

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF HAMMOND, LOUISIANA, GRANTING TO ATMOS ENERGY CORPORATION (A TEXAS AND VIRGINIA CORPORATION WITH ITS PRINCIPAL OFFICE IN THE CITY OF DALLAS, DALLAS COUNTY, TEXAS) AND ITS SUCCESSORS AND ASSIGNS THE FRANCHISE AND RIGHTS TO CONDUCT IN SUCH CITY THE BUSINESS OF ACQUIRING, MAINTAINING, CONSTRUCTING, LAYING, REPAIRING, REMOVING, REPLACING, INSTALLING, OPERATING, AND DISPOSING OF A GAS SYSTEM FOR THE SALE, TRANSPORTATION, AND DISTRIBUTION OF NATURAL GAS WITHIN AND BEYOND THE MUNICIPAL BOUNDARIES OF THE CITY AND TO THE RESIDENTS AND BUSINESSES LOCATED THEREIN FOR LIGHT, HEAT, POWER, AND THE RIGHT TO USE THE PRESENT AND FUTURE STREETS, ROADS, HIGHWAYS, ALLEYS, BRIDGES, PUBLIC WAYS, AND IMMOVABLE PROPERTY IN SUCH CITY AND OWNED OR CONTROLLED BY SUCH CITY FOR SUCH PURPOSES; PRESCRIBING THE TERMS AND CONDITIONS TO WHICH SUCH FRANCHISE AND RIGHTS ARE SUBJECT; AND PRESCRIBING THE TERM OF SUCH FRANCHISE AND RIGHTS.

BE IT ORDAINED by the Mayor and City Council of the CITY OF HAMMOND, LOUISIANA (hereinafter referred to as the "City") that, subject to the terms and conditions hereinafter set forth, ATMOS ENERGY CORPORATION, a Texas and Virginia corporation with its principal office in the City of Dallas, Dallas County, Texas (hereinafter referred to as "Atmos"), be, and hereby is, granted the non-exclusive franchise and rights to conduct in the City the business of acquiring (by purchase, lease, or otherwise), maintaining, constructing, laying, repairing, removing, replacing, installing, operating, and disposing of (by sale, lease, or otherwise) a Gas System, hereinafter defined, for the sale, transportation, and distribution of natural gas within and beyond the municipal boundaries of the City and to the residents and business located therein for light, heat, power during the term set forth below. Such franchise and rights shall include, the right to use the present and future streets, roads, highways, alleys, bridges, public ways, and other immovable property owned by or under the control of the City for purposes of maintaining, constructing, laying, repairing, removing, replacing, installing, and operating any and all components of the Gas System, together with access, at all times and

from time to time, to such streets, roads, highways, alleys, bridges, public ways, and other immovable property during the term hereof.

ARTICLE I

DEFINITIONS

For purposes of this Ordinance, the following terms shall have the meanings set forth below:

Section 1.1. Gas System. The term “Gas System” shall mean any and all pipelines, as hereinafter defined, regulators, meters, valves, compressors, anti-corrosion items, facilities, structures, machinery, equipment, and appurtenances of any kind that Atmos, in its sole discretion, may deem necessary or advisable for the exercise of the franchise and rights granted to ATMOS herein.

Section 1.2. Pipelines. The term “pipelines” shall mean any and all above-ground and below-ground pipes, including but not limited to, mains, distribution lines, secondary lines, laterals, and other pipes, that have been, are being, or are intended to be used at any time in, or in connection with, the sale, transportation, or distribution of natural gas within and beyond the City limits.

ARTICLE II

TERM

Section 2.1. Term. The term of the franchise and rights hereby granted to Atmos shall be for a period of twenty (20) years, commencing on the later of (i) thirty (30) days after the date of publication of this Ordinance in accordance with law or (ii) the expiration of the franchise held by Atmos immediately preceding this franchise.

