EL DORADO CITY COMMISSION - WORK SESSION AGENDA
CITY HALL – 220 E. FIRST AVENUE
April 26, 2023 - 5:00 PM

Work Session Discussion Items:

a. 9th Avenue Improvement Project

Regular Agenda Preview:

a. Items to be Placed on the Consent Agenda
   - i. Meeting Minutes

b. Items to be Placed on the Regular Agenda

i. Kansas Gas Service Franchise Agreement

c. Items to be Placed on the Land Bank Consent Agenda

d. Executive Session

Reports:

a. City Commission Reports

b. City Manager Report

TO: City Commission
FROM: Scott Rickard
SUBJ: 9th Avenue Improvement Project
DATE: April 26, 2023

Background:
The City Commission discussed the 9th Avenue project at a previous work session. The project had come in higher than anticipated, and so staff were asked to return with some other options for the project. After review, Benesch Engineering provided the City with the following options:

- Original Option Cost Estimate $1.79 million. Includes four inches of asphalt, BNSF crossing, BNSF sidewalk crossing, water main sleeve, and curb and guttering.
- Option 1 Cost Estimate $1.37 million. Includes two inches of asphalt, on-street sidewalk (except for BNSF crossing), water main sleeve, and curb and guttering on a portion of the project. Excludes storm sewer improvements.
- Option 2 Cost Estimate $1.31 million. Includes two inches of asphalt, BNSF crossing, water main sleeve, and curb and guttering on a portionof the project. Excludes storm sewer improvements and sidewalk.

Attachments:
1. 9th Avenue Options

Policy Issue:
The City Commission must decide whether or not to proceed with the project.

Fiscal Impact:
Staff will provide the Commission with financing options.

Trade-offs:
The City Commission has the following options:

- Proceed with one of the three options presented.
- Request that staff return with more information.
- Choose to not move forward with the project.

Staff Recommendation:

Commission Action:

Alfred Benesch & Company
544 West Douglas
Wichita, KS 67212
www.benesch.com
P 316-685-4114

DRAFT

April 6, 2023

Mr. Scott Rickard
Engineering Department
226 North Vine Street
El Dorado, KS 67042

Subject: 9th Street Improvement Project Concept Summary

Mr. Rickard:

The City of El Dorado selected Benesch to design improvements for 9th Avenue from Taylor to Gordy to meet City standards and included coordination with the BNSF Railroad for a road and pedestrian crossing of the railroad tracks. As you are aware by current City policy, roadways are not maintained by the City until they meet the City design standard. The existing 9th Avenue paving within the project area is in poor condition with numerous areas violating the AASHTO safe clearzone requirements. Existing wood box structures extending to and crossing under the BNSF Railroad Tracks are in poor condition and require steep foreslopes from the edge of the road to the structure flowline. Open ditches east of the tracks also have steep side slopes from the edge of road as was evidenced by a recent school bus incident. The original intent of this project is to bring 9th Avenue up to the current AASHTO and City standard thereby allowing future and perpetual city maintenance. Once constructed, the intent is that the resulting roadway will require very little in annual maintenance cost.

Benesch submitted Office Check Plans (95% Submittal) along with the Engineer's Opinion of Probable Cost (EOPC) on 7/14/2022 totaling $1,597,600. **Included** in this cost is $131,750 for a proposed 16" waterline crossing of the BNSF Railroad. BNSF could not confirm ownership of the 2'x2' wooden box drainage structure under the tracks so did not agree to participate in the proposed replacement. **Not included** in this EOPC was work to the actual BNSF Railroad tracks. In coordination with the BNSF Railroad, BNSF agreed to pay for half of the construction cost for the roadway crossing. Benesch strongly recommends for the city to take advantage of this extraordinary BNSF participation. From BNSF estimates this results in the following rail crossing costs:

- Vehicular crossing panel construction:
  - BNSF share: $87,000
  - City share: $87,000 (Not including BNSF flagging costs)
- Pedestrian crossing panel construction:
  - BNSF share: $0
  - City share: $105,927 (Not including BNSF flagging cost)
- Totals:
  - BNSF share: $86,999
  - City share: $192,927 (Not including BNSF flagging cost)

The EOPC exceeded the City's allocated budget, and the project was taken to a work session of the City Commission for review/approval on 11/2/2022. The commission meeting resulted in a request for Benesch to review the project design to develop and evaluate cost saving options.

The following cost saving concepts were to be evaluated:

1. Reuse of existing storm sewer from Taylor Road to near the BNSF Railroad.
2. Right-of-Way requirement determination based on construction limits utilizing an open ditch on north side of road with new culverts under roads and entrances from Taylor Road to near the BNSF Railroad tracks.
3. Utilization of area inlets at ends of existing wood structure under BNSF Railroad to pick up area drainage and reduce shoulder slopes to meet ASSHTO requirements.
   - It should be noted that Benesch recommends discontinuing the use of this existing wooden structure under the tracks due to overall age and condition. Should this option be carried forward, Benesch recommends revisiting with BNSF concerning their potential participation in the structure's replacement.
4. BNSF Railroad to Gordy Street:

  - Right-of-Way requirement determination based on construction limits utilizing open ditches on both north and south sides of 9th Avenue with new culverts under roads and entrances meeting ASSHTO requirements.
  - Right-of-Way requirement determination based on construction limits utilizing an open ditch on north side of road with supplemental storm sewer to reduce ditch depth & shoulder slopes meeting ASSHTO requirements.
5. Evaluation of potential cost savings in utilizing 6" milling with concrete slurry using existing material topped with 2" asphalt overlay in lieu of the 6" asphalt on 6" crushed rock with geogrid as per the submitted Office Check Plans.
6. All concepts to include the BNSF road crossing improvements (BNSF has agreed to 50% cost participation) as a line item in the cost analysis.
7. All concepts to include the BNSF pedestrian crossing improvements as a line item in the cost analysis (BNSF will not share in the cost of this item). This will include the cost of sidewalk from Taylor St. to Gordy St.

The following concepts with resulting EOPC's are a result of this evaluation with supporting material included in the Appendix:

1. Original Office Check Concept with an overall EOPC = $1,459,923
2. Original Office Check Concept utilizing 6" milling with concrete slurry using existing material topped with 2" asphalt overlay with an overall EOPC = $1,386,558
3. Concept 3 utilizes an open ditch on the north side of 9th Ave. with new culverts under roads and entrances from Taylor Road to near the BNSF Railroad tracks. Utilization of area inlets at the ends of the existing wood structure under BNSF Railroad to pick up area drainage and reduce shoulder slopes to meet ASSHTO requirements with an overall EOPC = $860,977.
4. The concept from BNSF Railroad to Gordy Ave. with Right-of-Way requirement determination based on construction limits utilizing open ditches on both north and south sides of 9th Avenue with new culverts under roads and entrances meeting ASSHTO requirements was not further analyzed as this option eliminated potential future sidewalk connections along 9th Avenue.

As a result of this analysis, the recommended "Preferred Alternative" to advance to design and construction is Concept 3 based solely on Engineer's Estimate of Construction Cost as this is most important to the City of El Dorado. Please be aware that the cost estimate does not include Right-of-Way acquisition cost or any potentially related structure demolition. All costs include the construction of a sidewalk that may be omitted at this time and constructed later. All costs exclude the costs shown in the Appendix as added costs (Waterline, BNSF Road Crossing, and BNSF Sidewalk Crossing).

- It should be noted that Benesch recommends discontinuing the use of the existing wooden structure under the tracks due to overall age and condition. Should this option be carried forward, Benesch recommends revisiting with BNSF Railway concerning their potential participation in the structure's replacement.

