STATE OF GEORGIA

COUNTY OF FULTON

CITY OF SOUTH FULTON

ORDINANCE NO. 2017-019

AN ORDINANCE GRANTING PERMISSION AND CONSENT TO COWETA-FAYETTE ELECTRIC MEMBERSHIP CORPORATION, A GEORGIA NON-PROFIT ELECTRIC MEMBERSHIP CORPORATION, AND ITS SUCCESSORS, LESSEES, AND ASSIGNS (HEREINAFTER REFERRED TO COLLECTIVELY AS THE "COMPANY") TO OCCUPY THE STREETS AND PUBLIC PLACES OF THE CITY OF SOUTH FULTON, A MUNICIPALITY AND POLITICAL SUBDIVISION OF THE STATE OF GEORGIA (HEREINAFTER REFERRED TO AS THE "CITY"), IN CONSTRUCTING, MAINTAINING, OPERATING, AND EXTENDING POLES, LINES, CABLES, EQUIPMENT, AND OTHER APPARATUS FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY AND FOR OTHER PURPOSES.

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, pursuant to Act 421 of the 2016 session of the Georgia General Assembly (the "City Charter"), the City of South Fulton incorporated on May 1, 2017;

WHEREAS, pursuant to Section 1.12(b)(32), the City is authorized to grant franchises or make contracts for public utilities and public services and to prescribe the rates, fares, regulations, and the standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor;

WHEREAS, the City considers collecting a franchise fee from an electric power company utilizing the public rights of way as compensation to the public for the use of the rights of way and a means of promoting the public health, safety, welfare and economic development of the City and to protect public works infrastructure,

WHEREAS, the City of South Fulton City Council finds it in the best interest of the City to adopt and enter into an Electricity Franchise Agreement as set forth herein with Coweta-Fayette Electric Membership Corporation.

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

SECTION I. Be it ordained by the governing authority of the City that the authority, right, permission, and consent are hereby granted to the Company, for a period of thirty-five (35) years from the granting of this franchise, to occupy and use the streets,

alleys, and public places of the City within the present and future corporate limits of the City as from time to time the Company may deem proper or necessary for the overhead or underground construction, maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Company's Facilities") for use in various businesses and purposes, including transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and all purposes incidental thereto or reasonably related to business in which the Company is lawfully engaged, and to re-enter upon such streets, alleys, and public places from time to time as the Company may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Company, to insure safe and efficient service.

SECTION II. Be it further ordained that the rights, permission, and consents herein contained are granted for the following considerations and upon the following terms and conditions:

1. The Company shall pay into the treasury of the City on or before the first day of March in each year following the granting of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules within the corporate limits of the City during the preceding calendar year.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by the City on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Company shall fully protect, indemnify, and save harmless the City from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Company's Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which the City would otherwise be liable.

4. The Company shall, in constructing, maintaining, operating, and extending the Company's Facilities, submit and be subject to all reasonable exercises of the police power by the City. Nothing contained herein, however, shall require the Company to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Company (whether before or after the adoption of this ordinance) in the streets, alleys, or public places of the City for the purpose of distributing electricity within the present and future corporate limits of the City. Distribution Facilities do not include any of the

following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; or (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork.

6. In the event that the City or any other entity acting on behalf of the City requests or demands that the Company relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of the City in connection with a public project or improvement, then the Company shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. The Company's obligations under this paragraph 6 shall not affect the amounts paid or to be paid to the City under the provisions of paragraph 1 of this Section II. Notwithstanding the foregoing provisions of this paragraph 6, the Company shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property (which shall include those located on easements acquired by the Company from persons or entities other than the City) at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation; (v) Distribution Facilities that do not obstruct or interfere with the safe use of the City's streets or public places, and that do not obstruct or interfere with plans for road widening, the creation of new turn lanes, or acceleration /deceleration lanes.

7. The City and the Company recognize that both parties benefit from economic development within the City. Accordingly, when it is necessary to relocate any of the Company's Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the City, the City and the Company shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, the City and the Company shall communicate in a timely fashion to coordinate projects included in the City's five-year capital improvement plan, the City's short-term work program, or the City's annual budget in an effort to minimize relocation of the Company's Facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties).

8. With regard to each project undertaken by or on behalf of the City for which the Company is not obligated, in accordance with paragraph 6, to pay the cost of relocation, the City shall pay the Company in advance for the Company's estimated cost to relocate any of the Company's Facilities (whether Distribution Facilities,

Transmission Lines, Transmission Structures, or other facilities) in connection with such project.

SECTION III. Be it further ordained that nothing contained in this ordinance shall limit or restrict the right of customers within the corporate limits of the City to select an electric supplier as may hereafter be provided by law.

SECTION IV. Be it further ordained that, notwithstanding anything herein to the contrary, the Company shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, on the gross sales of electric energy to customers living within areas that, on the effective date of this franchise, are not both: (i) within the City limits on the effective date, and (ii) depicted as being within the City limits on the maps provided to Company and attached hereto as Exhibit A.

SECTION V. Be it further ordained that, notwithstanding anything herein to the contrary, the Company shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, on the gross sales of electric energy to customers living within areas that, after the effective date of this franchise, are annexed to the corporate limits of the City before ninety (90) days after the Company receives written notice from the City that the City intends to annex (or has already annexed) the territory in which said customers are located. To be effective, any such notice must include an electronic map of the annexed areas in a format reasonably acceptable to Company.

SECTION VI. Be it further ordained that all notices under this ordinance shall be made in writing and shall be delivered or sent by (a) first class, registered or certified mail, postage prepaid, return receipt requested; (b) guaranteed overnight delivery (such as Federal Express or United Parcel Service Next Day Air); or (c) hand delivery addressed to the address of the party in question as set forth below or to such other addresses as either party may designate by notice given pursuant to this Section. Notices shall be effective upon receipt by the notified party.

To the Franchising Authority:

Mayor of City of South Fulton
5440 Fulton Industrial Boulevard
Atlanta, Georgia 30336

To the Grantee:

Coweta-Fayette Electric Membership Corporation
Attn: Christopher L. Stephens, President and Chief Executive Officer
807 Collinsworth Road
Palmetto, Georgia 30268

SECTION VII. Be it further ordained that the Company shall, within ninety (90) days from the approval of this ordinance, file the Company's written acceptance of the franchise granted in this ordinance with the Clerk of the City.

SECTION VIII. Be it further ordained that upon such acceptance all laws and ordinances, and all agreements between the Company and the City with respect to the Company's use of the City's streets, alleys, and public places, in actual conflict herewith be and the same shall thereupon stand repealed and terminated, respectively.

The foregoing Ordinance No. **2017-019** was adopted on **September 26, 2017** and offered by **Mayor Pro Tem Rowell,** who moved its approval. The motion was seconded by Councilmember **Baker,** and being put to a vote, the result was as follows:

"THIRD READING"

	AYE	NAY
William "Bill" Edwards, Mayor		
Catherine Foster Rowell, Mayor Pro Tem	√	
Carmalitha Lizandra Gumbs	√	
Helen Zenobia Willis	√	
Gertrude Naeema Gilyard	√	
Rosie Jackson	√	
khalid kamau	√	
Mark Baker	√	

The foregoing franchise accepted on

_____

COWETA-FAYETTE ELECTRIC
MEMBERSHIP CORPORATION

By:

_____
Christopher L. Stephens
President and Chief Executive Officer

THIS ORDINANCE adopted this 26th
day of September 2017.

CITY OF SOUTH FULTON, GEORGIA

By: _____
William "Bill" Edwards
Mayor

Attest:

By: _____
Mark Massey
City Clerk

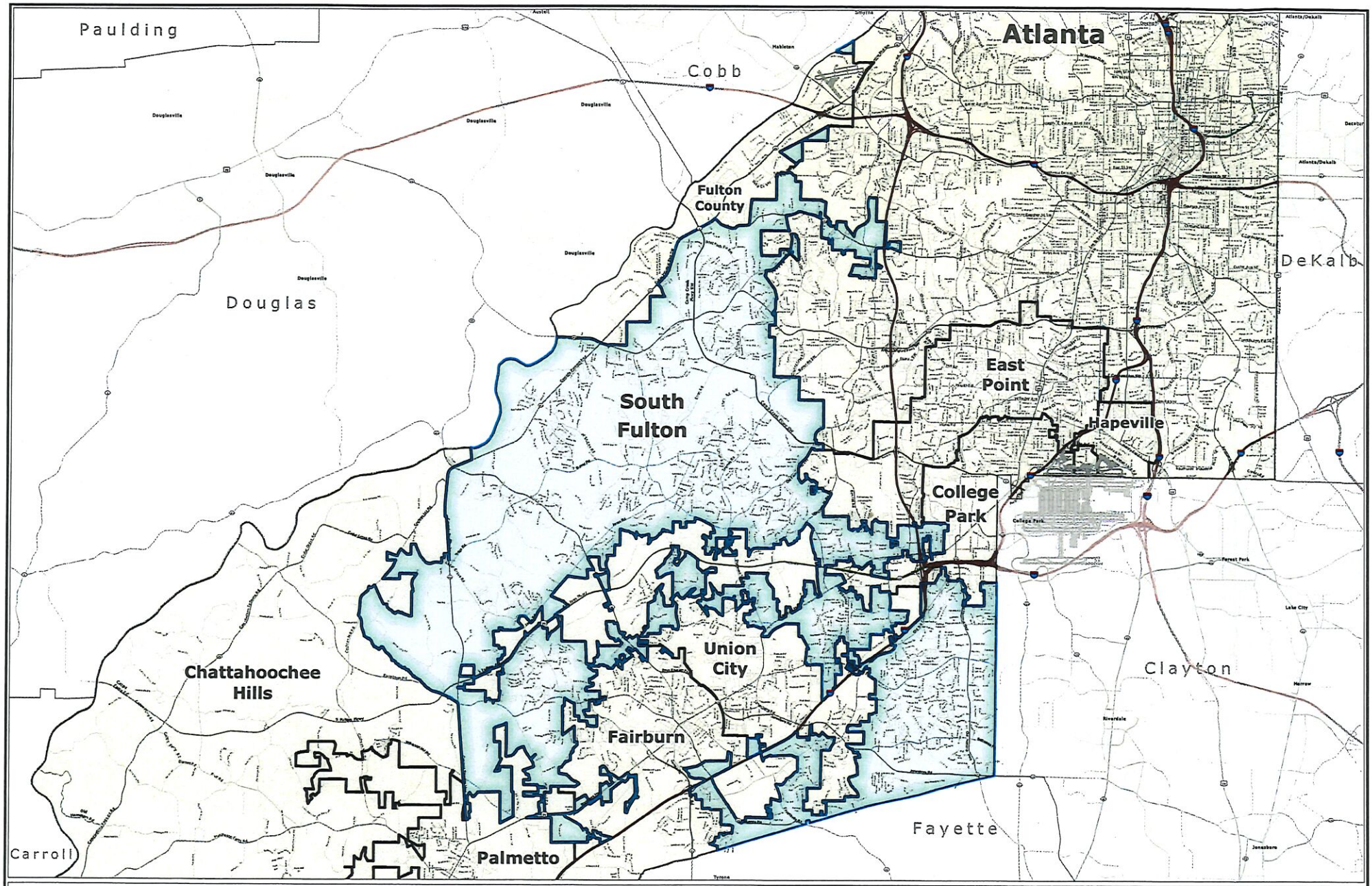
APPROVED AS TO FORM:

By: _____
Josh Belinfante
Interim City Attorney

CITY OF SOUTH FULTON
SEAL
2017
GEORGIA

EXHIBIT A

<MAPS DEPICTING CITY LIMITS>



South Fulton

City Limits

0 0.5 1 2 3 4 Miles

Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, the City of South Fulton does not guarantee the information to be free from error or omission. The information contained on this map should be used for reference purposes only.

Date: 7/20/2017

Created By: SY