

**CITY OF BROWN CITY
FRANCHISE GRANTED TO
SEMCO Energy Gas Company**

**Chapter XIV Section 2450 – City of Brown City Franchise Granted to
SEMCO Gas Company**

An Ordinance, granting to SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a Michigan corporation, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to conduct a local gas business in the City of Brown City, located in Sanilac County and Lapeer County, Michigan, for a period of thirty years.

THE CITY OF BROWN CITY ORDAINS:

Section 2450.1. GRANT OF FRANCHISE. The City of Brown City, located in Sanilac County and Lapeer County, Michigan (the “City”), hereby grants to SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a Michigan corporation, its successors and assigns, (the “Grantee”) the right, power and authority to construct, lay, operate, maintain and replace in the public streets, highways, alleys and other public places in the City of Brown City, Michigan, all needful and proper gas pipes, mains, conductors, service pipes and other apparatus and facilities requisite for the manufacture, transmission and distribution of gas for all purposes to the City of Brown City, and the inhabitants thereof, and for conducting gas elsewhere to supply neighboring cities, villages and other territories supplied with gas by said Grantee, for a period of thirty (30) years.

Section 2450.2. CONSIDERATION. In consideration of the rights, power and authority hereby granted, Grantee shall faithfully perform all things required by the terms hereof.

Section 2450.3. CONDITIONS. No highway, street, alley, bridge or other public place used by Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to as good order and condition as when Grantee commenced the work. All of Grantee’s pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes. Grantee will use its best efforts to not unreasonably interfere with or disrupt any public utility apparatus or facilities operated by the City and, to the extent Grantee interferes with or disrupts any such public utility apparatus or facilities, Grantee shall restore such apparatus or facilities to as good order and condition as when Grantee commenced work.

Section 2450.4. HOLD HARMLESS. Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may be subject by reason of the Grantee’s negligent construction and negligent maintenance of the structures and equipment hereby authorized. If any action is commenced against the City resulting from Grantee’s negligent construction and maintenance, Grantee shall, upon notice, defend the city and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

Section 2450.5. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

Section 2450.6. RATES. Grantee shall charge for gas furnished the rates, charges and special taxes as approved from time to time by the Michigan Public Service Commission, or its successors having authority and jurisdiction to fix and regulate gas rates and charges, or as otherwise permitted or required by applicable law or tariff, for the term of this franchise. Such rates shall be subject to Commission review and change at any time upon petition therefore being made by either said City, acting by its City Council, or by said Grantee.

Section 2450.7. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

Section 2450.8. MICHIGAN PUBLIC SERVICE COMMISSION JURISDICTION. Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulation of the Michigan Public Service Commission or its successors, applicable to gas service in said City and shall provide service in accordance with the terms and conditions set forth in its applicable tariff as approved from time to time by the Michigan Public Service Commission or its successors.

Section 2450.9. SUCCESSORS AND ASSIGNS. The words “SEMCO Energy Gas Company” and “SEMCO Energy, Inc.,” wherever used herein, are intended and shall be held and construed to mean and include SEMCO Energy Gas Company and its parent, subsidiaries, successors, affiliates, and assigns, whether sp expressed or not. The word “Grantee,” wherever used herein, is intended and shall be held and construed to mean and include SEMCO Energy Gas Company, SEMCO energy, Inc., and the successors and assigns of each, whether so expressed or not. Grantee may assign the rights and obligations under this agreement as long as the Grantee provides prior written notice to the City of any such assignment.

Section 2450.10. FORCE MAJEURE. The Grantee shall not be liable for failure to furnish service as herein provided, or for any breach of the Grantee’s obligations hereunder, if such failure or breach is caused by acts of God, labor troubles, riot, or any other causes or contingencies not reasonably within the control of the Grantee.

Section 2450.11. EFFECTIVE DATE. Upon adoption, the City Clerk shall deliver to Grantee a certified copy of this ordinance. Additionally, the City shall publish this ordinance within thirty (30) days of its adoption and this ordinance shall take effect upon the day after the date of publication thereof, continuing for a term of thirty (30) years from that date; provided, however, it shall cease and be of no effect after sixty (60) days from its adoption unless within said period the Grantee shall accept the same in writing filed with the City Clerk. Upon acceptance and publication hereof, the ordinance shall constitute a contract between said City and said Grantee.

INTRODUCTION:

This Ordinance was introduced by Councilmember Stacy Biel on January 24, 2022, during a Regular Meeting of the Brown City Council. The Public Hearing thereon to be held at 7:05 PM on February 28, 2022.

MOTION AND VOTE:

Motion by Councilmember Christine Lee, second by Councilmember Patricia Jacobson, to adopt Ordinance 2450 to allow SEMCO Energy, Incorporated, “the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under highways, streets, alleys, bridges, waterways, and other public places, and

to conduct a local gas business...for a period of thirty years” within the City of Brown City; and to authorize Mayor Miller and City Clerk Johnson to sign this document on behalf of the City of Brown City.

Roll Call vote on this Ordinance, six (6) members being present, was as follows:
CM Biel -yes; CM Jacobson–yes, CM Lee–yes, CM McIvor–yes, CM Navock–yes, CM Robison–yes.

Yeas: 6 Nays: 0
Abstaining: 0 Absent: 0

CERTIFICATION:

I hereby certify that the foregoing constitutes a true and complete copy of Brown City Code Chapter XIV Section 2450 – City of Brown City Franchise Granted to SEMCO Gas Company and adopted as an Ordinance, following a Public Hearing, by the Brown City Council at a Regular Meeting held at the City Hall on February 28, 2022.

I do hereby further certify that a true copy of said Brown City Code Chapter XIV Section 2450 – City of Brown City Franchise Granted to SEMCO Gas Company were published as required by the Brown City Charter in *The Banner*, a newspaper published and circulated in the City of Brown City, County of Sanilac, Michigan, on the 16th of March, 2022.

Effective Date Of Ordinance

This Ordinance shall take effect 30 days after adoption – March 16, 2022.

Witness these official signatures this 16th day of March, 2022.

Julie P. Miller
Mayor
City of Brown City
Sanilac County

Rhonda Johnson
City Clerk
City of Brown City
Sanilac County