ORDINANCE NO. 401

AN ORDINANCE OF THE CITY OF MOORPARK GRANTING A FRANCHISE TO CONSTRUCT AND USE ANOIL PIPELINE TO CRIMSON CALIFORNIA PIPELINE, L.P.

WHEREAS, on November 16, 1982, the County of Ventura ("County") had pursuant to Ordinance No. 1.10.59, granted to Shell Oil Company, a Delaware corporation, together with its successors and assigns ("Shell"), effective December 16, 1982, a franchise for the purposes of transporting hydrocarbons and related substances by pipeline in certain designated unincorporated areas of the County, and;

WHEREAS, the City of Moorpark ("City"), which incorporated in July 1983, assumed jurisdiction over approximately 44 square miles of territory that had previously been under the jurisdiction of the County of Ventura, and;

WHEREAS, the City and Shell continued to abide by the terms and conditions of Ordinance No. 1.10.59, and Shell continued to operate pipelines located in the City pursuant to the grant of franchise set forth in Ordinance No. 1.10.59, and;

WHEREAS, Ordinance No. 1.10.59 expired in December 15, 2002, although the City and Shell continued to abide by the terms of Ordinance No. 1.10.59 during the period from December 15, 2002 to May 1, 2005;

WHEREAS, on May 1, 2005, Crimson California Pipeline, L.P. purchased the pipeline operated by Shell under Ordinance No. 1.10.59 and has continued to abide by the terms of the ordinance; thus, the City wishes to grant an oil pipeline Franchise to Crimson;

WHEREAS, pursuant to Chapter 2 of Division 3 of the California Public Utilities Code (commencing with Section 6201, "Chapter 2"), the State of California authorizes cities to issue franchises with terms and conditions, so long as those terms and conditions are not in conflict with the standards set forth therein;

WHEREAS, among other things, Chapter 2 regulates the manner of granting a franchise, the application process, the amount of the fee to be paid to the city, and;

WHEREAS, the terms of this franchise are not in conflict with Chapter 2, and are in the public interest;

THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. NATURE OF FRANCHISE. The City of Moorpark hereby grants a non-exclusive Franchise to Crimson California Pipeline, L.P., a California limited partnership (hereinafter referred to as "Grantee"), for a period of twenty (20) years from and after January 1, 2011 ("Effective Date"), to lay and use pipelines, not to exceed

twenty-four (24) inches in internal diameter, for the transportation of oil and products thereof, in, under, along and across the public streets, highways, and alleys (collectively "streets"), in the City of Moorpark (hereinafter referred to as "City"), as described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Franchise"). The Grantee may request, by written notice, up to two (2) five (5) year extensions to the term of this Franchise prior to its expiration, as may be extended from time to time. Such extensions shall be subject to approval by the City in its sole discretion. The City shall provide written notice to the Grantee of its approval or disapproval of any extension request.

This Franchise is hereby granted to Grantee, under and in accordance with the provisions of the Franchise Act of 1937 and the City's Municipal Code. This Franchise shall include the right, for the period and subject to the conditions hereof, to so maintain, operate, repair, renew, and change the size of the pipeline system, if any, of Grantee, as already laid and constructed in said streets.

The terms and conditions of this Franchise shall also apply to any pipe or other facilities of Grantee which are located within the right of way of any road or highway at the time such road or highway becomes a City highway.

The granting of this Franchise is expressly conditioned upon payment of all franchise fees due and owing from May 1, 2005 to the date of adoption of this Ordinance.

SECTION 2. APPURTENANCES. The Grantee shall have the right, subject to the prior approval of the City Engineer, to construct and maintain such traps, manholes, conduits, valves, appliances, attachments, and appurtenances (hereinafter for convenience collectively referred to as "appurtenances"), as may be necessary or convenient for the proper maintenance and operation of the pipelines under the Franchise. Said appurtenances shall be kept flush with the surface of the streets and so located as to conform to any order of the City Engineer in regard thereto and not to interfere with the use of the street for travel. The Grantee shall have the right, subject to such ordinances, rules, or regulations as are now or may hereafter be in force, to make all necessary excavations in said highways for the construction and repair of said pipelines and appurtenances subject to the prior approval of the City Engineer. Such approval may be conditioned by the City Engineer, including, without limitation, the issuance to Grantee of certain encroachment permits.

