

ORDINANCE 2012- 23

An Ordinance granting a nonexclusive, natural gas utility system Franchise to Northwest Natural Gas Company, doing business as Northwest Natural, fixing terms, conditions, and compensation of such Franchise, repealing Ordinance 02-27, and stating an effective date.

WHEREAS, NW Natural, (hereinafter Grantee) has been operating a natural gas utility system pursuant to Ordinance 02-27; and,

WHEREAS, the City of Corvallis (hereinafter City) has reviewed Grantee's performance under the Franchise and the quality of service during the Franchise term; and,

WHEREAS, the City intends by the adoption of this Franchise, to authorize the continued operation of a natural gas utility system; and,

WHEREAS, it is the determination of the City Council that such continued operation can contribute significantly in meeting the needs of the City, individuals, associations and institutions; and,

WHEREAS, the City has the power to grant a Franchise by virtue of its Charter and federal statutory authority; now,

THEREFORE, THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. The City intends, by the adoption of this Franchise, to encourage the continued development and operation of a natural gas utility system within the City of Corvallis, Oregon, and its boundaries as extended in the future. This Ordinance shall be known as the NW Natural Franchise Ordinance. Within this document, it shall also be referred to as "this Franchise" or "the Franchise".

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SECTION 1 DEFINITIONS

For the purpose of this Franchise the following terms, phrases, words and their derivations shall have the meaning given below. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive.

- 1.1 **Bridge** means a structure constructed to facilitate the crossing of a river, stream, ditch, ravine, or other place.
- 1.2 **City** means the City of Corvallis, Oregon, its City Manager, or such individual(s) as may be designated by the City Manager for the administration of this Franchise.
- 1.3 **City Council** means the Corvallis City Council, or its successors, the governing body of the City of Corvallis, Oregon.
- 1.4 **Easement** means a public utility Easement on public or private property
- 1.5 **Franchise** means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.
- 1.6 **Franchise Area** means the area within the jurisdictional boundaries of the City of Corvallis, including any areas annexed by the City of Corvallis during the term of this Franchise and the airport industrial park owned by the City.
- 1.7 **Grantee** means Northwest Natural Gas Company, d.b.a. NW Natural, its successors, transferees, legal representatives, employees, contractors, subcontractors, agents, assigns, or Persons acting on Grantee's behalf.
- 1.8 **Natural Gas Utility System** means all real property and facilities (equipment and fixtures) used by Grantee in the transmission, storage and distribution of its natural gas services through its system, whether located inside or outside the City, and includes, but is not limited to, all natural gas distribution facilities.
- 1.9 **Person** means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.
- 1.10 **Public Place** means any City-owned park, place, facility or grounds within the Franchise Area that is open to the public, but does not include a Street or Bridge.
- 1.11 **Public Rights of Way** means to include, but is not limited to, Streets, roads, highways, Bridges, alleys, sidewalks, trails, paths, public utility Easements, and all other public ways within the Franchise Area, including the subsurface under and air space over these areas, excluding parks and parkways, but only to the extent of the City's right, title, interest, or

authority to grant a Franchise to occupy and use such Streets and Easements for a Natural Gas Utility System. Public Rights of Way shall also include any Easement granted to or owned by the City and acquired, established, dedicated, or devoted for public utility purposes.

1.12 Qualified Person means a person that is knowledgeable about the construction and operation of a natural gas transmission and distribution system, and must be subject to and comply with qualifying standards relating to the work in question as set forth in 49CFR Part 192, Subpart N – Qualifications of Pipeline Personnel.

1.13 State means the State of Oregon.

1.14 Street means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the Franchise Area: Streets, roadways, highways, avenues, lanes, alleys, sidewalks, and Public Rights of Way.

SECTION 2 GRANT OF FRANCHISE

2.1 Grant

(A) Subject to the conditions and reservations contained in this Franchise, the City Council hereby grants to Grantee a right, privilege and nonexclusive franchise to construct, expand, upgrade, maintain, and operate a Natural Gas Utility System within the Franchise Area and make reasonable and lawful use of the Public Rights of Way within the Franchise Area to install, maintain, and operate on, over, or under the Public Rights of Way as approved by the City, facilities for the distribution of natural gas to the City and to its inhabitants and to other customers and territory beyond the limits of the Franchise Area. This Franchise shall constitute both a right and an obligation to provide the Natural Gas Utility System required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the City of Corvallis, and the ordinances and regulations enacted pursuant thereto as provided in this section. In addition to the reservations contained in this Franchise and existing applicable ordinances, the City may adopt such additional generally applicable regulations of the construction, maintenance and operation of Grantee's Natural Gas Utility System as the City may find necessary in the exercise of its police powers or for the orderly development of the City (including but not limited to zoning, land use, historic preservation ordinances, safety or construction standards, and other applicable requirements). These regulations shall be subject to any superseding provisions of State or federal law. The City may amend and add to these regulations from time to time. Grantee shall promptly comply with these regulations.

(C) Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Franchise Area that may be required by the ordinances and laws of the City;

(2) Any permit, agreement, or authorization required by the City for Public Rights of Way users in connection with operations on or in Public Rights of Way or public property including, by way of example and not limitation, Street cut permits; or

(3) Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise.

