

**CITY OF CAMARGO**  
**FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT made and entered into this 30 day of June by and between the CITY OF CAMARGO, municipal corporation and political subdivision of the Commonwealth of Kentucky, 4406 Camargo Road, Mt. Sterling, KY 40353 (hereinafter "CAMARGO") and DELTA NATURAL GAS COMPANY, INC., a Kentucky corporation with its principal office at 3617 Lexington Road, Winchester, KY 40391 (hereinafter "DELTA"),

WITNESSETH;

WHEREAS, by Ordinance No. 2023-01 CAMARGO provided for the creation and sale of a non-exclusive franchise, for an initial term of ten (10) years with up to two (2) additional extensions of time for five (5) years each, for the transmission, distribution and sale of natural gas within the public right of way within the city limits of CAMARGO; and

WHEREAS, Ordinance No. 2023-01 authorized the advertising for bids on said franchise and DELTA submitted a timely bid to acquire said franchise; and

WHEREAS, by Resolution No. CAMARGO accepted the bid of DELTA to acquire said franchise at their meeting held on May 1, 2023; and

WHEREAS, CAMARGO and DELTA have entered into this Franchise Agreement to memorialize the sale by CAMARGO to DELTA of said franchise subject to the terms and conditions reflected in Ordinance No. 2023-01.

**RECEIVED**

6/30/2023

PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY

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

1. Ordinance No. 2023-01 which is attached hereto as Exhibit "A", is incorporated by reference in its entirety and shall apply as if fully set forth herein.
2. The bid of DELTA for said 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. Minutes of the meeting held on May 1, 2023 wherein the bid of DELTA was accepted which is attached hereto as Exhibit "C", is incorporated by reference in its entirety and shall apply as if fully set forth herein.
4. CAMARGO has granted unto DELTA a non-exclusive franchise, for an initial term of ten (10) years with up to two (2) additional extensions of time of five (5) years each, for the transmission, distribution and sale of natural gas within the public right of way within the corporate boundaries of CAMARGO subject to the provisions of Ordinance No. 2023-01 and Resolution No.
5. The franchise memorialized in this Franchise Agreement shall commence July 1, 2023 and shall expire as provided in the terms and provisions of Ordinance No 2023-01.
6. DELTA does hereby bind itself, its successors and assigns, to faithfully perform all acts required of it as the purchaser of said franchise.

RECEIVED

6/30/2023

PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY

7. This Franchise Agreement memorializes the agreement between the parties contained and embodied in Ordinance No. 2023-01 and shall be binding on and inure to the benefit of the respective successors an interest to the parties hereto.

IN WITNESS WHEREOF, CAMARGO and DELTA have executed this Franchise Agreement as their free and voluntary act and deed effective as of the day and year first above written.

CITY OF CAMARGO

By: [Signature]  
Mayor

ATTEST

[Signature]  
CITY CLERK

DELTA NATURAL GAS COMPANY, INC.

By: [Signature]  
President, its authorized officer or agent

STATE OF KENTUCKY

COUNTY OF MONTGOMERY

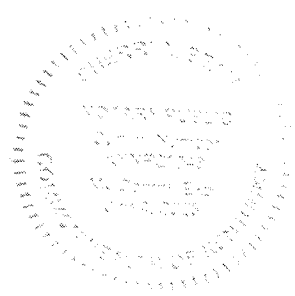
The foregoing was subscribed and sworn to before me this 30 day of June, 2023 by Clayton Neal, Mayor, for and on behalf of the CITY OF CAMARGO.

My Commission expires: 4/25

[Signature]  
Notary Public, KY., State-at-Large  
Notary No. 21048

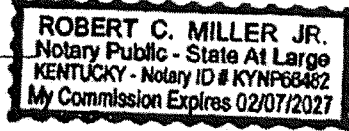
STATE OF KENTUCKY

COUNTY OF Montgomery



The foregoing was subscribed and sworn to before me this 27 day of JUNE, 2023 by James B. Brown as authorized officer or agent of DELTA NATURAL GAS COMPANY, INC, a Kentucky corporation, for and on behalf of the corporation.

