

**ORDINANCE 2022-02**

**AN ORDINANCE OF THE CITY OF WALTON, KENTUCKY, CREATING A NON-EXCLUSIVE FRANCHISE FOR THE ERECTION, LAYING OPERATION AND MAINTENANCE OF NATURAL GAS TRANSMISSION AND DISTRIBUTION FACILITIES AND APPURTENANT EQUIPMENT IN, ALONG AND ACROSS THE PUBLIC WAYS, ROADS, STREETS, ALLEYS AND OTHER PUBLIC PLACES IN THE CITY OF WALTON, KENTUCKY: FOR FURNISHING AND SELLING NATURAL GAS SERVICES AND PRODUCTS BY MEANS OF SAID FACILITIES; AND PROVIDING FOR THE SALE OF SAID FRANCHISE.**

**WHEREAS**, the City of Walton (“City”) wishes to ensure that natural gas service continues to be available to be furnished to its citizens in a reliable and efficient manner;

**WHEREAS**, the City is aware that the provision of such service requires the continued use of public streets, ways, alleys and other public places;

**WHEREAS**, the franchise granted to and acquired by the current franchisee under which it provides such natural gas service has or will expire;

**WHEREAS**, the City wishes to provide for the sale of a new franchise for the benefit of its citizenry, giving effect to Section 96.010 of the Kentucky Revised Statutes;

**NOW, THEREFORE, BE IT ORDAINED** as follows:

**SECTION 1:** A competitive non-exclusive franchise (“Franchise”) to use the City’s public rights-of-way, public streets, ways, alleys and other public places for the purpose of the erection, laying, operation and maintenance of natural gas transmission and distribution facilities and appurtenant equipment is hereby created.

**SECTION 2:** The Franchise created by this Ordinance shall be bid in accordance with the applicable requirements of the Constitution of the Commonwealth of Kentucky and Chapter 424 of the Kentucky Revised Statutes, as well as any applicable City Ordinances.

**SECTION 3:** The Franchise created by this Ordinance shall be awarded to the highest and best bidder as shall be determined by the City in its sole discretion. In awarding the Franchise, the City shall consider the technical, managerial, and financial qualifications of the bidders to perform their obligations under the Franchise. The winning bidder shall include provisions for the collection of a franchise fee from its customers equal to zero percent (0%) of the cost of the gas, to be remitted to the city, and that the City reserves the right to increase the franchise fee at any time upon prior ninety (90) days written notice to the winning bidder. Should the City exercise said right to increase the franchise fee, the City shall receive a monthly payment of up to five percent (5%) of gross receipts per month from the winning bidder’s sale of natural gas (which includes businesses, industrial facilities and dwellings) inside the City’s corporate

limits beginning with the first billing cycle on or after the later of ninety (90) days after the date of the written notice or the effective date of the franchise fee specified in the City's notice.

**SECTION 4:** The winning bidder and the City shall negotiate, execute and be bound by Franchise Agreements to contain terms that are fair and reasonable to the City, to the purchasers of the Franchise and to the patrons of the utilities, pursuant to KRS Section 96.010. Such Franchise Agreements shall take effect upon execution and according to the terms of the Agreements.

**SECTION 5:** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 6:** If any sentence, clause, section or part of this ordinance or the application thereof to any particular situation is, for any reason, found to be unconstitutional, illegal or invalid, the invalidity of any provision of this Ordinance shall not affect the validity of any other provisions hereof, and such other provisions shall remain in full force and effect as long as they remain valid in the absence of that provision determined to be invalid.

**SECTION 7:** Time is of the essence in carrying out the terms and the provisions of this Ordinance and the Franchise created herein.

**SECTION 8:** This Ordinance shall become effective from and after its passage and publication.

**SECTION 9:** This ordinance may be read and published in summary form.

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PASSED AND APPROVED ON FIRST READING BY 5 OF 6 MEMBERS OF CITY COUNCIL ON THE 11<sup>TH</sup> DAY OF JANUARY, 2022.

PASSED AND APPROVED ON SECOND READING BY 6 OF 6 MEMBERS OF CITY COUNCIL ON THE 8<sup>TH</sup> DAY OF FEBRUARY, 2022.

APPROVED:

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GABRIEL D. BROWN, MAYOR

ATTEST:

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GEVANA HICKS, CITY CLERK

DATE OF PUBLICATION: March 3, 2022