APPENDIX

9^{TH} Avenue Project - ORIGINAL CONCEPT

El Dorado, KS
Benesch Proj. No. 130833
Date: 4/6/2023

benesch
544 West Douglas
Wichita, KS 67203

ENGINEER'S OPINION OF PROBABLE COST					
Item No.	Description	Estimated Quantity	Unit	Estimated Unit Price	TOTAL
	Site Clearing	1	L.S.	$40,000.00	$40,000.00
	Mobilization	1	L.S.	$100,000.00	$100,000.00
	Construction Staking	1	L.S.	$20,000.00	$20,000.00
	Removal of Existing Structures	1	L.S.	$80,000.00	$80,000.00
	Common Excavation	2,228	C.Y.	$14.00	$31,192.00
	Pavement Removal	4,869	S.Y.	$8.00	$38,952.00
	Compaction of Earthwork	313	C.Y.	$10.00	$3,130.00
	Type 22 Curb Inlet	11	EA.	$8,000.00	$88,000.00
	Type 22 Radius Curb Inlet	1	EA.	$8,000.00	$8,000.00
	Single Drop Inlet	5	EA.	$6,000.00	$30,000.00
	Inlet-Manhole Special	2	EA.	$6,000.00	$12,000.00
	Manhole	3	EA.	$6,000.00	$18,000.00
	Sanitary Sewer Manhole Adjustment	3	EA.	$2,000.00	$6,000.00
	18" Storm Sewer (RCP) (Class III)	302	L.F.	$80.00	$24,160.00
	18" Storm Sewer (RCP) (Class V)	182	L.F.	$100.00	$18,200.00
	24" Storm Sewer (RCP) (Class III)	502	L.F.	$90.00	$45,180.00
	24" Storm Sewer (RCP) (Class V)	35	L.F.	$110.00	$3,850.00
	36" Storm Sewer (RCP) (Class III)	124	L.F.	$160.00	$19,840.00
	36" Storm Sewer (RCP) (Class V)	448	L.F.	$190.00	$85,120.00
	36" Storm Sewer (RCP) (Class V) (Bored & Jacked)	207	L.F.	$600.00	$124,200.00
	18" End Section (RCP) (Class V)	3	EA.	$1,500.00	$4,500.00
	Flowable Fill (High Strength)*	48	C.Y.	$150.00	$7,200.00
	Concrete Sidewalk (4")	657	S.Y.	$65.00	$42,676.83
	Reinforced Concrete Sidewalk (6")	141	S.Y.	$95.00	$13,395.00
	Pedestrian Ramp w/ Detectable Warnings	11	EA.	$1,000.00	$11,000.00
	Truncated Dome Surfacing	20	S.F.	$20.00	$400.00
	Reinforced Concrete Pavement (6")	88	S.Y.	$65.00	$5,720.00
	Reinforced Concrete Pavement (8")	767	S.Y.	$78.00	$59,826.00
	Reinforced Concrete Pavement (12")	253	S.Y.	$120.00	$30,360.00
	Concrete Curb and Gutter	1,996	L.F.	$20.00	$39,920.00
	Concrete Gutter	203	L.F.	$40.00	$8,120.00
	Crushed Rock Base w/ Geogrid (6")	6,313	S.Y.	$13.00	$82,069.00
	Crushed Rock Base w/ Geogrid (7")	285	S.Y.	$15.00	$4,275.00
	HMA Commercial Grade (Class A), 2" Surface	454	Tons	$120.00	$54,480.00
	HMA Commercial Grade (Class A), 4" Base	908	Tons	$120.00	$108,960.00
	Emulsified Asphalt Tack	2	Tons	$602.50	$1,205.00
	4" Aggregate (AB-3)	293	S.Y.	$18.00	$5,274.00
	Seeding and Erosion Control	1	L.S.	$25,000.00	$25,000.00
	Landscaping	1	L.S.	$9,850.00	$9,850.00
	Pavement Marking	1	L.S.	$5,000.00	$5,000.00
	Signing	1	L.S.	$7,000.00	$7,000.00
	Traffic Control	1	L.S.	$75,000.00	$75,000.00
				Sub-Total	$1,397,054.83
				Total FY 2022 Dollars	$ 1,397,054.83
				Inflation to FY 2023 (4.5%)	$ 62,867.47
				Total FY 2023 Dollars	$ 1,459,922.30

* 3'x3'x142' RRTB (Wood Box) is to be plugged and filled with flowable fill (high strength) unless structure removal is coordinated with BNSF

BNSF Construction Costs and flagging are not included

Future waterline is not included

Right-of-Way Costs are not included

9TH Avenue Project - CONCEPT 2

El Dorado, KS
Benesch Proj. No. 130833
Date: 4/6/2023

benesch
544 West Douglas
Wichita, KS 67203

ENGINEER'S OPINION OF PROBABLE COST					
Item No.	Description	Estimated Quantity	Unit	Estimated Unit Price	TOTAL
	Site Clearing	1	L.S.	$40,000.00	$40,000.00
	Mobilization	1	L.S.	$100,000.00	$100,000.00
	Construction Staking	1	L.S.	$20,000.00	$20,000.00
	Removal of Existing Structures	1	L.S.	$80,000.00	$80,000.00
	Common Excavation	2,228	C.Y.	$14.00	$31,192.00
	Pavement Removal	4,869	S.Y.	$8.00	$38,952.00
	Compaction of Earthwork	313	C.Y.	$10.00	$3,130.00
	Type 22 Curb Inlet	11	EA.	$8,000.00	$88,000.00
	Type 22 Radius Curb Inlet	1	EA.	$8,000.00	$8,000.00
	Single Drop Inlet	5	EA.	$6,000.00	$30,000.00
	Inlet-Manhole Special	2	EA.	$6,000.00	$12,000.00
	Manhole	3	EA.	$6,000.00	$18,000.00
	Sanitary Sewer Manhole Adjustment	3	EA.	$2,000.00	$6,000.00
	18" Storm Sewer (RCP) (Class III)	302	L.F.	$80.00	$24,160.00
	18" Storm Sewer (RCP) (Class V)	182	L.F.	$100.00	$18,200.00
	24" Storm Sewer (RCP) (Class III)	502	L.F.	$90.00	$45,180.00
	24" Storm Sewer (RCP) (Class V)	35	L.F.	$110.00	$3,850.00
	36" Storm Sewer (RCP) (Class III)	124	L.F.	$160.00	$19,840.00
	36" Storm Sewer (RCP) (Class V)	448	L.F.	$190.00	$85,120.00
	36" Storm Sewer (RCP) (Class V) (Bored & Jacked)	207	L.F.	$600.00	$124,200.00
	18" End Section (RCP) (Class V)	3	EA.	$1,500.00	$4,500.00
	Flowable Fill (High Strength)*	48	C.Y.	$150.00	$7,200.00
	Concrete Sidewalk (4")	657	S.Y.	$65.00	$42,676.83
	Reinforced Concrete Sidewalk (6")	141	S.Y.	$95.00	$13,395.00
	Pedestrian Ramp w/ Detectable Warnings	11	EA.	$1,000.00	$11,000.00
	Truncated Dome Surfacing	20	S.F.	$20.00	$400.00
	Reinforced Concrete Pavement (6")	88	S.Y.	$65.00	$5,720.00
	Reinforced Concrete Pavement (8")	1020	S.Y.	$78.00	$79,560.00
	Reinforced Concrete Pavement (12")	0	S.Y.	$120.00	$0.00
	Concrete Curb and Gutter	1,996	L.F.	$20.00	$39,920.00
	Concrete Gutter	203	L.F.	$40.00	$8,120.00
	Crushed Rock Base w/ Geogrid (7")	285	S.Y.	$15.00	$4,275.00
	Subgrade Mixing & Stabiliation	4173	S.Y.	$31.50	$131,449.50
	HMA Commercial Grade (Class A), 2" Surface	454	Tons	$120.00	$54,480.00
	Emulsified Asphalt Tack	2	Tons	$602.50	$1,205.00
	4" Aggregate (AB-3)	293	S.Y.	$18.00	$5,274.00
	Seeding and Erosion Control	1	L.S.	$25,000.00	$25,000.00
	Landscaping	1	L.S.	$9,850.00	$9,850.00
	Pavement Marking	1	L.S.	$5,000.00	$5,000.00
	Signing	1	L.S.	$7,000.00	$7,000.00
	Traffic Control	1	L.S.	$75,000.00	$75,000.00
				Sub-Total	$1,326,849.33
				Total FY 2022 Dollars	$ 1,326,849.33
				Inflation to FY 2023 (4.5%)	$ 59,708.22
				Total FY 2023 Dollars	$ 1,386,557.55

* 3'x3'x142' RRTB (Wood Box) is to be plugged and filled with flowable fill (high strength) unless structure removal is coordinated with BNSF
BNSF Construction Costs and flagging are not included
Future waterline is not included
Right-of-Way Costs are not included