SECTION 3. LOCATION OF PIPELINES. So far as is practicable, any pipelines thereinafter laid shall be located along the edge or shoulder of the streets or in the parking areas adjacent thereto so as not to unreasonably disturb the flow of traffic and where possible shall be laid in the unpaved portion of the street.

If the pipelines shall be laid across or along the paved portion of a street, the repair of the street, after the pipelines have been laid, shall be made by the Grantee within ten (10) days of the completion of the laying of such pipeline, at the expense of the Grantee and in accordance with all applicable provisions of the City's Municipal

Code and any other generally applicable policy or procedure established by Moorpark pertaining to street excavations, and all other applicable laws.

SECTION 4. CONSTRUCTION OF PIPELINES.

A. Terms of Construction. The pipelines and appurtenances laid, constructed or maintained under the provisions of this Franchise shall be installed, maintained, and inspected by the Grantee in a satisfactory, safe, and workmanlike manner, of good material, and in conformity with all ordinances, rules, or regulations now or hereafter adopted or prescribed by the City Council, State, or Federal authorities.

B. Restoration of Streets. The work of laying, constructing, maintaining, operating, renewing, repairing, changing and moving any of the pipeline system contemplated by this Franchise and all other work in exercise of this Franchise shall be performed in compliance with all applicable provisions of the City's Municipal Code pertaining to street excavations and restoration, including but not limited to the City's encroachments ordinance, and any current or future generally applicable policies, and other applicable laws and shall be conducted with the least possible hindrance or interference to the use of City roads by the public or by the City of Moorpark, and Grantee shall provide all necessary warning, safety and traffic control devices as are or may be required by City, County, State or Federal regulations. All excavations shall be back filled and adequately compacted. The surface of City roads shall be placed in a condition that is as good and as serviceable as existed at the beginning of this work and must be to the satisfaction of the City Engineer. If the City has an applicable road restoration ordinance, policy or other standard, then the City Engineer's discretion shall be consistent with that ordinance, policy, or other standard.

SECTION 5. MAPS AND DATE TO BE FURNISHED. Within ninety (90) days following the date in which any pipelines or additional pipelines have been laid or constructed under this Franchise, the Grantee shall file a map in such form as may be required by the City Engineer showing the accurate location and size of all its facilities then in place, and shall, upon installation of any additional facilities or upon removal, change or abandonment of all or any portion thereof, file a revised map or maps showing the location and size of all such additional and/or abandoned facilities as of that date. If cathodic protection is to be used for facilities installed or maintained pursuant to this Franchise, a description of all the protective devices shall be furnished to the City Engineer which shall show the location and types of anodes, including a description of methods to be used as protection against corrosion and electrolytic leakage.

SECTION 6. COMPENSATION TO THE CITY

A. Amount of Franchise Fee. As consideration for the Franchise hereby granted, the Grantee shall pay a Franchise Fee to the City. The Franchise Fee shall be paid annually to the City in lawful money of the United States within sixty (60) days after the end of each calendar year. The payments due to the City shall be computed as follows:

The length of the pipe expressed in feet located within the franchised area, rounded to the nearest foot shall be multiplied by the applicable base rate, as adjusted pursuant to subdivision (B), in accordance with the following schedule:

Pipe Size (internal diameter in inches)	Base rate per lineal foot
0 – 4	$0.088
6	0.132
8	0.176
10	0.220
12	0.264
14	0.308
16	0.352
18	0.396
20	0.440
22	0.484
24	0.528
26	0.572
28	0.616
30	0.660

For pipelines with an internal diameter not listed above, the Fee shall be in the same proportion to the Fee of a 12-inch-diameter pipe as the diameter of the unlisted pipe is to 12 inches.

B. Computation of Payments. Such payments shall be computed from the Effective Date of this Franchise, to and including the date of either actual removal of the facilities or the effective date of a properly approved abandonment "in place" authorized by the City, and until the Grantee shall have fully complied with all the provisions of this Franchise and of all other applicable provisions of law or ordinance relative to such abandonments. All such payments shall be made payable to the City, and shall be supported by the Grantee's verified statement concerning the computation thereof. In the event of installation or abandonment of facilities with the approval of the City as elsewhere in this Franchise provided, or in the event of removal of such facilities by the Grantee, the payments otherwise due to the City or occupancy of the streets by such facilities shall be prorated for the calendar year in which such installation, removal or abandonment occurs as of the end of the calendar month in which installed, removed or abandoned.

