

ORDINANCE NO. 2024-08

AN ORDINANCE OF THE CITY OF HARDIN, MONTANA, GRANTING TO MONTANA-DAKOTA UTILITIES CO. A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE AND RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE, WITHIN AND UPON, IN AND UNDER THE STREETS, ALLEYS AND PUBLIC GROUNDS OF THE CITY OF HARDIN A GAS DISTRIBUTION SYSTEM FOR TRANSMITTING AND DISTRIBUTING VAPORIZED NATURAL GAS PRODUCTS AND/OR MANUFACTURED GAS FOR PUBLIC AND PRIVATE USE, NOTIFICATION BY ANY PARTY.

WHEREAS, the City Council of the City of Hardin desires to renew the Montana-Dakota Utilities franchise agreement which expires August 17, 2024;

WHEREAS, the Montana Code Annotated does not require an election for the approval of this franchise, as the franchise is not exclusive;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF HARDIN, MONTANA:

Section 1.

For convenience, herein, said municipal corporation is designated and referred to as "Municipality" and Montana-Dakota Utilities Co. is designated and referred to as "Grantee." Any reference to either includes their respective successors and assigns.

Section 2.

There is hereby granted to Grantee a twenty five (25) year extension to the right and authority to construct, install, maintain and operate a gas transmission and distribution system, including mains, pipes, conduits, services and other necessary structures and appliances appertaining in, under, upon, over, across and along the streets, alleys, bridges and public places within the present and future corporate limits of the Municipality for the furnishing, transmission, distribution and sale of gas, whether artificial, natural, mixed or otherwise, for heating, domestic, industrial and other purposes and for transmitting gas into, through and beyond said Municipality. The Municipality represents that it has the sole power and authority to make this grant of authority and agrees to notify Grantee in writing if the Municipality should cease to have this power.

Section 3.

Grantee shall maintain an efficient distribution system for furnishing vaporized natural gas products and/or manufactured gas for public and private use at such reasonable rates as may be approved by the Montana Public Service Commission and under such orders, rules or regulations as may be issued by any federal or state agency having jurisdiction thereof.

Section 4.

This franchise shall not be exclusive and shall not be construed to prevent the Municipality from granting to any other party the right to use the streets, alleys, and public grounds of the Municipality for like purposes.

Section 5.

The Municipality reserves any right it may have, under its police power, or otherwise, to control or regulate the use of said streets, alleys, and public grounds by Grantee.

Section 6.

The Grantee agrees that in all cases where the Municipality shall change the grade, width or location (alignment) of any street, alley, or other public way or facility, the Company will, promptly, upon reasonable notice and at its own expense, unless otherwise provided by mutual agreement of the Municipality and the Grantee, change or move its structure so as to conform thereto, and all sidewalks, parkways or pavements disturbed by the Grantee shall be restored by it to a good condition and in compliance with the current standards adopted by the Municipality, and in the event that any such sidewalks, parkway or pavement shall become uneven, unsettled or otherwise require repairing because of such disturbance by the Grantee within 3 years of original repair, then the Grantee shall promptly, upon receipt of notice for the Municipality so to do, cause said sidewalk, parkway or pavement to be repaired or restored to a good condition and in compliance with the current standards adopted by the Municipality. The Grantee will not be required to move structures whenever any person or entity not working directly for the Municipality without being fully reimbursed for all reasonable costs and expenses incurred.

Section 7.

Grantee shall indemnify and save and hold the Municipality harmless from any loss or damage due to the construction, installation, and maintenance of its distribution system, and its use of the streets, alleys, and public grounds of the Municipality; however, Grantee shall not be required to indemnify and save and hold the Municipality harmless from loss or damage to the extent such loss or damage is caused by the acts, omissions, or negligence of the Municipality, its employees, assigns, agents, contractors, or other persons under its direction or control.

Section 8.

Grantee shall have the right to assign this franchise to any party, or corporation, but obligations of Grantee hereunder shall be binding upon its successors and assigns.

Section 9. Written Acceptance

Within thirty (30) days after Grantee is notified of passage and final approval of this Ordinance, Grantee shall file with the clerk or auditor of the Municipality its written acceptance of this franchise.

Section 10.

This franchise shall continue and remain in full force and effect for a period of twenty-five (25) years from the date upon which this ordinance shall become effective as provided by law. This franchise will automatically renew for successive periods of ten (10) years unless cancelled at the end of a term by either party by written notice to the other party no less than 180 calendar days prior to the end of the primary term or the then current successive term.

Section 11:

Whenever this Franchise calls for notice to or notification by any party, the same (unless otherwise specially provided) shall be in writing and directed to the recipient at the address set forth in this Section, unless written notice of change of address is provided to the other party. Notices shall be directed to the parties as follows:

To the Municipality: City Clerk
City of Hardin
406 N Cheyenne
Hardin, Montana 59034

To MDU: Region Director
Montana Dakota Utilities
5181 Southgate Drive
Billings, Montana 59101

DATE OF EFFECT.

This ordinance shall take effect and be in force thirty (30) days from the date of its second reading and passage by the City Council as required by law.

FIRST READING AND PASSAGE By a majority vote of the members present this 18th day of June, 2024.

YEAS 5
ABSTAIN 1

NAYS 0

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk



POSTED AND MADE AVAILABLE TO THE PUBLIC this 19th day of June, 2024.

Andrew Lehu
City Clerk

SECOND READING AND PASSAGE By a majority vote of the members present this 2nd day of July, 2024.

YEAS 5

NAYS 0

ABSTAIN 1

[Signature]
Mayor

ATTEST:

Andrew Lehu
City Clerk