9TH Avenue Project - CONCEPT 3

El Dorado, KS
Benesch Proj. No. 130833
Date: 4/6/2023

benesch
544 West Douglas
Wichita, KS 67203

ENGINEER'S OPINION OF PROBABLE COST					
Item No.	**Description**	**Estimated Quantity**	**Unit**	**Estimated Unit Price**	**TOTAL**
	Site Clearing	1	L.S.	$40,000.00	$40,000.00
	Mobilization	1	L.S.	$100,000.00	$100,000.00
	Construction Staking	1	L.S.	$20,000.00	$20,000.00
	Removal of Existing Structures	1	L.S.	$80,000.00	$80,000.00
	Common Excavation	3,342	C.Y.	$14.00	$46,788.00
	Pavement Removal	0	S.Y.	$8.00	$0.00
	Compaction of Earthwork	313	C.Y.	$10.00	$3,130.00
	Type 22 Curb Inlet	1	EA.	$8,000.00	$8,000.00
	Inlet-Manhole Special	2	EA.	$6,000.00	$12,000.00
	Manhole	1	EA.	$6,000.00	$6,000.00
	Sanitary Sewer Manhole Adjustment	2	EA.	$2,000.00	$4,000.00
	18" EP	50	L.F.	$80.00	$4,000.00
	18" CRP	42	L.F.	$80.00	$3,360.00
	18" Storm Sewer (RCP)	169	L.F.	$80.00	$13,520.00
	30" Storm Sewer (RCP)	28	L.F.	$125.00	$3,500.00
	36" Storm Sewer (RCP)	242	L.F.	$160.00	$38,720.00
	18" End Section (RCP)	10	EA.	$80.00	$800.00
	30" End Section (RCP)	1	EA.	$1,390.00	$1,390.00
	36" End Section (RCP)	3	EA.	$1,640.00	$4,920.00
	Concrete Sidewalk (4")	721	S.Y.	$65.00	$46,865.00
	Pedestrian Ramp w/ Detectable Warnings	13	EA.	$1,000.00	$13,000.00
	Truncated Dome Surfacing	20	S.F.	$20.00	$400.00
	Concrete Curb and Gutter	393	L.F.	$20.00	$7,860.00
	Subgrade Mixing & Stabiliation	4,505	S.Y.	$31.50	$141,907.50
	HMA Commercial Grade (Class A), 2" Surface	490	Tons	$120.00	$58,790.25
	Reinforced Concrete Pavement (6")	442	S.Y.	$65.00	$28,730.00
	Crushed Rock Base w/ Geogrid (6")	474	S.Y.	$13.00	$6,162.00
	4" Aggregate (AB-3)	456	S.Y.	$18.00	$8,208.00
	Seeding and Erosion Control	1	L.S.	$25,000.00	$25,000.00
	Landscaping	1	L.S.	$9,850.00	$9,850.00
	Pavement Marking	1	L.S.	$5,000.00	$5,000.00
	Signing	1	L.S.	$7,000.00	$7,000.00
	Traffic Control	1	L.S.	$75,000.00	$75,000.00
				Sub-Total	$823,900.75
				Total FY 2022 Dollars	$ 823,900.75
				Inflation to FY 2023 (4.5%)	$ 37,075.53
				Total FY 2023 Dollars	$ 860,976.28

BNSF Construction Costs and flagging are not included
Future waterline is not included
Right-of-Way Costs are not included

9^{TH} Avenue Project - ADDED COSTS

El Dorado, KS
Benesch Proj. No. 130833
Date: 4/6/2023

benesch
544 West Douglas
Wichita, KS 67203

Waterline Under BNSF Tracks to Serve Industrial Park:

ENGINEER'S OPINION OF PROBABLE COST					
Item No.	Description	Estimated Quantity	Unit	Estimated Unit Price	TOTAL
	16" Waterline	345	L.F.	$150.00	$51,750.00
	28" Steel Waterline Casing (Bored & Jacked)	200	L.F.	$400.00	$80,000.00
				Sub-Total	$131,750.00
				Total FY 2022 Dollars	$ 131,750.00
				Inflation to FY 2023 (4.5%)	$ 5,928.75
				Total FY 2023 Dollars	$ 137,678.75

BNSF Railroad Track Panels (ROADWAY ONLY)

ENGINEER'S OPINION OF PROBABLE COST					
Item No.	Description	Estimated Quantity	Unit	Estimated Unit Price	TOTAL
	BNSF Estimate	1	L.S.	$174,000.00	$174,000.00
	BNSF Participation	1	L.S.	-$87,000.00	-$87,000.00
				Sub-Total	$87,000.00
				Total FY 2023 Dollars	$ 87,000.00

BNSF Railroad Track Panels (SIDEWALK ONLY)

ENGINEER'S OPINION OF PROBABLE COST					
Item No.	Description	Estimated Quantity	Unit	Estimated Unit Price	TOTAL
	BNSF Estimate	1	L.S.	$174,000.00	$105,927.00
	BNSF Participation	0	L.S.	$0.00	$0.00
				Sub-Total	$105,927.00
				Total FY 2023 Dollars	$ 105,927.00

TO: City Commission
FROM:
SUBJ: Kansas Gas Service Franchise Agreement
DATE: April 26, 2023

Background:
The City approved the current franchise agreement with Kansas Gas Service, a division of ONEOK, Inc., on January 13, 2003, with the adoption of Ordinance No. S-1150. The agreement provided a twenty-year, non-exclusive right to Kansas Gas Service to use the City's public right-of-way for the purposes of constructing and maintaining underground infrastructure necessary to convey natural gas to commercial and residential customers in El Dorado. Franchise agreements set forth the terms and conditions for utility companies, such as Kansas Gas Service, to use the public right-of-way for its operations.

Attachments:
1. KGS Standard Franchise Agreement - El Dorado
2. 2003 KGS Franchise Agreement

Policy Issue:
Should the City adopt a multi-year franchise agreement with Kansas Gas Service?

Fiscal Impact:
The agreement provides compensation to the City for the company's use of the public right-of-way in the form of franchise fees. These fees are based on a percentage of gross cash receipts from the sale of natural gas for consumption in the City for all purposes. The current agreement set the franchise rate at 5% of gross cash receipts. These fees are considered a "pass-through" fee, whereby customers pay a franchise fee to Kansas Gas Service based on usage. Kansas Gas Service then pays the City per the agreement. In 2022, the City generated $319,278 from franchise fees from Kansas Gas. The City averaged $250,264 from Kansas Gas franchise fees over the prior four years. The proposed agreement will increase the franchise fee rate to 6% of gross cash receipts. The City anticipates the increased rate will generate about $50,000 each year in new franchise fee revenue.

Trade-offs:
Providers of natural gas are subject to obtaining a franchise agreement from cities for the use of the public right-of-way. Kansas Gas Service has made a significant capital investment to extend its infrastructure to provide natural gas to customers in El Dorado. The City, and its residents, require natural gas as an essential energy source. Consequently, not renewing the franchise agreement would require the City to renegotiate terms with Kansas Gas Service to ensure the community continues to have a reliable provider of natural gas. As a utility provider, Kansas Gas Service serves the region as a regulated monopoly as there are no feasible alternative options for obtaining natural gas from another private provider without significant cost. Natural gas customers would likely be required to pay the cost necessary to either acquire the Kansas Gas Service infrastructure or extend the infrastructure to serve the community.

Staff Recommendation:
The City Manager recommends approval of the proposed franchise agreement with Kansas Gas Service to ensure both parties have a clearly defined agreement for the use of the public right-of-way for the provision of natural gas to customers within El Dorado.

Commission Action:

Commissioner ______________ moved to approve Ordinance No. ____ granting to Kansas Gas Service, a Division of ONE Gas, Inc., and its successors and assigns, a natural gas franchise, providing terms and conditions for the use of public rights-of-way, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.

Commissioner ______________ seconded the motion.

(Published in ____________ on ____________, 20____)

ORDINANCE NO. ________________

AN ORDINANCE, granting to Kansas Gas Service, a Division of ONE Gas, Inc., and its successors and assigns, a natural gas franchise, providing terms and conditions for the use of public rights-of-way, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

SECTION 1. DEFINITIONS.

For purposes of this Franchise Ordinance the following words and phrases shall have the meanings given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

"City" shall mean the City of El Dorado, Kansas, and, where appropriate by the context, each of its departments, divisions and component units, including public trusts or authorities of which the City is a beneficiary.

"Company" shall mean Kansas Gas Service, a division of ONE Gas, Inc.

"Consumer" shall mean any Entity located within the municipal corporate limits of the City and serviced by the Company through any use of the Public Ways.

"Distribution" or "Distributed" shall mean all sales, distribution, or transportation of natural gas to any Sales Consumer or Transportation Consumer for use within the City by the Company or by others through the Distribution Facilities of Company in a Public Way.

"Distribution System" or "Distribution Facilities" shall mean a pipeline or system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits and services extensions, together with all necessary appurtenances thereto, or any part thereof located within any Public Way, for the purpose of Distribution or supplying natural gas for light, heat, power and all other purposes.

"**Effective Date"** shall mean the date the Company files its written acceptance with the City following the final passage and approval of this Franchise Ordinance by the City, as set forth in Section 10 of this Franchise Ordinance.

"Entity" shall mean any individual person, governmental entity, business, corporation, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture, trust, and any form of business enterprise not specifically listed herein.

"Facility" or "Facilities" refers to the Company's Distribution System or Distribution Facilities.

