

Having previously been introduced at the February 10, 2025, council meeting, Council Member ELLIS moved the adoption of the following Ordinance, which was seconded by Council Member FARRELL:



ORDINANCE 25-222

AN ORDINANCE GRANTING A NON-EXCLUSIVE RIGHT-OF-WAY USE AGREEMENT TO SPIRE ALABAMA INC., FOR THE PURPOSE OF PROVIDING SERVICES, FACILITIES AND EQUIPMENT NECESSARY TO MEET THE CURRENT AND FUTURE NATURAL GAS NEEDS OF THE COMMUNITY WITHIN THE PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF ALABASTER, ALABAMA

WHEREAS, Spire Alabama Inc. (hereinafter referred to as the "the Company") desires to continue to provide services, facilities and equipment necessary to meet the current and future needs of the community, and on public rights-of-way within the City of Alabaster, Alabama; and

WHEREAS, the Company agrees and recognizes that it is required to obtain consent in the form of a right-of-way use agreement from the City of Alabaster in order to construct and maintain the transmission lines within the corporate limits of the City of Alabaster; and

WHEREAS, the City Council wishes to accommodate the Company's request and grant a right-of-way use agreement for the provision of natural gas services to the community in accordance with the terms and conditions contained herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALABASTER AS FOLLOWS:

Section 1. In consideration of the benefits to accrue to said City of Alabaster, Alabama (the "City") and the inhabitants thereof, Spire Alabama Inc., its successors and assigns (the "Company") is hereby given, granted and vested with the rights, authority, privileges and franchises hereinafter set forth.

Section 2. The Company is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, own, maintain, operate, extend and enlarge in the City a plant or system for the manufacture, transmission, distribution and sale of gas for all purposes whatsoever in and through the City; and the consent of the City acting through the Mayor and the City Council, who are the proper authorities of the City is hereby given to the Company to use the streets, avenues, alleys, ways, bridges, viaduct, underpass and other public places ("Public Infrastructure") in the City for any and all of the purposes referred to in this Ordinance.

Section 3. The Company is hereby granted and vested with the right, privilege and franchise to construct, erect, lay, install, renew, repair, maintain, operate, use and extend at any time, without the formality of a permit and without paying any fee therefor, its mains, conduits, appliances, meters, sensors, routers, poles, antennae, and any and all other equipment, appurtenances and fixtures as may be reasonably necessary or desirable in the operation of a natural gas distribution system (the "Company Facilities") under, along, above, and across any Public Infrastructure in the City. The City will not vacate any public right-of-way containing any Company Facilities without first advising the Company of its intention to vacate

the right-of-way and cooperating with the Company in reasonable attempts to obtain the necessary property rights to maintain the Company Facilities in the right-of-way.

Section 4. The said Company Facilities shall be so laid, set or constructed as not to unreasonably interfere with the proper use of the Public Infrastructure, and to that end the Company shall abide by all lawful and reasonable ordinances and resolutions that have been or may be duly adopted by the governing body of the City.

Section 5. Whenever the Company shall cause any opening or alteration to be made in any of the Public Infrastructure in the City for the purpose of laying, setting, maintaining, operating or repairing any Company Facilities, the work shall be completed within a reasonable time and the Company shall, upon the completion of such work, restore such portion of the Public Infrastructure to as good a condition as is reasonably practicable as it was before the opening or alteration was made.

Section 6. The Company shall hold the City harmless from any and all liability or damages resulting from the negligence of the Company in the construction and maintenance of said Company Facilities.

Section 7. The Company shall have the power and authority, subject to the supervision of the Alabama Public Service Commission or other duly constituted governmental authority vested with the power now vested in the Alabama Public Service Commission to supervise and regulate public utilities in the State of Alabama, to make, adopt and enforce rates, rules and regulations for the furnishing of gas and for the reasonable operation of its plant and system and shall have the right at all reasonable hours to have access to its gas pipes and the meters of any consumer for the purpose of making repairs and other proper purposes. City will not prohibit the Company from making connections of the Company Facilities to new customers or providing service to new accounts within the territorial limits of City.

Section 8. Neither acceptance of, nor compliance with, the provisions of this ordinance shall in any wise impair or affect, or constitute or be construed as a relinquishment or waiver of, any right, permission or authority which the Company, its successors or assigns, may have independently of this ordinance; nor shall any use by the Company, its successors or assigns, of public property or places in the City, as authorized by this ordinance or service rendered by the Company, its successors or assigns, in said City, be treated as use solely of the rights, permission and authority provided for by this ordinance or as service referable solely to this ordinance or to any obligation of service consequent upon acceptance thereof or as in any wise indicating non-use of, non-compliance with, any obligation incident to, any right, permission or authority vested in the Company, its successors or assigns, independently of this ordinance; and the acceptance provided for in Section 13 of this ordinance, and each and every compliance with the provisions of this ordinance or with any obligation arising from acceptance thereof, shall be subject to, and conditioned by, the provisions of this Section 8, with the same force and effect as though each of the provisions of this section were expressly incorporated in such acceptance and expressly declared by the acceptor, its successors or assigns, at and prior to the time of such compliance by it, as conditions of such compliance.

Section 9. All ordinances and parts of ordinances in conflict with this ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

Section 10. The duration of this franchise shall be for a period of ten (10) years from the date of its adoption by the Mayor and the City Council.

Section 11. As a condition to the continued existence of the franchise herein granted and as compensation or consideration for the granting thereof, the Company agrees by its acceptance hereof that it will pay to the City, in addition to all taxes now or hereafter required by law to be paid, a franchise fee of one percent (1%) of gross gas sales revenues received by the Company from the sale and delivery of gas during the preceding calendar year to customers within the corporate limits of the City.

Section 12. This Ordinance shall be published in accordance with the applicable provisions of Section 11-45-8 of the Code of Alabama (1975). Such publication shall be done by the City Clerk of the City and thereafter the City Clerk shall enter upon the minutes of the City, immediately after the place where this Ordinance is recorded, a certificate setting forth that such Ordinance was published in accordance with the terms hereof and the laws of the State of Alabama. The expense of such publication shall be paid by the Company.

Section 13. Upon filing by the Company with the Clerk of the City of a written acceptance of this Ordinance and of the franchise granted hereby, this Ordinance shall constitute a contract between the City and the Company and their respective successors and assigns, effective from the date that this Ordinance was passed.

Section 14. The enactment of this franchise in the manner hereinabove provided shall have the effect of terminating any other franchise heretofore granted by the City and then held by the Company covering the distribution of gas in the City and territory contiguous thereto.

Section 15. If any provision of this ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

THIS ORDINANCE IS ADOPTED AND APPROVED AND EXECUTED THIS 24TH DAY OF FEBRUARY 2025.

ATTEST:

CITY OF ALABASTER


J. Mark Frey, City Clerk


Sophie Martin, Council President

APPROVED


Scott Brakefield, Mayor