

VILLAGE OF GRAND BEACH

COUNTY OF BERRIEN

STATE OF MICHIGAN

Ordinance No. 2018-95

An ordinance granting to Indiana Michigan Power Company the right, power and authority to supply electricity and electrical services to customers within the Village of Grand Beach through and over existing and/or future electrical transmission lines and equipment located within the corporate limits of the Village of Grand Beach for a period of years; to establish rights and obligations of the parties; and to hold the Village harmless from claims arising from the granting of said Franchise.

SECTION NUMBER 1. GRANT.

The Village of Grand Beach (“Village”) hereby grants to Indiana Michigan Power, its successors and assigns (“Grantee”) the right, power and authority to acquire, construct, maintain, and operate in, above, under, and along the streets, alleys, bridges, and public places as they currently exist or may be hereafter laid out in the Village of Grand Beach, County of Berrien, State of Michigan. This shall include lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenant equipment to render electric public utility service (collectively called “Facilities”) in said Village and to the inhabitants thereof, and persons or corporations beyond the limits thereof for which electric energy is now or may hereafter be used, and the transmission and distribution of the same within, through, and across the Village of Grand Beach, subject to this Franchise Agreement and other such reasonable terms as permitted by State law, and as may be prescribed from time to time by the Village Council.

SECTION 2. TERM.

This Franchise shall be for a term of thirty (30) years; subject, however, to revocation of the term by the Village Council.

SECTION 3. CONSIDERATION.

In consideration of the rights, powers and authority granted, the Grantee shall faithfully perform all things required by this Franchise.

SECTION 4. CONDITIONS.

- 1.) The Facilities anticipated in this Franchise shall be constructed, maintained, and utilized in a manner which shall not unreasonably interfere with the traveling public in the use of Village streets, alleys, bridges, public right-of-ways, and/or other public property.

- 2.) Grantee and its contractors shall be responsible to immediately restore to the same or a better condition, at Grantee's sole cost and expense, and in a manner approved by the Village, any portion of any public land or right-of-way that is in any way disturbed, damaged, or injured by construction, maintenance, replacement, or removal of the Grantee's Facilities. In the event Grantee fails to make such repairs within the time specified by the Village, the Village shall be entitled to complete the repair and Grantee shall pay the costs of the Village for such repair.
- 3.) For the sake of public efficiency, Grantee shall coordinate any street construction, rebuilding, resurfacing, and repair with the Village, with the goal of coordinating anticipated Grantee street projects with projects contemplated by the Village in order to be judicious with resources and to attempt to avoid unnecessary tearing up and repaving of streets that could have been coordinated between the parties.

SECTION 5. HOLD HARMLESS.

The Grantee shall at all times keep and save the Village, its agents, and employees free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent operations of the Grantee. In case any action is commenced against the Village on account of the permission granted herein, the Grantee shall, upon notice, defend the Village and save it free and harmless from all loss, cost and damage arising out of such negligent construction, erection, operation, or maintenance of any Facility, or any other negligent action or behavior of Grantee.

SECTION 6. FRANCHISE NOT EXCLUSIVE.

The rights, power and authority granted by this Franchise are not exclusive.

SECTION 7. FRANCHISE FEE.

The Grantee shall pay to the Village a Franchise fee in the amount of Two Thousand Dollars (\$2,000.00) which shall reimburse the Village for all reasonable transaction costs associated with the preparation, publication, and passage of this Ordinance. The Franchise fee shall be paid to the Village within 30 days from the adoption of this ordinance.

SECTION 8. INSURANCE.

Grantee shall maintain a comprehensive general liability insurance policy in an amount to be approved by the Village Council. Grantee shall also maintain an automobile liability insurance policy to cover any vehicles used in connection with any activities conducted under this Ordinance in an amount deemed acceptable to the Village Council.

SECTION 9. OTHER RIGHTS OF THE VILLAGE.

This Agreement shall be subject to the right of the Village:

- (1) To request that Grantee relocate, protect, support, disconnect, or remove

its Facilities due to street or other utility work in the Village, and Grantee hereby agrees to do so in good faith and in a reasonable time and manner;.

- (2) To impose such other regulations as may be determined by the Village Council to be conducive to the safety, welfare, and accommodation of the public.

The rights of the Village shall not be exercised or construed in a manner which conflicts with the express terms and conditions of this Franchise nor with the rules and regulations set forth by the Michigan Public Service Commission governing the provision of electric service by Grantee.

SECTION 10. VACATION OF RIGHTS-OF-WAY AND RELOCATION OF FACILITIES.

The Village has the right to vacate any public right-of-way within the Village, as well as any right to use the same possessed by the Grantee, and/or the Village may require the Grantee to relocate its lines and facilities at Grantee's expense when such vacation and/or relocation is made necessary to secure the public health and welfare or is otherwise required by the Village in the exercise of a governmental function.

SECTION 11. TREE TRIMMING

Grantee shall engage in reasonable practices regarding the trimming and removal of trees, bushes, and/or shrubbery and only exercise such trimming and removal when necessary to ensure the safe and reliable delivery of electric service. No trimming or removal of trees, bushes, and/or shrubbery shall be done in the public right of ways without informing the Village in writing at least ten (10) days in advance, except in the event of an emergency that endangers the health, life, or safety of the public or is otherwise necessary to restore electric service.

SECTION 12. REVOCATION.

The Franchise granted by this ordinance is subject to revocation at will by the Village.

SECTION 13. JURISDICTION.

The Grantee shall be and remain subject to all ordinances, rules and regulations of the Village 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 shall be construed as a waiver by the Grantee of any of its existing or future rights under state or federal law or a limitation upon the existing or future powers of the Village pursuant to its charter or state or federal law.

SECTION 14. ACCEPTANCE AND ADOPTION.

This ordinance shall be accepted by the Grantee within sixty (60) days from the date of the passage of the same. The Franchise will take effect immediately after its adoption, acceptance, and publication as required by law.

AYES: James Bracewell, Frank Giglio, Paul Leonard Jr., Deborah Lindley and Blake O'Halloran

NAYS: None

ABSENT: None

ORDINANCE DECLARED ADOPTED.

Mary Robertson, Village Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village of Grand Beach, County of Berrien, State of Michigan, at a Regular Meeting, held on September 19, 2018, and that said Meeting was conducted and public notice of said meeting was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that the Minutes of said meeting were kept and will be or have been made available as required by said Act.

Mary Robertson, Village Clerk