

TOWNSHIP OF SOUTHAMPTON

ORDINANCE 2020-10

AN ORDINANCE OF THE TOWNSHIP OF SOUTHAMPTON GRANTING MUNICIPAL CONSENT TO SOUTH JERSEY GAS COMPANY TO CONSTRUCT, MAINTAIN AND OPERATE A GAS LINE FOR THE DISTRIBUTION OF NATURAL AND MIXED GAS.

WHEREAS, South Jersey Gas Company, a Corporation of the State of New Jersey and a public utility subject to the jurisdiction of the New Jersey Board of Public Utilities, filed a Petition with the Township of Southampton seeking Municipal Consent to construct, operate and maintain natural and mixed gas distribution lines for public and private consumption throughout the Township of Southampton.

WHEREAS, Representatives of the Petitioner appeared before the Southampton Township Committee on 8/18/2020 to present their general plans for extension of gas lines within the Township as the need arose; and

WHEREAS, the Petitioner has provided public notice of such Petition through publication in the official newspaper of the Municipality and by posting notice of such Petition pursuant to Statute.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Township Committee of the Township of Southampton.

Section I. Grant of Municipal Consent.

Pursuant to N.J.S.A., 48:3-11, the Mayor and Township Committee of the Township of Southampton hereby grant South Jersey Gas Company, a Corporation of the State of New Jersey (hereinafter "South Jersey Gas") with principal offices located at 1 South Jersey Gas Place, Atlantic City, NJ 08401 its successors and assigns, a non-exclusive consent, right and privilege for the use, without impairment of, or obstruction to the public use, of the roads, streets, parks, avenues, ways, and other public places of the Township of Southampton to construct, lay, maintain, and operate for a period of fifty (50) years, the necessary mains, conductors, pipes and concomitant appurtenances for the purpose of conveying, storing, supplying and distributing natural and mixed gas for heat, power, light and other purposes for public and private use and consumption, along in, or under the following described service area: all the streets, avenues, alleys, parks, parkways, highways, or other public places within the Township as they now exist or may be hereinafter be laid out by the municipal authorities of the said Township or dedicated to said Township.

Section II. Conditions on Grant of Municipal Consent.

The Municipal Consent granted herein is expressly conditioned upon the following:

- (a) the written acceptance of South Jersey Gas of the terms and conditions of this municipal Consent Ordinance within thirty (30) days of its final

adoption.

- (b) the New Jersey Board of Public Utilities (hereinafter "N.J.B.P.U.") approval of the Consent herein granted and the issuance of such other grants or approvals as determined by the N.J.B.P.U.
- (c) South Jersey Gas shall satisfy all Statutory requirements of N.J.S.A. 48:13-1 et seq. regarding the proper organization and operation of a Public Utilities engaged in the distribution of natural and mixed gas, and shall remain subject to the jurisdiction of and comply with all Rules and Regulations of the United States Department of Transportation, Office of Pipeline Safety and the N.J.B.P.U. as well as the Ordinance of the Township of Southampton.
- (d) South Jersey Gas shall construct and continuously maintain and operate their distribution line within the service area in a safe and efficient manner, and maintain such gas distribution lines in a state of good operation and repair and including all streets, roads, and public rights-of-way within the Township of Southampton wherein its lines are located.
- (e) the construction, operation and maintenance of the gas distribution system within the rights-of-way of the Township of Southampton shall in no way place any obligation, financial or otherwise, or any liability of any kind, upon the Township of Southampton and no obligation is to attach for the construction, operation and maintenance of the said gas distribution system to the Township.
- (f) any and all regulating pits and venting structures or like facilities shall not be located along the public rights-of-way comprising the Service Area.

Section III. Construction; Installation; Restoration.

- A. Construction. In each and every case in which road openings or excavation of any nature are required or made for the purposes aforesaid, South Jersey Gas shall restore, all such public and private lands or facilities to as good a condition as existed at the commencement of the said work or such better condition, at its sole cost and expense. All such openings and installation and maintenance shall be undertaken in strict compliance with the standards imposed by the N.J.B.P.U., any other regulatory agency, and all applicable Township Ordinances, with such work to be done in a careful, prudent and workmanlike manner, and within such time limitations as shall be best for the proper safeguard of the public.
- B. Relocation. If at any time during the period of this Municipal

consent, the Township of Southampton finds it necessary to alter or change the grade of any street, road or other public right-of-way or area, South Jersey Gas shall, upon reasonable notice by the Municipality, remove and relocate its distribution line and pipes at the expense of South Jersey Gas.

- C. Restoration. In the event that South Jersey Gas shall refuse or neglect, after ten (10) days notice in writing by the representative of the Township, that is, the Township Clerk or Township Engineer, to restore any disturbed area at its cost and expense, and in compliance with all applicable Municipal Ordinances in effect at the time, to its pre-existing or better condition, any street, road, pavement, driveway or other reserves after having made an opening or excavation, the necessary work to accomplish such restoration may be done by the Township of Southampton, and thereafter, South Jersey Gas shall be liable for the actual and necessary costs thereof, and shall immediately pay such costs to the Township upon receiving notice thereof.
- D. Preconditions to Undertaking Construction. South Jersey Gas shall give to the Township of Southampton, through its duly designated representative, written notice of its intention to open or excavate any street or other public place in accordance with the Township of Southampton's Ordinance regulating the excavation and opening of streets, roads and highways, with the exception that such notice requirement shall be waived in the event of an emergent circumstance such that such emergency will affect public health or safety. As soon as practically possible after the occurrence of such emergent circumstance, South Jersey Gas shall give prompt written notice to the Township of any emergency opening or excavation that South Jersey Gas shall undertake.

