

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (hereinafter “Agreement”), made and entered into this ____ day of ____, 2025, by and between the **CITY OF JEFFERSONVILLE**, a municipal corporation and political subdivision of the Commonwealth of Kentucky (hereinafter “City”), and **CLARK ENERGY COOPERATIVE, INC.**, (hereinafter “Clark Energy”), a corporation created and existing under and by virtue of the laws of the Commonwealth of Kentucky.

WITNESSETH:

WHEREAS, Jeffersonville and Clark Energy have entered into this Franchise Agreement to memorialize the sale by Jeffersonville to Clark Energy of said franchise subject to the terms and conditions reflected in Ordinance Nos. 2025-____ and this Agreement.

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

SECTION 1. –

(a) There is hereby created a non-exclusive franchise to enter upon, lay, acquire, construct, operate, maintain, install, use, and repair, in the Right-Of-Way of the City, a system or works for the generation, transmission, and distribution of electrical energy within the corporate boundaries of the City as it now exists or may hereafter be constructed or extended, subject to the provisions of this Agreement. Such system may include pipes, wire, manholes, ducts, structures, stations, towers, amplifiers, poles, overhead conductors and devices, underground conductors and devices, transformers, and any other apparatus, equipment and facilities (collectively, “Equipment”) necessary, essential, and/or used or useful to the distribution and sale of electric service through the City and to any other town or any portion of the county or to any other county (“Services”).

Additionally, Clark Energy shall have the right to use the streets with its service and maintenance vehicles in furtherance of this Franchise. Work performed by Clark Energy under this Franchise shall be performed in a workmanlike manner and in such a way as not to unnecessarily interfere with the public's use of City streets. Whenever the surface of any City street is opened, it must be restored at the expense of Clark Energy within a reasonable time to a condition comparable to what it was prior to the opening thereof.

SECTION 2. The following definitions apply to this Agreement:

City Council means the legislative body of the City of Jeffersonville.

Facility includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of the utility in the Right-Of-Way.

Government or *City* means the City of Jeffersonville.

Gross Receipts means those amounts of money which Clark Energy receives from its customers within the City's geographical limits or boundaries for the retail sale of electricity under rates, temporary or permanent, authorized by the Kentucky Public Service Commission and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments. Gross Receipts does 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 electricity.

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.

Public Utility or Utility means a Party or Person that is defined in KRS Chapter 278.010 as a utility and (i) is subject to the jurisdiction of the Kentucky Public Service Commission or the Federal Energy Regulatory Commission, or (ii) is required to obtain a franchise from the Government to use and occupy the Right-Of-Way pursuant to Sections 163 and 164 of the Kentucky Constitution.

Right-Of-Way means the surface of and the space above and below a public roadway, highway, street, freeway, lane, path, sidewalk, alley, court, boulevard, avenue, parkway, cartway, bicycle lane or path, public sidewalk, or easement held by the Government for the purpose of public travel and shall include Rights-Of-Way as shall be now held or hereafter held by the Government.

SECTION 3. The Franchise created herein shall be non-exclusive and shall continue until June 28, 2031.

SECTION 4. Clark Energy is authorized to operate throughout all the territory within the corporate limits of the City for which it is authorized under state or federal law.

SECTION 5. This Agreement shall become effective on the date of its passage and publication as required by law.

SECTION 6. Subject to Section 3 hereof, Clark Energy will comply with all applicable provisions of lawful City ordinances and regulations (including any amendments thereto).

Clark Energy shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the Government, upon any one or more occasions, to insist upon Clark Energy's performance or to seek Clark Energy's compliance with anyone or more of such terms or conditions.

SECTION 7. Rights Reserved by City. Subject to the above provisions, the Franchise created by this Agreement is expressly subject to the right of the City: (i) to repeal the

same for misuse, nonuse, or Clark Energy's failure to comply with applicable local, state or federal laws; (ii) to impose such other regulations as may be determined by the City to be conducive to the safety, welfare and morals of the public; and/or (iii) to control and regulate the use of its Right-Of-Way.

SECTION 8. As consideration for the granting of the Franchise created by this Agreement, Clark Energy agrees it shall defend, indemnify, and hold harmless the Government from and against claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses asserted against the Government that Clark Energy's use of the Right-Of-Way or the presence or operation of Clark Energy's equipment on or along said Right-Of-Way has caused damage to tangible property or bodily injury, if and to the extent such damage or injury is not caused by the Government's negligence. The Government shall notify Clark Energy in writing within a reasonable time of receiving notice of any issue it determines may require indemnification

SECTION 9. Franchise Fees. As compensation for the Franchise created by this Agreement to Clark Energy, the City shall receive payment of a total annual fee of three (3) percent of gross receipts per year from Clark Energy's sale of electricity to electric-consuming entities (which includes businesses, industrial facilities and dwellings) inside the City's corporate limits; *provided, however*, that such fee shall be payable by Clark Energy only if and to the extent Clark Energy is authorized by the Kentucky Public Service Commission (or its successor) to pass through such fee to the entities served by it inside the City's corporate limits.

Payment of any amount due under this Franchise shall be made on a quarterly basis within forty-five (45) days of the end of the preceding payment period.

No acceptance of any franchise fee payment by the Government shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount nor shall acceptance be

deemed a release to any claim the Government may have for future or additional sums pursuant to this Franchise. Any additional amount due to the Government shall be paid within ten (10) days following written notice to Clark Energy by the Government.

As further consideration for the granting of this Franchise, Clark Energy agrees to pay all publication costs the City incurs in the granting of this Franchise. The above-mentioned costs shall be invoiced by the City to Clark Energy and Clark Energy shall pay said costs within thirty (30) days of receipt of said invoice.

Any other fees assessed to Clark Energy in connection with Clark Energy's use of the City's public ways, including fees associated with permits and licenses of whatever nature, shall be payable by Clark Energy only if and to the extent Clark Energy is authorized by the Kentucky Public Service Commission (or its successor) to pass through such fees to the entities served by it inside the City's corporate limits.

SECTION 10. Clark Energy shall maintain in force through the term of the Franchise insurance coverage for general liability insurance, auto liability and workers compensation, in accordance with all applicable laws and regulations.

SECTION 11. Within thirty (30) days of the granting of this Franchise the City shall provide a map of the City's boundaries to Clark Energy. The City shall notify Clark Energy of any annexations or other changes in the City's boundaries and provide Clark Energy a map of the territory annexed or added to or de-annexed or otherwise removed from the Government's limits that are to be served by Clark Energy.

SECTION 12. This Agreement and any Franchise awarded pursuant to it shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance. The venue for any litigation related to this Agreement and any Franchise awarded pursuant to it shall be in a court of competent jurisdiction in Montgomery County, Kentucky.

SECTION 14. If any section, sentence, clause or phrase of this Agreement is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining

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

BY: _____
MAYOR

ATTEST:
BY: _____
CITY CLERK

CLARK ENERGY COOPERATIVE, INC.
BY: _____

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF CLARK)

The foregoing Franchise Agreement was subscribed, sworn to and acknowledged before me by _____, as _____, Clark Energy Cooperative, Inc., on this the _____ day of _____, 2025.
My commission expires:

NOTARY PUBLIC
KENTUCKY, STATE-AT-LARGE