My Commission expires: \_\_\_\_\_



Notary Public, KY., State-at-Large  
Notary No. \_\_\_\_\_



CITY OF CAMARGO, KENTUCKY

ORDINANCE NO. 2023-01

**AN ORDINANCE CREATING AND ESTABLISHING FOR BID A NON-EXCLUSIVE GAS FRANCHISE FOR THE PLACEMENT OF FACILITIES FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF GAS FOR HEATING AND OTHER PURPOSES WITHIN THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF CAMARGO FOR AN INITIAL TEN (10) YEAR PERIOD WITH UP TO TWO (2) ADDITIONAL EXTENSIONS OF TIME OF FIVE (5) YEARS EACH, IMPOSING A FRANCHISING FEE OF TWO PERCENT (2%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES FROM THE SALE, DISTRIBUTION, AND DELIVERY OF GAS WITHIN THE CITY OF CAMARGO; AND RESERVING THE RIGHT TO IMPOSE A FRANCHISE FEE NOT TO EXCEED FIVE PERCENT (5%) OF EACH FRANCHISEE'S GROSS ANNUAL REVENUES, FROM THE SALE, DISTRIBUTION, AND DELIVERY OF GAS WITHIN THE CITY OF CAMARGO; ALL EFFECTIVE ON DATE OF PASSAGE.**

---

BE IT ORDAINED BY THE CITY OF CAMARGO

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 Camargo (hereinafter the “Rights-of-way”), a system of mains, pipes, fixtures and appliances for the transmission, distribution and sale of gas for heating and other purposes, 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, except to the extent such local laws and ordinances are in conflict or inconsistent with the terms of this Ordinance and any franchise agreement entered into pursuant to the terms 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” or “Franchisee”. The City of Camargo shall hereinafter be referred to as “Camargo”, or the “Government”.

Section 3 – The Company acquiring this franchise shall have the right and privilege of laying, maintaining and operating gas mains and pipes, equipment and apparatus, and appurtenances necessary or appropriate in connection therewith, in , along and under the Rights-of-way within the corporate boundaries of Camargo 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 the Government.



Section 4 – In the operation of its System as it relates to the rights conferred by this franchise, the Company shall conform to at least the minimum standards or requirements contained in federal or state law or regulation related to transportation of gas by pipeline. In addition to complying with all requirements contained in federal or state law or regulation, the Company agrees that:

(a) Work by the Company hereunder shall be done in a workmanlike manner. In case of any Material defect in the work, materials or equipment, whether latent or patent, the Company will forthwith remedy such defects without cost to Camargo; and

(b) In the construction or reconstruction or maintenance or removal of any of said Facilities, the Company shall have due regard for the rights of Camargo and other, and shall not unreasonably interfere with, or in any way permanently damage the property of Camargo or others lawfully under, on, or above the Right-of-way. The Company shall not unnecessarily interfere with public use of the Rights-of-way.

Section 5 – (a) No pavement, sidewalks, curbs, gutters or other street installations shall be disturbed and no excavations in any of the said streets shall be made, without the written permission of the Camargo Mayor or his or her lawful designee, unless in the case of a circumstance requiring the restoration of service or presenting an immediate risk of injury or damage to any person or property (“Emergency”). In such a case, the Camargo Mayor shall be notified within five (5) days of such work with the time, date, location and extent of the work performed. Where approval of the Camargo Mayor or his or her lawful designee is required hereunder, and the Company has delivered a written request for said permission, the Camargo Mayor, or his or her designee, shall render a written decision regarding said permission within five (5) working days to the originating requestor at the Company. Any written communication required by this subsection may be transmitted via e-mail. Any written communication or notice to the Government required by this subsection must be sent to the Mayor .

(b) When the Company enters upon any street for the purpose of constructing, erecting, installing, operating, maintaining, repairing, removing, replacing or inspecting its Facilities, it shall prosecute the work without cost to Camargo and shall dig and close up all trenches and exposed places as rapidly as possible, and in no cases shall trenches be exposed for more than twenty-four (24) hours, unless written permission is granted by the Mayor or the Director of Public Works, or their designee(s). The Company shall restore the Right-of-ways in a same or



similar condition as existed prior to when it entered for said purposes. If a temporary or “rough” repair is done, said temporary or “rough” repair shall be maintained in such a way that vehicle traffic is not impacted and replaced by a permanent repair within thirty (30) days of when weather and the availability of materials or labor make it possible to make the permanent repair. Such work shall be maintained by the Company in as good as condition as the remainder of the Right-a-way until the earlier of: (1) year after the work was completed; or (2) the street was repaved by the City. In the event the Company fails, refuses or neglects to comply with this provision, Camargo, may give written notice to the Company. If after twenty-one (21) days after receipt of said written notice to the Company to make such repairs, such repairs are not completed, Camargo may make such repairs and the actual cost and expense of such repairs shall be pay by the Company within thirty (30) days following the date form which the final itemized bill is presented to the Company.

