

ORDINANCE NO. _____

An Ordinance granting to Atmos Energy Corporation, a Texas corporation, a franchise for the purpose of constructing, maintaining, and using a gas utility system in the City of Dallas; regulating the construction work done by the Grantee in the City; prescribing the relationship and relative rights between Grantee and others with respect to construction in the City and location of facilities; prescribing the quality of service to be provided by Grantee; providing for limitation of certain liabilities; prescribing the duties, responsibilities, and rule making authority of the City Manager or the City Manager's designee and the City with respect to administration of this franchise; requiring certain records and reports and providing for inspections and tests; reserving to the City Council the right to set charges and rates of Grantee; providing the procedure for changing the rates of Grantee and providing the rights and responsibilities of the City Council in setting the rates; providing for customer security deposits; providing for suspension of service to a customer; providing for enforcement of the franchise; prescribing the compensation to the City from the Grantee for the franchise privilege; providing indemnity of the City and its employees; providing for insurance and good faith effort provisions; setting forth the term of the franchise and its renewal; prescribing miscellaneous requirements for administration of the franchise; repealing Ordinance No. 16240, as amended, and all other ordinances amending the previous franchise (including, but not limited to Ordinance Nos. 22049, 22155, and 22245) ; providing for acceptance by Grantee; and providing an effective date.

WHEREAS, Atmos Energy Corporation, is engaged in the business of supplying gas utilities services through its facilities within the City of Dallas to customers throughout the City of Dallas; and,

WHEREAS, Atmos Energy Corporation, and its predecessors have been supplying gas utilities services to customers throughout the City of Dallas pursuant to Ordinance No. 322, as amended, since November 30, 1917; Now, Therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. GRANTING OF FRANCHISE.

There is hereby granted to Atmos Energy Corporation, hereinafter called Grantee, for the full term of 15 years from the effective date of this ordinance, the right privilege, and franchise to have, acquire, construct, reconstruct, maintain, use, and operate in the City of Dallas, Texas, hereinafter called City, a gas utility system as defined under Section 3 of the Public Utility Regulatory Act of 1975, which shall include, but not be limited to, a gas transmission and distribution system, and to have, acquire, construct, reconstruct, maintain, use, and operate 'in, over, under, along, and across the present and future streets, highways, alleys, bridges, and other public ways ("Public Rights-of-Way") of the City all necessary or desirable mains, lines, pipes, services, laterals, manholes, valves, gages, vent pipes, regulation stations and other structures and appurtenances in connection with such gas utility system. This Franchise does not authorize Grantee to use any property owned by the City that is not a public right-of-way.

SECTION 2. CONSTRUCTION WORK - REGULATION BY CITY.

(a) Work done in connection with the construction, reconstruction, modification, demolition, maintenance, or repair of the gas utility system shall be in compliance with all applicable laws, rules, and regulations of the City and the State of Texas.

(b) Grantee shall conduct its maintenance, construction, reconstruction, modification, demolition, maintenance, repair or placement of facilities, and excavations in the streets, alleys, and other public rights-of-way in such a way that they will interfere as little as practicable with the use by the general public of the streets, sidewalks, and alleys, and with the use of private property, in accordance with direction given by the authority of the City Council under the police and regulatory powers of the City.

(c) Grantee shall submit engineering plans of those projects involving significant construction in a public right-of-way to the City for review prior to construction and promptly after completion of construction shall provide to the City accurate and complete "as-built" plans showing the nature and specific location of all work done. On request by the City Manager or the City Manager's designee, Grantee shall provide complete and accurate "as-built" plans showing the nature and specific location of any component of Grantee's gas utility system located in, on, under, or above any public right-of-way or any real property of the City.

(d) Except in an emergency Grantee shall comply with applicable City ordinances and rules pertaining to notification when excavating pavement in an alley, street, or unpaved public right-of-way. Grantee shall notify the City as soon as practicable regarding work performed under emergency conditions and Grantee shall comply with the City's reasonable requirements for restoration of the excavated area.