Provided, however, that the amount of each annual payment shall be computed and revised each calendar year as follows:

(1) The applicable base rate shall be multiplied by the Consumer Price Index (CPI-U), All Items for the Los Angeles-Riverside-Orange County areas, as published by the United States Department of Labor, Bureau of Labor Statistics for the month of September immediately preceding the month in which payment is due and payable, and divided by the Consumer Price Index for June 30, 1989, which is declared to be 100.0. Under no circumstances shall the multiplying factor be less than one.

(2) If the United States Department of Labor, Bureau of Labor Statistics discontinues the preparation or publication of a Consumer Price Index for the area, and if no translation table prepared by the Department of Labor is available so as to make those statistics which are then available applicable to the index of June 30, 1989, the City shall prescribe a rate of payment which shall, in its judgment, vary from the rates specified in this Section in approximate proportion as commodity consumer prices then current vary from commodity consumer prices current in December 1988. On this point, the determination by the City shall be final and conclusive.

(3) If said Bureau revises the said Index, the parties hereto shall accept the method of revision or conversion recommended by the said Bureau.

C. Right of Inspection. The City shall have the right to inspect Grantee's pipeline records relating to its annual report and to audit and recompute any and all amounts payable under this Franchise. Costs of audit shall be borne by Grantee when audits result in an increase of more than five percent of Grantee's annual payments due the City. Acceptance of any payment shall not be construed as a release, waiver, acquiescence, or accord and satisfaction of any claim the city may have for further or additional sums payable under this Ordinance or for the performance of any other obligation hereunder.

D. Granting Fee. In consideration for the granting of this Franchise, and to reimburse the City for its administrative expenses in preparing and approving the Franchise documents, Grantee shall pay the City Fifteen Thousand Dollars ($15,000.00) within thirty (30) days of the date the City Council approves this Franchise.

SECTION 7. EMERGENCY PREPAREDNESS.

A. Equipment and Crews. At all times during the terms of this Franchise, the Grantee shall maintain on a twenty-four (24) hour-a-day basis a fully-operational computer-aided system, such as Supervisory Control and Data Acquisition (SCADA), or a similar system designed for the purpose of controlling and monitoring rates of flow, pressures and fluid characteristics or provide adequate emergency equipment and a properly trained emergency crew or representatives within a radius of fifteen (15) miles from any facilities installed or maintained pursuant hereto for the purpose of shutting off the pressure and the flow of contents of such facilities in the

event of an emergency resulting from any earthquake, act of war, civil disturbance, flood or other cause.

B. Plans. Within ninety (90) days of the effective date of this Ordinance, Grantee shall submit an emergency preparedness plan. Grantee shall obtain approval from the City Engineer of the plan, and update it to the satisfaction of the City Engineer.

SECTION 8. REPAIRS. Grantee shall pay to City on demand the cost of all repairs to City property made necessary by any of the operations of Grantee under the Franchise, provided however that Grantee may make repairs to streets, sidewalks, curbs and gutters itself at its own cost in accordance with City specifications, if the same can be done without undue inconvenience to the public use of the streets.

SECTION 9. REARRANGEMENT OF FACILITIES.

A. Expense of Grantee.

(1) If any of the Grantee's facilities, in the discretion of the City, shall endanger the public in the use of the public streets or interfere with or obstruct the use of any street by the public or for public purpose, the City shall have the right-to require the Grantee, and the Grantee shall move, alter or relocate the same (hereinafter called "rearrangement") to avoid such danger interference or obstruction, in conformity with the written notice of the City Engineer, at the Grantee's sole expense.

