

Article VI. Transmission and Distribution of Water.

Sec. 21-66. Definitions.

Whenever in this article the words or phrases hereinafter in this section defined are used, it is intended that they shall have the respective meanings assigned to them in the following definitions, unless, in the given instance, the context wherein they are used shall clearly import a different meaning:

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

City. The City of Paramount a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or re-incorporated form.

Streets. The public streets, ways, alleys and places, except state freeways, as the same now or may hereinafter exist within the city.

Pipes and appurtenances. Pipes, pipelines and distribution and transmission systems consisting of mains, distribution and transmission pipes and other properties and facilities, together with services, traps, manholes and other necessary or appropriate appurtenances, for the purpose of transmitting and distributing water.

Lay and use. To lay, construct, erect, install, operate, maintain, use, repair, replace, relocate or remove. (Ord. Nos. 393, 491)

Sec. 21-67. Grant of franchise.

The right, privilege and franchise, subject to each and all of the terms and conditions contained in this article, and pursuant to and upon the terms and conditions of Division 3, Chapter 2, of the Public Utilities Code of the State of California, be and the same is hereby granted to Southern California Water Company, a corporation organized and existing under the virtue of the law of the State of California, to lay and use pipes and appurtenances for transmitting and distributing water for any and all purposes, under, along, across or upon the streets. (Ord. Nos. 393, 491)

Sec. 21-68. Term of franchise.

The term of this franchise shall be for a period of five years from the effective date of this article. (Ord. Nos. 393, 491)

Sec. 21-69. Compensation to city.

For each full or fractional calendar year of the life of this franchise, the grantee 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 the grantee arising from the use, operation or possession of this franchise; provided, however, 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 water within the limits of the city. (Ord. Nos. 393, 491)

Sec. 21-70. Statement of gross receipts: payments.

The grantee shall file with the city clerk within three months after the expiration of the calendar year, or fractional calendar year, following the date of the granting of this franchise, and within three months after the expiration of each subsequent calendar year or fraction thereof during which this franchise is in effect, a verified statement showing in detail for the term of the franchise in such calendar or fractional year, as the case may be, the total gross receipts of the grantee arising from the use, operation or possession of this franchise and the total gross receipts of the grantee derived from the sale of water within the city. The grantee shall pay to the city within fifteen days after the time for filing said statement, in lawful money of the United States, the above required percentage of its gross receipts for the calendar year, or fractional calendar year, covered by said statement. Any neglect, omission or refusal by said grantee to file said verified statement, or to pay said percentage, at the times or in the manner hereinbefore provided, shall constitute grounds for the declaration of a forfeiture of this franchise and of all rights of grantee hereunder. (Ord. Nos. 393, 491)

Sec. 21-71. Abandonment of other privileges.

This grant is made in lieu of all other franchises, rights, or privileges owned by the grantee to lay and use pipes and appurtenances in the streets of the city for transmitting and distributing water and the acceptance of the franchise hereby granted shall operate as (i) an abandonment within the limits of the city of all such other franchises, rights and privileges in lieu of which this franchise is granted; and (ii) an agreement to comply with the terms and conditions hereof. (Ord. Nos. 393, 491)

Sec. 21-72. Effect of acceptance by grantee.

The franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the city clerk. 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 franchises, rights and privileges owned by the grantee therein shall likewise be deemed to be abandoned as to all streets within the limits of such territory. (Ord. Nos. 393, 491)

Sec. 21-73. Right of acquisition of property.

The franchise granted hereunder 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 to 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 of the grantee of the necessary publication and any other sum paid by it to the city therefor at the time of the acquisition thereof. (Ord. Nos. 393, 491)

Sec. 21-74. Reserved rights of city.

