

0150-10322-0000

TRANSMITTAL

TO Gina Marie Lindsey, Executive Director Department of Airports	DATE JAN 07 2014	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 11	

Request to Approve a Five-Year Non-Exclusive Pipeline Right-of-Way License Agreement with ExxonMobil Oil Corporation for an Underground Jet Fuel Pipeline and Related Surface Facilities at Los Angeles International Airport

Transmitted for further processing, including Council consideration. See the City Administrative Officer report attached.


MAYOR
(Ana Guerrero)

MAS:WDC: 10150053t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: December 29, 2014

CAO File No. 0150-10322-0000

Council File No.

Council District: 11

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Los Angeles World Airports dated December 10, 2014; referred by the Mayor for report on December 12, 2014

Subject: **REQUEST TO APPROVE A FIVE-YEAR NON-EXCLUSIVE PIPELINE RIGHT-OF-WAY LICENSE AGREEMENT WITH EXXONMOBIL OIL CORPORATION FOR AN UNDERGROUND JET FUEL PIPELINE AND RELATED SURFACE FACILITIES AT LOS ANGELES INTERNATIONAL AIRPORT**

SUMMARY

The Executive Director of the Los Angeles World Airports (LAWA; Department) requests authority to approve a Non-Exclusive Pipeline Right-of-Way License Agreement with ExxonMobil Oil Corporation (ExxonMobil) for a term of five years to continue the operation of a 31,434 square foot eight-inch diameter underground fuel delivery pipeline, and associated surface accessories (e.g., valves, pipes, manholes, inlets, vaults), supplying Jet A fuel (for commercial airliners) to the Los Angeles International Airport (LAX). The pipeline supplies an LAX bulk fuel storage facility on World Way West by way of a right-of-way along Imperial Highway.

If approved, the license agreement will generate first-year revenue for LAWA of \$54,066 and approximately \$270,330 over the five-year term, exclusive of annual Consumer Price Index (CPI)-based adjustments. Approval of the license agreement will allow the Department to transition from a month-to-month non-terminal Use Terms and Conditions occupancy permit, which has been in place since March 1, 2014 (prior to that, a five-year Non-Board License agreement had been used), to a fixed term license agreement beginning in the first quarter of 2015.

At its meeting of December 18, 2014, the Board of Airport Commissioners (Board) approved the proposed license agreement with ExxonMobil. The Department believes that there is no alternative to approving the requested license agreement in that the pipeline supplies fuel needed for commercial airliners.

Execution of the license agreement with ExxonMobil is subject to approval as to form by the City Attorney. The above-referenced aspects of the proposed pipeline right-of-way license agreement, and this report, incorporate revised information received from the Department subsequent to the initial request submittal.

Background

The current non-terminal Use Terms and Conditions occupancy permit has remained in place since March 1, 2014, primarily due to ExxonMobil's measured process for reviewing and obtaining executive-level endorsement of the City's administrative requirements. ExxonMobil has been paying the current Board-approved rental rate of \$1.72 per square foot, inclusive of cost of living increases, for 31,434 square feet of property right-of-ways (for 6,286 linear feet of pipeline) at LAX. The current rental rate will not change under the proposed right-of-way license agreement.

The original ExxonMobil LAX pipeline lease dates to October 1967. Until the approval of the current non-terminal Use Terms and Conditions occupancy permit in March 2014, the most recent right-of-way license agreement had been in place for the period May 1, 2008 to April 30, 2013.

According to LAWA, if no action is taken on the proposed right-of-way license agreement, operation of the aviation fuel delivery pipeline at LAX will be discontinued and Jet A fuel would have to be supplied by companies other than ExxonMobil with the result that (1) airlines would have to renegotiate their fuel contracts with other fuel providers; and (2) competitive pricing obtained by having multiple suppliers of Jet A fuel could be affected with the likelihood of increased fuel prices for the airlines.

