Licensee or Licensee's equipment, structures, vehicles, or facilities or the negligence or alleged negligence on the part of Licensee, its employees, contractors, subcontractors, invitees, or act of God causing injury to any person or property and does hereby protect, indemnify and hold Licensor harmless against and from any and all claims and against and from any and all loss, cost, damage or expense, including attorney's fees, arising out of any failure of Licensee, its employees, officers, agent, contractors or assigns in any respect to comply with and perform all the requirements and provisions hereof. The indemnification provisions shall remain in effect in the event of a termination of the License.

15. Action Upon Termination of License. At such time as this License may be terminated or canceled for any reason whatever, Licensee, upon request by Licensor, shall remove all improvements and appurtenances owned by it, situated in, under or attached to the Property or abandon the improvements in a manner acceptable to the Licensor and shall restore the Property, in a reasonable amount of time, to the condition existing at the date of execution of this License, at Licensee's sole expense. If this License is terminated and damage, including but not limited to pollution, to the Property or any other property is found in the future, the Licensee shall immediately replace or repair the damage at no cost or expense to the Licensor. If the Licensee fails or refuses to make such replacement or repair, the Licensor shall have the right, but not the obligation, to make or effect any such replacement or repair at the sole cost and expense of the Licensee, which cost and expense the Licensee agrees to pay to the Licensor upon demand.

16. Methods of Termination. This Agreement may be terminated in any of the following ways:

16.01 Written Agreement of both parties;

16.02 By either party giving the other party on hundred twenty (120) days written notice:

16.03 By either party, upon failure of the other party to perform its obligations as set forth in this Agreement.

17. Miscellaneous.

17.01 Notice. When notice is permitted or required by this Agreement, it shall

be in writing and shall be deemed delivered when delivered in person or when placed, postage prepaid, in the U.S. Mail, Certified, Return Receipt Requested, and addressed to the parties at the following address:

Licensor: City of Farmers Branch
13000 William Dodson Freeway
Farmers Branch, Texas 75234
Attn: City Manager

Licensee: Town of Addison
P.O. Box 144
Addison, Texas 75001
Attn: City Manager

Either party may from time to time designate another and different address for receipt of notice by giving notice of such change of address in writing.

17.02 Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

17.03 Entirely and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the Property and the matters addressed herein, and may be amended or supplemented only by a written instrument executed by the party against whom enforcement is sought.

17.04 Parties Bound. This Agreement shall be binding upon and inure to the benefit of the executing parties and their respective heirs, personal representatives, successors and assigns.

17.05 Number and Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender; and words in the singular shall include the plural and vice versa, unless the text clearly requires otherwise.


IN WITNESS WHEREOF, the parties have executed this Agreement in multiple originals this 5th day of December, 1994.

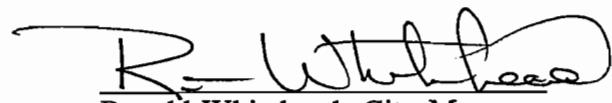
LICENSOR:

LICENSEE:

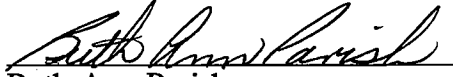
CITY OF FARMERS BRANCH, TEXAS

TOWN OF ADDISON, TEXAS


Richard L. Escalante, City Manager

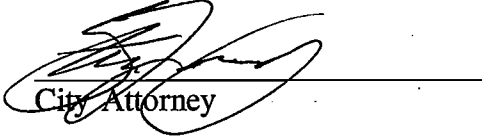

Ronald Whitehead, City Manager

ATTEST:



Ruth Ann Parish
City Secretary

APPROVED AS TO FORM:

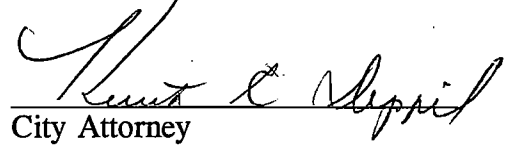

City Attorney

ATTEST:



Carmen Moran
City Secretary

APPROVED AS TO FORM:


City Attorney

b:\sisrowli.agr/agreementsII

EXHIBIT A
DESCRIPTION
MARSH LANE SEWER INTERCEPTOR
LICENSE AGREEMENT

BEING A 0.474 ACRE TRACT OF LAND SITUATED IN THE NOAH GOOD SURVEY, ABSTRACT NO. 520, DALLAS COUNTY, TEXAS AND BEING OUT OF MARSH LANE A 130 FOOT PUBLIC RIGHT-OF-WAY LOCATED IN THE CITY OF FARMERS BRANCH ADJOINING THE 2ND RE-PLAT OF WOODED CREEK ESTATES AS RECORDED IN VOLUME 75163, PAGE 0679 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS. BEARING BASIS IS ASSUMED. SAID 0.474 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF MARSH LANE, A 130 FOOT PUBLIC RIGHT OF WAY, COMMON WITH THE WEST LINE OF 2ND RE-PLAT OF WOODED CREEK ESTATES, AN ADDITION TO THE CITY OF FARMERS BRANCH RECORDED IN VOLUME 75163, PAGE 0679 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS, FROM SAID POINT A 1/2" IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF LOT 1, BLOCK B OF SAID ADDITION AND LOCATED AT THE INTERSECTION OF THE EAST LINE OF MARSH LANE (130' ROW) AND THE NORTH LINE OF WOODED CREEK DRIVE (50' ROW), BEARS N 00° 01' 22" W, A DISTANCE OF 269.40 FEET;

THENCE N 83°23'50" W, A DISTANCE OF 63.46 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE N 00°02'16" W, A DISTANCE OF 524.21 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE N 03°05'12" E, A DISTANCE OF 456.91 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE N 01°32'50" W, A DISTANCE OF 7.23 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE, FROM SAID POINT A 1/2" IRON ROD FOUND MARKING THE INTERSECTION OF THE WEST LINE OF MARSH LANE (130' ROW) AND THE SOUTH LINE OF BROOKHAVEN CLUB DRIVE (100' ROW) BEARS N 76° 57' 42" E, A DISTANCE OF 94.91 FEET;

THENCE S 89°49'11" E, A DISTANCE OF 20.01 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

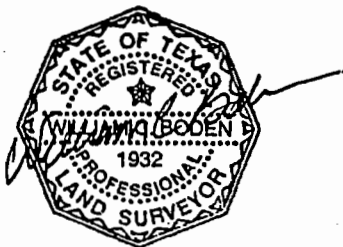
THENCE S 01°32'50" E, A DISTANCE OF 7.43 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE S 03°05'12" W, A DISTANCE OF 457.17 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE S 00°02'16" E, A DISTANCE OF 505.85 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE S 83°23'50" E, A DISTANCE OF 43.33 FEET TO A POINT FOR CORNER WITHIN THE RIGHT-OF-WAY OF MARSH LANE;

THENCE S 00°01'22" E, A DISTANCE OF 20.13 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.474 ACRES OF LAND, MORE OR LESS.



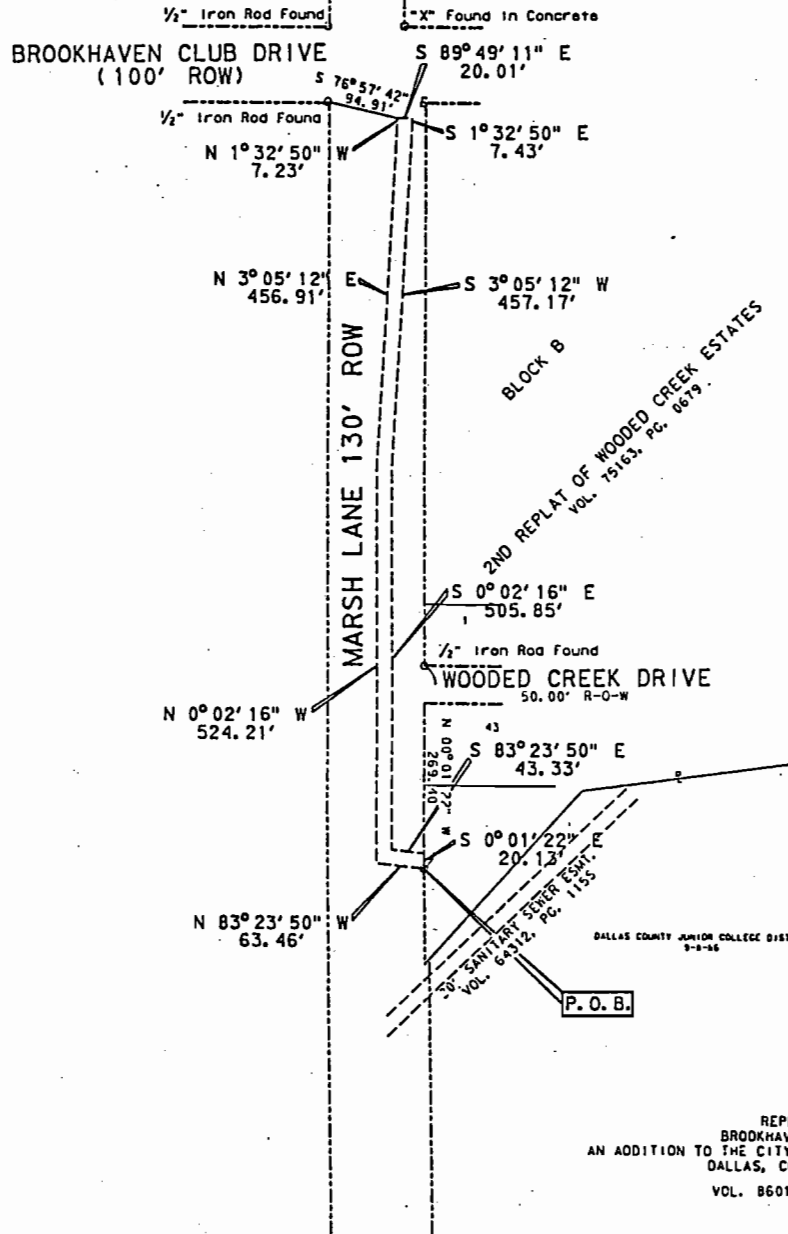
SURVEY: NOAH GOOD SURVEY, ABSTRACT NO. A-520

LOCATION: CITY OF FARMERS BRANCH, DALLAS COUNTY, TX.

ACQUISITION: 0.474 AC.

MARSH LANE SEWER
INTERCEPTOR

LICENSE AGREEMENT
EXHIBIT



REPLAT OF
BROOKHAVEN COLLEGE
AN ADDITION TO THE CITY OF FARMERS BRANCH, TEXAS
DALLAS, COUNTY, TEXAS
VOL. 86015, PG. 2676

NOTE: BEARING BASE IS ASSUMED

CARTER & BURCESS, INC.
7950 ELMBROOK DRIVE SUITE 250
DALLAS, TX. 75247-4951

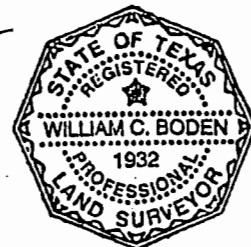
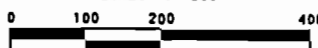
PREPARED BY: B. J. S.

CHECKED BY: W. C. B.

DATE: 9-19-94

William C. Boden

SCALE: 1"=200'



COPY

RESOLUTION NO. R93-097

A RESOLUTION BY THE CITY COUNCIL OF THE TOWN OF ADDISON,
TEXAS, APPROVING AN INTERIM SEWER AGREEMENT WITH THE CITY OF
FARMERS BRANCH.

WHEREAS, Farmers Branch hereby agrees to provide
transportation of sewage generated from the Rawhide Creek and
Farmers Branch Creek drainage basins within Addison through
Farmers Branch sanitary sewer system; and

WHEREAS, Farmers Branch agrees to allow the Addison sewage
to flow through Farmers Branch sanitary sewer system to the
Trinity River Authority's present sewer collection point; and

WHEREAS, Addison agrees to limit its sewage flows at each of
the five entry points for the duration of this interim agreement,
or until such time as the improved outfall system has been
provided, which ever shall occur first; and

WHEREAS, the town will calibrate the meters in accordance
with the "Wastewater Meter Station Evaluation Final Report"
performed by ADS Environmental Services, Inc. and submit
verification to Farmers Branch of the calibration within the
first 30 days of the agreement; and

WHEREAS, the town will adjust the allowable flows in each
basin based on the ADS study; and

WHEREAS, the town will seek an automatic renewal clause for
the Agreement; now, therefore,

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

THAT, the City Council does hereby approve the execution of an interim sewer agreement with the City of Farmers Branch.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this the 12th day of October, 1993.



