



# WASHOE COUNTY

"Dedicated To Excellence in Public Service"

www.washoecounty.us

CM/ACM KS

Finance DN

DA ✓

Risk Mgt. DS

Treasurer FF

Clerk JD

## STAFF REPORT

BOARD MEETING DATE: July 14, 2015

**DATE:** June 10, 2015

**TO:** Board of County Commissioners

**FROM:** Dave Solaro, Arch., P.E., Director  
Community Services Department, 328-3600, [dsolaro@washoecounty.us](mailto:dsolaro@washoecounty.us)

**THROUGH:** Kevin Schiller, Assistant County Manager

**SUBJECT:** Public Hearing and possible action:

- 1) To consider an application by Southwest Gas Corporation for a non-exclusive franchise agreement to provide natural and other gas service to portions of Washoe County, including any objections on the matter;
- 2) If determined to be in the best interests of the residents of Washoe County, to approve a Franchise Agreement between Southwest Gas Corporation and the County of Washoe, retroactive to May 1, 2015, effective through April 30, 2040, fixing the terms and prescribing the conditions pursuant to which the franchise is to be granted, the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith;
- 3) If the Franchise Agreement is approved, to adopt a Resolution Authorizing and Approving the Issuance of a Non-Exclusive Franchise to Southwest Gas Corporation to Supply Natural Gas to Portions of Washoe County, Nevada; and
- 4) If the Franchise Agreement is approved, to approve an associated Agreement to Pay Annually to Washoe County 2% of the franchisee's Net Profits under the franchise for the Benefit of the County School District Fund of Washoe County, State of Nevada. (All Commission Districts.)

### SUMMARY

This public hearing was set pursuant to an application submitted by Southwest Gas Corporation to provide natural gas service to portions of Washoe County. On June 9, 2015, the Board of County Commissioners (Board) directed the Washoe County Clerk to cause notice of the public hearing to be held July 14, 2015, at which time all objections to the granting of such franchise shall be presented to the Board.

Pursuant to NRS 709.070, notice of this hearing was duly advertised in the Reno Gazette Journal for four consecutive weeks beginning June 12, 2015 and concluding on July 3, 2015. In addition, Notice of this hearing was posted in three public places at least 10 days prior to this hearing.

AGENDA ITEM # 21

Washoe County Strategic Objective supported by this item: Sustainability of our financial, social and natural resources.

### **PREVIOUS ACTION**

On March 27, 1990, the Board caused notice to be published and posted of an application from Southwest Gas Corporation for a Franchise Agreement to provide natural gas service to portions of Washoe County.

On May 22, 1990, the Board held a public hearing to consider the application by Southwest Gas Corporation, and issued a franchise agreement.

On June 9, 2015, the Board directed the Washoe County Clerk to cause notice to be published and to post an application by Southwest Gas Corporation for a Franchise Agreement to provide natural gas service to portions of Washoe County and to set the date for a hearing on the application to include any objections for July 14, 2015.

### **BACKGROUND**

The power to grant franchise agreements by the Board is contained within the Nevada Revised Statutes (NRS) 709.050 to 709.170 and requires the Board to cause notice of the application upon receipt. The Community Services Department received the attached letter (application – See Attachment A) for franchise agreement from Southwest Gas Corporation. The process for granting a franchise agreement has distinct steps, the first of which is to cause notice of the application and set a public hearing. The notice must contain pertinent information about the application and explain the process for making objections. The notice must be published once each week for a total of four consecutive weeks in a general circulation newspaper in the county, in this case the Reno Gazette Journal. The notice must also be posted in three public locations in the county at least 10 days prior to the application hearing, and the County Clerk will prove that notice was given at the July 14, meeting when the application hearing occurs and will make that a part of the record.

Attachment B is the public notice prepared for this application from Southwest Gas Corporation. At the date of the hearing the Board may make a decision or may continue the hearing for further proceedings not to exceed 30 days.

Currently Southwest Gas Corporation is operating within Washoe County under a 25 year franchise which expired. Due to timing required under NRS chapter 709, the current franchise if approved by the Board is to be effective retroactive to May 1, 2015 and through April 30, 2040.

### **FISCAL IMPACT**

Per NRS 709.070, the cost of the publication for the public hearing, approximately \$480, is born by the applicant.

Per Section 5 of the Franchise Agreement, in lieu of any license fees, permit fees or other fees, the amount of the franchise fee paid by Grantee, shall be two percent of the gross revenue from the sale and/or delivery of gas by Grantee.

