



**ORDINANCE NO. 374**

2017-001016 Book0533 Pg: 923  
05/02/2017 1:33 am Pg 0923-0924  
Fee: \$ 15.00 Doc: \$ 0.00  
Cathy Harrison - Adair County Clerk  
State of Oklahoma

**AN ORDINANCE GRANTING TO OZARKSGO, A WHOLLY OWNED SUBSIDIARY OF OZARKS ELECTRIC COOPERATIVE CORPORATION, A NON-EXCLUSIVE FRANCHISE GRANTING THE RIGHT TO CONSTRUCT, MANITAIN & OPERATE A FIBER-OPTIC TELECOMMUNICATIONS SYSTEM FOR THE DISTRIBUTION AND SALE OF COMMUNICATIONS SERVICES TO THE CITIZENS OF STILWELL, OKLAHOMA IN, UPON, ACROSS, UNDER AND OVER THE STREETS, ALLEYS PUBLIC GROUNDS AND OTHER PLACES DEEMED NECESSARY BY THE CITY COUNCIL IN THE CITY FOR A PERIOD OF 15 YEARS FROM JULY 1, 2017, PROVIDING COMPENSATION TO THE CITY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STILWELL, OKLAHOMA:**

**Section 1.** The word "City" as hereinafter used shall mean and designate the City of Stilwell, Adair County, Oklahoma and the "OzarksGo" as hereinafter used shall mean and designate OzarksGo, a wholly owned subsidiary of Ozarks Electric Cooperative Corporation, a cooperative corporation organized and existing under and by virtue of the laws of the State of Arkansas, operating within the State of Oklahoma.

**Section 2.** This franchise ordinance shall become effective July 1, 2017 only upon passage by the voters and citizens of the City of Stilwell. This franchise, if approved, shall grant OzarksGo the right, privilege and authority to transmit and distribute telecommunications services within the corporate limits of the City of Stilwell, and the right, privilege and authority to construct, maintain and operate a system of fiber-optic wiring/cabling, transformers, substations and other fixtures for the sale and delivery of telecommunications services including internet, telephone, video and other services consistent with communications, specifically excluding electricity. This franchise will not enable OzarksGo the right to use any aerial poles owned by the City leased and otherwise entrusted to the Stilwell Municipal Utility Department and/or the Stilwell Area Development Authority. The use or rental of such poles shall be authorized by a separate agreement negotiated, approved and executed with the Stilwell Municipal Utility Board and/or the Board of Trustees for the Stilwell Area Development Authority.

The initial franchise agreement hereby granted shall be effective from and after approval by the voters for a period of fifteen (15) years from July 1, 2017. The right granted herein shall not be exclusive.

**Section 3.** OzarksGo shall construct and maintain its property in such a manner as not to obstruct nor impede traffic unduly or to interfere with other lines, wiring or cables constructed or installed within the same rights of way granted in this franchise agreement.

**Section 4.** OzarksGo shall defend and indemnify the City against all lawful claims for injury to person or property caused by the negligence of OzarksGo in the construction, maintenance or operation of its property.

**Section 5.** The rate or rates charged the City and the public generally shall be compensatory and reasonable and shall be on file with the Oklahoma Corporation Commission or other legally constituted authority when required by law.

**Section 6.** OzarksGo acknowledges the restriction imposed by the City Charter of the City of Stilwell: **Section 66 No Franchise Leased Except** – No franchise granted by the City shall ever be leased, assigned, or otherwise alienated without the express and written consent of the City and no rule of estoppel shall ever be invoked against the City asserting the invalidity of any attempted transfer in violation of this action.

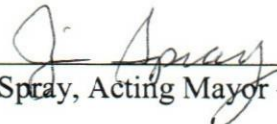
**Section 7.** OzarksGo shall pay to the City of Stilwell Three Percent (3%) of its gross receipts arising from the sale of telecommunications within corporate limits of the city, such payment to be made on or before the 10<sup>th</sup> day of each calendar quarter (April 10<sup>th</sup>, July 10<sup>th</sup>, October 10<sup>th</sup>, January 10<sup>th</sup>) subsequent to such sales.

**Section 8.** OzarksGo shall file with the Clerk-Treasurer of the City, in writing, its acceptance of this Ordinance. The acceptance shall be filed within thirty (30) days from and after the date of approval by the voters of the City of Stilwell.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF STILWELL  
THIS 1<sup>st</sup> DAY OF MAY, 2017 TO BECOME EFFECTIVE ON JULY 1, 2017**

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(SEAL)

  
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Jim Spray, Acting Mayor – President of the Council

Attest:

  
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Larry Nettles, Clerk-Treasurer



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