

ORDINANCE NO. _____

**AN ORDINANCE TO AUTHORIZE A FRANCHISE BETWEEN WHEELER BASIN
NATURAL GAS COMPANY, INC., A CORPORATION, AND THE TOWN OF
TRINITY, ALABAMA**

WHEREAS, an application has been duly made to the Town of Trinity, Alabama (hereinafter referred to as “the Town”), by Wheeler Basin Natural Gas Company, Inc., a corporation (hereinafter referred to as “Wheeler Basin”), for the right and privilege to construct, operate, and maintain natural gas lines over, though, under, in, and upon public streets, alleys, lanes, bridges, viaducts, and other public ways and places in the Town for the purpose of conducting and distributing natural gas to the citizens of the Town and other individuals and entities within and beyond the corporate limits of the Town; and

WHEREAS, the Town Council of the Town, having duly convened and heard such application, a quorum being present, concluded that the grant thereof would be advantageous to the Town and its inhabitants.

NOW, THEREFORE, in consideration of the premises, upon motion dully made and carried,

BE IT ORDAINED by the Mayor and the Town Council of the Town of Trinity, Alabama, as follows:

Section 1. GRANT OF AUTHORITY. Wheeler Basin, is hereby given and vested with the non-exclusive permission, right, authority, easement, privilege, and franchise to construct, erect, install, renew, repair, maintain, operate, and conduct in the Town a system of natural gas lines, fittings and all appliances or appurtenances necessary or desirable for the transmission, distribution, or sale of natural gas for all purposes whatsoever in, over, under, along, upon, and across all public streets, alleys, lanes, bridges, viaducts, and other public ways and places in the Town as they now exist or may hereafter be laid out or extended, together with the further right, privilege, and franchise to construct, erect, install, renew, repair, maintain, and operate said natural gas lines and all appliances and appurtenances and other equipment necessary or desirable to the transmission within, into, through, over, under and beyond the Town, and furnishing, supplying and distributing to the Town and to the inhabitants and corporations both within and beyond the limits thereof, natural gas for lighting, heating, power, and all other purposes for which natural gas may be used now or hereafter, and for the purpose of extending its lines and furnishing natural gas beyond the limits of the Town.

All natural gas lines, fittings, appliances, appurtenances, and other equipment hereafter erected or installed shall be so constructed so as not to unreasonably interfere with the proper use of the public streets, alleys, bridges, viaducts, and other public ways and places in the Town, and shall be maintained in a reasonably good condition and repair. The location, character and extent of Wheeler Basin’s overall system design and of mains to be constructed in public rights-of-way or easements in the Town of Trinity or its planning jurisdiction shall be submitted for approval of

the Trinity Planning Commission prior to the initiation of any work on or extension of improvement thereof, in accordance with Code of Alabama 1975, Section. 11-52-11.

Whenever Wheeler Basin shall cause any opening or alteration to be made in any of the public streets, alleys, lanes, bridges, viaducts, and other public ways and places in the Town for the purpose of installing, maintaining, operating, or repairing said natural gas lines and other appliances and appurtenances and equipment necessary thereto, the work shall be completed within a reasonable time and the Wheeler Basin shall, upon completion of such work, restore such portion of the public streets, alleys, lanes, bridges, viaducts, and other public ways and places to as good a condition as it was before the opening or alteration was so made, in all ways complying with applicable ordinances, resolutions, rules, or regulations of the Town and its Planning Commission.

Section 2. TERM. The rights hereby granted shall become effective as provided below and shall continue for a period of twenty (20) years (the "Initial Term") and thereafter for twenty (20) year periods (the "Extended Term(s)) unless either party provides written notice to the other of its intent to terminate this Franchise at least ten (10) years prior to the end of the Initial Term or any Extended Term.

Section 3. EFFECTIVE DATE. Wheeler Basin shall, within thirty (30) days after the passage and publication of this Ordinance, file with the Municipal Clerk its acceptance of the same in writing, signed by its proper officers and attested by its corporate seal, and shall begin to supply gas service under this franchise within twelve (12) months after such acceptance date. Otherwise, the provisions of this franchise shall be null and void.

