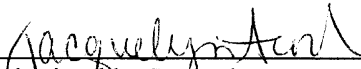





City of Carson Report to Mayor and City Council

April 5, 2011
New Business Consent

SUBJECT: CONSIDERATION OF RESOLUTION NO. 11-049 DECLARING COUNCIL'S INTENTION TO GRANT A PIPELINE FRANCHISE TO E & B NATURAL RESOURCES MANAGEMENT CORPORATION


Submitted by Jacquelyn Acosta
Administrative Services General Manager


Approved by Clifford W. Graves
Interim City Manager

I. SUMMARY

E & B Natural Resources Management Corporation is requesting that the City Council consider granting them a pipeline franchise in order that they may continue to operate pipelines acquired from Four Teams Oil Production.

Section 6232 of the Public Utilities Code requires that the matter be set for public hearing.

II. RECOMMENDATION

TAKE the following actions:

1. WAIVE further reading and ADOPT Resolution No. 11-049, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DECLARING ITS INTENTION TO GRANT A NONPUBLIC UTILITY PIPELINE FRANCHISE TO E & B NATURAL RESOURCES MANAGEMENT CORPORATION."
2. SET the matter for public hearing on May 3, 2011.

III. ALTERNATIVES

1. SELECT another date for the public hearing.
2. TAKE another action the Council deems appropriate.

IV. BACKGROUND

The City Council is being requested to set a public hearing to consider granting a pipeline franchise to E & B Natural Resources Management Corporation. The applicant wishes to operate and maintain 572 feet of existing pipelines previously operated by Four Teams Oil Production under Ordinance No. 00-1189.

V. FISCAL IMPACT

None at this time.

VI. EXHIBITS

1. Resolution No. 11-049. (pgs. 3 – 7)

Document5

Prepared by: Yuko M. Dunham, Revenue Manager

TO:Rev010511

Reviewed by:

City Clerk	<u>City Treasurer</u>
<u>Administrative Services</u>	<u>Development Services</u>
<u>Economic Development Services</u>	<u>Public Services</u>

Action taken by City Council

Date _____ Action _____

RESOLUTION NO. 11-049

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DECLARING ITS INTENTION TO GRANT A NONPUBLIC UTILITY PIPELINE FRANCHISE TO E & B NATURAL RESOURCES MANAGEMENT CORPORATION

The City Council of the City of Carson hereby finds and resolves:

Section 1. Recitals.

A. E & B Natural Resources Management Corporation ("E & B" herein), a California corporation, has filed with the City Council an application requesting approval of a nonpublic utility pipeline franchise.

B. The City Council has determined that the public good requires approval of E & B's nonpublic utility pipeline franchise.

Section 2. Declaration of Intent. The City Council hereby declares its intention to grant E & B a nonpublic utility pipeline franchise. The character of the E & B franchise, and the terms and conditions upon which it is proposed to be granted, are described in the form of notice set forth in Section 4 below.

Section 3. Consideration of Objections. All persons having any objection to the approval of the E & B franchise may appear before the City Council and be heard thereon in the Council Chambers located at Carson City Hall, 701 E. Carson Street, Carson, California, on May 3, 2011 at 6:00 p.m., or as soon thereafter as the matter may be heard. At any time not later than the hour set for hearing objections, any person interested may make written protest stating objections against the approval of the E & B franchise. Any such protest shall be signed by the protestant and delivered to the City Clerk. At the time set for hearing objections, the City Council shall proceed to hear and pass upon all protests so made.

Section 4. Publication of Notice. The City Clerk is hereby directed to publish at least once in the *Our Weekly*, a newspaper of general circulation printed and published nearest to the city of Carson, a notice substantially in the words and figures set forth below. Such notice shall be published within fifteen (15) days after the passage of this Resolution.

"NOTICE OF INTENTION TO GRANT A FRANCHISE

"NOTICE IS HEREBY GIVEN that E & B (hereinafter referred to as "Franchisee"), a Delaware corporation, has filed an application with the City Council of the city of Carson requesting that the City Council grant it a nonpublic utility franchise for a period of twenty-five (25) years from and after the date upon which the franchise grant shall become effective, to lay or construct from time to time, and to maintain, operate, renew, repair, change the size of, remove or abandon in place pipes and pipelines for the collection, transportation or distribution of oil, gas, gasoline, petroleum, wet gas, hydrocarbon substances,

EXHIBIT NO. 0 1



water, wastewater, mud, steam and other liquid substances not more hazardous than the aforementioned substances, together with all manholes, valves, appurtenances and service connections necessary or convenient for the operation of such pipes or pipelines including conduits, cathodic protection devices, wires, cables and other appurtenances necessary or convenient for the exercise of the Franchisee's business, in, under, along or across any and all streets within the city of Carson, as approved from time to time by Resolution of the City Council. The franchise shall be solely for a nonpublic utility pipeline system.

“If the franchise shall be granted, pursuant to Carson Municipal Code Section 6832, the Franchisee will pay the city of Carson the fees set forth below or the franchise will be forfeited:

Base Granting Fee.

A base granting fee of seven thousand five hundred (\$7,500.00) dollars for pipelines with a total length of one-quarter (1/4) mile or more or one thousand six hundred (\$1,600.00) dollars for pipelines with a total length of less than one-quarter (1/4) mile shall be paid within thirty (30) days after the City Council adopts the ordinance granting the franchise and prior to signing the written acceptance of the franchise pursuant to Carson Municipal Code Section 6805. If at any time during the first five (5) years following the grant of the franchise additional pipeline is added that will result in a total length of pipeline of one-quarter (1/4) mile or more, the seven thousand five hundred (\$7,500.00) dollar granting fee shall be required at the same time such footage is added.

