

ORDINANCE NO.06-2024

FRANCHISE

MICHIGAN GAS UTILITIES CORPORATION

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 CITY OF DOUGLAS, COUNTY OF ALLEGAN, STATE OF MICHIGAN, FOR THE PURPOSE OF LAYING AND MAINTAINING GAS PIPES, MAINS, CONDUITS, VALVES, DRIPS AND ALL NECESSARY APPURTENANCES IN, UNDER AND ALONG THE HIGHWAYS, STREETS, ALLEYS AND OTHER PUBLIC PLACES, OF SAID CITY, AND THE RIGHT, POWER AND PERMISSION TO CONDUCT AND OPERATE A GENERAL GAS BUSINESS AND DISTRIBUTION SYSTEM IN SAID CITY OF DOUGLAS, COUNTY OF ALLEGAN, STATE OF MICHIGAN FOR A PERIOD OF THIRTY (30) YEARS.

THE CITY COUNCIL OF THE CITY OF DOUGLAS, COUNTY OF ALLEGAN, STATE OF MICHIGAN HEREBY ORDAINS:

Section 1. Granting of Franchise to Use Highways, Streets, Alleys and Public Places. The City of Douglas, County of Allegan, State of Michigan, (hereinafter called "City"), hereby grants to Michigan Gas Utilities Corporation, a Delaware corporation (hereinafter called "Grantee"), its successors and assigns, a franchise to use the highways, streets, alleys and other public places of the City of Douglas, County of Allegan, State of Michigan, for the purpose of constructing, maintaining and operating a gas distribution system in said City with full right, power and authority to establish, construct, maintain, extend and operate a plant, stations, mains, pipes, conduits, valves, drips

and all other appurtenances, apparatus and appliances within the corporate limits of the City of Douglas, County of Allegan, State of Michigan, for the purpose of supplying and distributing to said City and its inhabitants gas for heating and other purposes and, for such purposes, to enter upon and use the highways, streets, alleys, and public lands of said City and lay, maintain, operate, repair and extend therein, through and thereunder such mains, pipes, conduits, valves, drips, apparatus, appliances and other appurtenances as may be necessary and proper for the distribution of gas throughout and beyond said City and for the purpose of conducting and operating a gas business in said City subject to the terms and conditions hereinafter provided.

Section 2. Consideration. In consideration of the rights, power and authority hereby granted, Grantee shall faithfully perform all things required by the terms of contained herein.

Section 3. Successors and Assigns. The words "Michigan Gas Utilities Corporation" and "the Grantee", wherever used herein, are intended and shall be held and construed to mean and include both Michigan Gas Utilities Corporation and its successors and assigns, whether so expressed or not.

Section 4. Compliance with Laws. Grantee shall comply with all applicable laws, statutes, ordinances, rules and regulations regarding its gas distribution system, whether federal, state or local, now in force or which hereafter may be promulgated.

Section 5. Non-Disturbance of Public Travel; Restoration; Construction Maintenance. In laying its pipes, mains and other appurtenances and repairing and maintaining the same, Grantee shall

interfere as little as possible with public travel. After opening any portion of the highways, streets, alleys or other public place, Grantee shall within a reasonable time restore the same as nearly as possible to the same condition as prevailed before opening. While any portion of the highways, streets, alleys or other public place is open, Grantee shall maintain reasonable barriers and lights at night and other warnings to the users of said highways, streets, alleys or other public place.

Section 6. Hold Harmless. Grantee shall at all times hold City harmless from any loss, damage and expense of any kind on account of the laying, constructing, maintenance, and use of said mains, pipes, conduits and other appurtenances. However, Grantee need not save City harmless from claims, losses and expenses arising out of the negligence of the City, its employees, contractors or agents. Notwithstanding any provision of this Ordinance, nothing in this Ordinance shall abrogate the rights, privileges, immunities or authorities of the City provided under law.

Section 7. 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 Michigan Public Service Commission or such other body which shall succeed to the jurisdiction, rights, powers and authority of said Commission.

Section 8. Term: Effective Date. The rights granted in this franchise shall continue in full force and effect for a period of thirty (30) years from the effective date thereof. The effective date of this franchise shall be the latter of the date of the acceptance of the

franchise by Grantee, which acceptance shall be filed by the Grantee, in writing, within sixty (60) days after the enactment of this ordinance or the day following the date of publication of the ordinance.

Section 9. Franchise Revocable; Irrevocability Upon Approval of Electors. The franchise herein granted shall be revocable at the will of the governing body of this City, PROVIDED, however, that the same shall become irrevocable if and when confirmed by a majority of the electors voting upon the question at the next general election or at any special election called for that purpose. Such special election shall be held at the request of said Grantee.

Section 10. Expenses of Election Paid by Grantee. In the event of a special election, the expenses thereof shall be deposited with the Clerk of this City by the Grantee.

Section 11. Assignment of Franchise. Grantee shall not assign this Franchise to any other person, firm or corporation without the prior written approval of the City Council. The City 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 City Council. Grantee shall reimburse the City for reasonable actual costs incurred in the review of a request by Grantee for approval.

Section 12. Severability. The various parts, section and clauses of this Ordinance are hereby declared severable. If any part, sentence, paragraph, section or clause is adjudged invalid or unconstitutional by

a court or administrative agency of competent jurisdiction, the remainder of the Ordinance shall not be affected.

Section 13. Repeal of Prior Ordinance. Franchise Ordinance 29-A adopted by City on March 28, 1994, and all amendments thereto, are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.

Section 14. Publication. The City Clerk is hereby directed to cause a true copy of this ordinance to be published in *The Commercial Record*, a newspaper circulating within the City within thirty (30) days hereof.

Section 15. Recording of Ordinance. Within one (1) week after the publication of this ordinance, the City Clerk shall record the ordinance in the Book of Ordinances kept by the Clerk for such purpose. Such record shall include the date of passage hereof, the names of the members voting hereon and how each member voted. An attested copy of the Ordinance shall also be filed with the Allegan County Clerk within one (1) week after the publication.

Presented by: _____

Seconded by: _____

Voting in Favor: _____

Voting Against: _____

I hereby attest that the foregoing Ordinance was adopted by the City Council of the City of Douglas, County of Allegan, State of Michigan at a regular meeting held on the ____ day of _____, 20____.

Dated: _____

Douglas City Clerk

I further certify that the foregoing Ordinance was published and filed as follows:

Published in: _____

Date of Publication: _____

Date of Filing with the Allegan County Clerk: _____

Ordinance No.: _____ Date recorded in the City Book of Ordinances: _____

Dated: _____

Douglas City Clerk