(c) If Camargo constructs, reconstructs, repairs, maintains, or alters any street or other municipal public works within the Rights-of-way, and, to accommodate such work Camargo orders the Company to relocate its Facilities that are located within the Rights-of-way and not within a pre-existing easement or other right in favor of the Company, that are interfering with such work, then the Company shall change or relocate with Facilities so as to not interfere with the work to be performed. Any relocation to expand or enhance the utility of a Right-of-way shall be made at the Company’s expense, however, the Company shall be reimbursed for the expense of a relocation whenever funds are available from a federal or state agency to cover such relocation as part of a project or which the relocation does not improve the function of the new Right-of-way or is for the purpose of aesthetics or convenience. In the event the Company makes such a change or relocation, then any additional change or relocation pursuant to a subsequent order by Camargo to change or relocate the same Facilities shall not be at the Company’s expense regardless of the basis for the subsequent relocation. Prior to any change or relocation, the Company shall be given access to all street plans, construction plan, and other specifications for the work.

(d) Prior to Camargo paving or repaving any street, Camargo shall provide the Company with at least ninety (90) days’ advance written notice so the Company may make any changes, repairs, maintenance, installations, relocations, replacements or improvements of its own Facilities beneath the proposed paving prior to such paving. In the event the Company refrains from performing such work, it shall thereafter be precluded from doing so, except for Emergencies or other unforeseeable circumstances beyond the control of the Company, for a period of one (1)



year following the paving. Within the one (1) year period, any work may be made in the unpaved area of the street and shall not disturb the new pavement unless written permission is granted from the Camargo Mayor or Director of Public Works, or their respective designee (s) as described in Section 5 (a) herein.

Section 6 – The Company may be required to provide a performance guarantee for projects that require the issuance of a Certificate of Public Convenience and Necessity from the Kentucky Public Service Commission pursuant to KRS 278.020 and involve the Rights-of-way. This performance guarantee shall be set in an amount and duration to be determined by Camargo upon discussing and verifying th4e scope of such a project with the Company and shall be in favor of Camargo to be issued by an entity subject to jurisdiction and venue in Kentucky. In no event shall the total cumulative amount of such performance guarantee exceed two hundred thousand dollars (\$200,000.00), unless otherwise provided in this Ordinance of by law.

Section 7 – As consideration for the granting of this franchise, the Company agrees to defend, indemnify, and hold harmless Camargo from liability on account of injuries or damages to persons or property arising out of the Company’s construction, maintenance, repair or operation for its System, and in the event of a lawsuit brought against Camargo the Company shall defend Camargo at the cost of the Company. The obligation to defend, indemnify and hold harmless does not include defending, indemnifying, and holding harmless Camargo for its own negligent acts or intentional acts of the negligence or acts of its employees, contractors or against and Camargo shall be exclusively liable for that portion of any claim, demand or judgment in proportion to its own degree of fault or that of its employees, contractors or agents, Camargo shall notify the Company in writing of any known or potential claim that might be asserted against it within five (5) days of becoming aware of such claim and shall immediately upon receipt provide any documents pertaining to same to the Company. The Company shall have the authority in its sole discretion to choose and direct the counsel who will defend against any claims(s) for which its duty to indemnify or hold harmless is asserted and Camargo may not consent to any settlement of a claim for which a duty to indemnify or hold harmless is asserted without first obtaining the consent of the Company. Failure to abide by these obligations shall void the Company’s duty to indemnify Camargo.

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 dollar (\$1,000,000.00) per occurrence with a Two Million Dollar

4  
**RECEIVED**  
6/30/2023  
PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY



(\$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 Camargo, 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 the Ordinance." Limits of liability required may be satisfied through a combination of primary and excess coverage amounts. In the event that any policy of insurance provides coverage on a "claims-made" basis, the retroactive date for any such policy, if any, shall not be later than the effective date of 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 Camargo from the insurance company. In its sole discretion, the Company may choose to self-insure its obligations hereunder.

