

BILL

No. 40 of 1911.

An Act to Validate and Confirm certain By-laws of the City of Calgary and Agreements executed thereunder Granting Certain Franchises.

(Assented to 1911.)

WHEREAS under and by virtue of By-law Number 500 of the City of Calgary, set forth in schedule A hereto annexed, the said corporation has granted a certain franchise to one David Morris and his associates; and

Whereas under and by virtue of by-law of the said city number 610 and agreement executed thereunder, set forth in schedule B hereto annexed, the said corporation has granted a certain franchise to Archibald Wayne Dingman and his associates; and

Whereas the said Archibald Wayne Dingman assigned and transferred the said agreement and the franchise thereby granted to The Calgary Natural Gas Company, Limited; and

Whereas under and by virtue of by-laws numbered 646, 863, 1097 and 1114 respectively and agreements executed thereunder, dated the 12th day of January, A.D. 1906, the 2nd day of June, A.D. 1908, the 11th day of August, A.D. 1910, and the 23rd day of January, A.D. 1911, respectively, between the City of Calgary and The Calgary Natural Gas Company, Limited, set forth in schedule C hereto annexed, the said agreement executed under and in pursuance of by-law number 610 and the franchise thereby granted were amended, varied and extended; and

Whereas The Calgary Natural Gas Company, Limited, has assigned and transferred to The Canadian Western Natural Gas, Light, Heat and Power Company, Limited, all of the said agreements and the franchise thereby granted; and

Whereas under and by virtue of by-law number 1212 and agreement executed thereunder, set forth in schedule D hereto annexed, the corporation of the City of Calgary consented to and approved of the assignment of the said agreements and franchise by The Calgary Natural Gas Company, Limited, to The Canadian Western Natural Gas, Light, Heat and Power Company, Limited, and granted to the said The Canadian Western Natural Gas, Light, Heat and Power Company, Limited, the powers and privileges contained and set forth in the said agreements; and

Whereas a petition has been presented praying for the confirmation and validating of all of the said by-laws and agreements executed thereunder, and it is expedient to grant the prayer of the said petition;

Now therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. The said by-laws and the said franchises granted as aforesaid and all the rights, powers, liberties and privileges, exclusive and otherwise, granted by, and all the terms, provisions and conditions contained in, the said by-laws and agreements are hereby declared to be in full force, virtue and effect and to be legal, valid and binding upon the corporation of

the City of Calgary notwithstanding any informalities, irregularities or defects therein either in substance or form and notwithstanding that the said corporation may not have had the power to pass the said by-laws or any of them, or to enter into the said agreements or any of them, or to grant the said rights, powers, liberties and privileges, exclusive and otherwise, or any of them.

(2) It is hereby further declared that the said agreements and the said franchises, rights, powers, liberties and privileges, exclusive and otherwise, are now and have from the time when the same were respectively entered into or granted been assignable by the persons or corporations mentioned in the said by-laws and agreements as being the persons with whom the same were granted and made and their respective heirs, executors, administrators, successors and assigns, to any persons or corporations for themselves, their heirs, executors, administrators, successors and assigns, and further that the said agreements and the said franchises, rights, powers, liberties and privileges, exclusive and otherwise, are now held by and have enured to the benefit of the persons or corporations to whom the same or any of them may have been so assigned.

SCHEDULE A.

CORPORATION OF THE CITY OF CALGARY.

BY-LAW No. 500.

A By-law respecting the establishment of the Gas Works in the City of Calgary.

The municipal council of the City of Calgary enacts as follows:

1. David Morris, civil engineer, of the City of Calgary and associates, hereinafter called "the company," are hereby granted the right, subject to the terms, conditions and provisions hereinafter contained, which terms and conditions and the one fulfilment thereof are to be taken as conditions precedent to the enjoyment of the rights and privileges hereby granted, to erect, construct, maintain and operate gas works within the limits of the City of Calgary; and to lay down, relay, connect, disconnect, and repair all pipes along, through or under the streets, alleys, grounds, bridges and thoroughfares of the said City of Calgary, that may be necessary for supplying gas to the consumers thereof, and erect any pillars, lamps or other works in the locations designated by the city engineer, and with the consent of the council, do all other things necessary for supplying gas to the inhabitants or corporation of the said City of Calgary aforesaid, doing as little damage as may be in the execution of the powers hereby granted, subject to any Ordinance of the North-West Territories granting powers to other companies and to any by-laws of the city respecting the same, and shall during the progress of the work, and at all times cause as little obstruction as possible, and will restore the streets to the proper condition.

2. The company shall within ninety days from the final passage of this by-law, unless prevented by strikes, unavoidable accidents or weather, commence to construct and erect and establish gas works and buildings adequate to the supply of gas, within or near the limits of the said City of Calgary; and

such construction, erection and establishment shall be carried on continuously, having regard to the inclemency of the weather and elements, until such works are complete to supply the demand for gas to consumers, and shall on demand supply at all times therefrom to all persons as hereinafter mentioned an adequate amount of gas of good quality at the house, establishment, works or residence of the person requiring the same.

And the company shall within the period of two years from the passage of this by-law expend upon the construction of the gas works the laying of mains, services, etc., not less than the sum of \$50,000 (fifty thousand dollars).

3. Price of gas supplied by the company for lighting purposes shall be \$2.00 per thousand cubic feet, and the company shall supply as much gas as may be required within the limits aforesaid, within fifty feet of any main laid by the company, and shall supply the corporation with gas for power and lighting purposes at a price not to exceed \$1.25 per thousand cubic feet. Gas for cooking and heating purposes shall be supplied at not more than \$1.75 net per thousand cubic feet, and gas required for power by any person or corporation other than the city, shall be supplied at not more than \$1.75 per thousand cubic feet.

3a. The company hereby agrees to make the following reductions in the price of gas for cooking, heating and lighting purposes, based upon the present prices of gas coal at \$4.50 per ton, and labour at \$2.00 per day. When the daily sale of gas for the above stated purposes exceeds 30,000 cubic feet per day, a reduction of 10 per cent. shall be made. And when the daily sale exceeds 50,000 cubic feet for these purposes, a reduction of 20 per cent. shall be made. And when the sale of gas exceeds 75,000 cubic feet per day, a reduction of 30 per cent. shall be made. And when the sale of gas for the above purposes exceeds 100,000 cubic feet per day, a reduction of 40 per cent. off the original rate of \$2.00 and \$1.75 respectively.

