

ORDINANCE NO. 2627

AN ORDINANCE granting to Northwest Natural Gas Company, its successors and assigns, the right and franchise to construct, lay, maintain and operate a gas pipeline for the transmission of gas, in, over, and upon four (4) concrete piers in Lacamas Lake, adjacent to the west side of the lake bridge, on State Highway 500, and specifying the limitations and conditions of such grant.

THE CITY COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

GRANT OF FRANCHISE

Northwest Natural Gas Company, its successors and assigns, hereinafter referred to as "Grantee," is hereby granted the right, privilege and franchise to construct, lay, maintain and operate a gas pipeline and appurtenances for the transmission of gas, over, across and upon four (4) existing concrete piers constructed in Lacamas Lake adjacent to the west side of the lake bridge on State Highway 500 in Clark County, Washington.

The right, privilege and franchise herein granted shall be deemed non-exclusive, and shall continue and endure throughout the term of this ordinance so long as the Grantee is in compliance with all the terms of this ordinance and all applicable laws and regulations of the federal, state and local government.

Section II

TERM

This franchise and the rights granted hereunder to Grantee in this ordinance shall extend and endure for a term of twenty-five (25) years from the effective date of this ordinance unless terminated sooner by the City as hereinafter provided.

Section III

CONSTRUCTION AND MAINTENANCE

All work done by Grantee, its successors and assigns, in connection with the construction,

operation and maintenance of said gas pipeline, shall be performed to the satisfaction and subject to the supervision of the city public works director or other duly constituted representative of the City.

Grantee shall not cause permanent injury to the concrete piers or the City's waterlines located thereon, nor shall Grantee in any manner unreasonably disturb or interfere with any water or sewer lines or other conduits now or hereafter laid by the City or any authorized company or corporation upon said concrete piers.

Except as to emergency repairs, Grantee shall, prior to installing, repairing, or relocating any pipe, main, conduit or service line, file with the Public Works Department or such other person designated by the City, plans and specifications thereof showing the work to be done, the location and nature of the installation to be made, repaired or maintained, and a schedule showing the time of beginning and completion, and shall secure the approval of the City before proceeding with any such work. Any subsequent changes in the plans, specifications or schedules shall require the approval of the City.

Section IV

RELOCATION

If the City shall improve the concrete piers, or improve or construct any sewer, waterlines, or other fixtures of the City on said concrete piers, and if by virtue of such improvement of construction it is necessary to change the location of Grantee's gas mains, pipes, services or appurtenances, then Grantee shall, at its own expense, upon reasonable notice by the City, move and change any gas main, pipe, service, attachment or appurtenance to conform to such public improvement.

Section V

INDEMNIFICATION AND INSURANCE

The Grantee shall defend, indemnify and hold the City, its officers, officials, employees, and

volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorneys fees, arising out of or in connection with negligent activities or operations performed by the Grantee or on the Grantee's behalf, out of the issuance of this franchise, except for injuries and damages caused by the sole negligence of the City.

The Grantee shall procure and maintain, for the duration of this franchise, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the operations or activities performed by or on the Grantee's behalf with the issuance of this franchise. Grantee's maintenance of insurance as required shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Grantee shall maintain insurance of the type described as follows:

1. Throughout the term of this franchise, Grantee shall maintain General Liability, Auto, and Workers' Compensation insurance and shall furnish the City with Certificates of Insurance in a form acceptable to the City, with the following limits and coverages:

a) General liability insurance covering bodily injury, property damage, and personal injury for at least two million dollars (\$2,000,000) combined single limit per occurrence and at least two million dollars (\$2,000,000) in the aggregate.

b) Automobile liability for owned, non-owned, and hired vehicles with combined single limit coverage of not less than one million dollars (\$1,000,000) per accident for bodily injury and property damages.

c) Workers' compensation coverage at a minimum consistent with state law and employer's liability insurance with limits of not less than one million dollars

(\$1,000,000).

2. The insurance policies may provide for self-retention or deductibles in reasonable amounts. The limits of the insurance shall be subject to statutory changes as to increases in the maximum limits of liability imposed on municipalities of the State of Washington during the term of this Franchise.

3. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City, its elected and appointed officials, its officers, agents, employees, and volunteers. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing in this subsection shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

4. The Grantee shall provide that the insurance shall not be canceled or materially altered without thirty (30) days' prior written notice first being given to the City. If the insurance is canceled or materially altered within the term of this Franchise, Grantee shall provide a replacement policy with the same terms as required by this Franchise. Grantee shall maintain continuous uninterrupted coverage, in the terms and amounts required, upon and after the effective date of this Franchise.