"Franchise" shall mean the grant of authority, set forth in Section 2 of this Franchise Ordinance, by the City to the Company for the Distribution of natural gas to the inhabitants of the City and to operate a Distribution System or Distribution Facilities.

"Franchise Fee" shall refer to the charges as prescribed in Section 3 of this Franchise Ordinance.

"Franchise Ordinance" shall mean this Ordinance granting a natural gas Franchise to the Company.

"Gross Receipts" shall mean any and all compensation and other consideration derived directly by the Company from any Distribution of natural gas to Consumers within the City. Such term shall not include revenue from certain miscellaneous charges and accounts, including but not limited to: connection fees, disconnection and reconnection fees, temporary service charges, delayed or late payment charges, collection fees, bad debts, customer project contributions, meter test fees, revenues received by Company from Consumers as Franchise Fee reimbursement, and returned check charges. Additionally, Gross Receipts shall not include credit extended pursuant to the Cold Weather Rule (or substitute rule) of the Kansas Corporation Commission for natural gas sold within the corporate limits of the City, nor Volumetric Rate Fees collected by Company and remitted to City in accordance with Section 3 of this Franchise Ordinance.

"MCF" shall mean a measurement of natural gas equal to one thousand cubic feet. It is assumed for purposes of this Franchise Ordinance that one MCF equals one million British Thermal Units.

"Public Improvements" means any public facilities, buildings, or capital improvements, including, without limitation, streets, alleys, sidewalks, sewer, water, drainage, right-of-way improvements, and other Public Projects.

"Public Project" means any project planned or undertaken and financed 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 paid for with public funds.

"Public Way" or "Public Ways" shall mean the area on, below or above the present and future public streets, avenues, alleys, bridges, boulevards, roads, highways, parks, parking places, and other public areas, and general utility easements, dedicated to or acquired by the City. The term does not include easements obtained by private entities providing utilities services or private easements in platted subdivisions or tracts.

"Sales Consumer" shall mean, without limitation, any Entity that purchases natural gas within the corporate City limits from Company for delivery to such Consumer within the City through the Company's Distribution System or Distribution Facilities.

“Settlement Prices” shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX) on the fifteenth day of each month as published in nationally recognized publications such as the CME Group (CME) or S&P Global Platts (Platts) on the following business day (or the next day in which a Settlement Price is published).

“Transport Gas” shall mean all natural gas transported by Company pursuant to a Kansas Corporation Commission approved transportation tariff, arrangement, or by other agreement, but not sold by the Company, through Company’s Distribution Facilities to any Transportation Consumer.

“Transportation Consumer” shall mean without limitation, any Entity that transports Transport Gas pursuant to a Kansas Corporation Commission approved transportation tariff, arrangement, or by other agreement, within the City’s municipal corporate limits through Company’s Distribution Facilities for consumption within the City’s corporate limits.

“Volumetric Rate” is the rate applicable to each Mcf of Transport Gas distributed to Transportation Consumers. The Volumetric Rate shall be based on a twelve month average of Settlement Prices as calculated from July through June. Initially, the Settlement Price shall mean $0.2500 per MCF for Transport Gas distributed to Transportation Consumers within the City as represented in “Attachment A,” which is incorporated herein and attached hereto. There shall be an annual recalculation of the Volumetric Rate which shall be effective each January 1. The recalculation shall be based on Settlement Prices for the previous twelve-month period. The average Settlement Prices for each of the twelve months shall be summed and divided by twelve and multiplied by five percent (5%) to obtain the Volumetric Rate to be effective January 1 of the next succeeding year. The Company shall calculate the Volumetric Rates in accordance with the procedures set out herein and then filed with the City Clerk by July 31 of each year for those rates to be effective on January 1 of the following year.

SECTION 2. GRANT OF NON-EXCLUSIVE FRANCHISE.

A. In consideration of the benefits to be derived by the City and its inhabitants, there is hereby granted to the Company (said Company operating a Distribution System in the State of Kansas), a non-exclusive Franchise for a period of twenty (20) years from the Effective Date, to construct, maintain, extend and operate its Distribution Facilities along, across, upon or under any Public Way; for the purpose of selling and distributing natural gas for all purposes to the City, and its inhabitants, and through said City and beyond the limits thereof; to obtain said natural gas, and/or comparable blends of combustible gasses, from any source available; and to do all things necessary or proper to carry on said business.

B. The grant of this Franchise by the City shall not convey title, equitable or legal, in a Public Way and shall give only the right to occupy the Public Way for the purposes and for the period stated in this Franchise Ordinance. This Franchise Ordinance does not:

(1) Grant the right to use facilities or any other property, natural gas-related or otherwise, owned or controlled by the City or a third party without the consent of such party;

(2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of a Public Way;

(3) Excuse the Company from obtaining appropriate access or attachment agreements before locating its Facilities on property owned or controlled by the City (other than a Public Way) or a third party; or

(4) Unless explicitly setforth herein, excuse the Company from obtaining and being responsible for any necessary permit, license, certification, grant, registration, or any other authorization required by any appropriate governmental entity, including, but not limited to, the City or the Kansas Corporation Commission.

SECTION 3. FRANCHISE FEE.

A. As further consideration for the granting of this Franchise, and in lieu of city occupation, license or permit fees, or revenue taxes, except as expressly provided herein, the Company shall pay to the City during the term of this Franchise, a Franchise Fee of: (i) five percent (5%) of the actual Gross Cash Receipts collected by the Company from the Distribution of natural gas to all Sales Consumers within the corporate limits of the City; and (ii) a sum equal to the Volumetric Rate multiplied by the number of MCF of Transport Gas for the distribution of Transport Gas for Transportation Consumers, all such payments to be made monthly for the preceding monthly period.

B. The Company's obligation for payments of the Franchise Fee shall commence with the first cycle of the monthly billing cycle following the Effective Date of this Franchise Ordinance. Prior to that date, payments shall continue to be calculated and be paid in the manner previously provided in Ordinance No. S-1150, and amendments thereto.

C. In the event a Consumer of Company does not pay a monthly bill from Company in full, Company shall prorate its payments of remissions to the City for sums due on that particular bill so that the amount actually paid by the Consumer to Company on the bill is distributed to Company andto the City for sums due on the bill in proportion to the percentage of the total bill actually paid by the Consumer. In the event Company actually collects any outstanding amounts due on a past due, unpaid, or partially paid monthly customer bill, the Company shall pay City its proportionate share of sums due to the City on such bill.

D. Upon written request by the City (but no more than once per quarter), the Company shall submit to the City a certified statement showing the manner in which the Franchise Fee was calculated. The City shall have the right to examine within the corporate limits of the City and during regular business hours, upon reasonable advance written notice to the Company, all books, papers and records kept by the Company in the ordinary course of business and pertaining to its business carried on by it in or through the City, necessary to verify the correctness of the Franchise Fee paid by Company.

E. No acceptance by the City of any Franchise Fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any Franchise Fee payment be construed as a release of any claim of the City. Any dispute concerning the amount due under this Section shall be resolved in the manner set forth in K.S.A. 12-2001, and amendments thereto.

F. The Franchise Fee required herein shall be in lieu of all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001, K.S.A. 17-1902, and amendments thereto. From and after the date hereof, the permit fees required of the Company by any ordinance (presently in effect or hereafter adopted) for a permit to excavate in, or adjacent to, any Public Way shall be deemed a part of the compensation paid pursuant to this Franchise Ordinance 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. The Franchise Fee is compensation for use of the Public Way.

SECTION 4. USE OF PUBLIC RIGHT-OF-WAY.

A. Except as provided herein or as regulated by state or federal law, the use of any Public Way under this Franchise by the Company shall be subject to all laws, statutes, regulations and/or city policies (including, but not limited to those relating to the construction and use of the Public Way or other public property) now or hereafter adopted or promulgated. Unless specifically provided herein, the Company shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, and other requirements on the use of a Public 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, or policy proposed, adopted, or promulgated by the City and, further provided other than the items enumerated in this Section 4 herein, that such rules, regulations or policies shall not require the payment of additional fees or additional costs for the use of a Public Way.

B. All mains, services, and pipe which shall be laid or installed under this Franchise shall be so located and laid as not to obstruct or interfere with any water pipes, drains, sewers, or other structures already installed. The Company shall provide, prior to commencing work, information to the City concerning work to be performed in the streets, avenues, bridges, parking areas, and public places of the City, as the City may from time to time require for purposes of record keeping. The City may require that the information be provided on its standard permit form, but without requiring approval, consent, or fees. In the event of an emergency, the Company shall have the right to commence work without having first provided such information or form(s).

C. The Company's use of any Public Way shall always be subject and subordinate to the City's use of the Public Way for any public purpose. The City may exercise its home rule powers in its administration and regulation related to the management of the Public Way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory, nor in conflict with state or federal law.

