



**BOARD OF SUPERVISORS  
AGENDA LETTER**

**Agenda Number:**

**Clerk of the Board of Supervisors**  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** General Services  
**Department No.:** 063  
**For Agenda Of:** November 10, 2020  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

**TO:** Board of Supervisors  
**FROM:** General Services  
Contact Info: Janette Pell, Director, General Services (805) 560-1011 *JP*  
Skip Grey, Assistant Director, General Services (805) 568-3083

**SUBJECT:** **Transfer of Public and Private Franchises from ERG Resources, LLC to Terracore Operating Company LLC and Subsequent Transfer of Public and Private Franchises from Terracore Operating Company LLC to Cat Canyon Resources, LLC. Fourth and Fifth Districts**

**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve, consent to, and ratify the transfer of a Public Pipeline Franchise previously granted to ERG Resources, LLC (ERG) (Attachment 1), to Terracore Operating Company LLC (Terracore), along with the required Surety Bond in the amount of two-hundred thousand dollars (\$200,000.00), for the remainder of the originally granted twenty (20) year term, expiring March 5, 2038, to allow the continued operation and maintenance of the existing public pipeline system along and under County road right-of-way known as Santa Maria Mesa Road, Andrew Street, Stewart Street, and Foxen Canyon Road, in the County unincorporated area for the operation and maintenance of the Foxen Petroleum Pipeline, an existing common carrier pipeline, connecting oil production facilities to the Sisquoc Pump Station and Pipeline operated by Phillips 66; and
- b) Execute a Letter of Consent for the transfer of the Public Pipeline Franchise from ERG Resources, LLC to Terracore Operating Company LLC (Attachment 3); then
- c) Approve consent to, and ratify the transfer of a Public Pipeline Franchise from Terracore Operating Company LLC (Terracore) to Cat Canyon Resources, LLC (Cat Canyon), along with the required Surety Bond in the amount of two-hundred thousand dollars (\$200,000.00), for the remainder of

the originally granted twenty (20) year term, expiring March 5, 2038, to allow the continued operation and maintenance of the existing public pipeline system along and under County road right-of-way known as Santa Maria Mesa Road, Andrew Street, Stewart Street, and Foxen Canyon Road, in the County unincorporated area for the operation and maintenance of the Foxen Petroleum Pipeline, an existing common carrier pipeline, connecting oil production facilities to the Sisquoc Pump Station and Pipeline operated by Phillips 66; and

- d) Execute a Letter of Consent for the transfer of the Public Pipeline Franchise from Terracore to Cat Canyon (Attachment 4); then
- e) Approve, consent to, and ratify the transfer of a Private Pipeline Franchise previously granted to ERG Resources, LLC (Attachment 2), to Terracore Operating Company LLC (Terracore), along with the required Surety Bond in the amount of five-hundred thousand dollars (\$500,000.00), for the remainder of the originally granted twenty (20) year term, expiring March 13, 2037, to allow the continued operation and maintenance of the existing private pipeline system along and under County road right-of-way on the opposite sides of Cat Canyon Road and Palmer Road, in the County unincorporated area for the transport of oil, gas, petroleum, produced water, and other transportable substances between existing facilities; and
- f) Execute a Letter of Consent for the transfer of the Private Pipeline Franchise from ERG Resources, LLC to Terracore Operating Company LLC (Attachment 5); then
- g) Approve consent to, and ratify the transfer of a Private Pipeline Franchise from Terracore Operating Company LLC (Terracore) to Cat Canyon Resources, LLC (Cat Canyon), along with the required Surety Bond in the amount of five-hundred thousand dollars (\$500,000.00), for the remainder of the originally granted twenty (20) year term, expiring March 13, 2037, to allow the continued operation and maintenance of the existing private pipeline system along and under County road right-of-way on the opposite sides of Cat Canyon Road and Palmer Road, in the County unincorporated area for the transport of oil, gas, petroleum, produced water, and other transportable substances between existing facilities; and
- h) Execute a Letter of Consent for the transfer of the Private Pipeline Franchise from Terracore to Cat Canyon LLC (Attachment 6); and
- i) Determine that the proposed actions are exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

**Summary Text:**

The Board's recommended action of approving, consenting to, and ratifying the transfers of a Public Franchise and a Private Franchise from ERG to Terracore, and subsequent approval and consent to the transfer of the same existing Public and Private Franchises from Terracore to Cat Canyon will allow for the continued operation and maintenance of the existing pipeline systems as well as continued transportation of petroleum products from the existing facilities for the remainder of the originally granted twenty (20) year period, expiring March 5, 2038 and March 13, 2037, respectively. The franchise agreements and County Code Chapter 2 Article XI require written consent from the Board for transfers or assignments of private and public franchises, including changes in ownership greater than fifty percent.

**Background:**

ERG applied for and was granted a Public Pipeline Franchise on February 6, 2018, referenced as Ordinance 5021, to construct, operate and maintain the Foxen Petroleum Pipeline. The granting of this public franchise was in conjunction with a previous Private Pipeline Franchise originally granted to

Texaco Inc., on March 23, 1970, which was granted by the Board and is referenced as Ordinance 2071. ERG had held title to the private pipeline system previously operated by Texaco and which subsequently expired on March 23, 2010, remaining in holdover until the Board passed and adopted Resolution 17-50 on March 14, 2017 granting a new private pipeline franchise granted solely to ERG for a period of twenty (20) years for the purpose of operating and maintaining its existing private pipeline system for private use by ERG to transport oil, gas, petroleum, produced water and other transportable substances via pipeline between ERG facilities on opposite sides of Cat Canyon Road and Palmer Road.

