

Ordinance No. 47-955

AN ORDINANCE GRANTING TO BLACK HILLS/KANSAS GAS UTILITY COMPANY , A KANSAS LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS, A NATURAL GAS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, AND EXTEND A NATURAL GAS PLANT AND DISTRIBUTING SYSTEM IN THE CITY OF WICHITA, KANSAS; PRESCRIBING THE TERMS OF SAID GRANT AND RELATING THERETO; AND REPEALING ORDINANCE 43-971.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

Section 1. Definitions. For purposes of this franchise, the following words and phrases shall have the meanings given herein:

"City" and "Grantor"-shall mean the City of Wichita, Kansas.

"Company" and "Grantee"-shall mean Black Hills/Kansas Gas Utility Company.

"Distributed" or "Distribution"-shall mean all sales, distribution, or transportation to any consumer or user within the City by the Company or by others through the Facilities of the Company in the Right-of-Way.

"Facilities"-shall mean natural gas mains, pipes, boxes, reducing and regulating stations, laterals, conduits and service extension, together with all necessary appurtenances thereto.

"Gross receipts"-shall mean any and all compensation and other consideration derived directly or indirectly by Company from any Distribution of natural gas to a consumer for any use, including domestic, commercial, and industrial purposes, and including without limitation interruptible sales and single sales; and shall include revenues from any operation or use of any or all of the Facilities in the Right-of-Way by the Company or others including without limitation charges as provided in tariffs filed and approved, and shall also include all fees or rentals received by the Company for the lease or use of pipeline capacity within the corporate limits of the City; but such term shall not include revenue from certain miscellaneous charges and accounts as set forth in the Terms and Conditions of Gas Service on file and approved,

including but not limited to connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, temporary service charges, and delayed or late payment charges as such terms are used in tariffs filed and approved.

"MCF"-shall mean a measurement of natural gas equal to one thousand cubic feet; a cubic foot is the quantity of natural gas occupying one cubic foot of space at a pressure of 14.73 PSIA and a temperature of 60 degrees Fahrenheit. It is assumed for purposes of this ordinance that one MCF equals 1,000,000 British Thermal Units (BTUs).

"Public Improvement"-shall mean any existing or contemplated public facility, building, or capital improvement project, including without limitation streets, alleys, sidewalks, sewer, water, drainage, Right-of-Way improvement, and Public Projects.

"Public Project"-shall mean any project planned or undertaken by the City or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements, or any other purpose of a public nature.

"Public Project for Private Development"-shall mean a Public Project, or that portion thereof, arising solely from a request or requirement of a third party primarily for the benefit and use of a third party.

"Right-of-Way"-shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated in plats of the City for streets, and alleys.

"Settlement Prices"-shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX) on the 15th day of each month or the first trading day thereafter .

"Street Right-of-Way"-shall mean the entire width between property lines of land, property or an interest therein of every way publicly maintained where any part thereof is open to

the use of the public for purposes of vehicular traffic, including street, avenue, boulevard, highway, expressway, alley or any other public way for vehicular travel by whatever name.

"Transport Gas"-shall mean all natural gas transported by the Company or by others, but not sold by the Company, to any consumer or user within the City through the Facilities of the Company in the Right-of-Way.

"Volumetric Rate"-shall mean that sum measured in cents per MCF as determined by the City by ordinance or such amount as may be hereafter adjusted according to the provisions of this Section. The Volumetric Rate Calculation Form incorporated herein as Attachment A, as a sample of such calculations, shall be used for the recalculation of the Volumetric Rate. The recalculation shall be effective each January 1 and shall be based on Settlement Prices for the twelve month period beginning in July of the second preceding year and ending in June of the preceding year. For the 15th day of each month during said twelve month period, the Settlement Prices for the next twelve months will be summed and divided by twelve to determine an average Settlement Price. The average Settlement Prices for each of the twelve months shall then be summed and divided by twelve and multiplied by 5% to obtain the Volumetric Rate to be effective January 1 of the next succeeding year. The Volumetric Rate shall be calculated by the City in accordance with the procedures in this paragraph and Attachment A and filed with the City Clerk by July 31 of each year after written notice to the Company. From the effective date of this ordinance through December 31, 2008, the Volumetric Rate shall be \$0.4097 per MCF. For the year beginning January 1, 2009, the Volumetric Rate shall be \$0.4553 per MCF. The Volumetric Rate shall be adjusted annually thereafter pursuant to the provisions of this paragraph and Attachment A. Such annual adjustment shall not be considered an amendment to this Ordinance.