Section 9 - (a) Duly authorized representative of Camargo may, at all reasonable times and under reasonable conditions with prior notice: (1) have access to all of any of the property owned or used in part or in whole by the Company in its operation and maintaining the System under this franchise and located within the Rights-of-way; and (2) inspect, examine or verify all or any of the account, book records, contracts, documents or papers of the Company relating to gross revenues in the City of Camargo in order to audit and recompute any amounts determined to be payable under this Ordinance consistent with the provisions of Section 18 (b) of the Ordinance. In the event that Camargo determines that it desires an audit of this franchise, the Company agrees to comply with all reasonable requests of Camargo pertaining to obtaining any necessary information or documentation from the Company reasonably necessary to the administration of this franchise, subject to any reasonable confidentiality agreement in any inspection for the Company's facilities, representative of the City shall be escorted by Company personnel, shall wear all required personnel protection equipment and shall observe all safety requirements applicable to such Facilities. Camargo representatives shall also acknowledge, in writing, that the Company's Facilities often qualify as critical energy infrastructure and that said representatives will safeguard all information pertaining to the location, operation, configuration or nature of such Facilities. At no time may any agent, employee or officer of Camargo interfere with, alter, manipulate or change any portion of the Company's system or controls.



(b) The Company agrees further to furnish the Mayor and the Director of Public Works timely written notice of its filing an application with the Public Service Commission for an increase in general rates or change in its billing practices concurrent with said filing.

(c) This franchise is not exclusive, and the Government reserves the right to grant similar franchises to more than one Company. All franchises awarded pursuant to this Ordinance are intended to terminate at the same time. Therefore, any other Company awarded a franchise pursuant to this Ordinance shall only be awarded a franchise that is equal in duration to the remaining term of the initial franchise (s). In the event that Camargo enters into a franchise with another natural gas or electric utility, and such franchise contains may request in writing that the City grant the Company an identical franchise. The City shall grant said franchise to the Company within thirty (130) days of receipt of the Company's written request.

(d) 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. Camargo agrees with it will not seek to condemn, acquire or take the assets of the Company within the boundaries of the City for a period of one (1) year following the expiration or termination of any franchise arising out of this Ordinance. Camargo further agrees with any future condemnation, acquisition or taking of the assets of the Company within the boundaries of the City shall be at a price equal to or higher than the replacement value of said assets plus the cost of all goodwill and going convene value of the Company's assets located within the boundaries of Camargo.

(e) No assignment of this franchise or the System subject to this franchise shall take place without at least sixty (60) days advance written notice to Camargo, and consent by Camargo, which consent shall not be unreasonably withheld.

Section 11 – (a) If, after the Company is presented with a claim form Camargo that a violation of any franchise agreement arising from the Ordinance has occurred and has further been provided the opportunity to appear, present evidence and examine the witnesses supporting the claim(s) of a violation in a formal hearing presided over by the Camargo Mayor or his designee, Camargo determines that the Company has violated any of the following provisions of this Ordinance, the following penalties shall be recoverable. The above-determination, which must be in writing and provide the factual and legal basis for the decision, shall be the final administrative



decision, which may be appealed to a court of competent jurisdiction. Company shall not be required to pay any finding of damages while the matter is on appeal, nor will damages further accrue on appeal, but Company shall post a surety bond from a reputable insurance company equal to the amount of damages assessed.

(1) For failure to pay the franchise fee when due pursuant to Section 16 of this Ordinance or any itemized bill presented by Camargo pursuant to Section 5 of this Ordinance or this section, the Company shall forfeit one hundred dollar (\$100.00) per day or part thereof for each day that the violation continues. However, this provision shall not apply if interest is assessed by Camargo pursuant to Section 17(c).

(2) For failure to comply with the provisions of Section 5 of this Ordinance, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof for each day that the violation continues.

(b) If the Company fails to comply within thirty (30) days of any Camargo City Council resolution directing compliance with any other provisions of this Ordinance, the Company shall forfeit one hundred dollars (\$100.00) per day or part thereof for each day that the violation continues beginning on the thirty-first (31<sup>st</sup>) day. The decision of the Council may be appealed to a court of competent jurisdiction and the forfeiture shall not be due to the City until such time as a final judgment is rendered.

(c) The Company shall not be excused from complying with any of the terms and conditions of this Ordinance by any failure of Camargo, 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 nonperformance under this Ordinance. The right of Camargo 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 11 of this Ordinance.

Section 12 – The Company shall provide service to customers in Camargo that is of like kind and quality as that provided to customers outside the City, consistent with KRS 278.030.

