ORDINANCE NO. 86

AN ORDINANCE, GRANTING TO RURAL WATER DISTRICT NO. 4, LEAVENWORTH COUNTY, KANSAS, DULY ORGANIZED UNDER THE LAWS OF THE STATE OF KANSAS AND AUTHORIZED TO FURNISH WATER IN ACCORDANCE WITH ITS BY-LAWS, RULES AND REGULATIONS, ITS TRUSTEES, SUCCESSORS AND ASSIGNS, A WATER FRANCHISE, PRESCRIBING THE TERMS THEREOF, AND RELATING THERETO.

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

Section 1. That in consideration of the benefits to be derived by the City of Basehor, Kansas, and its inhabitants, there is hereby granted to Rural Water District No. 4, Leavenworth County, Kansas, a Rural Water District duly authorized to engage in business in the State of Kansas, hereinafter sometimes designated as "District", the right, privilege and authority for a period of twenty (20) years from the effective date of this ordinance, subject to the conditions hereinafter stated, the By-Laws, Rules and Regulations of Rural Water District No. 4, and the Rules and Regulations of the United States Department of Agriculture operating through the Farmers Home Administration, and any other regulatory agency having jurisdiction over the District, and the laws of the State of Kansas, to occupy and use the several streets, alleys, avenues, roads and other public places of the said city, for the placing and maintaining of pipe lines and all other equipment necessary to carry on the business of selling and distributing water for all purposes to the City of Basehor, Kansas, and its inhabitants, and through said City and beyond the limits thereof; to obtain said water from any source available and to do all things necessary or proper to carry on said water business in the City of Basehor, Kansas.

Section 2. That all mains, services, pipes and all other equipment necessary to carry on the business of selling and distributing water, which shall be laid or installed under this grant, shall be so located and laid as not to unnecessarily obstruct or interfere with any public or private drains, sewers, pipe lines or other public improvements already installed, and with the lawful use of said streets, alleys, avenues, roads and other public places of said City.

Section 3. In consideration of the premises, the District agrees to pay to the City of Basehor, and the City of Basehor agrees to accept in lieu of occupation taxes, license fees, privilege taxes and all other taxes and fees, the sum of One Dollars ($1.00) each six (6) months.

Said consideration shall be reported and paid to the City by the District no less frequently than semi-annually and if paid semi-annually, shall be paid on the last days of June and December of each year.

Section 4. In the event the City intends to construct, change or repair any sewers, pipes, drains or other public improvements or change the grade of any of its streets, alleys, roads or public grounds where the District is using the streets, alleys, roads, or public grounds for its mains or other pipes or equipment, then the City shall give notice of such contemplated changes or repairs to the District and the District shall raise or lower at its own expense any of its mains, pipes or facilities, or take such other action as may be necessary to permit careful and prudent completion of such construction, changes or repairs. The District shall furnish the City with a map showing the size and location of its water distribution system and upon written request of the City, District shall make any changes or additions thereto provided that the District has funds therefor sufficient water supply to meet the request and it can obtain approval from the Farmers Home Administration.

Section 5. That the District, in the construction, maintenance and operation of its water system shall use all reasonable and proper precaution to avoid damage or injury to persons or property, and the District shall be liable for all losses, injuries or damages which may result to the City or to its inhabitants, by reason of the sole negligence of the District, its agents or servants, in the construction, or maintenance of its said system, and shall at all times hold and save the City harmless from any and all liability of the City arising from claims for damages or injuries to others due to the sole negligence of the District, its agents or servants, in the construction, maintenance and operation of said system in the streets, alleys, roads and public places of said City.

Section 6. During the continuance of this franchise, the District shall furnish water to the City and its inhabitants in accordance with the terms of this franchise, and within the capacity of the District and the rates charges, rules and regulations presently in effect and as shown by the records of said District, or such revision of rates, charges, rules and regulations as may be lawfully established from time to time in accordance with the laws of the State of Kansas.

Section 7. It is recognized that the water to be delivered hereunder is to be supplied from District's pipe line system transporting water from various sources of supply; and the District, by its acceptance of this franchise as hereinafter provided, does obligate itself to furnish water in such length of time, limited by the terms hereof, as said sources of supply and said pipe lines are reasonably capable of supplying.

Section 8. The District shall have the right to make reasonable rules and regulations for the protection of its property, for the prevention of loss and waste in the conduct and management of its business, and for the sale and distribution of water, including rules and regulations with reference to extensions or additions to its water distribution system, as from time to time is deemed necessary.

Section 9. The District shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, subject to the approval of the Farmers Home Administration, or any other body having jurisdiction over such assignment, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. All such assignments shall be in writing and authenticated copies thereof shall be filed with the clerk of the City of Basehor.

Section 10. That within ninety (90) days from and after the final passage and approval of this Ordinance, the District shall file with the City Clerk of the City of Basehor, its unconditioned written acceptance of this Ordinance.

Section 11. That this Ordinance shall take effect and be in force and shall be and become a binding contract between the parties hereto, their trustees, successors and assigns, sixty (60) days from and after the date of its final passage, approval and publication as required by law and upon acceptance by the District.

Section 12. This franchise is granted pursuant to the provisions of K.S.A. 12-2001.

Passed and Approved this _____ day of April, 1973.

_____
Mayor

ATTEST:

_____
City Clerk