4. The company shall, subject to the provisions hereinafter contained, on demand, introduce into or through the walls or inclosure of a house, shop, establishment or residence of any person requiring the same, a proper service pipe, with stop cock, at a fair price, not exceeding for all the sum of fifteen dollars, and shall also furnish a gas meter to accurately measure all gas consumed, and the company shall keep aforesaid service, stop cock and meter in proper order and repair, provided that it will not be compulsory on the company to furnish or introduce the same as aforesaid to any shop, establishment or residence at a distance of more than fifty feet from their mains save as hereinafter mentioned.

5. Provided that any person desiring a supply of gas if the place wherein such gas is required be situated more than fifty feet from any main, may require the company to supply such service pipe and stop cock for the price above mentioned in addition to a sum not exceeding \$1.00 per foot for each foot of distance over and above the said fifty feet.

6. With permission of the city council the company may, if found necessary, make any sewers that may be found necessary for carrying off the washings and waste liquids which may arise in the making of gas, and for the purpose aforesaid may with the consent of the council remove and raise all material in such streets and bridges, and that they may with the consent of the council in such streets do all other acts which the company from time to time deem necessary for supplying gas

within the limits specified; doing as little damage as may be, in the execution of the powers herewith granted, subject to any Ordinance of the North-West Territories granting powers to other companies, and any by-law of the city respecting the same; and shall, during the progress of the work, cause as little obstruction to travel as possible, and will restore the streets to their proper condition.

7. Nothing herein contained shall authorize or empower the company to lay down or place any pipes or other works into, through or against any building or land not dedicated to public use, without the consent of the owners or occupiers thereof.

8. Before the company proceed to break up any street, bridge or pavement, they shall give to the city engineer or other authority under whose control or management the same may be, notice in writing of their intention to open or break up the same, not less than three clear days before the beginning of this work, except in cases of emergency arising from the defects in the pipes or other works, when immediate notice shall suffice.

9. When the company open or break up the road or pavement of any street or bridge, they shall with all convenient speed complete the work for which the same has been broken or opened up, and shall fill in the ground, reinstate and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, if required, while any such street or pavement shall be broken up, cause a light, sufficient for the warning of passengers, to be set up and maintained every night during which the same shall be broken up, and a proper guard during the day, to the satisfaction of the city engineer.

10. The company shall be liable for, and shall indemnify the city for any damages arising out of the construction and operation of the said gas works, including therein the construction and keeping in repair every main, sewer, or any other work provided for and done by the said company in connection with the said works or the conveying of gas or sewerage through such mains and sewers, and including any damage the city may be held liable for from breach of any Ordinance of the North-West Territories or of any by-law of the city, by the company, its servants, agents or employees.

11. If at any time in the opinion of the city council, the profits on the gas sold in the city be excessive, the company shall submit to arbitration the question of the price charged for gas supplied, and shall produce their books and other papers for inspection, and the prices shall be adjusted according to the decisions of said arbitrators, but not in any case to reduce the company's profits under 15 per cent. per annum, subject to clause 3a.

12. The city shall have the right on the expiry of ten years or at any time thereafter from the date of the passing of this by-law to take over and own the aforesaid gas works at 10 per cent. advance over and above the capital expenditure of the company in erecting and establishing the said gas works, plant and business. No value being allowed for establishment of system or for the franchise granted by this by-law.

13. The rights, privileges and liberties mentioned in this by-law shall, subject to the provisions of clause 12 of this agreement, be enjoyed by the company for a period of thirty-five years, and exclusively for a period of fifteen years, provided that all rights and privileges and liberties revert to the city if purchase is made under clause 12 thereof.

14. This by-law shall constitute a covenant on the part of the company to conform to, and observe the same and the fulfilment thereof, and shall be deemed conditional to the enjoyment by the said company of the aforesaid privileges and rights.

15. In this by-law the term "city" shall mean the "City of Calgary," "city council" shall mean the "Municipal Council of the City of Calgary," "city engineer" shall mean the "city engineer of the City of Calgary," and the word "company" shall include, refer to, and be in every way binding upon the said David Morris, the company, his and their successors, and each of their heirs, executors, administrators and assigns.

16. The company are hereby granted the right to build and maintain along or across one lane or one street railway switch or siding to be used in connection with the building and operations of the said gas works to the main line of the Canadian Pacific Railway Company, subject to the conditions contained in an agreement that shall be entered into between the city and the company satisfactory to the city, when the company select the street or lane on, or along, or across which such switch is to be laid.

17. The company or its proper officer shall produce to the city engineer, or an official named by the city, a true and correct inventory of all plant provided for use in said gas works, from time to time, and such inventory signed by the proper officer of the company and the city engineer, or the official appointed by the city, shall be filed by the city clerk, and no plant other than such as is included in such inventory shall be valued in case of purchase as aforesaid by the city.

18. That the mayor and clerk of the City of Calgary are hereby authorized to execute an agreement in the terms of this by-law setting thereto their respective hands and the seal of the city.

19. That this by-law shall come into effect on the first day of August, A.D. 1903.

20. That the votes of the electors duly qualified to vote on this by-law be taken on the 22nd day of July, A.D. 1903, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, at the clerk's office at the city hall for voters, in ward 1; at Ellis & Grogan's office for voters in ward 2, and at Thomas Underwood's office for voters in ward 3.

21. That Charles McMillan be returning officer for said election, and that Harry E. Kirke be deputy returning officer for ward 1, and that Anthony M. Grogan be deputy returning officer for ward 2 and Thomas S. Burns be deputy returning officer for ward 3.

Done and passed in council this 11th day of August, A.D. 1903.

(Signed) THOS. UNDERWOOD,
Mayor.

(Signed) C. McMILLAN,
Clerk.

[L.S.]

SCHEDULE B.

By-Law 610.

