

ORDINANCE NUMBER 391 BY M<sup>rs</sup> CARROLL.

An ordinance granting to Louis Lilly the right to construct and operate gas works and to lay down pipe and conduits for the introduction, supply and distribution to the City of Payette and its inhabitants and any person, firm or corporation there in natural gas for heating, cooking, power and any and all other purposes.

Be it ordained by the Mayor and Council of the City of Payette, Idaho;

SECTION I:

Subject to the terms and conditions of this ordinance, there is hereby granted to Louis Lilly, his heirs, executors, administrators and assigns the right, privilege and authority of laying down pipes and conduits along and under all avenues, streets and all other public places in the City of Payette, Idaho, for the purpose of placing, operating, repairing and maintaining a line or lines of gas mains, pipes and conduits, together with all feeder, service pipes and connections necessary, requisite or expedient for the introduction, supply and distribution to the City of Payette and its inhabitants and any person, firm or corporation there in natural gas for heating, cooking, power and any and all other purposes except for the purpose of the manufacture of lamp black; provided, however, that all pipes, conduits and other structures which may be laid, placed or constructed along and/or under any avenue, street, alley or other public place, within the corporate limits of the said City of Payette, shall be laid, placed and/or constructed under the supervision of a competent gas engineer and with the approval of the city engineer of the City of Payette, Idaho, the cost of such approval to be paid by the said Louis Lilly; provided further, however, that this ordinance is passed by the City of Payette and shall be accepted by the said Louis Lilly with the distinct understanding and agreement that such approval by the City engineer shall not in any wise nor to any degree relieve the said Louis Lilly, his heirs, executors, administrators or assigns from any accident, injury, or damage resulting from defective materials used and/or defective construction or from any other cause.

SECTION II:

The said Louis Lilly, his heirs, executors, administrators and assigns shall do no permanent injury to any street, sidewalk or curb, alley, avenue, public place or shade trees, or in any manner unnecessarily disturb or interfere with any water pipes, sewer pipe, gas pipes, conduit or any other under-ground work now laid or hereafter to be laid by the City of Payette or any other authorized person, firm or corporation; and when he, they or it or either of them shall open up ground in any avenue, street alley or other public place, it shall be their, and each of their duty to forthwith restore the pavements, sidewalks, curbs, grounds, water pipes, sewer pipes, gas pipes, conduits and any and all other works to as good a condition as it was before, all at their and each of their own cost and expense; and if said Louis Lilly, his heirs, executors, administrators and assigns, or any or all or either of them shall fail, neglect or refuse to do or perform any of the conditions imposed by this or any other section of this ordinance for a period of thirty days after ~~xxx~~ written notice given by the City of Payette, Idaho, stating in general the terms

of what such failure, neglect or refusal consists of or pertains to, then in such event all rights and privileges given under the terms of this ordinance may, at the election of the City of Payette, Idaho be declared forfeited and all such rights and privileges shall be immediately forfeited upon such declaration being made. Such notice shall be given by the City Clerk upon order of the City Council by publication thereof in one issue of the official newspaper of said City of Payette, Idaho and the computation of time shall commence with the day after such publication.

#### SECTION III:

The said Louis Lilly, his heirs, executors, administrators and assigns, shall remove or change any and all gas main, pipe, service pipe, feeder, conduit or connection which may be in the way of or interfere with the construction or erection of any public building or public structure; and likewise any and all excavations made by it or him or either of them in any street, alley or public place within the corporate limits of the City of Payette, Idaho; all at his and/or their own cost and expense.

#### SECTION IV:

The said Louis Lilly, his heirs, executors, administrators and assigns shall neither open nor incur more of any street, avenue, alley or public place within the corporate limits of the City of Payette, Idaho at any one time, than may be necessary to enable him or them to proceed with advantage in laying such main pipes, feeder or service pipes, nor shall he nor they nor either of them permit any such street, alley, avenue or public place to remain open or incumbered for a longer period than shall be necessary to execute the work for which the same shall have been opened, nor without putting up necessary barriers and lights so as to effectually prevent the happening of any accident in consequence of said opening and/or incumbering of any such street, alley, avenue or public grounds.

#### SECTION V.

The said Louis Lilly, his heirs, executors, administrators and assigns shall be liable to and shall compensate the City of Payette, Idaho and any private individual owner and/or owners and/or parties interested in any property injured by him, them, or either of them, for all damages which may result from leaks in any pipes used by them or either of them, or by reason of their having negligently opened or negligently incumbered or negligently permitted to remain open or negligently permitted to remain incumbered any street, alley, avenue or public place, or by reason of not having properly protected or guarded any such street, alley, avenue or public place within the corporate limits of the City of Payette, Idaho.

