

## ANALYSIS

This ordinance amends the proprietary industrial gas pipeline franchise granted by Ordinance No. 2011-0056F to Praxair, Inc., a Delaware Corporation, to: extend the term of the franchise for fifteen (15) years, through November 9, 2036; impose testing and reporting requirements pertaining to static, abandoned, idle, inactive, and out-of-service pipelines in compliance with applicable federal, State, and local pipeline laws; and make other minor revisions to clarify certain terms and conditions of the franchise.

RODRIGO A. CASTRO-SILVA  
County Counsel



By

HEIDI LIU  
Associate County Counsel  
Public Works Division

HL:mv

Requested: 08/02/2021  
Revised: 09/10/2021

**ORDINANCE NO. 2021-0053F**

An ordinance amending Ordinance No. 2011-0056F, a proprietary industrial gas pipeline franchise granted to Praxair, Inc., a Delaware Corporation, to: extend the term of the franchise for fifteen (15) years, through November 9, 2036; impose testing and reporting requirements pertaining to static, abandoned, idle, inactive, and out-of-service pipelines in compliance with applicable federal, State, and local pipeline laws; and make other minor revisions to clarify certain terms and conditions of the franchise.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 1 of Ordinance No. 2011-0056F is hereby amended to read as follows:

Section 1. Extension of Franchise Term, ~~Grant~~.

A. The right, privilege, and franchise ~~is granted~~, to Praxair, Inc., a Delaware Corporation ("Franchisee"), and its successors and assigns, is hereby extended for a period of ~~ten~~fifteen (10~~5~~) years, ~~beginning from~~ November 10, 2011~~21~~, through November 9, 2036 ~~the operative date of the this franchise~~, to lay, construct, reconstruct, maintain, operate, renew, repair, change the size of, remove, or abandon in place, pipes and pipelines for the collection, transportation, or distribution of gaseous nitrogen and other atmospheric gases, excluding any hazardous substances or hazardous waste within the meaning of the "Comprehensive Environmental Response Compensation and Liability Act of 1980," 42 U.S.C. sections 9601 et seq., ~~and amendments thereto~~as it may hereafter be amended, together with all manholes, valves, cathodic protection systems, appurtenances, and connections necessary or appropriate for the operation of

said pipes or pipelines, including poles, conduits, wires, cables, including adjunct communications lines, and other appurtenances and equipment for telegraph or telephone lines, or both, necessary or appropriate solely for ~~the~~ Franchisee's operations, in, under, along, or across, any and all highways, as defined in Section 16.36.080 of the Los Angeles County Code (~~"County Code"~~), now or hereafter dedicated to public use within the following described franchise areas within the unincorporated territory of the County of Los Angeles ("County"), State of California, and depicted on the ~~e~~Exhibit ~~m~~Map attached hereto: and made a part hereof.

**Part A. Unincorporated West Carson Area.**

Those unincorporated areas of the County lying within the following described boundaries:

Beginning at the intersection of the westerly boundary line of Normandie Avenue with the centerline of the San Diego (405) Freeway in the City of Los Angeles, California; thence easterly and southeasterly along said centerline of the San Diego (405) Freeway to the intersection with the centerline of the Harbor (110) Freeway; thence southerly along said centerline of the Harbor (110) Freeway to the intersection with the southerly boundary line of West Torrance Boulevard; thence westerly along said southerly boundary line of West Torrance Boulevard to the intersection with the westerly boundary line of Normandie Avenue; thence northerly along said westerly boundary line of Normandie Avenue to the point of beginning, as same centerlines and boundaries of said avenues, boulevards, and freeways existed on June 1, 2011.

**SECTION 2.** Section 2 of Ordinance No. 2011-0056F is hereby amended to read as follows:

Section 2. Consideration; Payment of Fees.

During such time as Franchisee's operations and rates for transportation are considered to be subject to the provisions of section 6231.5 of the California Public Utilities Code, the consideration shall be calculated pursuant to said section or other maximum amount permitted by law.

A. As consideration for ~~the~~a franchise granted or extended, ~~the~~ Franchisee shall pay to the County's Chief Executive Office ("CEO") ~~a one-time granting~~ fee of five thousand dollars (\$5,000) within thirty (30) days after the adoption of this amending ordinance.

. . .

G. In addition to the foregoing annual franchise fee, ~~the~~ Franchisee shall also pay to:

1. The Los Angeles County Department of Public Works, ~~Construction Division, Permit Section~~ ("Public Works"), within sixty (60) days after the end of each calendar year, for each year of the life of the franchise, an initial construction charge calculated at a rate of one hundred dollars (\$100) per mile, or fraction thereof, for all new main lines laid during that preceding calendar year; and

. . .

