

Article III. Transmission and Distribution of Gas.¹

Sec. 21-15. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Engineer. The city engineer of the city.

Gas. Natural or manufactured gas, or a mixture of natural and manufactured gas.

Grantee. The corporation to which the franchise contemplated in this article is granted and its lawful successors or assigns.

Lay and use. To lay, construct, erect, install, operate, maintain, use, repair, replace or remove.

Pipes and appurtenances. Pipe, pipeline, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, appliance, attachment, appurtenance and any other property located or to be located in, upon, along, across, under or over the streets of the city, and used or useful in transmitting and distributing gas.

Streets. The public streets, ways, alleys and places as the same now or may hereafter exist within the city. (Mun. Code, Sec. 12020)

Sec. 21-16. Grant.

The right, privilege and franchise, subject to each and all of the terms and conditions contained in this chapter, and pursuant to the provisions of division 3, chapter 2 of the Public Utilities Code of the state, known as the Franchise Act of 1937, is hereby granted to Southern California Gas Company, a corporation organized and existing under and by virtue of the laws of the state, herein referred to as the "grantee," to lay and use pipes and appurtenances for transmitting and distributing gas for any and all purposes, under, along, across or upon the streets, of the city, for an indeterminate term or period from and after the effective date hereof, that is to say, this franchise shall endure in full force and effect until the same shall, with the consent of the public utilities commission of the state, be voluntarily surrendered or abandoned by its possessor, or until the state or some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of this franchise, and situate within the territorial limits of the state, municipal or public corporation purchasing or condemning such property or until this franchise shall be forfeited for noncompliance with its terms by the possessor thereof. (Mun. Code, Sec. 12021)

¹As to gas regulations generally, see Ch. 23 of this Code.

Sec. 21-17. Compensation to city.

The grantee of the franchise under this article shall pay to the city at the times hereinafter specified, in lawful money of the United States, a sum annually which shall be equivalent to two percent of the gross annual receipts of grantee arising from the use, operation or possession of the franchise; provided, that such payment shall in no event be less than one percent of the gross annual receipts of the grantee derived from the sale of gas within the city under this franchise.

The grantee of this franchise shall file with the clerk of the city within three months after the expiration of the calendar year, or fractional calendar year, following the date of the grant of this franchise, and within three months after the expiration of each and every calendar year thereafter, a duly verified statement showing in detail the total gross receipts of the grantee, its successors or assigns, during the preceding calendar year, or such fractional calendar year, from the sale of the utility service within the city for which this franchise is granted. It shall be the duty of the grantee to pay to the city within fifteen days after the time for filing such statement, in lawful money of the United States, the specified percentage of its gross receipts for the calendar year, or such fractional calendar year, covered by such statement. Any neglect, omission or refusal by the grantee to file such verified statement, or to pay the percentage, at the times or in the manner hereinbefore provided, shall be grounds for the declaration of a forfeiture of this franchise and of all rights thereunder. (Mun. Code, Sec. 12022)

Sec. 21-18. Abandonment of other privileges.

The grant under this article is made in lieu of all other franchises, rights or privileges owned by the grantee, or by any successor of the grantee to any rights under this franchise, for transmitting and distributing gas within the limits of the city, as the limits now or may hereafter exist, and the acceptance of the franchise hereby granted shall operate as an abandonment of all such franchises, rights and privileges within the city, as such limits now or may hereafter exist, in lieu of which this franchise is granted. (Mun. Code, Sec. 12023)

Sec. 21-19. Acceptance by grantee.

The franchise granted under this article shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the clerk of the city. When so filed, such acceptance shall constitute a continuing agreement of the grantee that if and when the city shall thereafter annex or consolidate with additional territory, any and all franchise rights and privileges owned by the grantee therein shall likewise be deemed to be abandoned within the limits of such territory. (Mun. Code, Sec. 12024)

Sec. 21-20. Right of eminent domain preserved.