(2) Whenever, during the existence of this Franchise, the City, its Redevelopment Agency, any water, electric, gas or other utility system now or hereafter owned or operated by the City, or any community facilities or assessment district, or similar agency established by the City, shall change the grade, width, alignment or location of any street, way, alley or place or improve any said street in any manner, including but not limited to the laying of any sewer, storm drain, conduits, gas, water or other pipes, pedestrian tunnels, subway, viaduct or other work of the City (the right to do all of which is specifically reserved to the City without any admission on its part that it would not otherwise have such rights), the Grantee shall, at its own cost and expense, do any and all things to effect such change in position, or location, in conformity with the written approval of the City Engineer, including without limitation the acceptance of encroachment permits, and the removal or relocation of any facilities installed, if and when made necessary by the determination of the City Engineer.

B. Expense of Others

(1) The City shall also have the right to require the Grantee to rearrange any part of the Grantee's facilities for the accommodation of any private person, firm, or corporation. When such rearrangement is done for the accommodation of any private person, firm or corporation, the cost of such rearrangement shall be borne by the accommodated party. Such accommodated party, in advance of such

rearrangement, shall deposit with the Grantee funds in an amount as, in the reasonable discretion of the Grantee, shall be required to pay the costs of such rearrangement.

(2) The rearrangement referred to in subsection (1) of Subsection B of this Section shall be accomplished in conformity with the written notice of the City Engineer.

C. Rearrangement of the Facilities of Others. Nothing in this Franchise contained shall be construed to require the City to move, alter or relocate any of its facilities upon said streets, at its own expense, for the convenience, accommodation or necessity of any other public utility, person, firm or corporation now or hereafter owning a public utility system of any type or nature, or to move, alter or relocated any part of its system upon said streets for the convenience, accommodation or necessity of the Grantee.

D. Notice. The Grantee shall be given not less than ninety (90) days written notice of any rearrangement of facilities that the Grantee is required to make herein. Such notice shall specify in reasonable detail the work to be done by the Grantee and shall specify the time that such work is to be accomplished. In the event that the City shall change the provisions of any such notice given to the Grantee, the Grantee shall be given an additional period not less than ninety (90) days to accomplish such work.

SECTION 10. REMOVAL OR ABANDONMENT OF FACILITIES. At the time of expiration, revocation or termination of this Franchise or the permanent discontinuance of the use of its facilities, or any portion thereof, the Grantee shall, within thirty (30) days thereafter, make a written application to the City Engineer to either: (1) abandon all, or a portion, of such facilities in place, or (2) remove all, or a portion, of such facilities as the City Engineer, in his discretion, shall consider to be appropriate. Such application shall describe the facilities desired to be abandoned by reference to the map or maps required by Section 5 of this Ordinance and shall also describe with reasonable accuracy the relative physical condition of such facilities. Thereupon, the City Engineer shall determine whether any abandonment or removal which is thereby proposed may be effected without detriment to the public interest or under what conditions such proposed abandonment or removal may be safely effected and shall then notify the Grantee, according to such requirements as shall be specified in the City Engineer's order, and within ninety (90) days thereafter, to either:

(a) Remove all or a portion of such facilities, or

(b) Abandon in place all or a portion of such facilities.

If any facilities to be abandoned in place subject to prescribed conditions shall not be abandoned in accordance with all such conditions, then the City Engineer may make additional appropriate orders, including, if he deems desirable, an order that the Grantee shall remove all such facilities in accordance with applicable requirements.

A request of the Grantee to abandon in place any facilities shall be deemed an offer of transfer of such facilities to the City and by resolution authorizing Grantee to abandon any facility in place, the City shall succeed to all right, title and interest of Grantee in said facilities.

SECTION 11. COMPLETION OF WORK. If Grantee fails to commence any work or act and diligently proceed or complete any such act or work required of the Grantee by the terms of this Franchise within the time limits required hereby, the City may cause such act or work to be completed by the City or, at the election of the City, by a private contractor. The City agrees that, to the extent reasonably possible, any work by the City or its private contractors shall be performed in a manner that does not cause damage to Grantee's facilities or disruption to the transportation of oil and other petroleum products through Grantee's pipeline system. In the event the City causes such act or work to be completed by the City or a private contractor, the City shall send an itemized bill to Grantee. Within ten days (10) of receipt of the bill, Grantee shall either pay the bill in writing plus an amount equal to fifteen percent (15%) thereof for overhead, or detail in writing to the City Manager why such bill is inappropriate. If Grantee timely provides this statement to the City, the City Manager shall consider Grantee's statement, and shall notify Grantee in writing of the City Managers determination. If Grantee determines that the City Manager's determination was incorrect, Grantee may bring an action in court challenging that decision. Regardless of Grantee's position on the accuracy of the City Manager's decision, Grantee shall pay all amounts determined by City Manager within 10 days of receipt of City Manager's determination.

