MEETING DATE: April 7, 2008

AGENDA ITEM : Adoption of a Resolution Granting a Five Year Extension of an Existing Oil Pipeline Franchise Agreement with ExxonMobil.

ATTACHMENTS

		Pages
1.	Resolution	1-3
2.	Staff report from February 4, 2008	4 - 7
3.	Franchise Agreement (as Amended in 2003)	8 – 49
4.	Background Documents	50 - 170

RESOLUTION NO. 2008-R ___________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, APPROVING A THIRD OPTION OF 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.

WHEREAS, on October 26, 1992, the Culver City City Council adopted Ordinance No. 92-014, which granted Mobil Oil Corporation a franchise to operate and maintain a certain pipeline and appurtenances for the transportation of hydrocarbon substances in the City of Culver City ("City"); and

WHEREAS, an initial term of five years and three five-year options were provided for under the terms of that franchise; and

WHEREAS, Mobil Oil Corporation exercised its first five-year option in 1997; and

WHEREAS, Mobil Oil Corporation changed its name to ExxonMobil Oil Corporation ("ExxonMobil") on June 1, 2001; and

WHEREAS, ExxonMobil exercised its second five-year option in 2002; and

WHEREAS, the term of ExxonMobil's second five-year option expired on November 25, 2007; and

WHEREAS, ExxonMobil provided the City timely notice of its desire and intent to exercise its third five-year option; and

WHEREAS, ExxonMobil has been and is in compliance with the terms and conditions of its franchise; and

WHEREAS, as verified by the Office of the State Fire Marshall, there have not been and are not now any violations of pipeline safety.

NOW, THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY RESOLVE, as follows:

1. Pursuant to the terms of Ordinance No. 92-014, the franchise of Exxon Mobil to operate and maintain a certain pipeline and appurtenances for the transportation of hydrocarbon substances in the City of Culver City is hereby extended for a third five-year option, beyond the second five-year option which expired on November 25, 2007.

2. The term of the third five-year option began on November 26, 2007 and the expiration date for the third five-year option shall be November 25, 2012.

3. An administrative fee in the amount of $10,000 for processing costs shall be paid to the City, by ExxonMobil, before this option can become effective.

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4. The annual franchise fees for the third term shall be maintained as provided for in Ordinance No. 92-014, subject to the annual increases to the specified

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base rate. All other terms and conditions of the Franchise Ordinance shall remain in full force and effect.

APPROVED and ADOPTED this ______day of ________________, 2008.

____
ALAN CORLIN, MAYOR
City of Culver City, California

ATTEST:

____
CHRISTOPHER ARMENTA,
City Clerk
A08-00029

APPROVED AS TO FORM:

____
CAROL A. SCHWAB, City Attorney

City of Culver City, California

City Council Agenda Item Report

Meeting Date: 02/04/2008	Item Number: A-1
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 Consider Granting 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: [X]	Attachments: [X]
Public Notification: Master Notification List (01/30/08); 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:

City of Culver City, California

City Council Agenda Item Report

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 consider granting an oil pipeline franchise to ExxonMobil and setting the time and place for the related public hearing.

ORDINANCE NO. 92-014

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, GRANTING TO MOBIL OIL CORPORATION, A NEW YORK CORPORATION, A FRANCHISE TO OPERATE AND MAINTAIN A CERTAIN PIPELINE AND APPURTENANCES FOR THE TRANSPORTATION OF HYDROCARBON SUBSTANCES IN THE CITY OF CULVER CITY.

WHEREAS, Mobil Oil Corporation presently has a franchise for an underground pipeline pursuant to an agreement granted by the City of Culver City on June 17, 1977, (as amended May 1, 1987); and

WHEREAS, Mobil Oil Corporation, a New York corporation, has applied to the City of Culver City for an amendment/reissuance of its franchise for a pipeline and appurtenances to transport hydrocarbon substances extending approximately 2.72 linear miles under the public streets and alleys of Culver City; and

WHEREAS, pursuant to Resolution No. 92-R072, adopted on August 10, 1992, the City Council declared its intention to grant a non-exclusive franchise, and set a public hearing on the proposed new franchise for September 14, 1992, which was continued to September 21, 1992 and October 12, 1992 in accordance with Culver City Charter section 1400; and

WHEREAS, the proposed pipeline entails new construction and the transportation of substances at a potentially higher volume than the existing pipeline and, consequently, the City of Los Angeles, as lead agency, certified a Final Environmental Impact Report/Statement for the Proposed M-70 Pipeline Replacement and System Optimization Project on February 28, 1991 in accordance with the California Environmental Quality Act and National Environmental Policy Act; and

WHEREAS, on September 14, 21, and October 12, 1992, the City Council held its public hearing on the proposed franchise and, following public

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testimony and thorough discussion of the application, determined to amend and reissue a franchise to Mobil Oil Corporation on the terms and conditions provided herein.

NOW THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY ORDAIN as follows:

SECTION 1. TERMS AND CONDITIONS OF FRANCHISE:

A. Terms of Franchise.

This franchise is hereby granted to Mobil Oil Corporation, hereinafter referred to as Grantee, for a term of five years (the "Initial Term") from the effective date of this franchise, subject to all of the limitations and restrictions herein contained. This franchise may be terminated by voluntary surrender or abandonment by Grantee, or by forfeiture for non-compliance of the terms and provisions hereof. Grantee shall further have the option to extend this franchise for three additional five-year terms (the "Subsequent Terms") for a fee as agreed to by the parties or determined to be reasonable in light of franchise fees then being charged by jurisdictions for rights-of-way of similar size and type. Grantee may exercise its rights to extend this franchise by notifying the City of its election to extend this franchise in writing no later than ninety (90) days prior to the expiration of the then current term.

B. Grant of Franchise.

This franchise grants to Grantee the right, and privilege to install, operate, maintain, replace and repair a sixteen-inch (16") diameter pipeline, for the transportation of heavy oil, which has an API gravity of less than 30 degrees by ASTM Method D-1298 or water in, under, along and across certain public streets, highways and alleys, hereinafter for the convenience collectively referred to as "streets," in the City of Culver City, County of Los

Angeles, State of California, hereinafter referred to as "City", as described in Exhibit "A", attached hereto and shown on the map attached hereto as Exhibit "B".

C. Appurtenances.

The Grantee shall have the right to operate, maintain, repair or replace such scraper traps, manholes, flanges, conduits, culverts, valves, appliances, cathodic protection systems, attachments and other appurtenances (hereinafter for convenience collectively referred to as "appurtenances") as may be necessary or convenient for the proper maintenance and operation of the pipeline under this franchise; provided, however, that Grantee shall first secure the requisite permits and/or approvals from City for construction or excavation.

SECTION 2. MAINTENANCE AND REPAIR.

A. Grantee shall maintain the pipeline in good, workerlike manner and in conformity with all applicable and lawful federal, state and local rules and regulations and shall perform any necessary repairs. City agrees to process all permit and excavation applications in a timely manner and for a reasonable fee.

B. Grantee shall conduct maintenance and repair of the pipeline with the least possible hindrance to the use of the streets for purposes of travel, and as soon as such work is completed, all portions of the streets which have been excavated or otherwise damaged thereby shall be repaired in cooperation with and to the satisfaction of the City. The term "repair" as used in this Ordinance shall mean compliance with Culver City Municipal Code section 30-29. In the activities, the Grantee shall indemnify the City as provided in Section 11.

C. Grantee, upon completing any street opening, shall repair all streets, highways, private and public property to the satisfaction of the City, and does by this franchise, guarantee that the work of restoration shall be good against all faulty workmanship and materials and shall, for a period of one (1) year thereafter, maintain all such restored street surfaces in as good condition as other portions of said street, and according to current ordinances of the City, not disturbed by said opening.

D. Grantee shall make such deposits of money or shall file such bonds upon request of the City, with the City as may be required to insure satisfaction and completion of all construction activity, both in connection with the initial construction of the pipeline and with the subsequent repairs of same within public rights of way.

E. In all duties of the Franchisee, time is of the essence.

SECTION 3. SAFETY REQUIREMENTS.

A. <u>Conformance with Pressure Piping Code</u>

The pipeline and appurtenances shall be operated, maintained, replaced or repaired in accordance with the latest revision of the "American National Standard Code for Pressure Piping ANSI/ASME B31.4-1979;" American Petroleum Institute Standard 1104; Code of Federal Regulations, Part 195, Title 49 U.S.C. and other applicable standards and codes, whichever is the most stringent.

B. <u>Conformance with Federal and State Codes</u>

The pipeline and appurtenances shall be operated, maintained, replaced or repaired in accordance with all Federal standards for the constructing of interstate pipelines as set forth in Federal laws, rules or regulations. Whenever there is a conflict with the Federal or State standards, the more stringent standard will prevail.

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C. Conformance with City Ordinances and Permits

The pipeline and appurtenances shall be operated, maintained, replaced or repaired in conformity with all ordinances, rules or regulations in effect at the time of granting of this franchise, or as prescribed by the City Council, and in accordance with the terms and conditions of any permit issued by the City Engineer.

D. Certified Test Results

For those pipelines subject to the provisions of the Pipeline Safety Act of 1981, (California Government Code Section 51010, et seq.), the testing shall be conducted as required by the State Fire Marshal, and certified test results shall be requested by the City from the Fire Marshal. In the event the State Fire Marshal shall fail to provide such certified test results to the City, Grantee shall provide such test results to the City upon request.

SECTION 4. STREET EXCAVATION RULES

A. Permit Required.

Except in an emergency, the Grantee shall not excavate in a City street without having first obtained a Construction-Excavation Permit from the City Engineer. The Grantee shall pay any fees required by such permit. Such application may include a traffic control plan and other information as required by the City Engineer. As used herein, "emergency" shall refer to situations in which persons are endangered or property or environmental damage may result, or other requirements of law, rule or regulation or government order may be violated, if work is delayed pending issuance of a permit, and "City Street" shall mean any public street, alley, way, or any property owned by the City.

B. Duty to Repair Streets.

As soon as any street excavation work is completed, all portions of the streets excavated or otherwise damaged thereby shall be repaired consistent with existing ordinances to the satisfaction of the City Engineer. All street repair work shall be made by the Grantee at the expense of the grantee in accordance with the ordinances of the City and the conditions of the Construction-Excavation Permit issued therefor by the City Engineer.