A by-law to authorize the mayor and clerk to execute an agreement with Archibald Wayne Dingman for natural gas.
The council of the City of Calgary enacts as follows:

Whereas Archibald Wayne Dingman has offered to supply to the City of Calgary natural gas for light and heat purposes upon certain terms;

And whereas the council of the city is desirous of accepting such offer;

And whereas the said Archibald Wayne Dingman and the council have agreed upon terms and conditions upon which the said power will be accepted by the city if approved of by the ratepayers of the city and have embodied the same in the agreement hereto annexed marked A;

And whereas it is necessary that the said agreements should be executed on behalf of the city by the mayor and clerk upon the said agreement being ratified by a vote of the ratepayers taken in the case of a money by-law under the Ordinance incorporating the city and amendments thereto;

Now therefore the mayor and clerk of the City of Calgary are hereby authorized to affix the seal of the city and to execute the said annexed agreement marked A as soon as the same is ratified and agreed to by a vote of the ratepayers taken as in the case of a money by-law requiring to be submitted to such vote.

Done and passed in council this 21st day of August, A.D. 1905.

(Signed) J. EMERSON, *Mayor*.

(SEAL)

(Signed) H. E. GILLIS, *Clerk*.

“A”

MEMORANDUM OF AGREEMENT made this 14th day of August, A.D. 1905.

Between—

Archibald Wayne Dingman, of the City of Toronto, in the Province of Ontario, agent, on behalf of himself and his associates, both present and future, and his and their assigns, whether incorporated or otherwise, hereinafter called “the said company,”

of the First Part,

and

The City of Calgary, in the District of Alberta, in the Northwest Territories of Canada, hereinafter called “the said city,”

of the Second Part.

Whereas the said company proposes to undertake boring or drilling operations in, or in the vicinity of, the said City of Calgary for the purpose of ascertaining whether natural gas or other natural fuel products can be obtained in paying quantities;

And whereas in order to encourage the undertaking the said city deems it expedient to enter into this agreement;

Now therefore this agreement witnesseth that the parties hereto mutually covenant and agree, as follows:

1. That wherever the word “council” occurs in this agreement it shall be held to mean the council of the said city within the terms and provisions of Ordinance No. 33 of the Northwest Territories and any amendments thereto;

That wherever the word “engineer” occurs in this agreement it shall be held to mean the city engineer or proper official appointed by the said city for the purpose of carrying out the terms and provisions of this agreement, subject to the approval of the council;

That wherever the word “street” occurs in this agreement, it shall be held to mean any street, avenue or lane

showing as such on the plans of the said City of Calgary registered in the land titles office for the South Alberta Land Registration district;

2. That the said company shall within six months from the date on which by-law No. 610 of the said city receives the approval of the ratepayers of the said city as by law provided, commence active operations for the purpose of boring or drilling in, or in the vicinity of the said city for the purpose of ascertaining whether a sufficient and paying supply of natural gas or other natural fuel products exists, or can be obtained, but the said company covenants and agrees to bore or drill to a depth of three thousand (3,000) feet unless at a less depth natural gas or other natural fuel products are found in paying quantities as aforesaid, or a formation is reached which geologically does not usually overlie the same, natural gas or fuel products;

3. That after commencing active operations as aforesaid, the said company shall diligently proceed with boring or drilling operations and should they abandon the same for a period of four months continuously before the privileges hereinafter granted are exercised, or if the said company fail to find a sufficient and paying supply of natural gas or fail to sink, dig or bore three (3) wells, three thousand (3,000) feet each in depth as provided in clause 2 hereof, within three years from the 14th day of August, 1905, the privileges hereby granted shall thereupon in either case become forfeited or void, unless sufficient reason shall be shown by the said company to the council, when a further extension of six months may be granted, provided that if at any time the council is of the opinion that the said company is not proceeding with proper speed and diligence the question of whether or not they are so doing shall be determined by the engineer. The onus of showing that they are so doing shall be upon the said company and if they fail to satisfy the engineer aforesaid that they are so doing the privileges hereby granted shall cease if the council so determine;

4. That if the said company succeeds within three years in finding a sufficient and paying supply of natural gas which can be utilized in the city, the council doth hereby grant to the said company full power, license and authority subject to any rights and privileges that may at any time heretofore have been legally granted by the said city to any person or corporation, to open up, dig trenches, and lay mains under or along the streets of the said city, and to make all necessary connections between the system of mains, pipes or other works hereby authorized and any dwelling, shop, factory, building or other place within the said city, and to renew, alter or repair all or any of the works so laid down or constructed, and to pump or otherwise force through said pipes natural gas, provided that a plan showing the proposed location of the said mains and pipes and building connections as aforesaid shall first be submitted to and approved by the said engineer;

5. That before any of the works hereby authorized are undertaken or commenced by the said company within the said city, plans showing the character and extent thereof shall be furnished to the council and approved thereby, and the time and manner of the carrying out thereof shall at all times be under the supervision and control of the said engineer;

6. That if the said works are not carried out according to the plans approved by the engineer as aforesaid, or are so carried out as in the opinion of the engineer to unnecessarily injure the streets or to damage or inconvenience the inhabitants of the said city, the said engineer shall have the power to forbid

the continuance of the same and upon such prohibition the said company shall forthwith cease carrying on its operations and shall at their own expense immediately replace the street in as good a condition as existed before the commencement of operations by the said company, and failing to do so for forty-eight hours after notice has been given as aforesaid the said city may so replace the streets and charge the cost thereof to the company, with an additional ten per cent. added to the cost of such work as a penalty;

7. That upon the completion or repairs of any work thereby authorized the said company shall from time to time replace the streets upon which such works have been carried out in as good condition and state of repair as existed before the commencement thereof, and the certificate of the said engineer shall be final in this regard, and there shall be no appeal from this decision by the said company. If the said company does not so replace the streets as aforesaid, the said city may do so and charge the cost thereof to the said company as defined in paragraph 6 hereof;

8. That it is the intention of this agreement that the works hereby authorized shall be constructed on the lanes of the said city as far as reasonably can be, and if the council so orders;

