

BOARD OF PUBLIC WORKS
MEMBERS

KEVIN JAMES
PRESIDENT

HEATHER MARIE REPENNING
VICE PRESIDENT

MICHAEL R. DAVIS
PRESIDENT PRO TEMPORE

JOEL F. JACINTO
COMMISSIONER

LUZ M. RIVAS
COMMISSIONER

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

OFFICE OF THE
BOARD OF PUBLIC WORKS

FERNANDO CAMPOS
EXECUTIVE OFFICER

200 NORTH SPRING STREET
ROOM 361, CITY HALL
LOS ANGELES, CA 90012

TEL: (213) 978-0261
TDD: (213) 978-2310
FAX: (213) 978-0278

<http://bpw.lacity.org>

January 23, 2017

Council File No. 15-0387

Honorable Members of the Public Works and Gang Reduction Committee
Honorable Members of the Budget and Finance Committee
Councilmembers Buscaino and Krekorian, Chairs

c/o Office of the City Clerk
200 North Spring Street, Room 360
Los Angeles, CA 90012

**SUBJECT: STAFFING REQUEST TO FORM THE OFFICE OF PETROLEUM AND
NATURAL GAS (P/NG) ADMINISTRATION AND SAFETY, AND
REQUEST TO AMEND A SERIES OF LAAC AND LAMC SECTIONS,
INCLUDING LAAC, CHAPTER 100, SECTION 5.500**

On June 8, 2016, the Los Angeles City Council (City Council) adopted, as amended, a series of recommendations from the Public Works and Gang Reduction Committee report (C.F. 15-0387) to (1) request the Office of the City Attorney to prepare and present an ordinance amending the Los Angeles Administrative Code (LAAC) Section 5.500, (2) authorize one position to hire the City's Petroleum Administrator, (3) identify resources to fund the new Petroleum Administrator position, (4) request the Board of Public Works and the Department of Transportation to report back on the formation of a Petroleum and Natural Gas Administration (P/NG) and Safety Office, (5) approve proposed template draft ordinances for expired and expiring pipeline franchise agreements, and (6) request the Office of the City Attorney to submit required ordinances and extensions for expiring pipeline franchises. This report, in collaboration with the Department of Transportation, provides a response to recommendation Item No. 4 (formation and resources needed for Office of P/NG Administration and Safety). Item Nos. 1, and 6 are in progress and Item Nos. 2, 3 and 5 are complete via CF No. 16-0129, CF No. 15-0387 (Amended by motion 24-A) and CF No. 16-0995, respectively. Furthermore, on January 11, 2017, the Transportation Committee approved the Department of Transportation's recommendations to update 36 electric-line and pipeline franchise agreements for a one-year term, with a nine-month option extension, during the transition of the oversight authority to the Board of Public Works (C.F. No. 15-0387-S2).

More specifically, City Council requested that the Board of Public of Works not only report back on the formation of a P/NG Administration and Safety Office, but also on the: (I) positions and other resources necessary to perform the oversight of City franchise agreements, leasing issues, environmental health and safety, permitting tasks associated with petroleum matters and coordination with departments in need of petroleum/natural gas expert services; (II) new Office



structure, including support positions, associated resources, and possible ongoing funding sources, etc.; (III) processes for obtaining access to the Bureau of Engineering's pre-qualified on-call list of geotechnical and environmental engineering consultants; and (IV) potential changes to LAAC Section 5.500 that would provide more options for the use of pipeline et al funds deposited into the Council District Real Property Trust Fund, including the use of said revenues to fund this Office.

RECOMMENDATIONS

It is recommended that the Los Angeles City Council, subject to Mayor's approval:

- 1) DIRECT, pursuant to C.F. No. 16-1322, the Board of Public Works to include in its proposed Fiscal Year 2017/2018 budget a total of \$600,000 for outside consultant services and six (6) Resolution Authority Positions, subject to paygrade determination by the Office of the City Administrative Officer, Employee Relations Division, to hire the following:
 - a. One Sr. Environmental Engineer (Class Code 7874),
 - b. One Environmental Compliance Inspector (Class Code 4292),
 - c. One Senior Management Analyst II (Class Code 9171-2),
 - d. Two Management Analyst II (Class Code 9184-2), and
 - e. One Administrative Clerk – Class Code 1358
- 2) REQUEST, as part of the functional transfer, that the Office of the City Attorney prepare and present an Ordinance(s) to amend or add a new section, as applicable, to the Los Angeles Administrative Code Sections 13.1 through 13.76; Sections 19.48 through 19.71, Section 22.484; and Sections 22.319 through 22.326.1 (Div. 22, Ch. 13, Article 3) related to the oversight and administration of franchises, permits, and privileges; duties in respect to Petroleum Administration and Petroleum leases; powers and duties related to Public Utilities; and powers and duties in general for the Board of Public Works, respectively. In addition, amend the Los Angeles Municipal Code 13.01(D), 13.01(E)2, 13.01(H) and 13.01(J) and other sections as applicable, related to Oil Drilling Districts in connection to filing requirements, drilling standard conditions, drilling site requirements, and termination of districts. Said ordinances will align and transfer certain powers, duties, and responsibilities from the Board of Transportation or Director of the Office of Administrative and Research Services, including City Administrative Officer, to the Board of Public Works as required for this function.
- 3) REQUEST the Office of the City Attorney to either (a) revise the previously requested Ordinance (CF 15-0387) or (b) prepare and present a new Ordinance to amend the Los Angeles Administrative Code Chapter 100, Section 5.500 to delete the word "oil" and "right-of-way", and authorize the annual use of no more than 10% or \$1.5 million, whichever is greater, of all initial Electricity, Natural Gas, Petroleum et al Franchise Revenues collected to fund the Office of Petroleum and Natural Gas Administration and Safety operations first and prior to any and all revenue transfers;
- 4) AUTHORIZE the transfer of all files, records, insurance, bonds, and franchise funds from the Department of Transportation and City Administrative Officer, and any other ancillary offices, as it relates to this matter, to the Board of Public Works within 60 days of adopted ordinances establishing powers within the Board of Public Works; and