C. Capital Improvement Plan.

Annually, prior to January 1st, the Grantee shall submit a project five-year capital improvement plan for its facilities subject to this Ordinance. Scheduling for repair, replacement or modifications shall be described by year and location in order to provide information to the City for coordination with its public works capital improvement program. Projects not on such a schedule may be denied a permit unless the work is an emergency or the need is unforeseen. Justification may be required from the Grantee.

SECTION 5. CLEAN-UP OF BREAKS AND LEAKS.

Mobil Oil shall report immediately any spills or leaks to the City Engineer. If any portion of any street shall be damaged by reason of breaks or leaks in any pipe or conduit operated or maintained under this franchise, or if any street, sidewalk, sewer, storm drain or other facility be contaminated with crude oil, waste water, diesel fuel, gasoline or other substance transported in said pipelines, the Grantee shall, at its own expense, immediately repair or clean up or cause to be repaired or cleaned up any such damage or contamination and repair such street, sidewalk, sewer, storm drain or other facility to the satisfaction of the City Engineer. Such cleanups shall be accomplished in a timely manner, with as little public disruption as possible.

The Grantee shall be responsible to reimburse the City for all costs associated with City services provided during such break or leak. The reimbursement shall include the current rate of overhead being charged by the City for reimbursable work. Reimbursable work shall include, but not be limited to, inspection, traffic control, police, fire, street, environmental and other City response forces.

SECTION 6. EMERGENCY CREWS.

At all times during the term of this franchise, the Grantee shall maintain on a twenty-four (24) hour basis personnel to operate the pipeline system, including the leak detection system and the communications cable. In addition, during the term of this franchise, the Grantee shall maintain on a twenty-four (24) hour basis adequate standby equipment and properly trained emergency standby crews, for the purpose of implementing emergency response such as repairs, oil spill cleanup, preventing or minimizing damage or the threat of damage to people or the environment in the event of an emergency resulting from an earthquake, act of war, civil disturbance, flood, leakage or other cause. The emergency standby crews and equipment shall be capable of being at the site requiring the emergency call-out within two (2) hours. All vaults within the City, if any, shall be adequately secured, and City personnel briefed in obtaining access and shutting off valves.

SECTION 7. COMPENSATION TO THE CITY

A. Upon approval of this ordinance, the Grantee shall pay to the City the sum of $10,000.000 which shall be an administrative fee for appraisal services, Engineering, Emergency, Legal and other city services incurred by the City in processing this franchise application. This in addition to the $10,000 paid by Franchisee on August 17, 1992, for such services.

B. During the Initial Term, Grantee shall pay to the City a base annual fee of $64,139.85, for a four foot wide right-of-way to install, repair and have access to the 16-inch diameter pipeline. The first fee shall be paid upon acceptance of the franchise and annually thereafter by the anniversary

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date pursuant to Section 1.A. Grantee shall pay on or before the first day of any Subsequent Term the new annual fee agreed to by the parties and on each successive anniversary date of the franchise thereafter.

C. The compensation provided for in Section 7.B shall be subject to an increase after the first year of the franchise on the anniversary date of the franchise, and each subsequent year thereafter during the term of this franchise. The amount of increase shall be computed pursuant to the Producer Price Index for All Commodities in the following manner:

> The base for computing the adjustment is the Producer Price Index for All Commodities, published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), which is published for the month nearest the date of the commencement of the term of this franchise ("Beginning Index"). If the Index published nearest the anniversary date ("Extension Index") has increased over the Beginning Index, the franchise fee for the following year (until the next adjustment) shall be set by multiplying the franchise fee set forth in Section 7.B by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index. In no case shall this increase compensation be less than the franchise fee set forth in Section 7.B. If the Index is discontinued or revised during the term, such other mutually agreeable governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.

D. The franchise fee set out in this Section shall in no way limit Grantee's obligation to compensate City or any private citizen for any damage, claim, expense, or loss whatsoever as set forth in this franchise.

E. Compensation Adjustments and Compensation in the Event of Removal or Abandonment. Notwithstanding the provisions of paragraphs 7.B and 7.C, the Grantee shall be liable to pay the City the annual fee for the period to and including the date of either actual removal of the facilities or the effective date of the properly approved abandonment "in place" authorized by the City, and until the Grantee shall have fully complied with all the provisions of law or ordinances relative to such abandonments.

In the event of partial abandonment of facilities with the approval of the City as elsewhere in the ordinance provided, or in the event of partial removal of such facilities by the Grantee, the payments otherwise due the City for occupancy of the streets by such facilities shall be reduced by the length of pipeline abandoned times the rate per foot to be charged beginning with the first day of the next succeeding franchise year, and for each franchise year thereafter; provided, however, that the said base rate shall be modified to reflect the Price Index adjustment (per Paragraph 7.C) applicable to such abandoned or removed pipeline at the beginning of the next succeeding franchise year following abandonment or removal.

F. Grantee shall pay to the City, on demand, the cost of all repairs to public property made necessary by any operation of the Grantee under this franchise.

G. Any payment due from Grantee to City under any provision of this franchise which is not paid when due shall bear interest at the highest amount allowable by law, but the payment of such interest shall not excuse nor cure any other default by Grantee under this franchise. All payments shall be paid, without deduction or offset except as herein provided, to the office of the City Treasurer of the City at 4095 Overland Avenue, Culver City, California 90232- 0507, or at such place as the City shall from time to time designate in writing.

In the event any payment required under this Section 7 is late, the following schedule of late charges shall be applicable to that portion which is overdue:

(1) late 10 days but less than 30 days--2% of the amount due; plus:

(2) for each additional 30 days or fraction thereof over 30 days--an additional 2% of the amount, including interest due under this Section 7.G.

SECTION 8. REMOVAL OR ABANDONMENT OF FACILITIES.

A. Application to City Engineer

At the expiration, revocation or termination of this franchise or of the permanent discontinuance of the use of its facilities or any portion thereof, the Grantee shall, within thirty (30) days thereafter, make a written application to the City Engineer for authority to abandon all or a portion of such facilities. Such application shall describe the facilities desired to be abandoned or removed by reference to the map or maps required by section 1 of this ordinance and shall also describe with reasonable accuracy the relative physical condition of such facilities. Abandonment of the pipeline shall be accomplished as required by the Pipeline Safety Act, State or Federal regulations, or any successor legislation.

B. Determination of City Engineer.

The City Engineer shall determine whether such abandonment or removal which is thereby proposed may be affected without detriment to the public interest or under what conditions such proposed abandonment or removal may be safely affected. He shall then notify the Grantee, and according to such requirements as shall be specified in the City Engineer's order and applicable state and federal regulations, the Grantee shall, within ninety (90) days thereafter, either:

(1) Remove all or a portion of such facilities; or

(2) Abandon in place all or a portion of such facilities, as set forth in the City Engineer's order.

C. Failure to Properly Abandon.

If any facilities to be abandoned in place subject to prescribed conditions shall not be abandoned in accordance with all such conditions, then the City Engineer may make additional appropriate orders, including, if he deems desirable, an order that the Grantee shall remove all such facilities in accordance with applicable requirements of the Pipeline Safety Act or other governing law or statute. In the event the Grantee shall fail to remove any facilities which it is obligated to remove in accordance with such applicable requirements within such time as may be prescribed by the City Engineer, then the City may remove or cause to be removed such facilities at the Grantee's expense and the Grantee shall pay to the City the actual cost thereof plus the current rate of overhead being charged by the City for reimbursable work. The bond provided at Mitigation Measure CC-18 and insurance provided at Section 12, shall be available to the City to recover such expense.

SECTION 9. REARRANGEMENT OF FACILITIES

A. Expense of Grantee

Whenever, during the existence of this franchise, the City shall change the grade, width or location of any street or improve any street in any manner, including the laying of any sewer, storm drain, conduits, gas, water or other pipes owned or operated by the City or any other public agent, or construct any pedestrian tunnels, or other work of the City (the right to do all of which is specifically reserved to the City without any admission on its part that it would not otherwise have such rights) and such work shall, in the opinion of the City Engineer, render necessary any change in the position or location of any facilities of the Grantee in the street, the Grantee shall, at its own cost and expense, do any and all things to effect such change in position or location in conformity with the written notice of the City Engineer as provided in Paragraph D below; provided however, that the City shall not require the Grantee to remove its conduits or lines entirely from the street.

B. Expense of Others

Except as provided in Paragraph A of this Section 9, when such rearrangement is done for the accommodation of any person, firm or corporation, the cost of such rearrangement shall be borne by the accommodated party. Such accommodated party, in advance of such rearrangement, shall (a) deposit with the Grantee either cash or a corporate surety bond in an amount, as in the reasonable discretion of the Grantee shall be required to pay the costs of such rearrangement; and (b) shall execute an instrument agreeing to indemnify and hold harmless the Grantee from any and all damages or claims caused by such rearrangement.

C. Rearrangement of the Facilities of Others

Nothing in this franchise contained shall be construed to require the City to move, alter or relocate any of the facilities upon said streets, at its own expense, for the convenience, accommodation or necessity of any other public utility, person, firm or corporation; or to require City or any person, firm or corporation now or hereafter owning a public utility system of any type or nature, to move, alter or relocate any part of its system upon said streets for the convenience, accommodation or necessity of the Grantee.

D. Notice.

The Grantee shall be given not less than thirty (30) days' written notice of any rearrangement of facilities which the Grantee is required to make hereunder. Such notice shall specify the time that such work is to be accomplished. In the event that the City shall change the provision of any such notice given to the Grantee, the Grantee shall be given an additional period not less than thirty (30) days to accomplish such work.

SECTION 10. SUSPENSION OF OPERATIONS

If, for any reason, Grantee suspends operations on the pipeline contained in this franchise for a period in excess of thirty (30) days, he shall notify the City Engineer. During this period of suspended operations, the Grantee shall maintain its normal pipeline surveillance and all cathodic protection systems to insure pipeline integrity. This shall continue until such a time as the line is returned to service or abandoned according to Section 8 herein.

SECTION 11. INDEMNIFICATION BY GRANTEE.

A. Grantee shall indemnify, defend, and hold City, its City Council, boards and commissions, officers, agents, servants and employees harmless from and against any and all claims, demands or causes of action which may be asserted, prosecuted or established against them, or any of them, for damage to persons or property, of whatever nature, arising out of the use by it of the City streets hereunder or arising out of any of the operations or activities of the Grantee pursuant to the franchise, whether such damage shall be caused by negligence or otherwise, including reasonable attorneys' fees regardless of the merit or outcome of any such claim or suit.

