

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. 5324

**ELECTRIC FRANCHISE ORDINANCE**

**ORDINANCE NO. 5324**

**CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**

1  
2  
3 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in  
4 accordance with Chapter 40-05.1 of the North Dakota Century Code; and

5 WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the city  
6 shall have the right to implement home rule powers by ordinance; and

7 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home  
8 rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict  
therewith and shall be liberally construed for such purpose; and

9 WHEREAS, the board of city commissioners deems it necessary and appropriate to  
10 implement such authority by the adoption of this ordinance;

11 NOW, THEREFORE,

12 Be It Ordained by the board of city commissioners of the city of Fargo:

13 AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A  
14 MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO  
15 CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF FARGO, NORTH  
16 DAKOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES,  
17 INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE  
FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS,  
AND TO USE THE PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

18 **SECTION 1. DEFINITIONS.**

19 For purposes of this Ordinance, the following terms listed in alphabetical order shall have  
20 the following meanings:

21 **City.** The City of Fargo, County of Cass, State of North Dakota.  
22  
23

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**City Utility System.** Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

1       **Commission.** The North Dakota Public Service Commission, or any successor agency or  
2 agencies, including an agency of the federal government which preempts all or part of the authority  
3 to regulate electric retail rates now vested in the North Dakota Public Service Commission.

4       **Company.** Northern States Power Company, a Minnesota corporation, its successors and  
5 assigns.

6       **Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys,  
7 anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the  
8 purpose of providing electric energy for public use.

9       **Notice.** A written notice served by one party on the other party referencing one or more  
10 provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 401  
11 Nicollet Mall, 8<sup>th</sup> Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City  
12 Administrator, 225 4<sup>th</sup> Street, Fargo, ND 58102. Either party may change its respective address  
13 for the purpose of this Ordinance by written notice to the other party.

14       **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

15       **Billing Cycle Kilowatts** shall mean and be the quotient derived from the fraction, the  
16 numerator of which is Kilowatt-hours of electricity supplied and sold by the Company to the  
17 customer in a Customer Billing Cycle and the denominator of which is Customer Hours of  
18 Electricity Usage in a Customer Billing Cycle, and shown by the following fraction:

$$\frac{\text{Kilowatt-hours of electricity supplied and sold by the Company to the customer in a Customer Billing Cycle}}{\text{Customer Hours of Electricity Usage in a Customer Billing Cycle}}$$

19       By way of illustration and example only, if the Kilowatt-hours of electricity supplied and  
20 sold by the Company to the customer in a Customer Billing Cycle was 18,000,000, and the  
21 Customer Hours of Electricity Usage in a Customer Billing Cycle was 720, then the Billing Cycle  
22 Kilowatts is 25,000 (18,000,000 / 720 = 25,000).  
23

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**Billing Cycle Megawatts** shall mean and be the quotient derived from the fraction, the numerator of which is the Billing Cycle Kilowatts and the denominator of which is 1,000, and shown by the following fraction:

1                   Billing Cycle Kilowatts \_\_\_\_\_  
2                   1,000

3                   By way of illustration and example only, if the Billing Cycle Kilowatts is 25,000, then the  
4                   Billing Cycle Megawatts is 25 (25,000 / 1,000 = 25).

5                   **Customer Billing Cycle** shall mean the period of time, not to exceed a calendar month, for  
6                   a periodic billing by the Company to a customer for payment of the Company's supply and sale of  
7                   electricity to said customer.

8                   **Customer Hours of Electricity Usage** shall mean the actual number of hours during a  
9                   Customer Billing Cycle that electricity is supplied and sold by the Company to the customer.  
10                  Accordingly, periods of time during a Customer Billing Cycle in which a customer is not being  
11                  supplied and sold electricity by the Company, including off-peak time periods, shall be excluded.