**SECTION 3.** Section 3 of Ordinance No. 2011-0056F, is hereby amended to read as follows:

~~SECTION~~Section 3. Reports.

~~The~~ Franchisee shall during the life of the franchise:

A. File with the County Auditor-Controller and ~~the CEO, Director of Real Estate~~Public Works, on or before the fee payment date, with one copy to each, a report, verified under oath by a duly authorized representative of ~~the~~ Franchisee, showing as of December 31 of the immediately preceding calendar year ("franchise report period"), the length of ~~the~~ Franchisee's main lines in highways, the nominal internal diameter of such main lines, the "rate per foot per year," defined as the amount payable per linear foot per year under Section 2, and the computation of the total amount of the annual franchise fee due to the County, together with such data as is necessary in the opinion of the County Auditor-Controller and/or ~~the CEO, Director of Real Estate~~Public Works, to calculate or verify the calculation of the annual franchise fee as required by Subsection 2.B.;

B. Show ~~in~~ the report prepared pursuant to subsection 3.A., above, ~~Franchisee shall also show:~~ any change in franchise footage since the end of the most recent franchise report period, ~~if any,~~ segregating such footage as to new main lines laid, old main lines removed, old main lines abandoned in place, including the internal diameter of such main lines laid, removed, and/or abandoned in place; the footage of new conduits laid for wires, cables, telegraph lines, or telephone lines, old conduits

removed, old conduits abandoned in place; the diameter of such conduits laid, removed, and/or abandoned in place; and the footage and internal diameter of main lines in territory annexed or incorporated since the last day of the most recent franchise report period.

C. ~~File with the Director of the County Department of Public Works and the CEO, Director of Real Estate,~~ on or before the fee payment date, ~~with one copy to each,~~ a report showing the permit number of each permit obtained for the installation of new main lines and conduits during the most recently completed franchise report period, together with the length and size of such main lines and conduits.

D. Within one year of the operative date of this amending ordinance:

1. Prepare and submit to Public Works procedures and a schedule for conducting routine and as-needed safety inspections and integrity testing ("Testing") of Franchisee's Inactive Pipeline(s) in compliance with all applicable federal, State, and local pipeline laws and regulations and the Los Angeles County Code ("Pipeline Laws"). Inactive Pipelines are defined as Franchisee's static, idle, inactive, and out-of-service pipelines, excluding any water or waste water pipelines.

2. Perform Testing of Franchisee's Inactive Pipelines through an independent third-party testing company, with oversight by appropriate agencies, or as may otherwise be requested by Franchisee and approved by Public Works, in compliance with the Pipeline Laws.

3. Provide evidence satisfactory to Public Works that each Inactive Pipeline, in compliance with the Pipeline Laws, has either: (1) undergone required

Testing and been approved for active use, or (2) been approved for removal or abandonment in place.

E. Comply with all Pipeline Laws, including but not limited to those pertaining to Testing, operating, and maintaining, as applicable, all of Franchisee's pipelines that are in active use or have been abandoned throughout the term of the franchise.

**SECTION 4.** Section 5 of Ordinance No. 2011-0056F is hereby amended to read as follows:

~~SECTION~~Section 5. Indemnification, Insurance, and Bonding.

Franchisee shall meet the following indemnification, insurance, and bonding requirements:

. . .

B. ~~The County~~Public Works shall be immediately notified by Franchisee of ~~all~~any discharge, release, or escape of any gaseous nitrogen, other atmospheric gases, or other substances from Franchisee's pipelines and appurtenances within the franchise area. All actions to investigate, remove, or remediate any substance reasonably demonstrated to be discharged, dispersed, released, or escaped from Franchisee's pipelines, and to repair or restore Franchisee's pipelines and appurtenances, shall be the sole responsibility of Franchisee and shall be conducted by Franchisee or Franchisee's agents, in conformance with any and all ~~applicable~~ laws, ordinances, rules, regulations, requirements, and orders whatsoever, present or future, of the federal, ~~s~~State, County, or other applicable local government at Franchisee's sole cost and expense, and shall be immediately undertaken by Franchisee or Franchisee's agents. If

Franchisee fails to take any action required pursuant to this ~~s~~Section, the County may, but shall not be obligated to, take all actions it deems appropriate at Franchisee's sole expense. Upon written demand by the County, Franchisee shall reimburse the County for all County expenses reasonably incurred in connection with the County's actions including, but not limited to, all direct and indirect costs relating to investigation, remediation, and removal.