9. That the exclusive rights and privileges hereby granted to the said company shall continue, subject to the terms and conditions herein expressed for a period of eleven years from the 14th day of August, 1905, and may thereafter be extended for a period of five years by an agreement at the option of the said city, and the said city shall not (it being determined that the said city has such powers during the said period of eleven years of the extension thereof as aforesaid) grant to any person, firm or corporation the right to construct or lay mains or pipes or connections on, in or through the streets of the said city for the supply of natural gas, unless the privileges hereby granted to the said company are forfeited and determined as herein provided or unless the said company's supply thereof shall fail to meet the demand therefor and it is determined by arbitration under the terms and provisions of *The Arbitration Ordinance* of the North-West Territories or otherwise as may be mutually agreed that the said company is not with proper speed and diligence taking the necessary means to increase the said supply;

10. That after the expiration of the said period of eleven years or the extension thereof as hereinbefore provided, the privileges hereby granted shall in so far as they are exclusive forthwith cease and determine;

11. That if before the expiration of the said period of eleven years of the extension thereof as hereinbefore provided, three months' notice is given by the said city to the said company, the said city may with the company's consent at the expiration of the said period of eleven years or the extension thereof as hereinbefore provided, take possession of all the works of the said company and all property used in connection therewith, for the purpose of operating the same for supplying the said city and the inhabitants with natural gas as aforesaid, and whether such works and property are within or without the said city, or may without the company's consent purchase said works, and shall pay therefor a price to be determined by arbitration in accordance with the terms and provisions of *The Arbitration Ordinance* of the North-West Territories aforesaid, but subject to the conditions hereinafter mentioned and contained;

12. That the arbitrators in determining the price to be paid for the said works and properties as aforesaid shall first determine the actual value thereof, having regard to what the same would cost if the works should then be constructed or the property then bought and if the said property is then a going concern, as such, in any event making due allowance for deterioration, wear and tear and all other proper allowances and shall increase the amount so ascertained by ten per cent. thereof, which increased sum the arbitrators shall award as the amount to be paid by the city to the said company and the amount so ascertained as aforesaid shall be paid to the said company by the said city within six months from the date of the award thereof;

13. That in case the amount so ascertained as aforesaid is not paid to the said company by the said city within six months from the date of the award thereof, that said city shall indemnify the said company for all costs, damages, charges and expenses to which the said company has been put in, about and by reason of the arbitration aforesaid;

14. That in the event of the failure by the said company for four months continuously to carry on and prosecute the work of boring or drilling for natural gas and other natural fuel products as aforesaid prior to the same being obtained in paying quantities as aforesaid the said city may at its option instead of claiming the properties as provided by paragraph 3 of this agreement, take over all or any of the wells which have been drilled by the said company upon payment to the said company of the cost of the land, rights, or privileges acquired by the said company for the purpose of drilling the well or wells so taken over and shall indemnify and save the said company harmless from all loss, costs, damages, expenses or liabilities of any nature or kind whatsoever, that may arise or be occasioned in respect of such well or wells after the same have been taken over by the said city as aforesaid, but this clause shall in no wise prevent or affect the forfeiture by the company of the privileges under the other clause of this agreement;

15. That in the event of the said company, after having obtained natural gas in paying quantities as aforesaid and availed themselves of the privileges hereby conferred, failing for a period of six months to pump, force or deliver the same through the pipes, mains, connections and other works constructed for the purpose of conveying the same as aforesaid, the privileges hereby granted shall in so far as they are exclusive absolutely cease and determine, but the said company shall nevertheless continue to enjoy the said privileges in so far as they are not exclusive for the purpose of supplying the said city and the inhabitants thereof with such natural gas, and if the said city has not prior to the time that the said company is again able to and does pump, force or deliver such natural gas through its mains, pipes, connections and other works as aforesaid, entered into any contract, agreement or arrangement inconsistent herewith, the said exclusive privileges are hereby granted but not otherwise, shall and the same shall thereby be revived. In the event of the failure by the company to supply natural gas for a period of thirty days or less; as provided in this clause, the city may, anything herein contained to the contrary notwithstanding, enter into a temporary contract or agreement with any other company, firm or person for supplying natural gas within the city limits during the said periods of six months or less, and may utilize such parts of the company's system of mains as are necessary for the distribution of such supply within the said city, but notwithstanding anything herein contained the said city's right

to use the said company's mains shall cease absolutely so soon as the company are again in a position to supply natural gas in the said city, or in any event at the expiration of six months from the date of the failure of the said company's gas supply, but the company's exclusive rights shall cease at the expiration of six months from the failure of its gas supply as hereinbefore provided;

16. That if the said company avails itself of the privileges hereby granted and obtains a sufficient quantity of natural gas, capable of being commercially and economically utilized for light, heat, power or fuel purposes they shall supply the same throughout the said city at a price not greater than that charged by the said company for supplying the same outside the said city;

17. That the said company shall supply natural gas to the inhabitants of the said city for domestic purposes at a price not exceeding twenty-five cents per thousand cubic feet, and for power purposes at a price not exceeding fifteen cents per thousand cubic feet;

18. That when the buildings or other places to be supplied with gas are situated on land lying along the line of any main supply pipe of the said company the cost of the necessary connections from the main to the property line shall be borne by the said company and when the buildings or other places to be supplied are not so situated the said company shall construct such main or pipes as are necessary, to give such supply, upon a reasonable return upon the outlay of the said company in constructing such mains or pipes being assured to the said company, and in the event of a difference arising between the said company and the owner or occupant of the said building or other place as to the reasonableness or otherwise of such return the same shall be referred to the council and their determination thereof shall be final and conclusive between all parties;

19. That nothing herein contained shall be taken or read as relieving the said company from the obligation to observe the terms and provisions of any and all by-laws of the said city passed by the council thereof in the *bona fide* exercise of their legislative authority, but not inconsistent herewith;

20. That the said company shall indemnify and save harmless the said city from all loss, costs, charges, damages, or expenses which may arise or be incurred by the said city by reason of the exercise by the said company of any of the privileges hereby granted, whether or not such loss, charges, damages or expenses arose or were incurred at the time the said privileges were being exercised by the said company pursuant to the direction and under the supervision of, or with the approval of, the said engineer of the said council. Provided that the said company shall be liable only in case of an action being brought against the said city in respect of any of the matters aforesaid, if and when the said city gives to the said company notice in writing of such action before the expiration of the time limited for appearance therein, and if such notice is given the onus of showing that the said company or the said city is not liable shall rest upon the said company, and the said company shall have the conduct of the defence of the said action, and shall if required by the council defend the same in the name of the said city or may do so with the city's consent or otherwise as it may be advised by their own advocate and counsel, but without any cost or charge to the city in any event;

