

**GRANTING A FRANCHISE TO ALABAMA GAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, IN THE CITY OF PHENIX CITY, ALABAMA**

**BE IT ORDAINED** by the Mayor and the City Council of the City of Phenix City, Alabama, as follows:

**Section 1.** In consideration of the benefits to accrue to said City of Phenix City, Alabama, (hereinafter called the “City”) and the inhabitants thereof, Alabama Gas Corporation, its successors and assigns (hereinafter called the “Company”), is hereby given, granted and vested with the rights, authority, privileges and franchises hereinafter set forth.

**Section 2.** The Company is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, own, maintain, operate, extend and enlarge in the City a plant or system for the manufacture, transmission, distribution and sale of gas for all purposes whatsoever in and through the City; and the consent of the City acting through the Mayor and the City Council, who are the proper authorities of the City is hereby given to the Company to use the streets, avenues, alleys, ways, bridges and public places in said City for any and all of the purposes referred to in this Ordinance. The City will not vacate any public right-of-way containing any Company facilities without first advising the Company of its intention to vacate the right-of-way and cooperating with the Company in reasonable attempts to obtain the necessary property rights to maintain its facilities in the right-of-way.

**Section 3.** The Company is hereby granted and vested with the right, privilege and franchise to construct, erect, lay, install, renew, repair, maintain, operate, use and extend at any time, subject to reasonable permitting fees through the City of Phenix City Engineering Department, it’s main, conduits, appliances, appurtenances and fixtures under, along and across any street, avenue, alley, bridge, viaduct, underpass, or public place in the City.

**Section 4.** The said mains, pipes, conduits, appliances, appurtenances and fixtures shall be so laid, set or constructed as not to unreasonably interfere with the proper use of the streets, avenues, alleys, ways, bridges, viaducts, underpasses, and public places in the City, and shall be maintained in reasonably good condition and repair, and to that end the Company shall abide by all lawful and reasonable ordinances and resolutions that have been or may be duly adopted by the

governing body of the City. However, all ordinances and parts of ordinances in conflict with this ordinance or with any of its provisions are to the extent of such conflict, hereby repealed.

**Section 5.** Whenever the Company shall cause any opening or alteration to be made in any of the streets, avenues, alleys, ways, bridges, viaducts, underpasses, or public places of the City for the purpose of laying, setting, maintaining, operating, or repairing any mains, pipes, conduits, appliances, appurtenances or fixtures, the work shall be completed within a reasonable time and the Company shall, upon the completion of such work, restore such portion of the streets, avenues, alleys, ways, bridges, or public places to as reasonably practicable condition as existed before the opening or alteration was made.

**Section 6.** The Company shall hold the City harmless from any and all liability or damages resulting from the negligence of the Company in the construction and maintenance of said mains, pipes, conduits, appliances, appurtenances and fixtures.

**Section 7.** The Company shall have the power and authority, subject to the supervision of the Alabama Public Service Commission or other duly constituted governmental authority vested with the power now vested in the Alabama Public Service Commission to supervise and regulate public utilities in the State of Alabama, to make, adopt and enforce rates, rules and regulations for the furnishing of gas and for the reasonable operation of its plant and system and shall have the right at all reasonable hours to have access to its gas pipes and the meters of any consumer for the purpose of making repairs and other proper purposes.

**Section 8.** The duration of this franchise shall be for a period of thirty (30) years from the date of its adoption by the Mayor and the City Council.

**Section 9.** As a condition to the continued existence of the franchise herein granted and as compensation or consideration for the granting thereof, the Company agrees by its acceptance hereof that it will pay to the City, in addition to all business licenses and taxes now or hereafter required by law to be paid, a franchise fee of one percent (1%) of gross gas sales revenues received by the Company from the sale and delivery of gas during the preceding calendar year to customers within the corporate limits and police jurisdiction (so long as the City is providing services in the police jurisdiction) of the City, except for gas which is sold within the corporate limits of another municipality which has granted the Company a franchise.

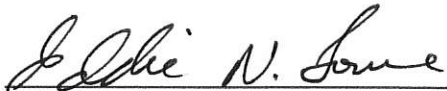
**Section 10.** This Ordinance shall be published in accordance with the applicable provisions of Section 11-45-8 of the Code of Alabama (1975). Such publication shall be done by the City Clerk of the City and thereafter the City Clerk shall enter upon the minutes of the City, immediately after the place where this Ordinance is recorded, a certificate setting forth that such


Ordinance was published in accordance with the terms hereof and the laws of the State of Alabama. The expense of such publication shall be paid by the Company.


**Section 11.** Upon filing by the Company with the Clerk of the City of a written acceptance of this Ordinance and of the franchise granted hereby, this Ordinance shall constitute a contract between the City and the Company and their respective successors and assigns.

**Section 12.** The enactment of this franchise in the manner hereinabove provided shall have the effect of terminating any other franchise heretofore granted by the City and then held by the Company covering the distribution of gas in the City and territory contiguous thereto.

**PASSED, ADOPTED AND APPROVED** this 15<sup>th</sup> day of November, 2016.

  
MAYOR










MEMBERS OF THE CITY COUNCIL OF  
THE CITY OF PHENIX CITY, ALABAMA

ATTEST:

  
CITY CLERK