

Department of Public Works
200 N Spring St, Rm 361
Los Angeles, CA 90012

**ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE CITY COUNCIL
JUL 23 2018**

July 19, 2018

Honorable Commissioners
Board of Public Works


**Executive Officer
Board of Public Works**

FRANCHISE PIPELINE ORDINANCE AGREEMENT WITH CALIFORNIA-AMERICAN WATER COMPANY, A NON-PUBLIC UTILITY COMPANY, FOR A ONE YEAR TEM TO INSTALL, RETAIN, OPERATE, AND MAINTAIN PIPELINES AND THEIR ADJUNCT COMMUNICATION LINES.

RECOMMENDATIONS

Recommending that the Board of Public Works (Board), subject to the Los Angeles City Council’s (City Council) and Mayor’s approval,:

1. FIND that California-American Water Company is in need of a pipeline franchise agreement to install, retain, operate, and maintain existing pipelines and their adjunct communication lines within the City of Los Angeles;
2. OFFER for sale a pipeline franchise to install, retain, operate, and maintain pipelines and their adjunct communication lines associated with the production and distribution of water;
3. ACCEPT and AWARD the bid for the franchise to the responsible bidder offering to pay the City the highest cash consideration, but not less than \$500 and, if the existing operator and/or owner is the highest responsible bidder, or if there are no bids, award the franchise to that company;
4. REQUEST the City Clerk to publish a Notice of Sale of Pipeline Franchise, in accordance with the Los Angeles Administrative Code, Section 13.17;
5. REQUEST the Office of the City Attorney to prepare and present the pipeline franchise ordinance for the successful franchisee for City Council approval;
6. INSTRUCT the Board of Public Works to notify the successful franchisee and; in accordance with Los Angeles Administrative Code, Section 13.26, ensure that all good faith deposits are returned to the unsuccessful bidders, subsequent to the award of the franchise;
7. REQUIRE that the successful franchisee file a faithful performance bond in duplicate with the City Clerk within five days in the penal sum fixed by the City Council in the advertisement for bids or established as a condition of the franchise approval, per Los Angeles Administrative Code, Section 13.30 and maintain necessary insurance as outlined in City Administrative Officer Form 146.

TRANSMITTALS

1. Draft Ordinance Prepared by the Office of City Attorney
2. City Administrative Officer's, Risk Management Division Form 146 - Bond and Insurance Requirement
3. City's Standard Provisions for City Contracts
4. City's CEQA Guidelines

SUMMARY

California American Water Company (CalAm Water) is a non-public utility company transporting potable water in and through the City of Los Angeles. CalAm Water has had a pipeline franchise agreement with the City of Los Angeles (City) since 1988 (Ordinance No. 133,500) and is currently seeking a new franchise agreement to continue their operations. CalAm Water's most recent franchise agreement expired on April 6, 2018 (Ordinance No. 179,609). This report recommends the execution of a new one-year agreement to align with other franchise pipeline agreements that are set to expire on or about March 2019 and allow the City to negotiate new terms and conditions for a new long term pipeline franchise within the same or similar timeframe.

DISCUSSION

California American Water Company's Operations

CalAm Water's pipelines and water appurtenances are part of their potable water delivery system that distributes drinking water to approximately 6,000 consumers in the Baldwin Hills area of unincorporated Los Angeles County. Within the City, their Baldwin Hills system occupies 13,734 linear feet (2.60 miles) of the City's right-of-way entirely within the Eighth Council District. CalAm Water's pipelines consist of 0.84 miles of 8-inch diameter pipeline, 0.69 miles of 10-inch diameter pipeline, and 1.07 miles of 12-inch diameter pipeline. The vast majority of pipelines were installed prior to 1964, except for a 0.08-mile section of 12-inch diameter pipeline that was installed in 1970 and a 0.3-mile section of 12-inch diameter pipeline that was installed in 1989.

California American Water Company Franchise Expiration

CalAm Water's franchise ordinance with the City expired on April 6, 2018, yet despite the franchise ordinance expiration, CalAm Water is still operating under the former franchise terms and conditions. The basis for their continued operation and liability protection for the City is derived from Section 5.2(c) and 6.3(a) of their franchise ordinance. Section 5.2(c) pertains to insurance coverage and states the following:

“Grantee shall maintain continuous uninterrupted insurance coverage and shall maintain evidence of coverage on file...for the duration of this franchise and thereafter until Grantee has liquidated all of its obligations with the City that may have arisen from the acceptance of this franchise.”

