

ORDINANCE NO. 2022-01

AN ORDINANCE GRANTING A RENEWAL TO A FRANCHISE TO COLORADO SPRINGS UTILITIES, AN ENTERPRISE OF THE CITY OF COLORADO SPRINGS, A COLORADO HOME RULE CITY AND MUNICIPAL CORPORATION, TO PROVIDE ELECTRICAL UTILITY SERVICES TO THE RESIDENCES, BUSINESSES, AND PUBLIC OFFICES OF THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO

WHEREAS, the Town of Green Mountain Falls (“Green Mountain Falls” or the “Town”) previously granted a franchise to Colorado Springs Utilities (“Utilities”) to provide electric utility service within Green Mountain Falls, which such franchise was extended in 2009 and expired on December 31, 2019 (the “Franchise”);

WHEREAS, since the expiration of the Franchise, Green Mountain Falls and Utilities have continued to operate under the terms of the Franchise, including the requirements for payment of franchise fees;

WHEREAS, Green Mountain Falls desires that Utilities continues to provide electric utility service within Green Mountain Falls and Utilities desires to continue providing such service;

WHEREAS, in exchange for the renewal of the Franchise, Utilities agrees to continue providing the franchise fee payment and other consideration contemplated in this Ordinance; and

WHEREAS, it is in the best interest of Green Mountain Falls to renew the Franchise to Utilities for the provision of electric utility service for a period of twenty (20) years.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO, THAT:

Section 1: Beginning *February 1*, 2022, and for a term of twenty years thereafter, Colorado Springs Utilities, an enterprise of the City of Colorado Springs, a Colorado home rule city and municipal corporation, is granted the exclusive right, license, and authority to acquire, construct, maintain, own, and operate within the Town of Green Mountain Falls an electric transmission and distribution system, and to distribute and sell electricity in Green Mountain Falls for light, heat, power, or other useful purpose to all persons, associations, or corporations, either public or private, desiring the same.

Section 2: For the purpose of exercising such exclusive right, license, and authority, Utilities is hereby granted permission, license, and authority to acquire, construct, maintain, own, and operate along, upon, or under the streets, alleys, avenues, public rights-of-way, public easements, and public places of Green Mountain Falls, as its boundaries may be changed, such lines, poles, wires, and other electrical conductors, together with all necessary fixtures and appliances as may be necessary or useful in the conduct of said business. Utilities, by accepting and acting under this Ordinance, agrees that it will locate, construct, and maintain its transmission

and distribution lines and all appurtenances under the direction of the Town Council of Green Mountain Falls and in conformance with the ordinances of Green Mountain Falls, provided, however, that no unreasonable or impossible restrictions shall be required by the Town Council. Such restrictions considered reasonable may include, but are not limited to, review and approval of all structures for conformance with zoning, planning, and historic preservation requirements. Utilities shall replace all curbs, streets, sidewalks, and private property damaged or adversely impacted by Utilities in conformance with pertinent Town ordinances. Utilities shall provide adequate notice of all proposed electric system changes within the boundaries of Green Mountain Falls to the Town of Green Mountain Falls. Green Mountain Falls shall not require Utilities to perform in any manner which is contrary to any law, rule, tariff, regulation, or operating and maintenance procedure for electric transmission and distribution systems as established by Utilities or any federal or Colorado regulatory authority.

Section 3: Utilities agrees to furnish electricity for light, heat, and power to all persons, associations, or corporations, either public or private, within Green Mountain Falls, desiring the same, under the rate schedules and tariffs now on file with the appropriate regulatory body as established by Colorado law, or as they may be lawfully amended, or as is provided in Section 4 hereof.

Section 4: Utilities, by the acceptance of this Franchise, in consideration of the rights and privileges granted herein, agrees that all times during the term of this Franchise, all Utilities' customers within Green Mountain Falls shall be treated the same as and subject to the same tariffs and obligations as similarly situated customers located within the City of Colorado Springs, as such tariffs and obligations may be amended from time to time. In the event Utilities fails to meet its obligations under this Section, and a continued violation of this provision exists after ten days' written notice thereof given to Utilities by Green Mountain Falls, if Green Mountain Falls so elects, Green Mountain Falls may terminate all of the rights and privileges hereby conferred on Utilities.

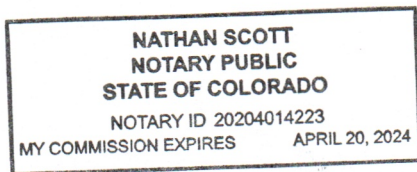
Section 5: Utilities, by the acceptance of this Franchise, in consideration of the rights and privileges granted herein, agrees that it will pay on or before the first day of February, in each year of the term hereof, a franchise fee to Green Mountain Falls in an amount equal to four percent (4%) of gross receipts from the distribution and sale of electricity within the corporate limits of the Town of Green Mountain Falls. "Gross receipts" for purposes of calculating the franchise fee shall be all revenues received from the distribution or sale of electricity, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered, within the corporate limits of the Town of Green Mountain Falls, but not including customer deposits, taxes, late charges, or similar charges. Utilities may surcharge the franchise fee to all customers within the corporate limits of the Town of Green Mountain Falls that receive electric service from Utilities.

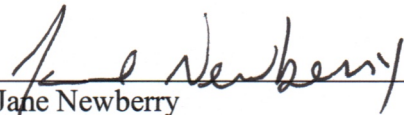
Section 6: Utilities is a municipal enterprise providing electric utility service within the Town of Green Mountain Falls. The franchise fee paid by Utilities to Green Mountain Falls takes into account payments in lieu of taxes that would be paid by a privately owned utility. If at any time during the term of this Franchise, the Constitution and laws of Colorado are amended or changed so that the property of Utilities is no longer exempt from taxation and if pursuant to such amendment and change, any taxes shall be lawfully assessed in any year against the property of

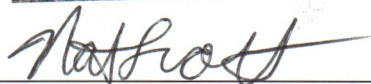
Utilities used for the purposes of providing the electric service contemplated by this Franchise and located within Green Mountain falls, or any occupation, license, or similar tax shall be imposed upon Utilities on account of its sale or distribution of electricity within Green Mountain Falls, then the amount payable hereunder to Green Mountain Falls shall be the above-stated franchise fees less any taxes so assessed and paid.

Section 7: This Ordinance shall be in force and effect from and after five (5) days of its final passage and publication as provided by law and its acceptance by the Chief Executive Officer of Colorado Springs Utilities.

Finally passed and approved, this 1st day of February, 2022, at Green Mountain Falls, Colorado.




Jane Newberry
Mayor, Green Mountain Falls


City Clerk, Green Mountain Falls

Accepted by Colorado Springs Utilities this ___ day of _____, 2022.

Aram Benyamin
Chief Executive Officer

Approved as to form by:

Colorado Springs City Attorney's Office