B. Grantee shall indemnify, defend and hold harmless the City, its

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City Council, boards, and commissions, officers, agents, servants and employees, from and against any and all claims and losses whatsoever, including reasonable attorneys fees, accruing or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, equipment or supplies to Grantee or to its contractors in connection with activities or work conducted or performed pursuant to this franchise and arising out of such activities or work, and from any and all claims or losses whatsoever, including reasonable attorneys' fees, accruing or resulting to any person, firm or corporation for damage, injury or death arising out of Grantee's operations.

C. Grantee shall indemnify, defend and hold harmless the City, its City Council, boards, and commissions, officers, agents, servants and employees, from and against any and all claims and losses whatsoever, including reasonable attorneys fees, for any act in connection with approving the franchise.

SECTION 12. INSURANCE REQUIREMENTS.

A. Type and Amount.

Within five (5) days after the effective date of this franchise, the Grantee shall furnish to the City Clerk of the City of Culver City evidence of insurance, including special endorsements, applicable to all activities conducted under this franchise and including the liability arising out of the existence of real property, in the following forms and amounts;

1. Comprehensive Public Liability Insurance

Grantee at all times during the term of this franchise shall maintain liability insurance in an amount not less than $50,000,000 to cover any claim, expense, or loss arising out of the operation, use, maintenance or other privilege exercised under this franchise,

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including Grantee's contractual liability to indemnify City. The City, its City Council, boards, and commissions, officers, agents, servants, and employees shall be named as additional insured in said policy of insurance for all operations of Grantee relating to the operation of the pipeline within the City. Said policy of insurance shall contain the following provisions or endorsements:

(a) The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured.

(b) An additional insured named herein shall not be held liable for any premium or expense of any nature on this policy or any extension thereof.

(c) The provision of the policy will not be changed, suspended, cancelled or otherwise terminated as to the interest of an additional insured named herein without first delivering to City sixty (60) days notice of such intention. In such event, Grantee shall secure replacement insurance in the amount and with the endorsements set forth in this Section.

2. <u>Worker's Compensation Insurance</u>.

Covering the Grantee's statutory obligations under California Law for injury to employees. If Grantee is self-insured, evidence must be provided of current State Certificate to Self Insure and that the required self-insurer's bond is in effect. Each insurer shall be admitted in California, or authorized to conduct business in California, and shall be rated by Best's Insurance guide (or in the event Best's is not in publication, its successor) as Class X. The City has the right during the terms of this franchise to amend the insurance requirements to increase the amount and scope of coverage.

SECTION 13 DEFAULT.

A. Effect of Default

In the event that the Grantee shall default in the performance of any of the terms, covenants and conditions herein and such default is curable, the City may give written notice to the Grantee of such default. In the event that the Grantee does not commence the work necessary to cure such default within thirty (30) days after such notice is sent or prosecute such work diligently to completion, the City may declare this franchise forfeited. Upon giving written notice thereof to the Grantee, this franchise shall be void and the rights of the Grantee hereunder shall terminate and the Grantee shall execute an instrument of surrender and deliver the same to the City. Upon giving notice of such forfeiture to Grantee and the State Fire Marshal the City may shut off the valve at the Slauson Pump Station.

B. Force Majeure

In the event Grantee is unable to perform any of the terms of this franchise by reason of strikes, riots, acts of God, acts of public enemies or other such cause beyond its control, it shall not be deemed to be in default or have forfeited its rights hereunder if it shall commence and prosecute such performance with all deliberate speed.

C. Cumulative Remedies.

No provision herein made for the purpose of securing the enforcement of terms and conditions of this franchise shall be deemed an exclusive remedy, or to afford the exclusive procedure, for the enforcement of said terms and conditions, but the remedies and procedures herein provided, in addition to those provided by law, shall be deemed to be cumulative.

SECTION 14. SCOPE OF RESERVATION.

The enumeration herein of specific rights reserved shall not be construed as exclusive or as limiting and general reservation herein made or as limiting such rights as the City may now or hereafter have in law.

SECTION 15. NOTICE.

Any notice required to be given under the terms of this franchise, the manner of services of which is not specifically provided for, may be served as notice:

(1) Upon the City, by serving the City Clerk personally, or by addressing a written notice or the City Clerk of the City of Culver City, City Hall, 4095 Overland Avenue, Culver City, California 90232-0507, or at such address as may be subsequently provided to Grantee, and depositing such notice in the United States mail, postage prepaid or;

(2) Upon the Grantee, by personal delivery to the Secretary, or by addressing a written notice or Grantee addressed to Mobil Oil Corporation West Coast Pipe Lines, 3020 Old Ranch Parkway, Suite 200, Seal Beach, California 90740- 2751, and depositing such notice in the United States mail, postage prepaid; or such other address as may from time to time be furnished in writing by one party to the other, and depositing said notice in the United States mail.

When the service of any such notice is made by mail, the time of such notice shall begin with and run from the date of the deposit of same in the United States mail.

SECTION 16. SUCCESSORS.

The terms herein shall inure to the benefit of or shall bind, as the case may be, the successors and assigns of the parties hereto. Assignment of this ,

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Franchise shall require the approval of the City, which approval shall not unreasonably be withheld. This Franchise is granted exclusively to Mobil. The City may demand proof of financial responsibility of any proposed assignee of Mobil.

SECTION 17. ACCEPTANCE OF FRANCHISE.

This Franchise is granted and shall be held and enjoyed only upon the terms and conditions herein contained, and the Grantee must, within ten (10) days after the adoption of the ordinance granting said Franchise, file with the City Clerk of the City of Culver City a written acceptance of such terms and conditions.

SECTION 18. COSTS OF LITIGATION.

If any legal action is necessary to enforce any provision hereof or for damages by reason of an alleged breach of any provisions of this franchise, the prevailing party shall be entitled to receive from the losing party reasonable costs and expenses in such amount as the court or arbitrator may adjudge to be reasonable attorney's fees and costs incurred by the prevailing party in such action or proceeding. The arbitrator shall make and issue written findings of fact and conclusions of law regarding any issue presented for arbitration.

SECTION 19. COMPLIANCE WITH MITIGATION MEASURES SET FORTH IN EIR/EIS.

Pursuant to the Environmental Impact Report prepared by and for the City of Los Angeles, certain mitigation measures were specified for safe, orderly construction and operation which would reduce to a minimum impacts which might otherwise have been negative in effect. Additionally, Culver City submitted additional mitigation measures which were included in the EIR but not specifically identified by the City of Los Angeles as mitigation measures for this project. This Franchise is granted on condition that Grantee shall comply with, and abide by each and every such mitigation measure, as set forth in the EIR as well as those

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found in Exhibit "C" hereto, and those representations made by Mobil and its representatives in writing or in oral testimony before the Council, all of which are deemed material terms of this franchise. For convenience a copy of the applicable mitigation measures are attached hereto as Exhibit C.

SECTION 20. CAPTIONS FOR CONVENIENCE.

The captions herein are for convenience and references only and are not a part of this franchise and do not in any way limit, define or amplify the terms and provisions hereof.

SECTION 21. FRANCHISE TO BE STRICTLY CONSTRUED AGAINST GRANTEE.

(1) The Franchise is granted upon each and every condition herein contained and shall ever be strictly construed against Grantee. Nothing shall pass hereby unless it be granted in plain and unambiguous terms. Each of said conditions and representations made by Mobil and its representatives at the hearing on this ordinance, is a material and essential condition to the granting of the Franchise.

(2) Any provision of the Culver City Municipal Code or appendices thereto, or any other ordinance of the City inconsistent herewith, to the extent of such inconsistencies and no further are hereby repealed.

(3) If any section, subsecciton, sentence or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each

section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 22. GOVERNING LAW.

This Franchise has been made and shall be constructed and interpreted in accordance with the laws of the State of California.

SECTION 23. ARBITRATION.

All disputes arising hereunder shall be referred to binding arbitration under the rules then obtaining of Judicial and Mediation Services, Inc. Grantee agrees to advance the costs of the arbitrator. If the City shall be the prevailing party, then Grantee shall bear the costs of the arbitration. The Arbitrator shall support any decision with written findings of fact and conclusions of law.

SECTION 24. EXECUTION.

The Mayor of the City shall sign and City Clerk shall attest tot he passage of this ordinance. This ordinance shall take effect thirty (30) days from the date of its adoption and prior to the expiration of fifteen (15) days from the adoption hereof the City Clerk, pursuant to Government Code Section 36933(c)(1) shall cause a summary of this ordinance to be published in the Evening Outlook

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along with the record of the vote for approval and adoption and shall post a certified copy of the full text of this Ordinance along with the record of the vote thereon.

APPROVED and ADOPTED this 26th day of October, 1992.

DR. JAMES D. BOULGARIDES, Mayor
City of Culver City, California

ATTEST:

PAULINE C. DOLCE,
City Clerk

APPROVED AS TO FORM:

NORMAN Y. HERRING
City Attorney

OMOBIL92
(jam)

VOTE COUNT:

AYES: Councilmembers Balkman, Smith, Vera, Boulgarides
NOES: Councilmember Gourley
ABSTAIN: None
ABSENT: None

NOTICE OF ADOPTION OF ORDINANCE:
PUBLISHED IN THE SANTA MONICA EVENING OUTLOOK ON NOVEMBER 2, 1992.

