



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:** February 14, 2017  
**Placement:** Set Hearing for  
March 14, 2017  
**Estimated Time:** 30 Min.  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

---

**TO:** Board of Supervisors  
**FROM:** General Services Janette Pell, Director (805) 560-1011  
Contact Info: Skip Grey, Assistant Director, General Services (805) 568-3083  
**SUBJECT:** Resolution Granting a Private Pipeline Franchise to ERG Operating Company, LLC (002056); Fourth and Fifth Districts

---

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk Manager, Public Works

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

Set a hearing on the Departmental Agenda of March 14, 2017 to consider recommendations, as follows:

- a) Adopt a Resolution Granting a Private Pipeline Franchise to ERG Operating Company, LLC (Attachment 1), for a twenty (20) year term, to allow the continued operation and maintenance of ERG's existing private pipeline system along and under the County roadways of Palmer Road and Cat Canyon Road in unincorporated Santa Barbara County near the Cat Canyon Oil Fields north of Los Alamos; and
- b) Determine that the proposed action is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Existing Facilities, and approve and direct staff to file and post the attached Notice of Exemption (Attachment 2) on that basis.

**Summary Text:**

This item is on the agenda in order to consider the adoption of a Resolution Granting a Private Pipeline Franchise to ERG Operating Company, LLC (ERG). The Resolution, if adopted by your Board, will grant to ERG the right to continue to operate and maintain its existing private pipeline system near ERG's facilities in the Cat Canyon Oil Fields. This new franchise would replace ERG's existing franchise agreement, which your Board originally granted on March 23, 1970 to Texaco, Inc., pursuant to Ordinance 2071. ERG's existing pipeline system includes one idle produced water pipeline that runs along Cat Canyon Road, and sixty-seven active pipelines in sixteen crossings of Cat Canyon and Palmer

Roads in the unincorporated area of the County north of Los Alamos. Currently, ERG uses its active pipelines to transport petroleum products, for their private use, between ERG facilities on opposite sides of Cat Canyon Road and Palmer Road. ERG's proposed private pipeline franchise is for a period of twenty (20) years and requires an annual franchise fee payment to the County in the amount of THIRTEEN THOUSAND THREE HUNDRED SEVENTY-FIVE DOLLARS AND THIRTY-SEVEN CENTS (\$13,375.37).

**Background:**

ERG's application for a new private franchise to operate and maintain the existing pipeline system was originally presented to the County Board of Supervisors in 2011. At that time, ERG's application was for one idle four-inch produced water pipeline. The item was scheduled on the administrative agenda for October 4, 2011, with a Departmental Hearing scheduled for November 1, 2011. Issues, questions, and concerns were raised at the November 1<sup>st</sup> Hearing, and the item was withdrawn from the Agenda.

At that time, a determination was made that the application would remain on hold until all questions posed and issues raised at the hearing could be answered. ERG would continue to pay the annual franchise fee consistent with the terms of the franchise until the matter returned to the Board for consideration. ERG began an extensive process of identifying the depth and location of all pipelines located within the Cat Canyon Oil Field. It was discovered that numerous pipelines had been installed in County right of way by ERG's predecessors, Texaco and Chevron, which had not been recognized in the original franchise agreement. Since acquisition of the franchise rights from Chevron in 2010, ERG had been testing all lines in the system to ensure its safety and integrity. All pipeline inspection activities and repairs were performed under the guidance and approval of the Division of Oil, Gas, and Geothermal Resources regulations, County Petroleum Ordinance, and the American Petroleum Institute Standards (including API 570 and 1104).

In June 2014, ERG re-submitted their private franchise application in accordance with the provisions of County Code 2-82.1. The application recognized the produced water line that had been the subject of the original application, as well as sixty-seven private pipelines located in County right-of-way that had been installed by ERG's predecessors, but had not been included in their reports required by the previous franchise. In accordance with the County Code, the application also included ERG's offer to pay franchise fees as set forth in the franchise agreement, a map of the existing pipeline network, and as-built engineering plans. In compliance with the County Code, ERG also submitted a statement of experience and qualifications to operate the pipeline system, and a verified financial statement.