MAYOR

ATTEST:



CITY SECRETARY

METER STATIONS FLOW

FROM FB
11-10-93

11/10/93

EVALUATION

135 MG

540 MG

ML SOUTH ML NORTH

BH EAST BH WEST INWOOD SP VALLEY

1992 MG MG TOTAL MG MG MG MG TOTAL

APR	0.366	10.701	11.067	18.500	6.420	4.612	1.983	31.515
MAY	1.809	12.928	14.737	13.957	6.762	5.284	3.011	29.014
JUN	0.787	16.372	17.159	17.111	9.679	5.916	2.773	35.479
JUL	0.933	12.985	13.918	13.408	7.756	4.932	0.764	26.860
AUG	1.222	17.000	18.222	17.092	9.776	6.172	1.829	34.869
SEPT	1.134	12.993	14.127	13.673	8.706	4.617	1.284	28.280
OCT	1.080	13.077	14.157	13.558	7.214	4.399	1.701	26.872
NOV	2.556	20.445	23.001	16.033	7.800	5.508	1.639	30.980
DEC	1.518	13.393	14.911	11.118	5.942	4.107	1.636	22.803

1993

JAN	0.958	13.865	14.823	12.322	8.000	3.821	6.809	30.952
FEB	2.486	12.807	15.293	12.706	9.595	4.011	11.711	38.023
MAR	1.892	18.835	20.727	16.080	10.532	7.163	14.902	48.677
APR	1.238	3.505	4.743	10.887	8.037	3.990	11.142	34.056
MAY	1.334	1.599	2.933	10.693	6.424	4.535	10.918	32.570
JUN	1.649	0.961	2.610	13.819	6.278	6.363	14.530	40.990
JUL	1.233	0.581	1.814	11.494	5.571	5.326	11.575	33.966
AUG	2.278	1.488	3.766	15.818	7.836	6.846	9.967	40.467
SEPT	2.235	0.898	3.133	13.326	6.226	5.105	7.17	31.827
OCT	2.235	0.824	3.059	14.624	6.615	5.561	7.615	34.415

11.772

140.675

Projected 35.318

Projected 422.025
34.977

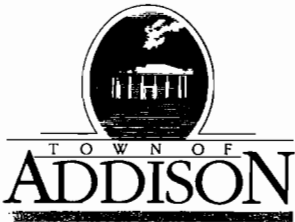
1.801 7.43 9.234

419.73

110.81

Last 12 months

Last 12 months



CITY ENGINEER'S OFFICE

Post Office Box 144 Addison, Texas 75001

(214) 450-2886

16801 Westgrove

July 29, 1993

Mr. Jay B. Sparkes
Jay B. Sparkes & Co.
5910 N. Central Expressway #1580
Dallas, Texas 75206

Dear Mr. Sparkes:

Please allow this letter to serve as evidence of a sewer reservation for your planned 196 unit apartment development, situated at 3710 Les Lacs Avenue in Addison, Texas. Said reservation shall be good through March, 1994.

Sincerely,

John R. Baumgartner, P.E.
Director of Public Works

JRB/jas

J.B.
Please put this
F on letter head
J.B.

Mr. Jay B. Sparkes
Jay B. Sparkes & Co.
5910 N. Central Expressway #1580
Dallas, Texas 75206

Dear Mr. Sparkes:

Please allow this letter to serve as evidence of a sewer reservation for your planned 196 unit apartment development, situated at 3710 Les Lacs Avenue in Addison, Texas. Said reservation shall be good through March, 1994.

Very truly yours,

John Baumgartner
City Engineer

JAY B. SPARKES & Co.

PREMIER PLACE, SUITE 1580

5910 N. CENTRAL EXPRESSWAY

DALLAS, TEXAS 75206

(214) 265-8091

July 19, 1993

Mr. John Baumgartner
City Engineer
City of Addison
P. O. Box 144
Addison, Texas 75001

Dear John:

Enclosed for your review is a draft of a letter I would like for you to put on your letterhead, sign, and then send to me for forwarding to my bank. If its content is acceptable, I would appreciate your sending it on to me at your earliest convenience.

Thanks for your help with this.

Very truly yours,



Jay B. Sparkes

JBS/bkc

Farmers Branch.

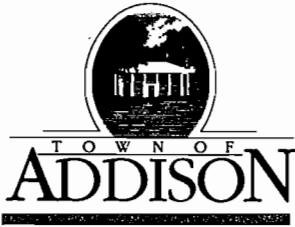
1994

	Jan	Feb	March	April	May	June	July	Aug.
Marsh N	1,240,000	831,000	936,000	1,262,000	2,314,000	2,049,000	2,500,000	
							<u>meter out EST</u>	
Marsh S.	2,381,390	2,208,450	3,047,430	2,352,860	5,169,900	2,974,000	3,500,000	
							<u>meter out EST</u>	
Brookhaven E	15,003,800	9,309,900	12,493,900	11,089,100	17,817,700	11,642,000	13,111,600	
Brookhaven W	9,913,000	5,663,000	8,704,000	7,136,000	16,596,000	10,744,500	11,500,000	
							<u>meter out EST</u>	
Spring Valley	5,870,000	6,631,000	8,667,800	7,191,000	10,344,700	6,381,600	6,894,600	
Inwood	6,414,000	5,410,000	5,669,000	5,404,000	8,108,000	7,077,000	8,447,000	

John,

I have compiled the Farmers Branch sewer billing from Jan 94 - July 94 as you can see "Ray's" full pipe average has not been used yet! However it might be used for future est. for when a metering station goes down.

Keith T.



PUBLIC WORKS DEPARTMENT

Post Office Box 144 Addison, Texas 75001

(214) 450-2871

16801 Westgrove

October 6, 1993

MEMORANDUM

To: Ron Whitehead
City Manager

From: John Baumgartner *JJB*
Director of Public Works

Re: Interim Outfall Sewer Agreement with Farmers Branch

Attached is the proposed "Interim Outfall Sewer Agreement Between the Town of Addison and the City of Farmers Branch."

The proposed agreement is for a term of 12 months and has the follow changes:

- 1) Requires the recalibration of the meters. This was accomplished in August.
- 2) Adjusts the allowable flows in each basin based on the ADS study.

It is anticipated that this will give us some growth opportunity until completion of the sewer tunnel in early 1996.

Staff recommends that Council approves the agreement and authorize City Manager to execute it.

JRB/gmk

**INTERIM OUTFALL SEWER
AGREEMENT BETWEEN THE TOWN OF
ADDISON AND THE CITY OF FARMERS BRANCH**

STATE OF TEXAS

COUNTY OF DALLAS

THIS AGREEMENT; entered into by and between the Town of Addison, a Texas Municipal Corporation, acting by and through its City Manager, hereinafter referred to as "Addison", and the City of Farmers Branch, a Texas Municipal Corporation, acting by and through its City Manager, hereinafter referred to as "Farmers Branch".

WITNESSETH:

SECTION 1. Covenants of Farmers Branch.

a. Farmers Branch hereby agrees to provide transportation of sewage subject to the limitations identified in Section 2, generated from the Rawhide Creek and Farmers Branch Creek drainage basins within Addison through Farmers Branch's sanitary sewer system lying within Farmers Branch.

b. Farmers Branch agrees to allow the Addison sewage to flow through Farmers Branch sanitary sewer system to the Trinity River Authority's present sewer collection point west of Interstate Highway 35E and south of Interstate Highway 635.

c. Farmers Branch agrees to charge Addison 120% of the fee charged to Farmers Branch by the Trinity River Authority for the duration of this interim agreement based upon measured sewage flows through the existing five entry points into the Farmers Branch sewer system from the Addison sewer system. The five entry points are noted on the attached sketch labeled Exhibit A.

SECTION 2. Covenants of Addison.

a. Addison will calibrate the meters in accordance with the "Wastewater Meter Station Evaluation Final Report" performed by ADS Environmental Services, Inc., dated June 16, 1993, and submit verification to Farmers Branch of the calibration within the first 30 days of this agreement.

b. Addison will submit to Farmers Branch verification that the meters are still calibrated

in the last 30 days of the agreement.

c. Addison agrees to limit its sewage flows at each of the five entry points for the duration of this interim agreement or until such time as the improved outfall system has been provided, whichever shall occur first, as follows:

1. Rawhide Creek Basin - The sewage flow shall be limited to a total flow of 135 million gallons for the term of the agreement. The amount of flow is based on calibrated meters as reference in Section 2a, of this agreement. At such time as the total monthly flow into the Rawhide Creek Basin equals or exceeds 8 million gallons, both meters at this entry point shall be recalibrated.

2. Farmers Branch Creek Basin

a) Inwood Road, Brookhaven Club West, and Brookhaven Club East and Spring Valley Road Metering Stations - the sewage flow shall be limited to a total flow of 540 million gallons for the term of this agreement. The amount of flow is based on calibrated meters as reference in Section 2a, of this agreement. The City of Farmers Branch understands Addison is planning various measures to reduce the inflow and infiltration or otherwise reduce flow. It is not the intent of the City of Farmers Branch to reduce the flow limits to Addison as a result of their system improvement efforts.

b) Beltwood - the sewage flow shall be limited to the flow generated from the existing buildings at the following addresses:

4568 through 4580, and 4600 Belt Line Road,
15000 Block of Beltwood Parkway,
14600, 14700, and 14800 Blocks of Inwood Road.

Since the sewage flow is not metered, the amount of sewage flow shall be considered as 80% of the amount of water metered to these properties.

d. Addison and Farmers Branch will conduct monthly meetings to monitor sewage flows to insure that there are not any adverse affects on the system.

e. Addison is prohibited from trucking sanitary sewer effluent through Farmers Branch.

f. Addison may contract for additional capacity within a given drainage basin through a supplemental agreement which shall incorporate the means for making additional capacity available, and the means of financing those improvements to provide additional capacity.

g. Addison agrees to limit its sewage flows to whatever extent is necessary to reduce, prevent and/or eliminate any spill, overload or overflow of Farmers Branch's sewer system constituting a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency.

h. In the event of any spill, overload or overflow for which Addison has a responsibility, and which constitutes a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency, Addison agrees to reimburse Farmers Branch for the costs of any fines or penalties.

i. Addison agrees to enforce the Sewer Use Ordinance, Addison Ordinance No. 087-004, which ordinance incorporates the basic terms and conditions of Farmers Branch Ordinance No. 1967. Addison agrees to amend this ordinance to reflect the basic terms and conditions of any amendments to Farmers Branch Ordinance No. 1967.

SECTION 3. Mutual Covenants.

Addison and Farmers Branch agree that this is an interim agreement entered into to allow sufficient time for the implementation of the Addison-Farmers Branch sanitary sewer interceptor.

SECTION 4. Compliance with State and Federal Regulations.

a. (1) To enable the highest degree of treatment in the most economical manner possible, and to comply with Federal and State regulations, certain solids, liquids and gases are hereby prohibited from entering the Farmers Branch system in excess of standards as set by said Federal and State regulations. The prohibitive discharges listed in Farmers Branch Ordinance No. 1967 shall also apply at the Points of Entry to the Farmers Branch Wastewater System.