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Beginning at the intersection of Venice Blvd., and Sepulveda Blvd.

thence South along Sepulveda Blvd., to the intersection of Culver Blvd.;

thence Westerly along Culver Blvd., to Sawtelle Blvd.;

thence South along Sawtelle Blvd., to the Culver City/ LA City boundaries;

Reenter Culver City boundary at Sawtelle Blvd., North of McDonald St.;

thence Southeasterly along Sawtelle Blvd., to the Alley East of Segrell Way;

thence South along Alley East of Segrell Way to Slauson Avenue;

thence East along Slauson Avenue to Sepulveda Blvd;

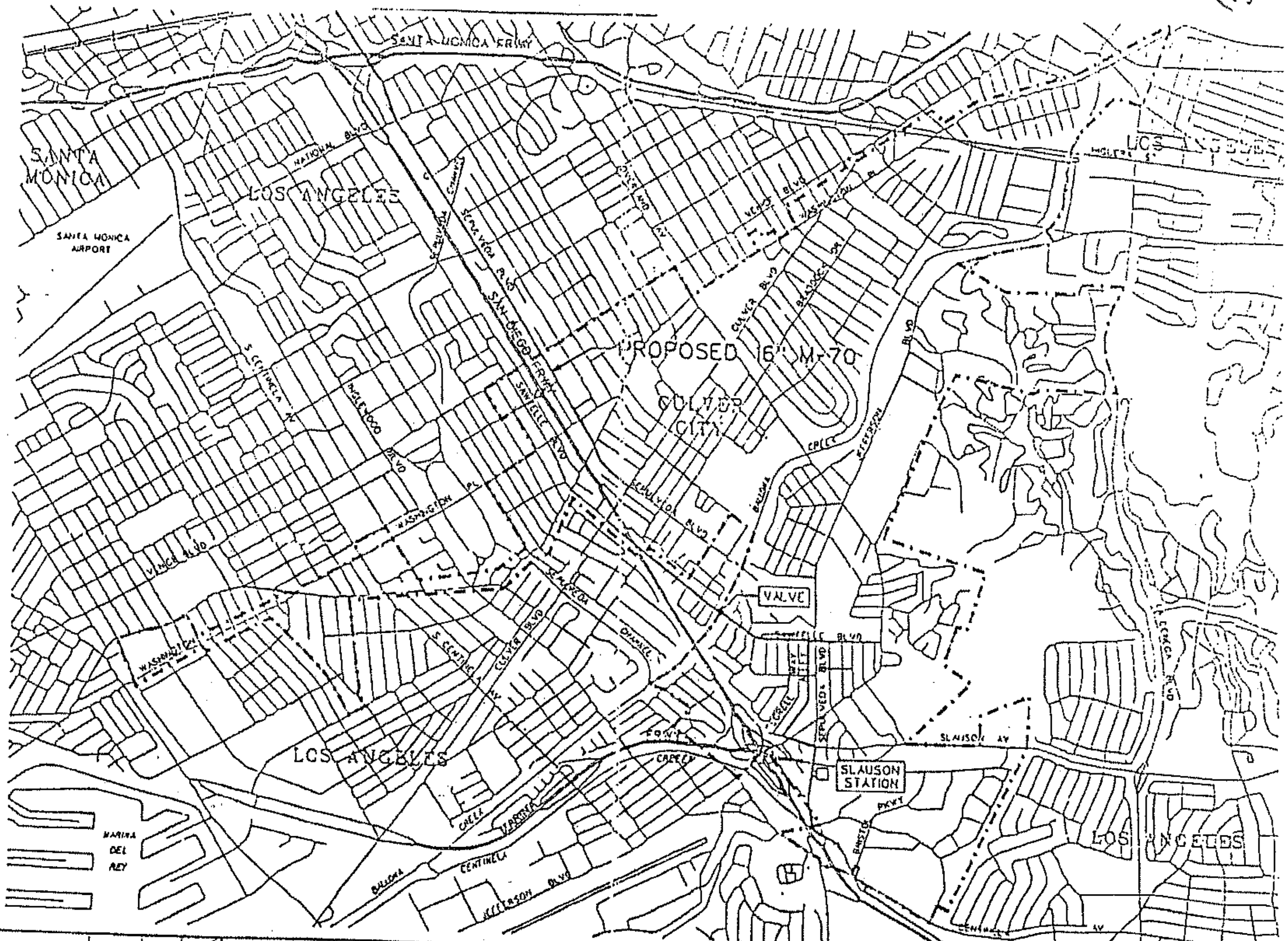
thence South along Sepulveda Blvd., to a point where the pipeline enters Centinela Creek Channel Right of Way, (excluding approximately 477 feet of Sepulveda Blvd, which is under LA City jurisdiction).

Reenter Culver City at Bristol Pkwy., crossing Bristol Pkwy, and proceeding Southerly to Centinela Blvd.;

thence Southeasterly along Centinela Blvd., to the Culver City Boundary.

rcf0113

Exhibit "A" to
Ordinance No.92-014



REVISION	DATE	CHK	APR	W O NO	NO	REVISION	DATE	CHK	APR

Mobil Oil Corporation

1170 PIPELINE REPLACEMENT PROJECT

DRAWN		PROJECT ENGR	
DRAFTING CHECK		SECTION SUPV	
DRAFTING SUPV		APPROVED	

PROPOSED 16" CR
PIPELINE LOCATIC
CULVER CIT

SCALE NONE

Exhibit "B" to Ordinance No. 92-014

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EXHIBIT C

PURSUANT TO SECTION 19
MITIGATION MEASURES
APPLICABLE IN CULVER CITY

Mitigation Measure E-4: Implementing the recommendations from a site specific geotechnical investigation to evaluate liquefaction and hydrocompaction hazard at specific locations. If mitigation of these hazards is indicated, use of standard engineering practices such as excavation and soil compression, dewatering the area beneath and immediately adjacent to the pipeline, or rerouting of the pipeline may be employed.

Site-specific mitigation measures are detailed in the Geologic Impacts Report and are summarized as follows: Liquefaction occurs most often in relatively loose saturated clean sands during or shortly after an earthquake. Liquefaction potential is greatest where the pipeline alignment crosses alluvial valleys. To reduce liquefaction potential, subsurface drainage will be provided to reduce excess pore water pressure, and the density of soils will be increased (dense soils do not liquify). Drainage will be provided by using free draining backfill and/or artificial drainage paths. The density of the soil can be increased using a number of ground-improvement techniques including dynamic compaction, viro compaction, grouting, and/or compaction of the backfill around the pipeline. Where the pipeline crosses valley areas between Mileposts 0 to 4.0, 35.5 to 36.5, 37.0 to 43.0, 51.5 to 52.5, 62 to 65, 75 to 81.5, and 88.5 to 89, backfill for the pipeline trench will be compacted and free-draining (sand free of fines) backfill will be used. In addition, where small sections of high groundwater are encountered, drainage paths will be provided.

Mitigation Measure E-5: Areas along the proposed route with moderate to severe erosion potential may be subject to significant increases in erosion due to pipeline construction. These potential impacts can be mitigated to a not significant level by implementing the erosion control and revegetation guidelines presented in Appendix F. Roadway surfaces in urban areas shall be repaved immediately following backfill to reduce erosion in those areas.

Mitigation Measure E-6: Recommendations from a site specific investigation to further evaluate corrosive soils at locations identified in this EIR/EIS will be implemented. If the results of the investigation indicate that these soils may adversely affect the pipeline, use of standard engineering practices including pipeline strengthening or use of special bed materials will be employed.

The Geologic Impacts Mitigation Measures Plan indicates that corrosion mitigation measures are already included in the pipeline design. In summary, the Plan indicates that the potential for pipeline corrosion can be mitigated by either separation or cathodic protection. In addition, improved drainage decreases corrosion potential. The pipeline can be separated from corrosive soils by wrapping or coating the pipe with a protective cover. A noncorrosive back fill material can also be used for separating the pipe from corrosive native soils. Cathodic protection, either positive or negative, can also be used to protect pipelines from corrosion. The entire M-70 pipeline will be constructed using a sixteen inch diameter welded steel pipe that will be coated with fusion-bonded epoxy with a polypropylene topcoat. After the pipe sections are welded in the field, the joints of the pipe will also be coated using the same process and material. To help prevent damage to the coating, a select sand or slurry backfill will be used to surround the pipe.

Mitigation Measure A-1:

(1) Mobil will prepare a mitigation monitoring plan documenting the proposed methods of monitoring mitigating effectiveness, prior to the initiation of construction. This plan will be submitted to Culver City and to the South Coast Air Quality Management District ("SCAQMD") for review. The Plan shall be subject to the approval of Culver City and shall be implemented with the involvement of SCAQMD personnel.

(2) Potential construction emission sources will be properly managed to minimize emissions. Specifically, unnecessary idling of equipment will be controlled and minimized. Peak emission activities will be minimized by avoiding major activities from occurring simultaneously within the same vicinity. Delivery trucks will not be allowed to idle longer than 10 minutes per trip.

(3) Mobil will require its contractors to properly tune all gasoline fired I. C. engines for proper combustion to minimize emissions of CO and NO_x. An inspection and maintenance (I&M) program will be implemented for gasoline-fired I. C. construction engines.

(4) Mobil will encourage contractors to use staged, or pre-chamber combustion designed construction equipment wherever possible. This type of design reduces NO_x emissions by lowering the combustion temperature.

(5) If non-staged diesel engine design construction equipment is used, Mobil will require its contractors to retard the injection timing of the diesel engines. This will effectively lower the peak combustion temperature and consequent NO_x emissions.

(6) Mobil will require that gasoline-fueled construction equipment use unleaded fuel. Furthermore, Mobil will require the use of catalytic converters on gasoline fueled equipment, including welding machines.

(7) Mobil will require all on-site diesel construction equipment to use diesel with a sulfur content of 0.5% by weight.

(8) Mobil will require all trucks exporting excavated soil to landfills to have covers. This will minimize PM_{10} generation during the transport.

(9) Mobil will minimize wind blown dust by covering all export soil stockpiles (rows) with plastic sheeting during non-working hours and with frequent watering of stockpiled soil during working hours. Additionally, Mobil will minimize the number of intermediate stockpiles by encouraging contractors to take export soil directly landfill and not to create intermediate stockpiles at other locations.

(10) In rural areas of South Coast Air Basin, where right-of-way grading is conducted, Mobil will minimize fugitive dust generation by frequent watering and/or chemical dust suppressants (e.g., M_gCl). (See also CC-8.) Furthermore, the spread width will be maintained to a maximum of 30 feet. Revegetation of the disturbed area will be conducted immediately after construction.

(11) Mobil will require its contractors and employees to rideshare wherever possible to a central location. From this central location, van pools will be used to transport construction workers to and from the individual construction spread. This will reduce traffic related emissions.

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(12) During high wind conditions, Mobil will suspend trenching and stockpiling activities at a spread. The curtailment will minimize the PM_{10} emission generation due to wind blown dust.

(13) During construction, Mobil will require its contractors to maintain good housekeeping practices such as manual sweeping of loose dirt in the spread area. This will effectively minimize the contribution of loose dirt onto roadways would otherwise result in entrained road dust.

Mitigation Measure N-1: Noise mitigation measures which will be implemented to minimize the impact of construction activities include the use of properly tuned engines which are fitted with noise silencers (mufflers).