- 5) AUTHORIZE the Board of Public Works to make any technical corrections required to implement the formation of the Office of Petroleum and Natural Gas Administration and Safety.

TRANSMITTALS:

1. Summary Overview of Code Amendments for Petroleum Matters (Non-Comprehensive 1960–2016)

DISCUSSION:

Background – The governance of oil drilling and the administration of petroleum has been a topic of much discussion and public deliberation for more than 70 years in the history of the City of Los Angeles (City). On February 9, 1945, the then City Council passed an Ordinance on “model” oil-drilling, which eliminated town-lot drilling and permitted controlled drilling and petroleum production in urbanized areas¹. Subsequently, in 1945, Ordinance No. 89,087 codified Oil Drilling Districts in Urbanized Areas (see 1945 version of the Los Angeles Municipal Code Section 12.23 and Los Angeles Administrative Code Section 12.15), which also prescribed the purpose and application of said ordinance, creation of oil districts and areas, and set the parameters for standard, optional, and variance conditions related to oil drilling. Similarly, Ordinance No. 90,500 codified and aligned other requirements voted by the City Council in 1945 (see 1946 version of Los Angeles Zoning Code Sections 12.27, 12.32, and 13.01-13.03). By the 1950’s, many of the City’s public deliberations revolved around public safety and compliance on oil matters, which led to several passed ordinances. For example, in 1957, the then Mayor Poulson urged for rigid controls on oil drilling². Also, the Zoning Administrator, Huber E. Smutz, declared that the “City Won’t Permit Abuses in Drilling” and indicated that there would be “no relaxation” and urged for strict control and compliance with the City’s regulations on oil matters³ while the then City Attorney, Mr. Roger Arnebergh, stated that the City’s stringent ordinances passed by the City Council offered “safeguards” to City residents and added to the “beauty of the City.”⁴

In response to public criticism and discourse at that time, in November 1957, the then City Council acted to establish the City’s first **Oil Management Office** to oversee the function, protect interests, manage drilling districts, and ensure safeguards for all residents⁵. At that time, the then City Council authorized six to 10 positions as an initial dedicated resource to mobilize the new Oil Management Office of 1957. However, the then City Council did not approve the proposed creation of a five-member Commission to oversee said function. Between the 1960’s through the early 2000’s, approximately 30 amendments were made to the City’s Planning and Zoning (LAZC), Administrative (LAAC), and Municipal (LAMC) Codes for oil (petroleum) utility related matters. Further, in 2000, the citizens of the City of Los Angeles voted to amend and approve a new City Charter, which captured many of the former amendments, such as changes to LAMC Section 13.01 for oil drilling districts, drilling and production sites, Off Shore

¹ Los Angeles Times Article (Feb. 9, 1945), “Model Oil Drilling Ordinance Passed,” ProQuest Historical Newspapers, Page A3.

² Los Angeles Times Article (May 16, 1957), “Mayor Urges Rigid Controls on Oil Drilling,” ProQuest Historical Newspapers, Page B8.

³ Los Angeles Times Article (July 22, 1957), “Protection of Oil Areas Promised: Zoning Chief Says City Won’t Permit Abuses in Drilling Oil,” ProQuest Historical Newspapers, Page B1.

⁴ Los Angeles Times Article (July 27, 1957), “Oil Drilling Curbs Ruled Satisfactory,” ProQuest Historical Newspapers, Page B2.

⁵ Los Angeles Times Article (Nov. 26, 1957), “City Acts to Establish Oil Management Office,” ProQuest Historical Newspapers, Page B3.

changes to LAMC Section 13.01 for oil drilling districts, drilling and production sites, Off Shore areas, oil field areas, urbanized areas, producing zones, termination and maintenance of drilling and production sites, and LAAC Sections 19.48 through 19.71 on duties of the petroleum administrator and responsibilities of petroleum leases. Besides those amendments around the City Charter reform era in 2000, only four major amendments were made between 2005 and 2016, which included the LAMC Sections 13.01B (Los Angeles City Oil Field Area), 11.5.10 (Withdrawal of Permit Appeals), 12.24(U)29 (Conditional Use Permits - Petroleum Based Oil Refineries), and LAAC Section 19.01 (Filing Fees – Oil Drilling). Of these approximate 30 amendments, about 66% were prior to the Charter amendment in 2000. Transmittal 1 provides a summary of various amendments between 1960 through 2016 (Note: list is not comprehensive).

