

**TOWNSHIP OF WAYLAND
ORDINANCE NO. 03-2023**

MICHIGAN GAS UTILITIES GAS FRANCHISE ORDINANCE

ADOPTED: July 10, 2023

EFFECTIVE: September 11, 2023

An Ordinance granting a non-exclusive franchise to Michigan Gas Utilities to use local public ways and provide a local natural gas business.

**TOWNSHIP OF WAYLAND
ALLEGAN COUNTY, MICHIGAN ORDAINS:**

SECTION I

GRANT OF NON-EXCLUSIVE RIGHTS

A. Grant and Term. The Township of Wayland, Allegan County, Michigan ("Township"), grants to Michigan Gas Utilities Corporation (Grantee), its successors and assigns, subject to the terms and conditions set forth below, the non-exclusive franchise with the right, power and authority to construct, maintain and commercially operate and use natural gas facilities consisting of transmission, distribution and service pipelines, plants, stations, conduits, valves, drips and all other appurtenances, apparatus and gas appliances (hereinafter "Gas System") on, along, across, over and under the public highways, streets, alleys, bridges, waterways and other public place (hereinafter also referred to as "Public Ways") and to operate a local natural gas business, within the Township for a period of thirty (30) years.

B. Consideration. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

C. Extensions. Grantee shall construct and extend its Gas System within the Township and shall furnish natural gas service to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION II

USE OF PUBLIC RIGHTS-OF-WAY BY GRANTEE

A. No Burden on Public Ways. Grantee and its contractors, subcontractors and the Grantee's Gas System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the Township. Grantee shall erect and

maintain its Gas System to cause minimum interference with the use of the Public Ways. No Public Way shall be obstructed longer than necessary during the work of construction or repair to the Gas System. Grantee's pipelines, structures and equipment shall be suspended or buried to not endanger or injure persons or property in the Public Ways.

B. Restoration of Public Ways. Grantee and its contractors and subcontractors shall within a reasonable time restore, at Grantee's sole cost and expense, any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance, or removal of the Gas System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractors or subcontractors fail to make such repair within the time specified by the Township, the Township shall, among other remedies, be entitled to have the repair completed and Grantee shall pay the costs for such repair.

C. Easements. Any easements over or under property owned by the Township, other than the Public Ways, shall be separately negotiated with the Township.

D. Tree Trimming. Grantee may trim trees upon and overhanging the Public Ways to prevent trees from coming into contact with the Gas System in accordance with the tree trimming standards of Grantee and the applicable requirements of the Road Commission, if any. Except in an emergency, no trimming shall be done in the Public Ways without previously informing the Township.

E. Compliance with Laws. Grantee shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding its Gas System, whether federal, state or local, now in force or which hereafter may be promulgated.

F. Street Vacation. Grantee accrues no rights under this franchise which would impair the rights of the Township to vacate or consent to the vacation of a Public Way.

G. Maps. Upon request by the Township and without expense to the Township, Grantee shall provide the Township with maps showing its Gas System or portions thereof within the Township, but only to the extent such maps do not contain proprietary information.

H. Company Representative. The Grantee shall designate an employee to act as a representative to respond to inquiries from the Township regarding the administration of this franchise and the obligations and services herein. The Grantee shall provide the Township with the person's name and telephone number.

I. Notice. Before commencing the construction or erection of pipelines and other similar or related equipment which will require excavation in or the closing of any

Public Ways, the Grantee shall provide the Allegan County Road Commission with notice, including a description of the work to be performed, in advance of such work through the permit process. This notice requirement shall not apply to the installation of gas services on privately owned property nor to any other work performed on such privately owned property. Nothing herein shall preclude the Grantee from immediately commencing construction or repair work within any Public Ways when deemed necessary to prevent danger to life or property, and in such case, the Grantee shall notify the Allegan County Road Commission of such work as soon as reasonably practical.

SECTION III

HOLD HARMLESS

The Grantee shall at all times defend, keep, and save the Township free and harmless from all loss, costs and expense to which it may become subject by reason of the construction, maintenance and operation of the Gas System hereby authorized. Providing further that this hold harmless agreement shall not apply to any loss, cost, damage or claims arising solely out of the gross negligence of the Township, its employees or its contractors. Furthermore, in the event that any loss, cost, damage or claims arise out of the joint negligence of the Township, its employees or its contractors, this hold harmless agreement shall not apply to the proportional extent of the negligence of the Township, its employees or its contractors. Notwithstanding any provision contained in this Ordinance, nothing in this Ordinance shall abrogate the rights, privileges, immunities, or authorities of the Township provided under law.

SECTION IV

REVOCATION

The franchise granted by this Ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation. Neither revocation nor expiration shall release any liability which accrued during the term of this Ordinance.

SECTION V

RATES

Grantee shall be entitled to charge the inhabitants of the Township for natural gas furnished at the rates approved by the Michigan Public Service Commission, to the extent it or its successors, have authority and jurisdiction to fix and regulate natural gas rates and promulgate rules regulating such service in the Township. Such rates and rules shall be subject to review at any time upon petition being made in accordance with State Law and regulations by either the Township acting through the Township Board or by Grantee.

SECTION VI

TOWNSHIP JURISDICTION

Said Grantee shall be and remain subject to all ordinances, rules, and regulations of the Township now in effect, or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety, and general welfare of the public; provided however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under State or Federal Law.

SECTION VII

ASSIGNMENT OF FRANCHISE

Grantee shall not assign this Franchise to any other person, firm or corporation without the prior written approval of the Township Board. The Township shall not unreasonably withhold its consent to an assignment if the Assignee is financially able to carry out the Grantee's obligations under this Franchise. The assignment of this Franchise to a subsidiary, division, or affiliated corporation of Grantee or its parent corporation shall not be considered an assignment requiring the consent of the Township Board. Grantee shall reimburse the Township for reasonable actual costs incurred in the review of a request by Grantee for approval.

SECTION VIII

SEVERABILITY

The various parts, sections and clauses of this Ordinance are hereby declared severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION IX

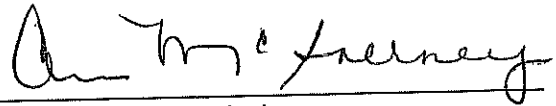
REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. Ordinance No. O-03-2023 is a prior adopted Ordinance granting a franchise to Michigan Gas Utilities. Such franchise and therefore ordinance was rejected and therefore, it is specifically repealed .

SECTION X

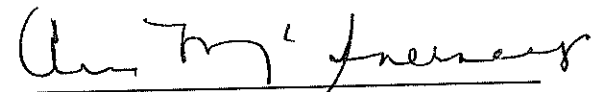
EFFECTIVE DATE

This Ordinance shall take effect sixty (60) days after adoption by the Township, provided, however, it shall cease and be of no effect after sixty (60) days from its adoption unless and until within said period Grantee files an acceptance in writing with the Township Clerk.



Ann McInerney, Clerk

CERTIFICATE

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted at a regular meeting of the Wayland Township Board held on July 10, 2023 ; that the meeting was conducted, and public notice of the meeting was given pursuant to and in compliance with the Michigan Open Meetings Act; that a quorum of the Board was present and voted in favor of the resolution; and that the minutes of the meeting will be or have been made available as required by the Open Meetings Act.


Ann McInerney, Clerk Township of Wayland
Allegan County, Michigan

Attest:



Roger VanVolkinburg, Supervisor

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