Mitigation Measure N-2: Work will be conducted during daylight hours only at residential locations and will be for only a short time at any given location. All areas with adjacent residential areas indicated on maps in appendices A and B [which includes Culver City] will be limited to a 9:00 a.m. to 5:00 p.m. construction schedule to reduce noise disturbance. No nighttime activity will be allowed in these areas.

Mitigation Measure N-3: People at residences and other sensitive receptors will be advised prior to construction and encouraged to close their windows during the time that construction activities are the loudest at their location.

Mitigation Measure LG-1: Mitigation for light and glare impacts will involve light reduction/exposure techniques: use of low pressure sodium lights, direct light down and away from traffic, and shielding of light sources.

Mitigation Measure RU-1: Provide support for underground facilities in and near the construction area during work in the trench and backfilling operations to prevent damage to such facilities during construction activities.

Mitigation Measure RU-2: Use hand tools in utility intensive areas and within 24 inches of underground structures.

Mitigation Measure RU-3: In the event of inadvertent damage to an underground facility, halt work in the immediate vicinity on M-70 pipeline during facility report.

Mitigation Measure RU-4: Mobil will notify owners of any underground electrical facilities 48 hours in advance of excavation in the vicinity of these facilities. Mobil will have an electrical contractor on-call at all times during construction near the potentially affected facility to repair any circuits if required by the owner in the event they are damaged during construction. The appropriate response to hazards associated with damage to natural gas pipelines will be determined in consultation with natural gas utility operators and local fire departments. Local fire departments will be notified of the schedule of construction activities in the vicinity of natural gas lines.

Mitigation Measure RU-5: Implement the recommendations from geotechnical studies for proper pipeline design features in fault zones to accommodate potential ground movement.

The Geologic Impacts Mitigation Plan, contained in Volume III of the Final EIR/EIS, contains site specific recommendations for proper pipeline design in fault zones.

Mitigation Measure RU-8: Annual testing of the pipeline using the internal inspection pig to provide the same frequency of pipeline inspection as required for the existing M-70 pipeline without significantly interrupting operations. This measure is applicable to the extent it is consistent with and allowable by the Pipeline Safety Act of 1981, and may be waived if the California State Marshall specifically determines that this testing is not necessary to provide an adequate margin of protection against corrosion-related failures.

Mitigation Measure RU-9: Additional remote-controlled motor operated valves and check valves will reduce the maximum potential spill volume along the pipeline route. Table 4.2.10-3 [of the Final EIR/EIS] presents recommended locations where additional valves would effectively reduce maximum spill potential on those segments where a complete rupture could potentially result in a significantly larger spill.

Mitigation Measure RU-10: Incorporate seismic sensors at pump stations to shutdown the pipeline automatically in the event that threshold acceleration should be exceeded.

Mitigation Measure RU-12: Mobil shall maintain an up-to-date Oil Spill Contingency Plan specific to the M-70 pipeline in compliance with 49 CFR 195.402 subject to the review and approval of the California State Fire Marshal. In addition to compliance with all requirements of 49 CFR 195.402, the California State Fire Marshal

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should specifically review this plan's methods and instructions for containing oil across land, down stream channels and in water (Piru Creek and Pyramid Lake). The removal of contaminated vegetation and methods to protect and care for birds and wildlife in the event they become solid with oil are also important plan components to be considered in the State Fire Marshall's review.

In addition, the plan must include a list of not only the names and telephone numbers of the preapproved response contractors, but information on the type and amount of equipment each can provide, number of laborers available, and estimated time to mobilize the response team. A listing of names, numbers and addresses must be provided for emergency access to private lands along the pipeline route. Areas of particular biological sensitivity must be noted and special clean-up techniques outlined should these areas be contaminated. Additionally, areas of archaeological or paleontological significance within the potentially affected spill area that are discovered during the lifetime of the project must be noted in the Contingency Plan. Special clean-up techniques, such as not operating bulldozers, in these areas may be required to reduce impacts on these resources and must be described in the Contingency Plan. Provisions to rehabilitate the habitat affected by the spill and/or by clean-up and reclamation efforts must also be included in the Plan. A monitoring program must be established to assess the rate and overall success of the clean up and reclamation efforts.

Copies of the approved Contingency Plan must be distributed to all agencies crossed by the pipeline route and local fire departments who may be called on for emergency response. Copies of all updates must be provided.

Mobil has submitted a plan to address this mitigation requirements (the plan is included in Volume III of the FEIR/S as an appendix to the comments and responses) and the contents will be refined in consultation with agencies.

<u>Mitigation Measure RU-13</u>: Provide training on how to use the equipment and procedures to be followed to local fire and police officials and Forest Service personnel, as they would generally be the first response personnel on-scene in the event of a spill.

<u>Mitigation Measure RU-14</u>: Supply and maintain oil spill containment and response equipment at a location near Pyramid Lake to protect the water supply and additional response equipment will be stored at the Newhall Pump Station and the Saugus Ranger District Office.

Types of equipment will include sorbent booms and pads, rakes, shovels, and empty sacks suitable for filling and use as sand bags. Equipment necessary to capture and relocate the unarmored threespine stickleback will be stored at the Newhall Pump Station and the Saugus Ranger District offices.

Mitigation Measure RU-15: Supply and maintain oil spill containment and response equipment at locations accessible to first response personnel along the route to facilitate rapid response to an oil spill.

Mitigation Measure RU-16: Conduct a public education program consistent with 49 CFR 195.440 under the supervision of the California State Fire Marshal to help the public and agencies understand pipeline safety hazards. This will include distribution of a brochure explaining how to recognize a leak, what to do in the event of a spill and who to call. The brochure will be available to homeowners and residents along the pipeline route, and will be actively distributed by Mobil along with construction notification during the installation of the proposed pipeline.

Mitigation Measure RU-17: On-site drainage and collection systems along the route including a built-in sump north of Pyramid Lake, near Milepost 16 to retain oil and provide additional time for emergency response personnel to arrive and implement response efforts prior to contamination of the Pyramid Lake water supply. This sump will need to be sized appropriately to allow a reasonable amount of time for response crews to arrive at this location.

Mitigation Measure RU-18: Include mock oil spill response as part of Mobil's training program for all pipeline operators and employees who could potentially be involved with pipeline emergency situations.

Mitigation Measure RU-19: Work with the local agencies to evaluate possible methods of enhancement of water and sewer treatment facilities to avoid damage to facilities. Methods may include installation of oil and water separators or tankage and sensors to detect hydrocarbons so that contaminated inflow could be diluted before causing damage to the treatment facilities. If feasible measures are identified, Mobil and lead agencies could reach agreement on an equitable method of Mobil's participation in the implementation of these measures.

Mitigation Measure RU-20: Hydrostatic testing of the existing M-70 pipeline prior to abandonment to identify potential small leaks that

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may have occurred and accomplish proper clean-up procedures. (See also CC-17.)

Mitigation Measure RU-21: The following actions will be taken to mitigate potential impacts associated with an oil spill on the M-1 pipeline system north of Lebec: (1) automate existing block valves at Continental, Pentland, Emidio, Rose, and Grapevine pumping stations, (2) automate existing block valves where the pipeline crosses the California aqueduct, and (3) install additional block and check valves at the base of a hill near McKittrick, and one at the base of the steep include over the Grapevine. These mitigation measures will limit potential maximum spill amounts to levels comparable to, or less than the existing M-70 system operations, and so reasonably address the spill concerns for the M-1 pipeline as a result of increased throughput.

Mitigation Measure RU-22: Installation of a detention basin or other means of detention of possible spillage into Ballona Creek to be designed and installed in accordance with, and subject to, the approval of the Los Angeles County Flood Control District. This measure is intended to delay oil releases into Ballona Creek and allow spill response crews additional time to contain spillage prior to potential releases into Santa Monica Bay.

Mitigation Measure SE-1: Businesses and residents along the pipeline route will be informed in advance of the planned dates construction will occur in their block. Alternative vehicular and pedestrian access procedures will be presented to businesses. In the case of small retail businesses, temporary signs to inform the public that the business is open and to direct them to the proper access will be installed. Usual access will be maintained by installing steel plates and/or walkways immediately following trenching that could impede pedestrian access, and across all driveways. Signs and facilities such as handrails, fences and walkways shall be provided to facilitate the safe movement of pedestrians around construction areas.

Mitigation Measure T-2: Along segments of the pipeline adjacent to commercial or industrial or open space land-uses, construction will be scheduled to occur at night in order to reduce traffic impacts, at the direction of the local municipality. Potential congested areas affecting Culver City where night construction would reduce impacts to a level of non-significance are identified below:

- Sepulveda Blvd. between I-10 and Culver Blvd.
- Sepulveda Blvd. at Slauson Avenue.

(See also CC-1.)

Mitigation Measure T-3: Night construction will not be allowed in residential areas.

Mitigation Measure T-5: On segments of roadways between signalized intersections where construction would remove on-street parking and a through lane or two traffic lanes, temporary traffic cones/barricades, temporary stripping, and delineators would be placed in the center median and/or parking lanes to provide at least one substitute lane. Lane widths along these roadway segments may be reduced. (See also CC-1.)

Mitigation Measure T-6: In urbanized sections of the route, the length of construction spreads will be reduced to avoid simultaneous impacts at two major intersections. Vehicles will be prohibited from making left turns in these areas. (See also CC-1.)

Mitigation Measure T-7: The following components will be incorporated into a Transportation Management Plan developed and implemented by a registered traffic engineer in consultation with local and State agency staff responsible for traffic and circulation on affected roadways:

- Advanced signing will be placed on roadway segments prior to construction indicating the length and duration of through and parking lane closures.
- Signing for closures of narrow residential streets will indicate the daily hours of the closure.
- Public notification, including paid newspaper advertisements identifying the location, scheduling and duration of each construction spread.
- Advanced signing to identify parallel alternative routes available during construction. These routes will be a developed in coordination with Culver City and other municipalities.
- Specification of special construction work schedules to avoid peak traffic on major roadways.
- Specification of construction materials and debris haul routes and a construction worker shuttle program in consultation with local transportation agencies to reduce potential impacts of construction-related traffic.

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- Development of construction schedules to allow refuse collection on regular schedules in residential areas.
- Development of detours that disperse rerouted traffic rather than directing all traffic onto small residential roadways.
- Present the results of an analysis of intersections considered for crossing by boring as required by mitigation measure T-8.
- In advance of construction, flyers identifying relocated bus stops will be posted at all affected RTD, Culver CityBus and municipal bus stops.