SECTION 12. RECOVERY OF COSTS OF REPAIRS AND UNPAID FEES. If the Grantee has not paid the City for such fees and expenses incurred by or payable to the City as hereinabove set forth, the City may take any and all reasonable enforcement actions, including, but not limited to, ordering that the charge(s) be assessed against the property of the Grantee in the City, that liens be imposed on said property, instituting collection proceedings, and instituting franchise default proceedings.

SECTION 13. BOND. Grantee shall, within thirty (30) days of the Effective Date of this Franchise, file with the City Clerk, and yearly thereafter, maintain in full force and effect, a bond of the required amount for the benefit of the City, with a surety to be approved by the City Finance Director. The bond shall be surety that the Grantee shall, will and truly observe, fulfill, and perform each and every term and condition of this Franchise, and in case of a breach of condition of said Franchise, at the discretion of the City Council, the whole amount of the penal sum therein shall be paid to the City in addition to any damages recoverable by the City and shall be recoverable from the principal and sureties of the bond. If said bond is not so filed, Grantee agrees and acknowledges that the award of this Franchise will be set aside and any money paid therefore will be forfeited.

For the first eight years from the Effective Date, the amount of the bond shall be One-Hundred Thousand Dollars ($100,000.00). For each five year period thereafter,

the amount of the required bond shall increase by 20%, compounded at each five year interval.

Whenever a bond is taken and deemed to be liquidated damages for any breach of a term or condition of this Franchise, the Grantee must immediately file another bond of like amount and character, and if the Grantee fails to do so within the time set by the City Council, the Council may, by resolution, declare said Franchise automatically forfeited.

Nothing herein shall insulate Grantee from liability in excess of the amount of said bond or shall be construed as a waiver by the City of any remedy at law against the Grantee for any breach of the terms and conditions of this Franchise, or for any damage, loss or injuries suffered by the City in case of any damage, loss or injury suffered by any person, firm, or corporation by reason of any work done or any activity conducted by the Grantee in the exercise of this Franchise.

SECTION 14. INSURANCE.

A. Within thirty (30) days of the Effective Date of this Franchise, Grantee shall furnish proof that the Grantee is insured under a broad form policy of liability insurance issued by a company authorized to do business in California. Such proof may be by one or more certificates of insurance evidencing compliance with the provisions of this Section and the Franchise Ordinance. The City shall approve the form and provisions of the insurance. The insurance policy shall include, but not be limited to, coverage for premises operations, explosion and collapse hazard, underground hazards, contractual insurance, natural disasters, property damage, independent contractors and personal injury, and automobile liability. The insurance shall be maintained in an amount not less than $5,000,000.00 throughout the term of the Franchise.

B. The City and its officers, agents and employees shall be named as additional insureds on said policy at no cost to the City. Grantee shall also provide workers' compensation coverage consistent with California statutory requirements. The City shall receive thirty (30) days advance written notice of any proposed reduction in coverage of the insurance policies on which it is carried as a named insured, as well as on coverage required to be maintained by this section. Such advance notice shall also be required as to any proposed or actual cancellation of any such policies of insurance. Insurance endorsements of such coverage shall be filed with the City.

SECTION 15. INDEMNIFICATION BY GRANTEE. For all claims relating to activity taken during the times subject to this Ordinance, including any retroactivity dates, the Grantee shall indemnify, defend with counsel selected by the City subject to approval of Grantee whose approval shall not be unreasonably withheld, protect and hold harmless City, its officers, employees, agents, assigns and any successor or successors to City's interest from and against all claims, actual damages (including but not limited to special and consequential damages), penalties, attorneys' fees, consultant's and expert's fees and costs ("Liabilities") arising as a result of the Grantee's