(D) This Franchise is intended to convey limited rights and interests only as to those Public Rights of Way in which the City has an actual interest. It is not a warranty of title or interest in any Public Right of Way; it does not provide the Grantee with any interest in any particular location within the Public Rights of Way; and it does not confer rights other than as expressly provided in the grant hereof. This Franchise is subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record that may affect the Public Rights of Way. Nothing in this Franchise shall be deemed to grant, convey, create, or vest in Grantee a real property interest in land, including any fee, leasehold interest, or easement. This Franchise does not deprive the City of any powers, rights, or privileges it now has, or may acquire in the future, to use, perform work on, or regulate the use and control of the Public Rights of Way covered by this Franchise, including without limitation, the right to perform work on its roadways, rights of way, or appurtenant facilities, including constructing, altering, paving, widening, grading, or excavating thereof.

2.2 Duration

The term of this Franchise and all rights, privileges, obligations, and restrictions pertaining thereto shall be ten (10) years from the effective date of this Franchise, unless extended by mutual agreement between the two parties or terminated sooner as hereinafter provided.

2.3 Effective Date

The effective date of this Franchise shall be January 1, 2013, unless Grantee fails to file an unconditional written acceptance of this Franchise signed by an officer of the Grantee by January 31, 2013. Failure to fulfill this requirement shall nullify and void this Franchise, and any and all rights of Grantee to own or operate a Natural Gas Utility System within the Franchise Area under this Franchise shall be of no force or effect.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, Easements or licenses granted by the City to any Person to use any property, Public Rights of Way, right, interest or license for any purpose whatsoever, including the right of the City to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder.

2.5 Police Powers

Subject to Section 2.1 (B) herein, Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, good order, comfort and general welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power.

2.6 Effect of Acceptance

By accepting the Franchise, the Grantee acknowledges and accepts the City's legal right to issue and enforce the Franchise and agrees to comply with each and every lawful provision of this Franchise subject to applicable law.

SECTION 3 ADMINISTRATION AND REGULATION

3.1 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence and, subject to Section 3.2, any failure of Grantee to perform within the allotted time may be considered a material breach of this Franchise, and sufficient grounds for the City to invoke any relevant remedy. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers, employees, or duly authorized agents.

3.2 Force Majeure

(A) In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time as defined by the City, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the City. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide natural gas distribution services in the Franchise Area and which was not caused and could not have been avoided by the Grantee which used reasonable efforts in its operations to avoid such results.

(B) If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

SECTION 4 USE OF PUBLIC RIGHTS OF WAY / PUBLIC PLACES

4.1 Public Rights of Way

(A) Subject to the City's supervision and control and, if applicable, approved construction permits pursuant to Section 6.4 herein, Grantee may install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Public Rights of Way within the City such property and equipment as are necessary and appurtenant to the operation of a Natural Gas Utility System within the Franchise Area.

(B) Grantee must follow City-established requirements for placement of a Natural Gas Utility System in Public Rights of Way, including the specific location of facilities in the Public Rights of Way, and must not in any event install natural gas distribution facilities in a manner that unreasonably interferes with a public improvement or the use of the Public Rights of Way by the City or use of the Public Rights of Way by existing users. Within limits reasonably related to the City's role in protecting public health, safety and welfare, the City may require that Natural Gas Utility System be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Public Right of Way; may deny access if Grantee is not willing to comply with City's requirements; and may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the City or which is installed without prior City approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Public Rights of Way through joint trenching and other arrangements.

4.2 Public Places

Before Grantee may use or occupy any Public Place, Grantee shall first obtain permission from the City to do so and comply with any special conditions or conditions of special compensation the City desires to impose on such use or occupation.

SECTION 5 SERVICE AND SAFETY STANDARDS

5.1 Due Diligence

Grantee shall maintain and operate a Natural Gas Utility System in the City and use due diligence to maintain continuous and uninterrupted service which shall conform at least to the standards adopted by the State and federal authorities, and to the standards of the City as adopted by the City Council consistent with State and federal law. Under no circumstances is Grantee liable to the City for an interruption or failure of service caused by acts of God, unavoidable accident, or other circumstances beyond the control of Grantee through no fault of its own.

5.2 Safety Standards and Work Specifications

(A) Grantee shall at all times keep and maintain all of its facilities and its entire system in a good state of repair and shall at all times conduct its operations under this Franchise,

including installation, construction or maintenance of its facilities, in a safe and workmanlike manner so as not to present a danger to the public or the City.

(B) Maintenance personnel shall, at a minimum, be on duty eight (8) hours a day, Monday through Friday. At all other times, maintenance personnel shall be on-call to respond to service interruptions.

(C) The location, construction, extension, installation, maintenance, removal, and relocation of the facilities of Grantee shall conform to:

(1) The requirements of State and federal statutes and regulations adopted pursuant thereto, in force at the time of such work, and;

(2) Such reasonable specifications in force at the time of such work, as the City or City Council may from time to time adopt.

SECTION 6 CONSTRUCTION

6.1 Public Works and Improvements

The City reserves the right to construct, install, maintain, and operate any public improvement, work, or facility or do any work that the City may find desirable on, over, across, upon, along or under any Public Rights of Way, Street, or Public Place or vacate, alter or close any Street, or Public Place. Whenever the City shall excavate or perform work which may disturb Grantee's underground gas distribution facilities or appurtenances, the City shall notify Grantee sufficiently in advance of such contemplated excavation or work to enable Grantee to take such measures as may be deemed necessary to protect Grantee's facilities from damage or possible inconvenience to the public. In the event of an emergency, the City shall notify Grantee as soon as is reasonably possible. Upon request, Grantee shall furnish maps or drawings to the City showing approximate locations of all distribution facilities subject to proposed excavation or other work.

6.2 Construction Codes

Construction, installation and/or operation of facilities within a Public Right of Way shall be in compliance with all applicable codes, rules, and regulations.