(See also CC-1.)

Mitigation Measure T-8: During construction, major street intersection crossings may be accomplished by boring under the roadway, thereby minimizing the need for lane closure. Boring under the roadway will be considered for those locations where existing underground utilities may be avoided and where access pits for the boring operation may be excavated.

Intersections affecting Culver City for which the boring method of construction is currently proposed are listed in Table 2.3-5 of the Final EIR/EIS. A detailed examination of the feasibility of the boring method will be undertaken at each of the following intersections in consultation with responsible permitting agencies, and will be implemented as necessary to reduce vehicle delay and congestion associated with trenching and plating.

- Northbound 405 off- and on-ramps from Sepulveda Blvd. between Venice Blvd. and Washington Place
- Northbound 405 on-ramp from Culver Blvd.
- Northbound 405 on-ramp from Sawtelle Blvd.
(See also CC-1.)

Mitigation Measure T-11: Upon completion of pipe placement at each driveway, plates will be placed to provide access at all times when active construction activities are not underway.(See also CC-1.)

Mitigation Measure T-13: For bicyclists' safety, asphalt will be placed around the edges of the steel plates to help secure them and to eliminate abrupt edges.

Mitigation Measure T-14: At least 2 weeks in advance of construction, Mobil will notify County and all municipal fire, police and paramedic departments and Caltrans regarding the schedule and duration of construction activities, and to allow their identification of routes that may be used to avoid construction areas.

Mitigation Measure T-15: In order to maintain vehicle access during the morning and afternoon commute periods, construction will not occur during the peak hours at parking structures with a single driveway. (See also CC-1.)

Mitigation Measure T-16: Mobil will coordinate with Culver CityBus, the RTD and municipal bus lines to allow their advance installation of alternate signed bus stops along the pipeline route. All bus stops will be located outside of the construction spread area. Mobil will notify all affected public transit operators of the expected schedule and duration of construction activities in the vicinity of bus routes identified in Table 3.2.13-2 at least one month prior to the initiation of construction in those areas.

Mitigation Measure PS-1: Police Departments and Fire Departments will be notified prior to start of construction activities at a particular location so that plans can be made to deal with possible problems associated with lane or road closures.

Mitigation Measure PS-2: To avoid interference with emergency services, notify local police departments, fire departments, and ambulance services of the construction schedule prior to construction; provide updates as needed based on the spreads' rate of progress.

Mitigation Measure U-1: Mitigation of interference with garbage collection activities will be accomplished by notification to Culver City's Resource and Sanitation Manager and other collection companies for construction schedule and times of day when access will be available, as well as implementation of the measures described in Section 4.2.13.4 (Transportation and Circulation) of Final EIR/EIS.

Mitigation Measure U-3: Mobil will remove any section of the existing M-70 pipeline identified as presenting a significant corrosion hazard to other subsurface structures as determined by the Los Angeles Department of Water & Power or other owners or operators of underground facilities. This requirement will be established as a condition of approval of the proposed M-70 replacement pipeline, and will continue as Mobil's responsibility beyond the abandonment of the existing pipeline.

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Mitigation Measure CC-1: Mobil Oil Corporation (Mobil) shall coordinate and consult with City staff to develop plans and specifications that will mitigate environmental concerns, traffic concerns and parking concerns to the satisfaction of the City Engineer, including but limited to:

> Construction plans and specifications; traffic plans, including lane closures, use of signs, flagmen, pavement markings, barricades and lights; alternate parking when on street parking is eliminated; access to all buildings, residences, and fire hydrants; construction work at night at certain intersections because of traffic; construction related noise discernable at residential boundaries as regulated in the Culver City Municipal Code Section 22-2D; trenching and plating to prevent intersection closure; and, access to businesses and off the alley behind Segrell Way.

Mitigation Measure CC-2: Mobil shall work with City staff to develop a plan for trenching and progressive plating to the satisfaction of the City Engineer.

Mitigation Measure CC-3: Mobil shall commit to limiting pipeline storage along the right-of-way to one week at any one spread.

Mitigation Measure CC-4: Construction activities shall be managed to reduce unnecessary use of construction equipment.

Mitigation Measure CC-5: Fugitive dust control measures shall be implemented, using water or chemical dust suppressants.

Mitigation Measure CC-6: Residents and businesses along the pipeline route within a 300 foot radius shall be notified in advance as tot he construction schedule and duration; copies shall be provided as evidence of such notification. A Mobil Oil contact name and telephone number shall be provided to residents as part of the notification.

Mitigation Measure CC-7: If necessary and approved by the City Engineer, lane closures shall be restricted to off-peak hours to reduce congestion. Peak hour traffic periods are 7:00 a.m. to 9:30 a.m., and 3:30 p.m. to 6:00 p.m. At least one traffic lane in each direction will be kept open at all times, with the exception of the alley behind Segrell Way between Berryman Avenue and Sawtelle Boulevard where private driveway access shall be maintained. In the alley south

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of Berryman Avenue, there shall be at least one lane open at all times, with flagmen.

Mitigation Measure CC-8: To reduce the number of vehicles traveling to the site, workers shall meet at the construction contractor's field office or construction yard, and commute to the site using construction equipment and crew trucks.

Mitigation Measure CC-9: Heavy construction equipment shall be properly maintained, including prompt replacement of deteriorated intake and exhaust silencers and mufflers, and routine lubrication.

Mitigation Measure CC-10: All excavated roads shall be repaved and restored in compliance with current standards, to the satisfaction of the City Engineer.

Mitigation Measure CC-11: Any excavation within the alley behind Segrell Way, occurring within 50 feet of Fire Station No. 113 (located at Segrell Way and Berryman Avenue), shall be capable of being covered with plates upon immediate notice by Fire Department personnel.

Mitigation Measure CC-12: Mobil shall design the proposed pipeline in strict compliance with Title 49 CFDR Part 195 (Transportation of Hazardous Liquids by Pipelines).

Mitigation Measure CC-13: Mobil shall conduct a detailed engineering subsurface survey along the entire finalized route to supplement known utility information shown on engineering drawings.

Mitigation Measure CC-14: Mobil shall provide an onsite foreman to be present at all times during construction.

Mitigation Measure CC-15: Construction in the following areas will not be permitted between November 16 of any year and January 15 of the following year:

(1) along Sepulveda Boulevard, between Venice Boulevard and Culver Boulevard;

(2) along the alley behind Segrell Way between Berryman Street and Slauson Avenue and, thence along Slauson Avenue to Sepulveda Boulevard, and thence along Sepulveda Boulevard to the Centinela Flood Control Channel.

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In all other areas of the City, construction will not be permitted between 12:01 a.m. on Thanksgiving Day of any year and January 15 of the following year.

Mitigation Measure CC-16: Hauling of materials to be disposed of shall be restricted to roadways permitted by the City through application of a Haul Route Permit.

Mitigation Measure CC-17: Prior to abandoning the existing M-70 pipeline within Culver City, Mobil shall cause it to be cleaned and/or secured as required by all laws and regulations and approved by the City Engineer for delivery to the City within 6 months of the commencement of use of the M-70 replacement pipeline.

Mitigation Measure CC-18: Mobil shall maintain in force during the term for the franchise a bond in the amount of $100,000 in favor of the City available for repairs to City owned property upon terms deemed acceptable by the City Attorney.

Mitigation Measure CC-19: Mobil shall have a claims handling procedure for resolution of third-party claims arising out of construction of the pipeline.

Mitigation Measure CC-20: During the period of construction, Mobil shall maintain an irrevocable letter of credit on such terms as are acceptable to the City Attorney, in the amount of $25,000.00 which may be drawn upon the City in the event the City Engineer, after having contacted Mobil, and Mobil fails to respond, determines the City will expend such funds to correct existing or potential safety hazards or traffic problems relating to the construction activities.

Mitigation Measure CC-21: Steel plates shall be limited to a distance of 1500 linear feet at any construction spread and, in any area, steel plates may be in place no longer than 10 calendar days.

Mitigation Measure CC-22: Mobil shall provide the City on a quarterly basis, no later than 60 days after the end of any quarter, with throughput reports of the amount of crude oil transported through the M-70 Pipeline within Culver City. Such reports shall be based on the figures developed at the Torrance terminus of the M-70 Pipeline. At the City's request, Mobil shall provide an audit or such throughput reports by an independent internationally recognized accounting firm with significant crude oil accounting experience.

Mitigation Measure CC-23: If in any calendar year, the average annual throughput of crude oil exceeds 95,000 barrels per day, Mobil shall pay the City a penalty in the amount of ten cents for each barrel the cumulative amount of crude oil transported through Culver City that year exceeded the annual average of 95,000 barrels per day times the number of days in the year, and an additional fifteen cents for each barrel the cumulative amount exceeded 100,000 barrels per day times the number of days in the year. Such payment shall be made within 30 days after the 4th quarter records provided for in Mitigation Measure C-22 have been provided to the City.

Mitigation Measure CC-24: As part of its procedure to adjust claims of the residents of Culver City, Mobil shall and does hereby agree to binding arbitration before a retired judge from the Judicial & Mediation Services, Inc. (J.A.M.S.) within the County of Los Angeles, appointed pursuant to J.A.M.S. procedures. Any individual resident or property owner within the City of Culver City may submit the dispute to such bonding arbitration as an alternative to litigation should efforts to resolve claims with Mobil not be successful. Mobil agrees to advance the costs of the arbitrator. As a condition of said arbitration, the arbitrator may award attorneys' fees and costs to the prevailing party. Any decision of the arbitrator shall be supported by findings of fact and conclusions of law. Mobil will agree to maintain a bond in the amount of $100,000, in a form satisfactory to the City Attorney, to secure payment of award to any claimant who elects to proceed with its claim against Mobil through use of the arbitration procedure employing the Judicial and Mediation Services, Inc. (JAMS) as set forth in this Mitigation Measure. The bond may be drawn upon by any Arbitrator appointed by JAMS to pay such award, if an award is made by the Arbitrator to the claimant, and the claimant presents satisfactory evidence to that Arbitrator that the award has not been paid by or on behalf of Mobil within 30 days of the rendering of such award.

Mitigation Measure CC-25: Mobil shall pay the City $5,000, to allow the City to employ or contract with a person to monitor the mitigation measures applicable within Culver City during the period of construction.

