

MORONGO BAND OF MISSION INDIANS

ORDINANCE 26

TRIBAL UTILITY AUTHORITY ORDINANCE

Approved February 26, 2005

MORONGO BAND OF MISSION INDIANS
TRIBAL UTILITY AUTHORITY ORDINANCE

CONTENTS¹

ARTICLE 1 GENERAL PROVISIONS

ARTICLE II DEFINITION OF TERMS

ARTICLE III TRIBAL UTILITY AUTHORITY

SECTION 4 TRIBAL TAX DEPARTMENT

SECTION 5 ADOPTION AND EFFECTIVE DATE

¹ Although a “CONTENTS” section was not included in the original Ordinance as adopted, it has been added here in order to simplify locating a section.

MORONGO BAND OF MISSION INDIANS
TRIBAL UTILITY AUTHORITY ORDINANCE

BE IT ENACTED by the Tribal Council² of the Morongo Band of Mission Indians as follows:

ARTICLE I

GENERAL PROVISIONS

- SECTION 1.01. **TITLE AND DATE:** This Ordinance shall be titled the “Morongo Band of Mission Indians Tribal Utility Authority Ordinance.” The Ordinance shall become effective immediately upon adoption by resolution by the Morongo Band of Mission Indians Tribal Council.
- SECTION 1.02. **PURPOSE:** The purpose of the Morongo Band of Mission Indians Tribal Utility Authority Ordinance is to establish a Tribal Utility Authority for the Morongo Indian Reservation, define the policies and objectives of that Authority and identify the necessary rules and regulations for: (1) the operation, maintenance and management of a Tribal utility system located on the Morongo Indian Reservation; (2) serving as an enterprise of the Tribal Government; (3) provide or arrange for the provision of essential natural gas and other Tribal utility services, including, but not limited to, water, wastewater disposal, solid waste collection and disposal, electricity and telecommunications within the exterior boundaries of the Morongo Indian Reservation and other lands subject to the jurisdiction of the Morongo Band of Mission Indians; (4) suing and being sued in its own name; (5) setting rates that will cover the Utility’s operating costs without causing Tribal members to pay more for such services than would be paid for obtaining the same services from third party providers; (6) entering into such contracts and other agreements as may be necessary to provide such services and staff and operate the Utility Authority, subject to the limitation that any contract that would encumber or pledge tribal lands or assets in excess of the amount appropriated for the startup and operation of the Utility Authority must be approved by the General Membership; and (7) authorizing the appropriation from the Tribal Government budget of such sums as may be necessary for startup, operating and other anticipated costs and expenses of the Authority for the first year.
- SECTION 1.03. **POLICY:** IT SHALL BE THE POLICY OF THE Morongo Band that the Tribal Utility Authority shall be operated, maintained and managed to provide Reservation residents and businesses with high-quality utility services at more reasonable rates, maximize Tribal sovereignty and facilitate the diversification of the Morongo Indian Reservation’s economy. It shall also be the policy of the Morongo Band that the Tribal Utility Authority shall

² So in original. However, rather than being enacted by the Tribal Council this Ordinance was approved by the General Membership when it approved Proposition No. 2 on the February 26, 2005 election ballot.

be operated, maintained and managed efficiently and in a financially responsible, cost effective and self-sufficient nature.

SECTION 1.04. JURISDICTION: The authority to establish a Tribal Utility Authority and to levy appropriate user fees for receipt of services therefrom is derived from the Morongo Band's inherent police power as a sovereign Indian tribe.

ARTICLE II

DEFINITION OF TERMS

SECTION 2.01. GENERAL: Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as set forth in this Article II.

SECTION 2.02. APPURTENANCES: "Appurtenances" are real and personal property owned by the Tribal Utility Authority or the Tribe, located on, near or under the roadways and streets, including gas lines, fire hydrants, electrical generators, conductors and support poles, telecommunications facilities, water lines, wastewater lines and treatment facilities, storage tanks, pumps and water valves.

SECTION 2.03. CUSTOMER: "Customer" means a person, business, agency or other organization that uses, is entitled to use, or is obligated to pay for the use or receipt of services from the Tribal Utility Authority.

SECTION 2.04. CUSTOMER LINES: "Customer lines" are the service lines for potable water, electricity, telecommunications or natural gas that are connected to the Utility Authority's distribution system line(s), or are maintained by the customer separately from the Tribal Utility Authority's distribution system lines.

SECTION 2.05. DISTRIBUTION SYSTEM LINES: "Distribution System Lines" are those water, telecommunications, electricity and/or natural gas lines maintained by the Tribal Utility Authority and by which natural gas, water, telecommunications or electricity services, etc. are provided to customers.