(2) Federal and State regulatory agencies periodically modify standards on prohibitive discharges; therefore, revisions to, additions to, or deletions from the items listed in this section will become necessary to comply with these latest standards. It is the intention of this interim agreement that prohibitive discharge requirements be reviewed periodically by Farmers Branch and revised in accordance with the latest standards of any federal or state agency having regulatory powers. Any required revisions shall be made and written notice thereof given to Addison. Addison shall be responsible for integrating such changes into the local industrial waste ordinance and notifying all affected users of the change within ninety (90)

days following written notice to Addison of such change.

b. To determine quality of Wastewater, Farmers Branch will collect composite samples of Wastewater at each point of entry to the Farmers Branch Wastewater System and cause same to be analyzed in accordance with testing procedures as set forth in the latest edition of Standard Methods of Examination of Water and Wastewater, published by American Public Health Association, Inc. Composite samples will normally be taken quarterly or at more frequent intervals if necessary to determine Wastewater quality. Such Wastewater shall not exceed the limits of concentration specified for Normal Wastewater as follows:

Normal Wastewater Concentration

BOD	250 mg/1
SS	250 mg/1
ph, not less than 5 nor greater than 10	
Hydrogen Sulfide	1.0 mg/1

Should the analysis disclose concentrations higher than those listed, Farmers Branch will at once inform Addison of such disqualification. It shall be the obligation of Addison to require the offending discharger of said highly concentrated materials to undertake remedial measures to bring discharge concentrations within acceptable limits. Farmers Branch will cooperate with Addison in reaching a satisfactory solution but will not undertake to specify the measures that will be employed to bring those over-strength discharge concentrations within acceptable limits. In some cases of over-strength Industrial Waste, the industry discharging the over-strength waste, and Addison, may be desirous, and Farmers Branch may be agreeable to negotiate terms under which Farmers Branch will accept the over-strength wastes, but Farmers Branch makes no commitment to perform such service.

c. (1) The effects of certain types of Industrial Waste upon wastewater and wastewater treatment processes are such as to require that careful consideration be made of each industrial connection. This is a matter of concern both to Farmers Branch and to Addison. Addison covenants that it will have in effect and will enforce a sewer use ordinance in accordance with Federal and State regulations or departments having lawful jurisdiction to set standards for waste discharges.

(2) Addison shall, by ordinance, require all Significant Industrial Users as defined by Farmers Branch Ordinance No. 1967 that ultimately discharge into the Farmers Branch wastewater system, including, without limitation, Displaytek Corporation and Circuit Automation, Incorporated, to obtain an industrial waste discharge permit.

(3) Farmers Branch shall be provided a copy of the application and permit within 14 days after issuance. No Industrial User shall be allowed to connect to the sewer system discharging to the Farmers Branch Wastewater System without at least 30 days prior notification being given by Addison to Farmers Branch of the intent to connect. Addison also agrees to provide Farmers Branch with information pertaining to the expected volume and composition of the new-discharge. The expected volume is subject to the limitation of this agreement and any supplemental agreements.

(4) Addison agrees to implement and enforce U.S. Environmental Protection Agency approved pretreatment program with respect to Industrial Users discharging into the Farmers Branch system. Furthermore, Addison shall, at any reasonable time upon request by Farmers Branch, produce pretreatment program records for review by Farmers Branch.

(5) Addison agrees that U.S. Environmental Protection Agency Pretreatment Program for Industrial Wastes will be maintained to insure continuing approval from the EPA.

(6) Addison agrees to seek injunctive relief against those Industrial Users whose discharge interferes with the Trinity River Authority's treatment system, poses an imminent danger to public health, or when the specific industry is not making sufficient progress toward compliance or completing an Addison approved pretreatment plan.

(7) Addison agrees that Farmers Branch shall have the right to sample wastewater discharges at points of entry to the Farmers Branch wastewater system for the purpose of determining the type and strength of discharges.

(8) Addison agrees that any individual Industrial User found in violation of allowable discharges or any individual Industrial User who refuses access for the purpose of sampling shall be disconnected from Addison's and Farmers Branch's wastewater system, provided however, that the violating Industrial User shall be afforded all rights, privileges of appeal and deficiency cure periods as provided under Addison Ordinances. Addison agrees to provide public notification for instances of violation as required in 40 CFR 403.

THIS INTERIM AGREEMENT is effective as of **September 9, 1993** and shall remain in force until **September 9, 1994** unless extended by mutual agreement of both parties, or unless terminated by breach of any provisions of SECTION 2. Breach of any provision of SECTION 2 shall cause termination of this agreement within 30 days.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Amendatory Interim Agreement to be duly executed in several counterparts, each of which shall constitute an original, this 9th day September, 1993.

ATTEST:

TOWN OF ADDISON

City Secretary

City Manager

APPROVED AS TO FORM:

Attorney

ATTEST:

CITY OF FARMERS BRANCH

City Secretary

City Manager

APPROVED AS TO FORM:

City Attorney

COWLES & THOMPSON

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

4000 NCNB PLAZA
901 MAIN STREET
DALLAS, TEXAS 75202-3793

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CHARLES SORRELLS
(1925-1982)

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SHERMAN, TEXAS 75091-1127
TELEPHONE (903) 893-8999

NCNB TEXAS NATIONAL BANK BLDG., SUITE 321
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909 E.S.E. LOOP 323
TYLER, TEXAS 75701-9684
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KENNETH C. DIPPEL
OF COUNSEL
(214) 670-1158

May 26, 1993

Ron Whitehead, City Manager
John Baumgartner, City Engineer
Town of Addison
P.O. Box 144
Addison, TX 75001

Re: Wastewater Capacity Limitations in the Farmers Branch Basin
Our File No. 3195/25211

Dear Ron and John:

Enclosed is a Confidential Memorandum regarding wastewater capacity limitations.
Please call me with any questions or comments.

Very truly yours,



Kenneth C. Dippel

KCD/krf
Enclosure

CONFIDENTIAL MEMORANDUM
[Subject to attorney/client and work product privileges]

TO: Ron Whitehead, City Manager
FROM: Ken Dippel, City Attorney
RE: Wastewater Capacity Limitations in the Farmers Branch Basin
DATE: May 24, 1993

FACTS

Part of Addison is in the Farmers Branch drainage basin and is served for wastewater treatment by transporting wastewater through Farmers Branch and to treatment facilities operated by the Trinity River Authority ("TRA"). In 1986 Addison and Farmers Branch signed a wastewater contract specifying that Addison could transport up to 615 million gallons a day ("mgd.") through Farmers Branch's transmission lines to the TRA treatment facilities. That contract has expired and the two cities are operating under a series of interim (90 day) agreements.

In 1990, studies showed Addison's average flow from the prior six years was 562 mgd. and remaining capacity was 52 mgd.

In April of 1991, the Town adopted Ordinance 091-013 that provides a procedure for reviewing and allocating remaining capacity. The Ordinance is effective until planned improvements to the wastewater system are completed. Planned improvements include an "Intercept Tunnel" and related collector sewer lines that will relieve the capacity problems.

Ordinance 091-013 provides for the following procedure:

- An applicant for sewer service in the Farmers Branch Basin first applies to the City for a sewer availability certificate ("sewer certificate") in connection with an application for building permit.
- The City Engineer reviews the project and calculates available capacity. If he determines capacity is available to serve the proposed project, then a sewer certificate is issued for the proposed project.
- The sewer certificate then allows the applicant to seek a building permit and ultimately a certificate of occupancy. An applicant may also seek to reserve sewer capacity at time of platting. The applicant has 12 months after plat to have a building permit issued or the sewer certificate expires.

ISSUES

At our May 4 meeting you posed the following questions:

1. When are sewer rights vested? Two subparts of this question are:
 - Does an existing building have a vested right to sewer capacity/service?
 - Does undeveloped land have a vested right to sewer capacity/service?
2. Can a City impose a moratorium on new development by refusing to approve permits when the "sewer is full?" What are the limitations?
3. Can a City ration sewer capacity (as was done in Ordinance 091-013) and what are the limitations?
4. In light of the fact that there is no long term contract in place with Farmers Branch, does the Town legally have any capacity? (i.e. should a moratorium be adopted?)

SHORT ANSWERS

1. Under the Town's regulatory scheme, sewer rights for a particular project vest upon issuance of the sewer certificate (but construction must proceed or the rights can be lost as more fully discussed below). An existing and occupied building has vested sewer rights. Undeveloped land does not have vested sewer rights.

2. A well-reasoned moratorium is a valid exercise of the Town's police power if it is:

- legitimately related to the health, safety and general welfare of the people;
- reasonable; not arbitrary (factors include length of duration, steps being taken to remedy the problem).

3. Rationing of sewer capacity is a valid exercise of the Town's police power if it meets the same test as set out above for a moratorium. Ordinance 091-013 is a valid exercise of the Town's police power.

4. Farmers Branch has a duty to act responsibly and cannot realistically hope to refuse to accept wastewater. The City Engineer should keep track of remaining capacity and continue to implement 091-013 as written. Once capacity has been exhausted, the Ordinance contemplates that no further sewer certificates will be issued and this will in effect create a moratorium.

DISCUSSION

1. WHEN ARE SEWER RIGHTS VESTED?

A. Common Law

Under common law, it was difficult for a landowner to successfully argue vesting of rights during the development process. Cities were given latitude to alter regulations that affected even developers' pending applications for holding building permits. See, e.g. *City of Dallas v. Crownrich*, 506 S.W.2d 654 (Tex. Civ. App. —Tyler 1974, writ ref'd n.r.e.) (applicant obtains no vested right by the mere filing of an application for a building permit). A builder has no vested right to sewer until a building permit was issued and construction was well underway.

B. Limits Imposed by Vesting Statute

In 1987 the legislature adopted article 4413 (301), creating a Texas Department of Commerce. Article 7 of the Act changes the substantive law that previously applied to permits issued by municipalities. After stating that current administrative practices cause unnecessary regulatory delays that inhibit the economic development of the state, the statute requires that approval or disapproval of applications for permits be based solely on duly

adopted requirements in effect at the time the original permit application is filed. This now appears in § 481.141 of the Texas Government Code which states:

(a) The approval, disapproval, or conditional approval of an application for a permit shall be considered by each regulatory agency solely on the basis of any orders, regulations, ordinances, or other duly adopted requirements in effect at the time the original application for the permit is filed. If a series of permits is required for a project, the order, regulations, ordinances, or other requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project.

Ordinance 091-013 specifically provides that it does not apply to projects with applications for building permits pending on the date the Ordinance was adopted.

C. Prospective Regulation

Mixon, in § 7.05 of his treatise Texas Municipal Zoning states that:

The [vesting] statute does not prevent municipalities from adopting ordinances that prospectively suspend issuance of permits to permit development of land use plans for specific areas. Neither does it invalidate conditions that require commencement of construction within a specific time after issuance. The statute appears to vest an applicant's right to develop according to the regulations that exist on the date of application.

D. Undeveloped Land

Under the Town's regulatory scheme in Ordinance 091-013, there are no vested sewer rights for undeveloped property. An owner of undeveloped property with a specific project in mind must apply for sewer certificate in connection with his application for a building permit. The City Engineer then decides whether sewer is available to serve the project. Once an application for a sewer certificate is filed, it must be considered under the existing regulations. Once approved, the applicant has a vested right to sewer for the project

proposed, but subject to the limitation that the right to sewer will be lost if the project does not commence within twelve months.

E. Existing Buildings

Under common law and Ordinance 091-013, existing and occupied buildings enjoy vested rights to then existing sewer service. However, the Town's Ordinance 091-013 specifies that if an existing building remains vacant for 12 months, vested sewer rights are lost and the building owner must apply for a sewer certificate.

2. CAN A CITY IMPOSE A MORATORIUM ON NEW DEVELOPMENT (BY REFUSING TO APPROVE PERMITS) WHEN THE "SEWER IS FULL"? WHAT ARE THE LIMITATIONS?

A. General Rules For Development Moratoriums

Moratoriums are properly utilized in a number of situations. For example, municipalities sometimes seek to suspend issuance of building permits while considering adoption of zoning ordinances or amendments. The purpose of suspension is to avoid development that will conflict with the eventual regulations and frustrate the community's land use goals. Texas courts have upheld suspensions so long as they are reasonable. *City of Dallas v. Crownrich* upheld suspension of permits in affected districts while the city deliberated adoption of a historical preservation ordinance. In order for moratorium regulation to be a valid exercise of the City police power it must: (1) be substantially related to the health, safety, or general welfare of the people; (2) be reasonable, not arbitrary.

B. "The Sewer Is Full"

The easiest cases deal with situations in which a developer was denied connection to a sewer or water system because a particular plant, system or major line was full. The courts have uniformly upheld the denial of service in such cases because they are reluctant to order the overloading of a sewer or water facility with the resulting potential public health hazards.