ARTICLE III

GRANT OF SPECIFIC RIGHTS TO ATMOS ENERGY

In addition to the franchise and rights granted herein to Atmos, the City acknowledges that ATMOS has, and hereby grants to Atmos, the following rights and powers:

Section 3.1. Reconnection Charges. In addition to any and all other proper charges, Atmos may charge and collect from any consumer whose service has been discontinued by Atmos a reasonable reconnection fee or similar charge for recommencing service to such consumer, as allowed by applicable statutes, ordinances, rules, and regulations of any federal or state governmental authority or agency.

Section 3.2. Adoption of Rules. From time to time during the term hereof, Atmos may, subject to any and all valid and applicable statutes, ordinances, rules, and regulations of any federal or state governmental authority or agency, make and enforce reasonable rules pertaining to Atmos' business and operations, including, but not limited to, requiring payment on or before a specified day each month for all services furnished during the preceding month with the right to disconnect and discontinue service to delinquents.

Section 3.3.

Section 3.4. Right of Use. Atmos is hereby specifically granted a right of use on all present and future streets, roads, highways, alleys, bridges, public ways, and other immovable property owned by or under the control of the City for purposes of maintaining, constructing, laying, repairing, replacing, installing, and operating any and all components of the Gas System, together with access, at all times and from time to time, to such streets, roads, highways, alleys, bridges, public ways, and other immovable property during the term hereof.

ARTICLE IV

OBLIGATIONS OF ATMOS

Section 4.1 Franchise Fee.

- (a) As consideration for the grant of the franchise and rights herein and for the use by Atmos of the streets, roads, highways, alleys, bridges, public ways, and other immovable property owned or controlled by the City, Atmos shall pay to the City, within thirty (30) days after the end of each calendar quarter, a franchise fee equal to four percent (4%) of Atmos' gross receipts derived from the sale, transportation, and distribution by Atmos of natural gas at retail to residential and commercial consumers located within the City limits during the preceding calendar quarter provided if Atmos, subsequent to the effectiveness of this franchise, enters into a franchise agreement with any other municipality, parish or other political subdivision in Louisiana that provides for a franchise fee calculated on a percentage of gross receipts that is greater than four (4%) percent in such event Atmos shall for the remaining term of this franchise calculate the franchise fee provided herein utilizing such higher percentage.
- (b) The franchise fee, together with any and all charges of the City for water, sewage, and garbage services provided by the City to Atmos, any and all sales taxes collected by Atmos, and any and all ad valorem taxes assessed by the City against Atmos' property, shall constitute the only amounts for which Atmos shall be obligated to pay to the City for the franchise rights granted herein.

Section 4.2. No Obstruction of Public Property. Atmos shall not unnecessarily or for any unreasonable period of time obstruct or interfere with the public use of any of the streets, roads,

highways, alleys, bridges, public ways, or other immovable property owned or controlled by the City.

Section 4.3. Repair of Damages. Atmos shall repair any and all damages caused by Atmos to any streets, roads, highways, alleys, bridges, public ways, or other immovable property owned or controlled by the City and shall restore, as nearly as practicable, such property to substantially its condition immediately prior to the incident causing such damage. Atmos shall commence such repairs immediately upon completion of the work or activity in which Atmos was involved at the time the damage occurred and shall complete such repairs as promptly as possible.

Section 4.4. Conduct of Work and Activities. Atmos shall supply natural gas throughout and to the City and its inhabitants thereof and all persons, companies and structures therein located, in accordance with Atmos' Standard Terms and Conditions Applicable to Natural Gas Service set forth in its Tariff on file with the Louisiana Public Service Commission. Atmos shall use reasonable care in conducting its work and activities in order to prevent injury to any person and unnecessary damage to any immovable or personal property. Atmos shall fully comply with all existing and future statutes, ordinances, rules, and regulations of any local, federal or state governmental authority or agency pertaining to Atmos' business and operations,

Section 4.5. Extension of Gas System. Atmos shall, at its sole expense, extend its Gas System in order to serve additional consumers in accordance with the Standard Terms and Conditions for Natural Gas Service as now approved or as may hereafter be approved by the Louisiana Public Service Commission.

