

CITY OF RED LAKE FALLS NATURAL GAS FRANCHISE

AN ORDINANCE AMENDING THE CITY CODE, CHAPTER V, PART 14, SECTION 514.01 THROUGH 514.12, BY GRANTING A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF RED LAKE FALLS, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF.

THE CITY COUNCIL OF THE CITY OF RED LAKE FALLS ORDAINS:

SECTION 1. SUMMARY FORM. Chapter V, Part 14, Section 514, of the Red Lake Falls City Code, is hereby amended to add, Sec. 514.01 through 514.12, which in summary form provides, as follows:

Grant of Franchise. City hereby grants Community Co-ops of Lake Park, its successors and assigns (Company), for a period of 10 years from the date this Ordinance is passed and approved by the City, the non-exclusive right to import, manufacture, distribute and sell gas for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future.

Commission. A nine (9) member Commission including five (5) representatives from Community Co-op (being 4 board members and the manager), one (1) from the City Council of Mahnomon, one (1) from the City Council of Twin Valley, one (1) from the City Council of Fertile, and one (1) from the City Council of Red Lake Falls, or any successor agency or agencies which preempt all or part of the authority to regulate gas retail rates currently proposed for this Commission.

Restoration of Public Ways and Public Ground. After completing work requiring the opening of Public Ground, the Company shall restore the Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six (6) months thereafter.

Mapping Information. The Company must promptly provide complete and accurate mapping information for any of its gas facilities in accordance with the requirements of Minnesota Rules Parts 7819.4000 and 7819.4100 and the City's public right-of-way regulations.

Relocation. City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Grounds upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Grounds.

Surety Bonds. When Company seeks to perform excavation work in the right-of-way, Company must post a construction performance bond. A construction performance bond means any of the following forms of security provided at Company's option: (1) individual project bond, (2) cash deposit, (3) security of a form listed or approved under Minnesota Statutes, section 15.73, subdivision 3, (4) letter of

credit in a form acceptable to City, (5) self-insurance in a form acceptable to City, or (6) a blanket bond for projects within the local government unit or other form of construction bond, for a time specified and in a form acceptable to City.

Limitation of Liability. Upon the effective date of this ordinance, the City does not assume any liability (1) for injuries to persons, damage to property or loss of service claims by parties other than the Company or the City, or (2) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by the Company or its agents.

Indemnification. Company shall indemnify and keep and hold the City, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a public right-of-way, or out of any delay thereof, whether or not any act or omission complained of is authorized, allowed or prohibited by permit.

Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company, at its sole cost and expense, shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld.

Reservation of Rights. The City reserves all rights under MINN. STAT. §216B.36, to require a franchise fee, at any time during the term of this franchise. Subject to the statutory rights of the City to require a franchise fee, if the City elects to require a franchise fee it shall notify the Company. The fee terms shall be set forth in a separate ordinance and not be adopted until at least 60 days after Notice enclosing such proposed ordinance has been served upon the Company by certified mail.

SECTION 2. A printed copy of the entire ordinance is available for inspection by any person during regular office hours at the office of the city clerk and any other location the city council designates.

SECTION 3. A copy of the entire text of the ordinance shall be posted in the community library.

SECTION 4. Proof of the publication shall be attached to and filed with the Ordinance.

SECTION 5. This Ordinance shall become effective thirty (30) days after its passage and publication according to law.

Approved as to summary content and summary publication by at least a 4/5ths vote of the City Council on January 22, 2018.