

ORDINANCE 2026-002

AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF WOLFFORTH, LUBBOCK COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; AND REPEALING ALL PREVIOUS GAS FRANCHISE ORDINANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOLFFORTH, TEXAS:

SECTION 1. GRANT OF AUTHORITY: The City of WOLFFORTH, Texas, hereinafter called "City," hereby grants to Atmos Energy Corporation, West Texas Division, hereinafter called "Atmos Energy," its successors and assigns, consent to use and occupy the present and future streets, alleys, highways, public utility easements, public ways and other public places ("Public Rights-of-Way"), for the purpose of laying, maintaining, constructing, protecting, operating, and replacing therein and thereon pipelines and all other appurtenant equipment (the "System") to deliver, transport, and distribute gas in, out of, and through City for persons, firms, and corporations, including all the general public, and to sell gas to persons, firms, and corporations, including all the general public, within the City corporate limits, as such limits may be amended from time to time during the term of this franchise, said consent being granted for a term ending February 28, 2046.

SECTION 2. CONSTRUCTION, MAINTENANCE, OPERATION & RELOCATION OF ATMOS ENERGY FACILITIES:

A. Atmos Energy shall lay, maintain, construct, operate, and replace its pipes, mains, laterals, and other equipment to minimize interference with traffic, place or cause to be placed appropriate barriers to mark excavations or obstructions, and restore to approximate original condition all Public Rights-of-Way that it may disturb. In determining the location of the facilities of the City and other users of Public Right-of-Way within City, City shall minimize interference with then existing facilities of Atmos Energy and shall require other users of Public Rights-of-Way to minimize interference with existing facilities of Atmos Energy. In the event of a conflict between the location of the proposed facilities of Atmos Energy and the location of the existing facilities of City or other users of Public Rights-of-Way within Public Rights-of-Way that cannot otherwise be resolved, City or an authorized

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agent of City shall resolve the conflict and determine the location of the respective facilities within the Public Rights-of-Way.

Atmos Energy or contractors working on behalf of Atmos Energy shall not be required to pay for street cutting, street excavation or other special permits related to excavations in Public Rights-of-Way in connection with Atmos Energy's operations in Public Rights-of-Way. Notwithstanding the foregoing, Atmos Energy shall still be required to obtain such permits. To the extent that one exists, City shall provide Atmos Energy with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. City shall notify Atmos Energy as soon as reasonably possible of any projects that will affect Atmos Energy's facilities located in the Public Rights-of-Way. When required by City to remove or relocate its mains, laterals, and/or other facilities lying within Public Rights-of-Way, Atmos Energy shall do so as soon as practically possible with respect to the scope of the project. Schedules for such work shall be developed by the designated representatives of Atmos Energy and the City. If such representatives cannot agree on the schedule, the City Manager or designee, after consultation with Atmos Energy, shall establish a schedule. In no event shall Atmos Energy be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to Atmos Energy by City.

- B. If City, in constructing its sewers, drainage, water lines, streets, or utilities, should request that Atmos Energy remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way, Atmos Energy shall do so at its own expense for facilities that are in conflict, unless such work is for the primary purpose of beautification or to accommodate a private developer. Facilities are deemed to be in conflict to the extent that the proposed City facilities are determined by Atmos Energy to be inconsistent with gas distribution industry standard safe operating practices for existing facilities. Atmos Energy shall not be required to relocate facilities to a depth of greater than four (4) feet unless prior agreement is obtained from Atmos Energy.

Atmos may seek payment from any entity, agency, person, or party of any amount to which Atmos may be entitled because of such change in location, position, route, or depth or because of the abandonment of any pipeline or other component of the gas system regardless of whether such pipeline or component is wholly or partially located in any public or private way or right-of-way.

When Atmos Energy is required by City to remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way to accommodate a request by City, and costs of utility removals or relocations are eligible under federal, state, county, local or other programs for reimbursement of costs and expenses incurred by Atmos Energy as a result of such removal or relocation, and such reimbursement is required to be handled through City, Atmos Energy costs and expenses shall be included in any application by City for reimbursement if Atmos Energy submits its cost and expense documentation to City prior to the filing of the application. City shall provide reasonable written notice to Atmos Energy of the deadline for Atmos Energy to submit documentation of the costs and expenses of such relocation to City.

- C. When Atmos Energy is required to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City, Atmos Energy 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 Atmos Energy to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. City shall not oppose recovery of relocation costs when Atmos Energy is required by City to perform relocation. City shall not require that Atmos Energy document request for reimbursement as a pre-condition to recovery of such relocation costs.
- D. If any facilities of the City shall be in any respect damaged or injured by Atmos Energy or any of its officers, agents, or employees in connection with the negligent performance of work done under this Franchise Agreement upon the streets, avenues, alleys, or other public places of the City of Wofforth, then Atmos Energy shall pay for such damage. Likewise, if any facilities of Atmos Energy shall be in any respect damaged or injured by the City or any of its officers, agents, or employees in connection with the negligent performance of work done upon the streets, avenues, alleys, or other public places of the City of Wofforth, then the City shall pay for such damage.
- E. If City abandons any Public Rights-of-Way in which Atmos Energy has facilities, such abandonment shall be conditioned on Atmos Energy's right to maintain its use of the former Public Right-of-Way and on the obligation of the party to whom the Public Right-of-Way is abandoned to reimburse Atmos Energy for all removal or relocation expenses if Atmos Energy agrees to the removal or relocation of its facilities following abandonment of the Public Right-of-Way. If the party to whom the Public Right-of-Way is abandoned requests Atmos Energy to remove or relocate its facilities and Atmos Energy agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time

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at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 3. INDEMNITY & INSURANCE: In the event of injury to any person or damage to any property by reason of Atmos Energy's construction, operation, maintenance, or replacement of Atmos Energy's pipeline system within Public Rights-of-Way, Atmos Energy shall indemnify and keep harmless City from any and all liability in connection therewith, except to the extent such injury or damage is attributable to the fault of the City, including, without limitation, the City's negligent or intentional acts or omissions. Atmos Energy's insurance of its obligations and risks undertaken pursuant to this franchise may be in the form of self-insurance to the extent permitted by applicable law, under an Atmos Energy plan of self-insurance maintained in accordance with sound accounting and risk-management practices. Atmos Energy will require its self-insurance to respond to the same extent as if the City was an additional insured.

SECTION 4. NON-EXCLUSIVE FRANCHISE: The rights, privileges, and franchises granted by this ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of transporting, delivering, distributing, or selling gas to and for City and the inhabitants thereof.

SECTION 5. PAYMENTS TO CITY:

- A. Atmos Energy, its successors and assigns, agrees to pay and City agrees to accept, within thirty (30) days after the end of each calendar quarter, a franchise fee equal to 5% of Atmos' Gross Revenues, as defined in 5.B below, received by Atmos Energy during the preceding calendar quarter.
- B. "Gross Revenues" shall mean:
- (1) all revenues received by Atmos Energy 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 Atmos Energy from the transportation of gas through the System of Atmos Energy 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 Atmos Energy for Transport Customers through the System of Atmos Energy 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 Atmos Energy's Gas Cost Adjustment tariff on file with the applicable regulatory authority for gas sales customers in the West Texas division, as reasonably near the time as the transportation service is performed; and

- (4) "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.
- (5) "Gross Revenues shall include franchise fees paid to the City.
- (6) "Gross Revenues" shall not include:
 - a) revenues billed but not ultimately collected or received by Atmos Energy;
 - b) contributions in aid of construction;
 - c) the revenue of any affiliate or subsidiary of Atmos Energy;
 - d) sales tax paid to the City;
 - e) interest or investment income earned by Atmos Energy; and
 - f) 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.

C. The initial payment for the rights and privileges herein provided shall be for the privilege period January 1, 2026 through March 31, 2026, and each succeeding quarterly payment shall be for the privilege period of the preceding calendar quarter.

It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that City may now impose or hereafter levy and collect from Atmos Energy or Atmos Energy's agents, excepting only the usual general or special ad valorem taxes that City is authorized to levy and impose upon real and personal property. If the City does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges aforesaid, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy Atmos

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Energy's obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges aforesaid.

D. Atmos Energy Franchise Fee Recovery Tariff

- (1) Atmos Energy may file with the City a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement.
- (2) City agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of Atmos Energy's rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of Atmos Energy's franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by Atmos Energy and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Atmos Energy.
- (3) City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Atmos Energy.