#### SECTION VI:

The charges which the said Louis Lilly, his heirs, executors, administrators and assigns shall make to the users of gas furnished by him, them or either of them shall at all times be at such rates and schedules as the Public Utilities Commission or any authorized person, body or board of the State of Idaho may from time to time direct and establish; and he, them and each of them and each and every of them shall be at all times during the life of this franchise subject to the order and control of the Public Utilities Commission or such person, body or board of the

State of Idaho, as may have authority to fix and determine such charges.

**SECTION VII:**

This franchise is granted upon the express condition that the said Louis Lilly, his heirs, executors, administrators and assigns shall within thirty days from the passage and approval of this ordinance, and/or any assignee of this franchise, shall within thirty days from any assignment thereof sign and execute an acceptance of this ordinance and file such acceptance with the City Clerk of the City of Payette, Idaho, and that the said Louis Lilly, his heirs, executors, administrators and/or assigns shall have commenced to construct transmission lines to be used for the transmission of natural gas into the City of Payette, Idaho, and shall have said natural gas transmission lines, plants and system completely installed and ready for operation and service not later than the first of January, 1933 and shall be actually delivering natural gas in commercial quantities to at least thirty customers within the corporate limits of the City of Payette, Idaho prior to the first day of February, A. D., 1933. Time is hereby declared as the essence of this franchise and if the said Louis Lilly, his heirs, executors, administrators or assigns or either or any of them fail, neglect or refuse to do, keep and/or perform the above terms, conditions, covenants and/or agreements or either or any of them within the time hereinabove specified, then and in such event this ordinance shall become null and void at the option of the City of Payette, Idaho. Provided, however, and it is expressly understood between the said City of Payette, Idaho, and the said Louis Lilly, his heirs, executors, administrators and assigns, that an extension of time may be granted if such work is prevented by the elements, labor strikes or railroad accidents in which materials of the said Louis Lilly, his heirs, executors, administrators or assigns are delayed. And if any interruptions for any of the above reasons befall the said Louis Lilly, his heirs, executors, administrators or assigns, the City Council of the City of Payette may grant an extension of time corresponding to the duration of time of such interruption or interruptions.

**SECTION VIII:**

The rights and privileges granted by this ordinance shall be and are hereby granted for the term of forty years from and after the passage, approval and publication of this ordinance and all rights hereunder shall cease upon the expiration of said term, provided, however, that if the said Louis Lilly, his heirs, executors, administrators or assigns, or either or any of them shall continuously fail for six months to furnish gas to supply the bona fide demands of any person, firm or corporation within the corporate limits of the City of Payette, Idaho, then the City of Payette may declare this franchise void, and when such action is taken by the City of Payette, Idaho, this franchise shall be forthwith terminated and all rights and privileges hereunder be at an end.

**SECTION IX:**

Upon completion of the principal gas mains in the City of Payette, Idaho, the said Louis Lilly, his heirs, executors, administrators and assigns shall file a map in duplicate with the City Clerk of the City of Payette, and which said map shall be certified

to by a licensed surveyor of the State of Idaho, and which said maps shall show the exact location of all gas pipe lines and appurtenances thereto as then constructed and installed, and field notes of all additions, extensions and/or changes in said pipeline system shall be furnished to the City Engineer as the same are made during the life of this franchise.

SECTION X:

That the said Louis Lilly, his heirs, executors, administrators and assigns before entering upon any street, alley, avenue or other public place within the City of Payette, Idaho, shall file with the City of Payette, Idaho, a good and sufficient surety bond running to said City in the penal sum of \$10,000.00, and which said bond shall be conditioned that the said Louis Lilly, his heirs, executors, administrators and assigns, and each and every of them shall save and keep harmless the said City of Payette, Idaho from any and all loss, cost, damage, expense and/or liability of every kind whatsoever which the said City of Payette, Idaho may suffer or be put to, or which may <sup>accrue</sup> ~~accrue~~, be charged to, or be recovered from said City of Payette, Idaho, by reason of or on account of, or in any wise connected with, or in any wise resulting from and or by reason of any matter, thing, act or omission whatsoever appertaining to or in any wise connected with the placing, operating, maintaining and repairing a line or lines of gas mains, pipes and conduits, feeders and service pipes and connections, and all other structures along and under the streets, avenues, alleys and other public places within the City of Payette or elsewhere, the opening, guarding, protecting of such streets, avenues, alleys and other public places, and in general the introduction, supply and distribution to the City of Payette, Idaho, and its inhabitants and any person firm or corporation therein natural gas for heating, cooking, power and or any other purpose whatsoever. Provided, that such bond must be approved by the Mayor and City Council of the City of Payette, Idaho, before the same shall become effective for any purpose whatsoever.

Passed and approved this 18 day of July, 1932.

S. T. Woodward  
Mayor

Attest. J. P. Williams  
City Clerk.