

AN ORDINANCE

AN ORDINANCE, GRANTING TO ATLANTA GAS LIGHT COMPANY, A GEORGIA CORPORATION, HEREINAFTER DESIGNATED AS "GRANTEE", ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE FOR USE OF RIGHTS-OF-WAY AND OTHER PUBLIC PROPERTY OF THE CITY OF SANDY SPRINGS, GEORGIA, FOR CONSTRUCTING, MAINTAINING, RENEWING, REPAIRING, AND OPERATING GAS DISTRIBUTION SYSTEMS, AND OTHER NECESSARY MEANS FOR TRANSMITTING, DISTRIBUTING AND SELLING GAS WITHIN AND THROUGH THE CITY OF SANDY SPRINGS, GEORGIA; TO FIX THE TERMS AND CONDITIONS OF SUCH GRANT; TO PROVIDE PROVISIONS GOVERNING THE FRANCHISEE CALCULATION; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the City of Sandy Springs, Georgia, hereinafter referred to as the City, and the undersigned warrant and represent that there is no franchise granted by the City and in force and effect, to any other person, firm or corporation and that the City is under no contract or obligation to any other person, firm or corporation, in anywise relating to the installation of gas service in the City of Sandy Springs, Georgia; now, therefore:

BE IT ORDAINED by the Mayor and Council of the City of Sandy Springs, Georgia, as follows:

SECTION 1.

- (a) *Base Year* means the fiscal year ending September 30, 2006.
- (b) *Base Year Franchise Fee Factor* shall mean \$13.85.
- (c) *Dedicated Design Day Capacity* shall mean 51,972.767 dekatherms, which represents the sum of the individual capacity attributable to all firm customers located within the city limits of the City, as of the last day of the previous fiscal year.
- (d) *Firm Customers* means all residential and business customers who purchase gas service that ordinarily is not subject to interruption or curtailment.

(e) *Fiscal Year* means the 12 months ending September 30, of each year.

(f) *Inflation Index* means the percentage change in the Consumer Price Index for all Urban Consumers as published by the Bureau of Labor Statistics, or any successor index, for the period from September 30, 2005, to the beginning of the then current fiscal year, as reduced by any productivity factor adjustment for the same time period determined by the Georgia Public Service Commission for the Grantee.

(g) *Productivity Factor Adjustment* or PFA means the percent change in the cost of service due to productivity either explicitly or implicitly determined by the GPSC.

SECTION 2

The right is hereby granted to the Grantee, its successors and assigns, to lay, construct, extend, maintain, renew, replace and repair gas pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages under, along, through and across any streets, avenues, roads, public highways, alleys, lanes, ways, parks, rights-of-way and other public places in the City (hereinafter collectively referred to as the "City's Rights-of-Way") and to use and occupy the City's Rights of Way for the purpose of therein laying, constructing, extending, maintaining, renewing, replacing and repairing mains, pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages thereto, used for the manufacture, transmission, distribution and sale of gas within and through the present or future territorial limits of the City, such right, when exercised as herein provided, to continue for a term not to exceed (1) year from the date of the Grantee's acceptance hereof, expiring December 31, 2006, or until this ordinance is replaced by a subsequent ordinance by the parties, which term can be extended upon the mutual consent of the City and the Grantee.

SECTION 3.

Grantee shall be entitled to charge for gas furnished by it such rates as are prescribed by the Public Service Commission or other lawful regulatory Body of the State of Georgia.

SECTION 4.

The total dollar amount of franchise fees paid by the Grantee to the City shall be calculated as follows:

The current Fiscal Year total franchise fee shall equal the product of the Current Franchise Fee Factor and the Design Day Capacity.

The Current Franchise Fee Factor shall be equal to the product of the Base Year Franchise Fee Factor and one plus the Inflation Index expressed as a decimal to three significant digits.

The following formula quantifies this payment: $FF = FFFbY \times (1 + (CPI-PFA)) \times DDC$

Where,

FF = total franchise fees due City for the current Fiscal Year

FFFby = the Base Year Franchise Fee Factor = $FFbY / DDCbY$

FFbY = the total franchise fees paid in the Base Year

DDCbY = the Design Day Capacity of the Base Year

CPI-PFA = the Inflation Index

DDC = the Design Day Capacity as of the last day of the previous fiscal year

The Grantee as the holder of the franchise privilege hereunder is responsible for the payment of all franchise fees payable hereunder, and shall file such reports and returns as required by this franchise ordinance, including information used to determine each of the components of the above formula. In addition, the Grantee shall report

annually to the City the names of all gas marketers for which Grantee is transporting natural gas on the distribution system within the City.

