

**CURRY COUNTY  
ORDINANCE NO. 2019-02  
NON-EXCLUSIVE FRANCHISE AGREEMENT TO  
EASTERN NEW MEXICO NATURAL GAS COMPANY**

This Agreement is entered into this 2<sup>nd</sup> day of APRIL, 2019 by and between Curry County, a New Mexico government entity, hereinafter referred to as "County" and Eastern New Mexico Natural Gas Company, hereinafter referred "ENMNG", hereinafter referred to as "Company", and collectively referred to herein as "the Parties".

**WHEREAS**, County desires to grant and Company desires to obtain a non-exclusive Franchise Agreement to provide Natural Gas Distribution Service within Curry County on the terms and conditions herein contained.

**NOW THEREFORE** in consideration of the mutual covenants and promises herein contained, the Parties hereby agree as follows:

**1. Definitions and Interpretation**

Unless otherwise expressly provided in this Agreement, the words, phrases and expressions in this Agreement will have the meanings attributed to them as follows:

- a. "Agreement" means this Natural Gas Distribution System Franchise Agreement;
- b. "Company" means ENMNG and includes its successors and permitted assigns;
- c. "Construct" means constructing, reconstructing, upgrading, extending, relocating, or removing any part of the Natural Gas Distribution System;
- d. "Maintain" means to maintain and keep in good repair any part of the Natural Gas Distribution System;
- e. "Natural Gas" means a combustible mixture of hydrocarbon gases;
- f. "Natural Gas Distribution Service" means the delivery of Natural Gas in accordance with the Company's permits/licenses through the State of New Mexico;
- g. "Natural Gas Distribution System" means any facilities owned by the Company which are used to provide Natural Gas Distribution within the County and without limiting, will include all mains, pipes, conduits, valves and all other installations used and required for the purpose of delivering Natural Gas to the Consumer and includes any Natural Gas distribution lines owned by the Company within the County;

- h. "Operate" means to operate the Natural Gas Distribution System, or to interrupt or restore service in any part of the Natural Gas Distribution System, in a safe and reliable manner;
- i. "Plans and Specifications" means the plans, drawings and specifications reasonably necessary to properly assess and review proposed Work prior to issuance of any approval that may be required under this Agreement;
- j. "Work" means any work to construct, maintain or extend the natural Gas Distribution System; and

## **2. Term**

This Franchise Agreement shall become effective and take effect thirty (30) days from the passage of hereof by the Board of County Commission of Curry County (the "Effective Date") and shall remain in force from and after the Effective Date of this Ordinance for a term of twenty (20) years and shall only be effective within the County's geographic boundaries, excluding any Municipality, Town or Village.

This Franchise shall renew automatically for successive ten (10) year periods subject to renegotiation of the terms set forth herein, not to exceed a twenty percent (20%) increase of the previous year's annual payment.

## **3. Grant of Franchise**

- a. Subject to the terms and conditions hereof, County hereby grants to Company the non-exclusive right within Curry County to:
  - i. Provide Natural Gas Distribution Service;
  - ii. Construct, Operate and Maintain a Natural Gas Distribution System; and
  - iii. Use portions of the County roads, rights-of-way and other lands owned, controlled or managed by the County which have been designated by the County for such use and which are necessary to provide Natural Gas Distribution Service or to Construct, Operate and Maintain a Natural Gas Distribution System.
- b. Company agrees to:
  - i. Bear the full responsibility of an owner of a Natural Gas distribution system and to ensure all services provided pursuant to this Agreement are provided in accordance with all appropriate New Mexico rules, regulations and laws as applicable;

