

COPY

GILMORE & BELL, P.C.
06/07/2000

(PUBLISHED ONCE IN THE OSAGE COUNTY CHRONICLE ON _____)

ORDINANCE NO. 1899

AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 1849 OF THE CITY OF BURLINGAME, KANSAS WHICH AUTHORIZED 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 FURTHER AUTHORIZING THE EXECUTION OF AMENDMENTS TO THE GAS ACQUISITION PREPAYMENT PROGRAM PARTICIPATION AGREEMENT AND THE GAS ACQUISITION MANAGEMENT PROJECT PARTICIPATION AGREEMENT.

WHEREAS, the City of Burlingame, Kansas (the "City") has entered into a Gas Acquisition Management Project Participation Agreement (the "Participation Agreement") with the Kansas Municipal Gas Agency ("KMGA") for the purpose of providing the City with economic long-term Natural Gas acquisition and transportation; and

WHEREAS, the governing body of the City, has heretofore by Ordinance No. 1849 of the City duly passed on March 15, 1999, authorized the execution of a Gas Acquisition Prepayment Program Participation Agreement (the "Prepayment Agreement") with KMGA and all necessary documents with respect thereto, including an amendment to the Participation Agreement, and providing for the pledge of the revenues of the natural gas utility system of the City to secure the Prepayment Agreement; and

WHEREAS, the Prepayment Agreement was executed by the City contingent upon the Effective Date (as defined therein) of Prepayment Agreement commencing within eighteen (18) months of the date of signing the Prepayment Agreement; and

WHEREAS, the City hereby finds and determines it necessary to extend the date by which the Prepayment Agreement must become effective from eighteen (18) months to forty-two (42) months after the date the City signed the Prepayment Agreement, and to extend the Contract Period (as defined therein) of the Prepayment Agreement to no later than April 30, 2013; and

WHEREAS, the City hereby finds and determines it necessary to amend and supplement Section 2 of Ordinance 1849 to provide for modifications in the prices contained in such section; and

WHEREAS, the City hereby finds and determines it necessary to amend and supplement Sections 5 and 6 of the Ordinance to extend the term of the Participation Agreement, and to authorize the amendment of such Participation Agreement.

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

SECTION 1. The Mayor and City Clerk and other officials of the City are hereby authorized and directed to execute the First Amendment to the Prepayment Agreement on behalf of the City substantially in the form presented to the governing body this date. The First Amendment will extend the date by which the Effective Date must commence to a date not more than forty-two (42) months following the date of execution of the Prepayment Agreement. The term of the Prepayment Agreement is hereby extended to not later than April 30, 2013.

SECTION 2. Section 2 of Ordinance No. 1849 is hereby amended to read as follows:

Section 2. The Mayor and City Clerk are hereby authorized and directed to execute the Prepayment 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 Prepayment Agreement, including the price of gas and financing costs, but excluding costs of transportation and management fees, if any, shall not exceed \$2.50/MMBtu for the months of May through October, inclusive, and \$2.75/MMBtu for the months November through April, inclusive of each year.

SECTION 3. Section 5 of Ordinance No. 1849 is hereby amended to read as follows:

Section 5. The term of the Participation Agreement is hereby extended to April 30, 2003, and if the Prepayment Agreement commences on or before the Effective Date as set forth in Section 1 of this Ordinance, the term of the Participation Agreement is hereby extended to a term equal to the term of the Prepayment Agreement.

SECTION 4. Section 6 of Ordinance No. 1849 is hereby amended to read as follows:

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 modify the term thereof and to 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 5. Sections 2, 5 and 6 of Ordinance No. 1849 are hereby repealed; and the rest and remainder of Ordinance No. 1849 is hereby ratified and confirmed.

SECTION 6. This Ordinance shall be in force and take effect from and after its passage and publication once in the official newspaper of the City.

PASSED by the governing body of the City of Burlingame, Kansas, on June 19, 2000.

(Seal)

ATTEST:

Donald D. Barker
Mayor

Cheryl D. Holloway
City Clerk