Section IV. Indemnification, Performance Bond, Liability.

- A. Indemnification. South Jersey Gas, its successors and assigns, by the acceptance of the grants, rights and privileges conferred by this ordinance, shall at all times and does hereby and will indemnify and hold harmless, the Township of Southampton and all of its subsidiary agencies, officials and employees for any and all claims of whatsoever kind or nature arising from or relating to the construction, installation, maintenance, laying, repairing, inspecting, or altering of maintains conductors, pipes and appurtenances thereto, and any other facilities, and including, but not by way of limitation, any damages, penalties, costs, attorney's fees and charges for personal injury, property damage or otherwise, based upon South Jersey Gas's negligence or the negligence of its agents, servants, employees or independent contractors.

- B. Performance Bond. Prior to the commencement or any construction or installation under this Municipal Consent, South Jersey Gas shall execute and deliver to the Clerk of the Township and subject to prior review and approval by the Township Attorney, a Bond in the amount of \$10,000.00 guaranteeing the faithful performance of all of its obligations and undertakings under this Ordinance, which Bond shall be enlarged or renewed from time to time as the Committee may require.
- C. Liability Insurance. South Jersey Gas agrees to maintain and keep in full force and effect, at its sole expense, and at all times during the terms and duration of this Municipal Consent, sufficient liability insurance naming the Township of Southampton as an additional insured party, and insuring and indemnifying the Township against any loss by any such claim, suite, judgment, execution or as follows:
 - (a) South Jersey Gas shall carry Workman's Compensation Insurance with Statutory limits.
 - (b) South Jersey Gas shall at all times, maintain a Comprehensive General Liability Insurance Policy with a single limit amount of \$1,000,000.00 covering liability for any death, personal injury, property damage or other liability arising out of its construction and operation of the gas distribution systems herein and in addition, an excess liability (or "umbrella") policy in the amount of \$3,000,000.00.
 - (c) South Jersey Gas shall furnish to the Township of Southampton a certified copy or Certificate of Insurance of each of the Policies as set forth herein.

Section V. Duration of Consent.

- A. Term. The Limited Municipal consent granted to South Jersey Gas herein is for a period of fifty (50) years from the effective date of this Ordinance.
- B. Public Hearing. Immediately prior to the fifty (50) year expiration of this Consent, the Township of Southampton shall conduct public hearings regarding the performance of South Jersey Gas with the terms of this Municipal Consent. The public hearing shall be duly advertised and shall provide any opportunity for all interested persons to participate.

- C. Extension. Upon the conclusion of the public hearings as set forth herein, the Township of Southampton shall consider such extension and such additional conditions as the record of the public hearings may warrant.
- D. Notice of Proceedings. South Jersey Gas shall give the Municipality timely written notice of at least fifteen (15) days in advance of all proceedings initiated by South Jersey Gas or the N.J.B.P.U. or other Regulatory Agency, when such proceedings may affect the commitments, this Municipal Consent or relationship between South Jersey Gas and the Municipality, whether or not such notice is required by law. All submissions provided to such Regulatory Agency by South Jersey Gas shall also be provided to the Township of Southampton.

Section VI. Severability.

If the provision of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by any court of competent jurisdiction, such Order or Judgment shall not effect or invalidate this remainder of any such article, section, subsection, paragraph or clause, and, to this end, the provisions of this Ordinance are hereby declared to be severable.

Section VII. Effective Date.

This Municipal Consent Ordinance shall become effective upon adoption and publication according to law, and only upon written acceptance of this Municipal Consent by South Jersey Gas, which written consent shall be filed with the Clerk of the Municipality within thirty (30) days of the date after which South Jersey Gas receives notice of the passage of this Ordinance.

ACTION ON INTRODUCTION:

Motion made by: Heston
Motion seconded by: Rafferty

VOTE:

Committeeman Heston:	<u>Yes</u>	No	Abstain	Not Present
Deputy Mayor Rafferty:	<u>Yes</u>	No	Abstain	Not Present
Committeewoman Rossell:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Young, Sr.:	Yes	No	Abstain	<u>Not Present</u>
Mayor Mikulski:	<u>Yes</u>	No	Abstain	Not Present

ACTION ON ADOPTION (after public hearing)

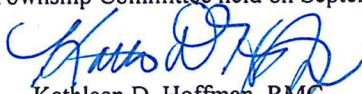
Motion made by: Heston
Motion seconded by: Rossell

VOTE:

Committeeman Heston:	<u>Yes</u>	No	Abstain	Not Present
Deputy Mayor Rafferty:	<u>Yes</u>	No	Abstain	Not Present
Committeewoman Rossell:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Young, Sr.:	<u>Yes</u>	No	Abstain	Not Present
Mayor Mikulski:	<u>Yes</u>	No	Abstain	Not Present

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Southampton Township Committee held on August 18, 2020 and adopted after a public hearing at a meeting of the Southampton Township Committee held on September 15, 2020.


Kathleen D. Hoffman, RMC
Township Clerk/Administrator