D. The City reserves the right to lay or permit to be laid cables, electric conduits, water, sewer, gas or other pipelines, and to do or permit to be done any underground work deemed necessary and proper by the City, along, across, over, or under any Public Way. In permitting such work to be done, the City shall not be liable to the Company for any damage to the Company's Facilities unless the City or its agents or contractors are negligent in causing said damage.

E. Whenever by reason of establishing a grade or changing in the grade of any street, or the location or manner of construction of any Public Way, the City deems it necessary to alter, change, adapt, or conform any portion of the Company's Facilities located in the Public Way, the City shall provide reasonable notice and such alterations or changes shall be made within a reasonable time by the Company, as requested in writing by the City, without claim for reimbursement or compensation for damages against the City; provided, however, that this provision is not intended to require the Company to alter, change, adapt, or conform any portion of its Facilities without reimbursement or compensation where the right to locate the same, whether by private right-of-way grant, utility easement, or otherwise, was acquired prior to the designation of the location as a Public Way.

F. If the City shall require the Company to adapt or conform its Facilities or in any way to alter, relocate, or change its property to enable any other person, firm, corporation, or Entity (whether public or private), other than the City, to use the Public Way, the Company shall be reimbursed by the person, firm, corporation, or Entity desiring or occasioning such change for any and all loss, cost, or expense occasioned thereby. "Person," "Firm," "Corporation," and "Entity" as used in this paragraph shall not include regular departments of the City, or any trust or authority formed by or for the benefit of the City for public utility purposes, but shall include any other agency or authority of the City, whether acting in a governmental or non-governmental capacity, including, but not limited to, any urban renewal authority, or any other agency or authority, which as a part of its program clears whole tracts of land within the municipal corporate limits and relocates citizens for the purpose of urban development or similar aims.

G. The Company and the City shall participate in the Kansas One-Call utility location program. The Company shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete information regarding the location of its Facilities located within a Public Way when requested by the City. Such location and identification shall be promptly communicated in writing to the City without cost 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 providing timely information needed by the City for the design and replacement of Facilities in a Public Way during, and for the design of Public Improvements.

H. The Company shall be subject to the following fees and costs in connection with its use and occupancy of any Public Way: (i) in the event that the repairs or replacements set forth under Section 5 below, have not been timely completed by Company, the City may charge an excavation fee for each street or pavement cut to recover the costs associated with construction and repair activity; (ii) inspection fees to recover all reasonable costs associated with City inspection of the work of the Company in the Public Way when the Facilities are of such a scope and magnitude so as to require the City to incur such inspection costs by an outside party; and (iii) the repair and restoration costs associated with repairing and restoring the Public Way because of damage caused by the Company, its assigns, contractors, and/or subcontractors in the Public Way.

SECTION 5. NOTICE OF WORK AND DUTY TO REPAIR.

A. Prior to commencing any activities related to the construction, maintenance, or extension of its Facilities along, across, upon or under the Public Way, the Company shall submit to the City written plans detailing all such activities in the manner required by the City by Ordinance. In the event of an emergency, Company shall have the right to commence work without providing such plans, provided such plans are submitted within five business days of commencement of the work. The Company's Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such Public Ways or unreasonably obstruct the legal use by other utilities.

B. Prior to beginning work, the Company will inspect existing pavement within and/or adjacent to the work area and will report any existing damage or concerns. All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements, or improvements of any kind located within the Public Way that are damaged, displaced, or removed by the Company shall be fully repaired or replaced to their prior condition or to existing municipal standards as are then in existence, and in a manner satisfactory to the duly authorized representative of the City, after completing such activity as is permitted under this Franchise Ordinance and without cost to the City.

SECTION 6. INDEMNITY AND HOLD HARMLESS.

The Company, its successors and assigns, in the construction, maintenance, and operation of its Facilities, shall use all reasonable and proper precaution to avoid damage or injury to persons and property, and shall indemnify, defend, hold, and save the City harmless from any and all claims, damage, judgements, and reasonable expense, including attorney fees, caused by the negligence of the Company, its successors and assigns, or their agents or servants. The Company or the City shall promptly advise the other in writing of any known claim or demand against the Company or the City related to or arising out of the Company's activities in any Public Way.

SECTION 7. RULES AND REGULATIONS.

The Company shall have the right to make and enforce such reasonable rules and regulations as it may deem necessary for the extension of its Facilities, the sale of its gas, and the prudent conduct of its business, provided that such rules and regulations shall neither be in conflict with the laws of the State of Kansas, with the orders, rules, or regulations of the Kansas Corporation Commission or other regulatory authority having jurisdiction, nor with the ordinances and regulations of the City insofar as they are consistent with the jurisdiction of the Kansas Corporation Commission or such other regulatory authority.

SECTION 8. REVOCATION AND TERMINATION.

In case of failure on the part of the Company to comply with any of the provisions of this Franchise Ordinance, or if the Company should do or cause to be done any act or thing prohibited by or in violation of the terms of this Franchise Ordinance, the Company may be subject to forfeiture of all rights, privileges, and Franchise granted herein, and all such rights, privileges, and franchise hereunder be deemed ceased, terminated, null, and void, and this Franchise Ordinance shall be deemed revoked or terminated, provided that said revocation or termination shall not take effect until the City has completed the following procedures: Before the City proceeds to revoke and terminate this Ordinance, it shall first serve a written notice upon Company, setting forth in detail the neglect or failure complained of, and the Company shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Franchise Ordinance. If at the end of such sixty (60) day period the City determines that the neglect or failure complained of has not been cured, the City shall take action to revoke and terminate this Franchise Ordinance by an affirmative vote of the governing body present at a public meeting and voting, setting out the grounds upon which this Franchise Ordinance is to be revoked and terminated; provided, to afford the Company due process, the Company shall first be provided reasonable notice of the date, time, and location of the governing body's consideration and shall have the right to address the governing body regarding such matter; and further provided, if the nature of the default is such that it cannot be reasonably cured within the above said sixty (60) day period, and the governing body believes the Company has in good faith timely commenced its cure and is diligently pursuing the completion of the same, the Company may, in the City's sole discretion, be given a reasonable additional period of time to complete its cure. Nothing herein shall prevent either party from invoking any other remedy that may otherwise exist at law. Upon any determination by the governing body to revoke and terminate this Franchise Ordinance, the Company shall have thirty (30) days to appeal such decision to the District Court where the City is located or in the District Court of Johnson County, Kansas. This Franchise Ordinance shall be deemed revoked and terminated at the end of this thirty (30) day period, unless the Company has instituted such an appeal. If the Company does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of the Company to comply with any of the provisions of this Franchise Ordinance or the doing or causing to be done by the Company of anything prohibited by or in violation of the terms of this Franchise Ordinance shall not be a ground for the revocation or termination thereof when such act or omission on the part of the Company is due to any cause or delay beyond the control of the Company or to bona fide legal proceedings.

SECTION 9. RESERVATION OF RIGHTS.

A. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, applicable Federal laws or regulations as the same may be amended, its home rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

B. In adopting and passing this Ordinance, neither the City's nor the Company's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By the City's adopting and passing this Franchise Ordinance and the Company's acceptance hereof as provided in Section 10, neither the City nor the Company waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or the Company may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances and/or rulings.

SECTION 10. ACCEPTANCE OF TERMS.

A. This Franchise Ordinance shall take effect and be in force from and after its passage, approval by the City, acceptance by the Company, and publication in the official City newspaper. The Company shall have sixty (60) days after the final passage and approval of this Franchise Ordinance to file with the City Clerk its written acceptance of the provisions, terms, and conditions of this Franchise Ordinance and when so accepted, this Franchise Ordinance and acceptance shall constitute a contract between the City and the Company and such contract shall be deemed effective on the date Company files its acceptance with the City.

B. This Franchise Ordinance, when accepted as provided above, (i) shall constitute the entire agreement between the City and the Company relating to this Franchise, and the same shall supersede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written, (ii) shall be binding upon the parties, including their successors and assigns, and (iii) shall not be amended or further obligations imposed without mutual consent of the parties hereto.

SECTION 11. REOPENER PROVISION.

A. Upon written request of either the City or the Company, this Franchise may be reviewed once after five (5) years from the effective date of this Franchise Ordinance, and once every (5) five years thereafter, to review the Franchise Fee set forth in Section 3 above. Said request must be served upon the other party at least 120 days prior to the end of each period set forth above, and shall state specifically the amendment(s) to the Franchise Fee desired. The City and the Company shall negotiate in good faith in an effort to agree upon a mutually satisfactory amendment of the Franchise.

B. Upon written request of the Company, the Franchise shall be reopened and renegotiated at any time upon a change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of the Company, including, but not limited to, the scope of the grant to the Company or the compensation to be paid to the City.