The Grantee shall remit to the City quarterly franchise fee installments. The installments shall equal one-fourth (1/4) of the total amount franchise fee calculated in accordance with this franchise ordinance. The quarterly payment is due and payable on or before the 30th day following the last day of each quarter as follows: February 28, May 31, August 31, and November 30.

The franchise fee payments required hereunder shall not prohibit imposition of a license fee or an occupation tax on gas marketers. The Mayor and Council of the City, through its authorized representative or representatives, shall have the right to inspect and audit the books and records of Grantee for the purpose of determining the amount of its revenues received from the sale of gas as set forth above within said territorial limits.

SECTION 5.

All rights herein granted and authorized by the City shall be subject to and governed only by this ordinance; provided, however, that the City expressly reserves unto itself all power to adopt general ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted not inconsistent with the provisions of this ordinance.

SECTION 6.

Grantee upon making an opening in the City's Rights-of-Way, for the purpose of laying, repairing or maintaining gas mains, shall use due care and caution to prevent injury to persons, and shall replace and restore the City's Rights-of Ways to their former condition as early as practicable, and within a reasonable time, and shall not unnecessarily obstruct or impede traffic upon the streets, avenues, roads, public highways, alleys, lanes, ways, parks and other places of said City. Grantee shall also use

reasonable efforts, except in case of emergency, not to obstruct or impede traffic between 6:30 am and 9:30 am, and 4:30 pm to 6:30 pm, weekends and holidays excluded.

SECTION 7.

Grantee shall save and keep harmless the said City from any and all liability by reason of damage or injury to any person or persons whomsoever, on account of negligence of the Grantee in the installation, maintenance and repair of its mains and pipe lines located in the City's Rights-of-Way, provided the Grantee shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend the same.

SECTION 8.

Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person, and One Million Dollars (\$1,000,000.00) for bodily injury or death to any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days' prior written notice to the Franchising Authority. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers' compensation claims to which the Grantee may become subject during the term of this Franchise Agreement. Alternatively, and in lieu of the foregoing insurance

requirements, the Grantee may elect to self-insure against all or some of the risks associated with the scope of work contained in this Ordinance if it can provide evidence of its ability to do so upon request.

SECTION 9.

This ordinance, after its passage according to law, in writing duly filed with the City Clerk, shall be effective and in full force on December 1, 2005.

SECTION 10.

If the City grants a franchise to any other person, firm or corporation, for the distribution and selling of gas, or if the City elects to establish a municipal system for the distribution and selling of gas, any proposed facilities within the certificated area of Atlanta Gas Light Company must receive prior approval by the Georgia Public Service Commission (GPSC). City shall notify, or shall require any other person, firm or corporation franchised for the distribution and selling of gas to notify, the GPSC and Grantee of their intent to install facilities parallel to and within the rights-of-way with Grantee facilities at least thirty (30) days prior to installation and such installation shall not be initiated without the written consent of the Georgia Public Service Commission provided, however, that the GPSC shall act on such notice within a reasonable amount of time and such consent shall not be unreasonably withheld.

SECTION 11.

The City will not charge the Grantee any other franchise fee, occupation tax, regulatory fee, as prohibited by O.C.G.A. § 48-13-16, or any other fee prohibited by state law, based on services covered by this agreement.

SECTION 12.

In the event that any provision of this ordinance should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, the

remaining provisions of this ordinance shall survive and be applied, and together with the invalid or unenforceable portion shall be construed or reformed to preserve as much of the original words, terms, purpose and intent as shall be permitted by law.

SECTION 13.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted by the Council of the City of Sandy Springs, Georgia, at a meeting held on October 3, 2006. Approved: October 3, 2006

Mr. Colombo

Mayor

I, Jeanette R. Marchiavano, Clerk of the City of Sandy Springs, Georgia, hereby certify that I was present at the meeting of the Mayor and Council of the City of Sandy Springs, Georgia, held on October 3, 2006, which meeting was duly and legally called and held, and at which a quorum was present, and that an ordinance, a true and correct copy of which I hereby certify the foregoing to be, was duly passed and adopted by the Mayor and Council of the City of Sandy Springs, Georgia, at said meeting.

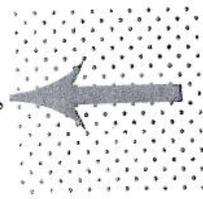
IN WITNESS WHEREOF, I hereunto set my hand and the seal of the City of Sandy Springs, County of Fulton, State of Georgia, this 4th day of October, 2006.

Jeanette R. Marchiavano

Clerk

(SEAL)

Accepted on behalf of Atlanta Gas Light Company, this _____ day of _____,



2006.

Atlanta Gas Light Company

By: _____

Name: _____

Title: _____