6.3 Construction Permits

No person shall construct or install any facilities within a Public Right of Way without first obtaining a construction permit, if required by the City. In the event emergency repairs of an existing facility are necessary, work may commence prior to the application for a permit. The application for a permit for an emergency repair must be submitted within seventy two (72) hours following the initial emergency.

Should the City adopt procedures to allow for blanket permits, the City may issue such permits to Grantee for certain categories of work.

6.4 Permit Applications

Applications for permits to construct a Natural Gas Utility System shall be submitted upon forms to be provided by the City and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

(A) That the facilities will be constructed in accordance with all applicable codes, rules and regulations.

(B) That the facilities will be constructed in accordance with the Franchise if applicable.

(C) The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route. Existing facilities shall be differentiated on the plans from new construction.

(D) The location and plan view of all of applicant's existing utilities, conduits, ducts, pipes, mains and installations which are within the Public Rights of Way along the route proposed by the applicant. A profile and plan view shall be provided showing new facilities in relation to the Street, curb, sidewalk or Public Right-of-Way.

(E) The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the Public Rights of Way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

6.5 Applicant's Verification

All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable codes, rules and regulations.

6.6 Construction Schedule

All permit applications shall include a written proposed construction schedule with anticipated start and completion dates of construction, and, if necessary, a traffic control plan which demonstrates the protective measures and devices which will be employed. In the event the proposed construction schedule changes, the City shall be notified. To prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic, the traffic control plan must be consistent with the Manual on Uniform Traffic Control Devices and the City of Corvallis, Engineering Policy on Traffic Control for Construction Zones. The construction schedule is subject to approval by the City.

6.7 Construction Permit Fee

Prior to issuance of a construction permit, the applicant shall pay a permit fee in accordance with permit fees in place at time of application as established by City Council.

6.8 Issuance of Permit

If satisfied that the applications, plans and documents submitted comply with all requirements of this Franchise if applicable, the City shall, within a reasonable period of time, issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the City may deem necessary or appropriate.

6.9 Notice of Construction

Except in the case of an emergency or extenuating circumstances regarding critical customer service activities, Grantee shall provide the City daily notification of time and location of construction crews if crews are to occupy any Public Right of Way or Easement. Grantee shall also provide in writing, to all residents adjacent to such Easements, a seven (7) day advance notice of intent to occupy Easement. The City recognizes that a seven (7) day notice may not be possible in emergency situations, however, the City does encourage the Grantee to provide as much notice to residents and to the City as is reasonably possible under such conditions.

6.10 Compliance with Permit

All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. City representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

6.11 Noncomplying Work

Upon thirty (30) days written notice from the City, all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this Franchise, shall be removed or relocated at the discretion of the City and at the sole expense of the Grantee. The City is also authorized to stop work or invoke penalties as provided herein, in order to assure compliance with the provision of this Franchise.

6.12 Completion of Construction

The Grantee shall promptly complete all construction activities so as to minimize disruption of Public Rights of Way and other public and private property. All construction work within the Franchise Area, including restoration, must be completed within one hundred-twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved by the City.

6.13 As-Built Drawings

If requested by the City, Grantee shall supply two (2) complete sets of plans prepared to scale and certified to the City as accurately depicting the location of all natural gas distribution facilities constructed pursuant to the permit. These plans shall be submitted to the City within sixty (60) days after completion of construction, in a format acceptable to the City. Upon request

from the Grantee, the City shall provide electronic digital base map drawings in the coordinate system used by the City, for the Grantee's use.

6.14 Restoration of Public Rights of Way, City Owned Property or Public Place

(A) When Grantee does any work in or affecting any Public Rights of Way, City owned property or Public Place, Grantee shall, after completion of the work or after such time as conditioned by the permit and at its own expense, promptly remove any obstructions therefrom and restore such ways or property to original or better than original condition unless otherwise directed by the City.

(B) When any excavation is made by Grantee, Grantee shall, within seven (7) calendar days after completion of the work or after such time as conditioned by the permit, restore the affected Public Rights of Ways, City owned property or Public Place to the original or better than the original condition in which it was prior to the excavation. The restoration shall be done in compliance with City specifications, requirements and regulations in effect at the time of such restoration. If Grantee fails to restore, within seven (7) calendar days after completion of the work or after such time as conditioned by the permit, the affected portion of such ways or property to the original or better than the original condition in which it was prior to the excavation, the City may make the restoration, and the reasonable costs of making the restoration, including the cost of inspection, supervision, and administration shall be paid by Grantee. The City may grant an extension to the seven (7) calendar day requirement of this section.

(C) If weather or other conditions do not permit the complete restoration required by this section, Grantee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the Grantee's sole expense and the Grantee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Permanent restoration must be completed within thirty (30) days of initial construction unless a longer time is allowed in the construction permit or unless Grantee submits a request in writing and receives an extension from the City. Any corresponding modification to the construction schedule may also be subject to approval by the City.

(D) All restoration work shall be done in accordance with an approved traffic control plan referenced in Section 6.6 herein.

6.15 Coordination of Construction Activities

If requested by the City, Grantee shall meet with the City to schedule and coordinate construction activities in the Public Rights of Way. At these scheduled meetings the City shall provide available information on plans for local, State, and/or federal construction projects.

(A) All construction locations, activities and schedules shall be coordinated, as required by the City, to minimize public inconvenience, disruption or damages.

(B) All installations in new residential subdivisions shall be, wherever and whenever practical, laid in conjunction with all other utility installations.

(C) No newly overlaid street or newly constructed street shall be excavated by Grantee for a period of five (5) years from the time of completion of the street overlay or the street construction unless specifically authorized in writing by the City.