The following table reflects the terms of the proposed pipeline right-of-way license agreement with ExxonMobil:

Proposed Terms for Fuel Pipeline Right-of-Way License Agreement with ExxonMobil Oil Corp., Inc. at LAX				
Description	Proposed Terms			Projected Revenue to LAWA Over Five Years
Contract Period	5 Years	Rental Rate	Annual Rate	
	1/1/2015-12/31/2020*			
Cancellation Provision	30 days, with written notice			
Demise Premises	31,434 SF/6,286 LF	\$1.72 SF	\$54,066	
Annual Rent Adjustment	CPI - 2% minimum			TBD
Total Rent			\$54,066	\$270,330**
SF = Square Feet; LF = Linear Feet				
*Estimate; effective date is upon execution of the agreement by LAWA Exec. Director				
**Excludes CPI annual escalator & Charter-mandated adjustments				

Compliance with City Administrative Requirements

Since the proposed action involves approval of a right-of-way license agreement to continue operation of a dedicated fuel supply line from ExxonMobil's Torrance refinery for the sole use of LAX airline customers, the right-of-way license agreement is not subject to the provisions of Charter Section 1022 relative to the use of independent contractors. Likewise, approval of the license agreement is not subject to the following Standard City Provisions: Service Contractor Worker Retention Ordinance,

Child Support Obligations Ordinance, the Contractor Responsibility Program, Equal Benefits Ordinance, First Source Hiring Program, and the Small Business Enterprise program. ExxonMobil is, however, subject to the following Standard City Provisions: the Affirmative Action Program and the Bidder Contributions CEC (City Ethics Commission) Form 55 pertaining to the City's contract bidder campaign contribution and fundraising restrictions (Charter Section 470 {c}{12}) that became effective in April 2011. ExxonMobil has the required City Business Tax Registration Certificate number and approved insurance documents, in the terms and amounts required by the Department.

Pursuant to Charter Section 373, "Long Term Contracts; Approval by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," City Council approval of the proposed Non-Exclusive Pipeline Right-of-Way License Agreement with ExxonMobil Oil Corporation is required in that the License Agreement will exceed three years. In addition, approval of the License Agreement is subject to the approval of the City Attorney as to form.

Additionally, and in accordance with Charter Section 606, "Process for Granting Franchises, Permits, Licenses and Entering Into Leases," unless the Council takes action disapproving a franchise, permit, license or lease that is longer than five years within 30 days after submission to Council, the license shall be deemed approved.

Compliance with CEQA Guidelines

The proposed pipeline right-of-way license is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Los Angeles City CEQA Guidelines, Article III, Class 1 (18) (c) inasmuch as it involves one or more of the following: the issuance of permits, leases, agreements, gate and space assignments, renewals, amendments or extensions thereof, or other entitlements granting the use of existing airport facilities or its operations.

RECOMMENDATIONS

That the Mayor:

1. Approve, subject to City Attorney approval as to form and compliance with the City's Standard Provisions for Contracts including: the Affirmative Action Program and the Bidder Contributions Form 55 pertaining to the City's contract bidder campaign contribution and fundraising restrictions, a Non-Exclusive Pipeline Right-of-Way License Agreement between ExxonMobil Oil Corporation and the Los Angeles World Airports, for a term of five years, at the Los Angeles International Airport (LAX) in order to continue the operation of a dedicated fuel pipeline serving commercial aircraft operating from LAX and authorize the Executive Director to execute the proposed agreement; and
2. Return the proposed Non-Exclusive Pipeline Right-of-Way License Agreement to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed pipeline right-of-way license agreement with ExxonMobil will have no impact on the City's General Fund; neither will it affect the Department's capital or operating budgets. Approval of the subject right-of-way license agreement complies with the Department of Airports adopted Financial Policies.

Time Limit for Council Action

Pursuant to Charter Section 606 and the Los Angeles Administrative Code Section 10.5, unless the Council takes action disapproving a franchise, permit, license or lease that is longer than five years within 30 days after submission to Council, the license shall be deemed approved.

MAS:WDC:10150053