



**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: April 21, 2015
Placement: Set Hearing for
May 12, 2015
Estimated Time: 30 Min.
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: General Services Matthew P. Pontes, Director (805) 560-1011
Contact Info: Greg Chanis, Assistant Director, General Services (805) 568-3096
**SUBJECT: Resolution Granting a Private Pipeline Franchise to ERG Resources, LLC
Fourth and Fifth Districts**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Manager, Public Works,
Planning and Development

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

Set a hearing on the Departmental Agenda of May 12, 2015 to consider recommendations, as follows:

- a) Adopt a Resolution Granting a Private Pipeline Franchise to ERG Resources, LLC (Attachment 1), for a twenty (20) year term, to allow the continued operation and maintenance of the existing private pipeline system along and under the County roadways of Palmer Road and Cat Canyon Road near the Cat Canyon Oil Fields north of Los Alamos in the unincorporated territory of Santa Barbara County; 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:

The Board's recommended action of approving the adoption of the Resolution Granting a Private Franchise to ERG Resources, LLC, would grant ERG Resources, LLC, the right to continue to operate and maintain the existing pipeline system near their facilities in the Cat Canyon Oil Fields that includes sixty-seven pipelines in sixteen crossings of Cat Canyon and Palmer Roads, to facilitate the continued transportation of petroleum products from the ERG facilities on one side of the County road to the other

side, as well as one idle pipeline that runs along Cat Canyon Road, north of Los Alamos, in the unincorporated area of the County; for a period of twenty (20) years, and an annual franchise fee payment to the County in the amount of THIRTEEN THOUSAND THREE HUNDRED SEVENTY-FIVE DOLLARS AND THIRTY-FOUR CENTS (\$13,375.34).

Background:

ERG's application for a private franchise to operate and maintain the 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. Prior to that item being heard, it was withdrawn from the Agenda so that staff could provide more information regarding the application. The item was re-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 1st 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 County right-of-way, including the idle produced water line that was the subject of the original application. It was discovered that numerous pipelines had been installed over the years 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, 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 County Petroleum Division.

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, Texaco and Chevron, 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 has also submitted a statement of experience and qualifications to operate the pipeline system, and a verified financial statement.

Upon receiving the new 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 have been satisfied. 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.

The Auditor-Controller's Office review of the financial statements in the context of ERG's ability to pay was included in a separate Memorandum to the Board of Supervisors. General Services has also been working with County Counsel to ensure the application process conforms to the requirements of the California Government Code, the California Public Utilities Code, and our County Code. County

Counsel has 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 will be presented at the Departmental Hearing on May 12, 2015.

This new franchise would replace the existing franchise agreement originally granted to Texaco, Inc., as Ordinance 2071 on March 23, 1970. ERG's facilities, pipelines and related franchise rights had previously been transferred from Texaco to Chevron, and subsequently to ERG Resources, LLC. This private franchise would address existing pipelines that cross the County's Cat Canyon and Palmer Roads, transporting various petroleum products from ERG's facilities on one side of the County Road to their facilities on the other side of the road, as well as an existing idle produced water pipeline that runs along Cat Canyon Road.

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 will also be based on \$3.00 per lineal foot. The 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 County Code requires an applicant for a pipeline franchise to provide 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. In this case, the County is requiring a \$500,000 bond, which is based on the estimated cost of full removal of the pipeline system.

Approval of the Resolution Granting a Private Franchise to ERG will involve negligible or no expansion of use. The new private 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: N/A

Fiscal and Facilities Impacts:

Annual franchise fees will be paid to the County by ERG in the amount of \$13,375.34, and will 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) 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 Public Notice of hearing at least twenty-one days prior to the hearing date of May 12, 2015, or by April 21, 2015.

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

Authored by:

Don Grady, Real Property Manager, General Services