6.16 Extension of System

(A) In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give Grantee reasonable notice of such construction or development, including a copy of any final plat, and of the particular date on which open trenching, subject to Grantee specifications, will be available for Grantee's installation of distribution facilities. Written notice must be given to Grantee at least five (5) working days before the trenches are available. If Grantee fails to install its gas distribution facilities within two (2) working days of the date the trenches are available, then should the trenches be closed after the two (2) day period, the cost of new trenching is to be borne by Grantee.

(B) Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner. Grantee shall bear expense of running lines up to the length limits as determined by rules or orders as filed or issued by the Oregon Public Utility Commission.

6.17 Maps

Grantee shall maintain on file, at an office within the State, maps and operational data pertaining to its operations in the Franchise Area. The City may inspect the maps and data at any time during business hours. Upon request of the City, the Grantee shall furnish to the City, without charge and on a current basis, maps showing the location of the Natural Gas Utility System in the Franchise Area in a standardized format. Grantee and the City may determine that the location of certain facilities should be confidential as the public interest may require. In such a case, Grantee is under no legal obligation to provide the City records of the location of such facilities. However, Grantee shall at all times maintain and allow the City, with reasonable notice and during normal business hours, access and the right to review a full and complete set of plans, "as-built" maps and records showing the exact location of all Grantee's facilities within the Franchise Area.

SECTION 7 RELOCATION OR REMOVAL OF FACILITIES

7.1 Relocation or Removal of Facilities

Except in the case of an emergency, within thirty (30) days following written notice from the City, Grantee shall, at Grantee's expense, temporarily or permanently remove, relocate, change or alter the position of any facilities within the Public Rights of Way whenever the City

shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

(A) The construction, repair, maintenance or installation of any City or other public improvement in or upon the Public Rights of Way, Public Place, or City-owned property.

(B) The construction, installation or improvement of any Public Right of Way by a private developer as a condition of property development.

(C) The operations of the City or other governmental entity in or upon the Public Rights of Way, Public Place, or City owned-property.

(D) The public interest.

The City recognizes that a thirty (30) day notice may be insufficient for Grantee to relocate certain facilities; as such, if Grantee requests additional time from the City to relocate these facilities such a request shall not be unreasonably denied. If Grantee fails to comply with any requirement of this section within a reasonable time as determined by the City, the City may remove or relocate the facilities at Grantee's expense provided any such removal or relocation be performed with Qualified Persons. The City shall avoid the need for such removal or relocation of Grantee's facilities whenever reasonably possible.

The expense of relocating shall be borne by the Grantee. When such removal or relocation is required for the sole convenience or benefit of any Person other than the City, this franchise does not preclude Grantee from requiring reimbursement for the reasonable cost thereof from such Person (provided that should any third party use such reimbursement as a basis for a claim of any kind against the City, Grantee must defend and fully indemnify the City for all direct and/or indirect costs related to such a claim unless the claim is based on the negligent or willful misconduct of the City).

7.2 Street Vacation

Whenever the City shall vacate any Public Rights of Way or Public Place for the convenience or benefit of any Person other than the City, Grantee's rights under this Franchise shall be preserved as to any of its facilities then existing in the Public Rights of Way or Public Place if reasonably practicable. To the extent Grantee's rights in the Public Rights of Way or Public Place cannot be preserved, the City shall provide an alternative right of way or Easement for the location of Grantee's facilities. If Grantee's facilities must be relocated from a vacated Public Rights of Way, the petitioners of such vacation shall bear the costs of such relocation. Upon receipt of a notice of a petition for vacation, Grantee shall as soon as practicable investigate and advise the City and petitioners in writing whether Grantee's facilities must be relocated and the estimated costs of such relocation.

7.3 Emergency Removal and Alternate Routing of Facilities

If, at any time, it shall become necessary in case of fire or disaster in the Franchise Area, to cut or move any of the gas distribution facilities or other appurtenances to the system of Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by Grantee, at its sole expense, provided that such repairs are not necessitated by a negligent act of the City, in which case costs for repairs shall be borne by the City. In the event continued use of a street is denied to Grantee by the City for any reason, Grantee shall provide service to affected customers over such alternate routes as shall be determined by Grantee within a reasonable period of time.

7.4 Removal of Unauthorized Facilities

If Grantee owns, controls or maintains any unauthorized facilities within the Public Rights of Way in the Franchise Area, Grantee shall within ninety (90) days following written notice from the City, or such additional time approved by the City, the Grantee shall at its own expense, remove or abandon such facilities from the Public Rights of Way. The City must approve in writing the abandonment of unauthorized facilities. A facility is unauthorized and subject to removal in the following circumstances:

- (A) One year after the expiration or termination of this Franchise.
- (B) Upon abandonment of a facility within the Public Rights of Way of the Franchise Area. A facility will be considered abandoned when it is deactivated and decoupled from the Natural Gas Utility System or not used consistent with the grant of authority under this Franchise for a period of ninety (90) days or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced.
- (C) If the facility was constructed or installed without the appropriate prior authority at the time of installation.
- (D) If the system or facility was constructed or installed at a location not permitted by this Franchise or other legally sufficient permit.

7.5 Rearrangement of Facilities to Permit Moving of Buildings and Other Objects

(A) Upon seven (7) days notice in writing from any Person desiring to move a building or other object, Grantee shall temporarily raise, lower, or remove its facilities upon any Street, Bridge, or Public Place within the Franchise Area, when necessary to permit the Person to move the building or other object across or along such Street, Bridge, or Public Place. The raising, lowering, or removal of the facilities of Grantee shall be in accordance with all applicable ordinances and regulations of the City.