(e) The City has authority to require Grantee to repair, remove, or abate any pipe or other structure or equipment that is unnecessarily dangerous to life or property, and in case Grantee, after notice, fails or refuses to act within a reasonable time, the City has authority to remove or abate the same at the expense of the Grantee, without compensation or liability for damages to Grantee. Grantee shall promptly restore to its previous condition and to the reasonable satisfaction of the City, a street, alley, or public right-of-way excavated by it.

SECTION 3. MAINTENANCE OF PIPING.

That Grantee shall own, operate and maintain all service lines, which are defined as the supply lines, and attached couplings, valves, risers, fittings and other hardware extending from the Grantee's main up to and including the customer's meter where gas is measured by Grantee. The customer shall own, operate and maintain all yard lines and house piping. Yard lines are defined as the underground supply lines extending from the point of connection with Grantee's customer meter to the point of connection with customers' house piping. Grantee shall not be required at its own expense to extend mains on any street more than 100 feet for any one consumer of gas or for any consumer that does not, at a minimum, utilize gas as the primary fuel for space heating and water heating

SECTION 4. CONFORMANCE WITH PUBLIC IMPROVEMENTS.

(a) Whenever by reason of street widening, straightening or changes in the grade or contours of a street, alley or other public way or in the location or manner of constructing a water pipe, gas pipe, sewer, or other City owned underground or aboveground structure for a governmental purpose, it is deemed that Grantee's underground or aboveground facilities located in the Public Right-of-Way are in conflict and for this reason it is deemed necessary to remove, alter, change, adapt, or conform the underground or aboveground facilities of Grantee, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the City, without claim for reimbursement or damages against the City. Grantee shall not be required to remove, alter, change, adapt, or conform its facilities without claim for reimbursement if such facilities are not in conflict with construction performed for a governmental purpose as described above. If these requirements impose a financial hardship upon the Grantee, the Grantee shall have the right to present alternative proposals for the City's consideration. City agrees to use its best effort to provide Grantee with its annual capital improvements plan as well as any material updates or changes within a reasonable time after they become available. The City shall not require Grantee to remove its facilities entirely from a street, alley, highway, or other public way unless suitable and safe alternatives are available for relocation at no additional cost to Grantee. Grantee shall not be required to relocate facilities to a depth of greater than four (4) feet below the ground's surface unless necessary to avoid conflict with existing facilities of other authorized users of the Right-of-Way or proposed placement of City's facilities in the Right-of-Way, or if prior agreement is obtained from Grantee.

(b) When Grantee is required to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City, Grantee shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Grantee to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. When Grantee is required to initiate a project to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City pursuant to this Franchise, such fact shall be considered as evidence of the project's necessity and prudence for regulatory purposes.

SECTION 5. WORK BY OTHERS.

(a) The City reserves the right to lay, and permit to be laid, sewer, water, and other pipe lines, cables, and conduits, and to do and permit to be done any underground or aboveground work that may be necessary or proper in, across, along, over, or under a street, alley, highway, or public place occupied by the Grantee. The City also reserves the right to change any curb, sidewalk, or grade of a street. In permitting this work to be done, the City shall not be liable to the Grantee for any resulting damage, but nothing herein shall relieve any other person or corporation from responsibility, for damages to the facilities of Grantee.

(b) If the City Council authorizes someone other than the Grantee to occupy space under the surface of a street, alley, or highway, or public place, the grant shall be subject to the rights of

the Grantee. If the City Council closes or abandons a street, alley, highway, or public place which contains existing facilities of the Grantee, any conveyance of land within the closed or abandoned street, alley, highway, or public place shall be subject to the rights of the Grantee. Grantee, however, may be ordered to vacate any land so conveyed if an alternate route is practicable and if the Grantee is reimbursed by the person to whom the property is conveyed for the reasonable costs of removal and relocation of facilities.

(c) If the City requires Grantee to adapt or conform its facilities, or to alter, relocate, or change its property to enable any other corporation or person, except the City, to use, or use with greater convenience, the street, alley, highway, or public place, Grantee shall not be bound to make any of the changes until the other corporation or person has undertaken, with good and sufficient bond, to reimburse the Grantee for any cost, loss, or expense that will be caused by, or arise out of the change, alteration, or relocation of Grantee's property; provided, however, that the City shall not be liable for the reimbursement.