On June 28, 2019, Terracore purchased all of ERG's assets in an arms-length transaction pursuant to a Purchase and Sale Agreement in conjunction with certain requirements of ERG's bankruptcy proceedings, which called for the assignment and/or transfer of franchise assets to an alternate operating entity. At the time of transfer, ERG did not seek written consent and approval by the Board for the assignment of the franchises as required by the franchise terms. Then on October 21, 2020, as the County Real Estate Services Division was preparing to seek the Board's approval and ratification of the Terracore/ERG transfers, the County received official notice that a further transfer of both the Public Pipeline Franchise and Private Pipeline Franchise had occurred. This most recent transfer was due to a credit default in which a former member of Terracore pledged all of the equity interest in the Company for the benefit of the lender, who is consequently the other member of Terracore (Member). The Member then initiated a foreclosure on the Company Membership Interests at a public foreclosure auction on September 1, 2020, pursuant to the Uniform Commercial Code (UCC), as enacted in the State of New York. The Member was then awarded the winning bid entitling all right, title and interest in and to all the Company Membership Interests, and in accordance with Section 9-619 of the UCC, the Member acquired the rights of the former member, thereby holding legal and equitable title to the Company Membership Interests. Subsequently, the Limited Liability Company Agreement was amended and restated replacing Terracore Operating Company LLC with Cat Canyon Resources, LLC. Amendments changing the name from Terracore Operating Company LLC to Cat Canyon Resources, LLC were also filed in Delaware and California. There have been no personnel changes to daily operations. Nor have there been any changes to the structure of operations.

Upon receiving notification of the initial and recent transfers, General Services has consistently worked with Terracore and now Cat Canyon, along with County Planning and Development, and County Counsel to ensure that the transfers of both Public and Private Franchises are in accordance with all applicable codes including the existing franchise requirements. It was previously determined by the Director of Public Works that the continued use of County right-of-way will not unduly impair or obstruct the County Road System. General Services and Planning & Development Energy, Minerals and Compliance Division reviewed the statement of experience and qualifications and confirmed Terracore to be a qualified reliable operator. Staff has also confirmed that Cat Canyon, being essentially the same operator, will maintain the facilities in a satisfactory manner.

The transfers of both Public and Private Franchises from ERG to Terracore conforms to the requirements of the California Government Code, the California Public Utilities Code, and our County Code. County Counsel previously reviewed and approved both franchise agreements prior to the Board's granting of the franchises to ERG, as to form, including the fee structure and bond amount proposed and recommended by staff.

In addition to the annual franchise fees and the insurance requirements set forth in the franchise agreements, which have and will continue to remain in place, County Code requires an applicant for a pipeline franchise to provide Performance Bonds. These bonds ensure that the annual franchise fees are paid and also help ensure compliance with the terms of the franchise agreements. In this case, the County

has required a \$200,000 bond for the Public Franchise and a \$500,000 bond for the Private Franchise as previously required of ERG. The amounts of these bonds are based on the estimated cost of full removal of the pipeline systems. Terracore, and now Cat Canyon, are current with the submittal of annual franchise fees and evidence of insurance for both Public and Private Franchises and has submitted to the County its required Statement of Qualifications. As well, the County has received bonds in the aforementioned amounts from Terracore for both Public and Private Franchises and these bonds are currently in place. The County is anticipating receipt of updated bonds from Cat Canyon prior to December 1, 2020 and Terracore bonds will not be released until such time as receipt of the Cat Canyon bonds has been confirmed and documented by General Services.

Approval of the Transfer of both Public and Private Franchises and subsequent transfer of the same existing Public and Private Franchises from Terracore to Cat Canyon will involve negligible or no expansion of use. The transfers will replace ownership of the existing franchises that were originally granted in 1970, ultimately allowing Cat Canyon to continue to operate, repair and maintain the existing pipeline system. Therefore, this project is exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301 – Class 1, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

**Performance Measure:** N/A

**Fiscal and Facilities Impacts:**

Annual franchise fees will be paid to the County by Cat Canyon Resources, LLC in the amount of \$17,438.17 along with annual adjustments for CPI as applicable, to be deposited in Fund 0001, Dept. 063, Program 1207, Line Item 3260. There will be no new facilities impacts.

**Key Contract Risks:** N/A

**Staffing Impacts:** None

**Special Instructions:**

- 1) Execution of Letters of Board Consent to Transfer both Public and Private Pipeline Franchises to Clerk of the Board File, after Hearing Date
- 2) Minute Order: Send to Carlo Achdjian, Real Estate Services Division, General Services

**Attachments:**

1. Resolution Granting a Public Pipeline Franchise to ERG Resources, LLC
2. Resolution Granting a Private Pipeline Franchise to ERG Resources, LLC
3. Board’s Letter of Consent for transfer of Public Franchise to Terracore Operating Company LLC
4. Board’s Letter of Consent for transfer of Public Franchise to Cat Canyon Resources, LLC
5. Board’s Letter of Consent for transfer of Private Franchise to Terracore Operating Company LLC
6. Board’s Letter of Consent for transfer of Private Franchise to Cat Canyon Resources, LLC
7. Annual Franchise Statement (Public and Private) for Terracore Operating Company LLC
8. Terracore Operating Company LLC Statement of Qualifications
9. Terracore Public Franchise Bond
10. Terracore Private Franchise Bond

**Authored by:**

Carlo Achdjian, Real Estate Services Division, General Services