

13.0700

**MICHIGAN GAS UTILITIES CORPORATION FRANCISE ORDINANCE
TOWNSHIP OF GRAND HAVEN, MICHIGAN
ord. no. 622 eff. April 16, 2024**

An Ordinance granting to Michigan Gas Utilities Corporation, a Delaware Corporation, its successors and assigns, the right, power, authority, and permission to use the highways, streets, alleys, and other public places of the charter Township of Grand Haven, County of Ottawa, State of Michigan, for the purpose of laying and maintaining natural gas pipes, mains, conduits, valves, drips, and all necessary appurtenances in, under, and along the highways, streets, alleys, and other public places, of the Township, and the right, power, and permission to conduct and operate a general natural gas business and distribution system in the Township for a thirty (30) year period.

THE CHARTER TOWNSHIP BOARD OF GRAND HAVEN CHARTER TOWNSHIP, COUNTY OF OTTAWA, STATE OF MICHIGAN ORDAINS THE FOLLOWING:

13.0701

Sec. 1 NON-EXCLUSIVE FRANCHISE GRANTED

The Charter Township of Grand Haven, Michigan (“Grantor”), grants a non-exclusive franchise to Michigan Gas Utilities Corporation, a Delaware corporation (“Grantee”), its lessees, successors and assigns. Grantee is granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future highways, streets, alleys, bridges, public rights-of-way and public places as are now within the present or future limits of Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of Grantor and consumers in its vicinity, and for the distribution of natural gas from or through Grantor to points beyond its limits.

Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business; provided, however, that this franchise shall not include facilities for the extraction or clarifying of natural gas product. In consideration of the rights, power and authority granted by Grantor, Grantee shall faithfully perform all duties required by the terms of this Ordinance.

13.0702

Sec. 2 TERM

The rights and authority granted by this Ordinance shall commence upon Grantee’s acceptance and continue for a period of 30 years from and after the effective date of this Ordinance.

13.0703

Sec. 3 GOVERNING RULES AND REGULATIONS

This Ordinance is granted subject to all conditions, limitations and immunities now provided for, or as later amended or added, applicable to the operations of a public utility, by State or Federal law.

Grantee specifically agrees to comply with all such laws, statutes, ordinances, and rules and regulations regarding the installation, construction, ownership, or use of the gas and supply system. Specifically, Grantee shall be subject to all present and future Township ordinances and policies including, but not limited to, all zoning regulations.

Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to natural gas service by the Michigan Public Service Commission ("MPSC") or any successor body. Grantee shall provide Grantor, upon reasonable request, copies of all documents that Grantee sends to the MPSC and copies of all orders, decisions, or correspondence pertaining to this Ordinance or this franchise Grantee receives from or sends to the MPSC.

If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of Grantee, then Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from Grantee.

13.0704

Sec. 4 MISS DIG

If eligible to join, Grantee shall subscribe to and be a member of "Miss Dig," the association of utilities formed pursuant to Act 53 of the P.A. of 1974, as amended, being MCL 460.701, et seq, and shall conduct its business in conformance with the statutes, provisions and regulations promulgated thereunder.

13.0705

Sec. 5 INSURANCE

Grantee shall maintain in full force and effect, for the entire effective period of this Ordinance, commercial general liability insurance covering property damage and bodily injury in an amount not less than \$5,000,000; and an automobile liability insurance policy to cover all vehicles used in connection with these activities in the amount of \$2,000,000; and to provide proof, upon request by Grantor of the existence of the required insurance, in the form of certificates of insurance.

13.0706 Sec. 6 EMPLOYEE IDENTIFICATION

All personnel of Grantee who have, as part of their normal duties, contact with the general public, shall upon request, provide an identification card signifying employment. Service vehicles of Grantee, its contractors and subcontractors, shall be clearly identified as such to the public.

13.0707 Sec. 7 CONSTRUCTION AND MAINTENANCE OF GRANTEE FACILITIES

Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done after prior written notice to inhabitants of Grantor and to Grantor itself. The work shall be conducted in a manner to cause only such inconvenience to the inhabitants and to the general public as is reasonably necessary. Repairs and replacements shall be made promptly by Grantee, leaving such properties in as good a condition as existed immediately prior to the work. Promptly shall be deemed to be as soon as reasonably possible, but not more than 30 days following the completion of work.

Grantee agrees that for the term of this Ordinance, it will use its best efforts to maintain and secure facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants and visitors and businesses, and to reasonably protect them from loss of service through acts of vandalism or terror. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible.

Grantor will give Grantee prior reasonable notice, in the form of plans and specifications, for street improvements where paving or resurfacing of a permanent nature that affect Grantee's facilities is involved. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when Grantor will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be intended to give Grantee a sufficient length of time, considering reasonable working conditions, in advance of the actual commencement of Grantor's work, to make any additions, alterations, or repairs to its facilities.

13.0708 Sec. 8 EXTENSION OF GRANTEE FACILITIES

Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future

corporate limits of Grantor. Grantee shall comply with all applicable zoning rules and regulations in connection with such extension.