exercise of the Franchise or operation of the pipeline system, regardless whether any act or omission complained of is authorized, allowed, or prohibited by the Franchise. This indemnity includes, but is not limited to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other, plan (regardless of whether undertaken due to governmental action) concerning any facilities or equipment or the effects of such facilities or equipment authorized by this franchise, and any hazardous substance or hazardous wastes including petroleum and its fractions as defined in the Comprehensive Environmental Response, Compensation and Liability Act ["CERCLA"; 42 U.S.C. § 9601, et seq.] the Resource Conservation and Recovery Act ["RCRA"; 42 U.S.C. § 6901 et seq.] and California Health & Safety Code § 25280 et seq. at any place where Grantee maintains a pipeline for the transportation of substances and liquids pursuant to this Franchise. The foregoing indemnity is intended to (1) supplement and not replace any other indemnity from any source, and (2) operate as an agreement pursuant to Section 107(e) of CERCLA and California Health & Safety Code Section 25364, to assure, protect, hold harmless and indemnify City from liability. Grantee shall not be liable to the City for any Liabilities resulting from or arising out of acts, errors, or omissions, or caused by the negligence, or willful misconduct of the City, its officers, employees, agents, assigns or successors.

SECTION 16. ASSIGNMENT.

A. Grantee shall not transfer, sell, hypothecate, sublet or assign the Franchise, nor shall any of the rights or privileges therein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the Grantee, either by act of the Grantee or by operation of law, nor shall there be any "Change in Control" (as hereinafter defined) of Grantee, without the prior consent of the City expressed by resolution. The aforesaid provisions of this Section shall not prohibit the Grantee from using its pipelines for the purpose of transporting for other persons oil, petroleum, gas, gasoline or other hydrocarbon substances or water, but in such event the Grantee shall be responsible to the City for the full performance and observance of the terms and conditions of this Franchise.

B. Any sale, lease, assignment or transfer of this Franchise or the rights or privileges granted hereby, or any of them, or any Change in Control of Grantee without the prior written consent of the City Council first having been obtained, whether by operation of law or-otherwise, shall be null and void.

C. The City shall not unreasonably withhold its consent to a Franchise transfer or a Change in Control of Grantee . For the purpose of determining whether it shall consent to such transfer, City may inquire into the qualifications of the prospective transferee or controlling party, and Grantee shall assist City in any such inquiry. In seeking City's consent to any change of ownership or Change in Control, Grantee shall have the responsibility of ensuring that transferee completes an application in form and substance reasonably satisfactory to City. An application shall be submitted to City not less than ninety (90) days prior to the date of transfer. The Grantee shall be required to establish that it is in material compliance with its Franchise. The transferee shall be

required to establish that it possesses the qualifications and financial and technical capability to operate and maintain the pipeline and comply with all Franchise requirements for the remainder of the term of the Franchise. If the City finds that the legal, financial, character, technical and other public interest qualities of the applicant are satisfactory, and that the proposed transferee has the capability to operate and maintain the system and comply with all Franchise requirements for the then remaining term thereof, the City shall consent to the transfer and assignment of the rights and obligations of such Franchise. The City may condition the transfer to insure the transferee is in material compliance, and remains in material compliance with the Franchise. Subject to the provisions of Section 16.E below, the City may also condition the transfer upon payment of a transfer fee of Fifteen Thousand Dollars ($15,000.00) to be paid by the transferee to the City.

D. For purposes of Section 16.A above, a "Change in Control" of Grantee shall be deemed to be a transfer requiring the City's consent. "Change in Control" means (i) any merger, consolidation or other reorganization of Grantee in which Grantee, or an affiliate of Grantee, is not the surviving entity, (ii) any transfer or change in ownership of fifty percent (50%) or more of the capital stock, capital accounts, equity interests or memberships, as the case may be, of Grantee, (iii) the acquisition of management control by any owner or new owner of interests in Grantee that previously did not control the management of Grantee, or (iv) the sale of fifty percent (50%) or more of the market value of the assets of Grantee.

E. Notwithstanding the above, Grantee shall be entitled to pledge, encumber, or grant any security interest in the Franchise, provided that Grantee shall first notify and obtain City consent in writing of such proposed transaction. City shall consent to such transaction, subject, however, to the following conditions:

(1) Any consent so granted shall not be deemed a consent to such pledgee, encumbrancer, or secured-party exercising any rights or prerogatives of Grantee under the Franchise, nor to its exercise of any rights or prerogatives of a holder of an ownership interest in Franchise.

