

Chapter 9.04

Gas Franchise

Section 1. Right Grant. The Minnesota Valley Natural Gas Company, a Minnesota corporation, its lessees, successors and assigns, hereinafter referred to as the Grantee, is hereby granted the non-exclusive right and authority for a period of twenty-five years, but subject hereto, to erect, construct, operate and maintain a gas plant and gas system and any and all necessary mains, pipes, services and other appliances, thereunto appertaining, in, upon, over, across and along the streets, alleys, bridges and public places within the present and future corporate limits of the City of Howard Lake, Minnesota, for the manufacture and transmission and distribution and sale of gas, whether artificial, natural, mixed or otherwise, for heating, domestic, industrial and all other uses and purposes, in and beyond said City; and the Grantee hereby agrees to operate said system and to supply gas for the period of time covered by this franchise.

Section 2. Main Extension. The Grantee, its lessees, successors or assigns shall make such reasonable extensions of the mains from time to time as may be necessary thereto; provided, however, that the Grantee, its lessees, successors or assigns shall not be required to make any extensions of its mains for the purpose of serving any new consumer or consumers which shall necessitate the installation of more than 100 feet of main for each consumer to be served, nor where the estimated revenue to be derived from serving such new consumer or consumers is insufficient to show an adequate return upon the total investment required to serve such new consumer or consumers.

Section 3. The Grantee agrees for and in behalf of itself, its lessees, successors, and assigns that all authority and right in this Franchise contained shall at all times be subject to all right, power and authority now or hereafter possessed by the said City of Howard Lake, or any other regulatory tribunal having jurisdiction thereover to regulate, fix and control just, reasonable, and compensatory gas rates, and to regulate, control and direct the manner in which the Grantee, its lessees, successors and assigns shall use the streets, alleys, bridges and public places in said City of Howard Lake.

Section 14. Repairs, Restorations. When the Grantee, its lessees, successors or assigns shall do work of construction, maintenance or repair of its system in any street, alley, highway, bridge or other public place in said City of Howard Lake, or any pavement, curbing or gutter therein shall be excavated in the course of such work, the Grantee, its lessees, successors and assigns shall promptly and at its own expense make all repairs and restorations made necessary thereby; so that, said street, alley, highway, bridge or any other public place, shall, as far as practicable, be restored to as good a condition as it was before the work was done.

Section 5. Hold Harmless. The Grantee, for itself and its lessees, successors and assigns, agrees that while the term thereof continues, it will at all times save, protect, indemnify and hold harmless the said City of Howard Lake from any and all claims, obligations, liabilities or judgments, legally established, arising, growing out of or flowing from the construction, operation and maintenance of the said gas plant and gas system by the Grantee, its lessees, successors and assigns, and due to or caused by the fault or negligence of the grantee.

Section 6. Right Non-Exclusive. The right and authority herein granted shall be non-exclusive and shall be subject to all regulatory powers which the said City of Howard Lake possesses and shall continue for the period of twenty-five years from date of passage as set forth in the original ordinance, no. 148 of the previous Howard Lake Code (except as herein otherwise stated) from and after the date this franchise goes into effect under Section 11 hereof.

Section 7. The City Council of the City of Howard Lake at the end of any period of five years from the effective date of this ordinance, when authorized so to do by a two-thirds majority of the votes cast upon the question, may acquire and thereafter operate said gas plant and gas system, and all mains, pipes, services and other appliances thereunto appertaining which shall have been constructed, installed, operated and maintained by said grantee, its lessees, successors or assigns the value of said property to be ascertained in the manner provided by law for acquiring property under the right of eminent domain, upon petition of its governing body. Such vote shall be taken at a special election called for that purpose, and held within three months next preceding the expiration of said five-year period. The consideration for such works of property shall first be applied to the payment of any encumbrance thereon, and the remainder, if any, shall be paid to said grantee, its lessees, successors or assigns.

Section 8. No sale, assignment or lease of this franchise shall be effective until the council shall have approved the same and until the vendee, assignee, or lessee shall have filed in the office of the City Clerk an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise and agreeing to perform all the conditions thereof.

Section 9. Forfeits. The violation by the grantee, its vendee, assignee, lessee or successor of the provisions of this franchise or any material portions thereof, or the failure thereof, or the failure promptly to perform any of the provisions thereof, shall be cause for the forfeiture of this franchise and all rights hereunder by resolution of the municipality after reasonable written notice to the company, and continuation of such violation, failure or default.

Section 10. Repeal. All other ordinances or portions of ordinances inconsistent herewith are hereby repealed.

Section 11. Effect. The Grantee may terminate this ordinance at any time after such acceptance by filing a written surrender thereof with the City Clerk of said City.