

ORDINANCE NO. 60.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS GRANTING TO SHELL OIL COMPANY, A DELAWARE CORPORATION, A FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A PIPELINE FOR THE TRANSPORTATION OF HYDRO-CARBON SUBSTANCES IN THE CITY OF HAWAIIAN GARDENS.

WHEREAS, Shell Oil Company, a Delaware corporation, heretofore has been granted a franchise for pipelines to transport hydrocarbon substances in lands now incorporated in the City of Hawaiian Gardens by Ordinance Number 3951 of Los Angeles County; and

WHEREAS, said Shell Oil Company has made application to this City Council for a pipeline franchise to supersede said Los Angeles County franchise insofar as the lands now incorporated in Hawaiian Gardens are concerned; and

WHEREAS, pursuant to Resolution No. 295, this City Council at a regular Council meeting held on November 22, 1966, declared its intention to grant said franchise to said Shell Oil Company;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS DOES ORDAIN AS FOLLOWS:

SECTION 1. Terms and conditions of Franchise:

ARTICLE 1

NATURE OF FRANCHISE

There is hereby granted to Shell Oil Company, a Delaware corporation (hereinafter referred to as "Grantee"), for the term of forty (40) years from and after date of this Ordinance, subject, however, to all the limitations and restrictions herein contained, the right, privilege and franchise to construct, erect, maintain, operate, repair, renew, change the size of and remove pipelines, not to exceed twelve (12) inches in internal diameter, for the transportation of oil, petroleum, gas, gasoline or other hydrocarbon substances, or water in, under, along and across the public streets, highways and alleys (hereinafter for convenience collectively referred to as "streets") in the City of Hawaiian Gardens (hereinafter referred to as "City") as described on Exhibit "A" attached hereto and made a part hereof.

This franchise shall include the right, for the period and subject to the conditions hereof, to so maintain, operate, repair, renew and change the size of the pipeline system, if any, of Grantee, as already laid and constructed in said streets.

The Grantee may transport any substances in addition to oil, petroleum, gas, gasoline or other hydrocarbon substances, or water, provided that the Grantee has first obtained the approval of the City Engineer and complies with any conditions thereon imposed by the City Engineer.

ARTICLE 2

APPURTENANCES

The Grantee shall have the right to construct and maintain such traps, manholes, conduits, valves, appliances, attachments and appurtenances (hereinafter for convenience collectively referred to as "appurtenances") as may be necessary or convenient for the proper maintenance and operation of the pipelines under said franchise, and said appurtenances shall be kept flush with the surface of the streets and so located as to conform to any order of the City Engineer in regard thereto and not to interfere with the use of the street for travel. The Grantee shall have the right, subject to such ordinances, rules or regulations as are now or may hereafter be in force, to make all necessary excavations in said highways, for the construction and repair of said pipelines and appurtenances.

ARTICLE 3

LOCATION OF PIPELINES

So far as is practicable, any pipelines hereinafter laid shall be located along the edge or shoulder of the streets or in the parking areas adjacent thereto so as not unreasonably to disturb the flow of traffic and where possible shall be laid in the unpaved portion of the street.

If the pipelines shall be laid across or along the paved portion of a street, the repair of the street, after the pipelines

have been laid, shall be made by the Grantee at the expense of the Grantee in accordance with the street excavation ordinance of the City. In the event that the Grantee shall fail or neglect to make such repairs, then thirty (30) days after notice therefor has been given Grantee by the City the City may repair said street at the expense of the Grantee, and upon the presentation of a bill therefor the Grantee shall pay the same at once. The amount so chargeable to the Grantee in such case shall be the actual cost of such repair plus twenty-six per cent (26%) thereof for overhead.

ARTICLE 4

CONSTRUCTION OF PIPELINES

A. Terms of Construction.

The pipelines and appurtenances constructed or maintained under the provisions of this franchise shall be constructed and maintained in a good, workmanlike manner and in conformity with all ordinances, rules or regulations now or hereafter adopted or prescribed by the City Council. All pipes laid under said franchise shall be of first-class material, and no pipe laid under this franchise shall exceed twelve (12) inches in internal diameter.