C. The Franchise Fee percentage rate set forth in Section 3 shall in no event exceed the percentage rate hereafter approved to calculate any fee paid to the City by any Entity for use of the Public Ways, if such fee is based in any way on the amount of revenues or gross receipts from the sale, transportation and/or distribution of natural gas or electric energy (excluding any municipally-owned electric utility) by such other Entity to customers within the City. If at any time after the Effective Date of this Franchise Ordinance, the fee or rate required to be paid by another Entity selling, transporting, and/or distributing natural gas or electric energy (excluding any municipally-owned electric utility) is less than the Franchise Fee percentage rate set forth in Section 3, then this Franchise shall become automatically subject to reopen upon notice by the Company for purposes of negotiation of a new lower Franchise Fee percentage rate.

SECTION 12. NOTICE OF ANNEXATION.

The City shall promptly notify the Company in writing (to include a map) of areas newly annexed into or deannexed from the corporate limits of the City, and the Company shall update its records for the purpose of payment of Franchise Fees as soon as reasonably practicable after receiving such notice. Notwithstanding anything to the contrary in this Franchise Ordinance, the Franchise Fees provided for in Section 3 shall not become effective within any area annexed by the City until the beginning of the monthly billing cycle which begins no more than sixty (60) days after the date that the City provides the Company with a certified copy of the annexation ordinance, proof of publication as required by law and a map of the City detailing the annexed area.

SECTION 13. RELEVANT LAW.

This Franchise Ordinance is granted pursuant to the provisions of K.S.A. 12-2001 and amendments thereto. Any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed or considered as having no effect as of the first cycle of the monthly billing cycle as referenced in Section 3 of this Franchise Ordinance.

SECTION 14. TRANSFER AND ASSIGNMENT.

Company shall not have the right to assign, sell, lease, or otherwise transfer in any manner whatsoever to any third party not affiliated with Company the rights and privileges granted under this Franchise Ordinance except as hereinafter provided. Any assignment, sale, lease, or other transfer by the Company of the Franchise granted herein to any third party not affiliated with Company shall be ineffective and void unless:

(1) The proposed assignment, sale, lease, or transfer shall be in writing:

(2) The prospective assignee, buyer, lessee, or other transferee shall agree in writing to accept and become responsible for full performance of all conditions, covenants, obligations, and liabilities contained in this Franchise Ordinance; and

(3) Such writing shall be submitted to the City Clerk of the City.

SECTION 15. POINT OF CONTACT AND NOTICES.

The Company shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Company in the event of an emergency. Company shall provide the City with said local contact's name, address, telephone number, fax number, and e-mail address. Emergency notice by either party to the other may be made by telephone to the City's designee as listed below. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail (return receipt requested), or via the email addresses provided below. Any notice served by U.S. Mail or Certified Mail (return receipt requested) shall be deemed delivered upon actual receipt unless otherwise provided. Other than emergencies, notices to the parties shall be to the following:

The City:

The City of ______
Attn: City Clerk
______
______, Kansas ______

Phone: ______
Fax: ______
Email: ______

Company:

Kansas Gas Service, a Div. of ONE Gas, Inc.
Attn: Legal Department
7421 W. 129th Street
Overland Park, KS 66213-2713
Phone: (913) 319-8619
Fax: N/A
Email: kgsfranchises@onegas.com

Emergency Contact Information:
Emergency Designee: ______
Emergency Contact No.: ______
Emergency Email: ______

Natural Gas Emergency No: 888-492-4950
Local Contact Name.: ______
Local Contact Email: ______

(or to replacement addresses that may be later designated in writing).

SECTION 16. AGREEMENT TO RENEGOTIATE.

Should the Kansas Corporation Commission take any action with respect to this Franchise Ordinance and any amendment thereto which precludes Company from recovering from its customers any costs or fees provided for hereunder, the parties hereto shall renegotiate this Franchise Ordinance in accordance with or to conform to the Commission's ruling.

PASSED, ADOPTED AND APPROVED this _____ day of _______________, 20___.

CITY OF _________________, KANSAS

[seal]

____
______________________, Mayor

ATTEST:

____
________________, City Clerk

ACCEPTANCE OF FRANCHISE ORDINANCE

To the Governing Body of the City of El Dorado, Butler County, Kansas.

Kansas Gas Service, a division of ONEOK, Inc., for itself, its successors and assigns, hereby accepts in writing the Ordinance and all rights and privileges therein granted, passed by the Governing Body of the City of El Dorado, Kansas, on the 13h day of January, 2003, designated as Ordinance No. S-1150 and entitled:

> **AN ORDINANCE, granting to Kansas Gas Service, a division of ONEOK, Inc., its successors and assigns, a natural gas franchise, prescribing the terms thereof and relating thereto, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.**

This acceptance is executed and filed as provided in Section 10 of said Franchise Ordinance No. S-1150, and said Company hereby agrees to all the terms and conditions of said Ordinance.

Dated at Overland Park, Kansas, this 23rd day of MAY, 2003

KANSAS GAS SERVICE,
A DIVISION OF ONEOK, INC.

By: Phyllis Worley
Phyllis Worley, President

Attest:

John DeCoursey
John DeCoursey
Assistant Secretary

State of Kansas)
County of Butler)
City of El Dorado)

I, Shauna Johnson, City Clerk of the City of El Dorado, Kansas, do hereby certify that the foregoing is a true and correct copy of acceptance of Ordinance No. S-1150, of the City of El Dorado as therein described, the original of which acceptance was filed in the office of the Clerk of said City on the 30th day of May, 2003, and is now recorded among the original records thereof, and that I am the keeper of the same.

Witness my hand and the official seal of said City, this 30th day of May, 2003.

Shauna Johnson
City Clerk

ORDINANCE NO. S-1150

AN ORDINANCE, granting to Kansas Gas Service, a Division of ONEOK, Inc., its successors and assigns, a natural gas franchise, prescribing the terms thereof and relating thereto, and repealing all ordinances or parts of ordinances inconsistent with or in conflict with the terms hereof.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

SECTION 1. That in consideration of the benefits to be derived by the City of El Dorado, Kansas, ("City"), and its inhabitants, there is hereby granted to Kansas Gas Service, a Division of ONEOK, Inc. ("Company"), said Company operating a system for the transmission and distribution of natural gas in the State of Kansas, the right, privilege, and authority for a period of twenty (20) years from the effective date of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parking areas, and public places of said City, for the placing and maintaining of equipment and property necessary to carry on the business of selling and distributing natural gas for all purposes to the City, and its inhabitants, and through said City and beyond the limits thereof; to obtain said natural gas from any source available; and to do all things necessary or proper to carry on said business.

SECTION 2. As further consideration for the granting of this franchise, and in lieu of any city occupation, license, or permit fees, or revenue taxes, the Company shall pay to the City during the term of this franchise five percent (5 %) of the gross cash receipts from the sale of natural gas for consumption in the City for all purposes within the corporate limits of the City, such payments to be made monthly for the preceding monthly period. Gross cash receipts shall not include other operating revenues received by the Company, which are not related to the "sale of natural gas ". These include, but are not limited to, connection fees, disconnection and reconnection fees, temporary service charges, delayed or late payment charges, collection fees, and returned check charges as such terms are used in tariffs or in the natural gas industry.

SECTION 3. 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 assessments, sales, and excise taxes or charges made for privileges which are not connected with the natural gas business, 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 any ordinance presently in effect or hereafter adopted for a permit to excavate in any unpaved street, alley, or other public place shall be deemed a part of the compensation paid in Section 2 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 4. The use of Right of Way under this franchise by 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 laws, 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, 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, or ordinance proposed, adopted, or promulgated by the City and, further provided, other than the items enumerated in Section 3 herein, that such laws, rules, regulations, policies, resolutions, or ordinances shall not require the payment of additional fees or additional costs for the use of the Right of Way. In any event, the Company is granted an offset for such fees and costs against the franchise fees required to be paid hereunder.

SECTION 5. All mains, services, and pipe which shall be laid or installed under this grant shall be so located and laid as not to obstruct or interfere with any water pipes, drains, sewers, or other structures already installed. Company shall provide, prior to commencing work, information to the City concerning work to be performed in the streets, avenues, bridges, parks, parking areas, and public places of the City, as the City may from time to time require for purposes of record keeping. The City may require that the information be provided on its standard permit form, but without requiring approval, consent, or fees. In the event of an emergency, Company shall have the right to commence work without having first providing such form(s).

SECTION 6. Company shall, in doing the work in connection with its said gas mains, pipes, and services, avoid, so far as may be practicable, interfering with the use of any street, alley, avenue, or other public thoroughfare. It shall, without expense to the City, and in a manner satisfactory to the duly authorized representatives of the City, replace such paving or surface in substantially as good condition as before said work was commenced.

