

ORDINANCE NO. 2022-005

AN ORDINANCE GRANTING TO MONTANA-DAKOTA UTILITIES CO., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE, WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE

City of Killdeer, Dunn County, North Dakota

AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY FOR PUBLIC AND PRIVATE USE AND A GAS TRANSMISSION AND DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING NATURAL OR MANUFACTURED GAS, OR A MIXTURE OF BOTH, FOR PUBLIC AND PRIVATE USE.

BE IT ORDAINED BY

The City Commission, City of Killdeer, Dunn County, North Dakota

SECTION I. For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

SECTION II. There is hereby granted to Montana-Dakota Utilities Co., a corporation, Grantee, its successors and assigns, subject to the limitations herein stated, the right and franchise to occupy now and use the streets, alleys and public grounds of the Municipality as now, or hereafter constituted, for the purpose of constructing, maintaining, and operating, within, upon, in and under the same, an electric transmission and distribution system for transmitting and distributing electricity for public and private use and a gas transmission and distribution system for transmitting and distributing natural or manufactured gas, or a mixture of both, for public and private use.

SECTION III. Grantee shall maintain an efficient distribution system for furnishing electricity and an efficient distribution system for furnishing natural or manufactured gas, or a mixture of both, for public and private use at such reasonable rates as may be approved by the Public Service Commission of the State of North Dakota and under such orders, rules or regulations as may be issued by a federal or state agency having jurisdiction thereof.

SECTION IV. This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

SECTION V. The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee. The Municipality will give Grantee reasonable notice of plans for improvements of streets, alleys and public grounds where the Municipality has reason to believe Grantee's electric or gas transmission or distribution systems may be affected by the improvement. If during the period of this franchise the Municipality shall lawfully elect to alter, or change the grade of any street, alley or public grounds, Grantee, upon reasonable notice by the Municipality, at its own expense may remove, relocate or rearrange its electric or gas transmission or distribution facilities that would be a substantial interference with the change to the street, alley or public grounds, provided, however, if relocation, removal or rearrangement of any electric or gas transmission or distribution facility is made necessary to accommodate construction of a project on a federal aid highway or extension thereof within the Municipality, Grantee shall be paid the costs of the relocation, removal or rearrangement in accordance with the laws of the State of North Dakota.

SECTION VI. Grantee may trim trees and shrubs in and over the streets, alleys and public grounds to the extent Grantee determines is necessary to avoid interference with the construction, operation, maintenance, and repair of the transmission and distribution facilities, provided Grantee shall hold the Municipality harmless from any liability arising therefrom.

SECTION VII. Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its transmission and distribution systems, and its use of the streets, alleys, and public grounds of the Municipality. Nothing herein shall impose liability on Grantee for the negligent, reckless, or intentional acts or omissions of the Municipality or other parties not under control of Grantee.

SECTION VIII. Grantee shall have the right to assign this franchise to any party, or corporation, but all obligations of Grantee hereunder shall be binding upon its successors and assigns.

SECTION IX. Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

SECTION X. This franchise shall continue and remain in full force and effect for a period of twenty (20) years from the date upon which this ordinance shall become effective as provided by law.

Passed the 1st day of August, 2022

Approved this 1st day of August, 2022

ATTEST: Mark O'Connell
Auditor

Joel Speth
Mayor-Chairman

(Seal of the Municipality)

ND