Base Franchise Fee.

1. A base franchise fee shall be paid by the Franchisee to the city of Carson for the pipeline area occupied by the pipelines at an annual rate of one dollar and sixty-eight cents (\$1.68) per cubic foot.

The franchise fee shall be due and payable semi-annually, at the end of each franchise payment period, as defined in Carson Municipal Code Section 6803(h), during the life of the franchise, including the year of granting the franchise. Such franchise fee shall accrue at the end of each semi-annual period for the pipeline area occupied by the greatest number of feet of pipeline covered by the franchise during the franchise payment period. For purposes of this paragraph, the pipeline area occupied by a pipeline or conduit including protective covering, pipe connections, cathodic protection facilities, pipe casings and other minor appurtenances shall be taken as equivalent to the volume occupied by a cylinder of equal length having a diameter of one (1) inch (for metal pipe) or two (2) inches (for plastic pipe) greater than the nominal internal diameter of the pipe or conduit but in no case with an equivalent cylinder diameter less than four (4) inches, and the payment rate therefor shall be computed to the nearest

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tenth of a cent per lineal foot of pipe. Pipeline area occupied by any appurtenances such as manholes or vaults shall be computed from the outside dimensions of the structure. The semi-annual fee shall be paid no later than January 1st and July 1st of each calendar year. A penalty at the rate of ten percent (10%) per month or fraction thereof beyond thirty (30) days after the payment due date shall be charged, but in no event shall such penalty exceed fifty percent (50%).

2. The city of Carson reserves the right to adjust the base fees established above at any time after the effective date of the ordinance granting the franchise, but the base fees applicable to the franchise may only be changed five (5) times during the life of the franchise, and may only be changed in accordance with the provisions of California Public Utilities Code Section 6231.5(e).

Base Construction Charges.

The Franchisee shall pay at the time of the commencement of installation, relocation, or replacement of any pipeline or other facility covered by the franchise, a base construction charge of three thousand three hundred eighty-four dollars (\$3,384.00) for each one-half ($\frac{1}{2}$) mile of trench or fractional part thereof installed, replaced or relocated on major streets and two thousand two hundred thirty two dollars (\$2,232.00) per one-half ($\frac{1}{2}$) mile of trench or fractional part thereof, on minor streets or actual cost of inspection, whichever is greater.

The city of Carson reserves the right to change such base fees at any time after the effective date of the

ordinance granting the franchise, but the base fees applicable to the franchise may only be changed five (5) times during the life of the franchise.

Adjustments.

1. The amount of each base fee specified above shall be adjusted at the time payment is due by the percentage change in the Consumer Price Index, all Urban Consumers for the Los Angeles-Anaheim-Riverside area (1982-84 = 100), for the period July 1, 1991 to the date which is sixty (60) days prior to the due date of the fee.
2. In no event shall any base fee be charged which is less than the base fee amount established above.
3. The indices specified in paragraph 1 above are calculated and published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau discontinues the calculation or publication of the Consumer Price Index, all Urban Consumers for the Los Angeles-Anaheim-Riverside area (1982-84 = 100), and no transposition table is available to convert to

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another index, then the amount of each annual adjustment in base fees shall be computed by using a comparable governmental index.

"The City Council of the city of Carson proposes to grant the Franchisee's franchise for a period of twenty-five (25) years from and after the date upon which the franchise approval shall become effective, or until it is voluntarily surrendered or abandoned by the Franchisee, or until the State or some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain all property actually used and useful in the exercise of such franchise and situated within the territorial limits of the State, municipal, or public corporation purchasing or condemning such property, or until such franchise is forfeited for noncompliance with its terms by the Franchisee.

"NOTICE IS FURTHER GIVEN that the Franchisee shall file a bond, with a corporate surety authorized to conduct a surety business in the State of California, and in a form approved by the City Attorney for the city of Carson, in the penal sum of One Hundred Thousand Dollars (\$100,000.00), conditioned that the Franchisee shall well and truly observe, fulfill, and perform each condition of the franchise and that in case of any breach of condition of the bond, the whole amount of the penal sum therein named shall be recoverable from the principal and surety upon such bond. Such bond shall be filed with the Revenue Manager of the City on or before the effective date of the ordinance granting the franchise. If such bond is not filed, or if it does not receive the approval of the City Attorney, then the franchise may be refused or forfeited and any money paid to the City in connection therewith shall be retained by the City. The Franchisee will also be required to obtain insurance as provided in Carson Municipal Code Section 6809.

"NOTICE IS FURTHER GIVEN that all persons having any objection to the grant of the subject franchise may appear before the City Council and be heard thereon in the Council Chambers located at Carson City Hall, 701 E. Carson Street, Carson, California, on December 16, 2008 at 6:00 p.m., or as soon thereafter as the matter may be heard. At any time not later than the hour set for hearing objections, any person interested may make written protest stating objections against the approval of the subject franchise. Any such protest shall be signed by the protestant and delivered to the City Clerk. At the time set for hearing objections, the City Council shall proceed to hear and pass upon all protests so made.

"For further particulars, reference is hereby made to the application which is on file in the office of the City Clerk, and also to the resolution adopted by the City Council on the 5th day of April, 2011, declaring its intention to grant the subject franchise."

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PASSED, APPROVED and ADOPTED this 5th day of April, 2011.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe, MMC

APPROVED AS TO FORM:

City Attorney