Most recently, in April 2016, the City Council adopted as amended a series of recommendations from the Public Works and Gang Reduction Committee (C.F. 15-0387), which included a proposed LAAC amendment requesting the Office of the City Attorney to prepare and present an ordinance amending LAAC Section 5.500 and other applicable sections to reflect that the Board of Public Works is the overseeing governance body and department on petroleum and natural gas matters.

There are several City departments coordinating and collaborating on administrative matters of petroleum and natural gas. These departments include City Planning, Transportation, Fire, Recreation and Parks, Building and Safety, and Public Works, Bureaus of Sanitation and Engineering. However, the role of Petroleum Administrator was located, until recently, within the Office of the City Administrative Officer, which provided more of an administrative oversight and financial control of petroleum and natural gas matters. The authority sources, which prescribes the roles and responsibilities of the Office of P/NG Administration and Safety, including the management of franchise utilities, is the (i) LAAC, Division 19, Chapter 4, Article 1, Sections 19.48 through 19.50 on Petroleum Administration, (ii) LAAC Sections 19.53 through 19.71 on Petroleum Leasing, (iii) LAMC 13.01 on Oil Drilling Districts, including drilling and production sites, various oil areas, and termination, creation, and Maintenance of drilling and production sites; (iv) LAAC Division 13, Chapters 1-3, Sections 13.1 through 13.76 on franchises, permits, and privileges; and (v) LAAC Division 22, Chapter 20 on governance and oversight from the Transportation Commission (now transferred to the Board of Public Works).

As approved by the City Council in June 2016, the new Petroleum Administrator position will now have a more expanded role to oversee an office that performs the duties currently delineated in the LAAC, manages drilling leases, and assumes the duties related to the City's franchise agreements currently administered by the Department of Transportation. The City's new Petroleum Administrator was hired by the Board of Public Works in October 2016 following a four-month recruitment effort. The position was originally approved (CF No. 15-0387) as a Principal Project Coordinator but changed to Utility Rates and Policy Specialist III and re-exempted by the Mayor and City Council in September 2016 (CF No. 16-0995). Further, the Petroleum Administrator is responsible for overseeing and managing all functions and associated components of the Office of P/NG Administration and Safety and provides policy advice to the Mayor, City Council, the Board and its Executive Officer on such matters. The Petroleum Administrator will also represent the City at news conferences and media events, answer inquiries from the public and industry concerning P/NG matters, such as the LAMC requirement, and restrictions on activities and location, and is versed in environmental, health, and safety issues inherent in the P/NG industry.

I. Proposed Positions and Resources

The concept of a fully staffed Office of the P/NG Administration and Safety includes the proposal of six (6) new resolution positions to supplement and support the expanded roles and responsibilities of this new office under the leadership of the City’s new Petroleum Administrator. In general, the P/NG Office will be divided into three functional areas – (1) Franchise and Contract Administration, (2) Safety and Compliance, and (3) Community Engagement (note: resources not requested for third function at this time). In general, the proposed functional area of Franchise and Contract Administration will manage the City’s franchise contracts, streamline the ordinance process, and update formulas for revenue, while the Safety and Compliance functional area will provide inspections and investigations services, as well as compliance and safety of the City’s oil-wells and oil drilling across the City. The third functional area of Community Engagement will eventually provide advocacy, community representation, and citizen engagement opportunities related to this function. The Administrative Clerk will provide general administrative/clerical support for all functions of the P/NG Office. Moreover, the P/NG office will now have a full-time Commission to discuss governance and policy matters – a concept presented yet rejected in the 1950’s, via the Board of Public Works.

The following six (6) resolution positions are proposed to perform the day-to-day operations related to City franchise agreements, leasing issues, environmental health and safety, permitting tasks associated with petroleum matters and coordination with departments and the industry, among other activities:

Position Classification	Class Code	Functional Area
One Senior Environmental Engineer	7874	Safety and Compliance
One Environmental Compliance Inspector	4292	Safety and Compliance
One Senior Management Analyst II	9172-2	Franchise and Contract Administration
One Management Analyst II	9172-2	Safety and Compliance
One Management Analyst II	9184-2	Franchise and Contract Administration
One Administrative Clerk	1358	Support All Functions

It is important to note that the Department of Transportation currently has two regular positions (One Transportation Engineer – Class Code 7278 and One Administrative Clerk – Class Code 1358) dedicated to this function. The intent during the proposed Fiscal Year 2017/2018 budget cycle is to delete these two positions at the Department of Transportation and then add two similar positions at the Board of Public Works. Alternatively, the two existing positions could be re-aligned/re-purposed within the Department of Transportation based on operating needs and funding availability at the discretion of the Mayor and City Council. These option could be discussed during budget deliberations.