## Section 2. Grant.

(a) There is hereby granted to Company, the non-exclusive right, privilege, and franchise to construct, maintain, extend, and operate its Facilities in, through, and along the Right-of-Way of the City for the purpose of supplying natural gas to the City and the inhabitants thereof for the full term of this franchise; subject, however, to the terms and conditions herein set forth. Nothing in this grant shall be construed to franchise or authorize the use of the Company's Facilities or the Right-of-Way, by the Company or others, for any purpose other than the provision of natural gas. The Company will not allow a subsidiary, affiliate, or a third party to acquire rights to occupy the Right-of-Way under this franchise; provided, that nothing in this section shall prevent Company from allowing the use of its Facilities by others when such use is compensated to the City under the provisions of this franchise.

(b) Company shall not enter into or continue any arrangement by which natural gas owned by any party other than Company shall be transported, distributed, or sold through any portion of Company's Facilities in the Right-of-Way for delivery to any person within the City unless the City is compensated for such use by the Company, transporter, consumer, or some other party.

(c) By this franchise, the Company is granted the authority to collect on behalf of the City the compensation to be made to the City by other parties using the Company's Facilities for Distribution of Transport Gas. The Company agrees to collect such sums for the City and to submit such payments in the manner provided in Section 4. Nothing in this Section allowing the transportation of gas owned by others shall relieve Company from the responsibility of maintaining a franchise for the placement of its Facilities in the Right-of-Way.

Section 3. Term.

(a) The term of this franchise shall be ten (10) years from the effective date of this ordinance.

(b) Upon written request of either the City or the Company, the franchise may be reviewed after five (5) years from the effective date of this ordinance and either the City or the Company may propose amendments to any provision of this franchise by giving thirty days written notice to the other of the amendment(s) desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

(c) Upon written request of either the City or the Company, the franchise shall be reopened and renegotiated at any time upon any of the following events:

1. Change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of either the City or Company, including but not limited to the scope of the grant to the Company or the compensation to be received by the City.

2. Change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the City or Company, including but not limited to the scope of the grant to the Company or the compensation to be received by the City.

3. Any other material and unintended change or shift in the economic benefit the City or the Company relied upon and anticipated upon entering into this franchise.

(d) The compensation provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines who use the Right-of-Way and do not pay a franchise fee or other payment substantially equivalent to this franchise, which results in a material and unfair

disadvantage to the Company. The use of Right-of-Way provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines who use the Right-of-Way and do not have requirements on the use of Right-of-Way substantially equivalent to the requirements of this franchise, which results in a material and unfair disadvantage to the Company. Upon any such event, the City shall have up to 180 days after written request of the Company in which to restore competitive neutrality, provided that any adjustment in compensation resulting from renegotiations under this Subsection (d) shall be effective no later than 90 days after such notice.

(e) Failure of the City and Company to successfully renegotiate the materially affected provisions of the franchise under subsection (c) or (d) shall give rise to dispute resolution as follows: At the expiration of 180 days from the date of the written request (or sooner if requested by both the City and the Company) the City and the Company shall each select a representative who shall jointly select a third representative. The three representatives shall hear the positions of the City and Company and shall determine the matters in disagreement by majority vote. Such decision shall be presented to City and the Company as the renegotiated language under subsection (c) or (d). Rejection of the dispute resolution by either the City or the Company shall give rise to the remedies provided by Section 10, or at the option of the parties, the franchise shall remain in effect according to its then existing terms.

(f) Amendments under this Section, if any, shall be made by ordinance as prescribed by statute. The franchise shall remain in effect according to its terms pending completion of any review or renegotiation provided by subsections (b), (c), (d), or (e).

Section 4. Compensation to the City. In consideration of and as compensation for the franchise hereby granted to Company by the City, the Company shall make an accounting to the City of all natural gas that has been Distributed on a monthly basis. The Company shall pay the City:

(a) A sum equal to five percent of the Gross Receipts received from the Distribution of natural gas; and,

(b) A sum equal to the Volumetric Rate multiplied by the number of MCF of Transport Gas.

The sums in (a) and (b) above shall be adjusted for uncollectible receivables and for uncollectible receivables which are later collected.

Payments shall be made to the City under procedures which are mutually agreed to by the Company and the City within 30 days of the last day of the month to which such accounting shall apply.

