

FILED

Passed: November 05, 2018

Signed: November 07, 2018

FILED

JAN 04 2019

JAN 04 2019

Cham Ammons
CHAMPAIGN COUNTY CLERK. 2018-10-051R

Cham Ammons
CHAMPAIGN COUNTY CLERK

**A RESOLUTION APPROVING AND AUTHORIZING THE
EXTENSION OF AN ELECTRIC SYSTEM FRANCHISE AGREEMENT**

(Authorizing Extension of Ameren Illinois Electrical Utility System Agreement)

WHEREAS, the City of Urbana (“Urbana”) is an Illinois home rule unit of local government pursuant to Section 6 of Article VII of the Illinois Constitution of 1970 and the Statutes of the State of Illinois; and

WHEREAS, Ameren Company d/b/a Ameren Illinois (“Ameren”) is a licensed utility authorized to, *inter alia*, construct, operate and maintain an electrical utility system in the City of Urbana, Champaign County, Illinois; and

WHEREAS, the City and Ameren previously entered into a franchise agreement dated January 6, 1969 regarding Ameren’s construction, operation, and maintenance of an electric utility system in the City of Urbana, Champaign County, Illinois; and

WHEREAS, the aforesaid franchise agreement, by its terms, expires on January 6, 2019; and

WHEREAS, Ameren is willing to enter into an extension of the aforesaid franchise agreement entitled “An Ordinance Extending the Authorization to Ameren Illinois Company d/b/a Ameren Illinois Its Successors and Assigns to Construct, Operate and Maintain an Electric Utility System in the City of Urbana County of Champaign and State of Illinois” prior to the expiration of the aforementioned currently existing franchise agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

The franchise agreement titled “An Ordinance Extending the Authorization to Ameren Illinois

Company d/b/a Ameren Illinois Its Successors and Assigns to Construct, Operate and Maintain an Electric Utility System in the City of Urbana County of Champaign and State of Illinois” in substantially the form attached hereto and hereby incorporated herein by reference, be and the same is hereby authorized and approved.

Section 2.


The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute on behalf of the City of Urbana, Illinois and deliver to the City Clerk of the City of Urbana, Illinois, the latter being and the same being hereby authorized to attest to said execution of the franchise agreement titled “An Ordinance Extending the Authorization to Ameren Illinois Company d/b/a Ameren Illinois Its Successors and Assigns to Construct, Operate and Maintain an Electric Utility System in the City of Urbana County of Champaign and State of Illinois” as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED BY THE CITY COUNCIL this 5th day of November, 2018.

AYES: Ammons, Brown, Hazen, Jakobsson, Miller, Roberts, W

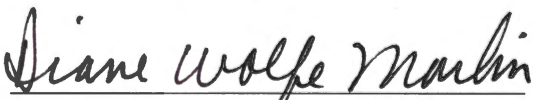
NAYS:

ABSTENTIONS:



Charles A. Smyda, City Clerk

APPROVED BY THE MAYOR this 7th day of November, 2018.



Diane Wolfe Marlin, Mayor

A RESOLUTION

EXTENDING THE AUTHORIZATION TO

Ameren Illinois Company
d/b/a/ **Ameren Illinois**

ITS SUCCESSORS AND ASSIGNS

TO CONSTRUCT, OPERATE AND MAINTAIN
AN ELECTRIC UTILITY SYSTEM

IN THE

City of Urbana

COUNTY OF CHAMPAIGN

AND

STATE OF ILLINOIS

PASSED 11-5-2018

EXPIRES 11-5-2048

RESOLUTION NO. 2018-10-051R

A RESOLUTION RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 30 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF URBANA, COUNTY OF CHAMPAIGN AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, COUNTY OF CHAMPAIGN, AND THE STATE OF ILLINOIS, AS FOLLOWS:

Section 1
Grant of Franchise

1.1 Extension. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a utility system within the City as originally authorized by an Ordinance approved on January 6, 1969. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of electric energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of electric energy located within its corporate limits. For purposes of construing the terms, rights and obligations of the parties this authorization is granted pursuant to Section 14 of the Electric Supplier Act, 220 ILCS 30/14, and the Illinois Municipal Code, 65 ILCS 5-1-1-1, et seq.