In compliance with recent instructions approved by the City Council (see CF No. 16-1322), the Board of Public Works will defer this request for new resources until next fiscal year. Therefore, a request by the Board of Public Works to fund a total of six (6) resolution positions will be included in its Fiscal Year 2017/2018 proposed budget, including a request to continue funding the existing Utility Rates and Policy Specialist III position used for the Petroleum Administrator. In total, to fully fund the new formation of the P/NG Office, as proposed, will require approximately \$730,000 in annual salaries. It is anticipated that \$600,000 in additional funding will be requested in the Unappropriated Balance during the Board of Public Works’ proposed budget in Fiscal Year 2017/2018 to retain independent, subject matter experts focused on (1)

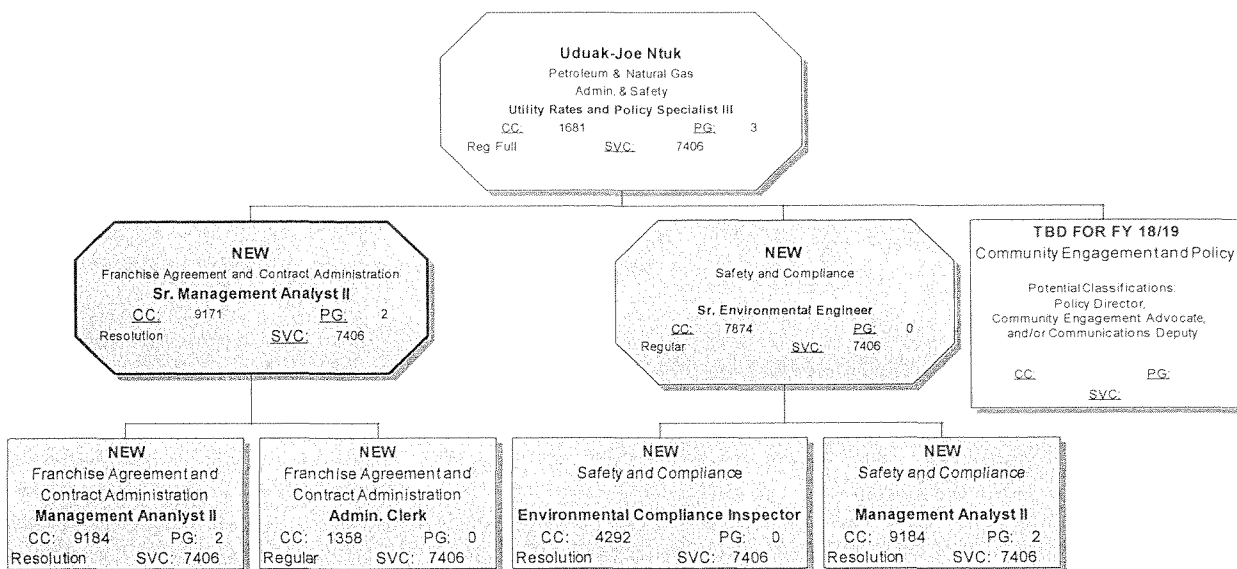
safety, (2) compliance, and (3) petroleum audits, test analyses, drill site evaluations, methane gas emissions, and other related services. Further, funding for outside consultant services will allow this Office to retain a firm(s) to work with and identify all community groups near oil infrastructure areas to facilitate forums on community concerns, craft messaging strategy, and develop an engagement plan. This would be temporary funding until internal community engagement staff can be hired to take over the function in Fiscal Year 2018/2019.

The below table provides the annual funding salary break-down by proposed position.

Position Classification	Annual Salary (FY 2017/2018)
One Utility Rates and Policy Specialist III	\$141,948
One Senior Environmental Engineer	\$128,361
One Environmental Compliance Inspector	\$ 74,258
One Senior Management Analyst II	\$143,859
One Management Analyst II	\$ 94,943
One Management Analyst II	\$ 94,943
One Administrative Clerk	\$ 49,593
TOTAL	\$727,905

II. Proposed Office Structure

The proposed P/NG Office will be overseen by the City’s Petroleum Administrator and will be divided into three functional areas – (1) Franchise and Contract Administration, (2) Safety and Compliance, and (3) Community Engagement (note: no resources requested for the latter at this time). Three positions will be dedicated to the Franchise and Contract Administration functional area and three positions to the Safety and Compliance functional area. The following organizational chart depicts the proposed P/NG Office structure, roles, and responsibilities.



The Petroleum Administrator and the Franchise Agreement and Contract Administration section would be responsible for overseeing and monitoring the City's franchise agreements, including acting as lead negotiator, and reporting on evaluation of oil, gas, and electric utility fees. It would also:

- Bill, collect, and monitor franchise revenues, including assessment of interest and penalties, if applicable;
- Explore streamlining the ordinance process for the franchise agreements;
- Update formulas for revenue and administer and determine compliance of all provisions of oil and gas leases and rates, including standards set forth by Federal and State rules and regulations;
- Establish policies and procedures with respect to leasing oil and gas production purposes on any City-owned property;
- Negotiate with those requesting drilling rights or oil leases on City-owned property to determine the minimum price of oil at which the operator shall suspend his production, abandonment and other protective provisions to be included in leases of City-owned land for exploration and to determine the terms on which bids are to be requested; and
- Provide administrative support to the entire P/NG Office.