13.0709 Sec. 9 RELOCATION OF GRANTEE FACILITIES

Grantee shall install its facilities within public rights-of-way pursuant to the standards and profiles developed and adopted by the Ottawa County Road Commission. If Grantee's facilities are installed contrary to these standards or profiles, Grantee may be required by Grantor to relocate the facilities at Grantee's expense. Grantor is not expected to modify the standards or profile of its public utilities as delineated by the Ottawa County Road Commission for the convenience of Grantee.

If Grantor, or the Ottawa County Road Commission, elects to change the grade of or otherwise alter any highway, street, alley, bridge, public right-of-way or public place, or alter any public utility within the public right-of-way for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal and relocation is necessary to prevent interference and not merely for the convenience of Grantor, at the cost and expense of Grantee.

If Grantor orders or requests Grantee to relocate its facilities for the primary benefit of a commercial or private developer, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities from the commercial or private developer or other non-public entity.

Grantor may consider reasonable alternatives in designing its public works projects so as not arbitrarily cause Grantee unreasonable additional expense in exercising its authority under this section. Grantor and Grantee shall exercise good faith and attempt to partner with each other to provide a reasonable alternative location for Grantee's facilities when relocation is required.

Grantor shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to Grantee.

Any person or corporation desiring to move a building or other structure along, or to make any unusual use of, any highway, street, alley, bridge, public right-of-way or public place which shall interfere with the facilities of Grantee, shall first give notice to Grantor and Grantee and pay a sum sufficient to cover the expense and damage incident of moving Grantee's facilities.

13.0710 Sec. 10 CONFIDENTIAL INFORMATION

Grantor acknowledges that certain information it might request pursuant to this franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request 6 or requirement so that Grantee may seek an appropriate protective order or other relief.

13.0711 Sec. 11 FORCE MAJEURE

It shall not be a breach or default under this franchise if either party fails to perform its obligations due to Force Majeure. Force Majeure shall include, but not be limited to, the following causes not reasonably within the control of the affected party to prevent or overcome: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage, or accident; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance.

13.0712 Sec. 12 RATES ESTABLISHED BY MICHIGAN PUBLIC SERVICE COMMISSION

The rates to be charged by Grantee and all rules of service shall be those which are established from time to time by the MPSC or such body which shall succeed to the jurisdiction, rights, powers, and authority of the MPSC.

13.0713 Sec. 13 HOLD HARMLESS

Grantee and its contractors and subcontractors shall use due care at all times in exercising the privileges granted by this Ordinance. Grantee shall hold harmless and indemnify Grantor and its officers, agents and employees from and against all costs, claims, damages, liabilities, expenses and judgments of proceedings of whatever nature arising out of Grantee's actions in connection with operations under the franchise granted by this Ordinance; however, Grantee need not save harmless or indemnify Grantor from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees, contractors, or agents.

13.0714 Sec. 14 FRANCHISE REVOCABLE; IRREVOCABILITY UPON

APPROVAL OF ELECTORS

The franchise granted by this Ordinance shall be revocable at the will of the governing body of Grantor upon 60 days' notice. However, the franchise shall become irrevocable if and when confirmed by a majority of the electors voting upon the question at a general election or any special election called for that purpose at the request of Grantee. In the event of a special election, the expenses shall be paid by Grantee, and the expenses shall be deposited with Grantor's Clerk in advance of any such election.

13.0715 Sec. 15 SEVERABILITY

If any clause, sentence or section of this Ordinance is deemed invalid by any judicial, regulatory or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

13.0716 Sec. 16 NON- WAIVER

Any waiver of any obligation or default under this franchise shall not be construed as a waiver of any future defaults, whether of like or different character.

13.0717 Sec. 17 REPEAL CONFLICTING ORDINANCES

This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between Grantor and Grantee relating to this franchise; the Ordinance shall supersede all prior ordinances pertaining to this franchise, and any terms and conditions of such prior ordinances or parts of ordinances in conflict with this Ordinance are repealed. Ordinance No. 398, dated the 13th day of September, 2004 by the Grantor, is repealed as of the effective date of this Ordinance.

13.0718 Sec. 18 ACCEPTANCE

This Ordinance shall become a binding contract between Grantor and Grantee upon its effective date and upon acceptance by Grantee by written instrument within 60 days of passage by Grantor. The acceptance shall be filed with Grantor's Clerk. Grantor's Clerk shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within 60 days following passage of this Ordinance express in writing its objections to any terms or provisions of this Ordinance, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

13.0719 Sec. 19 EFFECT AND INTERPRETATION OR ORDINANCE

The captions which precede each section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

13.0720 Sec. 20 EFFECTIVE DATE

This Ordinance was approved and adopted by the Township Board on March 11, 2024, after its introduction and first reading on February 12, 2024, and after its publication in the manner provided by Public Act 359 of 1947, as amended. This Ordinance shall take effect 30 days after its publication following adoption.