21. That if it is found that the gas in the mains is leaking in sufficient quantity to be objectionable to any of the inhabitants of the said city or to cause any damage to the property of the said city or any inhabitants thereof, or to be a source of danger, the said company shall forthwith repair such leaks, and if the said leaks are not repaired within forty-eight hours from the time the said company is notified, the said city shall have the right to repair said leaks under the terms and provisions set forth in paragraph 6 of this agreement;

22. That in acting under this agreement the said engineer shall be bound to act reasonably and *bona fide* and not arbitrarily. In the event of the said company being of the opinion that the said engineer has not acted as hereby required, the question shall be referred to and determined by the majority of the board, composed of the said engineer, and the engineer of the said company, and a third engineering expert, chosen by them, or if they cannot agree, by a judge of the Supreme Court having jurisdiction in the said city, and the cost of the reference in any event shall be borne by the said company, and until the board determines the question of directions of the said engineer, shall be obeyed;

23. That the property, real and personal, of the said company within the city shall be exempt from taxation by the said city until they have succeeded in discovering natural gas in paying quantities as aforesaid or abandon the attempt so to do as hereinbefore provided;

24. That the said company shall subject to the terms and provisions of this agreement, have and enjoy all the rights, powers and privileges, and be subject to all the liabilities of a company under the terms and provisions of chapter 21 of the Ordinance of the North-West Territories for the year 1901, entitled *An Ordinance respecting Water, Gas, Electric and Telephone Companies*, so far as the provisions thereof may be applicable to a company other than a water, electric or telephone company except with regard to the expropriation of lands. Provided that nothing herein contained shall be construed as an agreement on the part of the said company not to obtain right of eminent domain;

25. That the attached specifications shall be taken, read and construed as a part of this agreement;

26. That in consideration of the said city executing this agreement and granting to the said company the rights, powers and privileges herein contained, the said company shall pay to the treasurer of the said city within thirty days after the close of the fiscal year of the said company, two per centum of the net annual profits thereof derived from the sale of gas within the limits of the said city available for distribution among the proprietors of the said company in each and every year hereafter until such time as the said net annual profits derived from sale within the city limits available for distribution as aforesaid after deducting the two per centum thereof to be paid to the treasurer of the said city as aforesaid is sufficient to pay to the proprietors an annual dividend of ten per centum when and so soon as the same shall happen the said company shall pay to the treasurer of the said city as aforesaid within thirty days after the close of the fiscal year as aforesaid such further sum in addition to the two per centum as aforesaid as may remain of the net annual profits as aforesaid after payment of the said dividend of ten per centum to the proprietors as aforesaid until the said treasurer of the said city shall

have received an amount equivalent to five per centum of the net annual profits of the said company available for distribution as aforesaid;

27. For the purpose of verifying the city's percentage of profits as herein provided the company shall keep all accounts for gas supplied within the city in separate books, said books to have the seal of the city placed thereon, kept apart from any other account and at the end of each fiscal year the city auditor shall have access to the books containing such accounts for the purpose aforesaid and only such portions of the plant actually in use to supply gas within the city shall be accounted for in the city's books.

In witness whereof this agreement has been executed by the parties hereto.

SIGNED, SEALED AND DELIVERED	{	A. W. DINGMAN. (SEAL)
in the presence of		J. EMERSON, <i>Mayor</i> .
A. PARSONS.		H. E. GILLIS, <i>Clerk</i> .

{ SEAL
CITY OF CALGARY }

SPECIFICATIONS referred to in the agreement attached hereto made between Archibald Wayne Dingman on behalf of himself and his associates and assigns, therein called "the said company" of the First Part,

and

The City of Calgary, therein called "the said city" of the Second Part, which said agreement is dated the Fourteenth day of August, A.D. 1905, and is to be taken, read and construed as a part hereof.

1. Before any work is commenced a plan showing the location and nature of the work proposed to be done shall be furnished the council of the said city and approved by them.

2. After the plan has been approved as aforesaid the said company shall notify the engineer where and when they desire to commence work and if there are no objections thereto the said company shall proceed with the work as provided by the said agreement.

3. All pipe lines shall be straight from street to street as far as possible.

4. The materials along the works shall be so delivered as to be of the least obstruction to the public, and no cross streets, lanes, crossings or driveways shall be obstructed without the written permission of the engineer.

5. The trench shall not be open for more than 600 feet in advance of the pipe laying, nor left unfilled more than 100 feet in the rear of the pipe laying, except with the written permission of the engineer. In trenching the work shall be strictly closed up as indicated. All extra material, rubbish and impediments of every description shall be promptly removed as soon as the filling of the trench is completed.

6. Where the pavements, macadam, crosswalks or gutters have been removed or injured these must be replaced by the said company, and left in as good condition as they were before being removed, and they shall leave all roads and places free, clean and in good order, and to the entire satisfaction of the engineer.

7. Before refilling any trench the said company shall subject the pipe line to a pressure of fifty pounds per square inch

over the amount of pressure required for the purpose of the company, said test to be in the presence of the engineer or one of his assistants. Any leaks or defects shall be repaired and the test shall be repeated until no leaks or defects are apparent.

8. Brass service cocks shall be placed where directed by the engineer on each connection, and shall be so arranged that they may be closed with a key without any digging.

9. The said city shall be divided into at least four sections and valves shall be placed on the mains so that any one of these sections may be shut off without interfering with the others.

10. The said company shall keep true and correct records of all wells, sunk, drilled or bored under the said agreement showing the depth, thickness and character of each of the strata not in such drilling, and shall forthwith on the completion of each well or upon the cessation of drilling operations with respect thereto for the period of one month furnish a true copy of the record in regard to such well to the said city for the use only of the said city; and shall furnish to the said city samples of the cuttings at every run, the accuracy of such records and samples to be verified by statutory declaration of the driller or operator.

11. Nothing herein contained shall relieve the said company from the obligation to observe any by-law of the said city passed in the *bona fide* exercise of its legislative authority.

(Signed) A. W. DINGMAN.
J. EMERSON, *Mayor*.
H. E. GILLIS, *Clerk*.