In the event the accounting rendered to the City by the Company is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that the City may accept any amount offered by the Company, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. The Company agrees that all of its books, records, and documents and all of its contracts and agreements as may be reasonably necessary for an effective compliance review of this ordinance shall at all reasonable times be opened to the inspection and examination of the officers of the City and its duly authorized agents, auditor, and employees for the purpose of verifying said accounting, or for any other lawful purpose. Notwithstanding the obligation herein, the Company shall have the right to request the reasonable protection of proprietary information and to provide redacted

documents or require the City or its agents to enter into such agreements pertaining to confidentiality as may reasonably protect the proprietary information of the Company but which do not unreasonably frustrate the purposes of this subsection. The Company shall have no obligation, however, to make payment upon Transport Gas for which the Company has not been paid; the Company shall provide notice to the City of such delinquent accounts within 90 days and the City shall hold the Company harmless from the cost or liability for the collection of franchise fees and late payment charges on such delinquent accounts.

For each and every month, or any part thereof, that the compensation provided for by this franchise remains unpaid after the same becomes due and payable to the City, there shall be added to such payment, as a late charge, a sum equivalent to the statutory rate for interest on the unpaid amount. Such late charge shall be applicable to sums that are delinquent as well as any sums due the City as the result of an audit or review of the Company's records.

Section 5. Payments and Charges. The payments and compensation herein provided shall be in lieu of all other licenses, taxes, charges, and fees, except that the usual general property taxes and special ad valorem property taxes, sales and excise taxes, and any permit fees and charges for pavement cuts or other permit fees and charges based on restoring premises to their same condition, or charges made for privileges which are not in any way connected with the natural gas business, as such, will be imposed on the Company and are not covered by the payments herein. From and after the date hereof, however, the permit fees required of the Company by Code § 10.20.050 or any ordinance hereafter adopted for a permit to excavate in any unpaved street, alley, or other public place is deemed a part of the compensation paid in Section 4 and shall not be separately assessed or collected by the City; in no event, however,

shall this provision be interpreted to waive the requirement of notice to the City and the procedural requirements of such ordinance.

Section 6. Use of Right of Way. In the use of Right-of-Way under this franchise, the Company shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power. In addition, the Company shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, screening, and other requirements on the use of the Right-of-Way; provided, however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Company to oppose, challenge, or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulation, policy, resolution, and ordinance proposed, adopted, or promulgated by the City. Further, the Company shall comply with the following:

(a) The Company's use of Right-of-Way shall in all matters be subordinate to the City's use of the Right-of-Way for any public purpose. The Company shall coordinate the installation of its Facilities in Right-of-Way in a manner which minimizes adverse impact on Public Improvements, as reasonably determined by the City. Where installation is not otherwise regulated, the Facilities shall be placed with adequate clearance from such Public Improvements so as not to conflict with such Public Improvement.

(b) All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements, or improvements of any kind located within the Right-of-Way damaged or removed by the Company in its activities under this franchise shall be fully repaired or replaced promptly by the

Company at its sole expense and to the reasonable satisfaction of the City in accordance with the ordinances and regulations of the City pertaining thereto.

(c) All Facilities placed above ground in Street Right-of-Way after the date hereof shall be located behind the sidewalk where feasible and screened from public view in a manner reasonably determined by the City. Upon request of the Company, the original screening materials may be provided by the City or the City's contractor at the Company's expense in conjunction with and as part of the City program for Right-of-Way maintenance. At the request of the Company, the City will thereafter maintain such original screening materials at the City's own expense provided that the City made the selection of or subsequently approves the materials so maintained. Notwithstanding the above, the Company shall use its best efforts to provide that all Facilities constructed, replaced, or relocated in the Right-of-Way after the date hereof shall be placed underground unless, because of the nature of the Facility or the standard construction or operating practices of the Company, the Company requests such Facilities be placed above ground. Upon such request, the City Engineer or Right-of-Way Coordinator shall review and approve the plans for the above ground placement of Facilities in accordance with reasonable procedures established by the City, and subject to such reasonable conditions as the City may establish for public safety, appearance, or coordination with Public Improvements. Further, where reasonable, practical, and appropriate and where adequate Right-of-Way exists, the Company shall screen or shall place above-ground Facilities underground in conjunction with City capital improvement projects and/or at specific locations requested by the City provided that such placement is practical, efficient, and economically feasible.

(d) The Company shall keep and maintain accurate records and as-built drawings of all Facilities (except customer service lines) constructed, reconstructed, or relocated in the Street

Right-of-Way of arterial streets (as designated by City of Wichita Code § 11.96.100) after the date hereof. Such Facilities shall be horizontally and vertically located at least every 100 feet and at any other alignment change. All points of Facilities shall be horizontally located from street centerline, or section or quarter section lines or corners. Vertical locations on all points of Facilities shall consist of elevations in either City datum or United States Geological Survey datum.