(B) The notice required by this section, bearing the approval of the City, shall detail the route of movement of the building or other objects. It shall further provide that the Person giving said notice will indemnify and save Grantee harmless from any and all damages or claims whatsoever caused directly or indirectly from such temporary rearrangement of Grantees' facilities. Grantee shall provide such Person the actual expense incurred in making the temporary rearrangement of its facilities, including the cost to Grantee of any interruption of service to its customers. Costs of temporary rearrangement of facilities will be borne by the Person giving the notice. Before making the temporary rearrangement of its facilities, Grantee may require the Person desiring the temporary rearrangement to deposit cash or adequate security, at the option of the Person, to secure payment of the costs of rearrangement as estimated by Grantee.

SECTION 8 FRANCHISE FEE AND FINANCIAL CONTROLS

8.1 Franchise Fees

(A) As compensation for the privileges granted herein, Grantee, or any affiliate of Grantee, shall pay to the City an amount equal to five percent (5%) of gross revenue derived from all sources of operations of the system within the Franchise Area allowed by law shall be included within the term of gross revenue less related net uncollectables. Except as otherwise prohibited or limited by law, upon thirty (30) days written notice by City to the Grantee, the City may, in its discretion, declare an increase in the percentage rate of compensation under subsection 8.1 of this section. In the event of such a declaration said increased rate of compensation shall thereafter be payable to the City by Grantee. Gross revenues shall include revenues from the use, rental, or lease of the Grantee's operating facilities. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks or sales at wholesale by one utility to another when the utility purchasing the service is not the ultimate customer. In addition, gross revenues shall not include public purpose charges, provided that such charges or surcharges are required or authorized by federal or State statute or administrative rule or by tariff approved by the Oregon Public Utility Commission and raise revenue solely for a public purpose and not to compensate Grantee for sale or use of natural gas or for the use, rental, or lease of Grantee's Gas Facilities in the City. No expenses, encumbrances, or expenditures shall be deducted from the gross revenue in determining the total gross revenue. Accrual of such franchise fees shall commence as of the effective date of this Franchise.

In the event Grantee enters into an agreement with a Person for the purpose of leasing or renting access to all or part of Grantee's operating facilities located within the Franchise Area, such Person, if franchised to operate within the City, may deduct the incurred lease or rental expense paid to Grantee prior to calculation of its gross revenues subject to franchise fees.

8.2 Payments

Grantee's franchise fee payments to the City shall be due on or before the thirtieth (30th) day of each month for the month preceding. Within thirty (30) days after the termination of this Franchise, compensation shall be paid for the period elapsing since the end of the last month for which compensation has been paid.

8.3 Late Payments

In the event any payment due monthly is not received within thirty (30) days from the end of the preceding month, or is underpaid, Grantee shall pay in addition to the payment, or sum due, interest at a rate no higher than the current legal interest rate on judgments in the State, calculated from the date the payment was originally due until the date the City receives the payment. Additionally, if any payment becomes ninety (90) days in the arrears, a ten (10) percent penalty shall be applied.

8.4 Alternative Compensation

In the event the obligation of Grantee to compensate the City through franchise fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City compensation equivalent to the compensation paid to the City by other similarly situated users of the Public Rights of Way for Grantee's use of the Public Rights of Way, provided that in no event shall such payments be less than the equivalent of five percent (5%) of Grantee's gross revenues (subject to the other provisions contained in this Franchise).

8.5 Acceptance of Payment and Computation

Acceptance of any payment shall not be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

8.6 Monthly Franchise Fee Reports

(A) Each payment shall be accompanied by a written report to the City, signed by an officer of the Grantee or the officer's authorized designee, showing the amount of gross revenues of the Grantee for the period covered, computed on the basis set forth in Section 8.1. The books and records showing Grantee's gross revenues from the distribution and sale of natural gas referred to in Section 8.1 shall always be open to inspection by the City for the purpose of ascertaining the amount payable to City under Section 8.1, or to verify any statement or report submitted by Grantee pursuant to the provisions of this Section.

(B) Grantee shall, upon request, furnish to the City the total number of customers within the Franchise Area who have contracted with Grantee for transportation and delivery of

natural gas separate from the purchase of natural gas. This report shall include the total volume of gas transported by Grantee on behalf of these customers for the period covered by the report.

8.7 Annual Reports

(A) Grantee shall provide its audited annual financial statements to the City within ninety (90) days after the end of each fiscal year. The gross receipts report shall be reconciled to the income statement in sufficient detail to show the monthly gross revenues on which the City's franchise fee is based. Grantee shall also, within ninety (90) days after the end of each fiscal year, furnish to the City a statement (gross receipts report) stating the total amount of gross revenues for the year and all payments, deductions and computations for the period covered by the payments. The statement must include sufficient information and detail so that, at a minimum, the City can determine for the Franchise Area from this report, all revenues, payments, deductions and computations for the period covered by the report including sufficient information to link revenues earned within the Franchise Area to revenues reported in the audited financial statements.

(B) The costs of preparing and furnishing to the City the records and reports required pursuant to this Franchise shall be borne by Grantee.

8.8 Audit by City

Grantee shall make available, within thirty (30) days written notice, current and accurate financial records at an office within ninety (90) miles of the City, for the purpose of permitting the City to determine the amounts due the City under the obligations of this Franchise. On an annual basis, upon thirty (30) days prior written notice, the City or its agent shall have the right to conduct an audit or review of Grantee's records reasonably related to the administration or enforcement of this Franchise, provided that only payments that occurred or should have occurred during a period of thirty-six (36) months prior to the date the City notifies the Grantee of its intent to perform an audit or financial review shall be subject to such audit or financial review. If an audit or review of the records determines that franchise fees have been underpaid by three percent (3%) or more, Grantee shall reimburse the City for the total cost of the audit or review within thirty (30) days of City's written demand for same. All amounts underpaid shall accrue interest at the statutory rate from the effective date of the month in error and shall be subject to a ten (10) percent penalty if more than ninety (90) days in arrears.