Per NRS 709.110, every applicant for a franchise for any of the purposes mentioned in NRS 709.050 shall, within 10 days after such franchise is granted, file with the county recorder of such county an agreement properly executed by the grantee of such franchise,

right or privilege to pay annually on the first Monday of July of each year to the county treasurer of the county wherein such franchise, right or privilege is to be exercised, for the benefit of the county school district fund, 2 percent of the net profits made by such grantee in the operation of any public utility for which such franchise is granted.

Any difference between the gross revenue and the net profit net which is kept by the county as the franchise fee would be directed to the county's general fund.

### **RECOMMENDATION**

It is recommended that the Commission hold a public hearing and take the following possible action:

- 1) Consider an application by Southwest Gas Corporation for a non-exclusive franchise agreement to provide natural and other gas service to portions of Washoe County, including any objections on the matter;
- 2) If determined to be in the best interests of the residents of Washoe County, approve a Franchise Agreement between Southwest Gas Corporation and the County of Washoe, retroactive to May 1, 2015, effective through April 30, 2040, fixing the terms and prescribing the conditions pursuant to which the franchise is to be granted, the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith;
- 3) If the Franchise Agreement is approved, adopt a Resolution Authorizing and Approving the Issuance of a Non-Exclusive Franchise to Southwest Gas Corporation to Supply Natural Gas to Portions of Washoe County, Nevada; and
- 4) If the Franchise Agreement is approved, approve an associated Agreement to Pay Annually to Washoe County 2% of the franchisee's Net Profits under the franchise for the Benefit of the County School District Fund of Washoe County, State of Nevada.

### **POSSIBLE MOTION**

Should the Board agree with staff's recommendation and determine after the public hearing on the matter that it is in the best interests of the residents of Washoe County, a possible motion would be: "Move to:

- 1) Approve a Franchise Agreement between Southwest Gas Corporation and the County of Washoe, retroactive to May 1, 2015, effective through April 30, 2040, to provide natural and other gas to portions of Washoe County, according to the terms and the conditions specified as a result of the hearing, including the character or kinds of service to be rendered, the maximum rates to be charged for the service, and such other matters as may be properly connected therewith specified;
- 2) Adopt a Resolution Authorizing and Approving the Issuance of a Non-Exclusive Franchise to Southwest Gas Corporation to Supply Natural Gas to Portions of Washoe County, Nevada, pursuant to the Franchise Agreement; and
- 3) Approve an associated Agreement to Pay Annually to Washoe County 2% of the franchisee's Net Profits under the franchise for the Benefit of the County School District Fund of Washoe County, State of Nevada.

RECEIVED

APR 28 2015

OFFICE OF  
C.S.D. ENGINEERING & CAPITAL PROJECTS



**SOUTHWEST GAS CORPORATION**

April 27, 2015

Washoe County  
Attention: Dave Solaro  
P.O. Box 11130  
Reno, NV 89520

Re: Southwest Gas Corporation; Application for Renewal of Franchise

Dear Mr. Solaro:

Southwest Gas Corporation, a California corporation ("SWG"), is a public utility qualified to do business under the laws of the State of Nevada and qualified to transact business in Washoe County, Nevada (the "County"). SWG currently provides natural gas service in the County pursuant to the Franchise granted May 22, 1990 by the Washoe County Board of County Commissioners, which according to its terms expires on May 22, 2015.

In accordance with NRS 709.050 through 709.170, and to permit the uninterrupted service and distribution of natural gas in Washoe County, SWG respectfully requests the renewal of its franchise from the County to maintain, use, operate, install, construct, repair and replace its gas system of mains, pipelines and conduits, together with all appurtenances and facilities, within all present and future public rights-of-way of the County, including all streets, roads, highways, bridges, public utility easements and public places in the County. SWG requests that the franchise be granted for a term of twenty-five (25) years commencing on or before May 22, 2015.

Enclosed for your reference is a plat generally depicting the present locations of SWG's facilities within the County public rights-of-way (subject to change as long as within County public rights-of-way). Also enclosed for your consideration is a proposed Franchise Agreement between the County and SWG. We respectfully request that this application be set for hearing at the Board's next regular meeting or as soon as possible thereafter.

If you have any questions, or need any additional information, please do not hesitate to contact me at (775) 887-2855.

Sincerely,

A handwritten signature in black ink, appearing to read "Davis Flaten".