In some cases, the capacity problem was so severe that the sewage treatment plant was discharging raw sewage into area waterways. This is a classic "sewer is full" case in that the court is faced with a direct and immediate adverse impact on the public health if it did anything other than uphold the moratorium. Accordingly, well-reasoned moratoria are sustainable against constitutional challenges under the law of most jurisdictions, including Texas. *See, e.g., State of Scott v. Victoria County*, 778 S.W.2d 585 (Tex. App. —Corpus Christi 1989, no writ) (seven-year sewer moratorium upheld against constitutional challenges, since duration of moratorium was reasonable in view of regional sewer plant deficiencies). Factors that have been used to determine the overall reasonableness or rationality of a moratorium include the length of its duration in relation to the documented reasons for establishing the moratorium, the reasons for imposing the restrictions, and the steps which have been taken to remedy the preceding problems.

McQuillan, in § 33.30 of his treatise Municipal Corporations, indicates that:

A declaration of a moratorium on sewer connections may not form the basis for a denial of connection permits in the absence of any evidence of a reasonable necessity for a moratorium [citing the Georgia case of *DeKalb County v. Townsend Assocs., Inc.*, 243 Ga. 80, 252 S.E.2d 498]. A decision by municipal authorities not to follow their city engineer's recommendation

that a moratorium be declared on sewer connections, but to proceed instead to grant or deny sewer connection on a case-by-case basis, is deemed to constitute an abuse of their discretion in the matter such that mandamus will lie to compel issuance of the requisite permit [citing an Alabama case, *Pritchett v. Nathan Rogers Constr. & Realty Corp.*, 379 So.2d 545 (Ala.)].

Factors used to determine whether a moratorium is reasonable are the length of the moratorium in relation to the reasons given for its establishment, and the steps taken to remedy the problem. For example, in the *Victoria County* case, the sewer plant had become overloaded due to an increase in the number of homes, and large amounts of raw sewage were being discharged in to the creek.

C. Temporary Taking

A disgruntled property owner may bring a temporary taking action, alleging that the moratorium deprives him of all economically viable use of his property for the period of its duration. Such actions typically do not succeed, because most property retains substantial value during the period of the moratorium. In other words, the value of property over time must be considered in determining whether a taking has occurred. In a recent Minnesota decision, decided after the Supreme Court's recent decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (U.S. 1992), the Court upheld a two-year moratorium against a temporary taking challenge. In the Texas case *Victoria County* (cited above), the Court upheld a 7 1/2 year sewer moratorium.

3. SEWER RATIONING

A. Generally

Well managed communities, like Addison, have tried to plan ahead and avoid the kind of critical-mess planning that leads to a "sewer is full" case. Those communities foresaw the capacity limitation before it was reached and adopted a program to allocate the remaining capacity among competing users. In some cases, the competition for that capacity was between users inside the boundaries of the entity providing service and users outside those boundaries. In other cases the competition was among competing users within the same boundaries.

These cases are more difficult than the "sewer is full" cases, because any particular user can always argue, "the city at least has room for my five units," and generally be correct. The local government does not have the easy response of "the sewer is full and there is nothing the city can do about it." Nevertheless, there is support for the need for advance planning and cases have upheld the local government's allocation of remaining system capacity. *P-W Investments, Inc. v. City of Westminster*, 655 P. 2d 1365 (Colo. 1982).

In my opinion the Addison Ordinance is a proper exercise of police power. The Town simply desires to control development in light of known capacity limitations and steps are underway to remedy the problem. Ordinance 091-013 is therefore constitutional.

4. EXISTING CAPACITY

Addison's wastewater contract with Farmers Branch has expired and the parties now operate under a series of 90-day interim agreements since they have not been able to agree

on a longer term arrangement. Specifically Farmers Branch has requested the right to approve all new building permits issued by Addison for projects in the Farmers Branch Basin.

Because Farmers Branch is a public entity and utility provider, we believe Farmers Branch has a legal duty to act responsibly and cannot realistically hope to discontinue transmission of Addison's wastewater (at least not without a lengthy, costly, and high risk legal battle). Accordingly, perhaps continuing with the series of 90-day interim agreements is a viable course so long as progress continues on the Tunnel.

The City Engineer should continue to analyze remaining capacity and issue sewer certificates as contemplated by the Ordinance. Once capacity has been exhausted, the Ordinance contemplates that no further sewer certificates would issue thereby in effect creating a moratorium.

RAWHIDE CREEK SEWER CAPACITY
MAY 6, 1993

Existing Capacity
 Optimistic 260 million gallons/year
 Pessimistic 230 million gallons/year

Existing Estimated Flow - 192 to 204 million gallons/year

Available Capacity - 26 to 68 million gallons/year

<u>Existing Sewer Reservations</u>	<u>Units</u>	<u>Sewer Requirements Gallons/Year</u>
Houses under construction	100	9,125,000
Vacant lots		
(Waterford Park II and Les Lacs)	59	5,380,000
Grand Addison II (cluster homes)	76	6,935,000
K-Mart / Winn-Dixie		6,000,000
Outback Steakhouse		3,500,000
Hoffbrau Steakhouse		4,000,000
Waterford Court	196	<u>12,520,000</u>
	SUB-TOTAL	47,460,000

<u>Projects Without Firm Commitments</u>	<u>Units</u>	<u>Sewer Requirements Gallons/Year</u>
Fresh Choice Restaurant		3,500,000
Applebee's Restaurant		4,000,000
↖ Addison Road Restaurant		3,500,000
I-Hop		3,500,000
Chick-Fil-A		2,500,000
Blockbuster/Jasons Deli		3,000,000
Grand Addison III (cluster homes)	96 lots	8,750,000
K-Mart Center Residential	43 lots	3,900,000
K-Mart Phase II		9,000,000
*Les Lacs Mirada Phase II (150 units or 50 lots)		9,580,000
*McCutchin Tract		8,000,000
**Snaydon Property	400	<u>25,550,000</u>
	SUB-TOTAL	70,550,000

Other Less Firm Proposals

North of K-Mart Center
 Redevelopment of SSBA
 Vacant Land at Surveyor and Beltway
 Vacant Lots in Midway Meadows
 Redevelopment of Yoplait Plant

*Actually in Farmers Branch Basin but could easily transfer to Rawhide.

**Could transfer to Dallas via onsite lift station and line construction from the site to Arapaho and the Tollway. Dallas system also has capacity constraints.

Consoer



CITY ENGINEER'S OFFICE

Post Office Box 144 Addison, Texas 75001

(214) 450-2886

16801 Westgrove

June 21, 1993

**Mr. Gary Oshel
City of Farmers Branch
P.O. Box 819010
Farmers Branch, Texas
75381-9010**

**RE: Engineering Invoices 14 and 15 - Addison Farmers Branch
Sewer Tunnel**

Dear Gary:

The Town of Addison concurs with your recommendation for payment of Consoer Townsend's fourteenth and fifteenth invoice in the amount of \$57,802.95.

Sincerely,

**John R. Baumgartner, P.E.
City Engineer**

JRB/js

ORDINANCE NO. 512

AN ORDINANCE OF THE CITY OF ADDISON, TEXAS, REGULATING THE QUALITY OF DISCHARGES INTO THE SANITARY SEWER SYSTEM OF THE CITY; PROVIDING FOR THE PAYMENT OF ADDITIONAL CHARGES BY CERTAIN USERS OF THE SANITARY SEWER SYSTEM; PROVIDING FOR THE PAYMENT OF CHARGES FOR TESTING WASTEWATER FLOWS; PROVIDING FOR THE ACCUMULATIVE EFFECT OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. No user of the City Sanitary Sewer System shall discharge wastes into said system which are determined by the City Manager of Addison, or his duly appointed representative, to be harmful to the sewer system of the City. In no event shall discharges be permitted which will result in the wastewater flow from the City into the system of the Trinity River Authority not satisfying the standards for quality established in that certain contract dated August 30, 1973, between the City of Farmers Branch and the Trinity River Authority, nor shall discharges exceed the limits of the contract between the City of Dallas and the City of Addison dated January 26, 1976. The quality of wastewater shall be measured at the point of entry as provided in said contract.

Article IV of said contract between Farmers Branch and Trinity River Authority, entitled "Quality and Testing", Section Two of said

Contract #76-35 stating the "Quality and manner of testing between Addison and the City of Dallas" is hereby adopted by reference and shall have the same effect in the interpretation of this ordinance as if copied herein in full.

Any discharge into the sanitary sewer system of the City which results in the wastewater flow of the City not meeting the requirements of said contract shall be immediately terminated upon notice or shall be given pre-treatment by the discharger, prior to entry into the system, to the extent required by the City.

SECTION 2. In the event that additional charges are imposed upon the city because of its discharge of over-strength wastewater, such additional charges shall be distributed in an equitable manner among the users of the system who are either wholly or partially responsible for such over-strength wastewater. In distributing such charges, the City shall use certain contracts dated August 30, 1973 and January 26, 1976, as previously recited, in determining the acceptable quality of wastewater and the amount of any additional charges to be assessed against individual users of the system.

SECTION 3. The cost of any testing of remedial action required of the City because of the discharge of over-strength wastewater shall be apportioned in an equitable manner among users of the system who were found to be either wholly or partially responsible for such abnormal strength wastewater.

SECTION 4. The requirements of this ordinance shall be accumulative of and in addition to the requirements of all other ordinances of the City regulating use of the sanitary sewer system or health and safety requirements of the City.

SECTION 5. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or portion thereof, other than the portion so decided to be invalid or unconstitutional.

SECTION 6. The fact that there is no ordinance setting forth these specific standards for the use of the sanitary sewer system creates an urgency and an emergency and requires that this ordinance be effective from and after its passage and publication of the caption as provided by law and the Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ADDISON, TEXAS, this the 12th day of June, 1979.

MAYOR



ATTEST:

Jacque Sharp
CITY SECRETARY



M E M O R A N D U M

February 8, 1993

TO: The Honorable Mayor & City Council
FROM: Ron Whitehead, City Manager
SUBJECT: Interim Outfall Sewer Agreement

We have been operating under interim outfall sewer agreements with the City of Farmers Branch for the past number of years. This was the result of a lawsuit which found that Farmers Branch did not have to respond to our request for additional capacity even though we had an agreement that they would accommodate our sewer flow for 50 years. The court said that a city council could not commit future councils to open-ended contracts and expenses. We agreed that if they were going to cancel the contract, then we should receive all of the land back between Spring Valley Road and LBJ Freeway. We had allowed Farmers Branch to annex this part of Addison in exchange for the sewer agreement.

The court did not grant this request either, although we did not pursue it completely because Farmers Branch initiated some discussion about the possibility of entering into an interim agreement to accept our sewer flow and to consider the sewer tunnel concept. Prior to this we had explored the idea of pumping everything into the Carrollton system, but there were some problems with capacity in the Trinity River Authority (TRA) lines coming from Carrollton. We also looked at building a sewer treatment facility and determined that it could be done for about the same cost as the tunnel, but it was not a business we preferred to be in, if we could avoid it.

Meanwhile, Farmers Branch had a system that was mainly in their creeks. In order to enlarge the pipes in the creeks to gain more capacity for themselves, they would have to enter the creek system with large equipment, but determined that this would be very disruptive to their citizens. In fact, in many instances they did not have easements from property owners abutting the creek, so they were not sure how they would do it.

We jointly hired Consoer, Townsend & Associates, Inc., to design a sewer tunnel project for us. We decided to finance the project by passing on the cost to all rate payers in Addison.

Farmers Branch chose to create a Public Improvement District (PID), so that only the commercial properties on their east side would pay for the construction of the new tunnel. We created the North Dallas County Water Supply Corporation in order to monitor the progress of this project, and have met on a regular basis since its creation in March of 1991. We have been ready to fund the project since the inception but have patiently awaited the formation of the PID by the City of Farmers Branch.

During the last five years we have actually experienced a decline in the overall amount of sewer we have sent through the Farmers Branch System. This was the result of the economy and some aggressive actions we took to give relief in the Rawhide Creek Basin, which are outlined in John Baumgartner's memo to me dated January 25, 1993.

In late 1991, we began to sense that development was beginning to take off again in the Rawhide Creek Basin, so the staff recommended the construction of an interim lift station to allow us to pump 130 million gallons a year to Dallas. Dallas agreed in essence to allow us to borrow this capacity from the undeveloped lands on the east side of town until we construct the sewer tunnel. This would allow us another 130 million gallons in the Rawhide Creek Basin. Based on the 1986 flow of 230 million gallons, we felt we would be able to leave 100 million gallons of existing flow in that basin, and we would gain 130 million gallons for new construction. We spent \$450,000 constructing this lift station.

