

AN ORDINANCE GRANTING A FRANCHISE BY THE CITY OF HIGHLANDVILLE, COUNTY OF CHRISTIAN COUNTY, MISSOURI, TO OZARK ENERGY PARTNERS, LLC, IT'S SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL, AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID CITY ALL FACILITIES RESONABLY NECESSARY TO FURNISH, SELL, AND DISTRIBUTE GAS TO THE CITY AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE CITY AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE RESONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HIGHLANDVILLE, OF CHRISTIAN COUNTY, MISSOURI.

ARTICLE I

Definitions

For the purpose of this franchise, the following words and phrases shall have the meaning given in this article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the single number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this article shall be given common and ordinary meaning.

- 1.1 "Board of Aldermen" refers to and is the legislative body of the City of Highlandville.
- 1.2 "Company" refers to and is Ozark Energy Partners, LLC., a Missouri corporation formed to provide natural gas service in Missouri, and it's successors and assigns.
- 1.3 "Distribution Facilities" refer to and are only those facilities reasonably necessary to provide gas within the City.

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1.4 "Facilities" refer to and are all facilities reasonably necessary to provide gas into, within and through the City and include pipelines and mains, service lines, meters, regulator stations, plants and equipment.

1.5 "Gas" or "Natural Gas" refers to and includes such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured, or any mixture thereof.

1.6 "Public Service Commission" refers to and is the Public Service Commission of the State of Missouri.

1.7 "Revenues" refer to and are those amounts of money which the Company receives from its residential and commercial customers within the City for the sale and transport of gas under rates, temporary or permanent, authorized by The Public Service Commission of the State of Missouri and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments.

1.8 "Streets and Other Public Places" refer to and are streets, alleys, viaducts, bridges, roads, lanes, easements, public ways and other public places in said City.

1.9 "City" refers to and is the City of Highlandville Christian County, Missouri, and includes the territory as currently is or may in the future be included within the boundaries of the City of Highlandville.

ARTICLE II

GRANT OF FRANCHISE

2.1 Grant of Franchise. The City hereby grants to the Company, for the period specified and subject to the conditions, terms and provisions contained in this Ordinance, the right to transport, sell and distribute gas to the City and to all persons, businesses and industries within the City; the right to acquire, construct, install, locate, maintain, operate and extend into, within and through the City all

Facilities reasonably necessary to provide gas to the City and to all persons, businesses and industries within the City and in the territory thereto; and the right to make reasonable use of all streets and other places as may be necessary to carry out the terms of the ordinance.

2.2 Terms of Franchise. This franchise ordinance shall not be effective unless and until the Grant of Rights, permission and authority herein contained be approved by a majority of the electors voting thereon at an election, pursuant to another ordinance and the franchise herein contained shall be and continue in force and effect for a period of twenty (20) years from the date of such election. Any franchise granted hereunder shall be non-exclusive.

ARTICLE III **FRANCHISE FEE**

3.1 Franchise Fee. In consideration for the grant of this franchise, the Company shall collect and remit to the City a sum not to exceed zero % 1st year, 2nd year 2%, 3rd year and thereafter 5% of the sales revenues derived annually from the sale of gas within the City, excluding the amount received from the City itself for gas service furnished it. Quarterly franchise fee payments shall be made within thirty (30) days after the end of each calendar quarter. Payments at the beginning and end of the franchise shall be prorated. Franchise fee shall be waived for gas sales during the first 12 calendar months in which Company provides gas service to customers within the City.

3.2 Franchise Fee Payment in Lieu of Other Fees. Payment of the franchise fee by the Company is accepted by the City in lieu of any occupancy tax, license tax, permit charge, inspection fee or similar tax, assessment or excise upon the pipes, mains, meters, or other personal property of the Company or on the privilege of doing business or in connection

but does not exempt the Company from any lawful taxation upon its real property or any other tax not related to the franchise or the physical operation thereof

ARTICLE IV

CONDUCT OF BUSINESS

4.1 Conduct of Business. The Company may establish, from time to time, such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the laws of the State of Missouri.

4.2 Tariffs on File. The Company shall keep on file in its nearest office copies of all its tariffs currently in effect and on file with the Public Service Commission of Missouri. Said tariffs shall be available for inspection by the Public.

4.3 Compliance with PSC Regulations. The company shall comply with all rules and regulations adopted by the Public Service Commission of Missouri.

4.4 Compliance with Company Tariffs. The Company shall furnish gas within the City to the City and to all persons, businesses and industries within the City at the rates and under the terms and conditions set forth in its tariffs on file with the Public Service Commission of Missouri.

4.5 Applicability of Company Tariffs. The City and the Company recognize that the lawful provisions of the Company's tariffs on file and in effect with the Public Service Commission of Missouri are controlling over any inconsistent provision in this franchise dealing with the same subject matter.