The Petroleum Administrator and the Safety and Compliance section would consist of a comprehensive inspection and safety compliance function, including examining safety measures and best practices. It would also:

- Review enhanced oil recovery methods and use of oil well-log petro-physical and imaging interpretation, core logging, field mapping, and petro-graphic microscopy;
- Interpret and analyze federal, state, regional, or local test results;
- Provide advice on oil, gas, geo-technical, air, soil, and groundwater contamination and protection (i.e. ground subsidence, abandoned oil wells, nuisance, hazards, toxics, asphyxiant gases, mud pits, seeps, health, safety, regulations, sub-surface fluid flow, soil gas survey development, use or familiarity of remedial technologies, etc.), and oil and gas incursion;
- Handle, respond, and resolve constituent calls, requests, concerns, complaints, etc.
- Investigate subsidence problems and explore possible protective measures;
- Recommend proper measures to prevent or eliminate drainage from beneath City-owned lands; and,
- Prepare post-contingency planning, management, and response, including crisis management.

The Community Engagement and Policy section is not envisioned to be staffed until Fiscal Year 2018/2019 yet its functional demand may be apparent within the next year of this Office's operation. In short, this section will be responsible for community engagement and policy analysis. There has been a tremendous level of interest and meeting requests from community stakeholders regarding policy and policy changes. Additional duties related to this area include:

- Interact regularly with neighborhood councils, business groups, non-profits, faith based organizations, and educational institutions;
- Develop and maintain relationships with local, county, state, and federal regulators;
- Represent the City at news conferences / media events;
- Track and report back on local, county, state and federal policy related to oil and gas matters within the City for Annual Legislative Agenda;

- Conduct public Outreach to local community and intergovernmental relations with local regulatory agencies, including representing the City of Los Angeles on the Inglewood Oilfield Community Standards District (CSD); and
- Maintain and update the office's website and newsletter.

Additional duties assigned to the Petroleum Administrator will include:

- Examining and rendering reports and recommendations on P/NG matters including the exploration for or production of petroleum within City limits and associated restrictions;
- Coordinating all matters respecting or concerning the exploration for or production of petroleum within this City; and
- Reviewing and reporting on applications and accompanying reports and existing permitting processes for the creation of oil-well drilling districts under the provisions of the Los Angeles Municipal Code, the desirability of a drill site, and geological justification for the application.

Since the formation of the Office of the P/NG Administration and Safety is in its early stages, the following are some Key Success Indicators to measure performance:

- # of Franchise Agreement Renewals;
- # of Community Engagement Events;
- # of Abandoned Well Evaluations;
- # of Drill Site Inspections; and
- % of Audit Penetration Rate

III. On-Call Consultant List Process

The Department of Public Works has an established on-call consultant list to hire subject matter experts to suit the needs of the P/NG Office. The Department of Public Works, Bureau of Engineering has utilized On-Call geotechnical and environmental consultant services contracts for nearly 25 years. The On-Call Consultants List allows the department to provide geotechnical and environmental engineering services for a gamut of Public Works projects. The current Pre-Qualified On-Call (PQOC) Geotechnical and Environmental Consultants list is active through December 2017. However, in anticipation of the upcoming expiration date, the Board of Public Works approved on September 2, 2016 the release of a Request for Qualifications (RFQ) to establish a new PQOC Geotechnical and Environmental consultants list estimated to be around 10 consultants/firms (see Board Report No. BPW-2016-0208). The new RFQ was released on September 7, 2016 and responses were due and received on October 4, 2016. It is now currently being evaluated and a new list is anticipated to be established and approved by the Board of Public Works prior to the end of calendar year 2017.

The PQOC list provides staff augmentation (subject matter expertise) in order to handle periods of peak workload, transfers knowledge from consultants to City staff, provides services and expertise in niche areas on a temporary, technical basis. PQOC Geotechnical and Environmental Consultants can perform and provide a variety of geotechnical and/or geologic services. Yet, more specific to Petroleum and Natural Gas Administration, services include but are not limited to (see RFQ for additional services available):

- Observation and certification of construction components, such as shallow and deep foundations, excavation, fill placement, and compaction, shoring installation, testing, and removal, field density testing, ground improvement and remediation;
- Drilling, logging, and sampling of soil and/or bedrock;
- Standard Penetration Tests (SPTs);
- Cone Penetrometer Tests (CPTs);
- Geophysical surveys;
- Construction, development, and sampling of groundwater wells;
- Geotechnical laboratory testing of soil and/or bedrock samples;
- Geotechnical analyses;
- Infiltration testing;
- Seismic ground motion studies;
- Geotechnical and/or geologic report preparation;
- Soil and/or groundwater corrosion studies;
- Geologic field mapping of slopes and landslides;
- Preparation of GIS-based geologic maps;
- Preparation of geologic cross-sections;
- Detailed geologic mapping of exploratory fault trenches;
- Down hole geologic logging of exploratory borings;
- Geotechnical/geologic support in response to emergencies;
- Participation in meetings with regulatory agencies and the public in support of soil vapor surveys for methane or volatile organic compounds (VOCs), drilling, logging, and sampling of soil and/or bedrock, soil sampling by grab sample, hand auger, hollow-stem auger with California modified split-spoon samplers, or trenching, etc.;
- Analysis of soil, soil vapor, air, and groundwater samples by California-certified laboratories using EPA-approved test methods to define contaminant concentrations;
- Pump or slug testing to determine aquifer properties;
- Management, storage and transportation of contaminated media resulting from subsurface exploration;
- Geophysical surveys;
- Traffic control planning and implementation for subsurface investigations;
- Remedial investigations and review of alternative technologies;
- Feasibility studies to determine the most cost-effective, remedial action plan;
- Quantitative human health risk assessments;
- Design, permitting, construction, operation and maintenance of common soil and groundwater remediation systems;
- Methane mitigation plans and specifications, following City methane ordinances; and
- Health and safety plan preparation and industrial hygiene support.

