

ORDINANCE 1757

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AUTHORIZING A TWENTY YEAR, NON-EXCLUSIVE FRANCHISE WITH TANNER ELECTRIC COOPERATIVE TO PROVIDE ELECTRIC POWER SERVICE WITHIN THE CITY LIMITS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in 1984, the North Bend City Council adopted Ordinance No. 631 which granted to Tanner Electric Cooperative (“Tanner”) a 20-year franchise for the purpose of allowing Tanner to use City streets, roads, avenues, alleys, highways, and other public rights of way for its poles, wires, lines, conduits, cables, and accessory facilities to sell and distribute electric energy (“Franchise Agreement”); and

WHEREAS, although the Franchise Agreement expired in 2004, the City and Tanner have continued to operate in compliance with the Franchise Agreement and operable law regarding Tanner’s facilities in City rights-of-way; and

WHEREAS, the City Council believes it is in the City’s best interests to enter into a new, non-exclusive Franchise Agreement with Tanner for a term of 20 years; and

WHEREAS, the City and Tanner desire to formalize their cooperative and mutually beneficial relationship for the provision of electric power service within the City; and

WHEREAS, adoption of this franchise by the City Council complies with the procedural requirements of RCW 35A.47.040, which provides, “No ordinance or resolution granting any franchise in a code city for any purpose shall be adopted or passed by the city’s legislative body on the day of its introduction nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney, nor without having been granted by the approving vote of at least a majority of the entire legislative body, nor without being published at least once in a newspaper of general circulation in the city before becoming effective”;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Grant of Franchise: The Mayor is authorized to execute a non-exclusive Franchise Agreement with Tanner Electric Cooperative to provide electric power service for a period of twenty (20) years within the City of North Bend on the terms and conditions set forth in the Franchise Agreement attached hereto as Exhibit A.

Section 2. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date: This ordinance shall be in full force and effect five (5) days after its publication as provided by law. The “Effective Date” of the Franchise Agreement, however, shall be the date on which Tanner Electric Cooperative has executed and filed with the City Clerk the Acceptance Form attached at page 8 of the Franchise Agreement. The Franchise Agreement shall be of no force or effect if Tanner Electric Cooperative fails to file its written acceptance within 30 days of the date of publication of this ordinance.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21ST DAY OF SEPTEMBER, 2021.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published: October 1, 2021
Effective: October 6, 2021

Susie Oppedal, City Clerk