

Department of Public Works

Board of Public Works,  
Office of Petroleum and Natural Gas Administration & Safety  
Report No. 1

October 30, 2017  
CD: All

ADOPTED BY THE BOARD  
PUBLIC WORKS OF THE CITY  
of Los Angeles California  
AND REFERRED TO THE CITY COUNCIL  
OCT 30 2017

  
Executive Officer  
Board of Public Works

**REQUEST FOR AN 18 MONTH TERM EXTENSION TO THE SOUTHERN CALIFORNIA  
GAS COMPANY FRANCHISE ORDINANCE (COUNCIL FILE NO. 12-1880-S7)**

**RECOMMENDATIONS**

Recommending the Board:

1. APPROVE an 18 month extension of the Southern California Gas Company Natural Gas Franchise Ordinance from December 31, 2017 to June 30, 2019, subject to City Council approval; and
2. REQUEST City Council to ADOPT the proposed Ordinance prepared and presented by the Office of the City Attorney to extend the term of the Southern California Gas Company Natural Gas Franchise Ordinance No. 168164 from December 31, 2017 to June 30, 2019.

**TRANSMITTALS**

1. Draft Ordinance from the Office of the City Attorney via CF 12-1880-S7.

**DISCUSSION**

*Background*

In 1992, the City of Los Angeles adopted Ordinance No. 168164 to grant the Southern California Gas Company a 20 year franchise authority to install, construct, replace, reconstruct, repair and retain its gas system in streets located in the City of Los Angeles, including the maintenance and operations of said gas system among other authorities. Between 2012 and 2017, the City of Los Angeles has agreed to extend said franchise authority through various amending Ordinances until such time as a new franchise Ordinance (agreement) would take effect. As adopted via Ordinance No. 185008, the current franchise Ordinance (agreement) term is set to expire on December 31, 2017.

Since 2014, many legal pleadings have been filed with the court system on the matter of Jacks (Rolland) et al. v. City of Santa Barbara. More specifically, in February 2015, a judgement to reverse and remand was ordered by the Court of Appeal, which directed the trial court to grant the appellant's motion for summary adjudication<sup>1</sup>. The matter was then referred to the Supreme Court of California and subsequently, on April 4, 2017, oral

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<sup>1</sup> See Certified Publication in the Court of Appeal of the State of California, Second Appellant District, 2d Civil No. B253474 (Super. Ct. No. 1383959) Santa Barbara County.

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arguments were heard. According to the Supreme Court calendar session bulletin, the Supreme Court limited its review to the following issue: *"Is the City of Santa Barbara's 1 percent increase on its electricity bill a tax subject to Proposition 218's voter approval requirement or a franchise fee that may be imposed by the City without voter consent?"*

On June 29, 2017, the California Supreme Court decided the matter of Jacks et al. v. City of Santa Barbara, the outcome of which has significant impacts on the terms to be negotiated in a new franchise agreement with Southern California Gas Company. The ruling requires an expert determination of the value of the franchise agreement, which could significantly change the nature of the ongoing negotiations.

#### *Value of Franchise Process*

In order for the Board of Public Works, Office of Petroleum and Natural Gas Administration and Safety, in collaboration with other City departments, to continue negotiations of a new franchise Ordinance (agreement), this Office believes it is in the best interest of the City to determine the value of the new franchise Ordinance (agreement) to inform our ongoing negotiation efforts. To procure such expert determination, a Request for Proposal (RFP) will need to be prepared and released to retain expert services that are unique, technical, scientific, and temporary in nature. The anticipated RFP process may take a two (2) to four (4) months to draft and release, one (1) to two (2) months to evaluate and award the contract, and another four (4) to six (6) months to conduct the evaluation/determination. Afterwards, a final negotiation period of three (3) to six (6) is anticipated. In total, up to an additional 18 months is anticipated until a new franchise Ordinance (agreement) may materialize. This Office will continue its effort to accelerate the process where possible. Therefore, it is necessary to extend the term of the current franchise Ordinance beyond the December 31, 2017, expiration date previously adopted to ensure that Southern California Gas Company continues to operate in the City under the terms set forth in Ordinance No. 168164.

#### **FISCAL IMPACT STATEMENT**

The proposed 18 month extension to the Ordinance No. 168164 will extend the term end date from December 31, 2017 to June 2018. Franchise fees will continue to be billed and collected at the current franchise rate. No negative fiscal impact is anticipated.

FC/UN: un/fc

Respectfully Submitted by:



UDUAK-JOE NTUK  
Petroleum Administrator

For questions regarding this report, please contact:  
Uduak-Joe Ntuk, (213) 978-1697  
Via e-mail at [Uduak.ntuk@lacity.org](mailto:Uduak.ntuk@lacity.org)