The P/NG office intends to leverage the existing and upcoming new PQOC Geotechnical and Environmental Consultants list. Consultants will be selected and assigned work, when needed, as prescribed in the selection process established by the Bureau of Engineering.

In general, the department selects a consultant and assigns work by releasing a “Task Order Solicitation” (TOS) notice to the top consultant, top three consultants, or all the consultants on the list at the discretion of the City Engineer. The TOS describes the type of services being solicited and deliverables desired. The TOS is then advertised using the City of Los Angeles’ Business Assistance Virtual Network (BAVN). For work projects with a value in excess of

\$100,000, the TOS is issued to the entire PQOC list. For work projects with a value between \$50,000 and up to \$100,000, the TOS is issued to the top three (3) consultants/firms on the PQOC list. For work projects with a value less than \$50,000 and the work is general in nature, then the top consultant/firm on the PQOC list is selected. In some occasion, the City may opt to sole source a TOS due to practicality, feasibility, or other reason that may be in the City's best interest. Proposals are then submitted by interested consultants/firms on the PQOC list and reviewed by a selection committee, when applicable. In general, once a consultant/firm is selected and work is assigned, the proposer will be moved to the bottom of the list for the purpose of subsequent work assignments. Once an agreement is reached, the City will issue a Notice to Proceed. No work is authorized until the City issues the Notice to Proceed to the selected firm. No guarantee of work is given or implied to any of the consultants on the list. A consultant may reject any offer of work; however, three such rejections during the term of the contract, including failures to respond to Task Order Solicitation, may be cause for removal from the list.

IV. Potential Changes to LAAC Section 5.500 – Funding for P/NG Office

One of the recommendations from C.F. No. 15-0387, included a discussion of the potential changes or increased options for the use of oil pipeline funds deposited in the Council District Real Property Trust (RPT) fund, including the use of franchise revenues to fund the P/NG Office. Among the proposed changes was the elimination of the term "oil" and "right of way" from the existing ordinance. Currently, Electric Lines and Natural Gas Franchise Fees are deposited as General Fund revenue, while the Oil/Petroleum Franchise Fees revenue is split between the City's General Fund (50%) and Council District Real Property Trust Fund (50%). Pursuant to LAAC Section 5.500, each Council District's portion is determined by equally distributing the initial 25% of the revenues across all districts and the remaining 25% based upon the amount of pipeline footage (i.e. linear feet) located within each respective Council district. The City currently receives Franchise revenues from three major sources: (1) Electric Lines, (2) Natural Gas, and (3) Oil/Petroleum Pipelines, which also includes products such as potable water, steam, etc. In Fiscal Year 2015/2016, the revenue collected is \$237,494, \$15.4 million, and \$4.9 million, respectively.

Based on this Office's review, in collaboration with the Department of Transportation, the following three options were identified:

Option A: Southern California Gas

The first proposed change to the existing language is to delete the term "oil". This change allows for all other franchise fees, including Southern California Gas (SCG), to be diverted from the General fund and become part of the revenue distribution to council offices. For Fiscal year 2015/2016, the actual revenue to the General Fund from SCG was over \$15.4 million. If the proposed revenue distribution formula was in effect, approximately \$7.7 million (50% of the annual revenue) would be diverted from the General Fund to the Council District Real Property Trust fund.

This proposed transfer of funds is a policy decision and has a negative impact to the City's General Fund revenue for budgetary purposes. If this transfer is approved, the distribution would continue as currently outlined in LAAC 5.500. Thus, twenty five percent (25%) of the revenue

would be evenly distributed. The remaining twenty five percent (25%) would be distributed according to the amount of pipeline footage within each respective council district.

Since the SCG franchise fee is based upon 2% of the Utility's reported natural gas sales within the City, the amount will vary annually based upon the usage and the price of natural gas. Historically, the franchise fee can fluctuate millions of dollars annually from a high of \$27.2 million in 2006 to a low of \$ 15.4 million in 2016.

A potential redistribution of twenty-five percent (25%) of the revenue based upon pipeline footage would be challenging since the pipelines vary in diameter size and serve primarily residential properties. Given that sales of natural gas have a correlation to population and that council districts are based upon population, *a reasonable approach with less administrative burden would be to consider an evenly distributed revenue allocation.*

When the proposed Ordinance requested by City Council is presented and if approved, this approach is then recommended to be used for SCG only unless otherwise directed. Therefore, the proposed Ordinance requested may require revisions to incorporate said option. The oil pipeline franchise fees would continue to be distributed on a fixed percentage as well as the amount of pipeline footage within their respective council districts unless otherwise directed.

