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PUBLIC SERVICE  
COMMISSION

April 1, 2016

Mr. Jeff DeRouen, Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

RE: Case No. 2016-00079

Dear Mr. DeRouen:

Atmos Energy Corporation (Company) herewith submits one copy of the franchise agreement between the Company and the city of Danville to be in compliance with the Commission's Order in the above referenced case. The franchise fee will be two percent.

Please contact myself at 270.685.8024 if the Commission or Staff has any questions regarding the enclosed agreement.

Sincerely,

A handwritten signature in blue ink that reads "Mark A. Martin".

Mark A. Martin  
Vice President, Rates & Regulatory Affairs

Enclosures

## **FRANCHISE AGREEMENT**

**THIS FRANCHISE AGREEMENT** made and entered into this 14<sup>th</sup> day of March, 2016, by and between the **CITY OF DANVILLE**, a municipal corporation and political subdivision of the Commonwealth of Kentucky (hereinafter "Danville"), **ATMOS ENERGY CORPORATION**, a corporation created and existing under and by virtue of the laws of the Commonwealth of Kentucky, (hereinafter "ATMOS").

### **WITNESSETH:**

**WHEREAS**, by Ordinance No. 1876 adopted by the Danville provides for the creation and sale of a non-exclusive franchise, for a term of twenty (20) years, for the transmission, distribution and sale of natural gas within the public-right-of-way in the City of Danville.

**WHEREAS**, Ordinance No. 1876 authorized the advertising for bids on said franchise, and ATMOS submitted a timely bid to acquire said franchise; and

**WHEREAS**, by Resolution No. 2016-03-14-03 adopted March 14, 2016, Danville accepted the bid of ATMOS to acquire said franchise; and

**WHEREAS**, Danville and ATMOS have entered into this Franchise Agreement to memorialize the sale by Danville to ATMOS of said franchise subject to the terms and conditions reflected in Ordinance No. 1876 and Resolution No. 2016-03-14-03.

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of which are hereby acknowledged, Danville and ATMOS hereby agree to incorporate the foregoing recitals as if fully set forth herein and further agree as follows:

1. Ordinance No. 1876, which is attached hereto as Exhibit "A", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

2. The bid of ATMOS for said franchise, which is attached hereto as Exhibit "B", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. Resolution No. 2016-03-14-03, which is attached hereto as Exhibit "C", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

4. Danville has granted unto ATMOS a non-exclusive franchise, for a term of twenty (20) years, for the transmission, distribution and sale of natural gas within the public-right-of-way within the corporate boundaries of Danville subject to the provisions of Ordinance No. 1876 and Resolution No. 2016-03-14-03.

5. The franchise memorialized in this Franchise Agreement shall commence April 1, 2016, and shall expire as provided in the terms and provisions of Ordinance No. 1876.

6. ATMOS does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as memorialized in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.

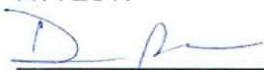
7. This Franchise Agreement memorializes the agreement between the parties contained and embodied in Ordinance No. 1876 and Resolution No. 2016-03-14-03 and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto.

**IN WITNESS WHEREOF**, Danville and ATMOS have executed this Franchise Agreement as their free and voluntary act and deed effective as of the day and year first above written.

CITY OF DANVILLE, KENTUCKY

  
\_\_\_\_\_  
G. MICHAEL PERROS, MAYOR  
CITY OF DANVILLE, KENTUCKY

ATTEST:

  
\_\_\_\_\_  
DONNA PEEK, CITY CLERK

ATMOS ENERGY CORPORTION

BY: Jay Kei Oobls  
Operations Vice President

STATE OF KENTUCKY )  
COUNTY OF BOYLE )

The foregoing Franchise Agreement was subscribed, sworn to and acknowledged before  
me by JAY KEVIN DOBBS, as Op. VP, ATMOS.ENERGY CORPORTION, on this the 23<sup>RD</sup> day  
of MARCH, 2016.

My commission expires: MARCH 19, 2017

E. Alexander #489128  
NOTARY PUBLIC  
KENTUCKY, STATE-AT-LARGE

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Exhibit List

- A Ordinance No. 1876
- B Bid
- C Resolution No. 2016-03-14-03

**ORDINANCE NO. 1876**

AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE NATURAL GAS FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS WITHIN THE RIGHT-OF-WAY OF THE CITY OF DANVILLE FOR A TWENTY (20) YEAR DURATION, IN RETURN FOR PAYMENT TO THE CITY OF DANVILLE OF THE SUM OF TWO PERCENT (2%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES RECEIVED FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF GAS WITHIN THE CITY OF DANVILLE; AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS AND STANDARDS; ALL EFFECTIVE ON DATE OF PASSAGE.

