



SAN JUAN COUNTY, NEW MEXICO
ORDINANCE NO. 100

A FRANCHISE ORDINANCE GRANTING TO THE CITY OF FARMINGTON, A MUNICIPAL CORPORATION OF THE COUNTY OF SAN JUAN AND STATE OF NEW MEXICO, CERTAIN POWERS, LICENSE, RIGHTS OF WAY, PRIVILEGES AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN IN SAN JUAN COUNTY OF THE STATE OF NEW MEXICO, WORKS, SYSTEMS AND PLANTS FOR THE GENERATION, TRANSMISSION, PRODUCTION, DISTRIBUTION, SALE AND DELIVERY OF ELECTRICITY FOR ANY AND ALL LAWFUL PURPOSES IN AND TO SAID AREA, AND INCLUDING THE SALE AND DELIVERY OF ELECTRICAL ENERGY TO SAID COUNTY OF SAN JUAN AND ITS INHABITANTS IN SUCH AREA, AND TO USE THE STREETS, AVENUES, HIGHWAYS, ALLEYS, AND PUBLIC PLACES AND GROUNDS IN SAN JUAN COUNTY THEREFORE FOR A PERIOD OF TWENTY-FIVE YEARS AND PRESCRIBING CERTAIN TERMS AND CONDITIONS

WHEREAS, the City of Farmington, a municipal corporation, of the County of San Juan and the State of New Mexico, operates an electric utility system pursuant to a franchise issued to the City of Farmington dated April 2, 1987; and

WHEREAS, the City of Farmington has proposed that the franchise heretofore granted to it by the Board of County Commissioners of San Juan County, New Mexico, be renewed; and

WHEREAS, the Board of County Commissioners of San Juan County has agreed that such franchise should be renewed upon the terms and conditions herein stated where indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN JUAN COUNTY:

Section 1. Definitions. Whenever the words "San Juan County" are hereafter used they shall designate the Board of County Commissioners of San Juan County of the State of New Mexico, or the area of San Juan County, New Mexico, or both, whichever is appropriate, and whenever the word "City" is hereafter used it shall designate the City of Farmington, a municipal corporation of the County of San Juan and State of New Mexico.

Section 2. Privileges, Area Defined. There is hereby granted by the Board of County Commissioners of San Juan County, New Mexico, pursuant to the statute in such case made and provided, to the City, a franchise, with the right to construct, operate, maintain, extend and improve its electrical generating, transmission and distribution plant and system within, and to sell, serve, supply and furnish electrical energy to the inhabitants of the unincorporated areas of San Juan County, with the right of occupying and using in any lawful way the streets, avenues, highways, alleys and public grounds of San Juan



County, as now or may hereafter exist, for the transmission and distribution of electricity in, through and about said area, with the right to install, construct, erect, maintain and use any and all necessary or useful appurtenances, including underground conduits and conductors, manholes, anchors, braces, poles, guy wires, towers, transformer stations and sub-stations and transmission lines and equipment of any and all kinds for a period of twenty-five (25) years from the effective date of this Franchise. Notwithstanding any other provision of this Franchise, the City shall comply with San Juan County Ordinance No. 2 relative to cutting, ditching or trenching of any County road or right-of-way, provided, however, that the City shall not be required to obtain a permit under such ordinance for utility pole and anchor installation if such installation does not involve ditching or trenching. Should the City desire to construct, operate or extend any electrical generating, transmission, distribution or other facilities over, under or across County-owned property, other than public rights-of-way, then and in that event the City shall obtain the approval of the Director of Public Works of San Juan County prior to making such installation.

Section 3. Construction. All lines, plants and equipment constructed or installed under this Franchise shall be constructed, installed and maintained in accordance with established practices, including compliance with the "Blue Stake" program, pertaining to electrical construction and maintenance as prescribed by the National Electrical Safety Code and/or all lawful rules and regulations of any governmental body or commission having jurisdiction thereof.

Section 4. Rates. All rates and charges shall be uniform with rates and charges made by the City for furnishing electric service in said City through its electric utility system.

Section 5. Rules and Regulations. The City may make and enforce reasonable rules and regulations in the conduct of its business and in the payment of charges for service, and may require, before furnishing service to any consumer, the execution of a contract therefore. The City may also demand and collect reasonable meter deposits from all users of its services, such deposits to stand as guaranty for the payment of charges for services, and if such charges be not paid promptly, as required by its rules and regulations, such deposits may be forfeited and retained by it, until and unless, all such charges are paid and such deposits re-installed in good standing immediately. Upon discontinuance of service and provided all charges therefore are paid, such deposit shall be returned to the maker; provided, however, that all such rules and regulations of the City shall be uniform with the rules and regulations of the City applicable to its service in the City of Farmington as provided, further, that all powers and privileges accorded the City by virtue of this Section shall be subject to all lawful rules, regulations and orders of any governmental body or commission having jurisdiction thereof.



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Section 6. Privileges; Non-Liability of San Juan County. The City is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this Franchise, provided that all work done in said streets, alleys and grounds of said areas by the City shall be done with the utmost care and with the least inconvenience to the public or individuals, and said work shall be done subject to the approval and supervision of all lawful authority; provided that in making any and all installations of equipment or systems, and in the repair thereof, or in the operation thereof, San Juan County shall be held harmless for all damages on account of all structures, transmission lines and installations and the City shall assume all liability or risk of damages to persons or property which may arise from the construction or operation of any and all of said plant or equipment.

Section 7. Compensation. The City, for and in consideration of the grant of this Franchise and as rental for the occupancy and use of the streets, avenues, highways, alleys and public places of San Juan County, shall pay to San Juan County each year during the time this Franchise shall remain effective a total aggregate sum of three percent (3%) of the gross receipts for electric service sold within such area; such gross receipts to consist of the total amount collected from users and consumers on account of electric energy sold and consumed within such area under the rates in existence at the time of payment, excepting therefrom the gross receipts for electric energy sold to governmental customers and excepting therefrom the gross receipts from the sale of electric energy on which the City may hereafter pay a franchise tax to any incorporated municipality within said area by virtue of any franchise in force and existence between the City and such incorporated municipality. The foregoing provision notwithstanding, the City and the County may mutually agree to modify the amount of the franchise fee to be paid on any special contract which the City may enter into or on any rate schedule adopted by the City if such modification mutually benefits the parties such as, but not necessarily limited to, a modification of the franchise fee in order to induce industry to locate within San Juan County. This provision shall be effective as of the Effective Date of this Franchise and shall be in full force and effect and the City shall make such payments monthly on or before the 15th day of each month during each year this provision shall remain in full force and effect. The City shall also forward supporting data and information to the County with such payments to adequately reflect the manner in which such monthly payment was computed. For the purpose of determining said revenue, the books and accounts of the City relating to such gross receipts from sales of such energy shall at all reasonable times be available for inspection by duly authorized officials of San Juan County, or its auditor. Said payments shall be in lieu of any and all other franchise, license, privilege, occupation, excise or revenue taxes and all other exactions and general ad valorem property taxes and special assessments for local improvements, upon the business, revenue, property, transmission lines, equipment and installations or



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appurtenances of the City but shall not be in lieu of any payment required to be made by the City to the County Treasurer of San Juan County as service fees, as provided in Section 3-24-9C NMSA 1978.

Section 8. Written Acceptance. This Franchise shall be accepted by the City in writing, which acceptance shall be filed with the County Clerk of San Juan County within thirty (30) days after the date of adoption of this Franchise, and when so accepted, this Franchise shall be a contract duly executed and made between the City and San Juan County.

Section 9. Copies of Franchise. This Franchise has been executed in multiple copies each of which shall be deemed to be an original for all purposes.

Section 10. Section Headings. The section headings of this Franchise are inserted only for reference and in no way define, limit, or describe the scope or intent of this Franchise or affect its terms and provisions.

Section 11. Invalidity. If any section, paragraph, subdivision, clause, phrase or provision of this Franchise shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Franchise as a whole, or any other part or provision thereof.

Section 12. Effective Date. This Franchise shall take effect and be in force and effect from and after July 1, 2017. The City shall file its written acceptance of the Franchise, as provided in Section 8 preceding, and as provided by law.

Section 13. Publication. This Franchise shall be published within twenty (20) days after execution thereof by the Board of County Commissioners of San Juan County of the State of New Mexico provided by law.

Section 14. Emergency Clause and Effective Date. The Board of County Commissioners declares that it is necessary for the public peace, health and safety that this Ordinance take effect immediately after passage when it is recorded in the book kept by the County for that purpose and authenticated by the signature of the County Clerk.

IN WITNESS WHEREOF, the Board of County Commissioners of San Juan County of the State of New Mexico has caused this Franchise to be executed by the Board of County Commissioners of said County and the corporate seal of said County to be affixed thereto by the County Clerk of said County, all pursuant to resolution duly adopted by the Board of County Commissioners of San Juan County of the State of New Mexico authorizing the execution of the same, and all done at the City of Aztec, within the County of San Juan and State of New Mexico this 20th day of June, 2017.



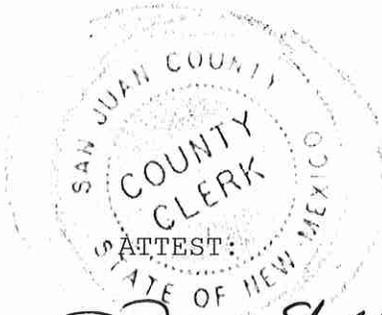
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BOARD OF COUNTY COMMISSIONERS OF
SAN JUAN COUNTY, NEW MEXICO

By:

Jack L. Fortner

Jack L. Fortner, Chairman



Tanya Shelby

Tanya Shelby, County Clerk