SECTION 6. AVAILABILITY, CHARACTER OF SERVICE, LIABILITY.

(a) Grantee shall at all times furnish service which is modern and sufficient to meet reasonable demands without undue interruption or fluctuations to any person, firm, or corporation that demands service within the City, upon the terms specified and required by ordinance or rules adopted by the City. Grantee shall make service connections on reasonable demand, without undue delay but before furnishing service may require execution of a service contract. Grantee covenants that it will furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable.

(b) Grantee is not liable for interruptions or fluctuations in service caused by acts of God, war, riots, restraints of governmental authorities, or strikes or other unavoidable occurrences that could not have been foreseen and prevented by a public utility furnishing gas service within the City using commercially prudent management and reasonable care under the circumstances.

SECTION 7. ADMINISTRATION OF FRANCHISE.

(a) The City Manager or the City Manager's designee is the principal City officer responsible for the administration of this franchise and shall over see and review the operations of Grantee under this franchise.

(b) The City may delegate to the City Manager or the City Manager's designee the exercise of any of the powers conferred upon the City by its charter or by law, relating to the regulation of Grantee in the exercise of the rights and privileges conferred, by this franchise, but the City Council reserves unto itself exclusively the power to fix and regulate the general charges and rates of Grantee, to the full extent that this authority is provided in the charter, this franchise, and State law.

(c) The City Manager or the City Manager's designee may approve or disapprove of miscellaneous fees and charges to the extent permitted by State law, in connection with the rendition of utility service. The City Manager or the City Manager's designee shall have the authority to make and publish, after notice to those affected and a hearing, rules and regulations that are consistent with State law and necessary to carry out the duties and powers conferred

upon the City Manager. If Grantee objects to a decision of the City Manager with regard to fees or to a rule or regulation, Grantee may appeal the action of the City Manager to the City Council, and the action or decision appealed shall be suspended until final action by the City Council.

(d) It shall be the right and duty of the City Manager and the City Council at all times to keep fully informed as to all matters in connection with or affecting the construction, reconstruction, maintenance, operation, and repair of the properties of the Grantee, its accounting methods and procedures, the conduct of the Grantee's business in the City, and of service being rendered by Grantee.

(e) The City Manager, upon the filing of the acceptance described below, shall provide Grantee with written notice identifying at least by title one or more City Manager's designees, if any, for administering some or all of the City Manager's functions relating to this Franchise. If more than one designee is identified, the functions assigned to each designee will be stated in the notice with reasonable specificity. Thereafter, the designee or designees shall be changed only after Grantee has been given written notification by the City Manager.

SECTION 8. RECORDS, REPORTS, AND INSPECTIONS.

(a) Grantee shall use the system of accounts and the forms of books, accounts, records, and memoranda accepted by the Railroad Commission of Texas or its successor. Grantee shall provide the City with access at reasonable times and for reasonable purposes, to examine, audit, review, and/or obtain copies of the papers, books, accounts, documents, maps, plans and other records of Grantee pertaining to this Franchise ordinance. Grantee shall fully cooperate in making available its records and otherwise assisting in these activities. Grantee shall maintain records, accounts, and financial and operating reports in a manner that will allow the City Manager or the City Manager's designee to determine investment, cost of service, and operating expenses related to providing gas utility service to customers within the City. The City Council, the City Manager or the City Manager's designee may require the keeping of additional records or accounts reasonably necessary for administration of the franchise. If Grantee objects to a requirement of the City Manager or the City Manager's designee, Grantee may appeal the requirement to the City Council.

(b) Company will make available public reports it provides to the RRC, FERC, or SEC as City may reasonably require in the administration of this franchise and upon specific request by City.

(c) For the purpose of performing an audit of this Franchise, the City Manager, the City Manager's designee and the City Auditor's Office shall have the right, at reasonable times, to inspect the plant, equipment, and other property of the Grantee and its affiliates according to State law, and to examine, audit, and obtain copies of the papers, books, accounts, documents, and other business records of the Grantee consistent with State law. City agrees that customer-specific information shall be provided only to City's Auditor, and the City's Auditor shall not provide such information to any other City department, employee or official without Grantee's prior consent.