WHEREAS, the Constitution of the Commonwealth of Kentucky, Sections 163 and 164, and Chapter 96 of the Kentucky Revised Statutes, authorize municipal corporations to require public utilities, including providers of natural gas within their boundaries, to operate under Franchise agreements and to grant utilities the right to use Right-Of-Way on such terms and conditions as are deemed reasonable and necessary; and further KRS 82.082 authorizes the City to exercise any and all powers within its boundaries that are not in conflict with the Kentucky Constitution or state statutes; and

WHEREAS, the Board of Commissioners of the City of Danville, Kentucky, has found and determined that the construction, operation, maintenance and utilization of a natural gas Franchise over, across or under Right-Of-Way in the City of Danville, benefits said utility and the customers it serves and the Board has further found and determined that the construction, installation, removal, maintenance and/or repair of utility-owned facilities and other infrastructures does periodic and unavoidable disturbance that gradually results in the degradation of the City's streets and sidewalks, for which the City is entitled to reasonable compensation in order to offset and recover the costs of reconstructing, removing, repairing or resurfacing damaged Right-Of-Way; and,

WHEREAS, in order to protect the health, safety and welfare of the citizens of Danville, Kentucky, to protect and preserve the City's Right-Of-Way and infrastructure and to provide for the orderly administration of the Franchise contemplated herein, it is necessary and appropriate to require the successful Company to conduct its business and operations in a lawful manner in compliance with the terms and conditions set forth herein below.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DANVILLE:**

**Article I**

**DEFINITIONS:**

As used in this Ordinance, the following words and phrases shall have the following meanings:

- (A) "*Commission*" refers to and is the Kentucky Public Service Commission, the state utility regulatory Commission having jurisdiction over the rates, services and operations of Grantee within the State of Kentucky or other administrative or regulatory authority succeeding to the regulatory powers of the Commission.
- (B) "*City Commission*" refers to and is the governing body of the City of Danville.
- (C) "*City*" refers to and is the City of Danville,

Boyle County, Kentucky, and includes such territory as currently is or may in the future be included within the boundaries of the City of Danville.

- (D) "*Franchise*" shall mean the rights and privileges granted by the Grantor to Grantee under the terms and provisions of this Franchise ordinance.

(E) "*Grantee*" shall mean means the Party or Person that shall become the purchaser of said Franchise, or any successor or assignee of such Party or Person.

- (F) "*Grantor*" shall mean the City of Danville, Kentucky.

(G) "*Party or Person*" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

(H) "*Public Right-of-Way*" shall mean the surface, the airspace above the surface and area below the surface of any street, highway, alley, avenue, boulevard, sidewalk, pedestrian/bicycle lane or trail, driveway, bridge, utility easement or any other public ways owned, dedicated by plat, occupied or used by the public and within Grantor's geographical limits or boundaries established by applicable law.

(I) "*Revenues*" refer to and are those amounts of money which the Grantee receives from its customers within the Grantor's geographical limits or boundaries for the retail sale of gas under rates, temporary or permanent, authorized by the Commission and represents amounts billed under

such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments. Revenues do not include miscellaneous service charges, including but not limited to turn ons, meter sets, non sufficient funds, late fees and interest, which are related to but are not a part of the actual retail sale of gas.

(J) "System" shall mean the system of works, pipes, pipelines, facilities, fixtures, apparatus, lines, machinery, equipment, structures, appliances, appurtenances or other infrastructure reasonably necessary for the storage, transportation, distribution or sale of natural, artificial or mixed gas to residential and commercial customers and the public generally, within the geographical limits or boundaries of the Grantor.

## Article II

### GRANT OF FRANCHISE:

(A) There is hereby created and granted unto Grantee a non-exclusive Franchise to enter upon, acquire, construct, operate, maintain and repair in the Public Right-of-Way the System, subject to the provisions of this Ordinance. The Franchise granted hereunder shall be extended to territories that are annexed by Grantor upon the same terms and conditions herein, subject to the approval of the Commission, if any such approval is required.