- ii. Construct, Operate and Maintain the Natural Gas Distribution System in compliance with all applicable rules and regulations which may apply thereto; and,
- iii. Within one (1) calendar week of executing this Franchise Agreement, Company shall provide the County with two (2) current maps showing the complete layout, location and placement of any and all-natural gas lines that Company has in the unincorporated areas within the County. This map will be filed in the Curry County Clerk's Office and Company shall be responsible for providing an updated or more current map on annual basis or at such other intervals as Company normally updates their maps.
- iv. Use only those designated portions of County road, rights-of-way, and other lands owned by the County which are necessary to Construct, Operate and Maintain the Natural Gas Distribution System, including the necessary removal or trimming of trees, shrubs or bushes or any parts thereof; and,
- v. Any and all work done on the roads and other structures and property County shall be done with the utmost diligence and with the least amount of inconvenience to the public and shall be placed in such a manner as to cause a minimum interference with the rights or reasonable convenience of property owners who adjoin any of said roads and places on County property and all such poles, towers or other fixtures placed on any County property shall be placed at the outer edge of the property adjoining the County's right-of-way used for travel on said roads, streets, alleys and public ways; and,
- vi. Company shall within a reasonable time, not to exceed seven (7) days, of completion of any project or any installment or part of a project, restore the roads and places on County property that was worked on and/or excavated by it, to their original condition as nearly as possible; and,
- vii. Obtain any and all necessary/required permits from the Curry County Road Department, and the associated fees are paid and terms and conditions thereof are complied with.

#### **4. Franchise Fee**

- a. At the current time, Company has plans for one (1) extension project. If at any time in the future, should Company desire to expand and/or install additional distribution lines, County and Company will get together to discuss the imposition of a franchise fee at that time.

## **5. Right to Terminate on Default**

In the event either Party breaches any material provision of this Agreement, the other Party may, at its option, provide written notice to the Party in breach to remedy such breach. If the work to remedy said breach is not commenced within two (2) weeks after receipt of written notice of said breach, the Party not in breach may give six (6) months' notice in writing to the other Party of its intent to terminate this Agreement, and unless such breach is remedied to the satisfaction of the Party not in breach this Agreement will terminate six (6) months from the date such written notice is given, unless the Parties have, in writing, mutually agreed to additional terms.

## **6. Construction and/or Maintenance of Natural Gas Distribution System**

### **a. County Approval**

Before undertaking any Major Work, or in any case in which County specifically requests any Major Work, Company will submit to and obtain the written approval from County, or its authorized officers, of the Plans and Specifications for the proposed Major Work and its location.

Company shall give notice to the Curry County Manager and Curry County Road Superintendent regarding any work, maintenance or repairs to any of Company's lines or other facilities in County's rights-of-ways as follows:

- i. At least ninety (90) days advanced written notice shall be given to the Curry County Manager and Curry County Road Superintendent prior to any actual installation, work, repairs, excavation, trenching or other such work in preparation for installation of said lines.
- ii. Sixty (60) days advanced written notice shall be given to the Curry County Manager and Curry County Road Superintendent of any work that will close a County road or a portion of a County road to traffic and any work that would close for any period of time or any work that would close or prevent access through any intersection of a County road for any period of time and any crosscuts, cuts, boring or excavation of any type on any County road surface.
- iii. Any work to be performed in County easements, and not on County surface or roadway that will have no impact on traffic flowing on County roads.
- iv. In the event of an emergency, which is defined as a situation that Company had no advanced notice of and could not plan, prepare or otherwise notify County regarding the same, Company shall immediately contact the County Manager and give oral

notification of the same, to be followed up within twenty-four hours by written notification.

- v. Company shall construct and maintain its facilities consistent with all applicable Federal, State and local construction codes, rules, regulations and ordinances. County has the right to inspect and issue a "stop work order" for any unsafe condition and/or any work and/or any noncompliance with the terms of this agreement resulting from Company's construction activities.

Approval by County granted in accordance with this paragraph will be limited to an approval of the location and alignment of the major Work only, and will not signify approval of the structural design or the ability of the work to perform the function for which it was intended. Company shall comply with Curry County Road Policy as they may apply to the site or location of the work. Company will not be charged the fees set forth in Curry County Road Policy, as all fees and costs are included in the annual franchise fee.

Prior to commencing any Work, Company will obtain any and all applicable licenses, permits and authorizations as are required by law. Company will notify County of all Work done within County prior to commencing the Work where reasonably practicable.

Company will obtain prior written approval from County for any traffic lane closures required to be made at least seven (7) days prior to the commencement of the proposed Work.