1.2 Grant of Franchise. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the Company), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Urbana (hereinafter referred to as Municipality), an electric utility system for the transmission, distribution and/or sale of electric energy and other purposes (the System), together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus (collectively Facilities) as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places (collectively Public Thoroughfare).

1.3 Successors and Assigns. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

Section 2
Term

2.1 All rights, privileges and authority given and granted by this Ordinance are granted for a term of 30 years from and after the acceptance of this Ordinance as hereinafter provided (the Initial Term), and thereafter on a year-to-year basis (each a Subsequent Term) unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

Section 3
Franchise Fee and Tax Consideration

3.1 Franchise Fee. As a further consideration for the rights, privileges and authorities granted by this ordinance, the Company shall, in Year 1 of the agreement, furnish municipality compensation in the amount of \$198,720 (payable in 12 equal monthly payments of \$16,560). In subsequent years payment will be made, after the anniversary date, on the following graduated scale: Year 2 - \$261,300 (payable in 12 equal monthly of \$21,775); Year 3 and all remaining years - \$323,820 (payable in 12 equal monthly payments of \$26,985). Municipality may request a revision to the compensation amount after five years from the date of passage of this ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this ordinance.

3.2 Tax Exemption. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all Facilities placed in the Public Thoroughfares within the corporate limits of Municipality.

Section 4
Construction Activities

4.1 Construction. All Facilities placed or installed under this Ordinance in the Public Thoroughfare, shall be so placed as not to interfere unnecessarily with travel on such Public Thoroughfare. All Facilities placed or installed under this Ordinance shall be so located as not to injure unnecessarily any pipes, conduits, sewers, drains, pavement or other like public improvements, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof and in default thereof said Municipality may repair such damage and charge the cost thereof to, and collect the same from, the Company. All Facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

4.2 Relocation. When any Public Thoroughfare shall be graded, curbed, paved or otherwise changed, or when there is a relocation of such Public Thoroughfare, so as to make the resetting or relocation of any Facilities placed or installed under this Ordinance necessary the Company shall make such resetting or relocation, at the Company's cost and expense as qualified. The work is reasonably necessary for the construction, repair, maintenance, improvement or use of such Public Thoroughfare; is reasonably necessary for the location, construction, replacement, maintenance, improvement or use of other property of the Municipality; or is reasonably necessary for the operations of the Municipality. If the setting or location, or resetting or relocation of any Facilities is required for aesthetic purposes, the Municipality shall reimburse the Company for the resetting and/or relocation. The Company, as determined in discretion will not be responsible for the expense of removals, relocations, changes or alterations required by the Municipality for the purpose of assisting either private projects, aesthetic reasons, or a municipal electric utility. Municipality shall provide the Company with a suitable location for the resetting or relocation of such Facilities, and the Company's obligation shall be limited to resetting or relocating the Facilities of the same type and configuration as the displaced Facilities. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location. Except as expressly stated, nothing in this Section requires the Company to bear responsibility for any costs or expenses to relocate its Facilities for any other reason or cause.

Notwithstanding any above provision to the contrary, except in the case of an emergency, any time that the Company plans to install new electric facilities, relocate or extend existing electric facilities, or otherwise modify its electric transmission or distribution system or facilities in a material manner, whether above or below ground, within the Municipality's corporate limits or within the Municipality's extra-territorial jurisdiction (1½ miles from any Municipality boundary), the Company shall notify the Director of Public Works of the Company's plans. Such notice shall be in writing and sent to the aforesaid individual at least forty-five (45) calendar days prior to the anticipated commencement date of the Company's planned work. Thereafter and if the Municipality so requests within twenty-one (21) calendar days of receipt of the above-referenced notice, the parties shall meet to discuss whether the Company's plans may conflict with any future roadway and/or development, construction or improvements of which the City is or may be aware for the same area. The purpose of such meeting, if any is requested by the Municipality, shall be to coordinate the Company's and the Municipality's or developer's respective planned work so as to avoid or minimize any conflict between their respective planned work. Nothing herein shall be deemed, construed or interpreted as prohibiting the Company from proceeding with its plans to perform the work as originally planned.

