

**OFFICE OF THE BOARD OF SUPERVISORS
OF COCHISE COUNTY, BISBEE, ARIZONA
RESOLUTION NO. 13 - ____ GRANTING FRANCHISE**

KNOW ALL MEN BY THESE PRESENTS, THAT,

WHEREAS, Southwest Gas Corporation, a public service corporation organized under the law of California and authorized to do business in Arizona, has applied and petitioned, pursuant to A.R.S. Section 40-283, to the Board of Supervisors of Cochise County, Arizona, for the right, privilege, license, and franchise to construct, install, operate, and maintain along, over, under and across the streets, alleys, and highways, within the County, facilities for the purpose of maintaining and operating a gas distribution plant and system, including mains, laterals, meters, regulator stations, regulators, manholes, and all related equipment, facilities and appurtenances necessary for the transportation and distribution of gas, either natural, manufactured or mixed, as may be approved by the Arizona Corporation Commission; and

WHEREAS, the Board of Supervisors ordered that public notice be given in the manner provided by A.R.S. Section 40-283, of the filing of said Application and of the intention of the Board to grant said Application, and fixed, _____, 2013 at 10:00 A.M. at the regular meeting place of the Board in the City of Bisbee, Arizona, as the time and place for the consideration of the matter; and

WHEREAS, it appears from the affidavit of publication of the Arizona Range News that due and regular notice of said date, time, and place set for the consideration of such action has been published once a week for three (3) consecutive weeks prior to the said date of the hearing, to-wit: in the issues of the ____ day of _____, 2013; the ____ day of _____, 2013; and the ____ day of _____, 2013, of said newspaper, and the matter being

called at 10:00 o'clock A.M., and it appearing that the Board of Supervisors has not received a petition signed by more than 50% of the qualified electors of said County asking the Board to deny said Application on or before the date set for consideration thereof; and

WHEREAS, said Application came on regularly to be heard on the _____ day of _____, 2013 before the Board of Supervisors of Cochise County, and the Board considered the Application for the franchise;

NOW, THEREFORE, it being determined by the Board of Supervisors of Cochise County that the grant of this franchise is regular, proper, authorized by law and in the best interest of Cochise County, and the inhabitants thereof;

NOW, THEREFORE, IT IS HEREBY ORDAINED:

1. That this Board of Supervisors of Cochise County, Arizona, acting for and on behalf of said County (the "County"), does hereby grant unto Southwest Gas Corporation (hereinafter called "Grantee") the right, privilege, license, and franchise to construct, install, operate, and maintain along, over, under and across County streets, alleys, and highways facilities for the purpose of maintaining and operating a gas distribution plant and system, including mains, laterals, meters, regulator stations, regulators, manholes, and all related equipment, facilities and appurtenances necessary for the transportation and distribution of gas, either natural, manufactured or mixed, as may be approved by the Arizona Corporation, exclusive of State highways and those areas within the corporate boundaries of any city or town. This grant is subject to the terms, conditions, and limitations expressed below or incorporated herein by reference.
2. The County reserves the right to impose future restrictions and limitations upon the exercise of the rights granted herein as it deems best for the public safety and welfare. The Grantee is further required to comply with all lawful applicable ordinances of Cochise County regulating the conduct of work within the public rights-of-way; as such ordinances are now enacted or may be amended or adopted from time to time.
3. The franchise granted hereby shall not be exclusive, and nothing herein shall be construed to prevent the County from granting other like or similar franchises to any other person, firm, or corporation.
4. The Grantee shall bear all expenses, including damages and compensation for the alteration of the direction, surface, grade, or alignment of a public roadway, which may arise in connection with its exercise of the rights granted herein.
5. The Grantee shall erect, construct, and maintain all facilities authorized herein in a good and workmanlike

manner and in compliance with all valid laws, ordinances, and regulations, which may be in force from time to time.

All such work shall be performed in such a manner as may be necessary to avoid any unreasonable damage, disturbance, or modification to existing public rights-of-ways, including roads, streets, highways, bridges, borrow ditches or shoulders thereon.

6. The Grantee shall, immediately upon erecting, constructing, replacing or repairing its facilities, or any part thereof, at its own cost and expense, restore any affected public right-of-way, including any road, street, highway, bridge, borrow ditch or shoulder thereon, to not less than the same condition which existed prior to the Grantee's action.

7. The County does not waive or relinquish any rights it may have to the full and complete use of the public rights-of-way subject to this franchise, whether for road purposes or otherwise. In the event that the location of the Grantee's facilities may interfere or conflict with the County's use, expanded use, improvement, or maintenance of the County's rights-of-way, the County may require the Grantee to relocate, at the Grantee's expense, all facilities which give rise to such interference or conflict. The County will provide the Grantee with reasonable notice of any relocation requirement and will provide a reasonable period of time for the Grantee to perform such relocation. Notwithstanding the foregoing, if the County requires Grantee to relocate Grantee's facilities which are located in private easements obtained by Grantee prior to the County's acquisition of the public streets, alleys or highways from which the facilities must be relocated, the cost of relocating Grantee's facilities (including the purchase of a new private easement, if necessary) shall be borne by the County. The County shall also bear the cost of all subsequent relocations of such facilities, if required by the County, until such time as the County acquires or condemns Grantee's private easement rights.