(d) The City agrees, to the extent allowed by law, to maintain the confidentiality of any information obtained from Grantee that the Grantee, at the time the information is provided to

City, has clearly designated as confidential or proprietary. City shall not be liable to Grantee for the release of any information the City is required by law to release. City shall provide notice to Company of any request for release of non-public information prior to releasing the information to the public so as to allow Company adequate time to pursue available remedies for protection. If the City receives a request under the Texas Public Information Act that includes Company's proprietary information, City will notify the Texas Attorney General of the proprietary nature of the document(s). The City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows the City to withhold the information.

(e) City shall not use Grantee's confidential or proprietary information for any unlawful purpose.

(f) The City retains all of the investigative powers and other rights provided to the City by the charter and State law.

SECTION 9. RULES AND REGULATIONS.

(a) In order to insure uniform and reasonable application of conditions for service and to insure availability of service to all without discrimination, the City Manager or the City Manager's designee shall review Grantee's rules and regulations concerning service furnished under this franchise.

(b) The City Council, the City Manager or the City Manager's designee may establish, after reasonable notice and hearing, such rules and regulations as may be in the public interest regarding rates, rate-making procedures including the form and content of notices and applications, the furnishing of service, administration of customer accounts, and construction of Grantee facilities on City property, on, in, under and above public rights-of-way. If Grantee objects to a rule or regulation established by the City Manager or City Manager's Designee, Grantee may appeal the rule or regulation to the City Council.

SECTION 10. SERVICE RATES.

(a) The City Council hereby expressly reserves the right, power, and authority to fully regulate and fix the rates and charges for the services of the Grantee to its customers as provided by State law and the City charter.

(b) Grantee may from time to time propose changes in its general rates by filing an application with the City secretary for consideration of the City Council. Within a reasonable time consistent with law, the City Council shall afford Grantee a fair hearing with reference to the application and shall either approve or disapprove the proposed changes or make such order as may be reasonable.

(c) In order to ascertain any and all facts, the City Council shall have full power and authority to inspect, or cause to be inspected, the books of Grantee, and to inventory and appraise, or cause to be inventoried and appraised, the property of Grantee, and to compel the attendance of witnesses and the production of books and records.

(d) The City shall not allow as to rates or services an unreasonable preference or advantage to anyone within a service classification, nor allow Grantee to subject anyone within a service classification to any unreasonable prejudice or discrimination.

(e) The City Council has authority to require the Grantee to allocate costs of facilities, revenues, expenses, taxes, and reserves between the City and other municipalities or unincorporated areas, consistent with State law.

SECTION II. DEPOSITS.

Grantee shall have the right, subject to City rules and regulations and consistent with applicable State and federal law, to require a reasonable security deposit for the payment of bills.

SECTION 12. SUSPENSION OF SERVICES.

Subject to State, federal and local laws, rules, and regulations, and if not inconsistent with other provisions of this Franchise, the Grantee may discontinue service to a customer who fails to pay a bill presented for service or make a reasonable deposit as may be required, if a deposit may be lawfully required, until the bill or deposit together with any expense for disconnecting and reconnecting the service is paid. In addition, the Grantee may discontinue service without notice, where a known dangerous condition exists, for as long as the condition exists, but if such condition is within Grantee's power to correct, Grantee shall use due diligence to correct such condition promptly and, if the customer does not otherwise request or the City does not otherwise direct, promptly upon elimination of the danger to restore service. The Grantee shall not be required to furnish service to any customer who is in default of payment or who fails to pay a reasonable deposit in accordance with duly promulgated rules and regulations, or who shall fail to comply with rules and regulations regarding proper use of facilities furnished by the Grantee. Provided, however, that nothing herein authorizes Grantee to discontinue, suspend, or refuse to furnish service if Grantee is otherwise legally prohibited from taking such action.

SECTION 13. FRANCHISE AND OTHER VIOLATIONS.

Upon evidence being received by the governing body of the City that a violation of this franchise, City charter provision, or ordinance lawfully regulating Grantee in the furnishing of service hereunder is occurring or has occurred, it shall at once cause an investigation to be made. If the governing body of this City finds that such a violation exists or has occurred, it shall take the appropriate steps to secure compliance.