(2) Any consent so granted shall not be deemed a consent to any subsequent transfer or assignment as referred to in this Section. Any such subsequent transfer or assignment shall be deemed an assignment of this Franchise within the meaning of this Section, and shall be subject to the provisions of this Section.

(3) The pledgee, encumbrancer, or secured party shall have executed and delivered to City an instrument in writing agreeing to be bound by the provisions of the Franchise.

F. The provisions of this Section shall not apply to Grantee's assignment of rights, duties and obligations under the Franchise to any affiliate of Grantee. As used in this Franchise, the term "affiliate" shall mean an entity controlling, controlled by or under common control with the entity to which the term applies, whether by ownership, contract or voting control. Franchisee and the entity to whom the rights

are to be assigned shall sign an assignment and assumption agreement whereby the transferee agrees to be bound by and comply with the terms of this Franchise.

SECTION 17. RECEIVERSHIP AND FORECLOSURE.

A. Subject to applicable provisions of the Bankruptcy Code, the Franchise shall, at the option of the city, cease and terminate one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(1) Such receiver or trustee shall have, within one hundred twenty (120) days after his election or appointment, fully complied with all terms of the Franchise and remedied all breaches of the Franchise or provided a plan for the remedy of such breaches which is satisfactory to the City; and

(2) Such receiver or trustee shall, within said one hundred twenty (120) days, execute an agreement duly approved by the court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every term, provision and limitation of the Franchise.

B. Upon the foreclosure or other judicial sale of all or a substantial part of a pipeline system, the Grantee shall notify the City Clerk of such fact, and such notification shall be treated as a notification that a change in ownership of the Grantee has taken place and the provisions of this Chapter governing such changes shall apply.

SECTION 18. WAIVER OF BREACH. No waiver of the breach of any of the covenants, agreements, restrictions, or conditions of this, Franchise by the City shall be construed to be a waiver of any such succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Franchise. No delay or omission of the City in exercising the right, power or remedy herein provided in the event of default shall be construed as a waiver thereof, or acquiescence therein, nor shall the acceptance of any payments made in a manner or at a time other than is herein provided be construed as a waiver of or variation in any of the terms of this Franchise.

SECTION 19. DEFAULT

A. Default. In any event that the Grantee shall default in the performance of any of the terms, covenants and conditions herein, the City Manager may give written notice to the Grantee of such default. In the event that the Grantee does not commence the work necessary to cure such default within ten (10) business days after such notice is sent or prosecute such work diligently to completion, Grantee agrees and acknowledges that the City Council may declare this Franchise forfeited by giving written notice thereof to the Grantee, whereupon this Franchise shall be void and

the rights of the Grantee hereunder shall terminate and the Grantee shall execute an instrument of surrender and deliver the same to the City.

If the City Council declares this Franchise forfeited, it may thereupon and thereafter exclude the Grantee from further occupancy or use of all City roads authorized under this Franchise. A forfeiture of said Franchise shall not of itself operate to release the bond filed for said Franchise. Upon declaring a Franchise forfeited, the City Council may elect to take and accept the bond as liquidated damages therefor and pursue any other legal remedy for any damage, loss or injury suffered by the City as a result of such breach. After forfeiture, the bond shall remain in full force and effect for a period of one (1) year unless exonerated by the City Council. No bond shall be exonerated unless a release is obtained from the City Engineer of the City of Moorpark and is filed with the Clerk of the City of Moorpark. The release shall state whether all excavations have been back filled, all obstructions removed, and whether the substratum or surface of City roads occupied or used have been placed in good and serviceable condition. Release shall not constitute a waiver of any right or remedy which the City of Moorpark may have against the Grantee or any person, firm or corporation for any damage, loss or injury suffered by the City as a result of any work or activity performed by the Grantee in the exercise of this Franchise.

B. Cumulative Remedies. No provision herein made for the purpose of securing the enforcement of the terms and conditions of this Franchise shall be deemed an exclusive remedy or to afford the exclusive procedure, for the enforcement of said terms and conditions, but the remedy and procedure herein provided, in addition to those provided by law, shall be deemed to be cumulative.

