

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1430

WATER FRANCHISE

AN ORDINANCE GRANTING TO METROPOLITAN UTILITIES DISTRICT OF OMAHA, A MUNICIPAL CORPORATION AND POLITICAL SUBDIVISION OF THE STATE OF NEBRASKA, ITS SUCCESSORS AND ASSIGNS, THE EXCLUSIVE RIGHT AND PRIVILEGE TO CONSTRUCT, OPERATE AND MAINTAIN A SYSTEM OF WATER WORKS AND WATER SUPPLY CONSISTING OF MAINS, PIPES, HYDRANTS AND OTHER APPURTENANCES, IN, UPON, OVER, ACROSS AND ALONG STREETS, AVENUES, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, FOR THE TRANSMISSION, DISTRIBUTION AND SALE OF WATER FOR DOMESTIC, MANUFACTURING, INDUSTRIAL, PUBLIC AND FIRE PROTECTION PURPOSES IN THE CITY AND ELSEWHERE; PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID METROPOLITAN UTILITIES DISTRICT OF OMAHA IS TO OPERATE; ~~PROVIDE FOR SEVERABILITY~~; PRESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND TAKE EFFECT, AND PROVIDING FOR AN EFFECTIVE DATE AND RENEWAL.

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

Section 1. FRANCHISE; GRANT; PERIOD; RIGHTS OF GRANTEE: That in consideration of the benefits to be derived from the operation of a water supply and water distribution system in the City of La Vista, Nebraska (hereinafter designated "City"), by said City and its inhabitants, a franchise is hereby granted to Metropolitan Utilities District of Omaha, a municipal corporation and political subdivision of the State of Nebraska (hereinafter referred to as "Grantee"), its successors and assigns, the exclusive right, permission and authority to lay, install, maintain and operate a water distribution system, including all necessary appurtenances and structures therefor, and including the existing water distribution system within the limits of said City as the same now exist or hereafter may be extended, for a period of twenty-five (25) years ("Term") from and after the Effective Date of this Ordinance as defined in Section 11; and for this purpose there is also further granted to Grantee the right, permission and authority, during said period, to lay, install, maintain and operate, in, upon, over, across and along all of the said streets, avenues, alleys, bridges and public places of said City, all mains, pipes, structures and appurtenances necessary or convenient for transmitting, transporting, distributing and supplying water for domestic, manufacturing, industrial, public and fire protection purposes for which water may be used by the inhabitants of said City and platted subdivisions thereto during the term hereof and for the purpose of transmitting, transporting and conveying such water into, through or beyond the immediate limits of said City to other customers, villages or cities ("Grant").

Section 2. MAINS, PIPES, INSTALLATION, RELAYING. RULES AS TO: That all mains, pipes, structures, and appurtenances which shall be laid or installed under this grant shall, when construction is completed, be so located, and laid as not to obstruct or interfere with any other pipes, drains, sewers, paving or other structures already installed, and all such mains, pipes and structures shall be laid in place under practices being followed by Grantee within its own boundaries. Grantee shall, in the doing of any work in connection with its water distribution system, avoid, so far as may be practicable, interfering with the use of any street, alley or other highway, and where the paving or surface of the street is disturbed, Grantee shall, at its own expense, replace such paving or surface of said streets, alleys, or other highways in as reasonably good condition as existed before said work was commenced.

In the event that a change in the grade or location of any street, alley, or bridge within said City or other construction or repair work required by City requires the relocation or alteration of any portion of the water system of Grantee, either temporary or permanent, Grantee shall be reimbursed by City for the cost thereof. Grantee shall obtain from City all required permits for street openings in connection with work on its water distribution system, but City shall waive any permit fees on such permits issued to Grantee. In the event of emergency street openings, Grantee shall obtain the permit as soon thereafter as practicable.

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Section 3. MAINS CONSTRUCTED. EXTENDED, WHEN: That Grantee, its successors or assigns, shall make such reasonable extensions of its mains, from time to time, as may be required to furnish service to parties making application therefor, located within the corporate limits of said City; provided, that Grantee's Rules and Regulations covering the use of water and installation of mains, services, meters and piping, duly adopted by its Board of Directors pursuant to the laws of Nebraska, which shall be filed with the Clerk of said City, shall, to the extent not inconsistent with applicable state law, govern the extension of mains, installation of services, meters and piping, and the use of water, except as may be otherwise agreed herein or by separate agreement. Mains installed in platted subdivisions of City, whether done by Grantee or others, shall comply with Grantee's specifications. Grantee shall not, without first notifying City, extend water service into or for areas within City's zoning jurisdiction prior to City's plat approval and acceptance of dedicated public right-of-way.

Section 4. RATE SCHEDULE: The rates to be charged for water service within the franchise area shall, during the term of this Water Franchise, be the same as those charged by Grantee to customers of similar class of service within Grantee's boundaries.

In each bill for water service to consumers in the franchise area there may be included or added any sum which Grantee is or may be required by City or by law to pay to City on account of sales of water. At the effective date hereof, §14-2139 R.R.S. Neb. 1943 (formerly §14-1042 R.R.S. Neb. 1943) requires payment to City in an amount equal to two percent (2%) of retail sales within the City and precludes City from levying a license, occupation, or excise tax upon or from such district. City reserves the right to levy or increase its levy for license, occupation, or excise tax as it may be allowed by future legislation, provided in the event of such levy, or increase in levy Grantee shall be allowed to add to its customer billings the additional cost thereof.

Section 5. CONNECTION CHARGES: Grantee shall be entitled to make charges for connections to service mains as follows:

(A) Grantee shall not make a connection charge for lots abutting other mains installed within the City of La Vista at the date of this franchise, full cost of which has been paid by developers or has been or will be recovered by special assessment.

(B) For connections to mains and extensions of mains constructed within the City following the date of this franchise, Grantee shall be entitled to make such usual connection charges as are made throughout the remainder of its water system in its own district, not exceeding the full cost of such construction.

Section 6. WATER HYDRANTS: Grantee shall provide to City for fire fighting purposes and other municipal purposes and uses of City, a system of fire hydrants, as follows:

(A) Grantee shall cause all hydrants to have threading compatible with that now on hydrants within City and shall endeavor to keep all fire hydrants within the City in good condition and repair, giving to such hydrants the same degree of care and maintenance it affords hydrants on the water system Grantee operates within its own boundaries. Subject to breakdown, mechanical failure, and other causes beyond its reasonable control, Grantee will at all times maintain an adequate, constant, and uninterrupted water supply to such hydrants.

(B) On any extensions of its water system, whether within the corporate limits of City or outside the City but within the area of the zoning jurisdiction of City, Grantee will install, or require to be installed, hydrants for fire protection at approximately the same intervals as hydrants previously installed on service mains now in existence within the City. In the event City or any other person or entity within the zoning jurisdiction of City shall require hydrants to be placed upon service mains between the hydrants as now installed or at lesser intervals than hereby required, Grantee will, if reasonably possible, install such additional hydrants, at the cost of the City or the person or entity requiring them. In no event shall City be charged for any such hydrant installations unless its City Council shall have, by resolution, first approved the City's payment therefor.

(C) City, without cost to City, will be entitled to water for reasonable municipal needs for fire fighting, street flushing or sewer flushing, and such other purposes which by

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Grantee's Water Rules are to be provided without cost to municipalities within Grantee's district boundaries.

Section 7. NO WAIVER OF RESPECTIVE POWERS: Neither the grant herein made nor any of the provisions herein contained shall in any event be construed as a waiver or setting aside of City's right to supervise and control Grantee in performance of its Franchise nor a waiver, reduction, or limitation upon the right of powers and duties of Grantee as prescribed by the laws of the State of Nebraska.

Section 8. SEWER USE FEE COLLECTIONS: Grantee shall provide to City sewer use fee billing and collection services on the same basis as it does to municipalities within Grantee's district boundaries.

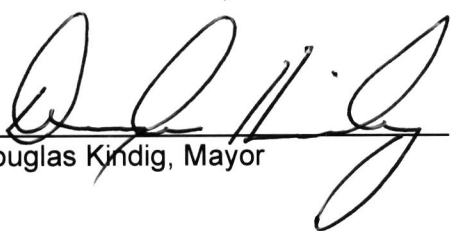
Section 9. FRANCHISE AGREEMENTS: City and Grantee in accordance with the Grant provided by this Ordinance from time to time may enter one or more agreements containing terms and conditions consistent with the provisions of this Ordinance as approved by the City Council or its designee.

Section 10. 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, sentence clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

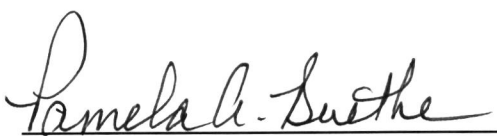
Section 11. WHEN OPERATIVE; RENEWAL TERM: This Ordinance shall take effect from and after passage, approval and publication as provided by law, effective as the earlier of September 1, 2021 or expiration of the franchise granted by Ordinance No. 650 ("Effective Date"). The Grant provided by this Ordinance will automatically renew at the end of the Term for an additional twenty-five (25) year term unless either City or Grantee at least three (3) years before the last day of the Term gives the other written notice that the Grant shall not renew.

PASSED AND APPROVED THIS 19th DAY OF OCTOBER, 2021

CITY OF LA VISTA, NEBRASKA


Douglas Kindig, Mayor

ATTEST:


Pamela A. Buethe, CMC
City Clerk

Publication

Published in pamphlet form by order of the Mayor and City Council this 27th
day of October, 2021.