Section 4. CONSIDERATION. The consideration hereof includes the following:

- a. The expenditure by said Wheeler Basin of the funds necessary for the construction and installation of said transmission and/or distribution lines and the proper maintenance thereof, heretofore or hereafter made;
- b. Wheeler Basin will comply in all respects with the Zoning Ordinance and Subdivision Regulations of the Town;
- c. Wheeler Basin shall make an annual payment to the Town equaling four percent (4%) of the estimated annual gross revenue to be received from the sale of natural gas and all other operations of Wheeler Basin within the corporate limits of the Town and two percent (2%) in the police jurisdiction. Said payments shall be made on or before January 15 of each year, with necessary adjustments based on the previous year's actual gross receipts. Wheeler Basin shall have a grace period of thirty (30) days from the due date of any annual remittance before this franchise shall be deemed in default. The Town shall have reasonable access to Wheeler Basin's financial records for the purpose of computing any amount due.

The payment contemplated hereinabove shall be made by Wheeler Basin to the Town in lieu of business or privilege license taxes or other

franchise fees. All other taxes and fees levied by the Town and its utility boards shall be fully applicable to Wheeler Basin, however.

Section 5. TRANSFER OF GRANT. This franchise and the rights therein may not be transferred or assigned by Wheeler Basin without the prior consent of the Town Council of the Town. In the event Wheeler Basin shall, during the term of this Franchise, elect to sell its natural gas business, the Town shall have the first right of refusal to purchase that portion of the system served from the Town area delivery point, and provided further that the transaction would not otherwise violate the laws of the State of Alabama.

Section 6. DEFAULT. Upon default by Wheeler Basin of any of the terms and conditions contained herein, the permission, right, authority, easement privilege, and franchise granted by this Ordinance shall be deemed terminated, null, void and of no legal effect whatsoever.

Section 7. INSURANCE AND INDEMNITY. During the term of this franchise, Wheeler Basin shall indemnify and hold the Town, its agents, servants and employees harmless from all costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, claims and demands of every kind and nature, including reasonable attorney's fees, by or on behalf of any persons, party or governmental authority whatsoever arising from any cause relating to Wheeler Basin's providing of services and gas as stated in this franchise. Wheeler Basin shall procure and maintain, at its expense, during the terms of this franchise, and extensions of the same public liability insurance. Such coverage shall be adequate to protect against liability for damage claims arising out of accidents occurring as a result of any conduct by Wheeler Basin, its agents, servants or employees, in an amount approved by the Town. Wheeler Basin shall furnish proof of such coverage to the Town.

Section 8. SEVERABILITY. If any section, subsection, sentence clause or phrase of this Ordinance is for any reason held to be illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decisions shall not invalidate or render unenforceable any other provisions hereof.

IN WITNESS WHEREOF, said Town Council of the Town of Trinity, Alabama, has caused this instrument to be subscribed to by its Mayor on this the ___ day of September, 2016.

Town of Trinity

Vaughn Goodwin, Mayor

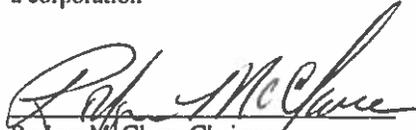
ATTEST:

Barbara L. Jones, Town Clerk

APPLICATION FOR FRANCHISE FROM TOWN OF TRINITY

IN WITNESS WHEREOF, Wheeler Basin Natural Gas Company, Inc., a corporation, has by Resolution duly adopted by its Board of Directors at a regularly scheduled meeting held August 22, 2016, authorized the application for the Franchise with the Town of Trinity to be herein granted, and for the mutual considerations hereinabove recited, has caused this instrument to be subscribed to by its Chairman on this the 30th day of August 2016.

Wheeler Basin Natural Gas Company, Inc.,
a corporation


Rodger McClure, Chairman
Board of Directors

ATTEST:


George Kitchens, Secretary

ACCEPTANCE OF FRANCHISE FROM TOWN OF TRINITY

Wheeler Basin Natural Gas Company, Inc., a corporation, has by Resolution duly adopted by its Board of Directors at a scheduled meeting held _____, 2016, authorized the acceptance of the Franchise granted by the Town of Trinity under Ordinance No. _____ and all of the terms and conditions included therein.

Based on mutual considerations recited in said Ordinance, Wheeler Basin Natural Gas Company, Inc., has caused this instrument, accepting the Franchise granted by Ordinance No. _____, to be subscribed to by its Chairman on the _____ day of _____, 2016.

Wheeler Basin Natural Gas Company, Inc.,
a corporation

Rodger McClure, Chairman
Board of Directors

ATTEST:

George Kitchens, Secretary