

64457

AN ORDINANCE

THE ORDINANCE IS EFFECTIVE 10 DAYS
AFTER PASSAGE.

GRANTING TRIGEN-KANSAS CITY DISTRICT ENERGY CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PERMISSION, PRIVILEGE AND AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE PLANTS, MAINS AND OTHER APPLIANCES FOR THE PURPOSE OF SUPPLYING THERMAL ENERGY FOR DOMESTIC AND INDUSTRIAL PURPOSES.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. Trigen-Kansas City District Energy Corporation, a corporation organized and existing under the laws of the State of Delaware and duly qualified in the State of Missouri, its successors and assigns, are hereby granted the right, permission, privilege and authority for a period of thirty (30) years from and after the date when this ordinance takes effect, within the corporate limits of Kansas City, Missouri, as now or hereafter established, to construct, maintain and operate plants, mains and other appliances for the purpose of generating, distributing and selling heat, steam, hot, chilled or condenser water, or other heating or cooling services ("Thermal Energy") for public and private use for all purposes for which Thermal Energy of any character may be used, to such persons, firms and corporations as may desire to purchase the same and to take and receive compensation therefor; and for said purposes to construct, maintain and operate pipes, conduits and manholes through, across and under any and all streets, boulevards, alleys, avenues, lanes and public grounds within said city, including the construction, maintenance and operation of service pipes through, across and under any and all streets, boulevards, alleys, avenues, lanes and public grounds within said city, to buildings and houses to be supplied with Thermal Energy for any purposes and to accomplish such purposes, the said Trigen-Kansas City District Energy Corporation, its successors and assigns, may enter upon any street, boulevard, alley, avenue, lane or public grounds within said city, and make such excavations therein as may be necessary for the purposes aforesaid under the restrictions and regulations hereinafter provided.

Section 2. All pavements and sidewalks shall be taken up and all excavations in the streets, boulevards, alleys, avenues, lanes and public grounds shall be made under the supervision of the Director of Public Works of Kansas City, and such pipes, conduits and appliances shall be located in such portion of the streets, boulevards, alleys, avenues, lanes and public grounds as may be designated by the Director of Public Works, using alleys as far as practicable. No excavations shall be made by the said Trigen-Kansas City District Energy Corporation, its successors and assigns, at any time in any street, boulevard, alley, avenue, lane or public grounds unless and until a permit therefor shall be obtained from the Director of Public Works, which permit shall state the particular street, boulevard, alley, avenue, lane or

Form 1777 - Law
(03247)

Exhibit No. 5
Date 12-19-89 Case No. HA-90-1
Reporter ech HA-90-5

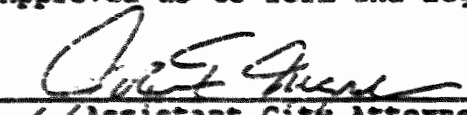
public grounds where the work is to be done, and the length of time the permit shall authorize the work to be done thereunder. All excavations shall be refilled by Trigen-Kansas City District Energy Corporation, its successors and assigns, and all pavements and sidewalks shall be replaced and restored at the expense of Trigen-Kansas City District Energy Corporation, its successors and assigns, and all of the aforesaid restoration shall be approved by the Director of Public Works. When used herein, "Director of Public Works" shall be construed to include such other officials as may be designated by the Director of Public Works or by ordinance.

Section 3. Trigen-Kansas City District Energy Corporation its successors and assigns, shall at all times use every reasonable and proper precaution to avoid damage and injury to persons or property and shall fully protect, indemnify and save harmless the City from and against any and all loss, damage, costs, expense (including a reasonable attorney's fee incurred in the defense of any action for damages), settlements, decrees, awards, penalties and claims of every kind or character arising from or growing out of, directly or indirectly, injury to or death of any person whomsoever or damage to any property whatsoever caused or occasioned by reason of any act or failure to act of said Trigen-Kansas City District Energy Corporation, its successors and assigns, in the construction, maintenance or operation of said plant, mains and appliances, or any part thereof.

Section 4. This grant is made subject to the provisions of the present Charter of Kansas City, Missouri, and any amendments thereto, and subject to the provisions which may be embodied in any future charter of said City and any amendments thereto, and all of the same are hereby made a part of this ordinance by reference thereto.

Section 5. This ordinance shall not become effective unless within ten (10) days after its passage Trigen-Kansas City District Energy Corporation shall file with the City Clerk of Kansas City, Missouri, its written acceptance thereof in form approved by the City Counselor of Kansas City, Missouri.

Approved as to form and legality:

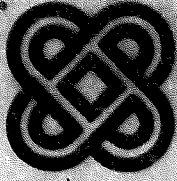

Assistant City Attorney

RD L. SHERLEY, Mayor




17 AUG 1981

CITY CLERK FORM 1777 - LAW
(03247)



CERTIFICATE OF THE CITY CLERK

I, Catherine T. Rocha City Clerk of
Kansas City, Missouri, certify that the attached is a true
and correct copy of:

Ordinance No. 64457

Resolution No. _____

Other _____

which became effective August 27th and is in
full force and effect on the date of this certificate.

The above appears in records and is on file in the
office of the City Clerk, 25th floor, City Hall, Kansas City,
Missouri.

IN TESTIMONY WHEREOF, I have set my hand and affixed the
seal of this City this 5th day of September, 1989.

CATHERINE T. ROCHA
City Clerk

By Dora D. Helm
Deputy Dora D. Helm