City of Culver City, California

City Council Agenda Item Report

Meeting Date: 01/28/08	Item Number: A-2
AGENDA ITEM: (1) Adoption of a Resolution Granting a Five Year Extension of an Existing Oil Pipeline Franchise Agreement with ExxonMobil and (2) Adoption of a Resolution Declaring City Council's Intent to Grant an Oil Pipeline Franchise to ExxonMobil and Setting the Time and Place for the Related Public Hearing.	
Contact Person/Dept.: Nick Kimball, Budget & Finance	Phone Number: (310) 253-6013
Fiscal Impact: Yes [X] No []	General Fund: Yes [X] No []
Public Hearing: [] Action Item: []	Attachments: [X]
Public Notification: Master Notification List (01/10/08); ExxonMobil (01/24/08)	
Department Approval: Martin R. Cole (01/23/2008)	City Attorney Approval: Carol Schwab (by R. Miranda) (01/23/08)
Fiscal Impact Review: Jeff Muir (by M. Noller) (01/23/08)	City Manager Approval: Jerry B. Fulwood (01/23/2008)

RECOMMENDATION:

Staff recommends the City Council adopt a resolution granting ExxonMobil's third five-year extension and adopt a resolution declaring its intent to grant an oil pipeline franchise to ExxonMobil and setting the time and place for holding the related public hearing.

BACKGROUND:

ExxonMobil operates a 16" oil pipeline which carries San Joaquin Valley crude oil from the Grapevine area to ExxonMobil's Torrance refinery. A portion of this pipeline runs underneath Culver City, for approximately 2.7 miles. Culver City originally authorized this pipeline when it granted a franchise to Mobil Oil in 1992. Mobil Oil subsequently became ExxonMobil, which currently operates this pipeline.

The initial term of the franchise was five years, from 1992 to 1997. The franchise gave the pipeline owner the option to renew the franchise for three additional five-year terms. The pipeline operator exercised its first option to renew the franchise in 1997, extending the franchise from 1997 to 2002. The pipeline operator exercised its second option to renew the franchise in 2002, extending the franchise from 2002 through November 25, 2007.

ExxonMobil has notified the City that it wishes to exercise its third option, which would extend ExxonMobil's franchise from November 2007 to November 2012. In addition, ExxonMobil has proposed that the City consider granting ExxonMobil the right to exercise two additional five-year options after expiration of the third option.

Granting ExxonMobil the right to exercise two additional five-year options would extend the franchise agreement to 2022.

In November 2007, the City Council authorized extending the current agreement through January 31, 2007 to give staff an opportunity to negotiate with ExxonMobil regarding their request for the two additional five-year options. Pursuant to that authority, the City Attorney's Office executed a Letter Agreement with ExxonMobil to extend the current franchise agreement until January 31, 2008.

DISCUSSION:

In December 2007, staff met with ExxonMobil's representatives to discuss their request to exercise the third option of their current agreement, as well as their proposal to be granted the right to exercise two more five-year options after expiration of the third option. As a result of those discussions, staff and ExxonMobil's representatives have tentatively agreed that the City will grant ExxonMobil's third option and that ExxonMobil will pay the City a $10,000 administrative fee to cover the costs associated with ExxonMobil's exercising of its third option.

Regarding ExxonMobil's request that it be granted the right to exercise two additional five-year options after expiration of their third option, staff and ExxonMobil's representatives have tentatively agreed on the terms and conditions relating to the granting of such options. However, the City granting ExxonMobil the right to exercise two additional five-year options would constitute the granting of a franchise. Prior to the granting of any franchise, the City Charter requires the adoption of a resolution declaring the City Council's intent to grant the franchise and the setting of a public hearing to consider such a matter. Therefore, staff has also prepared and attached such a resolution for the City Council's consideration. Should the City Council adopt this resolution, staff will return with an ordinance amending the franchise agreement to reflect the granting of the fourth and fifth five-year options and outlining the terms and conditions relating thereto.

FISCAL ANALYSIS:

Under the current franchise agreement, ExxonMobil pays the City a flat fee annually as compensation for use of the City's right-of-way. The flat fee was set at $64,139.85 when the franchise agreement was first executed in 1992 and is subject to an annual increase based on the Producer Price Index for All Commodities.

Additionally, ExxonMobil pays a throughput penalty, based on the average daily flow of crude oil through the Culver City pipeline. If in any calendar year, the throughput of crude oil averages more than 95,000 barrels per day, then ExxonMobil must pay the City a throughput penalty in the amount of five cents ($0.05) per barrel in excess of 95,000 times the number of days in that year. The following table summarizes the City's flat fee and throughput penalty receipts since 2004-05:

	2004-05	2005-06	2006-07
Flat Fee	$80,420	$88,151	$90,057
Throughput Penalty	3,504	26,950	0
Total Receipts	**$83,924**	**$115,101**	**$90,057**

Assuming a 3.5% annual increase in the Producer Price Index for All Commodities, the receipts for the next five years of the current franchise agreement are as follows:

	2007-08	2008-09	2009-10	2010-11	2011-12
Flat Fee	$93,210	$96,470	$99,850	$103,345	$106,960
Throughput Penalty	TBD	TBD	TBD	TBD	TBD
Total Receipts	**$93,210**	**$96,470**	**$99,850**	**$103,345**	**$106,960**

Administrative Fee
Based on the estimated staff time to review, research and process ExxonMobil's third option, an administrative fee of $10,000 has been tentatively agreed upon. Staffing cost estimates include direct salary and benefits costs for each staff member involved in the process as well as indirect overhead costs (such as payroll, IT services, workers' comp and liability insurance costs, management oversight, etc.).

ATTACHMENTS:

1. Resolution Extending the Franchise of ExxonMobil Oil Corporation to Operate and Maintain a Certain Pipeline and Appurtenances for the Transportation of Hydrocarbon Substances in the City of Culver City of Culver City

2. Resolution Declaring Intent to Grant a Franchise to Operate and Maintain a Certain Pipeline and Appurtenances for the Transportation of Hydrocarbon Substances and Setting the Time and Place for the Related Public Hearing

MOTION:

1. Adopt a resolution granting a five-year extension of the existing oil pipeline franchise with ExxonMobil; and

2. Adopt a resolution declaring the City Council's intent to grant an oil pipeline franchise to ExxonMobil and setting the time and place for the related public hearing.