The franchise granted under this article shall not in any way or to any extent impair or affect the right of the city to acquire the property of the grantee hereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the city's right of eminent domain in respect to the grantee or any public utility. Nor shall this franchise ever be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the city therefor at the time of the acquisition thereof. (Mun. Code, Sec. 12025)

Sec. 21-21. Duties of grantee.

The grantee of the franchise under this article shall:

- (a) Construct, install and maintain all pipes and appurtenances in accordance with and in conformity with all of the ordinances, rules and regulations heretofore or hereafter adopted by the legislative body of this city in the exercise of its police powers and not in conflict with the paramount authority of the state, and, as to state highways, subject to the provisions of general laws relating to the location and maintenance of such facilities.
- (b) Pay to the city, on demand, the cost of all repairs to public property made necessary by any operations of the grantee under this franchise.
- (c) Indemnify and hold harmless the city and its officers from any and all liability for damages proximately resulting from any operations under this franchise; and be liable to the city for all damages proximately resulting from the failure of the grantee well and faithfully to observe and perform each and every provision of this franchise and each and every provision of division 3, chapter 2 of the Public Utilities Code of the state.
- (d) Remove or relocate, without expense to the city, any facilities installed, used and maintained under this franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, way, alley or place, including the construction of any subway or viaduct by the city.
- (e) File with the legislative body of the city within thirty days after any sale, transfer, assignment or lease of this franchise, or any part thereof, or of any of the rights or privileges granted thereby, written evidence of the same, certified thereto by the grantee or its duly authorized officers. (Mun. Code, Sec. 12026)

Sec. 21-22. Location of facilities.

The engineer shall have power to give the grantee such directions for the location of any pipes and appurtenances as may be reasonably necessary to avoid sewers, water pipes, conduits or other structures lawfully in or under the streets; and before the work of constructing any pipes and appurtenances is commenced, the grantee shall file with the engineer plans showing the location thereof, which shall be subject to the approval of the engineer, such approval not to be unreasonably withheld; and all such construction shall be subject to the inspection of the engineer and done to his reasonable satisfaction. All street coverings or openings of traps, vaults, and manholes shall at all times be kept flush with the surface of the streets; provided, that vents for underground traps, vaults and manholes may extend above the surface of the streets when the vents are located in parkways, between the curb and the property line.

Where it is necessary to lay any underground pipes through, under or across any portion of a paved or macadamized street, the same, where practicable and economically reasonable shall be done by a tunnel or bore, so as not to disturb the foundation of such paved or macadamized street; and in the event that the same cannot be so done, such work shall be done under a permit to be granted by the engineer upon application therefor. (Mun. Code, Sec. 12027)

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Sec. 21-23. Repair of damaged streets.

If any portion of any street shall be damaged by reason of defects in any of the pipes and appurtenances maintained or constructed under this grant, or by reason of any other cause arising from the operation or existence of any pipes and appurtenances constructed or maintained under this grant, the grantee shall, at its own cost and expense, immediately repair any such damage and restore such street, or portion of street, to as good a condition as existed before such defect or other cause of damage occurred. Such work shall be done under the direction of the engineer, and to his reasonable satisfaction. (Mun. Code, Sec. 12028)

Sec. 21-24. Forfeiture of franchise.

- (a) If the grantee of the franchise under this article shall fail, neglect or refuse to comply with any of the provisions or conditions hereof, and shall not, within ten days after demand for compliance, begin the work of compliance, or after such beginning shall not prosecute the same with due diligence to completion, then the city, by its legislative body, may declare this franchise forfeited.
- (b) The city may sue in its own name for the forfeiture of this franchise, in the event of noncompliance by the grantee, its successors or assigns, with any of the conditions thereof. (Mun. Code, Sec. 12029)

(Mun. Code, Secs. 12020, 12021, 12022, 12023, 12024, 12025, 12026, 12027, 12028, 12029)