Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Community Development – Adopt RESOLUTION of Intent to consider a petroleum products and wastewater pipeline franchise application from Torrance Pipeline Company LLC and Request to Set a Date for a Public Hearing.
Expenditure: None.

RECOMMENDATION

Recommendation of the Community Development Director that City Council:
1) Adopt a RESOLUTION of Intent to consider a petroleum products and wastewater pipeline franchise application from Torrance Pipeline Company LLC; and
2) Request to set the date of November 5, 2019 for a public hearing at 7:00 PM during the regular Council meeting to be held in the City Council Chamber at 3031 Torrance Boulevard, Torrance CA 90503.

Funding None is required

BACKGROUND/ANALYSIS

Torrance Pipeline Company, LLC has made application to extend its existing Franchise held under Franchise Ordinance Number 3403. The pipeline franchise expires November 17, 2019 which is 25 years after the effective date. The purpose of this Council item is to set a public hearing date for the public to give input at the meeting or in writing prior to the meeting on granting the new franchise.

When Franchise Ordinance Number 3403 was adopted in 1994, the annual franchise fee was set at $8,668.80. The annual franchise fee has been adjusted annually on each anniversary of the effective date of this franchise in proportion to the percentage increase, in the Consumer Price Index, All Urban Consumer (1982-4 = 100) for the Los Angeles-Anaheim-Riverside CSMA (the "index") issued by the United States Bureau of Labor Statistics, Department of Labor (the "Bureau"). In 2018, the City received
$11,350.98 from Torrance Pipeline Company LLC. Since, these pipelines are proprietary (nonpublic utility pipelines), the City is allowed to negotiate with the franchisee for an agreed-upon rate.

On April 13, 1994, Mobil Oil Corporation, a New York corporation, made application to the City Council of the City of Torrance for a renewal of its existing franchise for certain pipelines and appurtenances to transport crude oil and wastewater. In 2016 as amended by Resolution No. 2016-70, the pipeline franchise was assigned and transferred from ExxonMobil Oil Corporation to Torrance Pipeline Company LLC operated by Torrance Logistics Company LLC.

Section 6201 et. Seq. of the Public Utilities Code contains specific requirements and procedures for the granting of a franchise. Torrance Pipeline Company LLC has made an application to the City for a franchise in accordance with these procedures. In order to grant the requested franchise, the City Council must take the following actions:

- Adopt **RESOLUTION** of Intent to consider the franchise application;
- Publish a notice of the City's intended action to consider the franchise application, including the date, time and place of the public hearing at which time written protest or objections may be heard, within 15 days after the passage of the **RESOLUTION**;
- Conduct a public hearing to consider an ordinance awarding the petroleum products pipeline franchise not less than 20 days or more than 60 days after adoption of the **RESOLUTION** of Intent;
- Introduce an ordinance to grant the franchise after completion of the required public hearing and consideration of written protests, if any.

**FINDINGS AND ALTERNATIVES**

Torrance Pipeline Company LLC has applied for a franchise with the City of Torrance for the operation of existing petroleum products and wastewater pipelines. The requested franchise is for a 10-year period with one 10-year option to extend and will provide Torrance Pipeline Company LLC with the right and privilege to maintain and operate the existing petroleum products and wastewater pipelines. The locations of the pipelines have been incorporated in the attached **RESOLUTION** of Intent as Exhibit A.

The City has been receiving annual franchise payments based on the pipelines being proprietary lines (nonpublic utility pipelines). The fees are subject to negotiation and based on the fee analysis done by our pipeline consultant, the new fee which is considered to be competitive within the industry will be set and will be adjusted each calendar year.
Staff reviewed the Project to determine the required level of review under CEQA. The City's action to grant a franchise for the existing petroleum products and wastewater pipelines is categorically exempt from the provisions of the California Environmental Quality Act in accordance with Section 15301 (Existing Facilities). The proposed project is exempt from CEQA as the project involves the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed project is a renewal of Pipeline Franchise Ordinance with no expansion of use. No special circumstances exists that would create a reasonable possibility that the project will have a significant adverse effect on the environment. Therefore, the project is exempt under CEQA.

If the RESOLUTION of Intent is adopted, the required notice of public hearing will be published and an ordinance granting the requested franchise will be prepared and submitted for City Council consideration.

Should the City Council choose not to adopt the RESOLUTION of Intent, thereby expressing its intention not to consider an award of a petroleum products and wastewater pipeline franchise, the applicant which has been established as a proprietary carrier and a public utility by the California Public Utilities Commission would have three available options. The first option would be to request City approval to physically remove the pipelines from the City's right-of-way. The second option would be to leave the pipeline in its current locations but seal it where it enters and leaves the City, thereby rendering it unusable. The third option would be for the applicant to initiate a condemnation actions against the City in order to obtain, through eminent domain, a subsurface easement or other rights to utilize the pipeline within the city. In such a condemnation action, the applicant would have to demonstrate that public interest and public necessity requires acquisition of the easement and the applicant would be required to pay the City its fair market value.

The City Council may consider taking one of the following actions:

1. Adopt the attached RESOLUTION of Intent (Attachment A) and set the Public Hearing date as November 5, 2019;
2. Adopt the attached RESOLUTION of Intent and set Public Hearing for another date;
3. Not adopt the attached RESOLUTION of Intent;
4. Provide staff with further direction.