We had operated under an agreement that said we could place flow into the system that was 105% of our 1986 flow. This was higher than our flows in 1991, so we thought with new construction and the diversions to the Dallas system, that we would be fine until the tunnel was constructed. We were trying to survive until the tunnel came on line, which we thought would be late 1993. The PID process has obviously pushed that time frame back.

The week before I was terminated last year, Farmers Branch sent us a new interim sewer agreement that was different from the ones we had executed in the past. This agreement restricted the flow but allowed us to build 280 single family homes in the Rawhide Creek Basin. The Council did not act on this agreement.

The City of Farmers Branch was sensitive to the political turmoil in Addison and did not press the issue of the interim sewer agreement. We have operated under the September 1991 agreement, but we received other requests to act on the new agreement from Farmers Branch. In their defense, we were not timely in responding because we were very busy. Frankly, with the construction of the new lift station, we did not understand the concern because we thought we were addressing the problem. In fact, we still feel that way today.

The newest interim sewer agreement is the result of various meetings between the staffs. This agreement calls for no new construction in the Farmers Branch Creek Basin in Addison and would allow us 160 million gallons in the Rawhide Creek Basin. We have requested 195 million gallons in the Rawhide Creek Basin and 12 million gallons in Farmers Branch Creek. The 195 million gallons would allow 35 million gallons remaining for use by Farmers Branch. Farmers Branch has asked that we leave 70 million gallons for future use and our concern is that we know we have a need for 176 million gallons over the next year to 18 months. Our philosophy has been to try to allow development in both communities until the tunnel has been built. The Rawhide Creek Basin in Farmers Branch is almost completely developed, and we feel that the 35 million gallons would allow for expansions to existing facilities or changes in use over the next two to three years. They have stated that they do not have a project pending in that basin at this time. Over that time period we might find other efficiencies or changes that would allow both communities to continue developing until the tunnel is constructed.

The Farmers Branch Creek Basin is one that they say is at capacity but has some finite amount left in it that they would like to reserve for their use.

We have felt that there should be some flexibility in this basin and consequently have only requested 12 million gallons a year. Again, we are not trying to consume all of the capacity and ignore Farmers Branch's needs. We would like to find solutions that would work for both cities.

I find it hard to accept the notion that we are just a customer in this relationship. I have a hard time switching from being a customer to being a partner in the tunnel and spending \$15 million of Addison's funds. We have been, and still are, ready to do that! It seems that is, and should be, the priority for both communities.

Farmers Branch passed a resolution last week creating the PID and now will enter the public comment phase. That process should be completed by May, and we could conceivably begin construction of the tunnel this summer. If all of this is on go, then we would be more comfortable with a more flexible approach. It seems a shame for either community to miss development opportunities because we have been too conservative.

The options are as follows:

1. Adopt the most recent submittal from Farmers Branch and stop construction in the Farmers Branch Creek Basin and restrict growth in the Rawhide Creek Basin to an additional 60 million gallons a year.

This would not allow construction of all of the projects we estimate will need 76 million gallons in John Baumgartner's memo of January 25, 1993.

It is what the Farmers Branch staff prefers, and it would cause us to not be in conflict at a time when we should be applauding our ability to work together because of the tunnel project coming to fruition.

2. Adopt a revised agreement indicating our desire to have 195 million gallons in there Rawhide Creek Basin and 12 million gallons in the Farmers Branch Creek Basin.

This would accommodate our needs in Rawhide Creek Basin, but would restrict, but not totally eliminate, new construction in the Farmers Branch Creek Basin.

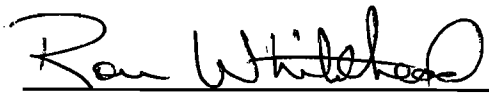
This would allow both communities to continue to develop, but would be more flexible than the Farmers Branch recommendation.

I have worried about this quite a bit because I do not understand why we are not being aggressive and positive at this juncture. Yes, we have some restrictions on our capacities, but Addison has aggressively sought solutions to the problem through our diversions to Dallas, which have cost us over \$450,000 and our commitment to eliminate inflow and infiltration. Additionally, we are about to embark on a \$25 million dollar project to solve both cities problems with sewer forever. We need to have both communities prosper for the next three years until the tunnel is complete, or we will both miss this development cycle.

3. Search for alternatives, but not be forced to enter into a contract that ceases development in one basin and restricts it to 60 million gallons in the other.

Sewer has been a problem for my entire existence in this community for both Addison and Farmers Branch. My question is, "Why can't we survive together for three (3) more years until we construct the ultimate solution, the tunnel?"

I look forward to discussing this with you further at the Council Meeting.



Ron Whitehead

RW:mc

JAN 26



CITY ENGINEER'S OFFICE

Post Office Box 144 Addison, Texas 75001

(214) 450-2886

16801 Westgrove

MEMORANDUM

TO: Ron Whitehead, City Manager
FROM: John Baumgartner, City Engineer
DATE: January 25, 1993
SUBJECT: Sewage Flow Flowing to Farmers Branch

This memo is intended to summarize the significant events that have taken place in Addison over the previous years that impact the sewer flow to Farmers Branch or are anticipated to take place prior to the completion of the sewer tunnel in 1996.

March 1985 Purchased grout packing equipment and enhanced program to reduce inflow and infiltration.

December 1986 Addison enters into the first of the interim sanitary sewer agreements with Farmers Branch. Sewage flow is limited to 105% (see Exhibit A) of 1986 flows.

October 1990 Flow is diverted from the airport and Addison Road from D1 to E.

January 1991 The Yoplait plant closes reducing sewage flows by approximately twelve (12) million gallons a year.

Early 1992 Diverted flow from the south side of Belt Line Road and Midway Meadows to Marsh Lane North.

July 1992 Insituformed 2200 feet of clay tile sewer line in the Brookhaven Club area at a cost of \$140,000.

January 1993 Interim lift station is completed at an estimated cost of \$450,000.

Summer 1993 Budgeted \$125,000 to continue the insituform projects in the Brookhaven area.

In December 1991, Farmers Branch approached the Town with a new agreement that significantly reduced the volume of allowable sewage flow. Since January 1, 1992 the following projects have been submitted to the Town for new building permits.

Rawhide Creek Basin

- 1) Centex Homes - 88 new homes
- 2) Designer Homes - 25 new homes
- 3) Grand Homes - 49 new homes
- 4) Pacific American Homes - 8 new homes
- 5) Jim Jenne Homes - 17 new homes

- 6) David Weekly Homes - 10 new homes
 - 7) Midway Meadows - 1 new home
 - 8) Paul Aylor Homes - 41 new homes
 - 9) Sam's
 - 10) Shoney's
 - 11) Spaghetti Warehouse
- Estimated Sewage Flow - 31 million gallons per year

Farmers Branch Creek Basin

- 1) Scott Felder Homes - 35 new homes
 - 2) General Mills Restaurants
- Estimated Sewage Flow - 15 million gallons per year

Proposed new development consists of the following:

Rawhide Creek Basin

- 1) Centex Homes - 92 new homes
 - 2) Grand Homes - 143 new homes
 - 3) Designer Homes - 15 new homes
 - 4) K-Mart Retail Center - approximately 450,000 square feet
 - 5) Hoffbrau Steakhouse
 - 6) Spring Creek Barbecue
 - 7) Two (2) Addison Road Restaurants
 - 8) Les Lacs City Homes - 196 units
- Estimated Sewage Flow - 76 million gallons per year

Farmers Branch Creek

- 1) Doyle Cameron - 50 single family lots
 - 2) McCutchin Development
- Estimated Sewage Flow - 13 million gallons per year

I would propose that Addison limit growth to tenant finish out in existing buildings and limit new construction to finish the General Mills Restaurants and the flow equivalent to 8 million gallons a year (approximately 12,000 square feet of restaurants or 88 single family homes) in the Farmers Branch Basin.

In the Rawhide Creek Basin, Addison will limit growth to a maximum flow of 195 million gallons per year. This equates to our average historical flows from 1987 to average 1992 plus 280 single family homes. This is significantly less than our historical highs of 273.1 million gallons per year in 1982, 219 million gallons per year in 1986 and 230 million gallons per year in 1987.

Please call me if you have any questions or need additional information.

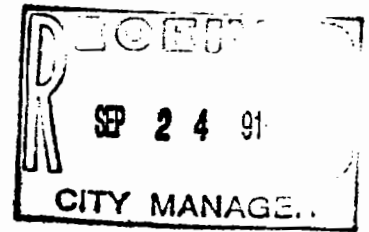
**EXISTING INTERIM SANITARY SEWER AGREEMENT
WITH FARMERS BRANCH THROUGH 1991**

Year	Farmers Branch Creek (mg)	Rawhide Creek (mg)	Total (mg)
1979	227.0	65.7	292.7
1980	207.8	61.4	269.2
1980-81	219.3	49.9	269.2
1981-82	304.5	273.1	577.5
1982-83	341.5	194.3	535.8
1983-84	368.4	205.5	573.9
1984-85	372.4	187.3	559.7
1985-86	363.6	219.1	582.7
1986-87	344.2	230.0	574.2
1987-88	338.3	172.1	510.4
1988-89	384.0	166.1	550.1
1989-90	399.0	164.8	563.8
1990-91	376.4	138.8	515.2
1991-92	358.3	167.6	525.9

Allowable flow = (582.2)(1.05)=611.mg
Based on 105% of 1986 flow



**FARMERS
BRANCH**



September 23, 1991

Mr. Ron Whitehead
City Manager
Town of Addison
P.O. Box 144
Addison, Tx 75001

Dear Mr. Whitehead:

Enclosed for your signature is the Interim Outfall Sewer Agreement between the Town of Addison and the City of Farmers Branch. The agreement remains the same as our previous agreement. Four copies of the agreement have been enclosed. Please sign and return three copies to the City of Farmers Branch.

Sincerely,

Jerome V. Murawski, Jr., P.E.
City Engineer

JVM/en

Enclosures

INTERIM OUTFALL SEWER
AGREEMENT BETWEEN THE TOWN OF
ADDISON AND THE CITY OF FARMERS BRANCH

STATE OF TEXAS
COUNTY OF DALLAS

§
§
§

THIS AGREEMENT; entered into by and between the Town of Addison, a Texas Municipal Corporation, acting by and through its City Manager, hereinafter referred to as "Addison", and the City of Farmers Branch, a Texas Municipal Corporation, acting by and through its City Manager, hereinafter referred to as "Farmers Branch".

WITNESSETH:

SECTION 1. Covenants of Farmers Branch.

a. Farmers Branch hereby agrees to provide transportation of sewage generated from the Rawhide Creek and Farmers Branch Creek drainage basins within Addison through Farmers Branch's sanitary sewer system lying within Farmers Branch.

b. Farmers Branch agrees to allow the Addison sewage to flow through Farmers Branch sanitary sewer system to the Trinity River Authority's present sewer collection point west of Interstate Highway 35E and south of Interstate Highway 635.

c. Farmers Branch agrees to charge Addison 120% of the fee charged to Farmers Branch by the Trinity River Authority for the duration of this interim agreement based upon measured sewage flows through the existing five entry points into the Farmers Branch sewer system from the Addison sewer system. The five entry points are noted on the attached sketch labeled Exhibit A.

SECTION 2. Covenants of Addison.

a. Addison agrees to limit its sewage flows to 105% of the 1986 flows flowing through the five entry points previously described or until current sewage system capacity is reached, for the duration of this interim agreement or until such time as an improved outfall sewer system has been provided, which ever shall occur first.

b. Addison agrees to limit its sewage flows to whatever extent is necessary to reduce, prevent and/or

eliminate any spill, overload or overflow of Farmers Branch's sewer system constituting a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency.

c. In the event of any spill, overload or overflow for which Addison has a contributory responsibility, and which constitutes a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency, Addison agrees to reimburse Farmers Branch for the costs of any fines or penalties.

d. Addison agrees to enforce the Sewer Use Ordinance, Addison Ordinance No. 087-004, which ordinance incorporates the basic terms and conditions of Farmers Branch Ordinance No. 1555. Addison agrees to amend this ordinance to reflect the basic terms and conditions of any amendments to Farmers Branch Ordinance No. 1555.

SECTION 3. Mutual Covenants.