4.3 Permit Obligation. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of Facilities within the Public Thoroughfares thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its constructed Facilities. Company shall provide notice of excavation hereunder in accordance with the Illinois Underground Utility Damage Prevention Act (220 ILCS 50/1, et seq.)

Section 5
Indemnity and Insurance

5.1 Indemnification. The Company shall indemnify and save harmless the Municipality and all contractors, officers, employees and representatives thereof from all claims, demands, causes of action, liability, judgments, costs and expenses or losses for injury or death to persons or damage to property owned by, and Worker's Compensation claims against any parties indemnified herein, arising out of, caused by, or as a result of the Company's construction, erection, maintenance, use or presence of, or removal of any Facilities. The foregoing indemnification shall not apply to the extent any such claim, demand, cause of action, liability, judgment, cost, expense or loss arises out of, is caused by, or results from the negligent or wrongful willful act or omission of the Municipality or any contractor, officer, employee or representative thereof.

5.2 Insurance. Company shall be obligated under this ordinance to maintain through the Term of this ordinance, at its sole cost and expense, to maintain the following insurance coverages which shall name Municipality as an additional insured:

A. Comprehensive General Liability. Comprehensive General Liability insurance, including contractual liability with limits of \$2,000,000 per occurrence for bodily injury and property damage. Railroad exclusions must be deleted if any work is to be performed within 50' of an active railroad track.

B. Comprehensive Automobile Liability. Commercial Auto Liability insurance with a limit of liability for bodily injury and property damage of not less than \$2,000,000. Such policy shall include owned and blanket non-owned and hired coverage.

C. Workers' Compensation. Workers' compensation coverage in accordance with statutory limits.

D. General Standards for All Insurance. All commercial insurance policies obtained by the Company to satisfy this obligation must be written by companies customarily used by public utilities for those purposes, including policies issued by a captive insurance company affiliated with the Company. Upon written request, the Company shall provide Municipality with evidence of insurance. The above requirements maybe satisfied with primary insurance, excess insurance or a combination of both.

E. Self-Insurance. Company shall have the right to self-insure any or all of the above-required insurance coverage.

Section 6
Vegetation Management

6.1 In order for Company to render efficient, safe, and continuous services, it will be necessary for Company to conduct vegetation management activities, including the trimming or pruning and cutting down of the trunks and branches of trees and/or vines and shrubs along or over the Public Thoroughfare in said Municipality, and areas dedicated to the Municipality for public utility use, wherever the same are likely to interfere with its equipment; therefore, Company is hereby granted the right to conduct such vegetation management activities so as to

enable it to erect, operate and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient, safe, and continuous service that the circumstances will permit; provided, however, that Company shall exercise proper care and discretion in its vegetation management activities. Company shall conduct its vegetation management activities in accordance with applicable law, including without limitation, 220 ILCS 5/8-505.1, and any amendments thereto. Notwithstanding the foregoing, to the extent applicable law may be superceded or modified by an agreement between Municipality and Company, Municipality and Company reserve the right to enter into such an agreement.

Section 7 Miscellaneous Provisions

7.1 Rates. The rates to be charged by the Company for electric service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

7.2 Company Rights Independent of Ordinance. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any Public Thoroughfare during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, along, over and across each and all of such vacated premises which are at the time in use by the Company.

7.3 Conflicting Ordinances. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

7.4 Severance Clause. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

7.5 Conflicting State Statutes. Any conflict between the Franchise Ordinance and the provisions contained in the Electric Service Customer Choice and Rate Relief Law of 1997 (Public Act 90-561) will be resolved by giving the state statute mandatory priority over any contrary language contained in the Franchise Ordinance.

