

ORDINANCE NO. 54

Granting to Greeley Gas Company, a corporation, its successors and assigns, the right to construct, maintain and operate a plant or plants and works for the purchase, manufacture, generation, transmission, distribution and sale of artificial and natural gas, or either thereof, within the corporate limits of the Town of Hudson.

BE IT ORDAINED by the Board of Trustees of the Town of Hudson, Weld County, State of Colorado:

Section I.

The franchise and right is hereby granted by the Town of Hudson, (hereinafter called "Town"), to Greeley Gas Company, a Colorado corporation (hereinafter called "Company"), its successors and assigns, to locate, build, construct, purchase, maintain and operate into, within and through said Town a plant or plants and works for the purchase, manufacture, generation, transmission and distribution of artificial and natural gas, or either thereof, for heating, power or other purposes, with the right and privilege for the period and upon the terms and conditions hereinafter specified to furnish, sell and distribute either or both of said products to the Town and the inhabitants thereof by means of pipes, mains, conduits, or otherwise, over, under, along, across and through any and all streets, alleys and public ways and places in said Town, and on, over, under, along, across and through any extension, connection with or continuation of the same and/or on, over, under, along, across and through any and all such new streets, alleys and

public ways and places as may hereafter be laid out, opened, located or constructed within the territory now or hereafter included in the boundaries of said Town.

#### Section II.

The Company shall have the right to excavate in, occupy and use any and all streets, alleys, public ways and places under the supervision of properly constituted authority, to install, maintain and repair its gas distribution system.

#### Section III.

All such lines as the said Company, its successors and assigns, may now or hereafter construct shall be proper, safe and good quality of material for the purpose for which the same are to be used, and shall be buried, placed and let into the earth to a sufficient depth and in a good workmanlike manner, and all service lines must be constructed to the property lines by the said Company, its successors or assigns, locations and extent of said lines to be decided by the Company. Company proposes to initially install not less than 13,000 feet of gas main, nor more than 4,000 feet, more or less, in its initial distribution system.

#### Section IV.

The said Company shall not lay its gas mains and service pipes so as to interfere with or obstruct the drainage of said Town or with the construction of sewers or other underground fixtures for the conveyance of water, nor to obstruct the necessary and proper use of said streets, alleys and public places; and in the event it may become necessary for said Town to change or alter any sewer or other underground fixture for the conveyance of water or to change the grade line of any street or alley, the said Company, upon being given reasonable notice thereof, shall, at its own expense, remove, replace or construct its lines or

mains so as to not interfere with such improvements or alterations of said Town. The said Company shall, with reasonable promptness, restore the surface of the streets and alleys in which it makes excavations to a condition as nearly as possible as good as that in which they were before the commencement of said work; and during the progress of such work the said Company shall be responsible for keeping said streets, alleys and other places properly guarded to prevent accident to persons or property.

Section V.

Any building which may be erected by said Company for the manufacture of artificial gas shall be located in such places as shall be approved by the Board of Trustees of said Town under ordinances or resolution by said Board of Trustees.

Section VI.

No manholes or other fixtures or appliances shall extend above the grade line of the streets, alleys or public ground where the same may be situated.

Section VII.

The opening of any and all streets, alleys and public places by the grantee, its agents or employees, and the laying and directing by them of any and all mains, pipes or other fixtures and appliances shall at all times be subject to and under such reasonable rules and regulations as the Board of Trustees of said Town may from time to time adopt, except that said Town shall not require a license, permit or inspection fee for Company to sell, install or service gas appliances within said Town, nor to pass an ordinance to such effect.

Section VIII.