Addison and Farmers Branch agree that this is an interim agreement entered into to allow sufficient time for the implementation of the engineering study which was done under a previous agreement between Addison and Farmers Branch. This study developed a conceptual design for an increased capacity outfall sewer system which will fulfill the present and future growth needs of both cities. It is the intent of this contract that Farmers Branch and Addison will enter into a long term agreement establishing each City's share of costs, operations, maintenance, design and construction for the proposed sewer system.

SECTION 4. Compliance with State and Federal Regulations.

a. (1) To enable the highest degree of treatment in the most economical manner possible, and to comply with Federal and State regulations, certain solids, liquids and gases are hereby prohibited from entering the Farmers Branch system in excess of standards as set by said Federal and State regulations. The prohibitive discharges listed in Farmers Branch Ordinance No. 1555 shall also apply at the Points of Entry to the Farmers Branch Wastewater System.

(2) Federal and State regulatory agencies periodically modify standards on prohibitive discharges; therefore, revision to, additions to, or deletions from the items listed in this section will become necessary to comply with these latest standards. It is the intention of this interim agreement that prohibitive discharge requirements be reviewed periodically by Farmers Branch and revised in accordance with the latest standards of

any federal or state agency having regulatory powers. Any required revisions shall be made and written notice thereof given to Addison. Addison shall be responsible for integrating such changes into the local industrial waste ordinance and notifying all affected users of the change within ninety (90) days following written notice to Addison of such change.

b. To determine quality of Wastewater, Farmers Branch will collect composite samples of Wastewater at each point of entry to the Farmers Branch Wastewater System and cause same to be analyzed in accordance with testing procedures as set forth in the latest edition of Standard Methods of Examination of Water and Wastewater, published by American Public Health Association, Inc. Composite samples will normally be taken quarterly or at more frequent intervals if necessary to determine Wastewater quality. Such Wastewater shall not exceed the limits of concentration specified for Normal Wastewater as follows:

Normal Wastewater Concentration

BOD	250 mg/l
SS	250 mg/l
ph,	not less than 5 nor greater than 10
Hydrogen Sulfide	1.0 mg/l

Should the analysis disclose concentrations higher than those listed, Farmers Branch will at once inform Addison of such disqualification. It shall be the obligation of Addison to require the offending discharger of said highly concentrated materials to undertake remedial measures to bring discharge concentrations within acceptable limits. Farmers Branch will cooperate with Addison in reaching a satisfactory solution but will not undertake to specify the measures that will be employed to bring those over-strength discharge concentrations within acceptable limits. In some cases of over-strength Industrial Waste, the industry discharging the over-strength waste, and Addison, may be desirous, and Farmers Branch may be agreeable to negotiate terms under which Farmers Branch will accept the over-strength wastes, but Farmers Branch makes no commitment to perform such service.

c. (1) The effects of certain types of Industrial Waste upon wastewater and wastewater treatment processes are such as to require that careful consideration be made of each industrial connection. This is a matter of concern both to Farmers Branch and to Addison. Addison covenants that it will have in effect and will enforce a sewer use ordinance in accordance with Federal and State regulations or departments having lawful jurisdiction to set standards for waste discharges.

(2) Addison shall, by ordinance, require all Significant Industrial Users as defined by Farmers Branch Ordinance No. 1555 that ultimately discharge into the Farmers Branch wastewater system to obtain an industrial waste discharge permit. Addison agrees to issue permits to Displaytek Corporation and Circuit Automation, Incorporated within thirty (30) days of entering into and executing this agreement.

(3) Farmers Branch shall be provided a copy of the application and permit within 14 days after issuance. No Industrial User shall be allowed to connect to the sewer system discharging to the Farmers Branch Wastewater System without at least 30 days prior notification being given by Addison to Farmers Branch of the intent to connect. Addison also agrees to provide Farmers Branch with information pertaining to the expected volume and composition of the new-discharge.

(4) Addison agrees to implement and enforce U.S. Environmental Protection Agency approved pretreatment program with respect to Industrial Users discharging into the Farmers Branch system. Furthermore, Addison shall, at any reasonable time upon request by Farmers Branch, produce pretreatment program records for review by Farmers Branch.

(5) Addison agrees that U.S. Environmental Protection Agency Pretreatment Program for Industrial Wastes will be maintained to insure continuing approval from the EPA.

(6) Addison agrees to seek injunctive relief against those Industrial Users whose discharge interferes with the Trinity River Authority's treatment system, poses an imminent danger to public health or when the specific industry is not making sufficient progress toward compliance or completing an Addison approved pretreatment plan.

(7) Addison agrees that Farmers Branch shall have the right to sample wastewater discharges at points of entry to the Farmers Branch wastewater system for the purpose of determining the type and strength of discharges.

(8) Addison agrees that any individual Industrial User found in violation of allowable discharges or any individual Industrial User who refuses access for the purpose of sampling shall be disconnected from Addison's and Farmers Branch's wastewater system. Provided however, that the violating Industrial User

shall be afforded all rights, privileges of appeal and deficiency cure periods as provided under Addison Ordinances. Addison agrees to provide public notification for instances of violation as required in 40 CFR 403.

THIS INTERIM AGREEMENT is effective as of June 24, 1991, and shall remain in force until December 23, 1991, unless extended by mutual agreement of both parties, or unless terminated by breach of any provisions of SECTION 2. Breach of any provision of SECTION 2 shall cause termination of this agreement within 30 days.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Amendatory Interim Agreement to be duly executed in several counterparts, each of which shall constitute an original, all as of the 24th day of September, 1991.

ATTEST:

CITY OF ADDISON

C. Moran
City Secretary

R. W. [Signature]
City Manager

APPROVED AS TO FORM

Town Attorney

ATTEST:

CITY OF FARMERS BRANCH

[Signature]
City Secretary

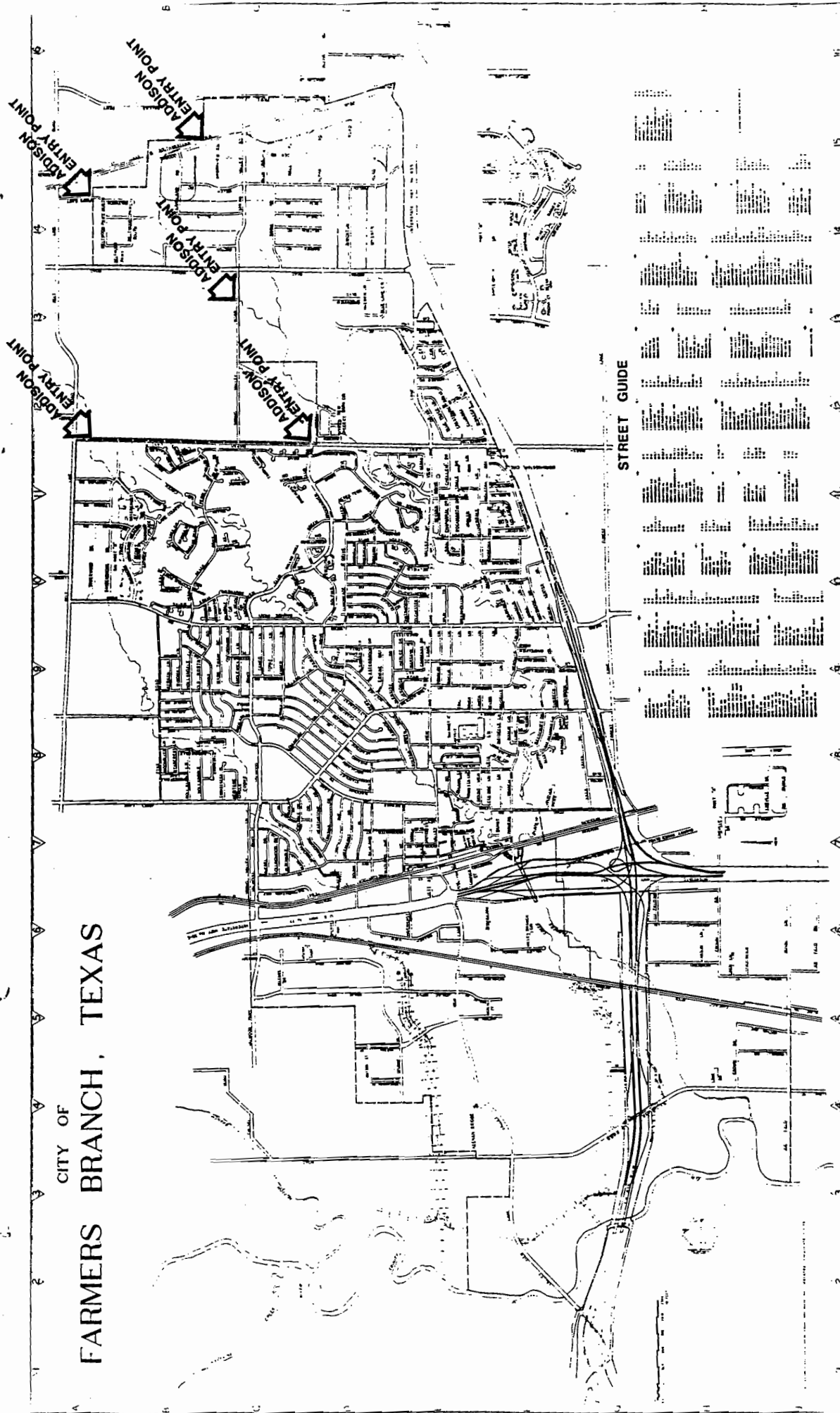
[Signature]
City Manager

Date: 9-20-91

APPROVED AS TO FORM

[Signature]
City Attorney

CITY OF
FARMERS BRANCH, TEXAS



Nov 1991

**INTERIM OUTFALL SEWER
AGREEMENT BETWEEN THE TOWN OF
ADDISON AND THE CITY OF FARMERS BRANCH**

STATE OF TEXAS

COUNTY OF DALLAS

THIS AGREEMENT; entered into by and between the Town of Addison, a Texas Municipal Corporation, acting by and through its City Manager, hereinafter referred to as "Addison", and the City of Farmers Branch, a Texas Municipal Corporation, acting by and through its City Manager, hereinafter referred to as "Farmers Branch".

WITNESSETH:

SECTION 1. Covenants of Farmers Branch.

a. Farmers Branch hereby agrees to provide transportation of sewage subject to the limitations identified in Section 2, generated from the Rawhide Creek and Farmers Branch Creek drainage basins within Addison through Farmers Branch's sanitary sewer system lying within Farmers Branch.

b. Farmers Branch agrees to allow the Addison sewage to flow through Farmers Branch sanitary sewer system to the Trinity River Authority's present sewer collection point west of Interstate Highway 35E and south of Interstate Highway 635.

c. Farmers Branch agrees to charge Addison 120% of the fee charged to Farmers Branch by the Trinity River Authority for the duration of this interim agreement based upon measured sewage flows through the existing five entry points into the Farmers Branch sewer system from the Addison sewer system. The five entry points are noted on the attached sketch labeled Exhibit A.

SECTION 2. Covenants of Addison.

a. Addison agrees to limit its sewage flows at each of the five entry points for the duration of this interim agreement or until such time as the improved outfall system has been provided, whichever shall occur first as follows:

Rawhide Creek - the sewage flow shall be limited to the current monthly flow generated in the 12 months preceeding execution of this agreement and the addition of sewage flows, generated by 280 single-family and/or multi-family dwelling units presently under construction in Addison.

Brookhaven Road - the sewage flow shall be limited to the current monthly flow generated in the 12 months preceding execution of this agreement.

Spring Valley Road - the sewage flow shall be limited to the current monthly flow generated in the 12 months preceding execution of this agreement.

Inwood Road - the sewage flow shall be limited to the current monthly flow generated in the 12 months preceding execution of this agreement.

Beltway - the sewage flow shall be limited to the amount of flow generated from the following addresses:

4568 thru 4580, and 4600 Belt Line Rd.,
the 15000 Blk of Beltwood Pkwy.,
the 14600, 14700, and 14800 Blks of Inwood Rd.

