

ORDINANCE NO. 390

AN ORDINANCE RELATING TO AND PROVIDING FOR THE GRANTING OF A FRANCHISE TO WASHINGTON NATURAL GAS COMPANY, A WASHINGTON CORPORATION, AND A PUBLIC UTILITY SELLING AND DISTRIBUTING GAS WITHIN THE STATE OF WASHINGTON, THE RIGHT AND FRANCHISE TO USE AND OCCUPY THE STREETS, AVENUES, ROADS, ALLEYS, LANES AND OTHER PUBLIC PLACES AND WAYS OF THE CITY OF LAKE FOREST PARK, WASHINGTON, FOR CONSTRUCTING, MAINTAINING, REPAIRING, RENEWING AND OPERATING A GAS DISTRIBUTION SYSTEM AND ACCESSORIES WITHIN AND THROUGH THE TOWN.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE FOREST PARK:

SECTION 1: The right is hereby granted to Washington Natural Gas Company, hereinafter referred to as the Grantee, to lay, construct, extend, maintain, repair, renew and replace gas pipes and gas mains and accessories under, along and/or across any and all streets, avenues, roads, alleys, lanes and other public places and ways in the City of Lake Forest Park, Washington, and all territory hereafter annexed, and to use and occupy said streets, avenues, roads, alleys, lanes and other public places and ways for the purpose of therein laying, constructing, extending, maintaining, renewing, replacing and repairing mains and pipes and all appurtenances thereto and accessories used and/or useful for the transmission, sale and distribution of gas within and through the present or future territorial limits of the City of Lake Forest Park, Washington, for the term of twenty-five years (25) from and after the effective date of the ordinance, except as hereinafter provided.

SECTION 2: Rights herein granted shall be subject to and governed by this ordinance; provided, however, the Council expressly reserves unto itself all its police power to adopt general ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted not inconsistent herewith.

SECTION 3: The location of all mains, laterals and appurtenances, their depth below the surface of the ground or grade of any such streets, avenues, roads, alleys, lanes and other public places and ways shall be determined and fixed by the City Engineer, and before any work is done by the Grantee under this franchise (except in emergency situation) it shall first file with the City an application for a permit to do such work, accompanied by drawings showing the position and location of all such mains and/or laterals and meter boxes, valves, etc., sought to be constructed, laid, installed or erected at that time and their relative positions to existing streets, avenues, roads, alleys, lanes and other public places or ways.

SECTION 4: The Grantee shall at all times keep full and complete plans, plat or plats, specifications, profiles and records showing the exact location, depth and size of all gas mains and lines heretofore laid in the City and showing the location of all gates, gauges and other service construction, and such plans, plat or plats, specifications and records shall be kept current annually by the Grantee to show thereon the exact location of all additional mains and lines hereinafter installed by the Grantee, and its successors and assigns, and these records shall be subject to inspection at all reasonable times by the proper officials and agents of the City, and a copy of these plans, plat or plats, specifications and records shall be furnished to the City upon request.

SECTION 5: The Grantee in such application shall specify the class and type of material to be used and the equipment to be used and the mode of safeguarding and facilitating public traffic during construction. All such material and equipment shall be first class and shall meet with the approval and pass all requirements of said City Engineer, and the Grantee shall pay to the City of Lake Forest Park all costs of the expenses incurred in the examination, inspection and supervision of such work on account of the granting of said permit, including that work

described in Section 3 hereof. If public property used or to be used by Grantee hereunder forms a part of the route of a state highway, the Grantee shall determine the requirements of the state and take them into account with respect to the use thereof by the Grantee.

SECTION 6: The Grantee shall leave all streets, avenues, roads, alleys, lanes, public places and ways, after laying and installing mains and doing construction work, making repairs to the equipment, etc., in as good and safe structural condition in all respects as they were before the commencement of such work by the Grantee, its agents or contractors. In case of any damage to said streets, avenues, roads, alleys, lanes, public places and ways, to the pavement, turnouts, gutters, ditches, walks, drain pipes, rails, bridges, trestles, wharves or landings by the Grantee, said Grantee shall immediately repair said damage at its sole cost and expense. The City Council may at any time after having provided written notice to Grantee do, order and have done any and all work considered necessary to restore to a safe condition any such streets, avenues, roads, alleys, lanes, public places and ways, or pavement, turnouts, gutters, ditches, walks, drain pipes, rails, bridges, trestles, wharves or landings left by the Grantee or its agents in a condition dangerous to life or property, and the Grantee, upon demand, shall pay to the City of Lake Forest Park all costs of such construction or repair and of doing such work.

Before undertaking any of the work or improvements authorized by this franchise, the Grantee, its successors or assigns shall on request by the City of Lake Forest Park furnish a bond, executed by the Grantee and a corporate surety authorized to do a surety business in the State of Washington, in a sum to be set and approved by the Street Superintendent or of the properly authorized Town official as sufficient to insure performance of the Grantee's obligations under this franchise, conditioned that the Grantee shall well and truly keep and observe all of the

covenants, terms and conditions and faithfully perform all of the Grantee's obligations under said franchise; shall correct or replace forthwith, on receipt of notice thereof, any defective work or materials used in the replacement of the City streets or property discovered within a two-year period of the date of the replacement and acceptance of such repaired streets by the City; and shall restore the streets or property to the condition in which they existed prior to any commencement of work thereon by the Grantee, where the change was occasioned by the work being performed thereon by the Grantee, within the period of time specified by the Street Superintendent in the permit issued for such work.