(B) The Franchise granted to Grantee by the Grantor shall not be exclusive and the Grantor reserves the right to grant a similar Franchise to any other person or entity at any time. In the event the Grantor shall grant to another person or entity during the term hereof a Franchise for a gas distribution system within the geographical boundaries or limits of Grantor similar to the one herein granted to Grantee, it is agreed that the terms of any such Franchise Ordinance shall be no more favorable to such new additional grantee than those terms contained herein. Additionally, it is agreed that any such new/additional grantee shall have no right to use any portion of the System without Grantee's written consent.

## Article III

### TERM, EFFECTIVE DATE, AND ACCEPTANCE OF FRANCHISE:

(A) The term of this Franchise shall be for a term of twenty (20) years.

(B) The Franchise created hereby shall become effective upon its final passage, and approval, by the City, in accordance with applicable laws and regulations, and upon acceptance by the Grantee by written instrument within sixty (60) days of passage by the governing body, and filed with the Clerk of the Grantor. If the Grantee does not, within sixty (60) days following passage of this Ordinance, express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, the Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

(C) On the expiration of this Franchise, in the event the same is not renewed, or on the termination of any renewal of said Franchise, or on termination of said Franchise for any other reason, the plant and facilities of the Grantee installed, constructed and operated hereunder shall, at the option of the City become the property of the City, upon payment to the Grantee, its successors and/or assigns, of a fair valuation thereof, such fair valuation to be determined by agreement between the City and the Grantee, its successors and/or assigns. Grantor agrees that, at the time of such transfer of facilities, it shall assume Grantee's contractual and regulatory obligations maintained in connection with the system. If the City does not exercise the option hereunder, then Grantee may exercise its rights under Article XI (B).

#### **Article IV**

##### **GRANTEE'S RIGHTS IN AND TO PUBLIC RIGHT-OF-WAY:**

The Grantee shall have the right and privilege of constructing, erecting, laying, operating, maintaining, replacing, removing and/or repairing a gas distribution system through, along, across and under the public right-of-way within the geographical boundaries or limits of the Grantor as it now exists or may hereafter be constructed or extended, subject to the inherent police powers conferred upon or reserved unto the Grantor and the provisions of this Ordinance.

#### **Article V**

##### **OPERATION OF SYSTEM; EXCAVATION OF PUBLIC RIGHT-OF-WAY:**

(A) The System shall at all times be installed, operated and maintained in good working condition as will enable the Grantee to furnish adequate and continuous service to all of its residential, commercial and industrial customers. The System shall be designed, installed, constructed and

replaced in locations and at depths which comply with all applicable federal and state laws and regulations regarding minimum safety standards for design, construction, maintenance and operation of gas distribution systems.

(B) Grantee shall have the right to disturb, break, and excavate in the Public Right-of-Way as may be reasonable and necessary to provide the service authorized hereby.

(C) Grantee will repair any damage caused solely by Grantee to any part of the Public Right-of-Way and will restore, as nearly as practicable, such property to substantially its condition immediately prior to such damage.

(D) Grantee shall use reasonable care in conducting its work and activities in order to prevent injury to any person and unnecessary damage to any real or personal property.

(E) Grantee shall, when reasonably practicable, install all pipelines underground at such depth and in such manner so as not to interfere with the existing pavement, curbs, gutters, underground wires or cables or water or sewer pipes owned or controlled by the Grantor.

#### **Article VI**

#### **DEGRADATION/RESTORATION OF PUBLIC RIGHT-OF-WAY:**

(A) In the event that Grantor or any other entity acting on behalf of Grantor requests or demands that Grantee remove, move, modify, relocate, reconstruct or adjust any part of the system from their then-current locations within the streets, alleys, and public places of Grantor in connection with a public project or improvement, then Grantee shall relocate, at its expense, the system facilities affected by such project or improvement. Grantee's obligations under this paragraph shall apply without regard to whether Grantee has acquired, or claims to have acquired, an easement or other property right with respect to such system facilities and shall not affect the amounts paid or to be paid to Grantee under the provisions of this Ordinance. Notwithstanding the foregoing provisions of this paragraph, Grantee shall not be obligated to relocate, at its expense, any of the following: (i) system facilities that are located on private property at the time relocation is requested or demanded; (ii) system facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) system facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

(B) Grantor and Grantee recognize that both parties benefit from economic development within the boundaries of Grantor. Accordingly, when it is necessary to relocate any of Grantee's facilities within the boundaries of Grantor, Grantor and Grantee shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, Grantor and Grantee shall communicate in a timely fashion to coordinate projects included in Grantor's five-year capital improvement plan, Grantor's short-term work program, or Grantor's annual budget in an effort to minimize relocation of Grantee's facilities. Such communication may include, but is not limited to, (i) both parties' participation in a local utility's coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any alternative comparable systems or successor to such system mutually acceptable to both parties).