Section 13 – (a) In addition to all other rights and powers each party to a franchise agreement arising out of this Ordinance reserves the right to terminate and cancel any franchise awarded pursuant to the Ordinance and all rights and privileges of each party hereto in the event that either party:



(1) Willfully violates any material provision of the franchise agreement or legal authority relating to the subject matter of the franchise agreement, 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;

(3) Knowingly makes a material misrepresentation of any fact in the letting, application, adoption, execution, proposal for renewal, or negotiation of the franchise; or

(4) Fails to begin service restoration following seventy-two (72) consecutive hours of interrupted service, except when approval of such interruption is obtained from Camargo. Such approval shall not be unreasonably withheld. In cases of force majeure or acts beyond the Company's control approval shall be granted. The Company shall provide, at a minimum daily restoration status reports.

(b) Prior to attempting to terminate or cancel this franchise pursuant to this section, the party entitled to give notice of termination shall make a written demand that the defaulting party take appropriate corrective action to cure the default. If the alleged violation of Section 13 (a) continues for a period of thirty (30) days following such written demand that the defaulting party take appropriate corrective action to cure the default. If the alleged violation of Section 13 K(a) 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: (1) Camargo may place its request for termination of the franchise as early as the next regular City Council meeting agenda; or (2) the Company may deliver written notice of termination to Camargo. In the event of a termination by Camargo, it shall cause to be served upon Company, at least ten (10) days prior to the date of such City Council 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 accordance with any applicable laws.

(1) The Camargo City Council shall consider the request of the Company and shall hear any person interested therein, and shall determine in its reasonable discretion, whether or not any alleged violation by the Company occurred or was with just cause.



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

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

Section 14 – The Company shall provide Camargo 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, and such notification shall be treated as a notification that an assignment of the franchise has taken place, and the provisions of Section 10 of this Ordinance, governing the consent of Camargo to such assignment, shall apply.

Section 15 – (a) Camargo 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:

(1) 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 or has reasonable commenced and is diligently pursuing such corrective actions; and

(2) Such receiver or trustee, within said sixty (60) 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.

(b) The Company shall have the right to cancel this franchise upon any act or bankruptcy, receivership, reorganization, application for the appointment of a receiver, or any other initiation of insolvency proceedings on behalf of, or against, Camargo. Notwithstanding the foregoing, and subject to an order of an appointed trustee or receiver, Camargo does not waive the ability to claim that the Company is still required to pay Camargo a franchise fee in order to maintain its System or Facilities in the Rights-of-Way.



Section 16 – It shall be the duty of the Mayor or other lawful designee as soon as practicable after the passage of the Ordinance to offer for sale at a public auction said franchise and privilege. In the event that additional interested bidders are identified or express an interest in obtaining a franchise after this initial offering, the additional offering and advertisement to accommodate such bidders is hereby authorized. 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 other lawful designee upon the date and the at the time fixed by him or her in said publication or advertisement for receiving same. Thereafter, the Mayor shall report and submit to the City Council, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval. The City Council reserves the right, for and on behalf of Camargo, 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 Council, 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.

(a) Each bid shall be accompanied by a nonrefundable payment to Camargo in the amount of five hundred dollars (\$500.00) to cover its cost of advertising and other administrative expenses incurred.

(b) In addition, any bid submitted by an entity or person not already owning within the territorial limits of the City of Camargo, plant, equipment, and/or Facilities sufficient to render the service required by this Ordinance must 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) day, 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 said estimated cost.



Section 18 – (a) The City, pursuant to this Ordinance, imposes upon the Company a franchise fee in the amount of two (2%) of the gross annual revenues received by the Company for the direct sale, distribution, and delivery of natural gas provided by the Company within the City of Camargo and rendered on its bills (excluding nonrecurring charges as defined in Chapter 807 of the Kentucky Administrative Regulations Section 5:006, now or as hereafter amended). Additionally, the City reserves the right to amend the franchise fee at any time after the one-year anniversary of the effective date of this Ordinance, an upon prior ninety (90) days written notice to the Company. Should the City exercise said right to amend the franchise fee, the City shall receive payment of franchise fees in an amount not to exceed five percent (5%) of the gross annual revenues received by the Company for the direct sale, distribution, and delivery of natural gas provided by the Company within the City of Camargo and rendered on its bills (excluding nonrecurring charges as defined in Chapter 807 of the Kentucky Administrative Regulations Section 5:006, now or as hereafter amended). The City shall not increase the franchise fee by more than one percent each year until a total of 5 percent is reached. At a minimum, the franchise fee is intended to apply to gross revenues related to those services which include the franchise fee as part of the tariff filed with the Public Service Commission as of the date of the adoption of this Ordinance, and the Company expressly agrees that it will continue to pay franchise fees on the gross revenues derived from these services for the term of this franchise and any renewals thereof. The Company will also assess and pay the franchise fee on any such gross revenues from revised, amended, or additional tariffs (except for nonrecurring charges in Camargo unless Camargo specifically indicates that it does not want the fee to apply, and subject to any necessary approval by the Public Service Commission. Calculations of amounts payable hereunder and payments shall commence with the first billing period following the effective date of any franchise agreement arising out of this Ordinance.