Section 6.3(a) on faithful performance bond coverage requirements states the following:

“Grantee is obligated to maintain in full force and effect, the performance bond for the duration of this franchise and thereafter until Grantee has liquidated all of its obligations with the City that may have arisen from the acceptance of this franchise.”

The aforementioned clauses from the franchise ordinance protect the City from liability from continued operation of the pipeline facilities, but are in no way to be construed as a replacement/substitute of a City Council adopted franchise ordinance. A new franchise ordinance is required to fully and comprehensively outline all the requirements demanded of the franchisee by the City.

Although this franchise agreement is for potable water, it’s worth noting for general knowledge that the Department of Public Works does not have regulatory oversight of pipeline entities. Regulatory oversight falls under the auspices of the California Public Utilities Commission (CPUC), the California State Fire Marshall (CSFM), Los Angeles Regional Water Quality Control Board (LARWQCB), and/or the United States Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA). Operators test the integrity of their active lines as required by, and are monitored by, the PUC, CSFM, LARWQCB, and/or PHMSA, if applicable.

CalAm Water is regulated by the California Public Utilities Commission (CPUC) as an investor-owned water utility to set rates and determine service areas. CalAm Water historically operated their delivery system under a permit from the Department of Health Services (DHS). In July 2014, the California Department of Public Health (CDPH) moved under the State Water Resources Control Board (SWRCB or State Board) and became the Division of Drinking Water (DDW). CalAm Water maintains the integrity of their system through the implementation of the following:

- Compliance with DDW and CPUC regulations related to their system service quality.
- Use of ductile iron and PVC for replacement pipelines instead of cast iron, steel and asbestos cement pipelines.
- Participation in the Underground Service Alert (USA) system to minimize potential damage to their pipelines due to construction activities of others.
- CalAm Water follows the National Incident Management System (NIMS) and Incident Command System (ICS) protocols and procedures.
- CalAm Water has adopted the standards set forth in Assembly Bill 1650 (AB 1650) requiring all CPUC regulated water companies to “develop, adopt and update emergency disaster preparedness plan in compliance with the standards established by the commission” and updates each district Emergency Response Plan annually.

- CalAm Water tests various protocols by conducting an emergency response drill annually.
- CalAm Water is a member of the California Utilities Emergency Association (CUEA) and participates in the CalWarn system for notifications and assistance.

Furthermore, as a requirement of the franchise agreement, franchisees are required to prepare and submit data and reports as may be reasonably necessary or appropriate for the performance of any of the duties and responsibilities of the Board of Public Works and Department of Public Works. Such data and reports may include pressure test results, accident reports, regulatory violations, and any other incident reports (e.g., ruptures, spills, explosions, fires, etc.).

Franchisees will also be required to maintain a performance bond equal to three times the calculated annual franchise fees, and insurance coverage as mandated by the City Administrative Officer's, Risk Management Division as indicated on Form Gen. 146 (see Attachment #2). Franchisees shall comply with the City's Standard Provisions for City Contracts (Attachment #3). Lastly, franchisees will be responsible for all expenses that may be incurred by the City in responding to any spills or accidents arising from the operation of the pipelines. The term of the franchise will be for one year from the date the franchise ordinance becomes effective. The City Attorney's Office has draft a new ordinance (Attachment #1), but may make additional changes before final ratification by the City Council.

Environmental Clearance Exemption

CalAm Water has no plans to construct new pipelines or modify their existing pipelines. Since the application is for a franchise to maintain existing pipelines, they are exempt from the provisions of the California Environmental Quality Act (CEQA). Article III, Class 1, Section 14 of the City of Los Angeles CEQA Guidelines (Department of City Planning) offers a categorical exemption for the "issuance, renewal or amendment of any lease, license or permit to use an existing structure or facility involving negligible or no expansion of use." (See Attachment #4)

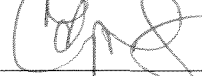
FISCAL IMPACT STATEMENT

No funding is required for the implementation of this franchise agreement. This agreement will generate approximately \$25,000 in annual franchise fee revenue to be adjusted annually by the ratio of the Los Angeles-Riverside-Orange County Consumers Price Index for All Urban Consumers (LACPI) for the most recent month of October to the CPI for 1982-1984 (CPI 1982-1984 = 100). This extension will not have a negative fiscal impact on the budget.

For questions related to this report, please contact:
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Approved by:



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