For the purposes of obtaining the approval of County for Major Work under this Agreement, Company will provide County with the plans and Specifications for the proposed Major Work in Electronic Format (or upon request, Company will provide County with a hard copy of the materials). The Plans and Specifications will include a description of the project and drawings of a type and format generally used by Company and will illustrate any and all proposed changes to the Natural Gas Distribution System.

b. Restoration of County Property

Company agrees when it or any agent employed by it undertakes any Work on any County Property or rights-of-way. Company will complete the said Work promptly and in a good and workmanlike manner and, where applicable, in accordance with the approved Plans and Specifications. Further, and unless otherwise agreed to by the Parties, Company will forthwith restore County Property to the same state and condition, as nearly as reasonably possible, in which it existed prior to

the commencement of such Work, subject to reasonable wear and tear and to the satisfaction of County acting reasonably.

Company will, where reasonably practicable and prudent, locate its pipelines and related equipment in the ditches adjacent to the roads and main thoroughfares.

Company further covenants it will not unduly interfere with the works of others or the works of County. Where reasonable and in the best interests of both County and Consumer, Company will cooperate with County and coordinate the installation of the Natural Gas Distribution System along the designated rights-of-way pursuant to the direction of County. During the performance of the Work, Company will use commercially reasonable efforts to not interfere with existing County Property and to cause as little damage as possible to the property of others (including County Property). If Company causes damage to any existing County Property during the performance of any Work, it will cause such damage to be repaired at its own cost.

Upon default by Company or its agent to repair damage caused to County Property as set out above, County may provide written notice to Company to remedy the default. If the default is not remedied within two (2) weeks after receipt of the written notice or such further time as may be reasonably required and requested by Company using best efforts on a commercially reasonable basis to remedy the default, County may undertake such repair work and Company will be liable for the reasonable costs thereof.

c. Urgent Repairs and Notifications to County

If any repairs or maintenance required to be made to the Natural Gas Distribution System are of an urgent nature where the operation or reliability of the Natural Gas Distribution System is materially compromised or potentially materially compromised, Company will be entitled to conduct such repairs or maintenance as are commercially reasonable without prior notice to County and, unless otherwise specified by County, Company will provide notice to County as soon as practicable and, in any event, no later than seventy-two (72) hours after the repairs are commenced.

d. Company to Obtain Approvals from Other Utilities

Company will be solely responsible for locating, or causing to be located, all existing utilities or utility mains, pipes, valves and related facilities in, on or adjacent to the Work site. Company will notify all other utility operators and ensure utilities and utility mains, pipes, valves and related

facilities are staked prior to commencement of construction. Unless County has staked the location for the utility property, staking will not be deemed to be a representation or warranty by County the utility or utility property are located as staked. County will not be responsible for any damages, losses or claims of any type or nature caused by Company to any utility or any third party as a result of Company's Work. Approval must be obtained by Company from the owner of any third-party utility prior to relocation of any facility owned by such third-party utility.

Company shall be responsible for any and all traffic signs or traffic-controlled devices as may be needed, necessary or required for any and all work in County right-of-way or on County roads. Company shall comply with the signage requirements as set forth in the most recent version of the manual on Uniform Traffic Controlled Devices adopted/approved by the New Mexico Department of Transportation.

For the purpose of obtaining approval from County, Company shall work with the County Road Superintendent.

e. Revised Plans and Specifications

Following completion of any Major Work, Company will provide County with the revised Plans and Specifications, updated after construction, in Electronic Format, where available and upon request, Company will provide County with a hard copy of the materials within three (3) months of the request. Company will provide County with copies of any other revised Plans and Specifications as reasonably requested by County. For the purposes of this paragraph, Company may satisfy its obligations to provide revised Plans and Specifications in Electronic Format by:

- i. Advising County, the revised Plans and Specifications are posted to a web-based forum that contains such information; and
- ii. Allowing County access to such web-based forum.

f. Permits and fees

Company will comply with all of the terms, conditions and requirements set forth in the Curry County Road Policy, as amended and shall ensure that all fees are paid, and permits obtained prior to undertaking any work.

g. Approvals

Where any approvals are required to be obtained from either Party under this paragraph, such approvals will not be unreasonably withheld.

Company will ensure all Work is performed in accordance with the requirements of all applicable statutes, laws, rules and regulations. Company will immediately notify County of any lien, claim of lien or other action of which it has or reasonably should have knowledge, and will cause the same to be removed within thirty (30) days (or such additional time as County may allow in writing), failing which County may take such action as it reasonably deems necessary to remove the same and the entire cost thereof will be immediately due and payable by Company to County.