Records for audit/review purposes shall include without limitation:

(A) All documents which demonstrate the original or beginning amount and the final amount shown on any report related to or included in the determination of franchise fees, revenues or expenses related thereto in sufficient detail to the calculation and amount of franchise fees paid to the City.

(B) Any and all accounting schedules, statements, and any other form of representation, which relate to, account for, support or correlate to any accounts involving franchise fees, revenues or expenses related thereto including documents related to the calculation of the fee.

(C) The City will not request customer identifying information as part of an audit.

8.9 Tax Liability

Payment of franchise fees under this Franchise shall not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be now or hereafter imposed or reimbursement or indemnity paid to the City.

SECTION 9 INDEMNIFICATION

9.1 General Indemnification

Grantee hereby agrees and covenants to indemnify, defend and hold the City, its officers, officials, boards, commissions, agents, volunteers and employees, harmless from any claim for injury, damage, loss, liability, copyright infringement, defamation, cost or expense, including court and appeal costs and attorneys' fees or expenses, arising from any casualty or accident to Person or property by reason of any negligent act or willful misconduct done under this Franchise, by or for Grantee, its officers, agents, or employees, or by reason of any neglect or omission of Grantee while exercising Grantee's rights under this Franchise to construct, expand, upgrade, and maintain its Natural Gas Utility System within the Franchise Area, but not if arising out of or by reason of any negligence or willful misconduct by the City, its officers, officials, boards, commissions, agents, volunteers and employees. Grantee shall consult and cooperate with the City while conducting its defense of the City. The City shall provide Grantee with prompt notice of any such claim, and no settlement or compromise of any such claim in which Grantee is indemnifying the City shall be accepted by the City without the written approval of Grantee.

9.2 Indemnification for Relocation

Grantee shall indemnify the City for any damages, claims, additional costs or expenses assessed against, or payable by, the City arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Public Rights of Way in a timely manner in accordance with any relocation required by the City under this Franchise.

9.3 Procedures and Defense

If a claim or action arises, the City, or any other indemnified party, may tender the defense of the claim to Grantee. In any event, such defense shall be at Grantee's expense. The

City may, on its own, defend or participate in the defense of a claim. Grantee may not agree to any settlement of claims affecting the City without the City's approval.

9.4 Non-waiver

The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this section.

9.5 Expenses

In addition to other expenses Grantee incurs under this section, if separate representation to fully protect the interests of both parties is necessary, such as a dispute between the City and the counsel selected by Grantee to represent the City, Grantee shall pay all expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. The City's expenses shall include all out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee.

SECTION 10 INSURANCE

Grantee shall, as a condition of the Franchise, secure and maintain the following liability insurance policies, at its own expense, insuring both the Grantee and the City, and its elected and appointed officers, officials, boards, commissions, agents, volunteers and employees as additional insured:

(A) Minimum Scope of Insurance, coverage shall be at least as broad as:

(1) Excess General Liability: Insurance Services Office (ISO) GL form providing General Liability Claims Made Form.

(2) Excess Automobile Liability: Insurance Services Office (ISO) form for OR, providing Business Automobile Coverage on Owned, Non-Owned and Hired vehicles.

(3) Worker's Compensation coverage as required by Oregon Revised Statutes and including any required Employer's Liability Insurance.

(B) Minimum Limits of Insurance, Grantee shall maintain limits no less than:

(1) Commercial General Liability: \$5,000,000 Each Occurrence
\$5,000,000 General Aggregate
\$2,500,000 Products Aggregate

\$2,500,000 Personal Injury

The General Aggregate shall apply separately to this Franchise.

- (2) Automobile Liability: \$5,000,000 Per Occurrence
- (3) Employers Liability: \$1,000,000 Each Accident
\$1,000,000 Disease Aggregate
\$1,000,000 Disease Each Employee

(C) Grantee shall furnish the City with Certificates of Insurance in a form acceptable to the City Attorney, and consistent with the requirements of this subsection. Grantee shall make available for inspection (but not for copying) the pertinent policies and with original endorsements for each insurance policy (if needed) as of the effective date of this Franchise. The liability insurance policies required by this section shall be maintained by the Grantee throughout the term of this Franchise, and such other period of time during which the Grantee is operating without a Franchise hereunder, or is engaged in the removal of its facilities. The Commercial General Liability Certificate shall name the City of Corvallis, its officers, officials, boards, commissions, agents, volunteers and employees, as additional insured in respect to operations performed under the Franchise. Any language stating: "will endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives", shall be omitted.

(D) Within sixty (60) days after receipt by the City of said notice of cancellation, and in no event later than thirty (30) days prior to said cancellation, the Grantee shall obtain and furnish to the City evidence that the Grantee meets the requirements of this section. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, boards, commissions, agents, volunteers and employees.

(E) The amount of any deductible or self-insurance provision and its terms shall be reasonable and consistent with industry practices.

(F) Any deductible or self-insured retention of the policies shall not in any way limit Grantee's liability to the City.

(G) Grantee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, agents, volunteers and employees. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it.

(H) Grantee shall inform the City of changes in insurance policies affecting compliance with the requirements of this section.

(I) As an alternative to the coverage listed in this subsection 10, the Grantee may provide proof of and keep in force self-insurance, or a self-insured retention plus insurance, equivalent to the coverage required above.

