

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JANUARY 18, 2011 AGENDA**

Subject:	Type:	Submitted By:
AGREEMENT – OMAHA PUBLIC POWER DISTRICT – CONDUCT A RETAIL ELECTRIC ENERGY SUPPLY BUSINESS	RESOLUTION ♦ ORDINANCE RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

An ordinance has been prepared to accept the proposal of the Omaha Public Power District to continue to conduct a retail electric energy supply business within the City of La Vista.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

The previous agreement approved by the City of La Vista to allow OPPD to conduct a retail electric energy supply business was adopted May 22, 1985 for a term of twenty five (25) years.

That term has since expired and action is required to continue this agreement with OPPD for a new term of twenty five (25) years.

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF THE OMAHA PUBLIC POWER DISTRICT, ITS SUCCESSORS AND ASSIGNS (HEREINAFTER "GRANTEE") TO CONTINUE TO CONDUCT A RETAIL ELECTRIC ENERGY SUPPLY BUSINESS WITHIN THE CITY OF LAVISTA, NEBRASKA (HEREINAFTER "CITY"), AND GRANTING A FRANCHISE TO GRANTEE TO GENERATE, DISTRIBUTE AND DELIVER AN ADEQUATE AND CONTINUOUS SUPPLY OF ELECTRIC ENERGY TO THE CITY, EXCEPT FOR INTERRUPTIONS BEYOND GRANTEE'S CONTROL; TO ERECT POLES AND INSTALL WIRES AND CABLES THEREON; TO CONSTRUCT UNDERGROUND CONDUITS AND MANHOLES AND TO INSTALL CABLES IN UNDERGROUND CONDUITS OR BURIED DIRECTLY IN THE GROUND, AND TO INSTALL SUCH FACILITIES ALONG, OVER, UPON, UNDER OR ACROSS PRESENT OR FUTURE STREETS, ALLEYS, AVENUES, HIGHWAYS AND OTHER PUBLIC RIGHTS-OF-WAY OF THE CITY, AND TO CONSTRUCT, OWN, OPERATE AND MAINTAIN ALL OTHER ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEMS NECESSARY TO SUPPORT AND CONDUCT A RETAIL ELECTRIC ENERGY SUPPLY BUSINESS WITHIN THE CITY.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVISTA, SARPY COUNTY, NEBRASKA.

SECTION 1. For and in consideration of the covenants and agreements of the Grantee to continue to conduct a retail electric energy supply business within the City and generate, distribute and deliver an adequate and continuous supply of electric energy to the City and its inhabitants, the City hereby grants to Grantee the right, privilege, and franchise to generate, distribute and deliver an adequate and continuous supply of electric energy to the City except for interruptions beyond the Grantee's control; to erect poles and install the necessary supports, crossarms, and equipment, and to install wires and cables thereon, and to construct underground conduits, manholes and equipment, and to install conductors therein, or bury cable directly in the ground, and to place any such wires, cables, conduits and equipment along, over, upon, under, and across present or future streets, alleys, avenues and other public rights-of-way of the City, and to construct, own, operate, and maintain all other electric transmission and distribution systems necessary to support and conduct a retail electric energy supply business with said City and its inhabitants.

SECTION 2. The Grantee may under the direction of the proper City authorities, make all necessary excavations in any part of the present or future streets, alleys, avenues, highways and other public rights-of-way to erect and maintain poles and other supports for its wires or conductors and to repair same, and to lay, repair, and maintain such underground pipes, conduits and manholes and to place, repair, maintain and operate said wires and conductors therein, provided that all such items shall be installed and located in accordance with prior approval obtained from City. When any excavation shall have been made pursuant to the authority hereby granted, the Grantee shall restore the portion of the street, alley, avenue, highway or other public right-of-way excavated to the same conditions as existed prior to the excavation. All such work shall be done in such a manner as to least diminish, injure or obstruct the City's own use of its public rights-of-way and the use thereof by other utilities and others authorized by the City to use such rights-of-way. Nothing in this ordinance shall be construed as preventing or diminishing the right of the City from constructing sewers, utilities, grading, paving, planking, repairing, altering, or doing any work, or authorizing others to do so, that may be desired on or in any of the streets, alleys, avenues and public rights-of-way of the City. All of Grantee's excavation, erection and maintenance shall be subject to and shall comply with all existing and future City rules, regulations, ordinances and orders.

SECTION 3. Whenever it shall be necessary in grading any street, avenue, alley, or highway of the City, or in building any sidewalk or making any other improvements therein, or in moving buildings or other large objects through or along the streets, to remove any pole(s) belonging to the Grantee, on which any line(s) or wire(s) belonging to the Grantee shall be stretched or fastened, the Grantee shall, upon receiving thirty (30) days' notice from the proper City authorities, remove such pole (s) and wire(s), and if Grantee, upon such notice shall neglect to remove such pole(s) and wire(s), than such pole(s) and wire(s) may be removed by the proper City authorities at the expense of the Grantee.

SECTION 4. The Grantee hereby covenants and agrees to indemnify and save harmless the City against all damages, costs and expenses, whatsoever, to which the City may be subject on account of or arising out of negligence of the Grantee, its agents, employees, or servants, in any manner arising from the franchise, rights and privileges granted herein or the exercise thereof.

SECTION 5. This franchise is granted for a term of twenty-five (25) years commencing with the date of passage of this Ordinance.

SECTION 6. Grantee shall file its written acceptance of this Ordinance and the franchise herein granted with the office of the City Clerk, within thirty (30) days after the date of this Ordinance. Such

acceptance by Grantee shall be an acceptance of all the terms and conditions and restrictions contained in this Ordinance.

SECTION 7. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 8. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 9. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 18TH DAY OF JANUARY, 2011.

CITY OF LAVISTA, NEBRASKA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 384

AN ORDINANCE ACCEPTING THE PROPOSAL OF THE OMAHA PUBLIC POWER DISTRICT, ITS SUCCESSORS AND ASSIGNS (HEREINAFTER "GRANTEE") TO CONTINUE TO CONDUCT A RETAIL ELECTRIC ENERGY SUPPLY BUSINESS WITHIN THE CITY OF LA VISTA, NEBRASKA (HEREINAFTER "CITY"), AND GRANTING A FRANCHISE TO GRANTEE TO GENERATE, DISTRIBUTE AND DELIVER AN ADEQUATE AND CONTINUOUS SUPPLY OF ELECTRIC ENERGY TO THE CITY, EXCEPT FOR INTERRUPTIONS BEYOND GRANTEE'S CONTROL; TO ERECT POLES AND INSTALL WIRES AND CABLES THEREON; TO CONSTRUCT UNDERGROUND CONDUITS AND MANHOLES AND TO INSTALL CABLES IN UNDERGROUND CONDUITS OR BURIED DIRECTLY IN THE GROUND, AND TO INSTALL SUCH FACILITIES ALONG, OVER, UPON, UNDER OR ACROSS PRESENT OR FUTURE STREETS, ALLEYS, AVENUES, HIGHWAYS AND OTHER PUBLIC RIGHTS-OF-WAY OF THE CITY, AND TO CONSTRUCT, OWN, OPERATE AND MAINTAIN ALL OTHER ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEMS NECESSARY TO SUPPORT AND CONDUCT A RETAIL ELECTRIC ENERGY SUPPLY BUSINESS WITHIN THE CITY.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. For and in consideration of the covenants and agreements of the Grantee to continue to conduct a retail electric energy supply business within the City and to generate, distribute and deliver an adequate and continuous supply of electric energy to the City and its inhabitants, the City hereby grants to Grantee the right, privilege, and franchise to generate, distribute and deliver an adequate and continuous supply of electric energy to the City except for interruptions beyond the Grantee's control; to erect poles and install the necessary supports, crossarms, and equipment, and to install wires and cables thereon, and to construct cables in underground conduits and manholes or buried directly in the ground, and to place any such wires, cables, conduits and equipment along, over, upon, under, and across present or future streets, alleys, avenues and other public rights-of-way of the City, and to construct, own, operate, and maintain all other electric transmission and distribution systems necessary to support and conduct a retail electric energy supply business with said City and its inhabitants.

SECTION 2. The Grantee may, under the direction of the proper City authorities, make all necessary excavations in any part of the present or future streets, alleys, avenues, highways and other public rights-of-way to erect and maintain poles and other supports for its wires or conductors and to repair same, and to lay, repair, and maintain such underground pipes, conduits and manholes and to place, repair, maintain and operate said wires and conductors therein, provided that all such items shall be installed and located in accordance with prior approval obtained from City. When any excavation shall have been made pursuant to the authority hereby granted, the Grantee shall restore the portion of the street, alley, avenue, highway or other public right-of-way excavated to the same conditions as existed prior to the excavation. All such work shall be done in such a manner as to least diminish, injure or obstruct the City's own use of its public rights-of-way and the use thereof by other utilities and others authorized by the City to use such rights-of-way. Nothing in this Ordinance shall be construed as preventing or diminishing the right of the City from constructing sewers, grading, paving, utilities, planking, repairing, altering, or doing any work, or authorizing others to do so, that may be desired on or in any of the streets, alleys, avenues and public rights-of-way of the City. All of Grantee's excavation, erection and maintenance shall be subject to and shall comply with all existing and future City rules, regulations, ordinances and orders.

SECTION 3. Whenever it shall be necessary in grading any street, avenue, alley, or highway of the City, or in building any sidewalk or making any other improvements therein, or in moving buildings or other large objects through or along the streets, to remove any pole(s) belonging to the Grantee, on which any line(s) or wire(s)

ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

belonging to the Grantee shall be stretched or fastened, the Grantee, shall, upon receiving thirty days' notice from the proper City authorities, remove such pole(s) and wire(s), and if Grantee, upon such notice shall neglect to remove such pole(s) and wire(s), then such pole(s) and wire(s) may be removed by the proper City authorities at the expense of the Grantee.

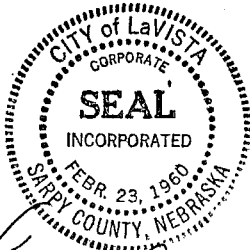
SECTION 4. The Grantee hereby covenants and agrees to indemnify and save harmless the City against all damages, costs and expenses, whatsoever, including reasonable attorneys fees and court costs, to which the City may be subject on account of or arising out of negligence of the Grantee, its agents, employees, or servants, in any manner arising from the franchise, rights and privileges granted herein or the exercise thereof.

SECTION 5. This franchise is granted for a term of twenty-five (25) years commencing with the date of passage of this Ordinance.

SECTION 6. Grantee shall file its written acceptance of this Ordinance and the franchise herein granted with the office of the City Clerk, within thirty (30) days after the date of this Ordinance. Such acceptance by Grantee shall be an acceptance of all the terms and conditions and restrictions contained in this Ordinance.

PASSED AND APPROVED THIS 22nd day of May, 1985.

CITY OF LA VISTA



By Harold Anderson
Harold Anderson, Mayor

ATTEST:

Dorothy A. McGinnis
Dorothy A. McGinnis, City Clerk/Treas.