Option B: Public Right-of Way

Another potential change is eliminating the requirement of expenditures solely for infrastructure improvements on Public Right-of Way. This second policy change allows a wider amount of discretion for City Council's specific needs to be funded. Given that each Council District needs are varied, and certain areas may need services or improvements to supplement current service levels, this second (policy) option merits a full legal review and consideration.

Yet, because the SCG franchise fee generates a significant amount of discretionary General Fund revenue, this fee is recommended as an appropriate funding source for the Office of P/NG Administration and Safety. Given the commitment to improve and expand the functions of this Office, including addressing environmental health and safety issues, this option is more of a proactive approach to the oversight of the City franchises and leasing issues. This option would also help improve safety standards and operational compliance, become more sustainable in terms of full cost recovery for this function, and funding a full and robust staffing and contractual services plan.

Option C: Future Enhancements

A third option could be exploring future enhancements, such as the contracting of industry experts to assist in the financial audits of utility accounting to establish the appropriate framework for negotiations to enhance safety requirements and compliance and financial reporting. Retaining an industry expert to review and recommend if an alternate formula to increase the franchise fees can be used under the existing PUC guidelines could be explored. Alternatively, if new state legislation is needed to allow for the appropriate funding formula changes to remedy environmental justice issues, then the City Council could explore this option further, as well.

Finally, another variable to consider is the pending court decision regarding a potential surcharge to be added to the SCG franchise fee. There is an appeal in the case of Rolland Jacks vs. City of Santa Barbara, which involves a surcharge collected for general revenue purposes under a franchise agreement. The appeals court ruled that the surcharge, although approved by the PUC, was not part of the franchise as the city asserted but rather it was a tax.

The trial court considered whether the additional one (1%) percent surcharge was part of this franchise fee or a tax, in accordance with Proposition 218 and Proposition 26. These propositions require any general tax to be approved by the majority of qualified voters participating in an election, and, any special tax must be approved by two-thirds of the qualified voters in the election. Ultimately, any final decision regarding the potential re-distribution of the current level of franchise income is a policy decision with appropriate input from the Office of the City Attorney.

Lastly, the Petroleum Administrator has been tasked to conduct a review of the City's existing franchise fee structure to explore cost-benefit and impact of various restructuring options that may or may not change the landscape of how and what amount the City collects from franchise agreements. For example, the current fee structure for non-public pipelines is determined by a fixed price multiplied by the pipeline and vault cubic footage multiplied by an annual increase in CPI. The PUC also allows for franchise fees to be based on a percentage of receipts as an alternative to the cubic feet calculation methodology. The City is authorized by the PUC to negotiate any funding formula it desires for private utilities. Public pipelines are assessed on a formula determined by pipe size, linear feet and a fixed rate at this time. Other options that require exploration is the possibility of establishing a formula based on percentage of sales or revenue versus a hybrid approach which uses the existing structure with a mix of a fixed price and percentage of sales or revenue, including the review of other municipalities' fee structures, bench-marking data, and options that may be available towards full cost recovery. Results from this analysis is anticipated in by Fiscal Year End 2018/2019 at the earliest.

Next Steps:

In closing, in order to move forward with these major undertakings discussed in this report, it is necessary that the P/NG Office be fully funded, staffed with the proper resources, and applicable sections in the LAAC and LAMC be revised, amended, or added. For the upcoming Fiscal Year 2017/2018, it is anticipated that the P/NG Office will request approximately \$1.3 million to fund its operations. Revenues generated from this function may be used to fund its operations.

Further, the City Council has already requested that the City Attorney prepare and present an ordinance amending LAAC 5.500 to delete all references to the word "oil" and "right of way", effectively splitting all Electrical Line, Natural Gas, and Oil/Petroleum Franchise Fees between the General Fund (50%) and Council District Real Property Trust Fund (50%) (C.F. 15-0387). However, it is now recommended that the City Council request the Office of the City Attorney to add to that instruction to either (a) revise the upcoming proposed Ordinance or (b) prepare and present a separate Ordinance(s) to amend the LAAC Section 5.500 to first authorize the annual use of no more than 10% or \$1.5 million, whichever is greater, of all initial Electrical Line, Natural Gas, and Petroleum (Oil) Franchise Revenues collected by the City to fund the P/NG Office operations first and prior to any and all revenue transfers. This would include any transfers to the General Fund and Council District Real Property Trust Fund.

It is also recommended that the City Council request the Office of the City Attorney to separately prepare and present separate Ordinance(s) to amend or add a new section(s) to the Los Angeles Administrative Code Sections 13.1 through 13.76; Sections 19.48 through 19.71, Section 22.484; and Sections 22.319 through 22.326.1 (Div. 22, Ch. 13, Article 3) related to the oversight and administration of franchises, permits, and privileges; duties in respect to Petroleum Administration and Petroleum leases; powers and duties related to Public Utilities; and powers and duties in general for the Board of Public Works, respectively. In addition, amend the Los Angeles Municipal Code Sections 13.01(D), 13.01(E)2, 13.01(H) and 13.01(J) and other sections as applicable, related to Oiling Drilling Districts in connection to filing requirements, drilling standard conditions, drilling site requirements, and termination of districts. Said ordinances will align and transfer certain powers, duties, and responsibilities from the Board of Transportation or Director of the Office of Administrative and Research Services, including City Administrative Officer, to the Board of Public Works as required for this function.