#### Article VII

#### COMPENSATION FOR USE OF PUBLIC RIGHT-OF-WAY AND CONSIDERATION FOR FRANCHISE:

(A) In consideration for the granting and exercise of the rights and privileges created hereunder, and in further consideration of the grant to the Franchisee of the right to make use of Public Right-of-Way, Grantee shall pay to the Grantor, during the entire life of the Franchise, a sum equal to two percent (2%) of its Revenues. The fee prescribed herein shall be paid to the Grantor quarterly on or before the 30th day after the end of each calendar quarter after the effective date hereof, and the Grantee shall furnish to the Grantor quarterly a statement of Grantee's Revenues.

(B) Grantee may add a line-item surcharge to the monthly bills of each of its customers located within the geographical boundaries or limits of Grantor, which surcharge may be designated as a Franchise fee, in an amount that is sufficient to recover the portion of the Franchise fee paid by the Grantee to the Grantor that is attributable to the Revenue derived by Grantee from such customer.

(C) The Franchise fee provided herein, together with any charges of the Grantor for water, sewage and garbage services provided by the Grantor to Grantee, and any applicable occupational license fees or sales, ad valorem or other taxes payable to the Grantor by the Grantee under applicable law, shall constitute the only amounts for which Grantee shall be obligated to pay to the Grantor and shall be in lieu of any and all other costs, levies, assessments, fees or other amounts, of any kind whatsoever, that the Grantor, currently or in the future, may charge Grantee or assess against Grantee's property. The Franchise fee herein contemplated shall be uniformly and equally applied to

all natural gas and electric utilities, of like services or any other natural gas service that compete with the Grantee, such that Grantee will be excused from collecting and paying Franchise fees and/or taxes if Grantee's competitors are not also required to do so.

(D) The Grantor, through its duly authorized representative and at all times reasonable, shall have access to, and the right to inspect Grantee's books and records that are necessary to confirm the accuracy of the amount of Franchise fee being paid to the City.

**Article VIII**  
**SERVICE TO NEW AREAS**

If during the term of this Franchise the boundaries of the Grantor are expanded, the Grantor will promptly notify Grantee in writing of any geographic areas annexed by the Grantor during the term hereof ("Annexation Notice"). Any such Annexation Notice shall be sent to Grantee 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 Grantee may reasonably require in ascertaining whether there exist any customers of Grantee receiving natural gas service in said annexed area. To the extent there are such customers therein, then the revenue of Grantee derived from the retail sale of natural gas to such customers shall become subject to the Franchise fee provisions hereof effective on the first day of Grantee's billing cycle immediately following Franchisee's receipt of the Annexation Notice. The failure by the Grantor to advise Grantee in writing through proper Annexation Notice of any geographic areas which are annexed by the Grantor shall relieve Grantee from any obligation to remit any Franchise fees to Grantor based upon revenues derived by Grantee from the retail sale of natural gas to customers within the annexed area prior to Grantor delivering an Annexation Notice to Grantee in accordance with the terms hereof.

**Article IX**  
**BREACH OF FRANCHISE; REMEDIES:**

In the event of a breach by Grantee of any material provision hereof, the Grantor may terminate the Franchise and rights granted to Grantee hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

(A) Grantor must deliver to Grantee, by certified or registered mail, a written notice signed

by the mayor or other duly authorized member of Grantor's governing body, attested by the Grantor's secretary, and sealed with the official seal of the Grantor. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of Grantee that the Grantor contends constitutes a substantial breach of any material provision hereof, (ii) designate which of the terms and conditions hereof the Grantor contends Grantee breached, and (iii) specify the date, time, and place at which a public hearing will be held by the governing body of the Grantor for the purpose of determining whether the allegations contained in the notice did in fact occur, provided, however, that the date of such hearing may not be less than thirty (30) days after the date of such notice.