SECTION 7. It is recognized that the natural gas to be delivered hereunder is to be supplied from a pipeline system transporting natural gas from distant sources of supply; and the Company, by its acceptance of this franchise as hereinafter provided, does obligate itself to furnish natural gas in such quantity and for such length of time, limited by the terms hereof, as the said sources and said pipelines are reasonably capable of supplying.

SECTION 8. Company, its successors and assigns, in the construction, maintenance, and operation of its natural gas system, shall use all reasonable and proper precaution to avoid damage or injury to persons and property, and shall hold and save harmless the City from any and all damage, injury, and expense caused by the negligence of said Company, its successors and assigns, or its or their agents or servants.

SECTION 9. Within twenty (20) days after the passage and approval of this Ordinance, Company shall file the same with the Kansas Corporation Commission for the Commission's approval.

SECTION 10. After the approval of this Ordinance by the Kansas Corporation Commission, Company shall file with the City Clerk of the City its written acceptance of this Ordinance. Said Ordinance shall become effective and be in force and shall be and become a binding contract between the parties hereto, their successors and assigns, on the 13th day of March, 2003, such date being at least sixty (60) days after the final passage and approval by the City. During said sixty day period, publication of this Ordinance shall be as required by law.

SECTION 11. This Ordinance, when accepted as above provided, shall constitute the entire agreement between the City and the Company relating to this franchise and the same shall supercede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written, shall be binding upon the parties, including their successors and assigns, and shall not be amended or further obligations imposed without mutual consent of the parties hereto.

SECTION 12. I. Upon written request of either the City or the Company, this franchise may be reviewed after five (5) years from the effective date of this ordinance, and every five (5) years thereafter. Said request must be served upon the other party at least one hundred twenty (120) days prior to the end of every five years of the term of this Ordinance, and shall state specifically the amendments desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendments.

Failure of the City and Company to successfully renegotiate the materially affected provisions of this franchise under this section shall give rise to dispute resolution as follows: When the parties determine that they are at an impasse, 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 the 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. Rejection of the dispute resolution by either the City or the Company shall give rise to the remedies provided by statute, or, at the option of the parties, the franchise shall remain in effect according to its then existing terms.

Amendments under this section, if any, shall be made by ordinance as prescribed by statute. Except as provided within this section the franchise shall remain in effect according to its terms pending completion of any review or renegotiation provided by this subsection.

II. 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:

(a) 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.

(b) 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.

(c) 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.

III. 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, and use the public rights of way or public property of the City without paying a franchise fee or other payment substantially equivalent to the franchise fee established herein, which results in a material and unfair disadvantage to the Company. The use of right of 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 which use the public rights of way or public property of the City, and do not have requirements on the use of the public ways 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 ninety (90) days after written request of the Company to restore competitive neutrality. Following notice to the City, Company may suspend collection and payment of the franchise fee to the City for the affected customers until the City resolves the competitive disadvantage. After the last above referred ninety (90) day period expires without resolution of the competitive disadvantage, the Company shall have no liability to the City for any uncollected franchise fees suspended as provided in this subsection.

SECTION 13. The City may by separate ordinance provide for the assessment and collection of franchise fees on all natural gas transported (transport gas) 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 located in the public right of way. Said separate ordinance may also provide for the assessment and collection of franchise fees based upon the compensation paid by a consumer to the Company for the transportation of natural gas not sold by the Company using Company facilities located in public rights of way within the corporate limits of the City. In this event the Company may be granted the authority to collect on behalf of the City the total compensation to be made to the City by other parties using the Company's facilities for distribution of transport gas. The Company shall not be responsible for the nonpayment of such franchise fees, but under a satisfactory collection agreement between the City and the Company, agrees to collect such sums for the City and to submit such payments in a reasonable manner to be prescribed in the separate ordinance.

The City shall use the current method used by the Company to calculate the amount of the franchise fee to be charged to transport customers on a volume basis. Said method shall be fully delineated on the separate ordinance.

SECTION 14. The franchise is granted pursuant to the provisions of K.S.A. 12-2001 and amendments thereto.

SECTION 15. Any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed or considered as having no effect.

SECTION 16. Should the Kansas Corporation Commission take any action with respect to this franchise ordinance which precludes Company from recovering from its customers any costs or fees provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance with the Commission's ruling.

PASSED AND APPROVED this 13th day of January, 2003.

Connie Phillips
MAYOR

(SEAL)

CITY OF ELDORADO
SEAL
BUTLER CO. KAN.

ATTEST:

Shawnna Johnson
City Clerk

ORDINANCE NO. S-1149

AN ORDINANCE REQUIRING A FRANCHISE FOR TRANSPORTATION, DISTRIBUTION, AND SALE OF NATURAL GAS AND OTHER ENERGY THROUGH PIPELINES OR DISTRIBUTION SYSTEMS LOCATED IN THE CITY; AND PROVIDING FOR EXEMPTION FROM SUCH REQUIREMENT FOR CERTAIN PROVIDERS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

SECTION ONE: Definitions

a. "City" – shall mean the City of El Dorado, Kansas.

b. "Consumer" or "User" – shall mean, without limitation, any individual person, business, corporation, company, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture, trust, municipality, or public corporation served by a Franchised Entity or Provider through a Distribution System.

c. "Distribution System" or "Distribution Facilities" – shall mean a pipeline or system of pipelines, including without limitation mains, pipes, boxes, reducing and regulating stations, laterals, conduits, and services extensions, together with all necessary appurtenances thereto, or any part thereof, for the purpose of supplying natural gas or Other Energy for light, heat, power, and all other purposes.

d. "Franchised Entity" – shall mean any entity that has a franchise granted by the City for the supplying of natural gas under the procedures and provisions of K.S.A. 12-2001, et seq., as amended; such entity at the effective date of this Ordinance is Kansas Gas Service, a Division of ONEOK, Inc.

e. "Gross Receipts" – shall mean

1. any and all compensation and other consideration derived directly or indirectly by the Provider from:

(a). any transportation, distribution or sale of natural gas to a consumer for any use, including domestic, commercial, and industrial purposes, and including without limitation interruptible, single and firm sales: and

(b). any operation or use of any or all of the Distribution Facilities in the Public Right-of-Way by the Provider or others including without limitation charges as provided in tariffs filed

and approved, and shall also include all fees or rentals received by the Provider for the lease or use of pipeline capacity within the corporate limits of the City.

2. Except that 'Gross Receipts" shall not include:

(a). connection and disconnection fees, reconnection fees, returned check charges, temporary service charges, and delayed or late payment charges as such terms are used in tariffs or in the natural gas industry;

(b). compensation from the sale of natural gas when:

(1). the Customer purchases the natural gas as a separate and identifiable commodity that is not subject to a regulated tariff rate, and

(2). on which the Volumetric Rate is applied; or

(c). compensation from the sale of natural gas when a franchise fee has been paid by another Franchised Entity on the same transaction.

f. "MCF" means 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 the purposes of this Ordinance that one MCF is equal to 1,000,000 British Thermal Units (BTU's).

g. "Other Energy" means energy provided in a gaseous, liquid, or slurry mixture form through pipelines for light, heat, power, and all other purposes as an alternative to or replacement for natural gas, but specifically shall not include electrical energy.

h. "Provider" means any business, including any individual person, business, corporation, company, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture, trust, municipality, or public corporation providing the transportation, distribution, or sale of natural gas or Other Energy to a Consumer, whether through its own Distribution System, the Distribution System of a Franchised Entity or through the Distribution System of another, and shall also include a Consumer transporting natural gas or Other Energy for its own use.

i. "Public Right-of-Way" means any and all present and future streets, alleys, rights-of-way, and public easements, whether platted or otherwise dedicated, and located within the City.

j. "Settlement Price" means the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange on the 15th day of each month as published daily in the Wall Street Journal on the following business day (or the next day on which a Settlement Price is published).

k. "Volumetric Rate" means sixteen and two-tenths cents (0.162) per MCF, or such amount as may be hereafter calculated and filed with the City Clerk according to the provisions of this Ordinance.

SECTION TWO: Application of Ordinance.

From and after the effective date of this Ordinance, no natural gas or "Other Energy" shall be transported, distributed, or sold by any Provider to any Consumer for use within the corporate limits of the City through a Distribution System located in whole or in part in the Public Right-of-Way except in accordance with the provisions of this Ordinance. This Ordinance applies to any distribution to a Consumer within the City whether or not the portion of the Distribution System serving the Consumer is in the Public Right-of-Way, so long as any portion of the Distribution System of the Provider is in the Public Right-of-Way.