Mitigation Measure CC-26: If any mitigation measure is violated during the period of construction by Mobil or its contractors, and a citation is issued for such violation by a peace officer of the City of Culver City, and Mobil shall be unable to demonstrate that the violation did not occur, Mobil shall payt he City a fine in the amount of $500.00.

Mitigation Measure CC-27: All reports of hydrostatic tests or reports provided by the electronic inspection devices covering the portion of the pipeline subject to this franchise ordinance, shall be submitted to the City Engineer of the City of Culver City at the same time they are submitted to the State Fire Marshal. Mobil agrees to payt he City $1,000 for each hydrostatic test or electronic inspection test within Culver City to enable the City to have an independent consultant review the results. Should the State Fire Marshal absolutely waive any testing requirements required at the time of the grant of this franchise, Mobil shall nonetheless provide such testing in Culver City during the life of this franchise.

Mitigation Measure CC-28: Mobil agrees to reimburse the City the actual cost incurred of providing an inspector to inspect construction of the project. The cost shall not exceed $30,000.

Mitigation Measure CC-29: Mobil shall install an electric shut off valve within 100 yards of the intersection of Sepulveda and Venice Boulevards within the City of Culver City.

Mitigation Measure CC-30: Mobil shall, in addition to informing the City of Culver City Fire Chief of any reports of spills or leaks from the pipeline, shall also promptly, within 72 hours, report any such spill or leak to the City Engineer.

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ORDINANCE NO. 2003-016

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING THE PENALTY PROVISION OF FRANCHISE GRANTED BY ORDINANCE NUMBER 92-014 FOR EXXONMOBIL TO OPERATE, MAINTAIN, INSPECT, REPAIR, REMOVE, REPLACE AND ABANDON CERTAIN PIPELINES AND APPURTENANCES FOR THE TRANSPORTATION OF HYDROCARBON SUBSTANCES (CRUDE OIL) IN THE CITY OF CULVER CITY.

WHEREAS, the City, pursuant to its Charter, previously granted, by Ordinance No. 92-014, a non-exclusive franchise (the "Franchise") to Mobil Oil (ExxonMobil's predecessor-in-interest) to construct, operate and maintain the M-70 pipeline system under Culver City;

WHEREAS, the Franchise contains a penalty provisions, whereby, If ExxonMobil transports more than 95,000 average annual barrels per day through the M-70 pipeline, then it must pay the City a fine of $0.10 per barrel over the 95,000 limit and $0.15 per barrel over 100,000 barrels;

WHEREAS, the City of Los Angeles certified an environmental impact report (the "EIR") which determined, due to mitigations provided, the throughput of 95,000 barrels could occur without any significant environmental impacts;

WHEREAS, the City of Los Angeles approved an addendum (the "Addendum") to the EIR which determined due to advances in safety and operation the throughput could be increased to 115,000 barrels without any significant environmental impacts; and

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WHEREAS, Exxon Mobil, due to the foregoing and the advances which make it feasible for more throughput to occur in the M-70 pipeline, has requested the City to modify the penalty provisions.

NOW THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY ORDAIN, as follows:

SECTION 1. Except as expressly set forth herein, all terms and conditions of the Franchise are in full force and effect.

SECTION 2. Based on the EIR and the Addendum, Mitigation Measure CC-23 on page 15 of Exhibit C to Ordinance 92-014 is hereby amended in its entirety to read as follows:

> Mitigation Measure CC-23: If in any calendar year, the average annual throughput of crude oil exceeds 95,000 barrels per day, then ExxonMobil shall pay the City a penalty in the amount of five cents ($.05) for each barrel the cumulative amount of crude oil transported through Culver City that year exceeds the annual average of 95,000 barrels per day times the number of days in that year. Such payment shall be made within thirty (30) days after the fourth (4th) quarter records provided for in Mitigation Measure CC-22 have been provided to the City.

SECTION 3. The Franchise is also hereby amended by adding a provision that if, during any term of the Franchise, the M-70 line is designated as a common carrier pipeline by either ExxonMobil (or any future operator of the M-70 pipeline), then the base fee paid to City shall be the same as that required by then current Franchise.

SECTION 4. This Ordinance shall take effect thirty (30) days from the date of its adoption and, as required by Section 512 of the City Charter, prior to the expiration of fifteen (15) days from the adoption hereof the City Clerk shall cause this Ordinance to be published in Culver City News along with the record of the vote for approval and adoption and shall post a certified copy of the full text of this Ordinance along with the record of the vote thereon.

APPROVED and ADOPTED this 8th day of December, 2003.

ALAN CORLIN, Mayor
City of Culver City, California

ATTEST:

CHRISTOPHER ARMENTA
City Clerk

APPROVED AS TO FORM:

Carol A Schwab

CAROL A. SCHWAB
City Attorney

Ord PenaltyMod
Jp
A02-00288

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2003-016

City of Culver City, California

City Council Agenda Item Report

Meeting Date: 12/1/03	Item Number: F-3
AGENDA ITEM: Introduction of an Ordinance to Amend a Condition of the Pipeline Franchise Held by ExxonMobil Relating to the Penalty for Exceeding 95,000 Barrels Per Day in the M-70 Pipeline through Culver City.	
Contact Person/Dept.: Mark Ambrozich/Carol Schwab/Joe Pannone	Phone Number: (310) 253-5660
Fiscal Impact: Yes [] No [X]	General Fund: Yes [] No [X]
Public Hearing: [] Action Item: [X]	Attachments: [X]
Public Notification: Notice has been provided to ExxonMobil and those on the Master Notification List.	
Department Approval: Carol Schwab 11/20/03	CAO Approval: Jerry B. Fulwood 11/24/03
City Controller Approval: N/A	

RECOMMENDATION:

Staff recommends that the City Council introduce for first reading, by title only with further reading waived, an ordinance modifying the penalty provision of the franchise agreement with ExxonMobil, which limits throughput to 95,000 barrels per day.

BACKGROUND:

This matter was brought to you in August, 2003. At that time, the City Council asked staff to meet again with ExxonMobil to obtain more information to respond to questions by the Council regarding the financial feasibility and practicality of ExxonMobil becoming a common carrier and the fiscal rationale for ExxonMobil's decision to request the penalty modifications discussed herein.

On October 26, 1992, the City Council adopted Ordinance No. 92-014, which granted a Pipeline Franchise to Mobil Oil Corporation (the "Franchise"). Under the terms of the Franchise, the initial term of five years expired on November 25, 1997. Per the Franchise, that first term was extended through November 25, 2002. On June 1, 2001, Mobil changed its name to ExxonMobil. On September 9, 2002, again per the Franchise, an additional five-year term was granted, which expires on November 25, 2007. ExxonMobil is entitled to one more five-year term extension, provided all terms and conditions of the franchise continue to be met and ExxonMobil requests that extension at least ninety days prior to the expiration of the current term (August 27, 2007).

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The Franchise permits ExxonMobil to transport an annual average of 95,000 barrels per day of oil through the M-70 pipeline system as it traverses under Culver City. If ExxonMobil exceeds that limitation, then it must pay the City a fine of $.10 per barrel over the 95,000 limit and $.15 per barrel over 100,000 barrels. (The formula for figuring the penalty is: the number of average barrels transported minus the applicable base amount (95,000 or 100,000 barrels) times the applicable penalty ($.10 or $.15) times 365 (the days in a year).) The 95,000-barrel limitation was based on the environmental impact report (EIR) ExxonMobil had prepared, was certified by Los Angeles in 1991 and Culver City relied on when the Franchise was approved. The EIR analyzed a pipeline with a maximum throughput of 95,000 average annual barrels per day and determined such a pipeline would not cause significant adverse environmental impacts as mitigated. One of the Culver City mitigations for the Franchise was the penalty if the throughput limitation was ever exceeded. In February, 2001, Los Angeles approved an addendum to the EIR (the "Addendum"), which found that an increase of the throughput to 115,000 annual average barrels per day would likewise not cause any significant environmental impact. The Addendum's findings were based on advances in the use and operation of the M-70 pipeline. Those advances provide a safe and feasible opportunity for ExxonMobil to use the pipeline system to transport more than the original 95,000 annual average barrels per day. On April 12, 2001, ExxonMobil was granted permission, by Los Angeles, to transport 115,000 barrels per day. Based on the foregoing, ExxonMobil has requested Culver City modify the penalty provisions of the Franchise.

For the 2002 calendar year, ExxonMobil's average throughput was 108,401 barrels per day. Based on that, on March 18, 2003, ExxonMobil paid the City a penalty of $949,091.25. That payment showed ExxonMobil's forthright acknowledgement of the overuse and penalty due. Such payment was made even though the Addendum to the EIR had been approved and Los Angeles had increased the throughput to the M-70 pipeline system to 115,000 annual average gallons per day.

DISCUSSION:

Based on Los Angeles' approval and the Addendum, ExxonMobil requested the City to modify the Franchise to allow that increased flow potential. ExxonMobil first requested Culver City simply to change the maximum barrels per day permitted to 115,000. Representatives of ExxonMobil met with the City Treasurer and a representative of the City Attorney's Office to discuss the matter. At that time, ExxonMobil explained it had at least two options available if the City Council decided not to modify that provision. One option would be for ExxonMobil to convert the M-70 pipeline into a common carrier, which would mean more than ExxonMobil oil would be transported through the M-70 line. If that was done, then any franchise

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fees the City could require would be those limited to the minimal amounts set by state law. The other option would be for ExxonMobil to use a common carrier's eminent domain power to purchase the Franchise outright.

During the meeting, all recognized those alternatives would result in significant expenditures of effort, time and money on both sides and likely cause unneeded friction which could be detrimental to the on-going relationship between the City and ExxonMobil. In light of that, the City representatives suggested ExxonMobil provide the City with a proposal for the parties to review which would meet ExxonMobil's desire to modify the penalty provision of the Franchise and, at the same time, provide some benefit to the City for that modification.

In response to that request, ExxonMobil suggested the penalty provision be modified from the existing "two-tiered" structure to a "one-tiered" structure with the same 95,000 barrels per day as the maximum. With that new structure, only one penalty amount of $.01 would be assessed for barrels transported over the 95,000. Part of the reason for that suggestion was the fact that the Franchise fee currently being paid by ExxonMobil to Culver City is the highest in the area and significantly higher than the state fees would permit for a common carrier. A copy of ExxonMobil's May 23, 2003, written suggestion is enclosed in the Council's packet.