SECTION 14. COMPENSATION TO THE CITY.

(a) As compensation for the rights and privileges conferred by this franchise, Grantee shall pay to the City a sum of money equal to five percent (5%) of Gross Revenues, as defined below:

- (1) all revenues received by Grantee from the sale of gas to all classes of customers (excluding gas sold to another gas utility in the City for resale to its customers within City) within the City;

- (2) all revenues received by Grantee from the transportation of gas through the system of Grantee within the City to customers located within the City (excluding any gas transported to another gas utility in City for resale to its customers within City);
- (3) the value of gas transported by Grantee for transport customers through the system of Grantee within the City ("Third Party Sales")(excluding the value of any gas transported to another gas utility in City for resale to its customers within City), with the value of such gas to be established by utilizing Grantee's monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division, as reasonably near the time as the transportation service is performed;
- (4) revenues billed but not ultimately collected or received by Grantee ("uncollectibles"), subject to Section 14(d) below;
- (5) Gross Revenues shall also include the following "miscellaneous charges": charges to connect, disconnect, or reconnect gas and charges to handle returned checks from consumers within the City; and
- (6) Contributions In Aid of Construction ("CIAC").
- (7) Gross Revenues shall not include:
 - (a) the revenue of any affiliate or subsidiary of Grantee;
 - (b) taxes or fees imposed by law on customers that Grantee is obligated to collect or authorized to recover and which Grantee passes on, in full, to the applicable governmental authority or authorities;
 - (c) interest or investment income earned by Grantee; and
 - (d) monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

(b) Payment shall be due and payable for each calendar quarter on or before noon of the 15th day of the second month following the close of the calendar quarter and shall be made by wire transfer. Should any payment due date required by this ordinance fall on a weekend or declared bank holiday, payment shall be wired to the City no later than noon of the working day prior to any specifically required due date contained within this ordinance. Payment shall be considered timely made if Grantee requests the wire transfer by 9:30 am on the day that payment is due. The payment shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon property of Grantee. During the years for which payments of percentages of gross revenues are made to the City as compensation for this franchise to use public property of the City for the purpose of engaging in the business of providing gas utility service, the payments shall be (insofar as the City has legal power to so provide and agree) in lieu of and shall be accepted as payment of all of Grantee's obligations to pay municipal charges, fees, rentals, inspection fees, easement taxes, franchise taxes, or other charges and taxes of every kind, except sales taxes, ad valorem taxes and special taxes and assessments for public improvements.

(c) Payment for franchise fees based on CIAC shall be calculated on an annual calendar year basis, i.e., from January 1 through December 31 of each calendar year. The franchise fee due the City based on CIAC shall be paid at least once annually on or before April 30 each year based on the total CIAC received during the preceding calendar year. The initial CIAC franchise fee amount will be paid on or before April 30, 2011 and will be based on the period beginning with the effective date of this Ordinance and ending on December 31, 2010. The final CIAC franchise fee amount will be paid on or before April 30, 2026 unless this agreement is renewed pursuant to Section 22, in which instance the final CIAC franchise fee amount will be paid on or before April 30, 2041.

(d) If a regulatory authority or court of competent jurisdiction determines that Grantee may not recover in Grantee's rates the compensation paid to City based on uncollectibles pursuant to Section 14(a)(4) above, then uncollectibles shall thereafter be excluded from the definition of Gross Revenues and Grantee will not seek to impose a refund or credit obligation for franchise fees already paid pursuant to Section 14(a)(4).

(e) Any transaction entered into by Grantee which has the effect of circumventing and/or evading payment of the fees required under Section 14 as of the effective date of this Franchise is prohibited.

SECTION 15. STATEMENT OF REVENUES:

Grantee shall provide to the City at or before the time the payment is due a report indicating the amount of the payment and the basis upon which the payment is calculated. The report shall be at the level of detail being provided to City at the time this franchise is accepted, as shown in Exhibit A.