(e) The Company shall notify the City not less than three (3) working days in advance (such notice to be adequate for timely notice on the governing body agenda under City procedures) of any construction, reconstruction, repair, or relocation of Facilities which would require any street closure which reduces traffic flow to less than two lanes of moving traffic. Except in the event of an emergency, as reasonably determined by the Company, no such closure shall take place without prior authorization from the City. In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guideline for Work Zone Traffic Control, unless otherwise agreed to by the City.

(f) The Company shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete information regarding the nature and horizontal and vertical location of its Facilities located within Right-of-Way when requested by the City or its authorized agents for a Public Project. Such location and identification shall be at the sole expense of the Company without expense to the City, its employees, agents, or authorized contractors. The Company shall designate and maintain an agent, familiar with the Facilities, who is responsible for timely satisfaction of the information

needs of the City and other users of the Right-of-Way. The Company shall coordinate with the City on the design and placement of Facilities in the Right-of-Way during and for the design of Public Improvements. At the request of the Company, the City may include design for Facilities in the design of Public Projects.

(g) The Company shall promptly locate, remove, relocate, or adjust any Facilities located in Right-of-Way if reasonably necessary and requested by the City for a Public Project. Such location removal, relocation, or adjustment for a particular Public Project shall be performed by the Company once without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the City pertaining to such; provided, that if the Company demonstrates to the satisfaction of the City that the Facility was originally established in a private easement that thereafter became part of the Right-of-Way, the removal, relocation, or adjustment shall be without expense to the Company. If additional location, removal, relocation, or adjustment is the result of the inaccurate or mistaken information of the Company, the Company shall be responsible for costs associated with such without expense to the City.

The Company shall not be responsible for the expenses of relocation to accommodate any new Public Project for Private Development initiated after the effective date of this ordinance. The expenses attributable to such a project shall be the responsibility of the third party upon the request and appropriate documentation of the Company. Before such expenses may be billed to the third party, the Company shall be required to coordinate with the third party and the City on the design and construction to ensure that the work required is necessary and done in a cost effective manner. Upon the request of the Company or the third party, the allocation of expenses attributable to project shall be made in the reasonable determination of the City. Eligible third

parties may request to have the City specially assess those expenses billed by the Company under this section.

The City will use its best efforts, but is not required, to continue to provide a location in the Right-of-Way for the Company's Facilities as part of a Public Project, provided that the Company has cooperated promptly and fully with the City in the design of its Facilities as part of the Public Project.

(h) It shall be the responsibility of the Company to take adequate measures to protect and defend its Facilities in the Right-of-Way from harm or damage. If the Company fails to accurately locate Facilities when requested, it has no claim for costs or damages against the City and its authorized contractors except to the extent the City and its authorized contractors are responsible for the harm or damage by their negligence or intentional conduct. Company shall be responsible to the City and its agents, representatives, and authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the Company to perform any of its obligations under this agreement except to the extent another party is responsible for the harm or damage by its negligence or intentionally caused harm, provided, that if the responsibility of the City and its agents, representatives, and authorized contractors does not arise as a contractual obligation, the Company shall have the right at its option to step in and defend such claim in its own right. The above general provisions notwithstanding, the City and its authorized contractors shall take reasonable precautionary measures including calling for utility locations through Kansas One Call and exercising due caution when working near Company Facilities.

(i) The Company shall remain a member of and participate in the Utility Location and Coordination Council established by ordinance of the City.

(j) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the Facilities in the Right-of-Way shall be in accordance with applicable present and future federal, state, and City law and regulation, including but not limited to the most recent standards of the Kansas Corporation Commission and Department of Transportation, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this franchise may be additional to or stricter than such minimum standards.

(k) The City encourages the conservation of Right-of-Way by the sharing of space by all utilities. Notwithstanding provision of this franchise prohibiting third party use, to the extent required by Federal or State law, the Company will permit any other franchised entity by appropriate contract or agreement negotiated by the parties to use any and all Facilities constructed or erected by the Company.

Section 7. Indemnity and Hold Harmless. The Company shall hold and save the City, its officers, employees, agents, and authorized contractors, harmless from and against all claims, damages, expense, liability, and costs including attorney fees, to the extent occasioned in any manner by the Company's occupancy of Right-of-Way, except to the extent that such were caused by the negligence or intentional conduct of the City, its officers, employees, agents, or authorized contractors. In the event a claim shall be made or an action shall be instituted against the City growing out of such occupancy of the Right-of-Way by Facilities of the Company, then

upon notice by the City to the Company, the Company will assume responsibility for the defense of such actions at the cost of the Company, subject to the option of the City to appear and defend, at its own cost, any such case; provided, that the Company shall have no duty to defend any such action to the extent that such action has resulted from the negligence or intentional conduct of the City, its officers, employees, agents, or authorized contractors.

