

Franchises

Cities and other public agencies owning real property are authorized to enter into various kinds of franchises, i.e., generally a form of agreement governing use of an agency's property. For example, the California Public Utilities Code authorizes agencies to enter into franchises with companies operating pipelines carrying hydrocarbon substances for pipelines located within the agency's property. Under the Code, an agency entering into such a franchise is entitled to be paid an annual amount based on the size and length of the pipeline within its property.

The basic terms and conditions governing the pipeline operator's use of public property are established by the Public Utilities Code, but because the Code's provisions are very general, specific terms are left to be negotiated. As a result, negotiating such terms and conditions with pipeline operators can be contentious. Furthermore, since pipeline franchise fees are generally established by formulas set forth in the Public Utilities Code, there is little opportunity to negotiate potential revenue. However, because hydrocarbon-carrying pipelines can present substantial environmental risks, negotiating the best insurance and indemnity, and pipeline inspection and maintenance provisions, serves to ensure the greatest protection for the public. Because pipeline franchises typically have terms that run for years, having the assistance of attorneys with substantial experience in negotiating such franchises is critical to obtaining that environmental protection.

Other kinds of franchises that public agencies will ordinarily be required to negotiate include franchises for solid waste and recycling hauling and disposal. The applicable laws governing such franchises are very specific and issues always involve the amount of fees. Furthermore, as with pipeline franchises, solid waste and recycling franchises require substantial negotiation as they typically extend over many years, as necessary to amortize the franchisee's investment. Accordingly, having the assistance of attorneys with substantial experience in negotiating such franchises is critical to obtaining the greatest benefit to the public. Richards, Watson, and Gershon has a depth of legal experience advising public agencies in every area of franchise law.

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