Since the sewage flow is not metered, the amount of sewage flow shall be considered as the 80% of the amount of water metered to these properties.

b. Addison agrees to inform Farmers Branch of proposed increases in sewage flows due to additional sewer connections, changes in land use, and changes in building use; and the methods that Addison will implement to mitigate the proposed increases beyond the limits set forth in Section 2a of this agreement. Addison may contract for additional capacity within a given drainage basin through a supplemental agreement which shall incorporate the means for making additional capacity available, and the means of financing those improvements to provide additional capacity.

c. Addison agrees to limit its sewage flows to whatever extent is necessary to reduce, prevent and/or eliminate any spill, overload or overflow of Farmers Branch's sewer system constituting a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency.

d. In the event of any spill, overload or overflow for which Addison has a responsibility, and which constitutes a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency, Addison agrees to reimburse Farmers Branch for the costs of any fines or penalties.

e. Addison agrees to enforce the Sewer Use Ordinance, Addison Ordinance No. 087-004, which ordinance incorporates the basic terms and conditions of Farmers Branch Ordinance No. 1967. Addison agrees to amend this ordinance to reflect the basic terms and conditions of any amendments to Farmers Branch Ordinance No. 1967.

SECTION 3. Mutual Covenants.

Addison and Farmers Branch agree that this is an interim agreement entered into to allow sufficient time for the implementation of the Addison-Farmers Branch sanitary sewer interceptor.

SECTION 4. Compliance with State and Federal Regulations.

a. (1) To enable the highest degree of treatment in the most economical manner possible, and to comply with Federal and State regulations, certain solids, liquids and gases are hereby prohibited from entering the Farmers Branch system in excess of standards as set by said Federal and State regulations. The prohibitive discharges listed in Farmers Branch Ordinance No. 1967 shall also apply at the Points of Entry to the Farmers Branch Wastewater System.

(2) Federal and State regulatory agencies periodically modify standards on prohibitive discharges therefore, revision to, additions to, or deletions from the items listed in this section will become necessary to comply with these latest standards. It is the intention of this interim agreement that prohibitive discharge requirements be reviewed periodically by Farmers Branch and revised in accordance with the latest standards of any federal or state agency having regulatory powers. Any required revisions shall be made and written notice thereof given to Addison. Addison shall be responsible for integrating such changes into the local industrial waste ordinance and notifying all affected users of the change within ninety (90) days following written notice to Addison of such change.

b. To determine quality of Wastewater, Farmers Branch will collect composite samples of Wastewater. at each point of entry to the Farmers Branch Wastewater System and cause same to be analyzed in accordance with testing procedures as set forth in the latest edition of Standard Methods of Examination of Water and Wastewater, published by American Public Health Association, Inc. Composite samples will normally be taken quarterly or at more frequent intervals if necessary to determine Wastewater quality. Such Wastewater shall not exceed the limits of concentration specified for Normal Wastewater as follows:

Normal Wastewater Concentration

BOD	250 mg/1
SS	250 mg/1
ph, not less than 5 nor greater than 10	
Hydrogen Sulfide	1.0 mg/1

Should the analysis disclose concentrations higher than those listed, Farmers Branch will at once inform Addison of Such disqualification. It shall be the obligation of Addison to require

the offending discharger of said highly concentrated materials to undertake remedial measures to bring discharge concentrations within acceptable limits. Farmers Branch will cooperate with Addison in reaching a satisfactory solution but will not undertake to specify the measures that will be employed to bring those over-strength discharge concentrations within acceptable limits. In some cases of over-strength Industrial Waste, the industry discharging the over-strength waste, and Addison, may be desirous, and Farmers Branch may be agreeable to negotiate terms under which Farmers Branch will accept the over-strength wastes, but Farmers Branch makes no commitment to perform such service.

c. (1) The effects of certain types of Industrial Waste upon wastewater and wastewater treatment processes are such as to require that careful consideration be made of each industrial connection. This is a matter of concern both to Farmers Branch and to Addison. Addison covenants that it will have in effect and will enforce a sewer use ordinance in accordance with Federal and State regulations or departments having lawful jurisdiction to set standards for waste discharges.

(2) Addison shall, by ordinance, require all Significant Industrial Users as defined by Farmers Branch Ordinance No. 1967 that ultimately discharge into the Farmers Branch wastewater system, including, without limitation, Displaytek Corporation and Circuit Automation, Incorporated, to obtain an industrial waste discharge permit.

(3) Farmers Branch shall be provided a copy of the application and permit within 14 days after issuance. No Industrial User shall be allowed to connect to the sewer system discharging to the Farmers Branch Wastewater System without at least 30 days prior notification being given by Addison to Farmers Branch of the intent to connect. Addison also agrees to provide Farmers Branch with information pertaining to the expected volume and composition of the new-discharge. The expected volume is subject to the limitation of this agreement and any supplemental agreements.

(4) Addison agrees to implement and enforce U.S. Environmental Protection Agency approved pretreatment program with respect to Industrial Users discharging into the Farmers Branch system. Furthermore, Addison shall, at any reasonable time upon request by Farmers Branch, produce pretreatment program records for review by Farmers Branch.

(5) Addison agrees that U.S. Environmental Protection Agency Pretreatment Program for Industrial Wastes will be maintained to insure continuing approval from the EPA.

(6) Addison agrees to seek injunctive relief against those Industrial Users whose discharge interferes with the Trinity

River Authority's treatment system, poses an imminent danger to public health or when the specific industry is not making sufficient progress toward compliance or completing an Addison approved pretreatment plan.

(7) Addison agrees that Farmers Branch shall have the right to sample wastewater discharges at points of entry to the Farmers Branch wastewater system for the purpose of determining the type and strength of discharges.

(8) Addison agrees that any individual Industrial User found in violation of allowable discharges or any individual Industrial User who refuses access for the purpose of sampling shall be disconnected from Addison's and Farmers Branch's wastewater system. Provided however, that the violating Industrial User shall be afforded all rights, privileges of appeal and deficiency cure periods as provided under Addison Ordinances. Addison agrees to provide public notification for instances of violation as required in 40 CFR 403.

THIS INTERIM AGREEMENT is effective as of December 23, 1991 and shall remain in force until June 24, 1992 unless extended by mutual agreement of both parties, or unless terminated by breach of any provisions of SECTION 2. Breach of any provision of SECTION 2 shall cause termination of this agreement within 30 days.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Amendatory Interim Agreement to be duly executed in several counterparts, each of which shall constitute an original, this ____ day of 1990.

ATTEST:

TOWN OF ADDISON

City Secretary

City Manager

APPROVED AS TO FORM:

Attorney

ATTEST:

CITY OF FARMERS BRANCH

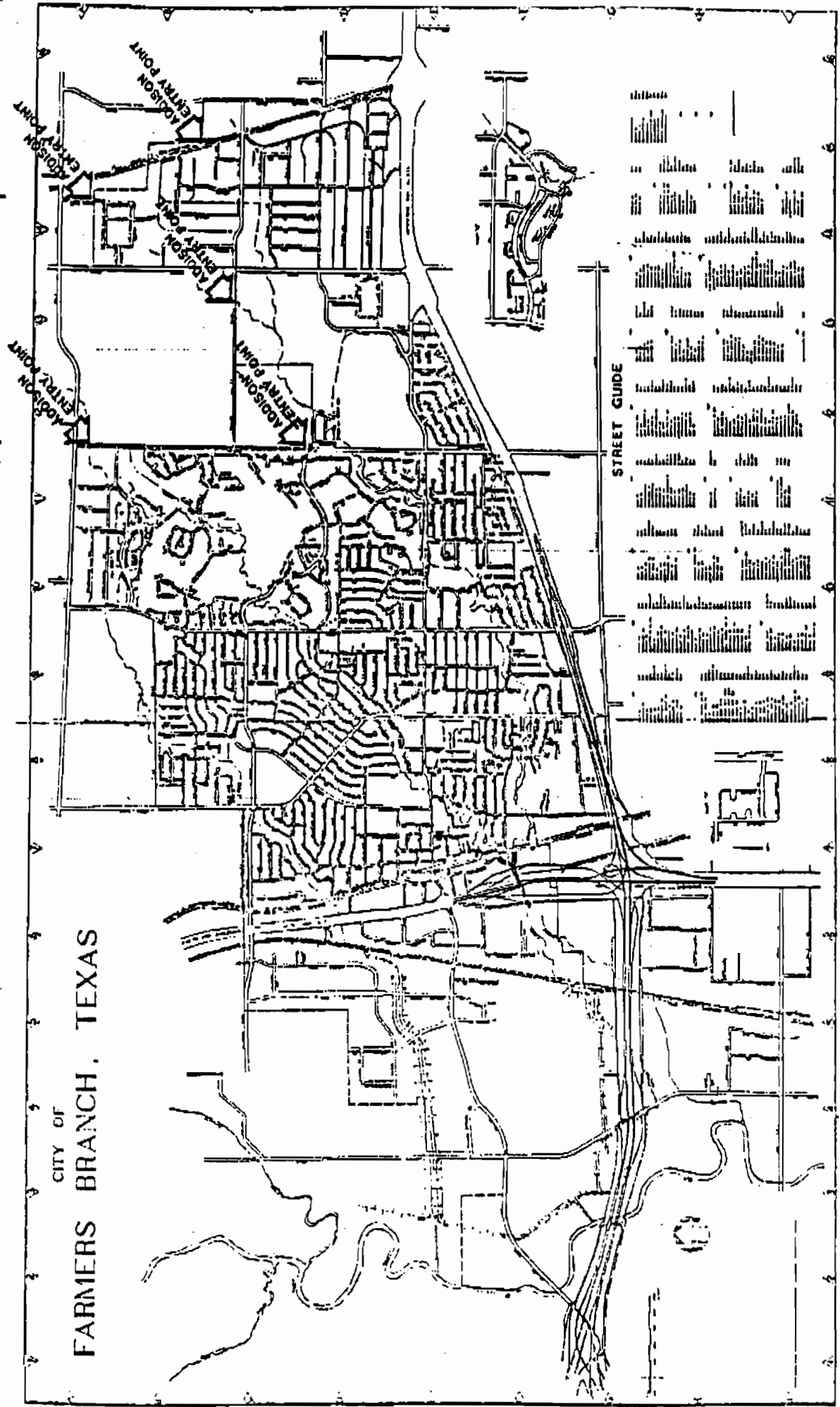
City Secretary

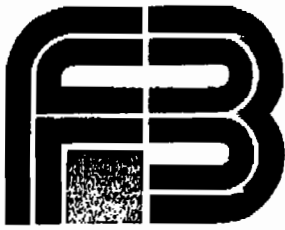
City Manager

Date: _____

APPROVED AS TO FORM:

City Attorney





**FARMERS
BRANCH**

February 5, 1993

John Baumgartner, P.E.
City Engineer
Town of Addison
P.O. Box 144
Addison Texas 75001

Dear Mr. Baumgartner:

Presently there is not an agreement in effect that provides the basis for the City of Farmers Branch to accept sanitary sewer effluent from the Town of Addison. The last interim sanitary sewer agreement expired on December 23, 1991. Since December 1991, the City of Farmers Branch has made several attempts to get Addison to execute a new interim sanitary sewer agreement.

The interim sanitary sewer agreement that was sent this week to the Town of Addison contains flow limits that are based on the available capacity in the Rawhide Creek and Farmers Branch Creek drainage basins. The flow limits are consistent with the limits contained within interim sanitary sewer agreement submitted to Addison in December 1991 that was not executed. The limits are supported by additional analysis of the basins that was performed in August 1992.

The exact capacities of the sewer lines that serve both cities cannot be exactly defined because of the age of the lines; however, all available data and analysis shows the lines to be near capacity. It is understood that the Town of Addison doesn't want to say no to additional development, the City of Farmers Branch has recently informed two developers that there is not sufficient capacity to handle their developments.

It is necessary to have an interim sanitary sewer agreement in place until the completion of the joint sanitary sewer project. We look forward to receiving the executed agreement from the Town of Addison.

Sincerely,

Jerome V. Murawski, Jr., P.E.
City Engineer

Feb 93

**INTERIM OUTFALL SEWER
AGREEMENT BETWEEN THE TOWN OF
ADDISON AND THE CITY OF FARMERS BRANCH**

STATE OF TEXAS

COUNTY OF DALLAS

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WITNESSETH:

SECTION 1. Covenants of Farmers Branch.

a. Farmers Branch hereby agrees to provide transportation of sewage subject to the limitations identified in Section 2, generated from the Rawhide Creek and Farmers Branch Creek drainage basins within Addison through Farmers Branch's sanitary sewer system lying within Farmers Branch.

b. Farmers Branch agrees to allow the Addison sewage to flow through Farmers Branch sanitary sewer system to the Trinity River Authority's present sewer collection point west of Interstate Highway 35E and south of Interstate Highway 635.

c. Farmers Branch agrees to charge Addison 120% of the fee charged to Farmers Branch by the Trinity River Authority for the duration of this interim agreement based upon measured sewage flows through the existing five entry points into the Farmers Branch sewer system from the Addison sewer system. The five entry points are noted on the attached sketch labeled Exhibit A.

