

CITY COUNCIL MEMORANDUM

AGENDA ITEM

An ordinance granting a gas franchise to Atmos Energy Corporation

ORIGINATING DEPARTMENT

City Attorney

BACKGROUND INFORMATION

The City Charter states that the City has ownership and right of control and use of streets, highways, alleys, parks, public places, and all other real property. It further provides that the City Council may grant a right of use of City property to others for the purpose of furnishing to the public any general public service through a franchise.

In 1996, the City granted a twenty-year gas franchise to Lone Star Gas. Lone Star's successor, Atmos Energy Corporation, seeks to establish a new franchise upon the expiration of the current franchise later this year.

DISCUSSION/CONCLUSION

City staff has worked with Atmos representatives to prepare the proposed franchise. The fee received by the City will continue to be five percent (5%) of the gross revenues received by Atmos for the sale of gas within the city limits, with payments made quarterly. Atmos has requested to remove two categories of revenue from the current definition of revenue. The first is revenues billed but not collected, or uncollectable debt. Based on information provided by Atmos for the past four years, removal of that category would reduce the City's revenue from Atmos by approximately \$4,000 per year. The second is contributions in aid of construction. These are reimbursements Atmos receives for costs they expend to move or extend infrastructure, either from a governmental entity or a private developer. The reimbursements have varied over the past several years, ranging from less than \$100 to \$1,444 annually.

The franchise term is proposed to be fifteen (15) years, with an automatic five-year (5) renewal unless notice to terminate or renegotiate is given by either party 120 days before expiration.

Staff has reviewed franchises granted to Atmos by other cities in recent years, and the terms and conditions of the proposed franchise are substantially the same. The franchise also contains what is commonly called a most favored nations provision. If Atmos were to grant a franchise to another city that results in a higher franchise fee, the City would also have that fee available upon acceptance of all terms granted to the other city.

The City Charter requires three (3) readings of a franchise ordinance, and the last reading must be not less than 30 days from the first. The three readings will be June 14, July 12, and July 26. A franchise does not take effect until 60 days after passage. It is proposed that this ordinance be effective October 1, 2016.

FISCAL IMPACT

Atmos has paid the following revenue to the City over the past five years:

FY 2016 - \$ 74,402.11 (reflects one quarterly payment)

FY 2015 - \$390,254.01

FY 2014 - \$364,594.62

FY 2013 - \$270,101.37

FY 2012 - \$256,786.27

RECOMMENDATION

Recommend the City Council approve the proposed franchise ordinance.