The City representatives responded to that suggestion by informing ExxonMobil they would recommend the one-tier system to the City Council if the penalty for any overage was $.05 per barrel. A copy of that June 17, 2003, response is also enclosed. By letter dated June 20, 2003 (also enclosed), ExxonMobil agreed to that suggestion.

As a result of the Council questions at the August, 2003 meeting, the City Treasurer and a representative from the City Attorney's Office again met with ExxonMobil representatives. ExxonMobil provided information to respond to the City Council's questions. In addition, the City team and ExxonMobil acknowledged if ExxonMobil became a common carrier, by law, the franchise fees the City could charge would then be reduced significantly. Notwithstanding that, ExxonMobil indicated, in exchange for the reduction in the penalty provision, it would also be willing to guarantee, if it did become a common carrier during the term of the Franchise, then it would continue to pay the base Franchise fee currently assessed.

To assist with the gathering of information requested by the City Council at the August, 2003 meeting, the City Treasurer scheduled a meeting between Mayor Corlin, Council Member Vera, ExxonMobil representatives, the City Treasurer and a representative from the City Attorney's Office. That meeting was held on November 14, 2003. During that meeting, ExxonMobil reiterated it would guarantee to continue

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paying the base Franchise fee currently assessed, even if it became a common carrier during the term of the Franchise.

Based on the latest throughput figures for the M-70 pipeline system for the first quarter of 2003, the average annual barrels throughput is 107,241 barrels. That throughput calculates to $223,404.33 in penalties if it continues through the end of the year. Obviously, if more throughput occurs the penalty would increase and if throughput decreases so, too, would the penalty payment. In any event, any penalty payment would be in addition to the annual regular Franchise fee of $63,724. That Franchise fee is subject to renegotiation if ExxonMobil requests the last extension under the current Franchise.

FISCAL ANALYSIS:

The City will continue to receive the franchise fees being paid by ExxonMobil. In addition, ExxonMobil would pay a penalty based on $.05 per barrel over 95,000 annual average barrels transported through the M-70 pipeline.

ATTACHMENTS:

Proposed Ordinance
October 11, 2002 letter from ExxonMobil to City with the Addendum attached.
May 23, 2003 letter from ExxonMobil to City.
June 17, 2003 letter from City to ExxonMobil.
June 20, 2003 letter from ExxonMobil to City.

MOTION:

That the City Council:

Introduce, for first reading by title only, the Ordinance modifying the current two-tiered penalty provision of the Franchise with ExxonMobil, so that if more than 95,000 annual average barrels per day are transported $.05 per barrel is paid to the City.

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MEETING DATE: 12/01/03

AGENDA ITEM: Introduction of an Ordinance to Amend a Condition of the Pipeline Franchise Held by ExxonMobil Relating to the Penalty for Exceeding 95,000 Barrels Per Day in the M-70 Pipeline through Culver City.

ATTACHMENTS

		Pages
1.	Proposed Ordinance	1-3
2.	October 11, 2002, letter ExxonMobil to City with the Addendum attached.	4-53
3.	May 23, 2003, letter from ExxonMobil to City.	54-56
4.	June 17, 2003, letter from City to ExxonMobil.	57-58
5.	June 20, 2003 letter from ExxonMobil to City.	59

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ORDINANCE NO. 2003-

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING THE PENALTY PROVISION OF FRANCHISE GRANTED BY ORDINANCE NUMBER 92-014 FOR EXXONMOBIL TO OPERATE, MAINTAIN, INSPECT, REPAIR, REMOVE, REPLACE AND ABANDON CERTAIN PIPELINES AND APPURTENANCES FOR THE TRANSPORTATION OF HYDROCARBON SUBSTANCES (CRUDE OIL) IN THE CITY OF CULVER CITY.

WHEREAS, the City, pursuant to its Charter, previously granted, by Ordinance No. 92-014, a non-exclusive franchise (the "Franchise") to Mobil Oil (ExxonMobil's predecessor-in-interest) to construct, operate and maintain the M-70 pipeline system under Culver City;

WHEREAS, the Franchise contains a penalty provisions, whereby, If ExxonMobil transports more than 95,000 average annual barrels per day through the M-70 pipeline, then it must pay the City a fine of $0.10 per barrel over the 95,000 limit and $0.15 per barrel over 100,000 barrels;

WHEREAS, the City of Los Angeles certified an environmental impact report (the "EIR") which determined, due to mitigations provided, the throughput of 95,000 barrels could occur without any significant environmental impacts;

WHEREAS, the City of Los Angeles approved an addendum (the "Addendum") to the EIR which determined due to advances in safety and operation the throughput could be increased to 115,000 barrels without any significant environmental impacts; and

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WHEREAS, Exxon Mobil, due to the foregoing and the advances which make it feasible for more throughput to occur in the M-70 pipeline, has requested the City to modify the penalty provisions.

NOW THEREFORE, the City Council of the City of Culver City, California, DOES HEREBY ORDAIN, as follows:

SECTION 1. Except as expressly set forth herein, all terms and conditions of the Franchise are in full force and effect.

SECTION 2. Based on the EIR and the Addendum, Mitigation Measure CC-23 on page 15 of Exhibit C to Ordinance 92-014 is hereby amended in its entirety to read as follows:

> Mitigation Measure CC-23: If in any calendar year, the average annual throughput of crude oil exceeds 95,000 barrels per day, then ExxonMobil shall pay the City a penalty in the amount of five cents ($.05) for each barrel the cumulative amount of crude oil transported through Culver City that year exceeds the annual average of 95,000 barrels per day times the number of days in that year. Such payment shall be made within thirty (30) days after the fourth (4th) quarter records provided for in Mitigation Measure CC-22 have been provided to the City.

SECTION 3. The Franchise is also hereby amended by adding a provision that if, during any term of the Franchise, the M-70 line is designated as a common carrier pipeline by either ExxonMobil (or any future operator of the M-70 pipeline), then the base fee paid to City shall be the same as that required by then current Franchise.

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SECTION 4. This Ordinance shall take effect thirty (30) days from the date of its adoption and, as required by Section 512 of the City Charter, prior to the expiration of fifteen (15) days from the adoption hereof the City Clerk shall cause this Ordinance to be published in Culver City News along with the record of the vote for approval and adoption and shall post a certified copy of the full text of this Ordinance along with the record of the vote thereon.

APPROVED and ADOPTED this ______ day of __________, 2003.

ALAN CORLIN, Mayor
City of Culver City, California

ATTEST:

CHRISTOPHER ARMENTA
City Clerk

APPROVED AS TO FORM:

Carol A Schwab

CAROL A. SCHWAB
City Attorney

Ord PenaltyMod
Jp
A02-00288

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ExxonMobil Pipeline Company
12851 East 166th Street
Cerritos, California 90703-2103

RECEIVED
03 MAR 26 PM 3:24
CITY ATTORNEY-RISK MGMT.
CITY OF CULVER CITY

ExxonMobil
Pipeline

VIA UPS DELIVERY

October 11, 2002

Mr. Mark A. Ambrozich
City Treasurer
City of Culver City
9770 Culver Blvd.
Culver City, CA 90232-0507

RECEIVED
02 OCT 14 PM 3:14
CITY TREASURER
CULVER CITY, CALIF.

RE: Ordinance No. 92-014

Dear Mr. Ambrozich:

In response to your request of September 5, 2002, pertaining to ExxonMobil Oil Corporation's (ExxonMobil) compliance with the City of Culver City's (City) Ordinance No. 92-014, specifically Mitigation Measure CC-22, please be advised that we are prepared to comply with said audit request.

With respect to the above, and pursuant to U.S. Department of Transportation Regulation 195.404, ExxonMobil is required to maintain pipeline operating records for a period of three (3) years. Therefore, consistent with federal law, the daily throughput records of the M-70 pipeline are available for audit for the years 1999, 2000 and 2001. We have selected Price Waterhouse Cooper, an internationally recognized accounting firm with significant crude oil accounting experience, to conduct the audit of the M-70 Pipeline throughput records for the above mentioned years. We anticipate the final audit findings report will be provided to you by mid-December, 2002.

We would like to take this opportunity to advise you that the First Addendum to the Final Environmental Impact Report/Statement for the M-70 Pipeline Replacement and Optimization Project was approved by the City of Los Angeles Department of Transportation (LADOT) on April 12, 2001. The First Addendum allows ExxonMobil to increase the annual average throughput of the M-70 pipeline from 95,000 barrels per day to 115,000 barrels per day (annual average). This increase was approved based on findings that the increased throughput would not present any new or additional significant environmental impacts beyond what was considered in the 1991 Final Environmental Impact Report/Statement. You will recall LADOT is the California Environmental Quality Act (CEQA) lead agency for the project identified above. A copy of the First Addendum along with LADOT's Board Report (dated April 12, 2001) and LADOT's notification to the CA. State Clearinghouse (dated June 28, 2001) is enclosed for your reference.

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Ordinance No. 92-014 contains a provision, Mitigation Measure CC-23, that limits the M-70 pipeline throughput to an annual average of 95,000 barrels per day based on the findings in the 1991 Final Environmental Impact Report/Statement. Because the basis for this mitigation measure has now been modified, we believe it is appropriate and supportable for the City of Culver City to also modify Mitigation Measure CC-23 to be consistent with the increased throughput allowance in the amended Final Environmental Impact Report/Statement. We therefore would appreciate you advising us of the process to effectuate such a modification to Mitigation Measure CC-23 found in Ordinance No. 92-014 to increase the allowable annual average throughput of the M-70 pipeline from 95,000 barrels per day to 115,000 barrels per day.

We look forward to hearing from you on the modification to Mitigation Measure CC-23 of Ordinance No. 92-014. In the meantime, if you have any questions or require additional information, please contact me at (310) 212-1761.

Very truly yours,

Ruth Cronin-Fruitt

Ruth Cronin-Fruitt, Regional Mgr.
West Coast Rights of Way Dept.

Enclosures

cc: Mr. Joel Larkin – w/o encl.
Mr. Joseph Perez – w/o encl.
Mr. Steve McDaniel – w/o encl.

CulverCity01

RIW 4711-B

City of Los Angeles
Department of Transportatio

Los Angeles, California

First Addendum to the Final Environmental Impact Report / Statement for the Mobil M-70 Replacement and Optimization Project

ENSR

February 2001

Document Number 4700-166-000

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