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

6. Grantee's general liability, automobile, and workers' compensation insurance shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance, and shall not contribute with it.

Grantee shall furnish the City with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the Grantee before issuance of the franchise.

Grantee shall provide City with written notice of any policy cancellation, within two business days of receipt of such notice. Failure of the Grantee to maintain insurance as required shall constitute a material breach of the franchise agreement, upon which the City may, after giving five business days' notice to the Grantee to correct the breach, immediately terminate the franchise, or, at its discretion, procure or renew such insurance, and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.

Section VI

NON-EXCLUSIVE FRANCHISE

Nothing in this ordinance shall be construed as granting an exclusive franchise or privilege for the use of the aforescribed concrete piers, provided however, that any grantee of similar rights and privileges shall not in the exercise thereof unreasonably interfere with the exercise of the rights and privileges granted hereunder.

Section VII

FORFEITURE

Grantee shall forfeit and shall be deemed to have forfeited and abandoned all rights, privileges and authority hereby conferred, unless within thirty (30) days after the effective date of this

ordinance, it shall file in the office of the City Clerk, written acceptance of the rights and privileges conferred hereby, which acceptance shall contain an express understanding by the Grantee, for itself and its successors and assigns, to faithfully comply with and abide and be bound by the terms of this ordinance and all of the requirements hereof, and to faithfully and timely keep and perform each and every term, covenant, agreement, obligation and condition required of, or imposed upon it or them by this ordinance.

Section VIII

TERMINATION

In case of the failure on the part of the Grantee to comply with any of the provisions of this ordinance, or if Grantee does or causes to be done any act or thing prohibited by or in violation of the terms of this ordinance, the City may declare a forfeiture of all rights and privileges granted by this ordinance and all rights thereunder shall cease; provided however, that such forfeiture shall not occur or take effect until the City serves by certified mail, return receipt requested, a written notice upon the local manager of Grantee setting forth clearly and in detail the failure or violation complained of, and Grantee shall thereafter have thirty (30) days from the date of mailing said notice in which to comply with the conditions of this right and privilege. If such failure or violation continues beyond said thirty (30) days, then the City may terminate this right and privilege by ordinance.

Section IX

REMEDIES

In addition to other remedies provided herein, the City reserves and shall have the right to pursue any remedy to compel or enforce the Grantee and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture for any reasons herein stated, after giving the notice required hereby,

nor shall the delay of the City in declaring a forfeiture preclude it from thereafter doing so.

Section X

ASSIGNMENT

This franchise and the rights herein granted may be assigned, but no such assignment shall be of any force or effect until a copy thereof, certified as such by the proper officials of the Grantee, shall be filed in the office of the City Clerk in the City, nor until the City Council of the City shall have consented to such assignment. Any successor or assignee of the Grantee must file with the City Clerk written acceptance of the rights and privileges conferred hereby and such successor's or assignee's agreement to fully comply with and abide by and be bound by the terms of this ordinance and all the requirements hereof, and to faithfully and timely keep and perform each and every term, covenant, agreement, obligation and condition required of or imposed upon the Grantee hereunder.

Section XI

COMPENSATION

As compensation for the franchise granted by this ordinance, Grantee shall pay to the City an annual franchise fee of \$200. Said franchise fee shall be payable on the effective date of this ordinance, and thereafter on each anniversary of said effective date during the term of this ordinance. The Grantee shall also be required to pay all license fees and taxes which it may be required to pay by any other ordinance now in effect or hereinafter enacted, including a business or occupation tax or public utility tax on persons engaged in the business carried on by Grantee.

Section XII

PUBLICATION EXPENSE

In addition to the annual license fee, Grantee shall reimburse the City for the cost of publication of this ordinance.

Section XIII

EFFECTIVE DATE

This ordinance shall take effect and be in force five (5) days from and after its passage and publication and after acceptance by the Grantee as above required.

PASSED by the Council and APPROVED by the Mayor this 17th day of October, 2011.

SIGNED: [Signature]
Mayor

ATTEST: [Signature]
Clerk

APPROVED as to form:

[Signature]
City Attorney

The rights and privileges conferred by the foregoing franchise ordinance are hereby accepted this 17th day of October, 2011, by Northwest Natural Gas Company, and said Grantee agrees to fully comply with and abide with and be bound by the terms of this ordinance and all the requirements hereof, and to faithfully and timely keep and perform each and every term, covenant, agreement, obligation and condition required of or imposed upon the Grantee by this ordinance.

NORTHWEST NATURAL GAS COMPANY

By: [Signature]

Date: Oct 25, 2011

Above acceptance received by the City of Camas this _____ day of _____, 2011.

By: _____