SECTION 16. PRESERVATION OF RECORDS

(a) Grantee shall keep and maintain complete books, records, accounts, documents, and papers pertaining to Grantee's facilities within the City in accordance with Grantee's records retention policy for relevant records at the time this franchise is accepted a copy of which is attached hereto as Exhibit B. Maps, plats, records, inventories, and books of the Grantee pertaining to Grantee's facilities within the City, insofar as they show values of existing property, shall be preserved for use, if necessary, in connection with future valuation of the property of the Grantee.

(b) Grantee shall make available all of its books, records, accounts, documents and papers relevant to (1) Grantee's use of the Public Rights-of-Way in accordance with this Franchise, and (2) Grantee's provision of natural gas service within the City of Dallas for purposes of any City audit of franchise fees paid pursuant to this franchise; upon reasonable notice by the City of not less than 20 days, or such longer time as agreed to by City and Grantee. Such production may be at Grantee's offices if within the City, appropriate City facilities or other location provided by the Grantee and agreeable to the City.

SECTION 17. ASSIGNMENT OF FRANCHISE

(a) The rights granted by this Franchise inure to the benefit of the Grantee. The Grantee may, without consent by City, transfer or assign the rights granted by this Franchise to a parent, subsidiary or affiliate, provided that such parent, subsidiary or affiliate assumes all obligations of Grantee hereunder and is bound to the same extent as Grantee hereunder, and has net capital and liquid assets reasonably equivalent to the Grantee's as of the month immediately preceding the transfer or there are provided other guarantees or assurances of the transferee's or assignee's financial ability to perform this Franchise reasonably acceptable to the City. Grantee shall give City written notice thirty (30) days prior to such assignment.

(b) City will have the right to approve the transfer or assignment of the franchise, except as provided in Section 17(a). City shall grant approval unless the Assignee is materially weaker than Grantee. For the purpose of this section, "materially weaker" means that the long term unsecured debt rating of the Assignee is less than investment grade as rated by both S&P and Moody's. If the Assignee is materially weaker, the City may request additional documents and information reasonably related to the transaction and the legal, financial, and technical qualifications of the Assignee. City agrees that said approval shall not be unreasonably withheld or delayed. Any such assignment or transfer shall require that said Assignee assume all obligations of Company be bound to the same extent as Grantee hereunder. If within the first 90 days after assignment to Assignee, City identifies a failure to comply with a material provision of this Franchise, City shall have the right, after notice and opportunity for hearing before Council, to terminate this Franchise.

SECTION 18. CONFORMITY TO CONSTITUTION, STATUTES, CHARTER, CITY CODE.

This ordinance is passed subject applicable provisions of the Constitution and Laws of the United States and the State of Texas, the Charter of the City of Dallas, and the Dallas City Code. This franchise agreement shall in no way affect or impair the rights, obligations, or remedies of the parties under the Public Utility Regulatory Act of Texas. Except as expressly provided herein Grantee shall not recover costs or expenses from the City for taking any actions mandated by this Franchise or by any order or request issued by authority of this Franchise.

SECTION 19. INDEMNITY.

That Grantee shall defend, indemnify and save whole and harmless the City and all of its officers, agents, and employees against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death) , property damage or other harm for which recovery of damages is sought suffered by any person or persons that may be occasioned by, or arise out of Grantee's breach of any of the terms or provisions of this ordinance, or by any negligent or strictly liable act, or omission by Grantee, its officers, agents, employees, subcontractors, affiliates and subsidiaries, in the construction, maintenance, operation, or repair of the distribution system, or by the conduct of Grantee's business in the City pursuant to this ordinance; or by litigation expenses including discovery costs and expenses including attorneys fees and expenses involving the Franchise or the Grantee regardless of the identity of parties except that the indemnity provided for in this section shall not apply to any liability resulting

from the sole negligence or fault of the City, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence or fault of both the Grantee and the City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas without, however, waiving any governmental immunity available to the City under Texas law and without waiving any of the defenses of the parties under Texas law. It is understood that it is not the intention of the parties hereto to create liability for the benefit of third parties, but that this section shall be solely for the benefit of the parties hereto and shall not create or grant any rights, contractual or otherwise, to any person or entity.

SECTION 20. GOOD FAITH EFFORT.