Staff recommends first action.
SUMMARY

Torrance Pipeline Company LLC has made application to renew its existing pipeline franchise. The most recent franchise for the petroleum products and wastewater pipelines granted by the City of Torrance expires November 17, 2019. Torrance Pipeline Company LLC is requesting that the City grant a new pipeline franchise for the portion of the pipelines located within the City of Torrance. The California Public Utilities Code specifies that granting a franchise by ordinance requires the granting body to first adopt a RESOLUTION of Intent to consider the franchise application and to conduct a public hearing. The Code also requires that a notice of public hearing be published within 15 days after the passage of the RESOLUTION of Intent to consider the franchise application including the date, time, and place of the public hearing at which written protests or objections may be heard.

The attached RESOLUTION of Intent has been prepared in conformance with the applicable Public Utilities Code sections. It is recommended that the City Council adopt the attached Resolution of Intent and set the public hearing date for November 5, 2019.

Respectfully submitted,

DANNY E. SANTANA
Community Development Director

By

Gregg Lodan, AICP
Planning Manager

CONCUR:

DANNY E. SANTANA
Community Development Director

LeROY A. JACKSON
City Manager

Attachments: A. RESOLUTION of Intent
B. Request from Torrance Pipeline Company LLC to renew Franchise Ordinance Number 3403
RESOLUTION NO. 2019-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE DECLARING ITS INTENTION TO CONSIDER AN APPLICATION FOR A PETROLEUM PRODUCTS AND WASTE WATER PIPELINE FRANCHISE FROM TORRANCE PIPELINE COMPANY LLC AND SETTING THE DATE FOR A PUBLIC HEARING AT WHICH PROTESTS OR OBJECTIONS MAY BE RECEIVED

WHEREAS, on April 13, 1994, Mobil Oil Corporation, a New York corporation, made application to the City Council of the City of Torrance for a renewal of its existing franchise for certain pipelines and appurtenances to transport crude oil and wastewater;

WHEREAS, after a duly-advertised public hearing on the 4th day of October, 1994, pursuant to Resolution No. 94-131, adopted on September 20, 1994, the City Council did declare its intention to grant a new franchise to said company;

WHEREAS, at a regular City Council meeting held on October 11, 1994, a new franchise, Ordinance No. 3403, was granted to Mobil Oil Corporation;

WHEREAS, on July 19, 2016, Resolution Number 2016-70 was adopted that transferred pipeline Franchise Ordinance Number 3403 consisting of two pipelines (M-43 a 4,016-foot twelve-inch pipeline and M-47 a 1,372-foot ten-inch pipeline) from ExxonMobil Oil Corporation to Torrance Pipeline company LLC operated by Torrance Logistics Company LLC;

WHEREAS, the current Franchise Ordinance No. 3403 is set to expire November 17, 2019, Torrance Pipeline Company LLC wishes to extend the Pipeline Franchise Ordinance; and

WHEREAS, the City has received an application from Torrance Pipeline Company LLC to renew the pipeline for a 10-year period with one 10-year option.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF TORRANCE:

Section 1. Hereby expresses its intent to consider a franchise application from Torrance Pipeline Company LLC to operate and maintain existing petroleum products and wastewater pipelines as described in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. That pipeline franchise application is for a franchise period of 10 years with one 10-year option.
Section 3. Franchise fees under the franchise will be calculated by a linear footage and pipeline diameter based rate schedule agreed to by the City and Torrance Pipeline Company LLC through adoption and acceptance of this franchise and paid annually to the City of Torrance pursuant to Section 6231.5 of the California Public Utilities Code.

Section 4. A public hearing to consider this application will be held on November 5, 2019 at 7:00 pm. in the City of Torrance, City Council chamber, 3031 Torrance Boulevard. All persons having any objection to the granting of the franchise may appear before the City Council and be heard at that time.

Section 5. A notice of the intention to consider the application for a petroleum products and wastewater pipeline franchise from Torrance Pipeline Company LLC will be published in a newspaper of general circulation within 15 calendar days following the adoption of this Resolution. The notice will include: date, time, and place of the scheduled public hearing; a statement that the franchisee will pay franchise fees, and failure to pay such fees as prescribed will result in the forfeiture of the franchise.

Section 6. The City Clerk will certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

INTRODUCED, APPROVED AND ADOPTED this _____ day of ____________, 2019.

Patrick J. Furey
Mayor

APPROVED AS TO FORM:
PATRICK Q. SULLIVAN, City Attorney

ATTEST:
By: ________________________________
    Tatia Y. Strader
    Assistant City Attorney

Rebecca Poirier, MMC
City Clerk
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CERTIFIED MAIL

March 20, 2019

City of Torrance
3031 Torrance Blvd
Torrance, CA 90509

Attn: Mr. LeRoy J. Jackson
City Manager

RE: Torrance Pipeline Company LLC
Franchise Ordinance No. 3403
(As amended by Resolution No. 2016-70)
Our File: R/W TPC 5119-A

Dear Mr. Jackson,

At present, Torrance Pipeline Company LLC (TPC) maintains approximately 1.02 miles of pipeline within the City of Torrance under the authority of Ordinance No. 3403 (see attached). This franchise is scheduled to expire November 17, 2019.

It is our desire to continue our rights within the City of Torrance without interruption beyond the referenced expiration date. With this in mind, please advise the undersigned of any necessary procedures that we may initiate to secure a new or extend our existing pipeline franchise.

I look forward to working with City Staff on the renewal of this agreement. Should you have questions, or require additional information, please contact me at (310) 212-1794.

Very truly yours,

[Signature]

Teri A. Shinde
Manager, Right of Way

Cc: Jeffery W. Gibson
Community Development Director

TAS
(TPC Renew Torrance 3403.doc)