SECTION THREE: Franchise Required.

a. Every Provider subject to this Ordinance shall obtain a franchise from the City under the provisions of K.S.A. 12-2001, et seg. for the use of Distribution Systems located in Public Right-of-Way. Any Provider which only uses the Distribution System of a Franchised Entity and which reports and pays a sum equal to the compensation calculated pursuant to Section Four (b) of this Ordinance to the City through such Franchised Entity shall be exempt from the requirement for a separate franchise. Any interstate pipeline transportation company which is otherwise a Provider under this Ordinance shall not be required to obtain a separate franchise under this section; provided, that all Users of such interstate pipeline transportation company who are located within the City shall obtain a franchise and shall report and pay a sum equal to the compensation calculated pursuant to Section Four (b) of this Ordinance and a sum equal to five per cent (5%) of the amount paid for the transportation of such natural gas or Other Energy.

b. The franchise required under this Ordinance shall contain the following substantive elements:

1. **In consideration of and as compensation for the franchise, the Provider shall agree to pay to the City a sum equivalent to fees calculated in accordance with Section Four of this Ordinance.**

2. **The payments and compensation paid by the Provider 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 original condition, or charges made for privileges which are not in any way connected with the natural gas or Other Energy business, as such, will be imposed on the Provider and are not covered by the franchise fee payments.**

3. **The Provider shall agree that the City shall have access to and the right to examine and audit all records reasonably necessary to verify the payment of the franchise fee. If any such payment is found to be incorrect, then payment shall be made upon a corrected statement. The Provider shall agree that for each and every month, or any part thereof, that franchise compensation remains unpaid after the same becomes due and payable by the Provider, there shall be added as a late charge a sum equal to the then current statutory rate of interest on the unpaid amount.**

4. **Provider shall agree to hold the City harmless from any and all damages arising from the exercise of any right or privilege granted under this Ordinance and the franchise, and from any and all damages accruing from the neglect or mismanagement of its employees, agents or servants in the exercise of any right or privilege granted under this Ordinance and the franchise.**

5. **Subject to the approval of the regulatory body having jurisdiction and control over rules and regulations of the Provider at the time in question, the Provider shall agree that the City has the right to make such reasonable rules and regulations for the protection of its property and for the distribution and sale of natural gas and Other Energy, and the appropriate conduct of business as the City may from time to time deem necessary.**

6. **The franchise shall be non-exclusive.**

7. **The franchise shall be for a term expiring no later than the earliest date of expiration of the franchise of any Franchised Entity and subject to reopening and renegotiation upon events materially affecting the rights or obligations of the City or the Provider.**

8. **In the event the Provider owns or maintains all or any portion of a Distribution System, it shall agree to limitations on the use of the Public Right-of-Way and the construction, location, and relocation of facilities, and the quality of and standards for service, all substantially equivalent to those of the Franchised Entities.**

9. **The Provider shall agree to file its written acceptance of the provisions, terms, and conditions of the franchise with the City Clerk within 60 days after final passage of the Franchise Ordinance.**

SECTION FOUR: **Calculation of Fees.**

a. **Natural Gas Fees Applicable to a Provider Required to Have a Separate Franchise. In consideration of and as compensation for the franchise granted to the Provider by the City, the Provider shall make an accounting on a monthly basis to the City of all sales, distribution, or transportation to any Consumer or User for use within the City by the Provider or by others through the Distribution Facilities of the Provider. The Provider shall pay to the City a franchise fee calculated as follows:**

   1. **A sum equal to five per cent (5%) of Gross Receipts; and**

   2. **A sum equal to the Volumetric Rate multiplied by the number of MCF of natural gas transported or distributed by the Provider.**

   Such sums shall be adjusted for uncollectible receivables and uncollectible receivables which are later collected. Such payments shall be made to the City within 30 days of the last day of the month to which such accounting shall apply, under procedures established by the City Clerk.

b. **Natural Gas Fees Applicable to a Provider Through Another Franchised Entity. In consideration of and as compensation for the use of Public Right-of- Way, any Provider which is not a Franchised Entity and which is using the Distribution System of a Franchised Entity shall pay the City through such Franchised Entity a fee calculated in the manner provided in subsection (a) 2 of this section. Such payments shall be made monthly under procedures established by such Franchised Entity.**

c. **Fees Applicable to Other Energy. In consideration for the franchise Granted to the Provider by the City, the Provider shall make an accounting and provide compensation to the City for the transportation, distribution, and sale of Other Energy to any Consumer or User for use within the City by the Provider or by others through the Distribution Facilities of the Provider. The Provider shall pay to the City a franchise fee that is calculated in a manner provided in each franchise that is substantially equivalent to the fees paid by Providers of natural gas, taking into account the alternative form of the energy, its value per unit, and the amount of energy necessary for light, heat, power, or other purposes.**

SECTION FIVE: Adjustment of Volumetric Rate.

The Volumetric Rate shall be recalculated annually by the City beginning in January 1, **2004, based upon the Settlement Price. The recalculation shall be based on Settlement Price for the twelve month period beginning in July of the preceding year and ending in June of the current 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 be summed, divided by twelve and multiplied by five per cent (5%) to obtain the Volumetric Rate to be effective January 1 of the next succeeding year.**

a. **The Volumetric Rate shall be calculated in July annually by the City and shall be effective upon January 1 next following filing of the completed Volumetric Rate Calculation Form with the City Clerk without the necessity of amendment of this Ordinance. The Volumetric Rate Calculation Form on file with the City Clerk and incorporated herein by reference shall be used for the recalculation of the Volumetric Rate.**

SECTION SIX: Reporting and Collection Provisions.

a. **All Providers using the Public Right-of-Way for the transportation, distribution, or sale of natural gas or Other Energy, whether through their own Distribution Facilities, through the Distribution Facilities of a Franchised Entity, or through the Distribution Facilities of another, shall report or register such use with the City Clerk on forms prepared and furnished by the City Clerk, and subject to such administrative fees as are established by the City Clerk to cover the cost of effective administration of this Ordinance. Such registration shall include the name, address, and agent for the Provider and shall include such information on the method and means of transportation, distribution, or sale to Consumers as may be reasonably required by the City for**

enforcement of this Ordinance. The City shall have access to and the right to examine and audit such records as necessary to verify the payment of compensation.

b. **A Franchised Entity may serve as the agent for Providers using the Distribution of such Franchised Entity for the purpose of reporting and collection under this Ordinance.**

c. **Franchised Entities and Providers reporting and paying fees calculated in accordance with Section Four (b) of this Ordinance through a Franchised Entity shall be exempt from the separate reporting and registration requirements of this Ordinance.**

SECTION SEVEN: Time Limits for Franchise Application.

a. **All Providers shall make application for a franchise within 30 days next following the effective date of this Ordinance, unless the Provider is exempt from the requirement of a separate franchise under the provisions of Section Three (a) hereof. It is the intent of this Ordinance that a Franchise Ordinance consistent with the requirements of Section Three hereof ill be submitted to the Governing Body for consideration according to statutory procedure immediately upon receipt of an application therefore.**

b. **All Providers exempted from the requirement for a separate franchise under Section Three (a) of this Ordinance shall be responsible for fees required by this Ordinance upon the effective date of the franchise Ordinance for the Franchised Entity which authorizes such Franchised Entity to collect payments from the Provider on behalf of the City.**

c. **Any Provider hereafter becoming subject to this Ordinance shall immediately comply with the provision hereof prior to use of the Public Right-of-Way for the transportation, distribution, or sale of natural gas or Other Energy.**

d. **The fees calculated under Section Four of this Ordinance shall be assessed and shall be effective on or before** January 1 **, 2004.**

SECTION EIGHT: Violations, Penalties and Other Relief.

a. **It shall be unlawful for a Provider to transport, distribute, or sell natural gas or Other Energy to a Consumer in violation of this Ordinance.**

b. Any person who violates any provision of this Ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $2,500. Each and every day of operation in violation of this Ordinance shall constitute a separate offense.

c. The City may seek such other relief as may be available at law or in equity, including but not limited to an injunction to halt any violation of this Ordinance or of any permit or other authorization granted hereunder, and shall have such other remedies as are or may in the future be provided by any law, Ordinance or regulation.

SECTION NINE: Invalidity of Part.

In the event any clause, sentence, or section of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair the operation and enforcement of the remainder of this Ordinance.

SECTION TEN: Effective Date.

This Ordinance shall take effect and be in force after its publication once in the official City newspaper.

PASSED BY THE GOVERNING BODY of the City of El Dorado, this 13th **day of** January , **20**03.

CITY OF ELDORADO SEAL BUTLER CO. KAN.

Connie Phillips
MAYOR

Shaunna Johnson
CITY CLERK