SECTION 20. SCOPE OF RESERVATION. Nothing herein contained shall ever be construed so as to exempt the Grantee from compliance with all ordinances of the City now in effect or which may be hereafter adopted which are not inconsistent with the terms of this Franchise. The enumeration herein of specific rights reserved shall not be construed as exclusive, or as limiting the general reservation herein made or as limiting such rights as the City may now or hereafter have in law.

SECTION 21. NOTICE. Any notice required to be given under the terms of this Franchise, the manner of service of which is not specifically provided for, may be served personally or by United States First Class Mail as follows:

A. Upon the City, by addressing a written notice to the City Clerk of they City of Moorpark, City Hall, 799 Moorpark Ave., Moorpark, California 93021;

B. Upon the Grantee, by addressing a written notice to Crimson California Pipeline, L.P., 2459 Redondo Avenue, Signal Hills, California 90755, Attention: Alex Morales, Right of Way Consultant;

C. For such other address as may from time to time be furnished in writing by one party to the other and depositing said notice in the United States Mail, postage prepaid.

When service of any such notice is made by mail, the time of such notice shall begin with and run from three (3) business days after the date of the deposit of same in the United States Mail.

A summary of this Ordinance shall be published in a newspaper published and circulated in said City at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted at City Hall. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 22. SUCCESSORS. The terms herein shall inure to the benefit of and shall bind, as the case may be, the successors and assigns of the parties hereto, subject, however, to the provisions of Section 16 of this franchise.

SECTION 23. INTERPRETATION. This Franchise is granted upon each and every condition herein contained, and shall be strictly construed against Grantee. Nothing shall pass by the Franchise granted hereby to Grantee unless it be granted in plain and unambiguous terms. Each of said conditions is a material and essential condition to the granting of the Franchise.

SECTION 24. FORCE MAJEURE. The time within which Grantee is obligated hereunder to construct, erect, maintain, operate, repair, renew, change the size of and remove pipelines or other improvements shall be extended for a period of time equal in duration to, and performance in the meantime shall be excused on account of and for and during the period of any delay caused by strikes, threats of strikes, lockouts, war, threats of war, insurrection, invasion, acts of God, calamities, violent action of the elements, fire, impossibility of obtaining materials, or other things beyond the reasonable control of Grantee.

SECTION 25. ATTORNEYS' FEES. If either party brings an action to enforce the terms of any covenant, agreement or condition contained in this Franchise, the prevailing party in such action, in trial or appeal, shall be entitled to reasonable attorneys' fees to be paid by the losing party as fixed by the court.

SECTION 26. PUBLICATION EXPENSES. The Grantee of this Franchise shall, pursuant to California Public Utilities Code Section 6293, pay to the City a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of this Franchise; said payment to be made within thirty (30) days after the City shall have furnished said Grantee with a written statement of such expenses.

SECTION 27. ACCEPTANCE. The Franchise granted hereby shall not become effective until written acceptance thereof shall have been filed by the Grantee with the City Clerk of the City within thirty (30) days of the effective date of this Ordinance.

SECTION 28. SEVERABILITY. The City Council hereby declares that the provisions of this Ordinance are severable and if for any reason a court of competent jurisdiction shall hold any sentence, paragraph, or section of this Ordinance to be invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 29. CERTIFICATION. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted as required by law.

SECTION 30. BUSINESS DAYS. As used in the Ordinance, the term "business days" shall mean days other than Saturdays, Sundays, and legal holidays and closures observed by the City, and "days" shall mean calendar days. If the time for performance of an obligation under this Ordinance falls on other than a business day, the time for performance shall be extended to the next business day.

SECTION 31. EFFECTIVE DATE OF FRANCHISE-RETROACTIVITY. This Ordinance shall be in full force and effect thirty days after its adoption. All conditions precedent having first been met to make this Franchise effective and binding upon the City and the Grantee, the rights, privileges, limitations, restrictions, conditions, obligations and duties granted and imposed hereby shall be retroactive to January 1, 2011, provided however, the Grantee is deemed to be in full compliance with the requirements and conditions of this Ordinance as of the date of the adoption of this Ordinance.

PASSED AND ADOPTED this 16th day of March, 2011.

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Janice S. Parvin, Mayor

ATTEST:

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Maureen Benson, City Clerk