Section 8. Copies of Tariffs and Filings. The Company shall maintain a file of, and keep up to date, all tariffs, rules, regulations, and policies approved by the Kansas Corporation Commission (KCC) pertaining to the franchise. The Company shall timely provide the City with copies of all tariffs, filings for tariffs, and related information relevant to the Company's tariff application or proposal before the KCC affecting rates and services relating to municipal use or otherwise impacting the City. In addition, the Company will provide the City, at the City's request, copies of other filings which it makes with the KCC, including, but not limited to, its annual report, all advice letters, and all pre-filed testimony and exhibits. Receipt of any such matters by the City shall not constitute service of documents otherwise required by law nor shall such receipt constitute any entry of appearance by the City or acknowledgment of jurisdiction over the City in such matters.

Section 9. Right to Assign. This franchise shall be assignable only in accordance with the laws of the state of Kansas, as the same may exist at the time when any assignment is made.

Section 10. Termination and Forfeiture of Franchise. In case of failure on the part of said Grantee, its successors and assigns, to comply with any of the provisions of this ordinance, or if said Grantee, its successors and assigns, should do or cause to be done any act or thing

prohibited by or in violation of the terms of this ordinance, said Grantee, its successors and assigns, shall forfeit all rights and privileges granted by this ordinance and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the Grantor shall carry out the following proceedings. Before Grantor proceeds to forfeit said franchise, as in this section prescribed, it shall first serve a written notice upon the manager of said Grantee, at its principal office in Grantor City, and upon the trustee or trustees in any deed of trust securing bonds of said Grantee of records in Sedgwick County, Kansas, or the office of the Secretary of State of Kansas, by mailing notice to such trustee or trustees to the address designated in such trust deed, setting forth in detail in such notice the neglect or failure complained of, and said Grantee shall have ninety days thereafter in which to comply with the conditions of this franchise. If at the end of such ninety-day period the Grantor deems that the conditions of such franchise have not been complied with by the Grantee and that such franchise is subject to cancellation by reason thereof, the Grantor, in order to terminate such franchise, shall enact an ordinance setting out the grounds upon which said franchise or agreement is to be canceled or terminated. If within thirty days after the effective date of said ordinance the Grantee shall not have instituted an action, either in the District Court of Sedgwick County, Kansas, or some other court of competent jurisdiction to determine whether or not the Grantee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty-day period the Grantee does institute an action, as above provided, to determine whether or not Grantee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof and prosecutes such action to final judgment with due diligence, then, in that event, in case the court finds that the franchise is subject to cancellation by reason of

the violation of its terms, this franchise shall terminate thirty days after such final judgment is rendered. Provided, however, that the failure of said Grantee to comply with any of the provisions of this ordinance or the doing or causing to be done by said Grantee of anything prohibited by or in violation of the terms of this ordinance shall not be a ground for the forfeiture thereof when such act or omission on the part of the said Grantee is due to any cause or delay beyond the control of said Grantee, its successors and assigns, or bona fide legal proceedings.

Section 11. Rights and Duties of Grantee Upon Expiration of Franchise. Upon expiration of this franchise, whether by lapse of time, by agreement between Grantee and Grantor, or by forfeiture thereof, the Grantee shall have the rights to remove any and all of its mains and pipes, laterals, appurtenances, and equipment used in its said business within a reasonable time after such expiration, but in such event, it shall be the duty of the Grantee, immediately upon such removal, to restore the streets, avenues, alleys, parks and other public ways and grounds from which said pipes, laterals and other equipment are removed to as good condition as the same were before said removal was effected.

Section 12. Acceptance of Terms by Grantee. Within thirty (30) days after the final passage and approval of this ordinance, Grantee shall file with the City Clerk of the City of Wichita its acceptance in writing of the provisions, terms and conditions of this ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted the ordinance and acceptance shall constitute a contract between Grantor and Grantee subject to the provisions of the laws of the state of Kansas.

Section 13. Conditions of Franchise. This contract, franchise, grant and privilege is granted and accepted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction, and each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other causes beyond Grantee's control. This franchise shall not be exclusive.

Section 14. Invalidity of Ordinance. If any clause, sentence, or section of this ordinance shall be held to be invalid, it shall not affect the remaining provisions of this ordinance.

Section 15. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and publication as required by law.

Section 16. Repeal of Conflicting Ordinances. Ordinance No. 43-971, which was heretofore granted to this Grantee, and all other such ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof, shall be canceled, annulled, repealed, and set aside.

PASSED AND APPROVED by the governing body of Wichita, Kansas, this date August 19, 2008.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett , City Clerk

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law