

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING A FIVE-YEAR EXTENSION TO THE FRANCHISE GRANTED BY ORDINANCE NO. 959 AND AMENDED BY ORDINANCE NO. 1150 TO PEDERNALES ELECTRIC COOPERATIVE INC., CONTAINING VARIOUS TERMS AND CONDITIONS WITH REGARD TO THE EXTENSION OF THE FRANCHISE; TO CONSTRUCT, MAINTAIN, OPERATE AND USE A TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF KYLE TO PROVIDE ELECTRIC UTILITY SERVICE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE:

**WHEREAS**, On August 22, 2017, the City Kyle (hereinafter, the “City”) adopted Ordinance No. 959, and amended by Ordinance No. 1150 on June 1, 2021, granting a franchise to Pedernales Electric Cooperative ("PEC") to use the City's streets, lanes, alleys and other rights-of-way for the purpose of erecting, constructing, maintaining, operating, using, extending, removing, replacing, and repairing PEC's electrical distribution facilities serving customers within that part of its certificated service area that lies in the boundaries of the City, the term of which expires on August 22, 2022 (hereinafter, the “Franchise”).

**WHEREAS**, the City and PEC wish to further amend Ordinance 959 and extend the term of the Franchise granted therein.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE THAT:**

**Section 1. Extension of the Franchise.** The Franchise granted by Ordinance No. 959 and as amended by Ordinance No. 1150 is hereby renewed on the terms included therein and as amended herein, as if set forth here in full and extended for an additional five-year term to commence on August 23, 2022, expiring on August 22, 2027.

**Section 2. Installation of facilities in Public Right-of-Way.** The Franchise is hereby amended by adding Section 4(c) to read as follows:

**Section 4(c).** Installation of facilities in the Public Right-of-Way shall be in conformance with all applicable City requirements, including placing all new distribution facilities underground; provided, however, the City acknowledges that certain new distribution facilities relating to substations, reliability and redundancy improvements, riser poles that transitions overhead lines into underground facilities may be placed overhead, and system upgrades to and relocations for existing facilities may remain overhead, and to the extent that safety standards of NESC or Cooperative standards require facilities to be placed overhead or remain overhead, such lines may remain or be placed overhead. To the extent any gateway corridor overlay or similar classification

exists within the City, this Section 4(c) governs overhead placement of facilities. And in all such instances with respect to the construction of these overhead facilities, the City shall not require PEC to obtain an exception.

PEC shall, when planning improvements in the Public Right-of-Way to existing distribution facilities to increase capacity or for system improvement, give reasonable consideration to installing the upgraded distribution facilities underground; provided that the City may require the upgraded facilities to be placed underground upon the payment of the differential cost between overhead and underground construction and facilities. To the extent the City selects underground construction of facilities in such case, in the event any additional road widening or relocation project then is required by the City, the City shall pay the differential cost between overhead and underground for the facilities to remain underground.

**Section 3. Effect of Amendment.** The original Franchise, as amended, is hereby amended as provided in this Ordinance. In the event of a conflict between the Franchise, as amended, and this Ordinance, this Ordinance shall control. The Franchise and all amendments thereto shall be referred to together as the “Franchise.” Words and phrases used in this Ordinance shall, if defined in the Franchise and not specifically modified by this Ordinance, shall have the definition and meaning as provided in the Franchise.

**Section 4. Effective Date.** This Ordinance shall take effect immediately from and after its passage and adoption in accordance with the applicable provisions of Section 11.02 of the Home Rule Charter of the City of Kyle, and Chapter 52 of the Texas Local Government Code (hereinafter, the “Effective Date”).

**Section 5. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

**Section 6. Compliance with Charter.** In compliance with the provisions of the City Charter, this Ordinance, upon being introduced at a regular meeting of the Council, shall be passed after two readings held after a public hearing for which ten (10) days notice is given.

**PASSED AND APPROVED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ATTEST:**

**THE CITY OF KYLE**

Jennifer Hom, City Secretary

Travis Mitchell, Mayor

**ACKNOWLEDGED, ACCEPTED, AND AGREED TO;**

**PEDERNALES ELECTRIC COOPERATIVE, INC.**

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