That said Town shall be in no wise liable or responsible for any accident or damage that may occur in the construction, operation

or maintenance of the gas plant or distributing mains or pipes and attachments thereto which are utilized by virtue of this franchise; and the acceptance of this grant shall be an agreement on the part of said grantee, its successors or assigns, to save said Town harmless from and against any and all liability, loss, default or misconduct of the grantee whereby accident or damage is incurred through the construction, operation or maintenance of such gas plant, pipes and attachments, and that the said grantee shall immediately indemnify and repay to said Town all costs, judgments or other expenses which said Town may be compelled to pay by reason of such default, neglect or misconduct of said grantees; and if any final judgment by reason thereof shall be recovered against said Town, the recovery thereof shall be final as between said Town, and said grantee, and conclusive as to the liability of the latter to the former, provided, however, that said grantee shall have had notice of the pendency of any action against the Town, arising from such accident or damage and permitted at its own expense to appear and defend or assist in the defense of the same.

#### Section IX.

Gas furnished by said Company, its successors or assigns, shall be sold and distributed upon metered service, and the Town reserves the right at any time to test the accuracy of the meter in service and the quality and pressure of the gas furnished, by a competent officer or agent appointed for that purpose by the Board of Trustees of said Town.

#### Section X.

Said Company shall furnish gas to the said Town and its inhabitants for lighting, heating, power or any other lawful purpose, under the rules and regulations and at the rates fixed by the Company and filed with the Public Utilities Commission

of the State of Colorado and approved by said Commission or by any other competent authority having jurisdiction in the premises.

In consideration of and as compensation for the granting of this franchise, the Company will supply and distribute artificial and/or natural gas to the Town and its inhabitants, when a gas distribution system is made available therefor, and not later than *SEPTEMBER 15, 1956*

Company shall supply and distribute gas when a sufficient supply of gas is available from the Colorado-Wyoming Gas Company; and will continue to supply said Town and its inhabitants with natural and/or artificial gas as long as the same is available during the term of this franchise.

#### Section XI.

Natural gas shall contain a gross heating value of not less than 800 B.T.U. per cubic foot to be supplied at said Town during all hours of the day, at a minimum pressure equivalent to three (3) inches of water pressure when measured at the outlet of consumers' meters and at a maximum pressure which shall not exceed the minimum by more than one hundred (100) per cent.

#### Section XII.

The rates to be charged by said Company for natural gas service to industrial users for heating, manufacturing, power and other purposes in said Town for the term of said franchise may be lower and different from those charged for domestic purposes, and the Company shall have the right to contract with industrial users for the sale of such natural gas, provided that all such contracts contain a "cut-off" clause which recognizes the preferred right of domestic users over industrial users. The Company shall from time to time make and file with the Town Clerk a schedule of classifications for all industrial users and the

rates charged under the classifications shall be on the basis of the volume used and the local requirements, and all consumers of any class shall be supplied on equal terms.

Section XIII.

The Town reserves the right to purchase or condemn the plant or system of the Company within the Town limits under and by virtue of the provisions of this Ordinance, at its actual value and at a price excluding all value of the franchise or right of way through the streets, avenues, alleys and public places of said Town, but must also agree to purchase the gas system immediately adjacent thereto served by said system; provided, that nothing herein shall authorize the purchase or condemnation of such plant or system within twenty-five (25) years after this franchise goes into effect, except at periods of ten (10) and fifteen (15) years therefrom.

Section XIV.

It is agreed that after the final passage of this Ordinance and the acceptance thereof by said Company, in the case of subsequent failure of the Company to perform and carry out any of the stipulations and agreements herein set forth in any substantial particular, the Town, acting by and through its Mayor and Town Board of Trustees, may, after hearing, determine such substantial failure, and thereupon, after notice given the Company of such determination, the Company shall have six (6) months' time in which to remedy the conditions respecting which such finding shall have been made. After the expiration of such six months' period and failure to correct such conditions, the Mayor and Town Board of Trustees may declare this franchise forfeited and thereupon the Company shall have no further right or authority hereunder.

Section XV.

The Company shall not, as to rates, charges, service, facilities, rules, regulations or in any other respect make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage, provided that nothing in this grant shall be taken to prohibit the establishment, from time to time, of a graduated scale of charges and classified rate schedules to which any customer coming within classification would be entitled.

Section XVI.

The Company shall keep in file in its office, available to the public, copies of reasonable rules and regulations, from time to time adopted by it, for the conduct of its business, and copies thereof shall also be filed with the Town Clerk of said Town.