ARTICLE V

CONSTRUCTION, INSTALLATION & OPERATION OF COMPANY FACILITIES

5.1 Location of Facilities. Company facilities shall not interfere with the City's water mains, sewer mains or other municipal use of streets and other public places. Company facilities shall be located so as to cause minimum interference with public use of streets and other public places and shall be maintained in good repair and condition.

5.2 Excavation and Construction. All construction, excavation, maintenance and repair work done by the Company shall be done in a timely and expeditious manner which minimizes the inconvenience to the public and individuals. All such construction, excavation, maintenance and repair work done by the Company shall comply with all federal, state and local codes. All public and private property whose use conforms to restrictions in easements disturbed by Company construction or excavation activities shall be restored as soon as practical by the Company at its expense to substantially its former condition. The Company shall comply with the City's requests for reasonable and prompt action to remedy all damage to private property adjacent to streets or dedicated easements where the Company is performing construction, excavation, maintenance or repair work. The town reserves the right to restore property and remedy damages caused by Company activities at the expense of the Company in the event the Company fails to perform such work within a reasonable time after Notice from the City.

5.3 Relocation of Company Facilities. If at any time the City requests the Company to relocate any distribution gas main or service connection installed or maintained in streets or other public places in order to permit the City to change street grades, pavements, sewers, water mains or other City works, such relocation shall be made by the Company at its expense. The Company is not obligated hereunder to relocate any facilities at its expense which were installed in private easements

obtained by the Company, the underlying fee of which was, at some point subsequent to installation, transferred to the City. Following relocation, all property shall be restored to substantially its former condition by the Company at its expense.

5.4 Service to New Areas. If during the term of this franchise the boundaries of the City are expanded, the Company shall extend service to the newly incorporated areas. Service to annexed areas shall be in accordance with the terms of this franchise agreement and the Company's tariffs, rules and regulations then in effect. Company shall not be required to extend service if Company is unable to obtain an adequate gas supply to serve additional customers, nor where such extension is not economically feasible for the Company.

5.5 Restoration of Service. In the event the Company's gas system, or any part thereof, is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore its system to satisfactory service within the shortest practicable time.

5.6 Supply and Quality of Service. The Company shall make available an adequate supply of gas to provide service in the City. The Company's facilities shall be of sufficient quality, durability, and redundancy to provide adequate and efficient gas service to the City.

5.7 Safety Regulations by the City. The City reserves the right to adopt, from time to time, reasonable regulations in the exercise of its police power which are necessary to ensure the health, safety and welfare of the public, provided that such regulations are not destructive of the rights granted herein. The Company agrees to comply with all such regulations, in the construction, maintenance and operation of its facilities and in the provision of gas within the City.

5.8 Inspection, Audit and Quality Control. The City shall have the right to inspect, at all reasonable times, any portion of the Company's system used to serve the City and its residents. The City also shall have the right to inspect and conduct an audit of Company records relevant to

compliance with any terms of this ordinance at all reasonable times. The Company agrees to cooperate with the City in conducting the inspection and/or audit to correct any discrepancies affecting the City's interest in a prompt and efficient manner.

5.9 Liability. The Company shall hold said City harmless from all liability imposed upon it on account of injury or damage to person or property caused by Company, its contractors, agents or employees in the course of or in connection with the installation, removal, operation or maintenance of pipelines and mains, service lines, meters and other utility equipment in public places in the City in the exercise of any of the rights and privileges conferred by this franchise.

ARTICLE VI

ASSIGNMENT; SAVINGS CLAUSE, AMENDMENT

6.1 Assignment. Nothing in this Ordinance shall prevent the Company from assigning its rights under this franchise. Any successors or assigns shall notify the City by a simultaneous informational filing with the City Clerk all documents required by the Missouri Public Service Commission to authorize change of control of Company. All successors and assignees are bound by the terms of this franchise agreement.

6.2 Savings Clause. If any portion of this franchise Ordinance is declared illegal or void by a court of competent jurisdiction, the remainder of the Ordinance shall survive and not be affected thereby.

with the physical operation thereof,

ARTICLE VII

**EXPIRATION OF FRANCHISE OR CONDEMNATION;
RIGHT OF FIRST PURCHASE**

7.1 Expiration of Franchises; Purchase or Condemnation. If at any time of expiration of the franchise granted under this Ordinance no extension or renewal had been negotiated between the City and the Company, the Company shall have the right to remove it's distribution facilities from the streets and other public places, but only after the City has had sufficient time to purchase or condemn said facilities. In removing it's facilities, the Company shall remove in a workmanlike manner, at the Company's expense, from the streets and other public places all distribution facilities belonging to the Company which are not purchased be the City at the expiration of the franchise. All public property shall be restored by the Company to it's former condition to the extent practicable, after said removal.

Read this first time and second time unanimously and passed by the Board of Aldermen
This 25th day of July, 2006.

ATTEST: Joan Reynolds
Joan Reynolds, City Clerk

Paul Weeks
Paul Weeks, Mayor

Approved this 25th day of July, 2006.

ATTEST: Joan Reynolds
Joan Reynolds, City Clerk

Paul Weeks
Paul Weeks, Mayor