8. The Grantee assumes the responsibility for all liability for any injury or damage to any person or property, or to the road and right-of-way itself, caused by or arising out of the exercise of the rights granted herein and attributable to any act or commission of the Grantee. The Grantee shall indemnify, defend and hold harmless Cochise County, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature, including all costs of legal defense, arising out of the exercise of these rights which are attributed to any act or omission of the Grantee, its agents, employees, or anyone acting under its direction, control or on its behalf. The Grantee is not required to indemnify, defend or hold harmless Cochise County, its officers, departments, employees and agents for such claims, demands or damages that

are the result of any willful or grossly negligent act of Cochise County, its officers, departments, employees and agents.

9. This franchise is granted for a term of twenty-five (25) years from the date of its authorization by the County. This franchise may not be sold, leased, assigned, or conveyed without the express consent of the County, which consent shall not be unreasonably withheld.

10. In the event that the County chooses to levy a franchise fee, rental or use payment, or other form of compensation or assessment as allowed by the laws of the State of Arizona, the County will waive their right to charge Grantee fees for all permits and inspections. There shall be no offsets for any other taxes or assessments, i.e. sales tax, fuel tax, personal property tax, general ad valorem property tax, special assessments for local improvements or any other tax or assessment not directly related to the use of the Public Rights-of-Way and easements that may be required of Franchisee by any governmental agency.

11. This franchise may be terminated by the County in the event that the Grantee fails to comply with the terms and conditions of this franchise. The Board of Supervisors, or its designee, shall provide the Grantee with written notice of noncompliance and allow the Grantee a period of not less than thirty (30) days to remedy any breach. If the Grantee continues to fail to comply with the terms of this franchise after this notice and remedy period, the Board of Supervisors may revoke all rights granted herein and render this franchise null and void.

12. Upon termination of the franchise, and after written notice from the County, the determination as to whether and when the Grantee must remove its facilities installed pursuant to this and previous franchises shall be submitted to an arbitrator agreed upon by the parties, with the Grantee bearing the burden to demonstrate why they should not be removed or when they should be removed.

13. If the Grantee does not renew its franchise before expiration of the term hereof, the terms of this franchise shall govern the rights and obligations of the parties, unless the County provides Grantee with notice of the expiration of the term, in which case the rights of the Grantee under this franchise shall terminate one hundred eighty (180) days after such notice. The determination as to whether and when the Grantee must remove its facilities installed pursuant to this and previous franchises shall be submitted to an arbitrator agreed upon by the parties, with the Grantee bearing the burden to demonstrate why they should not be removed or when they should be removed.

14. This franchise will not be effective for any purpose until the Grantee has indicated its acceptance in writing below.

15. The rights, privileges, and franchise granted herein are made pursuant to the laws of Arizona, including A.R.S. 40-283, which are incorporated herein by reference.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Cochise, State of Arizona, has caused these presents to be executed and signed by the Chairman of the Board of Supervisors on this ____ day of _____, 2013.

BOARD OF SUPERVISORS

COUNTY OF COCHISE:

Supervisor Ann English
Chairman

ATTEST:

James E. Vlahovich
Interim Clerk, Board of Supervisors

APPROVED AS TO FORM:

Britt Hanson
Deputy County Attorney, Civil Division

ACCEPTANCE OF FRANCHISE

This is to certify that the Grantee, Southwest Gas Corporation, has on the ____ day of _____, 2013, accepted the foregoing franchise. Grantee agrees that it will be bound by, observe, and carry out the terms and conditions of such franchise.

Dated: _____

GRANTEE:

By: Garold L. Clark

Title: Vice President/Southern Arizona Division

CERTIFICATE OF CLERK

I, James E. Vlahovich, Interim Clerk of the Board of Supervisors of Cochise County, Arizona, do hereby certify that the foregoing excerpt from the minutes of the meeting of the Board of Supervisors of Cochise County, Arizona, held on _____, 2013, constitutes a true and correct copy of the said minutes insofar as they relate to the Application of Southwest Gas Corporation, for a gas franchise in the County and to the granting of said gas franchise pursuant to the resolution hereinabove set out, all as appears in the official records of the Board of Supervisors.

IN WITNESS WHEREOF, I have set my hand and official seal of the Board of Supervisors of Cochise County, Arizona, this ____ day of _____, 2013.

James E. Vlahovich

INTERIM CLERK, BOARD OF SUPERVISORS

COCHISE COUNTY, ARIZONA