Upon receiving the 2014 application, General Services has been working with ERG; and with Public Works, Planning and Development, and County Counsel to ensure that all previous issues, questions, and concerns have been answered and addressed, and all processes and approvals required by 2-82.1. The Director of Public Works made the required determination that the applicant's continued use of County right-of-way will not unduly impair or obstruct the County Road System. Planning and Development reviewed the statement of experience and qualifications and confirmed that ERG has been a consistently reliable operator whose facilities are well maintained.

General Services has also been working with County Counsel to ensure the application process conformed to the requirements of the California Government Code, the California Public Utilities Code, and our County Code. County Counsel reviewed and approved the franchise agreement, as to form, including the fee structure and bond amount proposed by the applicant and recommended by staff. County Counsel approved the Board Letter and the Resolution Granting a Private Franchise, as to form,

that was scheduled to be presented at the Departmental Hearing on May 12, 2015. On May 6, 2015, the applicant requested the item be withdrawn from the May 12, 2015 hearing.

On January 6, 2017, ERG re-submitted their application for a private franchise agreement. Annual franchise fees for ERG's use of County right-of-way are based on \$3.00 per lineal foot of County right-of-way occupied for the active lines that cross Cat Canyon and Palmer Roads. Annual fees for the idle produced water line will remain at \$2,899.37, unless the line is re-activated. In the event that line is re-activated, the annual fees for that line will also be based on \$3.00 per lineal foot. Currently, ERG has 3,492 lineal feet of active pipelines in County right-of-way, and the one idle produced water line, resulting in ERG's annual franchise fee of \$13,375.37. The private pipeline franchise agreement reserves for the County the right to increase the annual franchise fees every five years, and to increase those fees to correspond to any future increases in fees set forth by the applicable provisions of the Santa Barbara County Code, the California Public Utilities Code, or in accordance with a uniform fee schedule, if one is adopted by the County in the future. Franchise fees will continue to increase every five years according to increases in the Consumer Price Index.

In addition to the annual franchise fees and the insurance requirements set forth in the franchise agreement, the franchise agreement requires a Performance Bond. The bond will ensure that the annual franchise fees are paid, and that in case of expiration or early termination of the franchise, the pipeline system will be removed or abandoned in place, subject to express authorization of the Board of Supervisors. The amount of the Performance Bond is \$500,000, which is based on the estimated cost of full removal of ERG's existing pipeline system.

Approval of the Resolution Granting a Private Pipeline Franchise to ERG will involve negligible or no expansion of use. The new private pipeline franchise will replace an existing franchise that was originally granted in 1970, allowing ERG 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:**

As outlined in the original Private Franchise Agreement, as well as the proposed new Private Pipeline Franchise Agreement, ERG continues to operate and maintain its existing private pipeline system to facilitate the continued transportation of petroleum products, as well as pay the annual franchise fees.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Annual franchise fees will be paid to the County by ERG in the amount of \$13,375.37, and will be deposited in Fund 0001, Dept. 063, Program 1207, Line Item 3260. There will be no new facilities impacts.

**Key Contract Risks:**

ERG will be providing a \$500,000 performance bond that may be applied to their failure to pay rent, failure to remove the pipeline system at the end of the term of the Franchise Agreement, or any other financial obligations arising from the Franchise Agreement. There may be financial risk if the cost of removal of the pipeline system exceeded the amount of the performance bond.

**Special Instructions:**

Clerk of the Board, please distribute as follows:

- 1) Resolution Granting a Private Pipeline Franchise to Clerk of the Board File, after Hearing Date
- 2) Notice of Exemption: Post NOE after Hearing Date; copy for Clerk of the Board
- 3) Minute Order: Send to Don Grady, GS/Real Property

**NOTE:** Please post the attached Public Notice of hearing at least twenty-one days prior to the hearing date of March 14, 2017.

**Attachments:**

1. Resolution Granting a Private Pipeline Franchise
2. Notice of Exemption
3. Memorandum Request for Determination of Impact of County Roads and Right-of-Way
4. Public Notice

**Authored by:**

A. Kinsella, Real Property Agent