

ORDINANCE NO. 2024-2

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 VILLAGE OF EAU CLAIRE, COUNTY OF BERRIEN, 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 VILLAGE, AND THE RIGHT, POWER AND PERMISSION TO CONDUCT AND OPERATE A GENERAL GAS BUSINESS AND DISTRIBUTION SYSTEM IN SAID VILLAGE OF EAU CLAIRE, COUNTY OF BERRIEN, STATE OF MICHIGAN FOR A PERIOD OF THIRTY (30) YEARS.

THE VILLAGE COUNCIL OF THE VILLAGE OF EAU CLAIRE, COUNTY OF BERRIEN, STATE OF MICHIGAN HEREBY ORDAINS:

Section 1. Granting of Franchise to Use Highways, Streets, Alleys and Public Places. The Village of Eau Claire, County of Berrien, State of Michigan, (hereinafter called "Grantor" or "Village"), 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

Village of Eau Claire, County of Berrien, State of Michigan, for the purpose of constructing, maintaining and operating a gas distribution system in said Village 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 Village of Eau Claire, County of Berrien, State of Michigan, for the purpose of supplying and distributing to said Village 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 Village 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 Village and for the purpose of conducting and operating a gas business in said Village subject to the terms and conditions hereinafter provided.

Section 2. 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 3. Hold Harmless. Grantee shall at all times hold Grantor 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 Village harmless from claims, losses and expenses arising out of the negligence of the Village, its employees, contractors or agents.

Section 4. 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 5. 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 6. Franchise Revocable; Irrevocability Upon Approval of Electors. The franchise herein granted shall be revocable at the will

of the governing body of this Village, 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 7. Expenses of Election Paid by Grantee. In the event of a special election, the expenses thereof shall be deposited with the Clerk of this Village by the Grantee.

Section 8. Repeal of Prior Ordinance. The Franchise Ordinance adopted on August 8, 1994 by this Village, known as Ordinance Number 1994-03 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 9. Publication. The Village clerk is hereby directed to cause a true copy of this ordinance to be published in *The Journal Era*, a newspaper circulating within the Village within thirty (30) days hereof.

Section 10. Recording of Ordinance. Within one (1) week after the publication of this ordinance, the Clerk of the Village Council 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 Berrien County Clerk within one (1) week after the publication.

Presented by: Ken Karn Sr. _____

Seconded by: Jacob Layman _____

Voting in Favor: Ken Karn Sr. _____

Kathy Zielke _____

Jacob Layman _____

John Glassman _____

Voting Against: None _____

I hereby attest that the foregoing Ordinance was adopted by the Village Council of the Village of Eau Claire at a regular meeting held on the 19 day of August, 2024.

Dated: August 20, 2024

Virginia Gonzalez
Eau Claire Village Clerk