SECTION 2. Covenants of Addison.

a. Addison agrees to limit its sewage flows at each of the five entry points for the duration of this interim agreement or until such time as the improved outfall system has been provided, whichever shall occur first as follows:

Rawhide Creek Basin - the sewage flow shall be limited to a total flow of 160 million gallons for the term of this agreement (12 months).

Farmers Branch Creek Basin - the sewage flow shall be limited to the flow averaged over the last two years generated from the basin. No changes in uses in existing buildings which affects sewage flow will be permitted. Addison agrees not to issue building permits (or other approvals which might affect sewage flows) without the prior approval of Farmers Branch, such approval (by the City Manager of Farmers Branch) shall be based solely on the determination that the amount of sanitary sewer flow will not have an adverse impact on the amount of sewage flow into the sewer line serving both Addison and Farmers Branch. Addison and Farmers Branch will conduct monthly meetings to monitor sewage flows to insure that there are not any adverse effects on the amount of sewage flow.

Beltway - the sewage flow shall be limited to the flow generated from the existing buildings at the following addresses:

4568 through 4580, and 4600 Belt Line Road,
15000 Block of Beltwood Parkway,
14600, 14700, and 14800 Blocks of Inwood Road.

Since the sewage flow is not metered, the amount of sewage flow shall be considered as 80% of the amount of water metered to these properties.

b. Addison may contract for additional capacity within a given drainage basin through a supplemental agreement which shall incorporate the means for making additional capacity available, and the means of financing those improvements to provide additional capacity.

c. Addison agrees to limit its sewage flows to whatever extent is necessary to reduce, prevent and/or eliminate any spill, overload or overflow of Farmers Branch's sewer system constituting a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency.

d. In the event of any spill, overload or overflow for which Addison has a responsibility, and which constitutes a violation of the rules and regulations of the Texas Water Commission and/or the U.S. Environmental Protection Agency, Addison agrees to reimburse Farmers Branch for the costs of any fines or penalties.

e. Addison agrees to enforce the Sewer Use Ordinance, Addison Ordinance No. 087-004, which ordinance incorporates the basic terms and conditions of Farmers Branch Ordinance No. 1967. Addison agrees to amend this ordinance to reflect the basic terms and conditions of any amendments to Farmers Branch Ordinance No. 1967.

SECTION 3. Mutual Covenants.

Addison and Farmers Branch agree that this is an interim agreement entered into to allow sufficient time for the implementation of the Addison-Farmers Branch sanitary sewer interceptor.

SECTION 4. Compliance with State and Federal Regulations.

a. (1) To enable the highest degree of treatment in the most economical manner possible, and to comply with Federal and State regulations, certain solids, liquids and gases are hereby prohibited from entering the Farmers Branch system in excess of standards as set by said Federal and State regulations. The prohibitive discharges listed in Farmers Branch Ordinance No. 1967 shall also apply at the Points of Entry to the Farmers Branch Wastewater System.

(2) Federal and State regulatory agencies periodically modify standards on prohibitive discharges therefore, revision to, additions to, or deletions from the items listed in this section will become necessary to comply with these latest standards. It is the intention of this interim agreement that prohibitive discharge requirements be reviewed periodically by Farmers Branch and revised in accordance with the latest standards of any federal or state agency having regulatory powers. Any required revisions shall be made and written notice thereof given to Addison. Addison shall be responsible for integrating such changes into the local industrial waste ordinance and notifying all affected users of the change within ninety (90) days following written notice to Addison of such change.

b. To determine quality of Wastewater, Farmers Branch will collect composite samples of Wastewater. at each point of entry to the Farmers Branch Wastewater System and cause same to be analyzed in accordance with testing procedures as set forth in the latest edition of Standard Methods of Examination of Water and Wastewater, published by American Public Health Association, Inc. Composite samples will normally be taken quarterly or at more frequent intervals if necessary to determine Wastewater quality. Such Wastewater shall not exceed the limits of concentration specified for Normal Wastewater as follows:

Normal Wastewater Concentration

BOD	250 mg/l
SS	250 mg/l
ph, not less than 5 nor greater than 10	
Hydrogen Sulfide	1.0 mg/l

Should the analysis disclose concentrations higher than those listed, Farmers Branch will at once inform Addison of Such disqualification. It shall be the obligation

of Addison to require the offending discharger of said highly concentrated materials to undertake remedial measures to bring discharge concentrations within acceptable limits. Farmers Branch will cooperate with Addison in reaching a satisfactory solution but will not undertake to specify the measures that will be employed to bring those over-strength discharge concentrations within acceptable limits. In some cases of over-strength Industrial Waste, the industry discharging the over-strength waste, and Addison, may be desirous, and Farmers Branch may be agreeable to negotiate terms under which Farmers Branch will accept the over-strength wastes, but Farmers Branch makes no commitment to perform such service.

c. (1) The effects of certain types of Industrial Waste upon wastewater and wastewater treatment processes are such as to require that careful consideration be made of each industrial connection. This is a matter of concern both to Farmers Branch and to Addison. Addison covenants that it will have in effect and will enforce a sewer use ordinance in accordance with Federal and State regulations or departments having lawful jurisdiction to set standards for waste discharges.

(2) Addison shall, by ordinance, require all Significant Industrial Users as defined by Farmers Branch Ordinance No. 1967 that ultimately discharge into the Farmers Branch wastewater system, including, without limitation, Displaytek Corporation and Circuit Automation, Incorporated, to obtain an industrial waste discharge permit.

(3) Farmers Branch shall be provided a copy of the application and permit within 14 days after issuance. No Industrial User shall be allowed to connect to the sewer system discharging to the Farmers Branch Wastewater System without at least 30 days prior notification being given by Addison to Farmers Branch of the intent to connect. Addison also agrees to provide Farmers Branch with information pertaining to the expected volume and composition of the new-discharge. The expected volume is subject to the limitation of this agreement and any supplemental agreements.

(4) Addison agrees to implement and enforce U.S. Environmental Protection Agency approved pretreatment program with respect to Industrial Users discharging into the Farmers Branch system. Furthermore, Addison shall, at any reasonable time upon request by Farmers Branch, produce pretreatment program records for review by Farmers Branch.

(5) Addison agrees that U.S. Environmental Protection Agency Pretreatment Program for Industrial Wastes will be maintained to insure continuing approval from the EPA.

(6) Addison agrees to seek injunctive relief against those Industrial Users whose discharge interferes with the Trinity River Authority's treatment system.

poses an imminent danger to public health or when the specific industry is not making sufficient progress toward compliance or completing an Addison approved pretreatment plan.

(7) Addison agrees that Farmers Branch shall have the right to sample wastewater discharges at points of entry to the Farmers Branch wastewater system for the purpose of determining the type and strength of discharges.

(8) Addison agrees that any individual Industrial User found in violation of allowable discharges or any individual Industrial User who refuses access for the purpose of sampling shall be disconnected from Addison's and Farmers Branch's wastewater system. Provided however, that the violating Industrial User shall be afforded all rights, privileges of appeal and deficiency cure periods as provided under Addison Ordinances. Addison agrees to provide public notification for instances of violation as required in 40 CFR 403.

THIS INTERIM AGREEMENT is effective as of February 15, 1993 and shall remain in force until February 15, 1994 unless extended by mutual agreement of both parties, or unless terminated by breach of any provisions of SECTION 2. Breach of any provision of SECTION 2 shall cause termination of this agreement within 30 days.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Amendatory Interim Agreement to be duly executed in several counterparts, each of which shall constitute an original, this _____ day of 1992.

ATTEST:

TOWN OF ADDISON

City Secretary

City Manager

APPROVED AS TO FORM:

Attorney

ATTEST:

CITY OF FARMERS BRANCH

City Secretary

City Manager

APPROVED AS TO FORM:

City Attorney

B:OUTFALL.AGR/AGREEMENTS
February 4, 1993



June 25, 1993

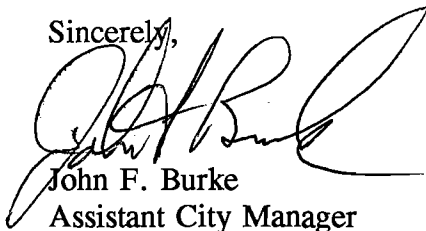
Mr. John Baumgartner, P.E.
City Engineer
Town of Addison
P.O. Box 144
Addison, Texas 75001

Dear John:

The Interim Outfall Sewer Agreement placed several conditions upon both Farmers Branch and Addison. Section 2.C of the Agreement states that "Addison agrees not to issue building permits within the basin without providing certification that such issuance will not increase the amount of sewage that flows into the Farmers Branch sewer line."

In order to comply with the letter and the intent of Section 2.C of the Agreement, Addison needs to provide this certification to Farmers Branch prior to any issuance of building permits. Your cooperation in complying with this provision in the future is appreciated.

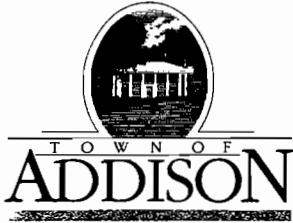
Sincerely,



John F. Burke
Assistant City Manager

JFB/en

ADDISON. LTR



CITY ENGINEER'S OFFICE

Post Office Box 144 Addison, Texas 75001

(214) 450-2886

16801 Westgrove

June 24, 1993

Mr. Jerry Murawski, P.E.
City of Farmers Branch
P.O. Box 819010
Farmers Branch, Texas
75381-9010

Dear Jerry:

This letter is in response to your request for a list of building permits issued since April 12, 1993, in the Spring Valley Metering Station Basin. The following list represents the permits issued in the basin:

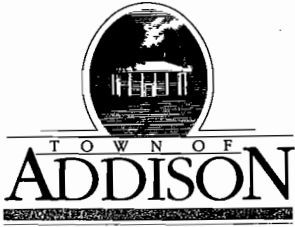
1. 14640 - Heritage on April 14, 1993 - Pool
2. 14679 - Midway Road, Suite 219 on April 21, 1993 - minor office remodel
3. 14675 - Midway - minor office remodel

Please call me if you have any questions or need additional information.

Sincerely,

John Baumgartner, P.E.
Director of Public Works

JB/js



BUILDING INSPECTION DEPARTMENT

(214) 450-2880

Post Office Box 144 Addison, Texas 75001

16801 Westgrove

April 7, 1993

TO: John Baumgartner

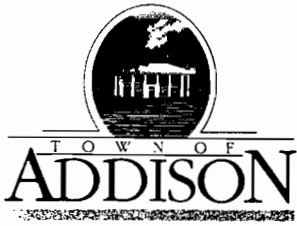
FROM: *LC*
Lynn Chandler

SUBJECT: New Home Construction in Les Lacs

House finals since January, houses still under construction and remaining lots are as listed below.

House Finals	58
Houses Under Construction	100
Lots Remaining	135

LC/st



CITY ENGINEER'S OFFICE

Post Office Box 144 Addison, Texas 75001

(214) 450-2886

16801 Westgrove

May 6, 1993

Kathy L. Schachar
PO Box 796728
Dallas, Texas 75379

RE: Sewer Capacity for Les Lacs Mirada

Dear Ms. Schachar:

The sewer capacity in the system serving your proposed project is constrained by restrictions placed upon Addison by Farmers Branch. Addison is pursuing measures to provide additional sewer capacity to that basin.

Unfortunately, no quick fixes are available. The Town currently has a 90 day study underway to determine if remedial repairs will provide a minimal amount of capacity. However, the ultimate solution is still two to four years away.

The Town has limited capacity available on a first come basis in the Rawhide Creek Basin which is located at the intersection of Marsh Lane and Belt Line Road.

If you desire to pursue the full development of your project, the Town will consider any private alternative disposal methods with appropriate safeguards.

Please call me if you have any questions or need additional information.

Sincerely,

John R. Baumgartner, P.E.
Director of Public Works

JRB/js