

1 Introduced by Council Member Salem and substituted by the
2 Neighborhoods, Community Services, Public Health and Safety
3 Committee:

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6 **ORDINANCE 2024-436-E**

7 AN ORDINANCE GRANTING TO PEOPLES GAS SYSTEM,
8 INC. ("PEOPLES GAS"), ITS SUCCESSORS AND
9 ASSIGNS, A NON-EXCLUSIVE NATURAL GAS FRANCHISE
10 AGREEMENT FOR USE OF THE RIGHTS-OF-WAY OF THE
11 CITY OF JACKSONVILLE, FLORIDA; APPROVING, AND
12 AUTHORIZING THE MAYOR AND CORPORATION SECRETARY
13 TO EXECUTE AND DELIVER, THAT CERTAIN NATURAL GAS
14 FRANCHISE AGREEMENT BETWEEN THE CITY OF
15 JACKSONVILLE AND PEOPLES GAS TO PROVIDE THE
16 TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE
17 MAY BE EXERCISED; WAIVING CERTAIN PROVISIONS OF
18 SUBSECTION 711.306(B) (FRANCHISE AGREEMENT
19 TERM, CONDITIONS AND FORM), SUBSECTIONS
20 711.321(A) AND (E) (AMOUNT AND PAYMENT OF FEES),
21 SECTION 711.327 (TERMINATION), SUBSECTION
22 711.331(A) AND (D) (AUTHORITY FOR USE OF CITY
23 RIGHTS-OF-WAY/PERMITS), SUBSECTIONS 711.332(H)
24 AND (K) (CONDITIONS ON PUBLIC WAY OCCUPANCY),
25 SECTION 711.335 (RELOCATION), AND SUBSECTIONS
26 711.337(B) AND (C) (REMOVAL), PART 3 (UTILITY
27 FRANCHISE AGREEMENT), CHAPTER 711 (CITY RIGHTS-
28 OF-WAY), *ORDINANCE CODE*; WAIVING THE CONFLICTING
29 PROVISIONS OF CHAPTER 711 (CITY RIGHTS-OF-WAY),
30 *ORDINANCE CODE*; PROVIDING FOR CITY OVERSIGHT BY
31 THE FINANCE DEPARTMENT; DIRECTING THE

1 LEGISLATIVE SERVICES DIVISION TO FORWARD THIS
2 ORDINANCE, ONCE ENACTED, TO THE DEVELOPMENT
3 SERVICES DIVISION OF THE PLANNING AND
4 DEVELOPMENT DEPARTMENT; PROVIDING AN EFFECTIVE
5 DATE.

6
7 **WHEREAS**, the City is authorized to award a franchise agreement
8 when there is a request for significant use of the City's rights-of-
9 way for operation of a utility pursuant to Chapter 711, *Ordinance*
10 *Code*; and

11 **WHEREAS**, Peoples Gas System, Inc. ("Peoples Gas" or "Company")
12 was initially granted a franchise to use the City's rights of way by
13 Ordinance 2003-1103-E, and said franchise was subsequently extended
14 by Ordinances 2013-532-E and 2013-725-E with an expiration date of
15 March 31, 2024; and

16 **WHEREAS**, Peoples Gas desires to continue using the City's
17 rights-of-way for operation and maintenance of a subsurface natural
18 gas distribution system; and

19 **WHEREAS**, the current franchise agreement between the City and
20 Peoples Gas was administratively extended by an additional six months
21 through September 30, 2024 to allow time for a new franchise agreement
22 to be prepared; and

23 **WHEREAS**, it is anticipated that Peoples Gas will continue to
24 invest in the natural gas distribution system located within the
25 City's rights-of-way, and therefore the utility has requested a new
26 franchise be granted for a 30 year term; and

27 **WHEREAS**, pursuant to Chapter 711, *Ordinance Code*, franchise
28 agreements providing for a term in excess of two years require Council
29 approval; and

30 **WHEREAS**, the Council hereby grants a non-exclusive franchise
31 to Peoples Gas for the continued operation of a natural gas

1 distribution system in the City's rights-of-way as further described
2 herein; now therefore

3 **BE IT ORDAINED** by the Council of the City of Jacksonville:

4 **Section 1. Grant of Non-Exclusive Franchise.** The City
5 hereby grants to Peoples Gas ("Peoples Gas" or "Company") a non-
6 exclusive right, privilege and franchise to lay, erect, construct,
7 operate and maintain a natural gas distribution system within the
8 City rights-of-way in accordance with the terms, conditions and
9 authorizations outlined in the Natural Gas Franchise Agreement
10 Between City of Jacksonville and Peoples Gas System, Inc. (the
11 "Franchise Agreement") in substantially the form attached hereto as
12 **Revised Exhibit 1** and incorporated herein by this reference.

13 **Section 2. Approval and Authorization.** There is hereby
14 approved, and the Mayor and Corporation Secretary are hereby
15 authorized to execute and deliver, the Franchise Agreement which
16 authorizes Peoples Gas to locate and operate its natural gas system
17 within the City's rights-of-way to service individual customers
18 subject to the terms and conditions outlined in the Franchise
19 Agreement. In exchange for the use of the City's rights-of-way,
20 Peoples Gas shall pay a franchise fee in an amount equal to six
21 percent (6%) of the company's gross revenue, less any adjustments for
22 uncollectable accounts, from the sale of natural gas to customers
23 within the corporate limits of the City.