Davis Flaten

cc: Carla Kolebuck  
Russ Siegman  
Greg Davis

## Attachment B

### NOTICE OF FILING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Washoe County, Nevada, will hold a public hearing at the County Commission Chambers, Washoe County Administration Complex, 1001 East Ninth Street, Building A, in Reno, Washoe County, Nevada on Tuesday, July 14, 2015, for the purpose of consideration of an application filed by South West Gas Corporation for Franchise Agreement with Washoe County.

Southwest Gas Corporation has filed an application with the Board of County Commissioners of Washoe County, Nevada for a franchise permitting the said applicant to construct, install, operate and maintain pipes and appurtenances for the purpose of conveying and distributing natural gas, and all necessary or proper appliances used in connection therewith, or appurtenant thereto, on or over the streets, alleys, avenues and other public places, and along the public roads and highways (except state highways and except within the present confines of any incorporated city or town) within the boundaries of Washoe County, Nevada, excluding therefrom all areas of any incorporated city, as more fully set forth in the application of Southwest Gas Corporation on file in the Washoe County Clerk's office.

Any and all interested parties are hereby notified that on the 14<sup>th</sup> day of July 2015, a public hearing will be conducted in the Commissioner's Chambers, first floor, Washoe County Administrative Building, A, located at 1001 East Ninth Street, Reno, Washoe County, Nevada commencing at 10:00 A.M. to hear any objections any person may have to the granting of said franchise, right or privilege. Objectors are notified that their objections must be filed in writing with the County Clerk prior to said date, or objectors may appear at the meeting and present their objections at the meeting at that time.

DATED: June 10, 2015

**NANCY PARENT**, Washoe County Clerk and  
Clerk of the Board of County Commissioners

Legal Desk  
Reno Gazette-Journal

Please publish Notice of Public Hearing in the Reno Gazette-Journal FOUR TIMES, once on Friday, June 12<sup>th</sup>, once on Friday, June 19<sup>th</sup>, once on June 26<sup>th</sup>, and once on July 3<sup>rd</sup>, 2015 and furnish proof of publication to the:

County Clerk's Office  
Post Office Box 11130,  
Reno, NV 89520-1130.

**RESOLUTION**

**A RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE OF A  
NON-EXCLUSIVE FRANCHISE TO SOUTHWEST GAS CORPORATION TO  
SUPPLY NATURAL AND OTHER GAS TO PORTIONS OF WASHOE  
COUNTY, NEVADA**

**BE IT RESOLVED** that Southwest Gas Corporation, a California corporation, qualified to do business in the State of Nevada as a public utility, did on the 28<sup>th</sup> day of April, 2015, file its application for a non-exclusive franchise to permit it to supply natural and other gas to a certain portion of Washoe County, Nevada, more particularly described in Exhibit "A" attached hereto.

**WHEREAS**, upon receipt of said application, the Board of County Commissioners of Washoe County, State of Nevada, caused a notice of said application and a notice of hearing upon said application to be published in the Reno Gazette Journal, a newspaper of general circulation in Washoe County, Nevada, setting said hearing upon which said application on June 9, 2015, and at the same time caused a notice to be posted in the following places located within Washoe County, Nevada, to-wit: Washoe County Courthouse, 75 Court Street, Reno, Nevada; Washoe County Complex, 1001 East 9<sup>th</sup> Street, Reno, Nevada; City of Sparks, 431 E. Prater Way, Sparks, Nevada; and the Washoe County Main Library, 350 South Center Street, Reno, Nevada.

**WHEREAS**, on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, the matter was heard by the Board of County Commissioners of Washoe County, Nevada.

**WHEREAS**, the Board of County Commissioners of Washoe County, Nevada, is satisfied that all of the legal requirements as required by the Nevada Revised Statutes have been complied with, that proper notice has been given upon said application, and that no were filed to the granting of said application and/or any objections were duly heard and taken into account.

**WHEREAS**, the granting of said application would be in the public interest and in the best interests of the residents of Washoe County.

**NOW THEREFORE**, the Board of County Commissioners of Washoe County, Nevada does hereby approve the granting of said application and does hereby authorize a non-exclusive franchise upon the terms and conditions as contained the in the Nevada Revised Statutes and as are more fully set forth in the that certain Non-Exclusive Franchise attached hereto.

