

ORDINANCE NO. _____

FRANCHISE

AN ORDINANCE GRANTING TO GULF STATES UTILITIES COMPANY, AND ITS SUCCESSORS AND ASSIGNS THE RIGHT, PRIVILEGE AND FRANCHISE TO CONDUCT WITHIN THE CITY OF CONROE AN ELECTRICAL LIGHTING AND POWER BUSINESS AND TO ENTER UPON, ERECT, CONSTRUCT, MAINTAIN, OPERATE, USE, EXTEND, REPAIR, REPLACE AND REMOVE UNDER, UPON, OVER, ABOVE, ACROSS AND ALONG ANY AND ALL THE PRESENT AND FUTURE PUBLIC ROADS, HIGHWAYS, PARKS, STREETS, LANES, ALLEYS, AND OTHER PUBLIC AREAS, OF THE CITY, AND OVER, UNDER, ABOVE, ALONG AND ACROSS ANY AND ALL STREAMS, CANALS, BAYOUS, EMBANKMENTS AND BRIDGES NOW OR HEREAFTER OWNED OR CONTROLLED BY IT, A SYSTEM OF POLES, POLE LINES, TOWERS, DISTRIBUTION LINES, TRANSMISSION LINES, WIRES, GUYS, CABLES, CONDUITS, TRANSFORMERS, AND OTHER DISTRIBUTION AND TRANSMISSION INSTRUMENTALITIES, FACILITIES AND APPURTENANCES, (INCLUDING TELEPHONE AND TELEGRAPH POLES AND WIRES FOR SAID COMPANY'S OWN USE) NECESSARY OR PROPER FOR THE TRANSMISSION AND DISTRIBUTION, OR FOR THE TRANSMISSION OR DISTRIBUTION OF ELECTRICITY INTO, IN, WITHIN, FROM, ACROSS, AND THROUGH THE CITY OF CONROE, AS NOW EXISTING, OR AS SAID CITY LIMITS MAY HEREAFTER BE EXTENDED; AND GRANTING GULF STATES UTILITIES COMPANY, AND ITS SUCCESSORS AND ASSIGNS, THE AUTHORITY TO USE SUCH FOR THE PURPOSE OF TRANSMISSION, DISTRIBUTION, DELIVERY AND SALE OF ELECTRICITY TO THE MUNICIPALITY, AND TO THE INHABITANTS, OF THE CITY OF CONROE AND TO ANY OTHER GOVERNMENTAL AGENCY, GOVERNMENTAL SUB-DIVISION, PERSON, FIRM OR CORPORATION, WHEREVER LOCATED WITHIN OR WITHOUT THE CITY LIMITS OF CONROE TO BE USED BY SUCH PURCHASER OR PURCHASERS, FOR LIGHTING, COOLING, HEATING, POWER OR ANY OTHER PURPOSE OR PURPOSES FOR WHICH ELECTRICITY MAY BE USED; PROVIDING AN EFFECTIVE DATE; PROVIDING THAT THIS FRANCHISE SHALL BE EFFECTIVE FOR A PERIOD OF FIFTY (50) YEARS COMMENCING UPON AND EXTENDING FROM FINAL PASSAGE HEREOF; PROVIDING FOR THE TEMPORARY REMOVAL, RAISING OR LOWERING OF WIRES AND OTHER APPURTENANCES; PROVIDING FOR COMPENSATION TO BE PAID THE CITY; PROVIDING THAT THIS FRANCHISE SHALL NOT BE EXCLUSIVE; PROVIDING A SEVERABILITY CLAUSE; RESERVING ALL POWERS OF REGULATION; MAKING MISCELLANEOUS PROVISIONS RELATIVE TO THIS GRANT OF FRANCHISE; REPEALING ALL PREVIOUS ELECTRICAL LIGHTING AND POWER FRANCHISE ORDINANCES; PROVIDING FOR THE ACCEPTANCE OF THIS FRANCHISE ORDINANCE BY COMPANY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS

_____:

Section 1: That, subject to the terms, conditions and provisions of this ordinance, the City of Conroe, Texas, hereinafter

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referred to as "City", does hereby grant unto Gulf States Utilities Company, hereinafter referred to as "Company", and its successors and assigns, the right, privilege and franchise to conduct within the city an electrical lighting and power business and to enter upon, erect, construct, maintain, extend, repair, replace and remove in, under, upon, over, above, across and along any and all of the present and future public roads, highways, parks, streets, lanes, alleys, and other public areas of the city and over, under, above, along and across any and all streams, canals, bayous, embankments and bridges, now or hereafter owned or controlled by the city, a system of poles, pole lines, towers, distribution lines, transmission lines, wires, guys, cables, conduits, transformers and other distribution and transmission instrumentalities, facilities and appurtenances (including telephone and telegraph poles and wires for company's own use) necessary or proper for the transmission and distribution, or for the transmission or distribution, of electricity, into, in, within, from, across, and through the City of _____, as now existing, or as said city limits may hereafter be extended; and Company and its successors and assigns are authorized to use said poles, pole lines, towers, distribution lines, transmission lines, wires, guys, conduits, transformers and other distribution and transmission instrumentalities, facilities and appurtenances for the transmission, distribution, delivery and sale of electricity to the municipality, and to the inhabitants of, the City of _____, and to any governmental agency, and to any governmental subdivision, and to any person, firm or corporation, wherever located, within or without the city limits of _____, for use by such purchaser, or purchasers, for light, power, cooling and heat, and for any other purpose, or purposes, whether same or different from those herein specified, for which electricity may be used.