Grantee agrees to faithfully adhere to all applicable federal, state and City rules and regulations pertaining to non-discrimination, equal employment and affirmative action. Company also agrees to continue in its commitment to maintain fairness and equality in the workplace and in its purchases of goods, equipment, and other services.

SECTION 21. INSURANCE.

That Grantee will insure against the risks undertaken pursuant to this franchise, including indemnification under Section 19 hereof. Such insurance may be in the form of self-insurance to the extent permitted by applicable law under a Grantee approved formal plan of self-insurance maintained in accordance with sound accounting practices. Otherwise, Grantee shall maintain reasonably adequate insurance covering its obligations of indemnity under Section 19 hereof. A certificate of insurance and a complete copy of the insurance policy including all riders, exhibits, amendments, and attachments shall be provided to the City annually and upon any substantial change in the nature of its coverage under this section. Should Grantee elect to self-insure, its annual notice to the City shall contain information describing with reasonable particularity all procedures for filing a claim.

SECTION 22. TERM; RENEWAL.

This franchise shall expire on December 31, 2025; provided, that at the end of the expiration of the initial period, the term shall be automatically renewed for one additional 15 year period to expire on December 31, 2040, unless written notice is given to the Grantee by the City or to the City by the Grantee 120 days before the expiration date, setting forth the desire of the giver of the notice to terminate this franchise, in which event this franchise shall terminate at the expiration of the initial 15 year period. Grantee shall give 12 months written notice to the City of the expiration of the initial period. If Grantee fails to give 12 months written notice to the City, and City does not give written notice to the Grantee 120 days before the expiration date, setting forth the desire of the City to terminate this franchise, then the franchise shall be automatically renewed for a term of one year and shall continue to be renewed annually for one year terms until such notices are received. In no event shall the franchise be automatically renewed to expire after December 31, 2040.

SECTION 23. RIGHT OF APPEAL.

Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest or appeal any action or decision of the other party made contrary to any federal, state or local law or regulation.

SECTION 24. REPEAL.

That Ordinance No. 16240, , as amended, and all other ordinances amending the previous franchise, including, but not limited to Ordinance Nos. 22049, 22155, and 22245, are hereby repealed. All other ordinances, rules, regulations, and agreements which in any manner relate to the regulation of or provision for gas utility services by Grantee shall remain in full force and effect, to the extent that they are consistent with this franchise.

SECTION 25. SEVERABILITY.

Should any material word, clause, phrase, sentence, paragraph or section of this franchise be held invalid by any court of competent jurisdiction, such ruling or judgment shall not affect the validity of any other part, but the same shall remain in full force and effect, the provisions hereof being severable, except that either party can within 90 days after such ruling or judgment become final serve written notice of intent to terminate this Franchise by reason of such judgment or ruling unless the parties agree on an amendment acceptable to both parties that addresses the change caused by such judgment or order. If the parties do not amend this Franchise within 90 days after receipt of such notice, this Franchise terminates 120 days after receipt of such notice.

SECTION 26. EFFECTIVE DATE: AUTHENTICATION.

This ordinance shall take effect immediately from and after its passage, and publication in accordance with the provisions of the Charter of the City of Dallas and subject to its acceptance as provided below, and it is accordingly so ordained.

SECTION 27. ACCEPTANCE OF FRANCHISE.

(a) The Grantee shall, by 5:15 p.m., March 1, 2010, file in the office of the City Secretary a written instrument signed and acknowledged by a duly authorized officer, in substantially the following form:

To the honorable Mayor and City Council of the City of Dallas:

The Grantee, Atmos Energy Corporation, acting by and through the undersigned authorized officer, hereby accepts Ordinance No. _____ granting a franchise to Atmos Energy Corporation.

President
Atmos Energy Corporation
Mid-Tex Division

ATTEST:

Secretary of Atmos Energy Corp.
Executed this, _____ the _____ day of , 20__.

(b) Upon filing of the acceptance, this franchise shall become effective as of the date of it's passage and publication. In the event the acceptance is not filed by 5:15 p.m., March 1, 2010, this ordinance and the rights and privileges hereby granted shall terminate and become null and void.

APPROVED AS TO FORM:
Thomas P. Perkins, Jr., City Attorney

By: _____
Assistant City Attorney