

(PUBLISHED IN THE OSAGE COUNTY CHRONICLE ON MARCH 25, 1999)

ORDINANCE NO. 1849

"AN ORDINANCE AUTHORIZING THE EXECUTION OF A GAS ACQUISITION PREPAYMENT PROGRAM PARTICIPATION AGREEMENT WITH THE KANSAS MUNICIPAL GAS AGENCY AND ALL NECESSARY DOCUMENTS WITH RESPECT THERETO, INCLUDING AN AMENDMENT TO THE EXISTING GAS ACQUISITION MANAGEMENT PROJECT PARTICIPATION AGREEMENT, AND PROVIDING FOR THE PLEDGE OF THE REVENUES OF THE NATURAL GAS UTILITY SYSTEM OF THE CITY TO SECURE SUCH AGREEMENT."

WHEREAS, pursuant to an Interlocal Cooperation Agreement, certain Kansas municipalities, including the City of Burlingame, Kansas, have joined together under the provisions of K.S.A. 12-2901 et seq. (the "Act"), to organize and create the Kansas Municipal Gas Agency ("KMGA"); and

WHEREAS, KMGA has implemented a certain Gas Acquisition Management Project (the "Project") for the purpose of providing an economic means of long-term natural gas acquisition and transportation for the mutual benefit of certain members and affiliate members participating in the Project (the "Project Participants"); and

WHEREAS, KMGA acts on behalf of the Project Participants to acquire natural gas, effect the transportation and delivery of the acquired natural gas to the Project Participants and provide other management services related to the Project; and

WHEREAS, as part of the Project, the City and KMGA entered into a Gas Acquisition Management Project Participation Agreement (the "Participation Agreement") dated September 9, 1996.

WHEREAS, as a part of and supplementing the Project, KMGA has developed a Gas Acquisition Prepayment Program (the "Program") in order to provide for a long-term fixed-price acquisition of natural gas to provide not more than fifty (50) percent of the projected Gas requirements ("Program Gas") for certain member cities of KMGA (the "Program Participants") who (a) are also participants in the Project or (b) will purchase an amount equal to fifty percent (50%) of their projected Gas requirements; and

WHEREAS, in order to provide for funds to accomplish the prepayment of Program Gas, KMGA will issue its revenue bonds (the "Bonds") which will be secured by an assignment of KMGA's rights under a Gas Acquisition Prepayment Program Agreement with the City and similar agreements with other Program Participants; and

WHEREAS, the City is a qualified member in KMGA and owns and operates an electric utility system and a natural gas system which utilizes natural gas; and

WHEREAS, the City desires to participate in the Program and receive benefits from combined acquisition and prepayment of natural gas and related agreements with other KMGAs members; and

WHEREAS, K.S.A. 12-825J authorizes the City to enter into contracts with any person, firm, corporation or other municipality for the acquisition of natural gas upon such terms as may be deemed necessary and reasonable by the governing body of the City; provided such contracts shall not exceed a period of forty years and shall not be payable by the levy of any tax; and

WHEREAS, it is necessary to extend the term of the Participation Agreement.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BURLINGAME, KANSAS:

SECTION 1. It is hereby deemed advisable and in the best interest of the City that the City participate in the Program.

SECTION 2. The Mayor and City Clerk are hereby authorized and directed to execute the Participation Agreement on behalf of the City substantially in the form presented to the governing body this date; provided that the average effective cost of Program Gas under the Participation Agreement, including the price of gas and financing costs, but excluding costs of transportation and management fees, if any, shall not exceed \$2.05/MmBTU for the months of May through October, inclusive, and \$2.30/MmBTU for the months November through April, inclusive of each year.

SECTION 3. The revenues of the natural gas utility system of the City (the "System") are hereby pledged for the repayment of the obligations of the City under the Participation Agreement.

SECTION 4. The City agrees to fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System, as will produce revenues sufficient to enable the City to fulfill its obligation under the Participation Agreement.

SECTION 5. The term of the Participation Agreement is hereby extended to April 30, 2010.

SECTION 6. The Mayor and City Clerk and other officials of the City are hereby further authorized and directed to execute an amendment to the Participation Agreement to extend the term thereof to April 30, 2010 and execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance.

SECTION 7. This Ordinance shall be in force and take effect from and after its adoption and publication once in the official newspaper of the City.

ADOPTED by the governing body of the City of Burlingame, Kansas, on March 15, 1999.

/s/ Donald D. Parker, Mayor

ATTEST: /s/ Cheryl D. Holloway, City Clerk