12                  **Large Volume Electricity User** shall mean a Company's customer in which the Company  
13                  supplies and sells to said customer more than 20 Billing Cycle Megawatts (MW) of electricity  
14                  during a Customer Billing Cycle. The determination as to whether a customer is a Large Volume  
15                  Electricity User and whether Large Volume Electricity User Franchise Fee applies shall be made  
16                  each Customer Billing Cycle. By way of illustration and example only, if a customer is supplied and  
17                  sold 21 Billing Cycle Megawatts by the Company during one Customer Billing Cycle the customer  
18                  would be a Large Volume Electricity User and the Large Volume Electricity User Franchise Fee  
19                  would apply for the Customer Billing Cycle in which 21 Billing Cycle Megawatts were supplied  
20                  and sold to the customer. However, if a customer is supplied and sold 20 or less Billing Cycle  
21                  Megawatts by the Company during another Customer Billing Cycle, said customer would not be a  
22                  Large Volume Electricity User and the Large Volume Electricity User Franchise Fee would not  
23                  apply for the Customer Billing Cycle in which 20 or less Billing Cycle Megawatts were supplied  
                    and sold to the customer. Notwithstanding anything to the contrary, North Dakota State University  
                    and the City (for and electrical service provided and sold by the Company for municipal street and  
                    highway lighting, municipal water pumping, municipal sewage pumping, municipal traffic signal,  
                    and municipal fire siren services) shall, for all purposes and regardless of the amount of electricity  
                    supplied or sold to said parties by the Company, shall be excluded from being a Large Volume  
                    Electricity User.

**Large Volume Electricity User Franchise Fee** shall mean and be sum of the following:

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- (A) The product of the Standard Franchise Fee Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by 2%

PLUS

- (B) The product of the Reduced Franchise Fee Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by 0.75%.

By way of illustration and example only, if during an applicable Customer Billing Cycle the Standard Franchise Fee Gross Revenue from the Large Volume Electricity User was \$1,224,000.00 and the Reduced Franchise Fee Gross Revenue from the Large Volume Electricity User was \$306,000.00, then the Large Volume Electricity User Franchise Fee for such Customer Billing Cycle is \$26,775.00 calculated as follows:

(A)  $\$1,224,000.00 \times 2\% = \$24,480.00$

PLUS

(B)  $\$306,000.00 \times 0.75\% = \underline{\$2,295.00}$

Large Volume Electricity User Franchise Fee = \$26,775.00

**Reduced Franchise Fee Gross Revenue** shall mean and be the product of Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by the Reduced Franchise Fee Percentage. By way of illustration and example only, if during an applicable Customer Billing Cycle the Gross Revenue from the Large Volume Electricity User was \$1,530,000.00 and the Reduced Franchise Fee Percentage was 20.00%, then the Reduced Franchise Fee Gross Revenue is \$306,000.00 ( $\$1,530,000.00 \times 20.00\% = \$306,000.00$ ).

**Reduced Franchise Fee Percentage** shall mean and be the difference of 100.00% minus the Standard Franchise Fee Percentage. By way of illustration and example only, if the Standard Franchise Fee Percentage is 80.00%, then the Reduced Franchise Fee Percentage shall be 20.00% ( $100.00\% \text{ minus } 80.00\% = 20.00\%$ ).

**Standard Franchise Fee Gross Revenue** shall mean and be the product of Gross Revenue from the Large Volume Electricity User during the applicable Customer Billing Cycle multiplied by the Standard Franchise Fee Percentage. By way of illustration and example only, if during an applicable Customer Billing Cycle the Gross Revenue from the Large Volume Electricity User was

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\$1,530,000.00 and the Standard Franchise Fee Percentage was 80.00%, then the Standard Franchise Fee Gross Revenue is  
\$1,224,000.00 ( $\$1,530,000.00 \times 80.00\% = \$1,224,000.00$ ).

1           **Standard Franchise Fee Percentage** shall mean and be the quotient derived from the  
2 fraction and stated in a percentage rounded the nearest 100<sup>th</sup> of a percent, where the numerator is 20  
3 Megawatts (MW) and the denominator is the Billing Cycle Megawatts, and shown by the following  
4 fraction:

5                   20 Megawatts \_\_\_\_\_

6                   Billing Cycle Megawatts \_\_\_\_\_

7           By way of illustration and example only, if the Billing Cycle Megawatts is 25, then the  
8 Standard Franchise Fee Percentage is 80.00% ( $20 / 25 = 80.00\%$ ).

9           **Application and Notification.** Large Volume Users that may be eligible to participate in  
10 the Reduced Franchise Fee Percentage must first apply to the board of city commissioners for  
11 determination of eligibility. City will notify Xcel if a Large Volume User presents itself through  
12 City processes, to the extent possible, within a reasonable period of time.

13                                   **SECTION 2. ADOPTION OF FRANCHISE.**

14           2.1    **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the  
15 date passed and approved by the City, a non-exclusive franchise ("Franchise"), except as otherwise  
16 provided by the Public Service Commission, the right to construct and to transmit and furnish  
17 electric energy for light, heat, power and other purposes for public and private use within and  
18 through the limits of the City as its boundaries now exist or as they may be extended in the future.  
19 For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on,  
20 over, under and across the Public Ways of City, subject to the provisions of this Franchise  
21 Ordinance. Company may do all reasonable things necessary or customary to accomplish these  
22 purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant  
23 to Ordinance.

          2.2    **Effective Date; Written Acceptance.** This franchise Ordinance shall be in force  
and effect from and after passage of this Ordinance, its acceptance by Company, and its publication  
as required by law. City by board of city commission resolution may revoke this franchise  
Ordinance if Company does not file a written acceptance with City within 90 days after publication.

          2.3    **Service and Rates.** The service to be provided, the rates to be charged by Company  
for electric service in City, termination provisions, assignment and merger terms, and all operational

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decisions that apply shall continue to be subject to the jurisdiction of the Public Service Commission of this State or its successor agency.

1           2.4    **Dispute Resolution.** If either party asserts that the other party is in default in the  
2 performance of any obligation hereunder, the complaining party shall notify the other party of the  
3 default and the desired remedy. The notification shall be written. Representatives of the parties  
4 must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute  
5 is not resolved within 30 days of the written notice, the parties may jointly select a mediator to  
6 facilitate further discussion. The parties will equally share the fees and expenses of this mediator.  
7 If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first  
8 meeting with the selected mediator, either party may commence an action in District Court, Cass  
9 County, North Dakota, to interpret and enforce this franchise or for such other relief as may be  
10 permitted by law or equity for breach of contract, or either party may take any other action  
11 permitted by law.

8                                   **SECTION 3. LOCATION, OTHER REGULATIONS.**

9           3.1    **Location of Facilities.** Electric Facilities shall be located, constructed and  
10 maintained so as not to interfere with the safety and convenience of ordinary travel along and over  
11 Public Ways and so as not to disrupt normal operation of any City Utility System previously  
12 installed therein. Electric Facilities shall be located on Public Grounds as determined by the City.  
13 Company's construction, reconstruction, operation, repair, maintenance and location of Electric  
14 Facilities shall be subject to permits if required by separate ordinance and to other reasonable  
15 regulations of the City to the extent not inconsistent with the terms of this franchise agreement.  
16 Company shall be required to comply with North Dakota Century Code Ch. 49-23- One-Call  
Excavation Notice System as underground Electric Facilities may be abandoned underground in  
place from time to time, provided at the City's request, Company will remove abandoned metal or  
concrete encased conduit interfering with a City improvement project, but only to the extent such  
conduit is uncovered by excavation as part of the City improvement project. To the extent  
inconsistent with State law, State law shall control

17           3.2    **Street Openings.** Company shall not open or disturb any Public Way for any  
18 purpose without first having obtained a permit from the City in accordance with Fargo Municipal  
19 Code Article 18-09, for which the City may impose a reasonable fee, or otherwise giving notice  
20 thereof to the city engineer in accordance with Fargo Municipal Code §18-0912. Permit conditions,  
21 if any, imposed on Company shall not be more burdensome than those imposed on other utilities for  
22 similar facilities or work. In the event of an emergency, Company shall notify the city engineer on  
23 the first working day after such work is commenced, and shall secure such permits, if necessary.

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1       3.3     **Restoration**. After undertaking any work requiring the opening of any Public Way,  
2     Company shall restore the same, including paving and its foundation, in accordance with Fargo  
3     Municipal Code Article 18-09, unless otherwise agreed to by the parties. Company shall be  
4     permitted to use non-reinforced concrete instead of cold mix asphalt for temporary restoration  
5     purposes. City hereby waives any requirement for Company to post a construction performance  
6     bond, certificate of insurance, letter of credit or any other form of security or assurance that may be  
7     required, under a separate existing or future ordinance of the City, of a person or entity obtaining the  
8     City's permission to install, replace or maintain facilities in a Public Way.

9       3.4     **Avoid Damage to Electric Facilities**. Nothing in this Ordinance relieves any  
10    person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric  
11    Facilities while performing any activity.

12       3.5     **Notice of Improvements**. City must give Company reasonable notice of plans for  
13    improvements to Public Ways where City has reason to believe that Electric Facilities may affect or  
14    be affected by the improvement. The notice must contain: (i) the nature and character of the  
15    improvements, (ii) the Public Ways upon which the improvements are to be made, (iii) the extent of  
16    the improvements, (iv) the time when the City will start the work, and (v) if more than one Public  
17    Way is involved, the order in which the work is to proceed. The notice must be given to Company a  
18    sufficient length of time in advance of the actual commencement of the work to permit Company to  
19    make any necessary additions, alterations or repairs to its Electric Facilities.

20       3.6     **Shared Use of Poles**. Company shall make space available on its poles or towers  
21    for City fire, water utility, police or other City facilities whenever such use will not interfere with  
22    the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by  
23    any cable television company or other form of communication company. In addition, the City shall  
24    pay for any added cost incurred by Company because of such use by City.

25                   **SECTION 4. RELOCATIONS.**

26       4.1     **Relocation of Electric Facilities in Public Ways**. If the City determines to vacate a  
27    Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of  
28    any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order  
29    Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to  
30    accomplish the City's proposed public improvement. Except as provided in Section 4.2, Company  
31    shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable  
32    notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of  
33    any Public Way or to construct or reconstruct any City Utility System. Nothing in this Franchise  
34    Agreement requires Company to relocate, remove, replace or reconstruct at its own expense its  
35    Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the  
36    convenience of the city and is not reasonably necessary for the construction or reconstruction of a  
37    Public Way or City Utility System or other City improvement.



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1 City in such suit if written notice thereof is promptly given to Company within a period wherein  
2 Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend,  
3 it will thereafter have control of such litigation, but Company may not settle such litigation without  
4 the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to  
5 third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in  
6 defending any action on behalf of the City shall be entitled to assert in any action every defense or  
7 immunity that the City could assert in its own behalf.

8  
9 **SECTION 7. VACATION OF PUBLIC WAYS.**

10 The City shall give Company at least two weeks prior written notice of a proposed vacation  
11 of a Public Way. Except where required for a City improvement project, the vacation of any Public  
12 Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to  
13 operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the  
14 loss and expense resulting from such relocation are first paid to Company. In no case, however,  
15 shall City be liable to Company for failure to specifically preserve a right-of-way under North  
16 Dakota Century Code, Chapter 40-39.

17  
18 **SECTION 8. CHANGE IN FORM OF GOVERNMENT.**

19 Any change in the form of government of the City shall not affect the validity of this  
20 Ordinance. Any governmental unit succeeding the City shall, without the consent of Company,  
21 succeed to all of the rights and obligations of the City provided in this Ordinance.

22  
23 **SECTION 9. FRANCHISE FEE.**

24 9.1 **Fee Schedule.** During the term of the franchise hereby granted, and in lieu  
25 of any permit or other fees being imposed on the Company, the City may impose on  
26 Company a franchise fee ("Franchise Fee") as described herein.

27 9.2 **General Franchise Fee.** Except for the Large Volume Electricity  
28 User Franchise Fee described in Section 9.3 below, the franchise fee payable by  
29 the Company to the City shall be determined by Resolution of the board of city  
30 commissioners as a percentage of Company's Gross Revenues.

31 9.3 **Large Volume Electricity User Franchise Fee.** In the event the  
32 Company has a Large Volume Electricity User during a Customer Billing Cycle, the Gross  
33 Revenue of the Large Volume Electricity User for such Customer Billing Cycle shall not  
34 be included in the Gross Revenue in the calculation of the franchise fee payable under  
35 Section 9.2 above, and for such Customer Billing Cycle, the franchise fee payable by the  
36 Company to the City for the Large Volume Electricity User shall be equal to the Large

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Volume Electricity User Franchise Fee.

1           9.4    **Application of franchise fee to customer.** To reimburse the Company for the  
2 costs of such franchise fee, the Company may collect and add to its billings to customers  
3 with City a surcharge to each customer at each and every customer location representing  
4 applicable franchise fee resulting from the electricity supplied and sold by the Company to  
5 said customer. Notwithstanding anything to the contrary, the Company may only collect  
6 and add a surcharge for the Large Volume Electricity User Franchise Fee to the billings to  
7 the Large Volume Electricity User.

8           9.5    **Fee Adjustments.** City and Company agree that City, in its sole discretion,  
9 may raise or lower the percentage Franchise Fee on a non-discriminatory basis, and  
10 Company may raise or lower the corresponding surcharge to its customers accordingly.  
11 This franchise ordinance shall not be construed as a limitation on the City's power to tax  
12 the Company, if any.

13           9.6    **Terms Defined.** For the purpose of this Section 9, the following definitions apply:

14           9.6.1 "Customer Class" shall refer to the classes listed on the Fee Schedule and as  
15 defined or determined in Company's electric tariffs on file with the Commission.

16           9.6.2 "Fee Schedule" refers to the schedule in Section 9.1 setting forth the various  
17 customer classes from which a Franchise Fee may be collected.

18           9.6.3 "Gross revenues" means all sums, excluding the added charge, received during  
19 the term of this franchise by Company from the sale of electricity within the corporate limits of the  
20 City provided, however, that there shall be expressly excluded from the computation of gross  
21 revenues all sums received by the Company for electricity sold for municipal street and highway  
22 lighting, municipal water pumping, municipal sewage pumping, municipal traffic signal, and  
23 municipal fire siren services.

          9.7    **Collection of the Fee.** The Franchise Fee shall be payable monthly and shall be  
based on the amount collected by Company during complete billing months during the period for  
which payment is to be made by imposing a surcharge equal to the designated Franchise Fee for the  
applicable customer classification in all customer billings for electric service in each class. The  
payment shall be due the last business day of the month following the period for which the payment  
is made. The Franchise Fee may be changed by Resolution from time to time; however, each  
change shall meet the same notice requirements and not occur more often than annually and no  
change shall require a collection from any customer for electric service in excess of the amounts  
specifically permitted by this Section 9. The time and manner of collecting the Franchise Fee is  
subject to the approval of the board of city commission. No Franchise Fee shall be payable by

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1 Company if Company is legally unable to first collect an amount equal to the Franchise Fee from its  
2 customers in each applicable class of customers by imposing a surcharge in Company's applicable  
3 rates for electric service. Company may pay City the fee based upon the surcharge billed subject to  
4 subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings.  
5 Company agrees to make its records available for inspection by City at reasonable times provided  
6 that City and its designated representative agree in writing not to disclose any information which  
7 would indicate the amount paid by any identifiable customer or customers or any other information  
8 regarding identified customers.

9 **9.8 Equivalent Fee Requirement.** City agrees it will not grant additional franchises  
10 for other Electrical Distribution System providers in City on terms more favorable or less  
11 burdensome than this franchise agreement based on consideration of the Franchises as a whole and  
12 not on a provision-by-provision basis.

13 **9.9 Annual Franchise Performance and Planning Meeting; Annual Reporting.**  
14 Company and City shall meet annually to discuss items of concern or interest related to this  
15 Franchise, including, but not limited to, collaborative infrastructure planning, vegetation  
16 management and reliability performance. Upon request of City, Company shall annually provide to  
17 City reporting information on service reliability, including System Average Interruption Duration  
18 Index (SAIDI) and Customers Experiencing Multiple Interruptions (CEMI) data, customer usage,  
19 program participation, outage data, and infrastructure improvements and capital improvements, the  
20 exact format and content of which shall be mutually agreed to by City and Company, and in a  
21 manner consistent with all applicable laws, regulations and Commission orders.

22 **SECTION 10. INSURANCE AND WORKERS COMPENSATION.**

23 **10.1 Insurance.** As of the effective date of this franchise agreement Company will, at  
its sole expense, maintain during the entire term of this franchise agreement public liability  
insurance with a company licensed to do business in the State of North Dakota with a rating by Best  
of not less than "A" that will protect Company, the City, and the City's officials, officers,  
employees, and agents from claims which may arise from operations under this Franchise, whether  
such operations are by the Company, its officials, officers, directors, employees, or agents, or any  
subcontractors of Company. This liability insurance will include, but will not be limited to,  
protection against claims arising from bodily and personal injury, death, and damage to property  
resulting from the Company's automobiles, products, and completed operations. The amount of  
such insurance shall be subject to periodic changes as described in this Section, or as may be  
required by applicable law, but will be not less than the following:

- (a) General liability insurance:
- (b) Bodily injury and/or death per Person \$1,000,000  
Bodily injury and/or death per occurrence \$1,000,000

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Property damage per occurrence \$1,000,000  
Property damage and bodily injury, aggregate \$2,000,000

(c) Automobile insurance:  
Combined single limit \$1,000,000

(d) Umbrella coverage: \$2,000,000

The liability policy will provide for the following, by endorsement or otherwise:

(a) The policy will cover personal injury as well as bodily injury.

(b) The policy will cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries, and property damage.

(c) Broad form property damage liability will be afforded.

(d) The City will be included as an additional insured on the policy.

(e) The coverage is primary insurance and no other insurance or fund of the City will be called upon to contribute to a loss under this coverage.

(f) Standard form of cross-liability will be afforded.

(g) The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

The automobile insurance policy will provide for the following, by endorsement or otherwise:

(a) The City will be included as an additional insured on the policy.

(b) The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

Upon ninety (90) days prior written notice to Company, the City reserves the right to adjust the limit coverage requirements no more than once every five (5) years. Any such adjustment by the City will be no greater than the increase in the State of North Dakota Consumer Price Index for such five (5) year period, unless otherwise required by applicable law.



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**SECTION 13. AMENDMENT PROCEDURE.**

1 Either party to this franchise ordinance may at any time propose that the Ordinance be  
2 amended to address a subject of concern and the other party will consider whether it agrees that the  
3 amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be  
4 amended at any time by the City passing a subsequent ordinance declaring the provisions of the  
5 amendment, which amendatory ordinance shall become effective as provided herein.

6 **SECTION 14. PREVIOUS FRANCHISES SUPERSEDED.**

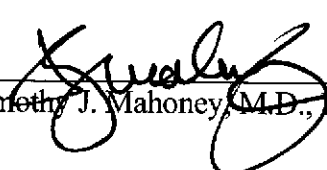
7 This Franchise Agreement supersedes any previous electric franchise granted to Company  
8 or its predecessor. This ordinance shall be in full force and effect after passage and approval as  
9 provided by law.


10 Section 2. Effective Date.

11 This ordinance shall be in full force and effect from and after its passage, approval and  
12 publication.

13 CITY OF FARGO,  
14 a North Dakota municipal corporation



15   
16 Dr. Timothy J. Mahoney, M.D., Mayor

17   
18 Steven Sprague, City Auditor

19 Introduction 10/18/21  
20 First Reading 11/1/21  
21 Second Reading and Adoption 11/15/21  
22 Publication 11/24/21