SCHEDULE C.

BY-LAW No. 646.

A By-law to authorize the mayor and clerk to execute an agreement with The Calgary Natural Gas Company, Limited, to alter the terms of the existing agreement with Archibald Wayne Dingman, assigned by him to the said Calgary Natural Gas Company, Limited, dated the 14th day of August, 1905, executed in pursuance of By-law No. 610.

The council of the City of Calgary enacts as follows:

Whereas the Calgary Natural Gas Company, Limited, assignee of Archibald Wayne Dingman, have requested an extension of time in which to commence active operations for the purpose of boring or drilling in or in the vicinity of the City of Calgary for the purpose of ascertaining whether a sufficient or paying supply of natural gas or other natural fuel products exists or can be obtained, as provided by said agreement between the said Archibald Wayne Dingman and the City of Calgary and have asked to have the time for the commencement of such active operations extended for three months from the expiration of the six months limited by said agreement;

Now therefore the mayor and clerk of the City of Calgary are hereby authorized to affix the seal of the city and to execute the annexed agreement marked A extending the time

for such active operations to be commenced for three months from the expiration of the six months limited by paragraph 2 of said agreement.

Done and passed in council this 11th day of January, A.D. 1906.

(Signed) J. EMERSON, *Mayor*.

(Signed) H. E. GILLIS, *Clerk*.

(SEAL)

“A.”

MEMORANDUM OF AGREEMENT made this 12th day of January, A.D. 1906.

Between—

The City of Calgary in the Province of Alberta, hereinafter called “the said city,”

Of the First Part;

and

The Calgary Natural Gas Company, Limited, of the City of Calgary in the Province of Alberta, aforesaid, hereinafter called “the said company,”

Of the Second Part.

Whereas the said company has acquired from Archibald Wayne Dingman the powers, rights and franchises to him granted by the said city by memorandum of agreement dated the 14th day of August, A.D. 1905, made between the said Archibald Wayne Dingman and the said city in pursuance of a by-law of the said city numbered 610, passed the 21st day of August, A.D. 1905;

And whereas by the said agreement it is provided by paragraph 2 that active operations, for the purpose of boring or drilling in or in the vicinity of the City of Calgary for the purpose of ascertaining whether a sufficient or paying supply of natural gas or other natural fuel products exist or can be obtained, shall be commenced by said Archibald Wayne Dingman or his assigns within six months from the date of the approval of the by-law of the City of Calgary authorizing said agreement which by-law was passed on the 21st day of August, A.D. 1905;

And whereas the said company has requested that it be granted an extension of time in which to commence active operations as provided by paragraph 2 of the said hereinbefore mentioned agreement and have asked the said city to enter into an agreement to extend the time for the commencement of such active operations for three months from the expiration of the six months by the said hereinbefore mentioned agreement provided;

Now therefore it is hereby mutually agreed by and between the said parties hereto that notwithstanding anything in the said agreement between Archibald Wayne Dingman and the said city, contained, the failure of the said company to commence active operations as mentioned in paragraph 2 of the said agreement within six months limited by said paragraph 2 of the said agreement, shall not vitiate the same or in any way prejudice the rights, powers and franchises by the said agreement granted, provided that such active operations be commenced on or before the 21st day of May, A.D. 1906, and after the execution of this agreement, paragraph 2 of the agreement hereinbefore mentioned between Archibald Wayne Dingman and the said city and all parts of the agreement

bearing upon the said paragraph including all rights of the city as to forfeiture and otherwise for nonperformance by the company or said Dingman of the portions of said agreement to be performed by the company or him, shall be read and construed as though nine months was the time limited by the said paragraph instead of six months;

And the said company hereby covenants and agrees with the said city to commence active operations under and by virtue of the said agreement within nine months from the 21st day of August, A.D. 1905.

In witness whereof this agreement has been executed by the parties hereto.

(Signed) J. EMERSON, *Mayor*.
H. E. GILLIS, *Clerk*.

{ SEAL
CITY OF CALGARY }

THE CALGARY NATURAL GAS COMPANY, LTD.

(Signed) J. K. KERR, *President*.

(Signed) F. F. HIGGS, *Acting Secretary*.

BY-LAW No. 863.

A By-law to authorize the Mayor and Clerk to execute an agreement with the Calgary Natural Gas Company, Limited, to alter certain of the terms of the agreement with Archibald Wayne Dingman, dated the 14th day of August, 1905, executed in pursuance of By-law number 610, assigned by him to the said Calgary Natural Gas Company, Limited, as amended by agreement dated the 12th day of January, 1906, executed pursuant to By-law No. 646.

The council of the City of Calgary enacts as follows:

Whereas The Calgary Natural Gas Company, Limited, assignee of Archibald Wayne Dingman, have requested that certain of the terms of the agreement dated the 14th day of August, 1905, between the City and Archibald Wayne Dingman, executed in pursuance of By-law No. 610 as amended by agreement dated the 12th day of January, A.D. 1906, executed in pursuance of By-law No. 646 be altered by extending certain periods of time fixed by the said agreement for the exercise by the Calgary Natural Gas Company, Limited, of certain franchises to it granted by the said agreement and for extending the period of time granted by the said in part recited agreement for certain exploratory work prior to the active exercise of such franchises and for the extension of the time limited by the said in part recited agreement during which work might be discontinued without invalidating the grant of the said franchises;

And whereas it appears expedient to grant the request of The Calgary Natural Gas Company, Limited, and to alter and modify the agreement hereinbefore in part recited in the respects mentioned, provided the assent of the electors to such modifications and alterations be secured;

Now therefore it is enacted that the mayor and clerk of the City of Calgary be and they are hereby authorized to affix the seal of the city and to execute the annexed agreement marked A authorizing such modifications and alterations.

The whole, after the said agreement has received the assent of the electors, taken as in the case of a money by-law required to be submitted for such assent.

Done and passed in council this 1st day of June, A.D. 1908.

(Signed) A. L. CAMERON, *Mayor*.

(SEAL.)

(Signed) H. E. GILLIS, *Clerk*.

“A.”

MEMORANDUM OF AGREEMENT made this second day of June,
A.D. 1908.