The Town reserves the right to adopt, from time to time, in addition to the privileges herein contained, such rules and regulations as may be deemed necessary to regulate the construction, operation and maintenance of said distribution system and plant, provided, however, that such regulations shall be reasonable and in accordance with the Constitution and Laws of the State of Colorado.

Section XVII.

Whenever "Company" is used in this franchise it is intended to include not only Greeley Gas Company, but also its successors and assigns.

Section XVIII.

The franchise herein granted shall take effect and be in force from and after the final passage and publication hereof as required by law upon filing of acceptance by the Company, as provided in Section XIX hereof, and shall continue in force and

effect for a term of twenty-five (25) years from and after such passage. to 1980

Section XIX.

Within thirty (30) days after the final passage and publication of this Ordinance, the Company shall file, in the office of the Clerk of said Town, an acceptance in writing of the terms and conditions hereof.

Section XX.

That whereas said Town and its inhabitants are not supplied with artificial or natural gas, therefore an emergency is declared to exist, and this Ordinance is declared to be necessary to the immediate preservation of the public peace, health and safety and shall go into effect immediately upon its final passage and publication.

**PASSED AND ADOPTED, SIGNED AND APPROVED** this 6<sup>th</sup> day of SEPTEMBER, 1955.

Fred E. Willmer  
Mayor

ATTEST:

E. O. Booth  
Town Clerk



STATE OF COLORADO )  
COUNTY OF WELD ) ss  
TOWN OF HUDSON )

I, E.O. COOK, Town Clerk of the Town of Hudson, Weld County, Colorado, do hereby certify that the above and foregoing Ordinance No. 54, was duly and regularly introduced at the regular meeting of the Board of Trustees of said Town of Hudson, Weld County, Colorado, held Monday, the 1st day of August, A.D. 1955; that prior thereto, there being no daily or weekly newspaper of general circulation published in said Town of Hudson, Greeley Gas Company caused copies of notice of its intention to apply to the Board of Trustees of the Town of Hudson, Colorado, for a franchise, to be posted in six (6) public places within said Town of Hudson for a period of not less than ten (10) days immediately prior to the next regular meeting of the Board of Trustees, to-wit: Monday, the 1st day of August, A.D. 1955, as duly appears from the certificate of the Town Clerk of the said Town of Hudson; that at said regular meeting said Ordinance No. 54, was read in full and duly considered, and, on motion, by a vote of yeas 5, Nays 0, absent 1, was ordered posted in six (6) public places within said Town of Hudson for a period of not less than two (2) weeks, as provided by law; that copies of said Ordinance No. 54 were posted in six (6) public places within said Town of Hudson for a period of not less than two (2) weeks, as appears from the certificate of the Town Clerk of said Town of Hudson; that the same came on duly and regularly for further consideration by said Board of Trustees at a subsequent regular meeting held on Tuesday the 6<sup>th</sup> day of September, A.D. 1955.

That at said regular meeting of the Board of Trustees of the said Town of Hudson, held, as aforesaid, on Tuesday the 6<sup>th</sup> day of September, A.D. 1955, said Ordinance No. 54

was again, before the question of its passage was voted upon, read in full and duly considered, and, upon motion, the same was duly and regularly passed and adopted by a vote of yeas 5, nays 0, absent 1, and the same was ordered recorded in the official book kept for that purpose and published as by law provided.

And said Ordinance No. 54 was duly signed and approved by the Mayor, attested by the Clerk of said Town and the Corporate Seal of said Town thereto affixed; and pursuant to a resolution passed by said Board of Trustees in said Town of Hudson to that effect, copies of said Ordinance No. 54 were published by thereafter duly posting the same in three (3) public places designated by said Board of Trustees within the limits of the corporation, as provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said Town of Hudson this 6<sup>th</sup> day of SEPTEMBER, A.D. 1955.

E. O. Bond

Town Clerk of the Town of Hudson,  
Weld County, Colorado