(B) Within thirty (30) days following the adjournment of the public hearing described in Subsection (A) above, the Grantor must deliver to Grantee, by certified or registered mail, a written notice signed by the mayor or other duly authorized member of Grantor's governing body, attested by the Grantor's secretary, and sealed with the official seal of the Grantor, setting forth (i) the acts and omissions of Grantee described in the first notice that the governing body of the Grantor determines to have in fact occurred and (ii) the specific terms and conditions hereof listed in the first notice that the governing body of the Grantor determines to have in fact been breached by such acts or omissions of Grantee.

(C) The Grantor must permit Grantee the opportunity to substantially correct all of the breaches hereof set forth in the written notice described in Subsection (B) above within sixty (60) days after Grantee's receipt of such notice.

#### **Article X**

#### **FORCE MAJEURE**

Notwithstanding anything expressly or impliedly to the contrary contained herein, in the event Franchisee 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, and the time during which Franchisee is so prevented shall not be counted against it for any reason. The term "force majeure", as used herein, shall mean any cause not reasonably within Franchisee's control and includes, but is not limited to, acts of God, strikes, lockouts, wars, terrorism, riots, orders or decrees of any lawfully constituted federal, state or local body, contagious 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.

## **Article XI**

### **ADDITIONAL REQUIREMENTS; MISCELLANEOUS PROVISIONS**

(A) Grantee shall at all times indemnify and hold harmless the Grantor from and against any and all lawful claims for injury to any person or property by reason of Grantee's or its employees' failure to exercise reasonable care in installing, maintaining and operating the System. Provided, however, that none of the provisions of this paragraph shall be applicable to the extent the Grantor, its officials, officers, employees, contractors, or agents, were negligent and such negligence was the sole or contributing factor in bringing about injury to any person or property. In such event, any liability shall be apportioned between the Grantor and the Grantee based upon the percentage of fault assigned to each by a court of competent jurisdiction.

(B) Subject to the City's option under Article III (D), Grantee may remove all or any part of its System upon the expiration or termination of the Franchise and rights granted hereby.

(C) Grantee may transfer or assign the Franchise created by this Ordinance to any other person, proprietorship, partnership, firm or corporation with written notification to the Grantor.

(D) If any section, subsection or provision of this ordinance or any part thereof is for any reason found or held to be in conflict with any applicable statute or rule of law, or is otherwise held to be unenforceable, the invalidity of any such section, subsection or provision shall not affect any or all other remaining sections and provisions of this ordinance, which shall remain in full force and effect.

(E) This Ordinance shall extend to, be binding upon, and inure to the benefit of, the parties hereto, and their respective successors and assigns.

(F) To the extent that any other ordinances of the Grantor or portions thereof are in conflict or inconsistent with any of the terms or provisions hereof, then the terms of this Ordinance shall control.

(G) It shall be the duty of the City Manager, or his/her designee, to offer for sale the Franchise and privileges created hereunder. Said Franchise and privileges shall be sold to the highest and best bidder or bidders at a time and place fixed by the City Manager after he or she has given due notice thereof by publication or advertisement as required by law. In awarding the franchise, the City shall consider the technical, managerial, and financial qualifications of the bidder to perform its obligations under the franchise.

FIRST READING: 1/25/16

SECOND READING: 2/8/16



MAYOR

ATTEST:



CLERK

PUBLISHED: 2/14/16



March 16, 2016

Mike Perros, Mayor  
City of Danville, Kentucky

Dear Mayor Perros:

Atmos Energy Corporation hereby submits the following bid to acquire the franchise and rights created by Ordinance No. 1876 of the City of Danville, Kentucky (the "City").

In consideration of the granting of the franchise, Atmos Energy will pay the City Two Percent (2%) of its Gross Revenues (as defined in the Franchise Agreement). The term of the franchise will be Twenty (20) years.

Atmos Energy agrees to and accepts all of the terms of the Franchise Agreement contained in Ordinance No. 1876, subject to the City's acceptance of the bid herein, and the awarding of the franchise to Atmos Energy.

If Atmos Energy is the successful bidder, please execute duplicate originals of this bid letter in the space provided below and return it, together with a copy of the minutes of the City Commission meeting relating to the adoption of this bid, to me, at 3275 Highland Pointe Drive, Owensboro, Kentucky 42303. Atmos Energy hopes the City will find this bid acceptable and looks forward to working with the City in providing natural gas service to its citizens.