SECTION 7: The Grantee, by the acceptance of this franchise, hereby agrees, for itself, its successors and assigns, to protect and save harmless the City of Lake Forest Park from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person or persons, corporation or property by reason of any faulty construction, defective material, defective equipment, faulty maintenance or by the improper occupation of said streets, avenues, roads, alleys, lanes, public places and ways by the Grantee, or by reason of the negligent, improper or faulty manner of safeguarding any excavation, temporary turnouts or inefficient operation by the Grantee of its said pipe lines as hereinbefore designated; and in case suit or action is brought against said City for damages arising out of or by reason of any of the above mentioned causes, the Grantee, its successors and assigns, will, upon notice to it or them of the commencement of said action, defend the same at its or their sole cost and expense; and in case judgment shall be rendered against the City in such suit or action, the Grantee will fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined adversely to the City, provided the Grantee herein, its successors and assigns, shall have the right to employ its or their own Counsel in any cause or action to be given the management of the defense thereof.

SECTION 8: If at any time the City of Lake Forest Park deems it advisable to improve any street or public place in which Grantee's facilities are installed by grading, regrading or draining, or installing or relocating municipally owned sewers, drains or water mains, the Grantee, upon written notice by the City of Lake Forest Park, shall at its own expense, so raise, lower or move its line of pipes to conform to such new grades as may be established or place said pipes in such location or position so as not to conflict with any such improvement and said City of Lake Forest Park shall in nowise be held liable for costs to the Grantee that may occur by reason of such relocations; provided, the Grantee shall be required to relocate its facilities only if they interfere with such improvement and no alternative plan for the improvement is reasonably feasible.

SECTION 9: A fee shall be imposed for the permit allowing Grantee, and its successors and assigns, or upon any consumer of gas, to excavate, dig, or open public property of the City for the construction, operation, renewal, laying and maintaining of Grantee's gas distribution system, and the Grantee shall pay all costs and expenses incurred in the examination, inspection and supervision of such work on account of granting the said permit.

SECTION 10: At all times during the term of this franchise, the Grantee shall promptly and without discrimination furnish a reasonably adequate supply of gas within the limits of the supply of gas reasonably available to Grantee to any persons and corporations within the City who request the same and agree to abide by Grantee's reasonable rules and regulations, and shall acquire, construct, maintain, equip and operate all necessary facilities for the transmission, supply, distribution and sale of gas for the benefit and convenience of such persons and/or corporations, and the Grantee agrees to furnish service to such persons or corporations desiring such service at the Grantee's established rates, and rules and regulations as filed with the

Washington Utilities and Transportation Commission where the furnishing of such service is economically feasible in the reasonable opinion of the Grantee.

SECTION 11: This grant shall not be exclusive and shall in no manner prohibit the City of Lake Forest Park from granting other franchises of a like nature or franchises for other public or private utilities over, along, across, under and upon any of such streets, avenues, roads, alleys, lanes, public places and ways, and shall in nowise prohibit or prevent the City of Lake Forest Park from using any of said streets, avenues, roads, alleys, lanes, public places and ways, with full power to make all necessary changes, relocations, repairs, maintenance, etc., of same as the City of Lake Forest Park may deem fit.

SECTION 12: The City shall have access at all reasonable times to any part of the plant or plants, facilities, operations and premises of the Grantee to make inspections and tests that may be required in supervising the fulfillment by the Grantee of the terms of this franchise.

SECTION 13: All of the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors and assigns of the Grantee, and all privileges of the Grantee shall inure to its successors and assigns.

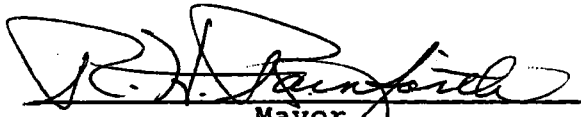
SECTION 14: If the Grantee, its successors or assigns, shall willfully violate or fail to comply with any of the provisions of this grant, or through willful or unreasonable negligence fail to heed to any notice given to the Grantee under the provisions of this grant, then the said Grantee, its successors or assigns, shall at the election of the City Council of the City of Lake Forest Park if it has not corrected such failure after 60 days written notice, or such longer period as the City Council may elect, forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the City of Lake Forest Park.

SECTION 15: After the passage and legal publication of this ordinance, and if accepted within thirty (30) days after such publication, the Grantee shall indicate such acceptance by its filing with the City Clerk of the City of Lake Forest Park an unconditional written acceptance thereof, to be executed according to law, and a failure of the Grantee so to accept this ordinance within the said period of time shall be deemed a rejection thereof by the Grantee, and the rights and privileges herein granted shall, after the expiration of said period of thirty (30) days, if not so accepted, absolutely cease and determine unless said period of time shall be extended by the City by ordinance duly passed for that purpose.

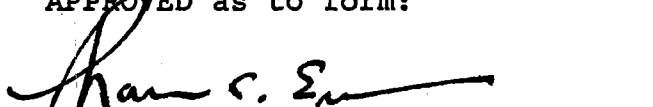
SECTION 16: If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

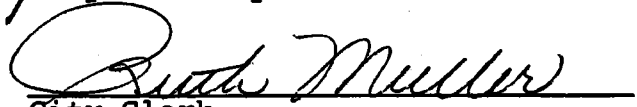
SECTION 17: This ordinance shall be in full force and effect five (5) days from, and after, its passage, approval and legal publication (all at the cost of the Grantee herein) as provided by law, provided it is duly accepted as hereinbefore provided.

PASSED by the City Council, signed and approved this 17<sup>th</sup> day of February, 1988.

  
Mayor

APPROVED as to form:

  
City Attorney

  
City Clerk

Date of Publication: March 10, 1988

The undersigned hereby accepts all rights and privileges of the above granted franchise, subject to all the terms, conditions and obligations contained therein.

DATED this 9th day of March, 1988.

WASHINGTON NATURAL GAS COMPANY



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President