C. Without limiting Franchisee's indemnification of the County or the County's agents, Franchisee shall provide and maintain at its own expense, during the term of this franchise, the following programs of insurance. Such programs and evidence of insurance shall be satisfactory to the County, and shall be primary to, and not contributing with, any other insurance or self-insurance programs maintained by the County.

1. Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to Public Works, on or before the ~~effective~~operative date of this ~~franchise~~amending ordinance, and on or before the expiration date of each term of insurance, ~~to the Chief Executive Office, Real Estate Division, Attn: Property Management Section, 222 South Hill Street, Third Floor, Los Angeles, California 90012,~~ or such other address(es) as Franchisee may be directed in writing by the CEO to use. Such certificates or other evidence shall:

. . .



d. Include a copy of the additional insured endorsement to the commercial general liability policy, adding the County and the County's agents as additional insureds for all activities arising from this franchise; and

...

D. Franchisee shall furnish ~~the CEO, Real Estate Division, at the location specified in Section 5.C.1 Public Works, above,~~ within thirty (30) days of the ~~adoption~~operative date of this amending ordinance, and within thirty (30) days of the expiration date of each term of insurance, either certified copies of the policies required by subsection 5.C<sub>7</sub>, ~~above,~~ or a certificate of insurance for each of said policies executed by ~~the~~ Franchisee's insurance agent, or by the company issuing the policy, certifying that the policy is in force.

E. As an alternative to commercial insurance from Franchisee, the County may consider and approve, at the County's sole option, Franchisee's use of a program of self-insurance or self-insured retention, upon ~~review and approval of~~ the following conditions:

1. ~~An agreement to~~Franchisee shall provide the County and the County's agents with indemnification in accordance with subsections 5.A<sub>1</sub> and 5.B<sub>7</sub>, ~~above.~~ The County shall be provided at least the same defense of suits and payments of claims as would be provided by the commercial insurance policy described above, and without being subject to a deductible or self-insured retention.

2. Franchisee shall submit to the County Aa formal declaration ~~by Franchisee~~ to be self-insured for the same types and amounts of coverage indicated in

this amending ordinance, subject to review and approval by the County. This can be in the form of a corporate resolution or a certified statement from an authorized principal of the Franchisee. Franchisee must notify ~~the CEO, Real Estate Division, at the location specified in subsection 5.C.1, Public Works~~ immediately of any discontinuation or substantial change in the self-insurance or self-insured retention program.

3. ~~An agreement to~~Franchisee shall notify ~~the CEO~~Public Works immediately of any claim, judgment, settlement, award, ~~verdict~~, or change in Franchisee's financial condition ~~which~~that would have a significant negative effect on the protection that the self-insurance or self-insured retention program provides to the County.

4. Franchisee shall provide to Public Works ~~The~~ name, address, and telephone number of Franchisee's legal counsel and claim representative, respectively, for the self-insurance or self-insured retention program.

5. Upon request by ~~CEO~~the County, Franchisee shall submit to the County an audited financial statement that gives evidence of Franchisee's capacity to respond to claims falling within the self-insurance or self-insured retention program. Resubmission of such a statement may be required annually for the duration of the franchise, or more frequently at the request of the ~~CEO~~County.

6. Franchisee shall submit to Public Works ~~A~~ Certificate of Consent to Self-Insure issued by the State of California, Department of Industrial Relations, certifying Franchisee's compliance with the requirements of the Director of Industrial Relations under the provisions of ~~the Labor Code of the State of California~~

~~{sections 3700 to 3705, inclusive,} of the California Labor Code,~~ and certifying that Franchisee has furnished satisfactory proof to ~~said Director~~Public Works of Franchisee's ability to self-insure and to pay any compensation that may become due to Franchisee's employees.

. . .

F. Within thirty (30) days following the ~~adoption~~operative date of this amending ordinance, Franchisee shall provide to ~~the CEO, at the location specified in subsection 5.C.1, above,~~Public Works a faithful performance bond in the sum of not less than fifty thousand dollars (\$50,000) payable to the County of Los Angeles and executed by a corporate surety, acceptable to the County and licensed to transact business as a surety in the State of California. Such bond shall be conditioned upon the faithful performance by ~~the~~ Franchisee of the terms and conditions of this franchise and shall provide that, in case of ~~any~~the breach of any condition of this franchise, the whole amount of the penal sum of fifty thousand dollars (\$50,000), or any portion thereof, shall be deemed to be liquidated damages, and shall be immediately payable to the County by the principal and surety(ies) of the bond.