Section 4.6. Service to New Areas. If during the term of this franchise the boundaries of the City are expanded, the City will promptly notify Atmos in writing of any geographic areas annexed by the City during the term hereof ("Annexation Notice"). Any such Annexation Notice

shall be sent to Atmos by certified mail, return receipt requested, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as Atmos may reasonably require in ascertaining whether there exist any customers of Atmos receiving natural gas service in said annexed area. To the extent there are such Atmos customers therein, then the gross revenues of Atmos derived from the sale and distribution of natural gas to such customers shall become subject to the franchise fee provisions hereof effective on the first day of Atmos' billing cycle immediately following Atmos' receipt of the Annexation Notice. The failure by the City to advise Atmos in writing through proper Annexation Notice of any geographic areas which are annexed by the City shall relieve Atmos from any obligation to remit any franchise fees to City based upon gross revenues derived by Atmos from the sale and distribution of natural gas to customers within the annexed area until City delivers an Annexation Notice to Atmos in accordance with the terms hereof.

Section 4.7. Hold Harmless and Indemnity. Atmos shall protect and hold harmless the City from all demands, claims, actions, losses, damages, liabilities, penalties, costs and expenses, including reasonable attorney fees, asserted against or incurred by the City arising out of or in connection with or resulting from the negligent actions or omissions of Atmos and its contractors and agents under this agreement, including the failure of Atmos to comply with its obligations under this agreement.

ARTICLE V

GENERAL PROVISIONS

Section 5.1. Force Majeure. Notwithstanding anything expressly or impliedly to the contrary contained herein, in the event Atmos is prevented, wholly or partially, from complying with any obligation or undertaking contained herein by reason of any event of force majeure,

then, while so prevented, compliance with such obligations or undertakings shall be suspended, provided that to the extent Atmos derives any gross receipts from the sale, transportation, and distribution of natural gas at retail to residential and commercial consumers located within the City limits during a calendar quarter in which Atmos experiences an event of force majeure, Atmos shall not be excused from its obligation to pay the franchise fee pursuant to Article IV due for all such gross receipts. The term “force majeure,” as used herein, shall mean any cause not reasonably within Atmos’ control and includes, but is not limited to, acts of God, strikes, lock-outs, wars, terrorism, riots, orders or decrees of any lawfully constituted federal, state, or local body, contagions or contaminations hazardous to human life or health, fires, storms, floods, wash-outs, explosions, breakages or accidents to machinery or lines of pipe, inability to obtain or the delay in obtaining rights-of-way, materials, supplies, or labor permits, temporary failures of gas supply, or necessary repair, maintenance, or replacement of facilities used in the performance of the obligations contained in this Ordinance.

Section 5.2. Amendments. This Ordinance and the franchise and rights granted herein may be amended only by written agreement of the City, duly authorized, and Atmos to such amendment.

Section 5.3. Repeal of Conflicting Ordinances. All other ordinances of the City or portions thereof that are in conflict or inconsistent with any of the terms or provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 5.4. Severability. In the event any part of this Ordinance is determined to be invalid or illegal for any reason whatsoever, such invalidity or illegality shall not affect the validity or legality of this Ordinance as a whole or of any parts hereof.

Section 5.5. Binding Effect. This Ordinance shall extend to, be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

Section 5.6. Section and Other Headings. The section and other headings contained in this Ordinance are for reference purposes only and shall not affect in any way the meaning or interpretation of this Ordinance.

The foregoing ordinance was offered and introduced on the ____ day of _____, 20__ by _____, who moved for its adoption and which motion was seconded by _____. The ordinance having been so offered was submitted to a vote as a whole and adopted by the Mayor and City Council of Hammond, Louisiana by the following vote:

Yeas:_____ Nays:_____ Absent:_____

The foregoing ordinance was then declared adopted and was approved and signed by the Mayor on the ____ day of _____, 20__ and ordered published.

CITY OF HAMMOND, LOUISIANA

By: _____
Mayor

ATTEST:

City Clerk

By signing below Atmos Energy Corporation, represented by its authorized officer, agrees to all of the terms and conditions contained in the foregoing ordinance and the obligation set forth therein.

ATMOS ENERGY CORPORATION

By: _____
Tom Hawkins
President (Louisiana Division)

Date: _____

City/City's Mailing Address and Phone Number:
