

RESOLUTION 08082016

A RESOLUTION ACCEPTING THE BID OF KENTUCKY UTILITIES COMPANY, INC AND BLUE GRASS ENERGY, IN ACCORDANCE WITH THE PROVISIONS OF ORDINANCE 947-2016: AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE ELECTRIC FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRIC ENERGY WITHIN THE PUBLIC RIGHTS OF WAY OF THE CITY OF NICHOLASVILLE FOR AN INITIAL TEN (10) YEAR PERIOD WITH UP TO TWO (2) ADDITIONAL EXTENSIONS OF TIME OF FIVE (5) YEARS EACH, IN RETURN FOR PAYMENT TO THE CITY OF NICHOLASVILLE OF THE SUM OF THREE PERCENT (3%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES RECEIVED FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF ELECTRIC ENERGY WITHIN THE CITY OF NICHOLASVILLE; RESERVING THE RIGHT TO INCREASE THE FRANCHISE FEE IN THE AMOUNT NOT TO EXCEED FIVE PERCENT (5%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF ELECTRIC ENERGY WITHIN THE CITY OF NICHOLASVILLE AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS, AND STANDARDS; A PERFORMANCE BOND; INDEMNIFICATION; INSURANCE; ACCESS TO PROPERTY AND INSPECTIONS; REPORTING; AUDITS; NOTICE OF FILINGS WITH THE PUBLIC SERVICE COMMISSION; CANCELLATION OR TERMINATION; PENALTIES FOR VIOLATIONS; AND BID REQUIREMENTS; ALL EFFECTIVE ON DATE OF PASSAGE.

BE IT RESOLVED BY THE NICHOLASVILLE CITY COMMISSION:

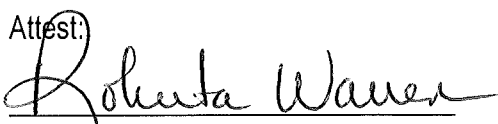
Section 1 - That the bids of Kentucky Utilities Company, Inc. and Blue Grass Energy, submitted in accordance with the provision of the City of Nicholasville Ordinance 947-2016 creating and offering for sale franchises for the operation of non-exclusive electric generation, transmission and distribution systems in the City of Nicholasville, copies of which are attached to the Franchise Agreements as Exhibit "A" is hereby declared to be a highest and best bids for said franchises; and said franchises are hereby sold to and vested in Kentucky Utilities Company, Inc and Blue Grass Energy for the period of time provided in the ordinance and franchise agreement.

Section 2 - That the Mayor, on behalf of the City of Nicholasville, be and hereby is authorized to execute the Franchise Agreements with Kentucky Utilities Company, Inc. and Blue Grass Energy, which are attached hereto and incorporated herein by reference, and which agreements incorporates by reference in its entirety the material provisions of the City of Nicholasville Ordinance 947-2016.

Section 3 - That this Resolution shall become effective on the date of its passage.

Passed by the Nicholasville City Commission August 8, 2016.


Mayor

Attest:

City Clerk



FRANCHISE AGREEMENT

THIS AGREEMENT made and entered into this 8th day of August, 2016, by and between the **City of Nicholasville** in the Commonwealth of Kentucky (hereinafter "Government"), and **Blue Grass Energy**, a corporation created and existing under and by virtue of the laws of the Commonwealth of Kentucky, with its principal office at 1201 Lexington Road, Nicholasville, KY 40340 (hereinafter "Company").

WITNESSETH:

WHEREAS, by Ordinance No. 947-2016 (the "Ordinance"), enacted (Date)07/27/2016 the Government created a non-exclusive franchise for the privilege of constructing, erecting, operating and maintaining an electric generation, transmission and distribution system in Nicholasville, Kentucky; and

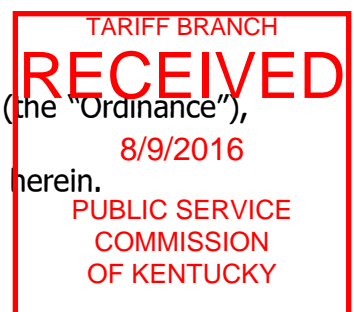
WHEREAS, pursuant to the Ordinance the Government authorized the advertising for bids on said franchise and Blue Grass Energy submitted a timely bid to acquire said franchise; and

WHEREAS, by Resolution No. 08082016, enacted (Date)8/8/2016 the Government accepted the bid of Company as substantially responsive to the Ordinance and in the best interest of the citizens of City of Nicholasville; and

WHEREAS, the Government and the Company have agreed to accept the following as the terms of this Agreement and as those of the franchise.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of all of which are hereby acknowledged, the Government and the Company agree as follows:

1. Ordinance No. 947-2016, which is attached hereto as Exhibit "A" (the "Ordinance"), is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.



2. The bid of the Company for this franchise, which is attached hereto as Exhibit "B", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. The Government hereby grants unto the Company a non-exclusive franchise for the privilege of erecting, laying, maintaining and operating a system of works for the transmission, distribution and sale of electrical energy equipment and apparatus, and appurtenances necessary or appropriate in connection therewith, in, along and under the Rights-of-way within the corporate boundaries of the Government in accordance with the terms of the Ordinance.

4. This Agreement shall commence on 08/08/2016, and shall expire as provided in the terms and provisions of the Ordinance.

5. In consideration of the granting of this franchise, the Company agrees to pay to the Government a sum of three percent (3%) of the gross annual revenues received from the sale, distribution, and/or delivery of electric energy within the City of Nicholasville, with the exception of governmental accounts designated by the Government that would ultimately be repaid to the Government, as provided in the Ordinance, until such time as the fee may be increased by the Government pursuant to the terms and provisions of the Ordinance.

6. The Company, its successors and assigns, in consideration of the grant, sale and conveyance of the above franchise, does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as contained in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.



7. This Agreement contains and embodies the entire agreement between the parties and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto. No changes, modifications or other deletions in this Agreement shall be effective unless and until the same are reduced to writing and approved, adopted, and executed in the same fashion as this Agreement.

IN TESTIMONY WHEREOF, the City of Nicholasville has caused its name to be affixed hereto by the Mayor and Bluegrass Energy, has caused its name to be affixed hereto by MICHAEL I. WILLIAMS, its properly authorized officer.

CITY OF NICHOLASVILLE

BY: *Pete W Sutherland*
PETE SUTHERLAND, MAYOR

ATTEST:

Roberta Warren
ROBERTA WARREN, CITY CLERK

BLUE GRASS ENERGY COOPERATIVE CORPORATION

BY: *Michael I Williams*
MICHAEL I. WILLIAMS, PRESIDENT/CEO

STATE OF KENTUCKY)
)
COUNTY OF JESSAMINE)

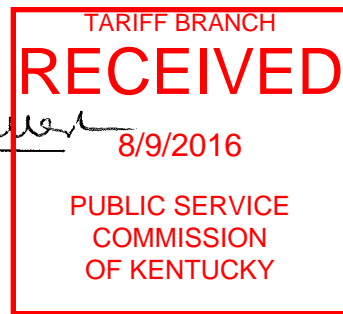
The foregoing Agreement was subscribed, sworn to and acknowledged before me by Pete Sutherland as Mayor on behalf of the City of Nicholasville

on this the 8th day of August, 2016.

My commission expires:

July 5 2019

Roberta French Warren
NOTARY PUBLIC
KENTUCKY, STATE-AT-LARGE



STATE OF KENTUCKY)
)
COUNTY OF JESSAMINE)

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Michael I. Williams as President/CEO of Blue Grass Energy Cooperative Corporation on behalf of said Cooperative Corporation on this the 8th day of August, 2016.

My Commission expires: April 1, 2017

Howard Downing
NOTARY PUBLIC KENTUCKY, STATE-AT-LARGE

TARIFF BRANCH
RECEIVED
8/9/2016
PUBLIC SERVICE
COMMISSION
OF KENTUCKY

ORDINANCE NO. 947-2016

AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE ELECTRIC FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRIC ENERGY WITHIN THE PUBLIC RIGHTS OF WAY OF THE CITY OF NICHOLASVILLE FOR AN INITIAL TEN (10) YEAR PERIOD WITH UP TO TWO (2) ADDITIONAL EXTENSIONS OF TIME OF FIVE (5) YEARS EACH, IN RETURN FOR PAYMENT TO THE CITY OF NICHOLASVILLE OF THE SUM OF THREE PERCENT (3%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES RECEIVED FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF ELECTRIC ENERGY WITHIN THE CITY OF NICHOLASVILLE; RESERVING THE RIGHT TO INCREASE THE FRANCHISE FEE IN THE AMOUNT NOT TO EXCEED FIVE PERCENT (5%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF ELECTRIC ENERGY WITHIN THE CITY OF NICHOLASVILLE AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS, AND STANDARDS; A PERFORMANCE BOND; INDEMNIFICATION; INSURANCE; ACCESS TO PROPERTY AND INSPECTIONS; REPORTING; AUDITS; NOTICE OF FILINGS WITH THE PUBLIC SERVICE COMMISSION; CANCELLATION OR TERMINATION; PENALTIES FOR VIOLATIONS; AND BID REQUIREMENTS: ALL EFFECTIVE ON DATE OF PASSAGE.

BE IT ORDAINED BY THE NICHOLASVILLE CITY COMMISSION:

Section 1 - There is hereby created a non-exclusive franchise to acquire, lay, maintain and operate in the public streets, alleys, avenues, public roads, highways, sidewalks and other public ways of the City of Nicholasville (hereinafter the "Rights-of-way"), a system of works for the transmission, distribution and sale of electric energy, subject to all the provisions of this Ordinance and any franchise agreement entered into pursuant to the terms of this Ordinance. This Ordinance does not excuse the franchisee from complying with any and all existing and future local laws and ordinances, as may be amended, including but not limited to the terms and provisions of the Code of Ordinances of the City of Nicholasville (the "Code"), and any applicable provisions of its Zoning Ordinance and General Specifications For The Construction of Water Facilities, Sewage Facilities, Streets And Storm Drainage Facilities, City of Nicholasville, Kentucky as may be amended (the "Zoning Ordinance and General Specifications"), which are incorporated herein by reference, and shall apply as if fully set forth herein to the extent that there is no express conflict with the terms or provisions of this Ordinance.

Section 2 - The person, firm or corporation that shall become the purchaser of said franchise, or any successor or assignee of such person, shall hereinafter be referred to as the "Company" herein. The City of Nicholasville shall hereinafter be referred to as the "Government". The pertinent definitions and terminology contained in the provisions of the Code, and/or the Zoning Ordinance and General Specifications are hereby incorporated herein by reference.

Section 3 - The Company acquiring this franchise shall have the right and privilege of erecting, laying, maintaining and operating a system of works for the transmission, distribution and sale of



EXHIBIT A

electric energy, equipment and apparatus, and appurtenances necessary or appropriate in connection therewith, in, along and under the Rights-of-way within the corporate boundaries of the Government as they now exist or may hereafter be extended (referred to herein as "System" or "Facilities"); subject to the provisions hereof and to all powers (including police power) inherent in, conferred upon, or reserved to said Government, including but not limited to those contained in the Code.

Section 4 - The Company shall conform to at least the minimum standards or requirements contained in federal or state law or regulation in the operation of its System pursuant to this franchise. In addition to complying with all of the requirements contained in federal or state law or regulation, and the Code, the Company agrees that:

- (a) all working facilities and conditions used during construction, installation and maintenance of Facilities under this franchise shall comply with the standards of the Occupational Safety and Health Administration;
- (b) it shall construct and operate the System and Facilities under this franchise in accordance with all generally accepted related industry codes and standards that are applicable;
- (c) all construction shall be performed in a workmanlike manner, and all materials and equipment used or installed under this franchise shall be in compliance with industry standards. In case of any defect in the work, materials or equipment, whether latent or patent, the Company will remedy such defects without cost to Government as soon as practicable under the circumstances; and
- (d) in the construction or reconstruction or maintenance or removal of any of said Facilities, the Company shall have due regard for the rights of the Government and others, and shall not interfere with, or in any way injure the property of the Government or others lawfully under, on, or above the Rights-of-way. The Company shall comply with all the laws of the Commonwealth of Kentucky and the Code as to placing lights, danger signals or warning signs and shall be liable for any and all damage that may arise by reason of its failure or neglect to comply with the Code and laws. Work by the Company hereunder shall be done in a workmanlike manner and so as not to unnecessarily interfere with public use of the Rights-of-way.

Section 5- The Company may be required to provide a performance guarantee for significant projects with construction costs of one hundred thousand dollars (\$100,000) or more involving the Rights-of-way. This performance guarantee shall be set in an amount and duration to be determined by the Mayor or his designee upon discussing and verifying the scope of such a project with the Company, and shall be in favor of the Government to be issued by an entity subject to jurisdiction and venue in the City of Nicholasville. In no event shall the total cumulative amount of such performance guarantee exceed two hundred thousand dollars (\$200,000), unless otherwise provided in this Ordinance.

Section 6 - As consideration for the granting of this franchise, the Company agrees to defend, indemnify, keep and save the Government, its officials, boards, members, agents, and employees free and harmless against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses, including reasonable attorney's fees arising



from liability or claims of liability on account of injuries or damage to persons or property growing out of the construction, maintenance, repair and operation of its System. In the event that suit shall be brought against the Government either independently or jointly with the Company on account hereof, the said Company, upon notice by the Government, shall defend the Government in any such suit at the cost of the Company and in the event of final judgment being obtained against the Government either independently or jointly with the Company, the Company shall pay such judgment with all costs and hold the Government harmless therefrom except where such claims, suits, causes of action proceedings, damages, liabilities or judgments were caused by the act or omission of the Government, its officials, boards, members, agents, or employees.

Section 7 - The Company shall endeavor to comply with all applicable federal, state or local non-discrimination and affirmative action requirements of any laws, regulations and executive directives, and shall not discriminate in its employment practices against any employee or applicant for employment because of race, color, religion, national origin, sex, age or physical handicap.

Section 8 - The Company agrees to procure and maintain throughout the term of any franchise agreement awarded pursuant to this Ordinance and any extension thereof, commercial general liability insurance in the principal amount of at least One Million dollars (\$1,000,000) per occurrence with a Two Million Dollar (\$2,000,000.00) aggregate, with an insurance company authorized to do business in the Commonwealth of Kentucky with the provision, "it is agreed and understood that the City of Nicholasville, its agents, employees, officers and elected officials, as their interests may appear, are additional insureds, in the same manner as if a separate policy had been issued. under the provision of the policies required to be issued during the term of this franchise or as otherwise required by this Ordinance." All insurance policies shall be broad form in nature and shall be through a company with an A.M. Best Rating of "A" or better, admitted to do business in Kentucky, and the contract shall be non-cancelable without at least thirty (30) days advance written notice by registered mail to the Government from the insurance company. The Company may satisfy the insurance requirements and conditions of this section under an equivalent self-insurance plan that is acceptable to the Government.

Section 9 - (a) The Government, through its Mayor or his designee, or through such assistants as the Government may employ or designate, may, at all reasonable times and under reasonable conditions with prior notice, have access to all or any of the property owned or used in part or in whole by the Company in its operating and maintaining the System under this franchise and located within the Government's Rights-of-way. In like manner, the Government's above-mentioned officers and assistants may at all reasonable times and under reasonable conditions with prior notice, inspect, and subject to any reasonable confidentiality measures requested by the Company, examine or verify all or any of the accounts, books, records, contracts, documents or papers of the Company relating to gross revenues in the City of Nicholasville in order to audit and recompute any amounts determined to be payable under this Ordinance consistent with the provisions of Section 19(b) of this Ordinance. In the event that the Government determines that it desires an audit of this franchise, the Company agrees to comply with all reasonable requests of the Government pertaining to obtaining any necessary information or documentation from the Company reasonably necessary to the administration of this franchise.



(b) The Company agrees further to furnish notice of its filing an application with the Public Service Commission for an increase in general rates and for any application where such notice is required by 807 KAR Chapter 5 via publication in the *Jessamine Journal*.

(c) The Company agrees to provide Government and/or the City Commission with information pertaining to its provision of services pursuant to this franchise upon reasonable request. This may include, but is not necessarily limited to attending public meeting(s) involving some or all of the Commission in order to provide such information upon reasonable advance notice and providing an annual update to the Commission upon its request.

Section 10 – (a) The franchise hereby shall be for a period of ten (10) years from the date of acceptance by the Nicholasville City Commission. This franchise shall be renewed automatically for up to two (2) additional terms not to exceed five (5) years each, unless either party objects in writing. The objection shall be made in writing to the Government or Company at least one hundred eighty (180) days, but no earlier than one (1) year, in advance of the termination date of the Company's franchise agreement. The ultimate decision of whether to grant an additional franchise term shall solely be that of the Government. This franchise is not exclusive and the Government reserves the right to grant similar franchises to more than one Company.

(b) This franchise creates no vested rights in the Company and any installation or emplacement of Facilities by the Company in the Rights-of-way is at the Company's risk. If the Company is not granted a new or extended franchise upon the expiration of the term for which the franchise is granted, or if the Company's franchise is terminated or cancelled, as provided for herein, the Government shall have the right to require the Company to remove at its own expense all portions of the system from all Rights-of-way within the confines of the City of Nicholasville. The Company shall be provided a reasonable time within which to remove its facilities.

(c) No assignment of this franchise shall take place without at least thirty (30) days advance written notice to the Government, and consent by the Government, which consent shall not be unreasonably withheld.

Section 11 (a) If, after the Company is provided the opportunity to appear and present evidence before the City Commission, the Government finds that the Company has violated any of the following provisions of this Ordinance, the following penalties shall be recoverable. The decision of the Mayor or his designee shall be the final administrative decision and shall be in writing and provide the basis for the decision. The decision may be appealed to a court of competent jurisdiction.

(1) For failure to complete any construction project within a reasonable period of time, the Company shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues; in lieu of a penalty, the Company may post a performance bond, letter of credit or other surety acceptable to the Government in an amount sufficient to complete such construction projects. This section shall not apply to any projects for which performance bonds or other surety is already pledged.



(2) For failure to provide data and reports requested by the Government and as required by any franchise agreement applicable to the Company, such Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues.

(3) For failure to pay the franchise fee when due pursuant to Section 18 of this Ordinance, or any itemized bill presented by the Government pursuant to Section 4 of this Ordinance or this section, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues. However, this provision shall not apply if interest is assessed by the Government pursuant to Section 19(c).

(b) If the Company fails to comply within thirty (30) days of any City Commission resolution directing compliance with any other provisions of a franchise agreement applicable to the Company, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof that the violation continues. The decision of the City Commission may be appealed to a court of competent jurisdiction.

(c) The Company shall not be excused from complying with any of the terms and conditions of this Ordinance by any failure of the Government, upon any one or more occasions, to insist upon the Company's performance or to seek the Company's compliance with any one or more of such terms or conditions. Payment of penalties shall not excuse non-performance under this Ordinance. The right of the Government to seek and collect penalties as set forth in this section is in addition to its right to terminate and cancel as set forth in Section 13 of this Ordinance.

Section 12 - At all times and under all circumstances, the Company will exercise reasonable care and diligence to supply service continuously and without interruption and to provide adequate and responsive customer service to its customers within the corporate boundaries of the Government. However, the Company does not guarantee continuous service and shall not be liable for any loss or damage resulting from interruption, reduction, delay, or failure of electric service not caused by the willful negligence of the Company, or resulting from any cause or circumstance beyond the reasonable control of the Company.

Section 13 - (a) In addition to all other rights and powers pertaining to the Government by virtue of the franchise or otherwise, the Government, by and through its City Commission, reserves the right to terminate and cancel any franchise awarded pursuant to this Ordinance and all rights and privileges of the Company hereunder in the event that the Company:

- (1) Willfully violates any material provision of the franchise or any material rule, order, or determination of the Government made pursuant to the franchise, except where such violation is without fault or through excusable neglect, including but not limited to cases of force majeure;
- (2) Willfully attempts to evade any material provision of the franchise or practices any fraud or deceit upon the Government;
- (3) Knowingly makes a material misrepresentation of any fact in the application proposal for renewal, or negotiation of the franchise; or



(4) Is no longer able to provide regular and customary uninterrupted services to its customers within the corporate boundaries of the Government.

(b) The Mayor or his designee, or the City Commission may make a written demand that the Company do or comply with any provision, rule, order or determination mentioned in Section 13(a) above. If any violation, listed in Section 13(a) of this Ordinance, by the Company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Government may place its request for termination of the franchise as early as the next regular City Commission meeting agenda. The Government shall cause to be served upon Company, at least ten (10) days prior to the date of such City Commission meeting, a written notice of intent to request such termination and the time and place of the meeting, legal notice of which shall be published in the Jessamine Journal or another newspaper of general circulation published in Nicholasville, Kentucky.

(1) It shall be a defense to any attempt to terminate and cancel this franchise that the Company was relying on federal law, state law, or a tariff in acting or not acting on the issue in dispute.

(2) The City Commission shall consider the request of the Government and shall hear any person interested therein, and shall determine in its discretion, whether or not any violation by the Company occurred and, if so, was with just cause.

(3) If such violation by the Company is found to have been with just cause, the City Commission shall direct the Company to comply therewith within such time and manner and upon such terms and conditions as are just and reasonable.

(4) If the Commission determines such violation by the Company was without just cause, then the Commission may, by resolution or ordinance, declare that the franchise of the Company shall be terminated and forfeited unless there is compliance by the Company within such period as the Commission may fix.

Section 14 - The Company shall provide the Government at least sixty (60) days advance written notice of the foreclosure or other judicial sale of all or a substantial part of the Company's Facilities, or upon the termination of any lease covering all or a substantial part of its Facilities.

Section 15 - The City Commission shall have the right to cancel this franchise thirty (30) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said thirty (30) days, unless:

(a) Within thirty (30) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; and,



(b) Such receiver or trustee, within said thirty (30) days shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the franchise granted to the Company.

Section 16 - It shall be the duty of the Mayor or his designee to offer for sale at public auction said franchise and privilege. Said franchise and privilege shall be sold to the highest and best bidder or bidders at a time and place fixed by the Mayor after he or she has given due notice thereof by advertisement or publication as required by law.

Section 17 - Bids and proposals for the purchase and acquisition of the franchise and privileges hereby created shall be in writing and shall be delivered to the Mayor or his designee upon the date(s) and at the time(s) fixed by him or her in said advertisement(s) or publication(s) for receiving same. Thereafter, the Mayor shall report and submit to the City Commission, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval. The City Commission reserves the right, for and on behalf of the Government, to reject any and all bids for said franchise and privileges; and, in case the bids reported by the Mayor shall be rejected by the City Commission, it may direct, by resolution or ordinance, said franchise and privilege to be again offered for sale, from time to time, until a satisfactory bid therefore shall be received and approved. Each bid shall be accompanied by cash or a certified check drawn on a bank of the Commonwealth of Kentucky, or a national bank, equal to five percent (5%) of the fair estimated cost of the System required to render the service, which check or cash shall be forfeited to the Government in case the bid should be accepted and the bidder should fail, for thirty (30) days after the confirmation of the sale, to pay the price and to give a good and sufficient bond in a sum equal to one fourth (1/4) of the fair estimated cost of the system to be erected, conditioned that it shall be enforceable in case the purchaser should fail, within sixty (60) days, to establish and begin rendering the service in the manner set forth in this Ordinance. Bids shall include such documentation as is necessary to support the bidder's determination of the fair estimated cost of the System required to render the service. Government reserves the right to review any of bidder's supporting documentation which justifies bidder's determination of said estimated cost. Such deposit need not be made by a corporation or person already owning within the territorial limits of the City of Nicholasville a plant, equipment, and/or Facilities sufficient to render the service required by this Ordinance. In addition, each bid shall be accompanied by a non-refundable payment to the Government in the amount of five hundred dollars (\$500.00) to cover the Government's cost of advertising and other administrative expenses incurred. In the event that the total amount submitted by all bidders exceeds the Government's actual costs, it will refund the overcharge to each Company on a pro rata basis within thirty (30) days.

Section 18 - (a) In consideration of the granting of the franchise for sale, distribution, and/or delivery of electric service within the corporate boundaries of the Government, the Company agrees to pay to the Government a sum equal to three percent (3%) of the gross annual revenues received by the Company from the sale, distribution, and/or delivery of electric service provided by the Company within the corporate boundaries of the Government, with the exception of governmental accounts designated by the Government that would ultimately be repaid to the



Government. Calculations of amounts payable hereunder and payments shall commence with the first billing period following execution of any franchise agreement authorized by this Ordinance. Additionally, the Government reserves the right to increase the franchise fee imposed hereunder up to a sum equal to five percent (5%) of the gross annual revenues received by the Company from the sale, distribution, and/or delivery of electric service provided by the Company within the corporate boundaries of the Government. Should the Government exercise said right to increase franchise fees, it shall give the Company ninety (90) days prior written notice, provided that the franchise fee may not be increased more than one percent (1%) in any twelve (12) month period.

(b) No later than ten (10) working days after final acceptance of its bid by the Government, the Company shall file an application or have a tariff on file with the Kentucky Public Service Commission to provide for prompt and satisfactory cost recovery of the amount(s) payable under this Ordinance and any franchise awarded pursuant to its terms for any amounts for which it desires recovery. Upon request the Company shall provide Government with copies of any document it files with the Kentucky Public Service Commission related to any franchise agreement adopted pursuant to this ordinance in order to satisfy the obligations created herein.

(c) If, after a period of sixty (60) days from the filing of the Company's above application, the Kentucky Public Service Commission shall have made no final determination concerning the prompt and satisfactory recovery of amounts payable by the Company under this Section of the Ordinance, then the Company's obligation to pay the amount specified in Section 19(a) of this Ordinance shall be suspended, provided the Company shall first give the Government ten (10) days written notice of its intention to suspend payment pending the decision of the said Commission. In the event of suspension of the Company's obligation as herein provided, the Government shall have the option to terminate this franchise within thirty (30) days of receipt of said written notification from the Company.

Section 19 - (a) Payment of any amount due under this Ordinance shall be made quarterly, within thirty (30) days of the end of the preceding calendar month.

(b) No acceptance of any franchise fee payment by the Government shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount nor shall acceptance be deemed a release to any claim the Government may have for future or additional sums pursuant to this Ordinance. The Government shall have the right to inspect the Company's income, financial, and records relating to gross sales revenues in order to audit, and to re-compute any amounts determined to be payable under this Ordinance. Any additional amount due to the Government as a result of the audit shall be paid within ten (10) business days following written notice to the Company by the Government which notice shall include a copy of the audit report.

(c) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from such date at the annual rate of eight percent (8%). Overpayments discovered by the Government or the Company shall be an adjustment on the next quarterly payment without interest.



Section 20 - Bids offered for purchase of this franchise shall state the bidder's acceptance of the conditions set forth in this Ordinance. If any bid shall include an offer of payment over and above the terms of the franchise, then a certified check for said amount, payable to the Government, shall be deposited with the Government. This amount shall be in addition to the provision for payments contained in Sections 17 and 18 of this Ordinance, which shall be considered as a condition of this franchise. Any check deposited by an unsuccessful bidder shall be returned when the City Commission shall have accepted the bid or bids, which in its judgment is or are the highest and best.

Section 21 - Any violation by the Company, its vendee, Lessee, or successor of the material provisions of this franchise, or the failure promptly to perform any of the material provisions thereof, shall be cause for the forfeiture of any franchise awarded pursuant to this Ordinance and all rights hereunder after written notice to the Company and continuation of such violations, failure or default, as set forth in Section 13 of this Ordinance.

Section 22 - This Ordinance and any franchise awarded pursuant to it shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance. The venue for any litigation related to this Ordinance or a franchise shall be in the court of competent jurisdiction in Jessamine County, Kentucky.

Section 23 - This Ordinance and any franchise awarded pursuant to it does not create a contractual relationship with or right of action in favor of a third party against either the Government or the Company.

Section 24 - If any section, sentence, clause or phrase of the Ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining Ordinance.

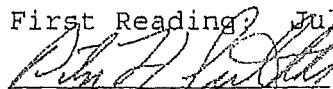
Section 27 - The franchise created by this Ordinance shall become effective when the City Commission accepts the bid(s) for it.

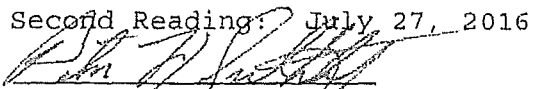
Section 26 - This Ordinance shall become effective on the date of its passage.