The city reserves the right to improve any street or portion thereof over and within the area for which said franchise is granted, including the change of grade, relocation of right-of-way, realignment of right of way, change in width, construction or reconstruction of any such street, or any portion thereof. Within thirty days after receipt by grantee of a notice in writing from the city of the fact that work is to be done pursuant to any such reserved right and specifying the general nature of the work and the area in which the same is to be performed, the grantee shall do all things necessary to protect its franchise property during the progress of such work and if ordered by the city council the grantee shall disconnect, remove, or relocate its pipes and appurtenances within the street to such extent, in such manner, and for such period as shall be necessary to permit the performance of such work in an economical manner, and in accordance with the general recognized engineering and construction methods, and to permit the maintenance, operation and use of such public improvement of the street as so improved. All of such things shall be done and the work shall be performed by the grantee at its sole cost and expense. In the event that the city shall hereafter construct, install, reconstruct or repair any bridge or artificial support in or underlying any street in which any pipes or appurtenances of the grantee are located, and in the event that the cost thereof be increased in order to provide for the installation, maintenance or operation of any such pipes or appurtenances in or on the street area which said bridge or other artificial support covers or underlies, then the grantee shall pay to the city the full amount of such increase of cost, upon completion of such construction, installation or repair. Any damage done directly or indirectly to any such public improvement by the grantee, in exercising directly or indirectly any right, power or privilege under this franchise, or in performing any duty under or pursuant to the provisions of this franchise, shall be promptly repaired by said grantee, at its sole cost and expense. (Ord. Nos. 393, 491)

Sec. 21-75. Duties of grantee.

The grantee of this franchise shall:

- (a) Construct, install and maintain all pipes and appurtenances in accordance and in conformity with all of the applicable ordinances, rules and regulations heretofore or hereafter adopted by the city council in the exercise of its police powers and not in conflict with the paramount authority of the State of California, and, as to state highways, subject to the provisions of general laws relating to the location and maintenance of such facilities therein; in constructing, installing, and maintaining the pipes and appurtenances, the grantee shall make and backfill all excavations in such manner and way as to leave the surface of the public street, alley, highway, or public place in good condition as it was prior to said excavation, as well as to conform to the statutes of the State of California and the ordinances of the City of Paramount as they now exist or may hereafter be amended with respect to the securing of permits for excavations, filling and obstructions of city and state highways.
- (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 damage proximately resulting from any operations under this franchise, and be liable to the city for all damages proximately resulting from the failure of said grantee well and faithfully to observe and perform each and every provision of this franchise and each and every applicable provision of Division 3, Chapter 2 of the Public Utilities Code of the State of California;

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- (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 or grade, alignment or width of any street, or the construction therein or thereunder of any subway, viaduct, sewer, storm drain, pipeline or other improvement, made by the city. This franchise shall not constitute an agreement or undertaking by the city, nor impose upon the city any obligation, to pay any part of the costs of removal or relocation of any of the pipes and appurtenances when required in order to accommodate construction of any State freeway;
- (e) File with the city council 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; and
- (f) Promptly repair, at the sole cost and expense of the grantee and to the complete satisfaction of the city, any damage to any street or public improvement caused directly or indirectly, by the grantee in exercising directly or indirectly, any right, power or privilege under this franchise or in performing any duty under or pursuant to any of the provisions of this franchise. (Ord. Nos. 393, 491)

Sec. 21-76. Forfeiture of franchise.

If the grantee shall fail, neglect or refuse to comply with any of the provisions or conditions hereof, and shall not, within ten days after written 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 council may declare this franchise forfeited.

The city may sue in its own name for the forfeiture of this franchise, in the event of non-compliance by the grantee, its successors or assigns, with any of the conditions thereof. (Ord. Nos. 393, 491)

Sec. 21-77. Reimbursement for expenses.

The grantee shall pay to the city a sum of money sufficient to reimburse it for all publication and posting expenses incurred by it in connection with the granting of this franchise; such payment to be made within thirty days after the city shall furnish such grantee with a written statement of such expenses. (Ord. Nos. 393, 491)

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