Between—

The City of Calgary in the Province of Alberta, hereinafter
called “the said city,”

Of the First Part,

and

The Calgary Natural Gas Company, Limited, whose head
office is at the City of Calgary in the Province of Alberta,
hereinafter called “the company,”

Of the Second Part.

Whereas the said company has acquired from Archibald Wayne Dingman the powers, rights and franchises to him granted by the said city by memorandum of agreement dated the 14th day of August, A.D. 1905, made between the said Archibald Wayne Dingman and the said city in pursuance of By-law No. 610 of the said city passed on the 21st day of August, A.D. 1905 (which agreement is hereinafter designated as “the original agreement”);

And whereas by memorandum of agreement dated the 12th day of January, A.D. 1906, between the said city of the first part, and the said company of the second part, executed in pursuance of by-law of the said city numbered 646 (which agreement is hereinafter designated as “the collateral agreement”) the said original agreement was amended, reference being had to the said collateral agreement same will fully appear;

And whereas the said company has requested that certain terms of the said original agreement be amended or modified as hereinafter set forth, and it is desirable to grant such request;

Now this agreement witnesseth that clause or paragraph three of the said original agreement be amended or modified so that the privileges granted by the said original agreement, notwithstanding anything in the said agreement contained, shall not cease until the expiration of five years from the 14th day of August, A.D. 1905, unless the said company should abandon the work of boring or drilling for natural gas or other natural fuel products, in or in the vicinity of the City of Calgary for a period of eight months continuously before the privileges, by the said original agreement granted, are exercised; provided, however, that the council may, upon sufficient reason being shown by the said company, grant extensions, from time to time after the expiration of five years, from the 14th day of August, A.D. 1905, and said franchises shall not cease even after the expiration of the said five years and extensions which may be granted by the council aforesaid, until the council shall so determine;

That notwithstanding anything in clause or paragraph nine of the original agreement, or anything contained in the said agreement, the exclusive rights and privileges granted by the said original agreement, shall continue, subject to the terms of the original agreement, as it may be, from time to time amended, for a period of fifteen years, from the 14th day of August, A.D. 1908, and unless good cause is shown shall be thereafter extended by the council for a period of ten years, by an agreement to be authorized by the council;

That notwithstanding anything in clause or paragraph fourteen contained, or anything contained in the said original agreement, it is agreed that the privileges, forfeitures and other results of failure of the company, to carry on and prosecute the work as aforesaid, shall not arise until after the expiration of eight months, instead of four months, as mentioned in clause or paragraph fourteen;

That the modifications and alterations hereinbefore particularly mentioned and agreed upon, shall be given effect to notwithstanding anything in the said original agreement contained, and all the clauses and paragraphs, terms and conditions, of the said original agreement, shall be modified and altered, so as to give effect to the modifications and alterations herein agreed upon.

In witness whereof the City of Calgary has caused its corporate seal to be affixed and these presents to be signed by its mayor and clerk and the Calgary Natural Gas Company, Limited, has caused its corporate seal to be hereunto affixed, and these presents to be signed by its president and secretary, the day and year first above herein written.

(Signed) A. F. CAMERON, *Mayor*.
 (Signed) H. E. GILLIS, *Clerk*.
 { SEAL OF
 { CITY OF CALGARY }

THE CALGARY NATURAL GAS CO., LTD.,
 (Signed) J. K. KERR, *President*.
 (Signed) F. F. HIGGS, *Secretary-Treasurer*.

{ SEAL OF
 { THE CALGARY NATURAL GAS CO., LTD. }

BY-LAW No. 1097.

A By-law of the City of Calgary to authorize the Mayor and clerk to execute an agreement with the Calgary Natural Gas Company, Ltd., to alter certain of the terms of the Agreement with Archibald Wayne Dingman dated the 14th day of August, 1905, executed in pursuance of By-law No. 610 and assigned by him to the Calgary Natural Gas Company, Ltd., as amended by Agreement dated the 2nd day of June, 1908, executed in pursuance of By-law No. 863.

The council of the City of Calgary enacts as follows:

Whereas the Calgary Natural Gas Company, Ltd., assignee of Archibald Wayne Dingman, have requested that certain of the terms of the Agreement dated the 14th day of August, 1905, between the said city and Archibald Wayne Dingman as amended by agreement dated the 2nd of June, 1908, be altered by extending the period fixed by the said agreement after which the rights and privileges granted by the said company should cease; and

Whereas the said company have shown sufficient reason to the council why the said time should be extended and it appears expedient to grant the request of the said Natural Gas Company, Ltd.;

Now therefore it is enacted that the mayor and clerk of the City of Calgary be and they are hereby authorized to affix

the seal of the city and to execute the annexed agreement marked A authorizing the said alterations and extensions.

Done and passed in council this 11th day of August, 1910.

{ SEAL THE CITY OF CALGARY ALBERTA, CANADA }	(Signed) R. R. JAMIESON, <i>Mayor</i> . (Signed) W. D. SPENCE, <i>Clerk</i> .
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"A."

MEMORANDUM OF AGREEMENT made this 11th day of August,
A.D. 1910.

Between—

The City of Calgary, in the Province of Alberta, hereinafter called "the city,"

Of the First Part,

and

The Calgary Natural Gas Company, Ltd., with its head office at the City of Calgary, in the Province of Alberta, hereinafter called "the company,"

Of the Second Part.

Whereas the said company being the assignee of certain powers, rights and franchises granted by the city to Archibald Wayne Dingman by memorandum of agreement dated the 14th day of August, 1905, executed in pursuance of by-law No. 610 of the City of Calgary passed the 21st day of August, 1905; and

Whereas by memorandum of agreement dated the 12th day of January, 1906, between the said city and the said company executed in pursuance of By-law No. 646 of the said city the said original agreement was amended; and

Whereas by memorandum of agreement dated the 2nd day of June, 1908, between the said city and the said company executed in pursuance of By-law No. 863 of the City of Calgary the said original agreement was further amended; and

Whereas the said company has requested that certain periods mentioned in the said agreement of June 2, 1908, be further extended;

Now therefore this indenture witnesseth that the first clause or paragraph of the agreement date the 2nd day of June, 1908, between the said company and the said city, said clause coming immediately after the third recital thereof, is hereby amended so that the privileges granted by the said original agreement, notwithstanding anything in the said agreement contained, or any of the subsequent hereinbefore mentioned agreements, shall not cease until after the expiration of six months from the 14th day of August, 1910, and that the other terms and conditions of the said clause and of the other clauses of the said agreement of the 2nd of June, 1908, and of the other prior agreements hereinbefore mentioned shall remain in full force and effect.