SECTION 11 TERMINATION

11.1 Termination of Franchise

The Franchise to use or occupy Public Rights of Way within the City may be terminated for violation of material provisions. Material provisions may include, but are not limited to the following:

- (A) The obligations of Grantee with respect to construction, use and maintenance of facilities within the Public Rights of Way or Public Place.
- (B) Construction or operation at an unauthorized location.
- (C) Improper sale or assignment of the Franchise under Section 13 herein.
- (D) Willful misrepresentation by or on behalf of Grantee in any application to the City.
- (E) Failure to relocate or remove facilities as required in this Franchise.
- (F) Failure to pay taxes, compensation, fees, penalties or costs when and as due the City under this Franchise.
- (G) Insolvency or bankruptcy of Grantee.

11.2 Notice and Duty to Cure

In the event the City believes grounds exist for termination of the Franchise pursuant to Section 11.1, the City shall give Grantee written notice of the apparent violation or noncompliance, providing a concise statement of the nature and general facts of the violation or noncompliance, and providing Grantee a reasonable period of time, of not less than five (5) days and not exceeding thirty (30) days, to furnish evidence that corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.

11.3 City Council Review

In the event Grantee fails to provide evidence reasonably satisfactory to the City as provided in Section 11.2, the City may refer the apparent violation or non-compliance to the City Council. The City Council shall provide Grantee with notice and a reasonable opportunity to be heard concerning the matter.

11.4 Standards for Termination or Lesser Sanctions

If City Council determines Grantee has violated or failed to comply with material provisions of this Franchise, City Council may (1) terminate the Franchise or (2) establish some lesser sanction and cure which may include, recovery of penalties of not more than one thousand dollars (\$1,000.00) per day for each provision not fulfilled. In determination of the penalty, City Council may take into consideration the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors. Whether:

- (A) The misconduct was egregious.
- (B) Substantial harm resulted.
- (C) The violation was intentional.
- (D) There is a history of prior violations of the same or other requirements.
- (E) There is a history of overall compliance.
- (F) The violation was voluntarily disclosed, admitted or cured.

SECTION 12 FRANCHISE VIOLATIONS / PENALTIES

12.1 Penalties

Whenever the City finds that Grantee has violated one (1) or more terms, conditions or provisions of this Franchise, a written notice, or an oral notice followed by a written notice, shall be given to Grantee informing it of such violation or liability. If the violation concerns requirements mandated by the Oregon Occupational Safety and Health Administration, Oregon Department of Transportation Safety Regulations or the Federal Department of Transportation Office of Pipeline Safety Regulations, an oral notice followed by a written notice may be given. For these safety violations, Grantee shall have 24 hours from notification to correct the violation. For all other violations and liabilities, the written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have twenty (20) days subsequent to receipt of the notice in which to correct the violation. Subject to the requirement of prior notice for violations occurring without just cause, the City may assess penalties against Grantee as follows:

- (A) For failure to adhere to material provisions of this Franchise, the penalty shall be not more than one thousand dollars (\$1,000.00) per day for each provision not fulfilled.
- (B) For failure to correct and comply with Oregon Occupational Safety and Health Administration, or Oregon Department of Transportation safety requirements or the Federal

Department of Transportation Office of Pipeline Safety Regulations, the penalty shall be not more than five hundred dollars (\$500.00) per day, per occurrence.

(C) For failure to comply with any provision of this Franchise, for which a penalty is not otherwise specifically provided, the penalty shall be not more than two hundred and fifty dollars (\$250.00) per day, per occurrence.

12.2 Penalty Appeal

Grantee may, within ten (10) days of receipt of notice, notify the City in writing, that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to the City shall specify with particularity the matters disputed by Grantee. The City, within ten (10) days of receiving written notification and summary of dispute, shall decide if a violation or failure has, in fact, occurred. If Grantee disputes the decision of the City, the City Council shall hear Grantee's dispute at its next regularly or specially scheduled meeting. If at the conclusion of the meeting the claim is upheld by the City Council, Grantee shall have ten (10) days from such a determination to remedy the violation or failure. Penalties shall accrue from time of initial notification until such time as the violation or failure is resolved to the satisfaction of the City. If at the conclusion of the meeting no determination of the claim is made by City Council, penalties shall accrue from time of notification of such determination until such time as the violation or failure is resolved to the satisfaction of the City.

12.3 Other Remedies

Nothing in this Franchise shall be construed as limiting any judicial remedies the City or Grantee may have, at law or in equity, for enforcement of this Franchise.

12.4 Obligation to Cure As a Condition of Renewal

This Franchise shall not be renewed until any ongoing violations or defaults in Grantee's performance or of the requirements of this Franchise have been cured.

SECTION 13 ASSIGNMENT, TRANSFER OR SALE OF FRANCHISE

This Franchise shall be binding upon, and inure to the benefit of, the successors, legal representatives and assigns of the Grantee. This Franchise shall not be sold or assigned other than to an entity which owns or is owned or controlled by, or is under common ownership with Grantee except for security purposes, without the prior consent of the City, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.

(A) Grantee shall provide reasonable notice and opportunity for the City to adequately review ownership or assignment proposal.

(B) Grantee and the proposed assignee or transferee of the Franchise or system shall agree, in writing, to assume and abide by all of the provisions of the Franchise.

(C) No assignment of the Franchise shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate a Natural Gas Utility System pursuant to this Franchise. The City shall accept an order of the Oregon Public Utility Commission approving assignment or transfer of Grantees territory to the assignee as presumptive evidence that the assignee possesses these qualifications.