FISCAL IMPACT STATEMENT:

Approval of these recommendations will not have an immediate fiscal impact in Fiscal Year 2016/2017 due to recent instructions approved by City Council to defer all general fund resource request until the proposed Fiscal Year 2017/2018 budget (see CF No. 16-1322). However, the request to fund six (6) new resolution positions in the proposed Fiscal Year 2017/2018 budget, including a request to continue funding the existing Utility Rates and Policy Specialist III position used for the Petroleum Administrator, will have an impact of approximately \$730,000. In addition, the P/NG Office anticipates submitting a request in its FY 2017/2018 proposed budget in the amount of \$600,000, to be placed in the Unappropriated Balance, to retain consultants to provide petroleum audits, test analysis, drill site evaluations, methane gas emissions, and other services. In aggregate, it is anticipated that the full annual cost to operate the P/NG Office is estimated at \$1.3 million. This total amount is anticipated to increase when community engagement staff is hired, if approved, in Fiscal Year 2018/2019.

Should you have any questions, please contact the Board of Public Works' Executive Officer, Fernando Campos, at (213) 978-0259 or via e-mail Fernando.Campos@lacity.org or the City's Petroleum Administrator, Uduak-Joe Ntuk, at (213) 978-1697 or via e-mail at Uduak.Ntuk@lacity.org.

Respectfully Submitted,



FERNANDO CAMPOS,
Executive Officer



UDUAK-JOE NTUK,
Petroleum Administrator

CC: Sharon M. Tso, Chief Legislative Analyst
Patty Huber, Acting City Administrative Officer (CAO)
Ana Guerrero, Chief of Staff, Mayor's Office
Barbara Romero, Deputy Mayor
Matt Szabo, Deputy Mayor
Kevin James, President, Board of Public Works
David Hirano, Chief, Office of the CAO
Paul Smith, Office of the CLA
Maria Souza-Rountree, Office of the CLA
Michael Nagle, Office of the City Attorney

TRANSMITTAL 1

Summary of Code Amendments for Petroleum Matters (Non-Comprehensive 1960–2016)

Section	Section Name	Date	Ordinance No.
Los Angeles Municipal Codes (LAMC) Note: Ch. 1 of Los Angeles Zoning Code Same			
13.01	Oil Drilling Districts (Various)	7/29/00	173,268
13.01B & 13.01D(4)	Drilling and Production Sites	1/24/82	156,166
13.01B	Los Angeles City Oil Field Area	12/18/05	177,103
13.01B	Off Shore Area	4/4/64	126,825
13.01B	Oil well definition	3/1/63	123,618
13.01B	Producing Zone	10/11/75	147,651
13.01D	Requirement for Filing	8/2/63	124,937
13.01D(2)b 13.01D(2)c	Requirement for Filing	1/17/59	112,524
13.01D(3)	Offshore Areas	4/4/64	126,825
13.01E(2)c	Urbanized Areas	10/11/75	147,651
13.01E(3)	Offshore Areas	7/22/71	142,081
13.01E(4)	Los Angeles City Oil Field Area	1/24/82	156,166
13.01E(4)c	Los Angeles City Oil Field Area	4/6/86	160,874
13.01F(62)	Additional Conditions	7/22/71	142,081
13.01G	Description of Districts	4/4/64	123,825
13.01G(3)	Districts in Offshore Areas	7/30/65	130,339
13.01G(4)	Districts in the LA City Oil Field Area	1/24/82	156,166
13.01H	Drilling Site Requirements	10/10/00	173,492
13.01J	Termination of Districts	7/29/00	173,363
13.01J	Termination of Districts	4/28/67	134,135
13.01J	Termination of Districts	1/24/82	156,166
13.01K	Maintenance - Drilling and Production Sites	8/3/61	119,399
13.01K	Maintenance - Drilling and Production Sites	11/29/63	125,877
11.5.10	Withdrawal of Appeal	3/20/06	177,335
Los Angeles Planning and Zoning Code (LAZC)			
12.24(U)29	Conditional Use Permits - Petroleum Based Oil Refineries	6/4/16	184,246
12.20	M3 Heavy Industrial Zone Application	9/26/60	116,820
Los Angeles Administrative Code (LAAC)			
22.484 and 22.319-326.1	Transportation Commission and Board of Public Works	Various	Various
19.48-50	Duties of Petroleum Administrator	Unknown (7/29/00)	111,015 (173,363)
19.53-71	Duties with Respect to Petroleum Leases	TBD (7/29/00)	114,262 (173,363)
19.01	Filing Fees – Oil Drilling	8/18/11 (7/29/00)	181,790 (173,363)
13.1–13.76	Granting of Franchises, Permits, and Privileges	Various	Various