## **7. Safety**

### **a. Hazardous Substances**

- i. Company shall comply with any and all applicable laws, statute, regulations and orders concerning hazardous substances relating to Company's system in or above County rights-of-way or public property.
- ii. Company agrees to indemnify County against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by County arising out of a release of hazardous substances caused by Company's system.

### **b. Maintenance & Repairs**

Company shall provide and use at its own expense and cost any equipment and facilities as may be necessary to monitor, control, use and maintain Company's system and equipment in such a manner so as to prevent injury to County's property or property belonging to any person. Company, without charge to County and in full compliance with any and all laws, rules, regulations, ordinances and similar enactments, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. Any work performed or made by Company in County's rights-of-way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding. The bounds of any trenches shall be clearly designated by warning lights during periods of dusk and darkness. Any and all such work, maintenance and/or repairs shall be performed by Company pursuant to the terms and requirements set forth in the Curry County Road Policy.

## **8. Responsibilities for Cost of Relocations**

- a. Upon receipt of one (1) year's notice from County, Company will, at its own expense, relocate from County Property any part of the Natural Gas Distribution System that is located on County Property as may be

reasonably required by County due to planned County work or construction. In order to encourage the orderly development of County facilities and the natural Gas Distribution system, County and Company agree they will meet regularly to:

- i. Review the long-term facility plans of County and Company; and
  - ii. Determine the time requirements and costs for final design specification for each relocation. Providing County is not the developer requesting the relocation for commercial or residential resale to third parties, Company will bear the expenses of the required relocation.
- b. Notwithstanding the foregoing, Company will not be required to move any part of the Natural Gas Distribution System after receipt of notice from County in accordance with this paragraph where:
- i. Company has illustrated to the satisfaction of County, acting reasonably, an appropriate Alternative Course of Action is available;
  - ii. County has provided Company with its written approval of the Alternative Course of Action (which approval may not be unreasonably withheld by County); and
  - iii. Company has provided its written undertaking to carry out the Alternative Course of Action promptly and within a sufficiently short period of time so as to ensure County will be left with sufficient time to complete the said planned County construction within the Intended Time Frame (taking into account any delays which the County may encounter as a result of Company utilizing the Alternative Course of Action).

## **9. Joint Use of County Rights-of-Way**

### **a. County Use**

County will have, for any reasonable County purpose, the right to make use of any County rights-of-way granted, provided such use complies with good and safe operating practices and does not unreasonably interfere with Company's use thereof, at no charge to County.

### **b. Cooperation**

Company and County agree they will use reasonable efforts to cooperate with each other in encouraging the use of joint trenching and in any negotiations with third parties desiring joint use of any part of the County rights-of-way located on County Property.

c. Payment

The compensation paid or to be paid by such third party to County for the use of the County Property including its rights-of-way, will be determined between the County and the third party.

**10. Indemnification and Liability**

a. Company shall, at all times during the life of this Franchise, be subject to all lawful exercise of the police power by the County and to such reasonable regulation as County may, by Resolution or Ordinance, hereinafter provide. It is expressly understood and agreed by and between Company and County that Company shall hold the County harmless from any and all demands, claims, lawsuits and losses sustained by County on account of any suit, judgment, execution, claim or demand whatsoever, resulting from the construction, operation or maintenance or any failure or lack thereof of its system in Curry County. County shall notify Company's representative within a reasonable period of time after the presentation of any claim or demand either by suit or otherwise made against the County by on the part of Company, its agents, assigns and/or representatives.

b. Repair of roads, etc.

In case of any disturbance of the County's roads, rights-of-way or other surfaces, Company shall, at its own cost and expense, and pursuant to Curry County's Road Policy, repair, replace and/or restore the County's road, easement or right-of-way and/or the surface to or thereof in as good a condition as before said work was commenced.

**11. Insurance**

At all times during the effective dates of this Franchise Agreement and/or any extensions, renewals or modifications of the same, Company shall obtain and continuously maintain in good standing, at the minimum, the following insurance:

a. Commercial General Liability Insurance

Such coverage shall have limits of no less than one million fifty thousand dollars (\$1,050,000.00) per occurrence and one million fifty thousand dollars (\$1,050,000.00) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and including severability of interests. Such insurance shall name County, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights

of recovery against County, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

b. Commercial Automobile Liability Insurance

Such coverage shall have a minimum combined single limit of seven hundred fifty thousand dollars (\$750,000.00) each occurrence and seven hundred fifty thousand dollars (\$750,000.00) aggregate with respect to each of Company's owned, hired and non-owned vehicles assigned to or used in the operation of the natural gas system in County. The policy shall contain a severability of interest's provision.

c. Certificates

Each policy shall provide that a certificate of insurance shall be provided to County stating that the policy or policies of insurance are in good standing and shall not be canceled or materially changes so as to be out of compliance with these requirements without thirty (30) days advanced written notice first provided to County, via certified mail, and ten (10) days advanced notice for nonpayment of premium. If any policy of insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Company shall provide a replacement coverage policy. Company agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise.

Company shall furnish County with a certificate of insurance and endorsements of a copy of the page of the policy reflecting blanket additional insured status. The certificate and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

d. Deductibles

Any deductible of the policies required by the term of this Agreement shall not in any way limit Company's liability to County.

e. Endorsements

All policies shall contain, or shall be endorsed so that:

- i. County, its officers, officials, boards, commissions, and employees shall be covered as, and have the rights of, additional

- insureds with respect to liability arising out of activities performed by, or on behalf of Company under this Franchise or applicable law, or in the construction, operation or repair, or ownership of the gas system;
- ii. Company's insurance coverage shall be primary insurance with respect to County, its officers, officials, boards commissions, employees and agents. Any insurance or self-insurance maintained by County, its officers, officials, boards commissions, employees and agents shall be in excess of Company's insurance and shall not contribute to it; and,
  - iii. Company's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

## **12. Assignment**

Company agrees to provide County with reasonable prior written notice of a sale of the Natural Gas Distribution System to a third-party purchaser. The Parties will thereafter meet to discuss the technical and financial capabilities of the third-party purchaser to perform and satisfy all terms and conditions of the Agreement, and the compensation payable to county for all costs including administrative and legal costs relating to providing its written consent to the Assignment.

County has thirty (30) days from the meeting date with Company to provide written notice to Company of its intention to consent or withhold its consent to the assignment of the Agreement to the third-party purchaser. Company agrees County may provide notice of its intention to withhold its consent to the assignment of this Agreement to the third party purchaser if County's Compensation is inadequate or if the third party purchaser fails to stipulate and agree, in favor of County, to perform and observe all of the covenants and obligations of Company to be performed and observed under this Agreement and otherwise solely on the basis of the third party purchaser to perform and satisfy all terms and conditions of the Agreement. In this case, such notice to Company must specify in detail County's concern.

In the event Company agrees to sell the Natural Gas Distribution System to a third-party purchaser, Company will request the third-party purchaser confirm in writing it will agree to all the terms and conditions of this Agreement between Company and County. Company agrees it will provide to County a copy of the third-party purchaser's confirmation letter.

Should County not reply within the thirty (30) day period, it is agreed County will be deemed to have consented to the assignment. Company further agrees when it applies to the Commission for approval of the sale, it will include in the application any notice received from County, including the reasons given by

County for withholding its consent. County will have the right to make its own submissions to the Commission.

Subject to Company having fulfilled the obligations outlined in the preceding three paragraphs, Company will be entitled to assign this Agreement to an arm's length third party purchaser of the Natural gas Distribution System without the consent of County, subject to paying County Compensation for the assignment, and having obtained the Commission's approval for the sale for the Natural Gas Distribution System and, the third party purchaser's confirmation in writing that it agrees to all the terms and conditions of this Agreement.

Where County approves such sale of the Natural Gas Distribution system to a third party and the third party provides written confirmation to assume all liabilities and obligations of Company under this Agreement, then upon the assignment of this Agreement and the payment of County Compensation for its consent to the Assignment subject to Commission approval, Company will be released from all its liabilities and obligations thereunder.

Company will be entitled to assign this Agreement to a subsidiary or affiliate of Company without County's written consent. Where Company assigns this Agreement to a subsidiary or affiliate, Company will remain jointly and severally liable.

Further, it is a condition of any assignment that the subsidiary, affiliate or third-party purchaser, as the case may be, will provide written notice to County indicating it will assume all liabilities and obligations of Company under this Agreement.

### 13. Notices

- a. All notices, demands, requests, consents, or approvals required or permitted to be given pursuant to the terms of this Agreement will be in writing and will be deemed to have been properly given if personally served, sent by registered mail or sent in Electronic Format to county or Company as the case may be, at the addresses set forth below:

TO COUNTY:            Curry County  
                             417 Gidding Street, Ste 100  
                             Clovis, NM 88101  
                             Attn: Lance Pyle, County Manager  
                             Phone: (575) 763-6016  
                             Fax: (575) 763-3656  
                             Email: lpyle@currycounty.org

TO COMPANY:        ENMNG

George Sena  
172 East Main Street  
Fort Sumner, NM 88119  
Phone: (575) 355-2468  
Fax: (575) 355-2467  
Email: enmnaturalgas@gmail.com

- b. The date of receipt of any such notice as given above, will be deemed to be as follows:
- i. In the case of personal service, the date of service;
  - ii. In the case of registered mail, the seventh (7<sup>th</sup>) business day following the date of delivery to the Post Office, provided, however, in the event of an interruption of normal mail service, receipt will be deemed to be the seventh (7<sup>th</sup>) day following the date on which normal service is restored; or
  - iii. In the case of delivery in Electronic Format, the date the notice was actually received by the recipient or, if not a business day, then the next business day.

#### **14. Miscellaneous Provisions**

a. **Hold Harmless**

Company shall hold County, its officers and agents harmless from any and all liability or claims of loss that may arise from and/or as the result of the erection, construction and/or operation of Company's system and which are attributable to the negligence of Company or any of its agents, assigns and/or representatives.

b. **Force Majeure**

Unless otherwise regulated or imposed by law, Company shall not be responsible or liable to any person, firm or corporation for the interruption of any service provided by Company arising from floods, fires, wind storms, ice storms, accidents, acts of God or any other cause beyond its control, but in case of any such interruption, Company shall use reasonable diligence to reestablish service as soon as possible.

c. **Conflicts**

All, or part, of any Resolutions or Orders in conflict with this Franchise are repealed.

d. **Severability**

If any section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or

agency of competent jurisdiction, such termination shall have no effect on the validity of any other section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

e. **Preferential or Discriminatory Practices Prohibited**

Throughout the term of this Franchise, Company shall fully comply with all equal employment or non-discrimination provisions and requirements of Federal, State and local laws and regulations relating thereto.

f. **Publication Costs**

Company shall reimburse County for all reasonable costs incurred in publishing this Franchise, if such publication is required, and legal fees incurred in preparation and review of the Franchise.

g. **Binding Effect**

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

h. **No Joint Venture**

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

i. **Waiver**

The failure of County at any time to require performance by Company of any provision hereof shall in no way affect the right of County hereafter to enforce the same. Nor shall the waiver by County of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

j. **Agreement in Entirety**

This Franchise and all exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

k. **Open Records**

- i. County, including County's auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Company, and its parent corporations and affiliates which are related to the administration or enforcement of the terms of this Franchise.
- ii. County is bound by the open public records and open public meetings laws of the State of New Mexico. County, therefore, cannot guarantee the confidentiality of any information provided to County under this Franchise.

**IN WITNESS WHEREOF** the Parties hereto have executed these presents as of the day and year first above written

**Company  
Contractor**

George Sene  
Its: G. Manager

Date: 3/11/19

**Curry County Board of County  
Commissioners**

Chris Jace  
By: Chairman Commissioner

Date: 4/2/19

APPROVED AS TO FORM:

[Signature]  
COUNTY ATTORNEY

CERTIFICATE OF CURRY COUNTY CLERK

I, Annie Hogland, Curry County Clerk, hereby certify that Curry County Ordinance Number 2019-02 being a Grant of Franchise to Eastern New Mexico Natural Gas Company, was passed, approved and adopted by the Curry County Board of County Commissioners on this 2<sup>nd</sup> day of April, 2019.

  
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Annie Hogland, Curry County Clerk