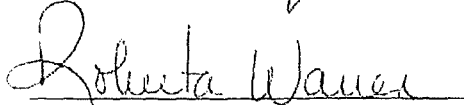
PASSED CITY COMMISSION: July 27, 2016.

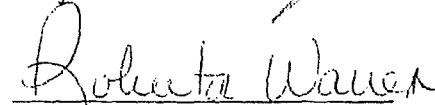
First Reading: July 25, 2016

Second Reading: July 27, 2016


MAYOR


Mayor


CLERK


CLERK

NOTICE OF ENACTMENT OF ORDINANCE

Notice is hereby given that the Nicholasville City Commission on July 27, 2016 enacted an ordinance, the full text of which is available for inspection in the office of the City Clerk, 517 N. Main Street, Nicholasville, KY. ORDINANCE 947-2016:
AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE ELECTRIC FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRIC ENERGY WITHIN THE PUBLIC RIGHTS OF WAY OF THE CITY OF NICHOLASVILLE FOR AN INITIAL TEN (10) YEAR PERIOD WITH UP TO TWO (2) ADDITIONAL EXTENSIONS OF TIME OF FIVE (5) YEARS EACH, IN RETURN FOR PAYMENT TO THE CITY OF NICHOLASVILLE OF THE SUM OF THREE PERCENT (3%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES RECEIVED FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF ELECTRIC ENERGY WITHIN THE CITY OF NICHOLASVILLE; RESERVING THE RIGHT TO INCREASE THE FRANCHISE FEE IN THE AMOUNT NOT TO EXCEED FIVE PERCENT (5%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES FROM THE SALE, DISTRIBUTION, AND/OR DELIVERY OF ELECTRIC ENERGY WITHIN THE CITY OF NICHOLASVILLE AND FURTHER PROVIDING FOR COMPLIANCE WITH RELEVANT LAWS, REGULATIONS, AND STANDARDS; A PERFORMANCE BOND; INDEMNIFICATION; INSURANCE; ACCESS TO PROPERTY AND INSPECTIONS; REPORTING; AUDITS; NOTICE OF FILINGS WITH THE PUBLIC SERVICE COMMISSION; CANCELLATION OR TERMINATION; PENALTIES FOR VIOLATIONS; AND BID REQUIREMENTS. ALL EFFECTIVE DATE OF PASSAGE.



BID FOR FRANCHISE

TO: THE CITY OF NICHOLASVILLE, KENTUCKY
FROM: BLUE GRASS ENERGY COOPERATIVE CORPORATION - BIDDER
**RE: BID FOR FRANCHISE FOR CERTIFIED TERRITORY OF BIDDER LOCATED
WITHIN CITY OF NICHOLASVILLE, KENTUCKY
(ORDINANCE 947-2016)**

The Blue Grass Energy Cooperative Corporation (herein designated as "Bidder") bids a sum equal to 3% of gross annual revenues received by the Company from the sale, distribution, and/or delivery of electric service provided by the company within the corporate boundaries of the City of Nicholasville and certified territory served by the Bidder; provided, however, that such fee shall be payable by the Company only if and to the extent the company is and continues to be authorized by the Kentucky Public Service Commission (or its successor) to pass such fee to the entities served by it inside the Nicholasville Corporate Limits and within the certified territory of bidder as recorded in the records of the Public Service Commission of Kentucky, Frankfort, Kentucky and Section 27 of bidder's tariff.

No deposit is required under Section 17 of Ordinance No. 947-2016 because the bidder already owns within the territorial limits of Nicholasville, Kentucky a plant, equipment and/or facilities sufficient to render the service required by the ordinance.

Bidder states that it accepts the conditions set forth in Ordinance No. 947-2016 insofar as the ordinance is legally valid under all applicable laws (local, state and federal) and subject to all applicable regulations of the Kentucky Public Service Commission.

The authority to bid for this franchise has been approved the Kentucky Public Service Commission. A copy of the Franchise Ordinance 947-2016 is attached.

Dated: August 8, 2016.

BLUE GRASS ENERGY COOPERATIVE CORPORATION

BY: Michael I. Williams
MICHAEL I. WILLIAMS, PRESIDENT/CEO