E. Effect of Other Municipal Franchise Ordinance Fees Accepted and Paid by Atmos Energy

If Atmos Energy should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in Atmos Energy's West Texas Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its public rights-of-way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise due City under this Ordinance, then the franchise fee to be paid by Atmos Energy to City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other franchise ordinance applied to City. The City acknowledges that the exercise of this right is conditioned upon the City's acceptance of all terms and conditions of the other municipal franchise in toto. The City may request waiver of certain terms and Atmos Energy may grant, in its sole reasonable discretion, such waiver.

- F. City shall within thirty (30) days of final approval, give Atmos Energy notice of annexations and dis-annexations of territory by the City, which notice shall include a map and addresses, if known. Upon

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receipt of said notice, Atmos Energy shall promptly initiate a process to reclassify affected customers into the city limits no later than sixty (60) days after receipt of notice from the City. The annexed areas added to the city limits will be included in future franchise fee payments in accordance with the sales tax effective date of the annexation if notice was timely received from City. Upon request from City, Atmos Energy will provide documentation to verify that affected customers were appropriately reclassified and included for purposes of calculating franchise fee payments. In no event shall Atmos Energy be required to add premises for the purposes of calculating franchise payment prior to the earliest date that the same premises are added for purposes of collecting sales tax.

SECTION 6. ANNUAL RECEIPTS REPORT / RIGHT TO AUDIT: At the time of each quarterly payment, Atmos Energy shall provide a statement showing the Gross Revenues, as defined above, of Atmos Energy during the preceding calendar quarter within the City of Wolfforth. City shall be entitled to treat such statement as though it were sworn and signed by an officer of Atmos Energy. For the purpose of determining the amount of the Gross Revenues at all times during the continuance of the rights herein granted, Atmos Energy shall keep at the disposal of and open to inspection by any auditor authorized and appointed by City at all reasonable times, books of accounts and other records showing a full, true, complete and accurate account of the Gross Revenues of Atmos Energy within the corporate limits of the City.

SECTION 7. ACCEPTANCE OF FRANCHISE: In order to accept this franchise, Atmos Energy must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City. If such written acceptance of this franchise ordinance is not filed by Atmos Energy, the franchise ordinance shall be rendered null and void.

When this franchise ordinance becomes effective, all previous ordinances of City granting franchises for gas delivery purposes that were held by Atmos Energy shall be automatically canceled and annulled, and shall be of no further force and effect.

SECTION 8. OTHER ORDINANCES: Except to the extent otherwise expressly provided herein, the franchise and rights granted hereby and the operations and activities performed by Atmos pursuant hereto shall be subject to all valid ordinances and regulations of the City and any valid amendments thereto insofar as, and only insofar as, such ordinances and regulations (i) do not shorten the term hereof or terminate, abrogate, or materially and adversely affect the franchise and rights granted to Atmos hereby or (ii) do not conflict with or are not inconsistent with the terms and provisions contained in this Ordinance.

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SECTION 9. PARAGRAPH HEADINGS. CONSTRUCTION: The paragraph headings contained in this ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this ordinance and this ordinance shall not be construed either more or less strongly against or for either party.

SECTION 10. GRANDFATHERED FACILITIES: Notwithstanding the provisions of this Ordinance in Section 1 as to the placement of Company facilities in the Public-Rights-of-Way as defined therein, in the event, as of the effective date of this Ordinance, the Company has existing facilities that are installed and located outside the Public Rights-of-Way but which are on, in, under or above public places and grounds over which the City has control or authority, such placement being authorized under prior franchises with the City, such facilities may remain in place during the term of this Franchise and, for the purposes of this Ordinance, be treated by Company and City as if they were located within the Public Rights-of-Way and being subject to the provisions of this Ordinance.

Additionally the City will reasonably consider the Company's future request on a case-by case basis for the placement of additional Company facilities on, in, under and above public places and grounds over which the City has control or authority over such public places or grounds, with such facilities, for the purposes of this Ordinance, being treated by Company and City as if they were located within the Public Rights-of-Way. The City will timely consider Company's request, giving due regard to the public's health, safety and welfare and the City's then current use and prospective use of such property and of the Company's needs for the use of such property. In the event City allows Company to install such facilities, the provisions of this Ordinance will be applicable to such facilities.

SECTION 11. EFFECTIVE DATE: If Atmos Energy accepts this ordinance, it becomes effective as of _____, 2026.

PASSED AND APPROVED on this the 2nd day of February, 2026.

Charles Addington, II, Mayor
City of Wolfforth, Texas