B. Restoration of Streets.

The work of constructing, maintaining or repairing all pipes, pipelines and appurtenances shall be conducted with the least possible hindrance to the use of the streets for purposes of travel, and as soon as such work is completed all portions of the streets which have been excavated or otherwise damaged thereby shall be placed in as good condition as they were before the commencement of such work, to the satisfaction of the City Engineer.

ARTICLE 5

COMMENCEMENT OF CONSTRUCTION

The Grantee, in good faith, shall commence the work of laying the pipelines and appurtenances within four months from the date of the passage of the ordinance granting this franchise, and if such pipelines

be not so commenced within said time, this franchise shall be declared forfeited; provided, however, that if the Grantee is maintaining and operating an existing pipeline system over the route referred to in Article 1 herein, it shall be deemed to be in compliance with the foregoing. The Grantee shall not commence the construction of any pipelines under the provision of this franchise or add to such existing pipeline system, if any there be, until it first shall have obtained a permit therefor from the City Engineer. The application of the Grantee shall show the following facts: the length, approximate depth and proposed location of the pipeline proposed to be laid or constructed, the size and description of the pipe intended to be used, and such other facts as the City Engineer may require. The Grantee shall pay any and all inspection fees of the City. Upon the completion of the construction of any pipelines constructed pursuant to said franchise, the Grantee shall render a statement to the chief financial officer of City, showing in detail the permit or permits issued and the total length of pipeline, the construction of which was authorized under such permit or permits, and the total length of pipeline actually laid, and the Grantee shall accompany said report with payment to City for the pipelines which have been actually constructed under said franchise at the rate of One Dollar (\$1.00) per rod.

ARTICLE 6

MAPS AND DATA TO BE FURNISHED

Within ninety (90) days following the date in which any pipelines or additional pipelines have been laid or constructed under this franchise, the Grantee shall file a map or maps in such form as may be required by the City Engineer showing the accurate location and size of all its facilities then in place, and shall, upon installation of any additional facilities or upon removal, change or abandonment of all or any portion thereof, file a revised map or maps showing the location and size of all such additional,

removed or abandoned facilities as of that date. If cathodic protection is to be used for facilities installed or maintained pursuant to this franchise, a description of the protective devices shall be furnished to the City Engineer which shall show the location and types of anodes, including a description of methods to be used as a protection against corrosion and electrolytic leakage.

ARTICLE 7

COMPENSATION TO THE CITY

A. Amount of Fee. As consideration for the franchise hereby granted, the Grantee shall pay annually to the City in lawful money of the United States, within twenty (20) days after the end of each calendar year, a fee computed by first multiplying one (1) cent by the nominal internal diameter in inches of all pipe laid pursuant to this franchise or subject hereto and then by multiplying the product thereof by the length of the said pipe in feet.

B. Computation of Payments. Such payments shall be computed from the effective date of this ordinance, to and including the date of either actual removal of the facilities or the effective date of a properly approved abandonment "in place" authorized by the City, and until the Grantee shall have fully complied with all the provisions of this ordinance and of all other applicable provisions of law or ordinance relative to such abandonments. All such payments shall be made to the chief financial officer of City and, if made by check, shall be made payable to the City. In the event of installation or abandonment of facilities with the approval of the City as elsewhere in this ordinance provided, or in the event of removal of such facilities by the Grantee, the payments otherwise due to the City for occupancy of the streets by such facilities shall be prorated for the calendar year in which such installation, removal or abandonment occurs as of the end of the calendar month in which installed, removed or abandoned.

ARTICLE 8

EMERGENCY EQUIPMENT AND CREWS

At all times during the term of this franchise, the Grantee shall maintain on a twenty-four (24) hour-a-day basis adequate emergency equipment and a properly trained emergency crew within a radius of twenty-five (25) miles from any facilities installed or maintained pursuant hereto for the purpose of shutting off the pressure and the flow of contents of such facilities in the event of an emergency resulting from an earthquake, act of war, civil disturbance, flood or other cause.