Section 2: Upon the filing with City by Company of the acceptance required hereunder, this franchise shall be in full force and effect for a term and period of fifty (50) years commencing upon, and extending from, the date of passage of this ordinance by city.

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Section 3: Company, on written request of any person, shall relocate, raise or lower its wires temporarily to permit construction work in the vicinity thereof, or to permit the moving of houses or other bulky structures. The expense of such temporary relocation, raising or lowering of such wires shall be paid by the benefited party or parties and the Company may require the payment in advance, being without obligation to remove, raise or lower its wires until such payment shall have been made. The Company shall be given not less than forty-eight hours prior notice to arrange for such temporary wire changes.

Section 4: Within the streets or other public ways of the city, the location and route of all poles, stubs, guys, anchors, lines, conduits and cables placed and constructed, and to be placed and constructed, by company in the construction and maintenance of its electrical lighting and power system in, within and through the city, shall be subject to the reasonable and proper regulation, control and direction of the city, or of any city official to whom such duties have been, or may be, duly delegated.

Section 5: Nothing contained in this ordinance shall ever be construed as conferring upon company any exclusive rights or privileges of any nature whatsoever.

Section 6: If any provision, section, sub-section, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, void, or invalid (or for any reason unenforceable) the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the city in adopting this ordinance that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and, to this end, all provisions of this ordinance are declared to be severable.

Section 7: The City, by granting of this franchise, does not surrender or to any extent lose, waive, impair or lessen the lawful powers and rights, now or hereafter vested in the City under the constitution and statutes of

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the State of Texas to regulate the rates for services of Company; and Company, by its acceptance of this franchise, agrees that all such lawful regulatory powers and rights, as the same may be from time to time vested in the City, shall be in full force and effect and subject to the exercise thereof by the City at any time, and from time to time.

Section 8: This franchise replaces all former franchise ordinances and agreements with company or its predecessors, which are hereby repealed, which repeal is effective as of the time the franchise herein granted takes effect. There is specifically and particularly repealed, effective as of that time, that certain ordinance passed by the City of Comroe on the 16th day of November, 19 27, granting a franchise to Gulf States Utilities Company.

Section 9: As compensation to City for the use and occupancy of its public roads, ways, highways, lanes, alleys, bridges, parks and other public places in the City, and in consideration for the other rights and privileges herein granted, Company agrees to pay to the City on September 1, 1958, and on each September 1, thereafter occurring during the continuance of this agreement, a sum of money equal to four (4%) per cent of its gross receipts from billings for the twelve month period from July 1 to June 30, inclusive, next preceding such September 1, -- exclusive of receipts from (1) sales to industrial consumers, (2) sales for governmental pumping, and (3) street lighting, -- received by the Company for said twelve month period (ending on the immediately preceding June 30) from its electrical lighting and power sales made direct by Company to ultimate consumers for consumption within the corporate limits of the City; less a sum equal to the aggregate amount of any license, charge, fee, street, or alley rental, or any other charge, or levy, or character of tax, for use or occupancy of the public roads, ways, highways, lanes, alleys, bridges, parks or other public places in the City, and any pole tax or inspection fee tax, paid other than under this agreement to the City, or any agency, instrumentality, subdivision or successor of the City, by the Company during those twelve months (ending August 31) next preceding said September 1 payment date. "Sales to industrial consumers" shall include, but not be limited to, sales of electric energy used by a

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Section 11: This franchise ordinance shall be in force, and effective, from and after the passage of this ordinance, conditioned that Company file the written acceptance above provided, within the period provided, after the passage of this ordinance; and thereupon this franchise shall become a binding contract; and shall exist for a period of fifty (50) years from the date of its passage.

Passed and duly enacted as an ordinance of the City of Conroe, Texas, at a regular meeting of the City Council of Conroe, Texas, in accordance with the laws of the said State of Texas, on this the 8TH day of April, A. D., 195 8.

Said ordinance was introduced by Reagan Smith;

Read in full to the members of the City Council by the City Attorney

Reagan Smith moved the passage of such ordinance which was seconded by S. K. Hailey, Jr.

Thereupon, Reagan Smith,
S. K. Hailey, Jr., P. H. Cranford,
Gerald B. Futch and J. P. Alley
voted for the passage of said ordinance and
and
voted against the passage of such ordinance.

/s/ W. F. NEWTON
Mayor, City of Conroe, Texas

Attest:

757 J. N. MEREDITH
City Secretary
(SEAL)

THE STATE OF TEXAS

COUNTY OF MONTGOMERY

This is to certify that the above and foregoing is a true and correct copy of an ordinance adopted by the City Council of the City of Conroe, Texas, at a regular meeting held on the 8th day of April, A. D., 195 8.

J. N. Meredith
City Secretary

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