Sincerely,

ATMOS ENERGY CORPORATION

By: Jay Kevin Dobbs  
Jay Kevin Dobbs  
Vice-President, Kentucky Division

This bid is hereby accepted and the franchise created by Ordinance No. 1876 is hereby awarded to Atmos Energy Corporation, by the City of Danville, Kentucky at a meeting, with a quorum duly assembled and voting, held on March 14<sup>th</sup>, 2016. A copy of the minutes of the City Commission meeting relating to the acceptance of this bid and the awarding of the franchise is attached hereto.

ATTEST:

By: D. Perros

CITY OF DANVILLE, KENTUCKY

By: Michael Perros  
Mayor

ARTICLE VIII  
**COMPENSATION FOR USE OF PUBLIC RIGHT-OF-WAY AND  
CONSIDERATION FOR FRANCHISE**

(A) In consideration for the granting and exercise of the rights and privileges created hereunder, and in further consideration of the grant to the Franchisee of the right to make use of Public Right-of-Way, Grantee shall pay to the Grantor, during the entire life of the Franchise, a sum equal to two percent (2%) of its Revenues. The fee prescribed herein shall be paid to the Grantor quarterly on or before the 30th day after the end of each calendar quarter after the effective date hereof, and the Grantee shall furnish to the Grantor quarterly a statement of Grantee's Revenues.

(B) Grantee may add a line-item surcharge to the monthly bills of each of its customers located within the geographical boundaries or limits of Grantor, which surcharge may be designated as a Franchise fee, in an amount that is sufficient to recover the portion of the Franchise fee paid by the Grantee to the Grantor that is attributable to the Revenue derived by Grantee from such customer.

(C) The Franchise fee provided herein, together with any charges of the Grantor for water, sewage and garbage services provided by the Grantor to Grantee, and any applicable occupational license fees or sales, ad valorem or other taxes payable to the Grantor by the Grantee under applicable law, shall constitute the only amounts for which Grantee shall be obligated to pay to the Grantor and shall be in lieu of any and all other costs, levies, assessments, fees or other amounts, of any kind whatsoever, that the Grantor, currently or in the future, may charge Grantee or assess against Grantee's property. The Franchise fee herein contemplated shall be uniformly and all natural gas and electric utilities, of like services or any other natural gas service that compete with the Grantee, such that Grantee will be excused from collecting and paying Franchise fees and/or taxes if Grantee's competitors are not also required to do so.

(D) The Grantor, through its duly authorized representative and at all times reasonable, shall have access to, and the right to inspect Grantee's books and records that are necessary to confirm the accuracy of the amount of Franchise fee being paid to the City.

RESOLUTION 2016-03-14-03

RESOLUTION CONFIRMING THE SALE AND AWARDING A NON-EXCLUSIVE FRANCHISE TO ATMOS ENERGY CORPORATION FOR A TWENTY (20) YEAR PERIOD FOR NATURAL GAS FRANCHISE FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL GAS ALONG AND UNDER PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF DANVILLE, KENTUCKY

WHEREAS, Ordinance No. 1876, adopted by the Danville City Commission provided for the creation and sale of a non-exclusive franchise, for a term of twenty (20) years, for the transmission, distribution and sale of natural gas along and under the public-right-of-way within the City of Danville; and

WHEREAS, said ordinance also established a sealed bid process which includes advertising the invitation for bids, and awarding the franchise to the successful bidder(s); and

WHEREAS, after publication of said advertisement on February 21, 2016, the City received a bid from Atmos Energy Corporation ("Atmos")

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF DANVILLE, KENTUCKY, AS FOLLOWS:

Section 1. That a natural gas franchise created by Ordinance No. 1876 be, and it hereby is, awarded to Atmos.

Section 2. All prior ordinances, municipal orders, or policies or parts thereof in conflict herewith, are to the extent of such conflict, hereby repealed.

Section 3. That the Mayor of Danville is hereby authorized to sign the Franchise Agreement (which is attached hereto as Exhibit "A") to memorialize the sale by Danville to Atmos of said franchise subject to the terms and conditions reflected in Ordinance No. 1876 and this Resolution.

Section 4. That the statements set forth in the Preamble to this Resolution are hereby incorporated in this Resolution by reference, the same as if set forth at length herein.

Section 5. That if any section, sentence, clause or phrase of this Resolution is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Resolution.

Section 6. That this Resolution shall be effective on the date of its passage.

This the 14<sup>th</sup> day of March, 2016.



G. MICHAEL PERROS, MAYOR  
CITY OF DANVILLE, KENTUCKY

ATTEST:



DONNA PEEK, CITY CLERK  
CITY OF DANVILLE, KENTUCKY

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