ARTICLE 9

BREAKS OR LEAKS

If any portion of any street shall be damaged by reason of breaks or leaks in any pipe or conduit constructed under this franchise, the Grantee thereof shall, at its own expense, immediately following written or oral notification thereof, repair any such damage and put such street in as good condition as it was in before such break or leak, to the satisfaction of the City Engineer.

ARTICLE 10

REARRANGEMENT OF FACILITIES

A. Expense of Grantee.

(1) If any of the Grantee's facilities shall endanger the public in the use of the public streets or interfere with or obstruct the use of any street by the public or for public purposes, the City shall have the right to require the Grantee, at the Grantee's expense, to move, alter or relocate the same (hereinafter called "rearrangement") to avoid such danger, interference or obstruction, in conformity with the written notice of the City Engineer.

(2) Whenever, during the existence of this franchise, the City, in the exercise of its governmental authority, as distinguished from its private capacity, shall change the grade, width or location of any street or improve any street in any manner, including the

laying of any sewer, storm drain, conduits, gas, water or other pipes, or construct any pedestrian tunnels, or other work of the City (the right to do all of which is specifically reserved to the City without any admission on its part that it would not otherwise have such rights), and such work shall, in the opinion of the City Engineer, render necessary any change in the position or location of any facilities of the Grantee in the street, including the support thereof, while such work is being done or performed, the Grantee shall, at its own cost and expense, do any and all things to effect such change in position, or location, in conformity with the written notice of the City Engineer; provided, however, that the City shall not require the Grantee to remove its conduits or lines entirely from such street.

(3) In case the Grantee shall fail to commence work in compliance with such written notice within thirty (30) days after service of same upon the Grantee (unless the Grantee shall be unable to comply with such notice by reason of strikes, riots, acts of God, or acts of public enemies, the City Engineer may cause the work required in said notice to be done by the City or, at the election of the City, by a private contractor. The Grantee agrees to pay the costs thereof within ten (10) days after delivery of an itemized bill therefor to it, or its local agent, or manager. The cost of doing said work shall be considered the actual cost, plus twenty-six per cent (26%) thereof for overhead. If the Grantee is dissatisfied with any determination of the City Engineer permitted by this section, it may petition the City Manager to review the same within ten (10) days after such determination. During the pendency of such petition, the work so required to be done shall be suspended. The decision of the City Manager thereon shall be final and conclusive.

B. Expense of Others.

(1) The City shall have the right to require the Grantee to rearrange any part of the Grantee's facilities for the accommodation

of the City or of any person, firm or corporation when such rearrangement is done for the accommodation of any water, electric, gas or other utility system now or hereafter owned or operated by the City. Except as otherwise provided in subsection A(2) of this Article 10, such arrangement shall be at the City's expense.

(2) When such rearrangement is done for the accommodation of any person, firm or corporation other than one of said utility systems owned or operated by the City, the cost of such arrangement shall be borne by the accommodated party. Such accommodated party, in advance of such arrangement, shall deposit with the Grantee or the City Clerk cash or a corporate surety bond in an amount, as in the reasonable discretion of the City Engineer, shall be required to pay the costs of such rearrangement, and such accommodated party shall execute an instrument agreeing to indemnify and hold harmless the Grantee from any and all damages or claims caused by such rearrangement.

(3) The rearrangements referred to in subsections (1) and (2) of Section B of this Article 10 shall be accomplished in conformity with the written notice of the City Engineer. In case the Grantee shall fail to commence work in compliance with such written notice within thirty (30) days after service of same upon the Grantee (unless the Grantee shall be unable to comply with such notice by reason of strikes, riots, acts of God or acts of public enemies), the City Engineer may cause the work required in said notice to be done by the City or, at the election of the City, by a private contractor. The Grantee agrees to pay to the City within ten (10) days after delivery of an itemized bill covering the cost of performing such work an amount equal to twenty-six per cent (26%) thereof for overhead. If the Grantee is dissatisfied with any determination of the City Engineer permitted by this section, it may petition the City Manager to review the same within ten (10) days after such determination. The decision of the City Manager thereon shall be final and conclusive.