**IT IS FURTHER ORDERED**, that the granting of said franchise shall be conditioned upon Southwest Gas Corporation executing and delivering to the County Recorder within ten (10) days after the date hereof, an agreement to pay annually, on the first Monday of July of each year, to the County Treasurer of Washoe County, Nevada, for the benefit of the County School District Fund, two percent (2%) of the net profits made by the Southwest Gas Corporation in the operation of its gas lines within Washoe County, Nevada as described above in lieu of all general business fees which would be imposed for Southwest Gas Corporation by the Board of County Commissioners of Washoe County, Nevada during the term of such franchise.

The motion to adopt the above resolution was made by County Commissioner \_\_\_\_\_ and seconded by County Commissioner \_\_\_\_\_ and the vote of said motion is as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

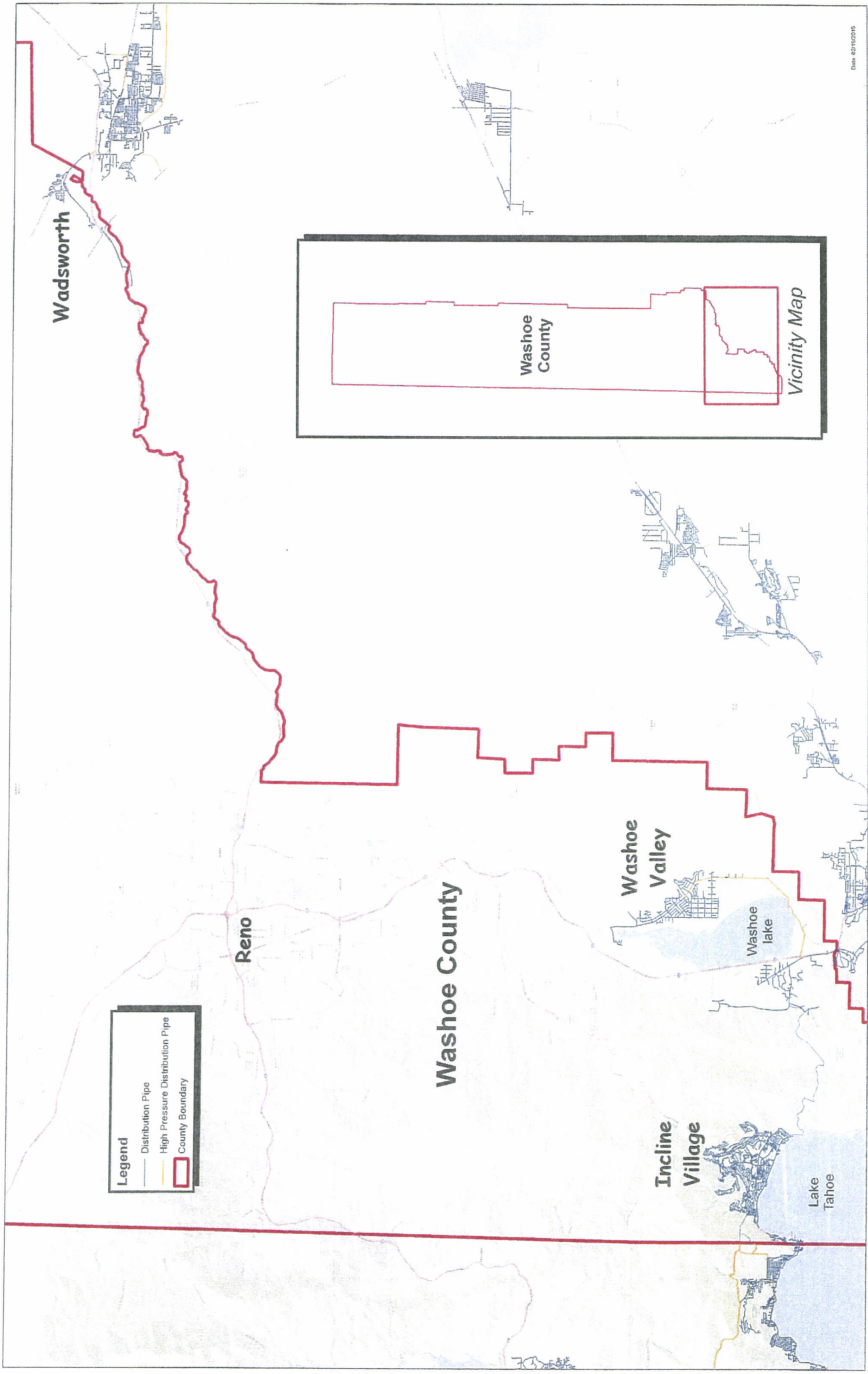
ABSTAIN: \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Marsha Berkgigler, Chair  
Washoe County Commission