In witness whereof the parties hereto have executed these presents by their proper officers and have affixed their corporate seals on the day and date first above mentioned.

(Signed) R. R. JAMIESON, *Mayor*.

(Signed) W. D. SPENCE, *City Clerk*.

SEAL
 { THE CITY OF CALGARY }
 ALBERTA, CANADA }

(Signed) THE CALGARY NATURAL GAS CO., LTD.

(Signed) J. K. KERR, *President*.

(Signed) F. F. HIGGS, *Secretary-Treasurer*.

SEAL
 { THE CALGARY NATURAL }
 GAS CO., LTD. }

BY-LAW No. 1114.

A By-law to authorize the Mayor and Clerk of the City of Calgary to execute an agreement with the Calgary Natural Gas Company, Limited, to alter the terms of the existing agreement with Archibald Wayne Dingman assigned by him to the Calgary Natural Gas Company, Limited, dated the 14th day of August, 1905, executed in pursuance of By-law No. 610.

Whereas The Calgary Natural Gas Company, Limited, assignee of Archibald Wayne Dingman, have requested that the price payable for gas for domestic and power purposes under the provisions of the contract with the City of Calgary, dated the 14th day of August, 1905, namely, a price not exceeding 25 cents per 1,000 cubic feet for domestic purposes and a price not exceeding 15 cents per 1,000 cubic feet for power purposes to be changed to read as follows: "For domestic purposes to a price not exceeding 35 cents per 1,000 cubic feet and for power purposes to a price not exceeding 20 cents per 1,000 cubic feet";

Now therefore the council of the City of Calgary enacts as follows:

That the mayor and clerk of the City of Calgary are hereby authorized to affix the seal of the city and to execute the annexed agreement marked A making the change aforesaid as soon as the same is ratified and agreed to by a vote of the ratepayers taken as in the case of a money by-law;

That the votes of the electors duly qualified to vote on this By-law shall be taken on the sixteenth day of January, A.D. 191... .., between the hours of nine o'clock in the forenoon and 5 o'clock in the afternoon at the city hall for voters in ward No. 1A; at Shaw & Co.'s store, East Calgary, for voters in ward No. 1B and that part of ward No. 3 east of the Elbow; at 224 8th Ave. West for voters in ward No. 2B; at Great West Trading Co.'s store, Hillhurst, for voters in ward No. 2c; at Hornby's, corner 1st St. East and 12th Ave., for voters in ward No. 3 west of Elbow; at Wood Robert's store, 1st Street West and 12th Ave., for voters in ward No. 4A; and at Cross' store, 16th Ave. and 8th St. West, for voters in ward No. 4B;

That W. D. Spence be returning officer for said election, and that J. M. Lowndes be deputy returning officer for ward No. 1A; that R. V. Shaw be deputy returning officer for ward No. 1B and that part of ward No. 3 east of the Elbow; that Thos. W. Northfield be deputy returning officer for ward No. 2AB; that Frank R. Riley be deputy returning officer for ward No. 2c; that W. J. McClellan be deputy returning officer for

ward No. 3 west of Elbow; that C. M. Wright be deputy returning officer for ward No. 4A; and that Geo. P. Ovans be deputy returning officer for ward No. 4B.

Done and passed in council this 23rd day of January, 1911.

(Signed) J. W. MITCHELL, *Mayor*.

W. D. SPENCE, *Clerk*.

{ SEAL
CITY OF CALGARY }

"A."

MEMORANDUM OF AGREEMENT made this 23rd day of January,
A.D. 1911.

Between—

The City of Calgary, in the Province of Alberta, hereinafter
called "the city,"

of the First Part,

and

The Calgary Natural Gas Company, Limited, of the City
of Calgary, in the Province of Alberta, hereinafter called
"the company,"

of the Second Part.

Whereas the company has acquired from Archibald Wayne Dingman the powers, rights and franchises to him granted by the said city by memorandum of agreement dated the 14th day of August, 1905, made between the said Archibald Wayne Dingman and the said city in pursuance of by-law of the said city numbered 610, passed the first day of August, A.D. 1905;

And whereas it is provided by paragraph 17 of the said agreement that the company shall supply natural gas to the inhabitants of the city for domestic purposes at a price not exceeding 25 cents per 1,000 cubic feet and for power purposes at a price not exceeding 15 cents per 1,000 cubic feet;

And whereas the company has requested that the price to be charged under the said paragraph be changed from 15 cents and 25 cents per 1,000 cubic feet to 20 cents and 35 cents per 1,000 cubic feet for power and domestic purposes respectively;

Now therefore it is mutually agreed by and between the parties hereto that notwithstanding anything in the said agreement between the said Archibald Wayne Dingman and the city contained the company shall be permitted to charge for all natural gas supplied to the inhabitants of the city for domestic purposes a price not exceeding 35 cents per 1,000 cubic feet and for power purposes a price not exceeding 20c per 1,000 cubic feet, and the said agreement shall be read and construed as though the said prices were mentioned therein instead of the said prices mentioned in paragraph 17 thereof.

In witness whereof this agreement has been executed by the parties hereto the day and year first above written.

(Signed) J. W. MITCHELL, *Mayor*.

{ SEAL OF
THE CITY OF CALGARY } (Signed) W. D. SPENCE, *Clerk*.

THE CALGARY NATURAL GAS CO., LTD.

(Signed) J. K. KERR, *President*.

{ SEAL OF THE
CALGARY NATURAL GAS
COMPANY, LIMITED } (Signed) A. W. DINGMAN, *Manager*.

No. 40

THIRD SESSION

SECOND LEGISLATURE

2 GEORGE V

1911

BILL

An Act to Validate and Confirm certain
By-laws of the City of Calgary and
Agreements executed thereunder
Granting Certain Franchises.

Received and read the

First time

Second time

Third time

L. M. ROBERTS

EDMONTON:
JAMES E. RICHARDS, Government Printer
A.D. 1911