(b) The parties acknowledge and agree that the natural gas supplied by certain large volume suppliers is not currently included as part of the gross revenues to which the franchise fee is applied. In the event that Camargo determines during the franchise period that it wishes to pursue the collection of the franchise fee from these suppliers through the Company, it will notify the Company, in advance, of the methodology and procedures for such collection, and be subject to any necessary approval of the Public Service Commission. In the event any judicial or administrative case, claim, cause complaint, demand or proceeding challenging the legality, application or enforcement of this provision is filed, Camargo shall indemnify and hold harmless from any judgment(s) or settlements arising from such case, claim, cause, complaint, demand or proceeding.



Section 19 – (a) Payment of any amount due under this Ordinance shall be made monthly, within thirty (30) days of the end of the preceding calendar quarter. Upon request, and provided the Company has the capability to do so without additional cost, Company shall deposit such payments electronically to an account specified by Camargo. In the event of suspension of the Company’s obligation pursuant to Section 18 (e) herein, said suspension shall not have application to any amount due hereunder for the preceding calendar month, and the gross income received by the Company during any such suspension period shall be excluded from the Company’s annual gross revenues for the purpose of calculating amounts due under Section 18 (1) herein.

(b) No acceptance of any franchise fee payment by Camargo 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 Camargo may have for future or additional sums pursuant to this Ordinance. Camargo shall have the right to inspect the Company’s income, financial and records relating to gross revenues in order to audit, and to re-compute any amounts determined to be payable under this Ordinance. The Company shall respond to a reasonable request for information related to obtaining audit information within ten (10) business days unless agreed otherwise by the parties. This provision shall survive the term of any franchise agreement awarded pursuant to this Ordinance for a period of one (1) year. Any additional amount undisputedly due to Camargo as a result of the audit shall be paid within ten (10) days following written notice to the Company by Camargo which notice shall include a copy of the audit report. If as a result of such audit or review Camargo determines that the Company has underpaid its franchise fee by five percent (5%) or more for any six (6) month period, then, in addition to making full payment of the relevant obligation, it shall reimburse Camargo for all of the actual costs, no to exceed \$3,500.00 associated with the audit or review. If such audit or review is performed in connection with the granting of a new franchise, and extension of the terms of this franchise, sale or transfer of control of the Company, or a substantive modification of the terms to, or an assignment of this franchise, the Company shall reimburse Camargo for up to \$3,500 of the reasonable costs associated with the audit or review including out-of-pocket costs for attorneys, accountants and other consultants.

(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 charge from such date at the annual rate equivalent to the ten (10) year





U.S. Treasury Note. Overpayments discovered by Camargo or the Company shall be an adjustment on the next monthly payment(s) at an annual rate of interest equivalent to the ten (10) year U.S. Treasury Note.

(d) With respect to its billing of Camargo, Company agrees to, upon request, provide an explanation of any and all billing adjustments or credits including the account(s) impacted and any and all late payments.

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 City of Camargo, shall be deposited with the Government. This amount shall be in addition to the provisions for payments contained in Sections 18 and 19 of this Ordinance, which shall be considered as a condition of this franchise. Any check deposited by an unsuccessful bidder shall be returned when Camargo 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 provisions of this franchise or any material portions thereof, or the failure promptly to perform any of the provision 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 the 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 Montgomery 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 Camargo 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 25 – The franchise created by this Ordinance shall become effective upon the duly authorized execution of a franchise agreement following the Camargo acceptance of the bid(s) for it.

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



DATE OF PASSAGE: 2/06/2023

  
MAYOR, CITY OF CAMARGO, KENTUCKY

ATTEST:  
  
CITY CLERK

14  
**RECEIVED**  
6/30/2023  
PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY