

**TOWN OF FRASER
ORDINANCE NO. 468
Series 2019**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FRASER, COLORADO APPROVING A FRANCHISE AGREEMENT WITH PUBLIC SERVICE COMPANY OF COLORADO, D/B/A XCEL ENERGY, GRANTING TO XCEL ENERGY THE NON-EXCLUSIVE RIGHT TO MAKE REASONABLE USE OF TOWN STREETS, PUBLIC UTILITY EASEMENTS AND OTHER TOWN PROPERTY TO PROVIDE GAS UTILITY SERVICE TO THE TOWN AND ITS RESIDENTS; TO SELL, STORE, PURCHASE, EXCHANGE, TRANSMIT, TRANSPORT, AND DISTRIBUTE GAS UTILITY SERVICES WITHIN AND THROUGH THE TOWN ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; SPECIFYING THAT THE FRANCHISE SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR A TERM OF TWENTY (20) YEARS THEREAFTER; SETTING A FRANCHISE FEE OF 3% OF THE GROSS REVENUES OF XCEL ENERGY AS DEFINED IN SAID FRANCHISE; PROVIDING FOR A SURCHARGE THEREFORE; AUTHORIZING THE MAYOR TO EXECUTE THE FRANCHISE AGREEMENT FOR AND ON BEHALF OF THE TOWN AND THE TOWN CLERK TO ATTEST THERETO; AND, SETTING FORTH OTHER DETAILS RELATED THERETO.

WHEREAS, Public Service Company of Colorado, d/b/a Xcel Energy (“Xcel”) is the current operator of a natural gas distribution system in the Town of Fraser; and

WHEREAS, Xcel provides natural gas service pursuant to a non-exclusive franchise granted by Ordinance No. 203 of the Town of Fraser, adopted in 1994; and

WHEREAS, Xcel has applied to the Town for the grant of a new franchise and approval of a franchise agreement, to extend and continue such previous franchise; and

WHEREAS, the Town has determined that Xcel has substantially complied with the material terms of the current franchise under applicable law, and that the financial, legal, and technical ability of Xcel is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future natural gas-related needs of the community; and

WHEREAS, having afforded the public adequate notice and opportunity for comment, the Town desires to enter into a renewal of the franchise with the Xcel for the construction and operation of a natural gas distribution system on the terms set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FRASER, OF THE STATE OF COLORADO THAT:

Section 1. Grant of Franchise. The Board of Trustees hereby grants a non-exclusive franchise to Xcel to operate a natural gas distribution system in the Town of Fraser,

pursuant to and subject to all terms, conditions and obligations contained in the Franchise Agreement in the form and content presented to and reviewed by the Board, which Franchise Agreement is incorporated herein by this reference. The Mayor and the Town Clerk are authorized to execute and deliver said Franchise Agreement on behalf of the Town.

Section 2. Effective Date. This Ordinance and said Franchise Agreement shall take effect thirty (30) days after passage, adoption and publication of this Ordinance as provided by law, subject to said Franchise Agreement being fully executed by both the Town and Xcel.

Section 3. Severability. All sections of this Ordinance and the Franchise Agreement incorporated herein shall be severable, and if any section, portion or provision of this Ordinance or the Franchise Agreement is declared or ruled illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, portion, or provision of this Ordinance or the Franchise Agreement shall remain in full force and effect. The Board of Trustees hereby declares that it would have passed this Ordinance and approved the Franchise Agreement and each part thereof irrespective of the fact that any one part be declared unconstitutional illegal, or invalid.

Section 4. Repeal. All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. Publication. This Ordinance shall be published by title only.

READ, PASSED, ADOPTED AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES AND SIGNED THIS ____ day of _____, 2019.

Votes in favor: ____
Votes opposed: ____
Votes abstained: ____

BOARD OF TRUSTEES OF THE
TOWN OF FRASER, COLORADO

BY: _____
Philip Vandernail, Mayor

ATTEST:

Antoinette McVeigh, Town Clerk

(S E A L)

Published in the *Middle Park Times* on _____

CERTIFICATION

The undersigned, Antoinette McVeigh, Town Clerk of the Town of Fraser, hereby certifies that the foregoing Ordinance was duly adopted by the Board of Trustees of the Town of Fraser on _____, 2019, upon second reading. Prior to adoption, said Ordinance was introduced and read for the first time at the Board meeting held on _____, 2019, and was published not less than two weeks prior to such second reading and passage as required by law.

Dated: _____

Antoinette McVeigh, Town Clerk