24 **Section 3. Waiving the Conflicting Provisions of Subsection**
25 **711.306(b) (Franchise agreement term, conditions and form), Ordinance**
26 **Code.** The conflicting provisions of Subsection 711.306(b) (Franchise
27 agreement term, conditions and form), Part 3 (Utility Franchise
28 Agreement), Chapter 711 (City Rights-of-way), *Ordinance Code*, are
29 hereby waived as to the requirement for Company to reimburse the City
30 for delay costs resulting from the person's failure to relocate their
31 facilities within the time frame provided therein or in the project

1 relocation schedule.

2 **Section 4. Waiving the Conflicting Provisions of**
3 **Subsections 711.321(a) and (e) (Amount and payment of fees), Ordinance**
4 **Code.** The conflicting provisions of Subsections 711.321(a) and (e)
5 (Amount and payment of fees), Part 3 (Utility Franchise Agreement),
6 Chapter 711 (City Rights-of-Way) regarding the requirement that
7 Company (on an annual basis) provide the Director with a revenue
8 letter audited by Company's independent certified public accountants
9 verifying revenues generated in the Jacksonville franchise area, the
10 City's authority to unilaterally amend the Code to increase or
11 decrease the franchise fee, the timing and collection of franchise
12 fees, and Company's responsibility to pay the costs of certain audits
13 performed by the City are hereby waived as they conflict with the
14 terms of the Franchise Agreement authorized hereby.

15 **Section 5. Waiving Certain Provisions of Section 711.327**
16 **(Termination), Ordinance Code.** The provisions of Section 711.327
17 (Termination), Part 3 (Utility Franchise Agreement), Chapter 711
18 (City Rights-of-Way), *Ordinance Code*, regarding notice upon violation
19 of material provisions of the Franchise Agreement and abandonment of
20 the system by Company and transfer of abandoned property to the City
21 without payment or compensation upon termination of the Franchise
22 Agreement are hereby waived as those provisions are not contained in
23 the Franchise Agreement.

24 **Section 6. Waiving Certain Provisions of Subsections**
25 **711.331(a) and (d) (Authority for use of City rights-of-way/permits),**
26 **Ordinance Code.** The provisions of Subsections 711.331(a) and (d)
27 (Authority for use of City rights-of-way/permits), Part 3 (Utility
28 Franchise Agreement), Chapter 711 (City Rights-of-Way), *Ordinance*
29 *Code*, regarding Company's obligation to file with its permit
30 applications to the City bonds in the amount of 110% of the estimated
31 cost of the improvement in the rights-of-way to protect the City and

1 Company's obligation to use "its best efforts to individually notify
2 all adjacent property owners affected by the proposed construction
3 prior to the commencement of that work" are hereby waived as those
4 provisions are not contained in the Franchise Agreement.

5 **Section 7. Waiving Certain Provisions of Subsections**
6 **711.332(h) and (k) (Conditions on public way occupancy), Ordinance**
7 **Code.** The provisions of Subsections 711.332(h) and (k) (Conditions
8 on public way occupancy), Part 3 (Utility Franchise Agreement),
9 Chapter 711 (City Rights-of-Way), *Ordinance Code*, regarding the
10 City's right to make repairs to protect the public health, safety and
11 welfare, with the total cost of same being charged to Company, and
12 the City's right to remove or damage any part of Company's facilities
13 in the event of fire or other disaster without liability to Company
14 are hereby waived as those provisions are not contained in the
15 Franchise Agreement.

16 **Section 8. Waiving the Conflicting Provisions of Subsection**
17 **711.335 (Relocation), Ordinance Code.** The conflicting provisions of
18 Subsection 711.335 (Relocation), Part 3 (Utility Franchise
19 Agreement), Chapter 711 (City Rights-of-Way), *Ordinance Code*, are
20 hereby waived as to the requirement for Company to reimburse the City
21 for delay costs resulting from Company's failure to relocate their
22 facilities within the time frame provided therein or in the project
23 relocation schedule as that provision is not contained in the
24 Franchise Agreement.

25 **Section 9. Waiving Certain Provisions of Subsections**
26 **711.337(b) and (c) (Removal), Ordinance Code.** The provisions of
27 Subsections 711.337(b) and (c) (Removal), Part 3 (Utility Franchise
28 Agreement), Chapter 711 (City Rights-of-Way), *Ordinance Code*,
29 regarding removal of all above-ground elements of the system or
30 abandonment and transfer of the system in its entirety to the City
31 without payment or compensation upon expiration or termination of the

1 Franchise Agreement are hereby waived as those provisions are not
2 contained in the Franchise Agreement.

3 **Section 10. Waiving Conflicting Provisions of Chapter 711**
4 **(City Rights-of-Way), Ordinance Code, Not Otherwise Specifically**
5 **Waived Herein.** The conflicting provisions of Chapter 711 (City
6 Rights-of-Way), *Ordinance Code*, not otherwise specifically waived
7 herein are hereby waived to the extent the Franchise Agreement, in
8 substantially the form attached hereto and approved by Council,
9 authorizes or allows any action or inaction by Peoples Gas that is
10 in conflict with, or deviates from, the requirements of Chapter 711,
11 *Ordinance Code*.

12 **Section 11. Oversight.** The Finance Department shall oversee
13 the Franchise Agreement described herein.

14 **Section 12. Directive to Legislative Services Division.** The
15 Chief of Legislative Services is hereby directed to provide a copy
16 of this legislation, once enacted, to the Development Services
17 Division of the Planning and Development Department.

18 **Section 13. Effective Date.** This Ordinance shall become
19 effective upon signature by the Mayor or upon becoming effective
20 without the Mayor's signature.

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22 Form Approved:

23
24 /s/ Mary E. Staffopoulos

25 Office of General Counsel

26 Legislation Prepared By: Mary E. Staffopoulos

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