7.6 Most Favored Nation. If, at any time, during the term of this contract, Municipality permits another entity or person to provide electric distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or

conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

Section 8 General Provisions

8.1 Notice. Any notice that (a) requires a response or action from the Municipality or the Company within a specific time frame or (b) would trigger a timeline that would affect one or both of the parties' rights under this Ordinance must be made in writing and must be sufficiently given and served on the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

If to Municipality:

City Clerk
City of Urbana
400 South Vine Street
Urbana, IL 61801

If to Company:

Ameren Illinois Company d/b/a/ Ameren Illinois
President
6 Executive Drive
Collinsville, IL 62234

For other notices regarding the general business between the parties, e-mail messages and facsimiles will be acceptable when addressed to the persons of record specified above.

8.2 Entire Agreement and Interpretation. This Ordinance embodies the entire understanding and agreement of the Municipality and the Company with respect to the subject matter of this Ordinance and the Franchise. This Ordinance supersedes, cancels, repeals, and shall be in lieu of the Previous Agreement.

8.3 Governing Law and Venue. This Ordinance has been approved and executed in the State of Illinois and will be governed in all respects, including validity, interpretation, and effect, and construed in accordance with, the laws of the State of Illinois. Any court action against the Municipality may be filed only in Champaign County, Illinois, in which the Municipality's principal office is located.

8.4 Amendments. No provision of this Ordinance may be amended or otherwise modified, in whole or in part, to be contractually binding on Municipality or Company,

except by an instrument in writing duly approved and executed by the Municipality and accepted by the Company.

8.5 No Third-Party Beneficiaries. Nothing in this Ordinance is intended to confer third-party beneficiary status on any person, individual, corporation, or member of the public to enforce the terms of this Ordinance.

8.6 No Waiver of Rights. Nothing in this Ordinance may be construed as a waiver of any rights, substantive or procedural, the Company or the Municipality may have under federal or State of Illinois law unless such waiver is expressly stated in this Ordinance.

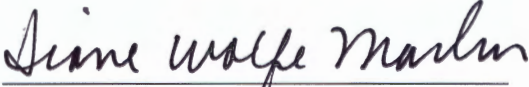
**Section 9
Acceptance**

9.1 This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within ninety (90) days after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

**Section 10
Effective Date**

10.1 This Ordinance shall be in full force from and after its passage, approval and ten (10) day period of publication in the manner provided by law. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein and as provided for in IL Rev 35 ILCS 645/5-4.

Passed and approved this 5th day of November, 2018.



Mayor, City of Urbana, Illinois

[SEAL]

ATTEST:



City Clerk



STATE OF ILLINOIS)
CITY OF URBANA) SS
COUNTY OF CHAMPAIGN)

I, Charles A. Smyth, City Clerk within and for the City of Urbana, in the State and County aforesaid, do hereby certify that:

- (1) the foregoing constitutes a full, true and correct copy of Resolution No. 2018-10-051R of said City as:
- (a) introduced before the City Council on the 22nd day of November, 2018;
and
 - (b) passed by the City Council and approved by the Mayor on the 5th day of November, 2018, as fully as the same appears of record in my office;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Urbana, Illinois, at my office in said City this 7th day of November, 2018.

[SEAL]

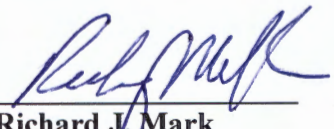

City Clerk

ACCEPTANCE

Ameren Illinois ("Company"), in consideration of the rights and privileges granted by Resolution No. 2018-10-051R of the City of Urbana, Illinois, passed November 5, A.D. 2018, approved November 7, A.D. 2018, and entitled "A Resolution extending the authorization to Company, its successors and assigns, to construct, operate and maintain an electric utility system in the City of Urbana, County of Champaign, and State of Illinois", hereby accepts said Ordinance and all the provisions thereof.

In Witness Whereof, Company, as aforesaid has caused these presents to be signed by its President or a Vice President and attested by its Secretary or an Assistant Secretary and its corporate seal to be affixed this 7th day of November, A.D. 2018.

Ameren Illinois

By 
Richard J. Mark
President

(Corporate Seal)

Attest:


Assistant Secretary