(D) Any assignment of this Franchise, distribution system or integral part of the distribution system without prior approval of the City under this Section or pursuant to the Franchise shall be void and is cause for revocation of this Franchise.

SECTION 14 FORECLOSURE, RECEIVERSHIP AND ABANDONMENT

14.1 Foreclosure

Prior to foreclosure or other judicial sale of the system, Grantee shall notify the City of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or assign shall apply without regard to how such transfer or assignment occurred.

14.2 Receivership

The City shall have the right to cancel this Franchise subject to any applicable provisions of State or federal law, including the Bankruptcy Act, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

(A) Within one hundred and twenty (120) days after his/her election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and;

(B) Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

14.3 Continuity of Service Mandatory

Notwithstanding any other provision to the contrary, upon expiration or termination of this Franchise, the City may require Grantee to continue to operate the system under the terms

and conditions of this Franchise for an extended period of time, not to exceed twelve (12) months. Grantee shall, as trustee for its successor in interest, continue to operate the system under the terms and conditions of this Franchise. In the event Grantee does not so operate the system, the City may take such steps as it, in its sole discretion, deems necessary to assure continued service.

14.4 Termination or Abandonment of Franchise

Upon any termination of this Franchise, whether before the expiration of the Franchise or upon expiration, or by any abandonment of the Franchise by Grantee, the City may require all facilities installed or used by Grantee to be removed by Grantee at Grantee's expense and the property upon which said facility was used restored by Grantee to the original or better than original condition it was in before installation or use by Grantee, subject to the requirements of Section 7.4.

SECTION 15 GENERAL FRANCHISE TERMS

15.1 Damage to Grantee's Facilities

Unless directly and proximately caused by negligent, willful, intentional or malicious acts by the City, the City shall not be liable for any damage to or loss of any distribution facility within the Public Rights of Way of the City as a result of or in connection with any public works, public improvement, construction, excavation, grading, filling, or work of any kind in the Public Rights of Way by or on behalf of the City, or for any consequential losses resulting directly or indirectly therefrom.

15.2 Duty to Provide Information

Within ten (10) business days of a written request from the City and subject to the provisions of Sections 6.17, 8.6, 8.7 and 8.8, Grantee shall furnish the City with the following:

(A) Documents or records which may be reasonably required by the City for its performance of duties under this Franchise.

(B) All books, records, maps, and other documents, maintained by Grantee with respect to its facilities within the Franchise Area for inspection by the City.

15.3 Preferential or Discriminatory Practices Prohibited

In connection with the performance of work under this Franchise within the Franchise Area, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified on the basis of age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious observance, sex, sexual orientation,

and source or level of income. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or nondiscrimination requirements of federal, State and local laws. The obligations with respect to Grantee's employment practices as required in this section are not material terms of the Franchise but shall be subject to the penalty provisions hereof.

15.4 Severability and Preemption

If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Franchise is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by State or federal legislation, rules, regulations or decision, the remainder of the Franchise shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining article, section, subsection, sentence, clause, phrase, terms, provision, condition, covenant and portion of this Franchise shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or State laws, rules or regulations preempt a provision or limit the enforcement of a provision of this Franchise, then the provision shall be read to be preempted only to the extent required by law. In the event such federal or State law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the City.

15.5 Notices

All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to the person designated below, or when five (5) days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid, or on the next addressed business day if sent by express mail or overnight air courier to the party to which notice is being given, as follows:

If to the City: City of Corvallis
P.O. Box 1083
Corvallis, Oregon 97339
Attn: Franchise Utilities Specialist

If to Grantee: Northwest Natural Gas Company
Attn: Risk & Land Management
220 NW Second Avenue
Portland, Oregon 97209

Such addresses may be changed by either party upon written notice to the other party given as provided in this section.

15.6 Captions

The captions to sections throughout this Franchise are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Franchise.

15.7 Consent

Wherever the consent of either the City or the Grantee is specifically required by this Franchise, such consent will not be unreasonably withheld.

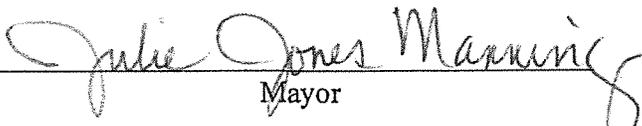
15.8 Confidentiality

Subject to the limits of the Oregon Public Records Law, the City agrees to treat as confidential any books and Records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the City believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with applicable law, advise Grantee and provide same with a copy of any written request by the party demanding access to such information within a reasonable time. If Grantee takes appropriate steps to protect its interest and pays all costs related to the request for disclosure, the City agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person until otherwise ordered by a court or agency of competent jurisdiction.

PASSED by the City Council this 17th day of December, 2012.

APPROVED by the Mayor this 17th day of December, 2012

Effective this 1st day of January, 2013



Mayor

UNCONDITIONAL ACCEPTANCE

City of Corvallis
City Recorder
PO Box 1083
Corvallis, Oregon 97339

This is to advise the City of Corvallis, Oregon (the "City") that Northwest Natural Gas Company (the "Grantee") hereby accepts the terms and provisions of Ordinance No. 2012-23, passed by the Corvallis City Council on 12-17, 2012 (the "Franchise") granting a Franchise for ten (10) years to Grantee. The Grantee agrees to abide by each and every term of the Franchise, and shall become effective upon acceptance of said agreement by NW Natural Gas Company (the "Grantee")

BY Margaret M. Kelpach
TITLE Via President + General Counsel
DATE Jan 2, 2013

This Unconditional Acceptance was received by the City of Corvallis on January 9,
2013.

[Signature] 1/9/13
City Recorder Date