ATTEST:

\_\_\_\_\_  
Washoe County Clerk



Wadsworth

Reno

Washoe County

Washoe Valley

Washoe lake

Incline Village

Lake Tahoe

Washoe County

Vicinity Map

**Legend**

- Distribution Pipe
- High Pressure Distribution Pipe
- ▭ County Boundary



**NON-EXCLUSIVE FRANCHISE FOR THE DELIVERY GAS TO PORTIONS OF  
WASHOE COUNTY**

THIS NON-EXCLUSIVE FRANCHISE is granted this \_\_\_\_\_ of \_\_\_\_\_, 2015, by the Board of County Commissioners, Washoe County, State of Nevada, to Southwest Gas Corporation, a California corporation, as provided herein.

WITNESSETH:

1. Southwest Gas Corporation filed an application pursuant to NRS 709.060 for a 25-year non-exclusive franchise to deliver gas to certain portions of Washoe County in accordance with NRS chapter 709 on April 28, 2015;
2. The Board of County Commissioners of Washoe County thereupon set a hearing date on the application of July 14, 2015, and caused notice of the application and hearing date and place to be given in accordance with NRS 709.070, including publication in the Reno Gazette-Journal, a newspaper of general circulation in Washoe County, at least once each week for 4 consecutive weeks prior to the hearing;
3. The hearing on the application was held in the county commission chambers in Washoe County on July 14, 2015, and any objections to the proposed franchise were given due consideration;
4. Based on the hearing, the Board of County Commissioners of Washoe County, Nevada, determined that granting the franchise is in the best interests of the residents of Washoe County, Nevada and therefore approved a Non-Exclusive Franchise Agreement;

ACCORDINGLY, Washoe County does hereby grant a non-exclusive franchise, subject to all applicable laws and the terms of the Non-Exclusive Franchise Agreement approved by the Board of Commissioners of Washoe County, to Southwest Gas Corporation to construct, install, operate, and maintain gas mains and all necessary or proper appliances used in connection therewith or appurtenant thereto in the portions of Washoe County identified in the Non-Exclusive Franchise Agreement with Washoe County.

DATED this 14<sup>th</sup> day of July, 2015.

\_\_\_\_\_  
Marsha Berkgigler, Chair  
Washoe County Commission

ATTEST:

\_\_\_\_\_  
Washoe County Clerk

**AGREEMENT TO PAY ANNUALLY 2% OF THE  
NET PROFITS FOR THE BENEFIT OF THE  
COUNTY SCHOOL DISTRICT FUND OF  
WASHOE COUNTY, STATE OF NEVADA**

THIS AGREEMENT is entered into this \_\_\_\_\_ of \_\_\_\_\_, 2015, by and between Southwest Gas Corporation, a California corporation, hereinafter referred to as “Grantee”, and The Board of County Commissioners of Washoe County, Nevada, hereinafter referred to as “Grantor.”

IN CONSIDERATION of the non-exclusive franchise granted by Grantor to Grantee pursuant to NRS chapter 709, effective retroactively to May 1, 2015, allowing Grantee, subject to all applicable laws and the Non-Exclusive Franchise Agreement approved by Washoe County on July 14, 2015, to construct, install, operate, and maintain gas mains and all necessary or proper appliances used in connection therewith or appurtenant thereto in certain portions of Washoe County, Grantee does hereby agree pursuant to NRS 709.110 to pay to the County of Washoe, State of Nevada, for the benefit of the Washoe County School District Fund, two percent (2%) of the net profits made by Grantee in its operation of any public utility for which the pertinent franchise was granted. Grantor and Grantee agree that Grantee’s obligations under this agreement may be satisfied by Grantor deducting any amounts due under this agreement from the monies paid during the applicable time period to Grantor pursuant to the Non-Exclusive Franchise Agreement as franchise fees.

SOUTHWEST GAS CORPORATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2015, personally appeared before me, a notary public, \_\_\_\_\_, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged that s/he executed instrument.

\_\_\_\_\_  
Notary Public

Approved by the Board of County  
Commissioners on this \_\_\_\_ day of  
\_\_\_\_\_, 2015.

\_\_\_\_\_  
Marsha Berkgigler, Chair  
Washoe County Commission

ATTEST:

\_\_\_\_\_  
Washoe County Clerk