SECTION 2.07. METER: "Meter" is a device, owned by the Tribal Utility Authority, and installed at a point of service for measuring the amount of natural gas, water or electricity, etc. utility services provided to a particular customer or customers.

SECTION 2.08. MANAGER: "Manager" shall mean an individual hired or appointed by the Tribal Utility Authority or manager to oversee management of the operation of the Tribal Utility Authority.

SECTION 2.09. OPERATOR: "Operator" shall mean an individual hired or appointed by the Tribal Utility Authority to provide direct day-to-day preventive maintenance and operation services for the Tribal Utility Authority.

- SECTION 2.10. OFF-RESERVATION: “Off-reservation” is any area located outside of the exterior boundaries of the Morongo Indian Reservation or other lands held in trust for the Morongo Band of Mission Indians.
- SECTION 2.11. REGULATION: “Regulation” is a rule of law or procedure duly adopted by the Tribal Utility Authority for purposes of implementing the requirements of this ordinance.
- SECTION 2.12. TRIBAL COMMUNITY: “Tribal Community,” for purposes of this ordinance, shall include, but not necessarily be limited to, enrolled Morongo Band of Mission Indians Tribal members and other persons residing, employed or maintaining places of business on the Morongo Indian Reservation.
- SECTION 2.13. CONTRACTOR: “Contractor” shall mean any individual, firm, contractor or organization who contracts with the Tribal Utility Authority to provide natural gas services or utility repairs, design, inspection, reconstruction or operation.
- SECTION 2.14. UTILITY SERVICE: “Utility Service” is the basic natural gas, water, telecommunications, wastewater, electricity service necessary for supporting residential, industrial and commercial enterprises and appurtenances.
- SECTION 2.15. UTILITY AUTHORITY: “Utility Authority” is the agency responsible for, and authorized to manage, the Tribal Utility of the Morongo Indian Tribe, as established by this ordinance.
- SECTION 2.16. TRIBAL UTILITY DEPARTMENT: “Tribal Utility Department” is a governmental department of the Morongo Indian Tribe authorized to operate the utility services provided by the Tribe.
- SECTION 2.17. VENDOR: “Vendor” is any individual, firm, contractor or organization who regularly supplies parts, equipment, supplies and services to the Tribal Utility Authority used in the operation, maintenance and management of the Tribal Utilities of the Morongo Indian Reservation.
- SECTION 2.18. SHALL; MAY: “Shall” is mandatory. “May” is permissive.

ARTICLE III

TRIBAL UTILITY AUTHORITY

- SECTION 3.01. ESTABLISHMENT OF TRIBAL UTILITY AUTHORITY: There is hereby established the Morongo Band of Mission Indians Tribal Utility Authority having the responsibility for operating and maintaining such Tribal utilities as the Morongo Band determines should be operated by said Authority.
- SECTION 3.02. UTILITY AUTHORITY – OPERATING ORGANIZATION: The Tribal Utility Authority shall operate as a subordinate unit of Tribal government, independent in its daily operation, but responsible to the Tribal Council for its actions. The methods of appointment, terms of office, and operating

procedures of the Tribal Utility Authority shall be set forth in this ordinance and in regulations adopted by the Tribal Utility Authority.

SECTION 3.04. UTILITY AUTHORITY – POWERS AND RESPONSIBILITY: The Tribal Utility Authority shall manage the utilities of the Tribe, and obtain and disburse funds as required for operation, maintenance and expansion of the Tribal public utilities.

To fulfill these responsibilities, the Authority shall have the power to:

- (1) Levy and collect reasonable fees for utility services subject to Tribal Council approval;
- (2) Provide for the hiring and compensation of appropriate management and maintenance personnel in accordance with a schedule approved by the Tribal Council;
- (3) Adopt appropriate regulations to implement the requirements of this ordinance, subject to approval by the Tribal Council;
- (4) Authorize disbursement of funds for operation, maintenance and repair of utility services in accordance with a budget approved by the Tribal Council;
- (5) Contract with federal and State agencies, subdivisions, municipal corporations and districts, transmitters, and/or providers of natural gas, electricity, water, and/or telecommunications services or equipment, and other vendors and contractors to assure that adequate, safe, economical and environmentally responsible utility services are available to and utilized by the Tribal Community; and
- (6) Generate, transmit, purchase, sell, receive and deliver electricity at wholesale and retail; capture and deliver heat; pump, store and deliver water; collect, treat and dispose of effluent and solid waste; receive and transmit telecommunications, and provide such other utility services as the Tribal Council from time to time may direct.