C. Rearrangement of the Facilities of Others.

Nothing in this franchise contained shall be construed to require the City to move, alter or relocate any of its facilities upon said streets, at its own expense, for the convenience, accommodation or necessity of any other public utility, person, firm or corporation, or to require the City, or any person, firm or corporation now or hereafter owning a public utility system of any type or nature, to move, alter or relocate any part of its system upon said streets for the convenience, accommodation or necessity of the Grantee.

D. Notice.

The Grantee shall be given not less than thirty (30) days' written notice of any rearrangement of facilities which the Grantee is required to make hereunder. Such notice shall specify in reasonable detail the work to be done by the Grantee and shall specify the time that such work is to be accomplished. In the event that the City shall change the provisions of any such notice given to the Grantee, the Grantee shall be given an additional period not less than thirty (30) days to accomplish such work.

ARTICLE 11

REMOVAL OR ABANDONMENT OF FACILITIES

At the time of expiration, revocation or termination of this franchise or of the permanent discontinuance of the use of its facilities, or any portion thereof, the Grantee shall, within thirty (30) days thereafter, make a written application to the City Engineer for authority either: (1) to abandon all, or a portion, of such facilities in place, or (2) to remove all, or a portion, of such facilities. Such application shall describe the facilities desired to be abandoned by reference to the map or maps required by Article 6 of this ordinance and shall also describe with reasonable accuracy the relative physical condition of such facilities. Thereupon, the City Engineer shall determine whether any abandonment or

removal which is thereby proposed may be effected without detriment to the public interest or under what conditions such proposed abandonment or removal may be safely effected and shall then notify the Grantee, according to such requirements as shall be specified in the City Engineer's order, and within ninety (90) days thereafter, to either:

- (a) Remove all or a portion of such facilities, or
- (b) Abandon in place all or a portion of such facilities.

If any facilities to be abandoned in place subject to prescribed conditions shall not be abandoned in accordance with all such conditions, then the City Engineer may make additional appropriate orders, including, if he deems desirable, an order that the Grantee shall remove all such facilities in accordance with applicable requirements. In the event the Grantee shall fail to remove any facilities which it is obligated to remove in accordance with such applicable requirements within such time as may be prescribed by the City Engineer, then the City may remove such facilities at the Grantee's expense and the Grantee shall pay to the City the actual cost thereof to the City plus twenty-six per cent (26%) for overhead.

ARTICLE 12

COMPLETION OF WORK

Whenever the Grantee fails to complete any work required of the Grantee by the terms of this franchise within the time limits required hereby, the City may cause such work to be completed by the City or, at the election of the City, by a private contractor. The Grantee agrees to pay to the City within ten (10) days after delivery of an itemized bill covering the cost of performing such work, an amount equal to twenty-six per cent (26%) thereof for overhead. If the Grantee is dissatisfied with the determination of said amount, it may petition the City Manager to review the same within ten (10) days after such determination. The decision of the City Manager shall be final and conclusive.

ARTICLE 13

BOND

The franchise is granted on the condition that the Grantee has now and shall at all times during the life of this franchise keep on file with the City a bond running to the City in the sum of One Thousand Dollars (\$1,000.00) executed by a reputable indemnity company entitled to do business in the State of California. The said bond shall contain the conditions that the Grantee shall well and truly observe, fulfill and perform each and every term and condition of this franchise, and that in case of any breach of condition of said bond the whole amount of the sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and from the sureties upon said bond. The provisions of this Article 13 shall not exempt the Grantee from compliance with any of the laws of the City in force during the term hereof which require the Grantee to post a bond other than the bond required by this Article 13.

ARTICLE 14

INSURANCE

The Grantee, if it has not already done so, shall procure and keep in effect throughout the term of this franchise a policy or policies of liability insurance from an insurance company authorized to do business in California, in an amount not less than \$100,000 for any person and \$300,000 for any accident and \$25,000 for property damage. Said policy or policies shall name the City, its agents and employees as persons coinsured with the Grantee. A certified copy thereof shall be filed in the office of the City Clerk at his request.

ARTICLE 15

INDEMNIFICATION BY GRANTEE

The Grantee, by the acceptance or use of the franchise hereby granted, agrees to keep and save free and harmless the City, its officers, agents and/or employees, against any and all claims, demands

or causes of action which may be asserted, prosecuted or established against them, or any of them, for damage to persons, or property, of whatsoever nature, arising out of the use by it of the City streets hereunder or arising out of any of the operations or activities of the Grantee pursuant to this franchise, whether such damage shall be caused by negligence or otherwise, excepting therefrom, however, any claim, demand or cause of action, which may be asserted, prosecuted or established against the City under the provision of the Workmen's Compensation Act for injury to or the death of any of City's officers, agents or employees while acting within the scope of their employment; and further excepting therefrom any claim, demand or cause of action arising out of the negligence of the City, its officers, agents and/or employees.

ARTICLE 16

ASSIGNMENT

The Grantee shall not sell, lease or assign this franchise or the rights or privileges granted hereby, or any of them, without the consent of the City Council nor shall this franchise be sold, leased or assigned except by a duly executed instrument in writing filed in the office of the City Clerk; and nothing in this franchise contained shall be construed to grant to the Grantee any right to sell, lease, or assign this franchise, or any of the rights or privileges hereby granted, except in the manner aforesaid; provided, however, that the aforesaid provisions of this Article 16 shall not prohibit the Grantee from using its pipelines for the purpose of transporting for other persons oil, petroleum, gas, gasoline or other hydrocarbon substances or water or any other approved substances, or leasing less than a one hundred per cent (100%) interest in its pipelines for such purpose, but in such event the Grantee shall be responsible to the City for the full performance and observance of the terms and conditions of this franchise by itself and such other persons.

ARTICLE 17

DEFAULT

A. Default.

In the event that the Grantee shall default in the performance of any of the terms, covenants and conditions herein, the City may give written notice to the Grantee of such default. In the event that the Grantee does not commence the work necessary to cure such default within thirty (30) days after such notice is sent or prosecute such work diligently to completion, the City may declare this franchise forfeited by giving written notice thereof to the Grantee, whereupon this franchise shall be void and the rights of the Grantee hereunder shall cease and determine and the Grantee shall execute an instrument of surrender and deliver the same to the City.

B. Cumulative Remedies.

No provision herein made for the purpose of securing the enforcement of the terms and conditions of this franchise shall be deemed an exclusive remedy, or to afford the exclusive procedure, for the enforcement of said terms and conditions, but the remedies and procedure herein provided, in addition to those provided by law, shall be deemed to be cumulative.

ARTICLE 18

SCOPE OF RESERVATION

Nothing herein contained shall ever be construed so as to exempt the Grantee from compliance with all ordinances of the City now in effect or which may be hereafter adopted which are not inconsistent with the terms of this franchise. The enumeration herein of specific rights reserved shall not be construed as exclusive, or as limiting the general reservation herein made or as limiting the general reservation herein made or as limiting such rights as the City may now or hereafter have in law.

ARTICLE 19

NOTICE

Any notice required to be given under the terms of this franchise, the manner of service of which is not specifically provided for, may be served as follows:

Upon the City, by serving the City Administrator, or the City Clerk, personally or by addressing a written notice to the City Administrator of the City of Hawaiian Gardens, City Hall, 12134 Tilbury Street, Hawaiian Gardens, California 90701, and depositing such notice in the United States mail, postage prepaid.

Upon the Grantee by addressing a written notice to Grantee, addressed to Shell Oil Company, Shell Building, 1008 West Sixth Street, Los Angeles, California 90054 (or such other address as may from time to time be furnished in writing by one party to the other and depositing said notice in the United States mail, postage prepaid).

When the service of any such notice is made by mail, the time of such notice shall begin with and run from the date of the deposit of same in the United States mail.

ARTICLE 20

SUCCESSORS

The terms herein shall inure to the benefit of or shall bind, as the case may be, the successors and assigns of the parties hereto, subject, however, to the provisions of Article 16.

ARTICLE 21

RESTRICTION ON SERVICE

The Grantee shall not use any of the lines laid pursuant to the provisions of this franchise for the purpose of acting as a public utility. In the event that the Grantee shall violate the provisions of this Article 21, the City may give written notice to the Grantee of such default. In the event that such default is not cured within thirty (30) days after said notice is sent, the City may declare this franchise void in accordance with the provisions in the last sentence of Section B of Article 17.

ARTICLE 22

ACCEPTANCE OF FRANCHISE

This franchise is granted and shall be held and enjoyed only upon the terms and conditions herein contained, and the Grantee must, within thirty (30) days after the passage of the ordinance granting said franchise, file with the City Clerk a written acceptance of such terms and conditions.

ARTICLE 23

FORCE MAJEURE

The time within which Grantee is obligated hereunder to construct, erect, maintain, operate, repair, renew, change the size of and remove pipelines or other improvements shall be extended for a period of time equal in duration to, and performance in the meantime shall be excused on account of and for and during the period of, any delay caused by strikes, threats of strikes, lockouts, war, threats of war, insurrection, invasion, acts of God, calamities, violent action of the elements, fire, action or regulation of any governmental agency, law or ordinance, impossibility of obtaining materials, or other things beyond the reasonable control of Grantee.

SECTION 2.

Any rights respecting lands incorporated in the City of Hawaiian Gardens acquired by Grantee by Ordinance Number 3951 of Los Angeles County are hereby extinguished.

SECTION 3.

This ordinance shall take effect thirty days after the date of its adoption, and prior to the expiration of fifteen days from the passage thereof shall be published at least once in the ^{The} Community Advocate, a newspaper of general circulation within the City of Hawaiian Gardens.

Introduced and approved this 27th day of December, 1966.

Adopted and passed this 10th day of January, 1966x67

ATTEST:

James Alexander
City Clerk

C. Robert Lee
Mayor of the City of Hawaiian
Gardens

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF HAWAIIAN GARDENS)

I, Noyes Alexander, City Clerk of the City of Hawaiian Gardens, California, DO HEREBY CERTIFY that the foregoing ordinance was introduced and approved at a regular meeting of the City Council held on the 27th day of December, 1966, and adopted and passed at a regular meeting of said Council held on the 10th day of January 1967, ~~1966~~, by the following roll call vote:

AYES: COUNCILMEN: Lee, Leach, Johnson & Rodgers

NOES: COUNCILMEN: None

ABSENT: COUNCILMEN: Furgeson



City Clerk of the City of
Hawaiian Gardens

APPROVED AS TO FORM:

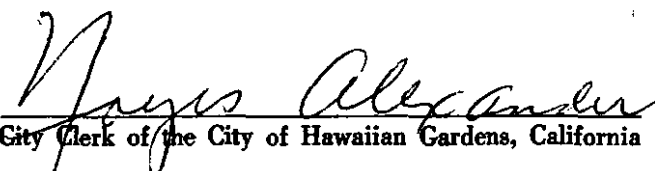
Graham Ritchie,
City Attorney

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES, } SS.
CITY OF HAWAIIAN GARDENS.

I, NOYES ALEXANDER, City Clerk of the City of Hawaiian Gardens, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing ORDINANCE being ORDINANCE No. 60 was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of said Council held on the 10th day of January, 1967 and that the same was so passed and adopted by the following vote:

Ayes:	Councilmen <u>Lee, Leach, Johnson, Rodgers</u>
	_____;
Noes:	Councilmen <u>None</u>
	_____;
Absent:	Councilmen <u>Furgeson</u>
	_____;
Not Voting	Councilmen <u>None</u>
	_____.

Witness my hand and the seal of said City this 10 day of January, 19 67.


City Clerk of the City of Hawaiian Gardens, California

(SEAL)