

AN ORDINANCE GRANTING A FRANCHISE TO CO-MO ELECTRIC COOPERATIVE, INC., A MISSOURI COOPERATIVE CORPORATION, TO CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN ELECTRIC FACILITIES IN THE CITY OF BOONVILLE, MISSOURI FOR A PERIOD OF TWENTY (20) YEARS, AND TO FURNISH ELECTRICITY TO THE CITY AND INHABITANTS THEREOF AND TO USE THE STREETS, ROADS, ALLEYS AND OTHER PUBLIC PLACES WITHIN THE CITY FOR SAID PURPOSES, IN ACCORDANCE WITH APPLICABLE LAW; PROVIDING AN EFFECTIVE DATE THEREFOR, AND REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

WHEREAS, Co-Mo Electric Cooperative, Inc. (hereinafter referred to as Co-Mo) is a Missouri Cooperative Corporation organized and existing under the laws of the State of Missouri; and

WHEREAS Chapters 394 and 386, RSMo., and more specifically Sections 386.800 and 394.315, RSMo., provide that electric cooperatives of this State may provide electric services within the incorporated limits of cities, including Boonville, Missouri, in accordance with the terms and provisions of said Chapters 386 and 394, RSMo.; and

WHEREAS, the City of Boonville, Missouri may award non-exclusive electric utility service franchises for periods up to twenty (20) years; and

WHEREAS, Co-Mo desires to enter into a proposed contract, in the form as hereafter set out, by and between the City of Boonville, State of Missouri, and Co-Mo, its successors and assigns, providing for the lighting of the streets, avenues, alleys and other public places of the City by electricity, and providing for the supply of other electric utility service required by the City according to the terms, provisions, stipulations, and agreements therein specified.

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

SECTION 1: That the proposed contract, in the form as hereinafter set out by and between the City of Boonville, Missouri, and Co-Mo Electric Cooperative, Inc., a Cooperative Corporation, its successors and assigns, providing for the lighting of the streets, avenues, alleys and other public places of the City by electricity, and providing for the supply of other electric utility service required by the City according to the terms, provisions, stipulations, and agreements therein specified, for a term of twenty (20) years, be and the same is hereby approved and confirmed; and that the Mayor and the City Clerk of said City be and are hereby authorized and directed to execute on behalf of the City said contract in the form set out as “**Exhibit A**”, hereto attached and incorporated by reference.

SECTION 2: That the City of Boonville, Missouri does hereby grants unto Co-Mo Electric Cooperative, Inc., and its successors and assigns, the non-exclusive right, permission, authority, privilege and franchise to locate, erect, install, construct, reconstruct, maintain, repair, own, operate, manage and control within the present and future corporate limits of the City for a period of twenty (20) years from and after December 31, 2021, an electric distribution system and such facilities as may be necessary, convenient or proper in providing the City and its inhabitants with electric service as provided by law. Upon expiration of the initial twenty (20) year term the franchise will expire, subject to application by Co-Mo for, an additional non-exclusive franchise term. and further subject to written notice to the City by Co-Mo of its intent to renew such franchise with a minimum of one (1) year notice of such intent, and further subject to approval by the City Council.

This non-exclusive franchise is granted to Co-Mo in accordance with the provisions of Chapters 394 and 386, RSMo., and specifically the provisions of Sections 386.800 and 394.315, RSMo., as may be amended from time to time.

SECTION 3: That the providing of electric service by Co-Mo to the inhabitants of the City shall be subject to the provisions of the Articles of Incorporation, the By-Laws, the Rules and Regulations of Co-Mo, and the rates charged by Co-Mo shall be set by the Board of Directors of Co-Mo. Provided, further that in furnishing electric service to the inhabitants of the City, Co-Mo, as a cooperative, has the right to require that any person, firm, association, corporation or body politic or subdivision thereof must be a member if Co-Mo in order to obtain and receive electric service from Co-Mo. The customers of Co-Mo within the City shall be charged the same rates as other members of Co-Mo not located within the City of Boonville, Missouri, except for any franchise tax of the City passed on or charged to said customers.

SECTION 4: That for the purposes aforesaid, the City hereby grants and conveys to Co-Mo the right and authority to enter upon and use all of the streets, lanes, avenues, alleys, sidewalks, bridges and public grounds of the City during the franchise period that shall be necessary and reasonable for Co-Mo to provide such services.

SECTION 5: That Co-Mo shall hold the City of Boonville harmless of and from any and all liability, claims, causes of action, and actions caused by or resulting from the negligence of Co-Mo in the erection, installation, construction, maintenance, repair, operation, management or control of said electric distribution system in the City.

SECTION 6: That during the location, erection, installation, construction, maintenance, repair and operation of said electric distribution system, Co-Mo shall not unnecessarily impede public travel on the streets, lanes, avenues, alleys, sidewalks, bridges and public grounds of the City.

SECTION 7: That on or before the 15th day of each month during the aforesaid franchise period, Co-Mo shall pay the City in cash, or its equivalent, an amount equal to the franchise tax as set in City Ordinance, Chapter 10, Division 2, Section 10-91- Tax Imposed. This amount shall be the aggregate sum received by Co-Mo for gross city revenue service to residential and commercial customers and excluding industrial customers within the corporate limits of the City; and that on or before the 15th day of each month during the aforesaid franchise period, the City shall pay to Co-Mo, in cash or its equivalent, an amount equal to the charges for street lights being furnished by Co-Mo to the City for the previous month, said amount to be based upon rate schedules as set out and approved by the Board of Directors of Co-Mo.

SECTION 8: That the monthly payments to be made by Co-Mo under Section 7, above, shall be in lieu of all taxes or assessments, licenses, license taxes or license fees, occupation taxes, rental taxes or charges, or charges for police supervision, inspection or protection, except general property taxes, which the City otherwise might now or hereafter during the aforesaid franchise period be empowered to levy upon, assess against, or collect from Co-Mo, except those charges, fees taxes, or assessments, by whatever name they may be called, which may be passed on or charged to the customers of Co-Mo in the City.

SECTION 9: Co-Mo shall not sell, transfer, or assign this franchise to any person or corporation other than to one approved by the City. The City will not unreasonably withhold approval of any such sale, transfer or assignment.

SECTION 10: That if any section or part of a section of this Ordinance shall be declared null and void by a competent authority, the remaining portions hereof shall not be affected thereby and shall remain in full force and effect.

SECTION 11: That all ordinances or resolutions, or parts thereof, heretofore adopted by the City which are or may be in conflict with the terms of this Ordinance or with any of its provisions are hereby repealed.

SECTION 12: This ordinance shall take effect and be in full force from and after its passage and approval.

FIRST READING: November 15, 2021

SECOND READING: December 6, 2021

READ FOR THE SECOND TIME AND PASSED ON THIS 6TH DAY OF DECEMBER, 2021, AFTER A COPY OF THIS ORDINANCE AND EXHIBITS REFERENCED

**HEREIN HAVE BEEN MADE AVAILABLE FOR PUBLIC INSPECTION
FOLLOWING ITS FIRST AND SECOND READINGS.**

APPROVED AND PASSED THIS 6TH DAY OF DECMEBER, 2021

NED BEACH, MAYOR

ATTEST:

AMBER DAVIS, CITY CLERK

EXHIBIT "A"

CONTRACT FOR STREET AND OUTDOOR LIGHTING ELECTRIC SERVICE

This Agreement made and entered into by and between Co-Mo Electric Cooperative, Inc., d/b/a Co-Mo Connect, powered by Co-Mo Electric Cooperative, a Missouri Cooperative Corporation, its successors and assigns, hereinafter referred to as "Co-Mo," and the City of Boonville, Missouri, a Municipal Corporation and political subdivision of the State of Missouri, hereinafter referred to as the "City."

WHEREAS, The City has determined that the lighting of the streets, alleys and other outdoor public areas is necessary for the convenience and safety of the public and should be allowed and provided by contract with Co-Mo under the applicable laws of this State; and

WHEREAS The Cooperative is a Cooperative Corporation organized and existing under the laws of the State of Missouri; and

WHEREAS, Recent changes in the law have provided for rural electric cooperatives of this State to provide electric service within the corporate limits of certain cities, including the City of Boonville, Missouri, under the provisions of Sections 386.800, and 394.315, RSMo., and other applicable sections of Chapters 394 and 386, RSMo., if certain requirements are met; and

WHEREAS, Co-Mo desires to enter into a proposed contract, in the form as hereafter set out, by and between the City and Co-Mo, its successors and assigns, providing for the lighting of the streets, avenues, alleys and other public places of the City by electricity, and providing for the supply of other electric utility service required by the City according to the terms, provisions, stipulations, and agreements therein specified, and as provided by law.

NOW, THEREFORE, The City does hereby award to Co-Mo this non-exclusive contract for lighting within the territorial limits of the City as they now exist or may hereafter be extended, as set out in the applicable provisions of the aforesaid statutes, which Co-Mo is now authorized to serve or may hereafter be authorized to serve, and the City agrees to pay for and Co-Mo agrees to sell and deliver said services in the manner and subject to the terms and conditions hereinafter set forth and in accordance with applicable law.

1. Street and Outdoor Area Lighting Service. Initial Street and Outdoor Area Lighting Service supplied by Co-Mo on Co-Mo's facilities or the City's facilities shall be of the type and character stipulated by the parties and in accordance with applicable codes and regulations of the City. Additional Street and Outdoor Lighting Service may be requested by the City from time to time and shall be provided pursuant to stipulations between the parties as set out in one or more written addendums to this Agreement.
2. Tariffs. All services to be provided hereunder shall be supplied by Co-Mo and paid for by the City as provided by the terms and conditions of Co-Mo's published rate schedules at the time service is provided, a current copy of which is hereto attached as Appendix 1. These tariffs may be amended as allowed by applicable rules, regulations and state law governing rural electric cooperatives.

3. Right to Install Co-Mo Facilities. The City hereby grants to Co-Mo, its successors and assigns, while engaged in the performance of Co-Mo's duties hereunder, the right and privilege to erect, maintain, repair, and operate lighting fixtures, poles, wires, cables, transformers and related apparatus and appliances necessary or convenient for Co-Mo's efficient performance of its duties under this contract, upon, under, over, and across the streets, alleys and other public places within the territorial limits of the City, as provided by law.
4. Notice, etc. All notices, applications and requests by the City hereunder shall be in writing, signed by its authorized representative and delivered or mailed to Co-Mo addressed in the following manner, or to such other address as Co-Mo may hereafter designate in writing to the City:

Co-Mo Electric Cooperative, Inc.
P.O. Box 220
29868 Highway 5
Tipton, MO 65081

5. Term. The term of this Agreement is twenty (20) years. This contract expires on DEC 31st 2041.
6. Agreement Binding. This Agreement shall be binding and inure to the benefit of the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate original to be effective DEC 31st, 2021.

CO-MO ELECTRIC COOPERATIVE, INC.,
D/B/A Co-Mo Connect Powered by Co-Mo
Electric Cooperative

By: K Eugene Eulinger, Jr.
K. Eugene Eulinger, Jr., President

ATTEST:

[Signature]
Secretary

CITY OF BOONVILLE, MISSOURI

By: [Signature]
Ned Beach, Mayor

ATTEST:

[Signature]
Amber Davis, City Clerk

Franchise tax:

4.54% of the
gross receipts from
such business.

Inside city sales only

Code 10-91 Tax Imposed