. . .

2. The faithful performance bond shall continue to exist for one ~~(4)~~ year following the ~~CEO's~~County's approval of any sale, transfer, assignment, or other change of ownership of the franchise, or following the expiration or termination of the franchise. The ~~CEO~~County, in its sole discretion, may release said bond prior to the

end of the one ~~(1)~~-year period upon satisfaction by Franchisee of all the obligations under the franchise.

. . .

**SECTION 5.** Section 6 of Ordinance No. 2011-0056F is hereby amended to read as follows:

~~SECTION~~Section 6. Transfers and Assignments.

A. Franchisee shall not sell, transfer ~~(including stock transfer), exchange, assign, lease, hypothecate, place in trust, or change the control or~~ divest itself of, the franchise or any part thereof (each of which is hereinafter referred to as an "aAssignment"), to any other person or entity ("tTransferee"), except with the written consent of the ~~CEO~~Director of Public Works or his/her designee ("Director"), and after payment of a transfer fee as detailed in subsection 6.G., below. ~~As used in this section, "transfer" includes stock transfer, and "control" includes actual working control in whatever manner exercised.~~

B. Franchisee shall ~~give notice to the CEO~~inform Public Works of any pending aAssignment, except as excluded in subsection 6.E., ~~below~~, and shall provide all documents requested by the ~~CEO~~County, as set forth in subsection 6.F., ~~below~~, ~~on which the assignment is predicated~~. Consent to any such aAssignment shall only be refused if the ~~CEO~~County finds that Franchisee is not in ~~non~~compliance with the terms and conditions of the franchise and/or that the proposed tTransferee, as applicable, is lacking in sufficient experience and/or is financially ability ~~unable~~ to meet the franchise obligations. ~~Consent from the CEO~~ shall be conditioned upon the terms and conditions

set forth in the ~~a~~Assignment documents delivered to the County, the assumption by the ~~t~~Transferee, as applicable, of all ~~the~~ Franchisee's covenants and obligations under the franchise, and all information provided to the ~~CEO~~County under subsection 6.F., below, being true and correct as of ~~the time of submittal to the CEO~~completion of the Assignment. Upon receipt of such consent from the ~~CEO~~County, Franchisee may proceed to consummate the ~~a~~Assignment.

C. Franchisee shall file with the ~~CEO~~County, within thirty (30) days ~~after~~of the effective date of any ~~a~~Assignment, a certified copy of the duly executed instrument(s) ~~which~~that officially evidences such ~~a~~Assignment. If any such duly executed instrument(s) is not filed with the ~~CEO~~County within thirty (30) days after the effective date of such proposed ~~a~~Assignment, or if ~~the~~any conditions to consent by the ~~CEO~~County ~~have~~has not been met, then the ~~CEO~~County may determine, and then notify ~~the~~ Franchisee and the proposed ~~t~~Transferee, that the ~~a~~Assignment is ~~not~~ ~~deemed approved by the County~~has no force or effect or that the franchise is forfeited. ~~The CEO may then administratively determine that the franchise is forfeited and the Board may repeal this franchise.~~

D. As a condition to granting consent to such ~~a~~Assignment, the County may impose, by ordinance, such additional terms and conditions upon ~~this franchise and~~ upon the proposed ~~t~~Transferee ~~which the CEO recommends or~~as the Board deems to be in the public interest. ~~Such additional terms and conditions shall be expressed by ordinance.~~ Nothing contained herein shall be construed to grant Franchisee the right to

complete an ~~a~~Assignment except in the manner aforesaid. ~~This section applies to any assignment~~ whether by operation of law, by voluntary act of Franchisee, or otherwise.

. . .

F. Except for any assignments made pursuant to subsection 6.E., Upon notice by Franchisee of any pending ~~a~~Assignment, the proposed ~~t~~Transferee shall submit an ~~a~~Assignment application to the ~~CEO~~County, which shall contain at a minimum:

. . .

2. A current financial statement, which has been audited by a certified public accountant, demonstrating conclusively to the satisfaction of the ~~CEO~~County that the proposed ~~t~~Transferee has all the financial resources necessary to carry out all of the terms and conditions of the franchise. The financial statement shall include a balance sheet, and a profit and loss statement for at least the three (3) most recent years, and a statement of changes in financial position; however, if the proposed ~~t~~Transferee has been in existence for less than three (3) years, then for such period of existence.

. . .

4. Other information ~~which~~that may be required by the ~~CEO~~County to assess the capability of the proposed ~~t~~Transferee to operate and maintain the franchise.

G. The transfer fee shall be submitted with ~~the~~ Franchisee's request for the County's consent to any ~~a~~Assignment described in subsection 6.A. ~~above~~, and shall be determined as follows:

1. Consent to ~~a~~Assignment or any other action, in which the County does not elect to modify the franchise by adoption of an amending ordinance: ~~two~~five thousand ~~five hundred~~ dollars (~~\$25,500~~0).

2. Consent to ~~a~~Assignment or any other action, in which the County elects to modify the franchise by adoption of an amending ordinance: ~~five~~seven thousand five hundred dollars (~~\$57,500~~0).

3. In the event ~~that the~~ County's actual costs to process the proposed ~~a~~Assignment application, including any consultant's fees incurred by the County to assist in evaluating the application, exceed the fees detailed above, ~~the~~ Franchisee and ~~the~~ proposed ~~t~~Transferee may be required to pay any additional costs incurred by the County in processing the ~~Franchisee's and/or proposed transferee's~~ request for ~~a~~Assignment. Such costs shall be paid by ~~the~~ Franchisee and the proposed ~~t~~Transferee, or either, prior to final consideration of the request by the ~~CEO~~County or the Board, as applicable.

...

**SECTION 6.** Section 9 of Ordinance No. 2011-0056F is hereby amended to read as follows:

~~SECTION~~Section 9. ~~Franchise Operative Date.~~County Addresses.

~~The operative date of this franchise shall be November 10, 2011.~~

All fee payments, and reports required hereunder, except those expressly directed to be sent to Public Works, shall be sent to the County and addressed as follows:

Franchise/Concessions Section  
County of Los Angeles  
Office of the Auditor-Controller  
Administrative Services, Room 410  
500 West Temple Street  
Los Angeles, California 90012-2713.

Applications, reports, notices, and other documents and information referenced in this franchise shall be sent to the County, at the ~~same~~ address referenced above, with a copy to:

Los Angeles County Public Works  
Attn: Survey/Mapping & Property Management Division  
900 South Fremont Avenue  
Alhambra, CA California 91803.

**SECTION 7.** Section 10 is hereby added to Ordinance No. 2011-0056F to read as follows:

Section 10. Amending Ordinance Operative Date.

The operative date of this amending ordinance shall be November 10, 2021.

**SECTION 8.** Section 11 is hereby added to Ordinance No. 2011-0056F to read as follows:

Section 11. Termination.

If Franchisee fails to comply with any of the requirements of the franchise, the County may, in its sole discretion, terminate the franchise and/or seek any and all available remedies at law or in equity.

[PRAXAIRFRANHLCC]









A map of Southern California showing major cities. Long Beach is marked with a red dot on the coast. Other cities labeled include Lancaster, Palmdale, Santa Clarita, Los Angeles, Anaheim, and Long Beach. The map also shows the coastline and some inland roads.



### Legend

-  Unincorporated - West Carson Area
  City Boundary Line  
 Described Franchise Area
  Supervisorial District



MT: \\Pwisilong6-smb\gisfiles\SMPM\GIS\_Services\WPM\GIS\projects\mpm\Pipeline\_Franchise\Praxair\_Aerial.mxd DATE: Jul 12, 2021



### Legend

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MT: \\Pwisilong6-smb\gisfiles\SMPM\GIS Services\MPM\GIS\projects\mpm\Pipeline Franchise\Praxair.mxd DATE: Jul 12, 2021

**SECTION 9** This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Celia Zavala  
Executive Officer -  
Clerk of the Board of Supervisors  
County of Los Angeles

I hereby certify that at its meeting of October 5, 2021 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Hilda L. Solis  
Sheila Kuehl  
Janice Hahn  
Kathryn Barger  
\_\_\_\_\_

Noes

Supervisors None  
\_\_\_\_\_

Abstain

Supervisor Holly J. Mitchell  
\_\_\_\_\_

Effective Date: November 4, 2021  
Operative  
Date: November 10, 2021

\_\_\_\_\_  
Celia Zavala  
Executive Officer -  
Clerk of the Board of Supervisors  
County of Los Angeles



APPROVED AS TO FORM:  
RODRIGO A. CASTRO-SILVA  
County Counsel

By \_\_\_\_\_  
Dawyn Harrison  
Chief Deputy County Counsel