



CITY OF CARSON

Legislation Text

File #: 2019-727, Version: 1

Report to Mayor and City Council

Tuesday, August 06, 2019

Special Orders of the Day

SUBJECT:

PUBLIC HEARING TO CONSIDER ADOPTING ORDINANCE NO. 19-1932: AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, TO GRANT A NONPUBLIC UTILITY PIPELINE FRANCHISE TO PRAXAIR, INC. (CITY COUNCIL)

I. SUMMARY

Praxair, Inc. is requesting that the City grant it a nonpublic utility pipeline franchise. On July 16, 2019, the City Council has passed a resolution declaring its intention to grant a nonpublic utility pipeline franchise to Praxair and to hold a public hearing for all persons having interest in or any objection to the matter. Praxair will adhere to the same franchise agreement fees as Tesoro Refining & Marketing Company, LLC, Torrance Pipeline Company, LLC, a subsidiary of PBF Holding Company, LLC, and Shore Terminals, LLC. As a result, Praxair will be paying the City an additional \$24,875.94 on an annual basis.

II. RECOMMENDATION

TAKE the following actions

1. OPEN THE Public Hearing, TAKE public testimony, and CLOSE Public Hearing; AND
2. INTRODUCE for first reading, "ORDINANCE NO. 19-1932, AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, GRANTING A NONPUBLIC UTILITY PIPELINE FRANCHISE TO PRAXAIR, INC."

III. ALTERNATIVES

1. If the City Council determines that the terms and conditions of the attached Ordinance require further changes, then pursuant to Charter Section 1001.B, the City shall restart the franchise award process with a Resolution of Intention reflecting the revised terms and conditions

2. TAKE another action the City Council deems appropriate, that is consistent with the requirements of the law.

IV. BACKGROUND

On October 3, 1989, the City Council adopted Ordinance No. 89-884 granting to Union Carbide Industrial Gases, Inc., a Delaware corporation, a twenty-five (25) year nonpublic utility pipeline franchise within the City of Carson.

On August 7, 1990, the City Council adopted Ordinance No. 90-912, amending Ordinance No. 89-884, and granting to Union Carbide Industrial Gases, Inc. a renewed twenty-five (25) year nonpublic utility pipeline franchise within the City of Carson.

Effective June 30, 1992, Union Carbide Industrial Gases, Inc. changed its name to Praxair, Inc., a Delaware corporation.

On December 5, 1995, the City Council passed Resolution No. 95-115, approving the addition of 25,574 feet of existing pipeline purchased from GATX Terminals Corporation ("GATX") to the nonpublic utility pipeline franchise granted to Praxair under Ordinance No. 89-884, as amended by Ordinance No. 90-912.

On April 16, 1996, the City Council passed Resolution No. 96-024, approving the addition of 6,151 feet of existing pipeline purchased from GATX, as well as the installation of 1,067 feet of new pipeline, to the nonpublic utility pipeline franchise granted to Praxair under Ordinance No. 89-884, as amended by Ordinance No. 90-912.

On September 6, 2015, the term of the nonpublic utility pipeline franchise granted to Praxair under Ordinance No. 89-884, as amended by Ordinance No. 90-912 expired. Praxair continued to make payments in accordance with the terms of Ordinance No. 90-912.

On March 13, 2017, Praxair filed a complete application with the City requesting renewal of the nonpublic utility pipeline franchise. For the period between September 6, 2015 and March 13, 2017, Praxair maintained and operated the nonpublic utility pipelines without City approval in violation of the City of Carson Municipal Code.

City staff has evaluated the relevant pipelines and confirmed the pipeline data, including that the pipeline diameters and lengths are in accordance with the acceptable franchise agreements. The nonpublic utility pipeline franchise identified as Ordinance No. 90-912 consists of 4,586 linear feet of pipeline 6 inches in diameter and 28,550 linear feet of pipeline 8 inches in diameter.

On February 14, 2019, representatives for the City and Praxair discussed the terms for the nonpublic utility pipeline franchise previously granted under Ordinance Nos. 89-884 and 90-912, inclusive of Resolution Nos. 95-115, 96-024, and 01-086, thereby facilitating City Council's approval of Ordinance 19-1932 granting Praxair a nonpublic utility pipeline franchise.

The franchise agreement shall include additional terms for insurance, and an increase in

the Base Franchise Fee that will be subject to an annual cost of living adjustment (CPI). The agreed-to fee will increase to \$2.56 per linear foot, which is the same fee that Tesoro, PBF and Shore Terminals agreed to pay with their franchise agreements.

The franchise agreement shall also include a penalty for the period between September 6, 2015 and March 13, 2017, during which Praxair maintained and operated the nonpublic utility pipelines without City approval. The penalty shall be in the form of a retroactive application of the increased Base Franchise Fee, with credit for fees paid, amounting to a one-time payment of \$68,414.63.

In accordance with the Section 1001 of the City Charter, on July 16, 2019, the City Council passed Resolution No. 19-143, declaring its intention to grant a nonpublic utility pipeline franchise to Praxair, stating the character of the franchise and the terms and conditions upon which it is proposed to be granted, and fixing the day of August 6, 2019 to hold a public hearing for all persons having interest in or any objection to the matter to be heard thereon.

V. FISCAL IMPACT

Based on the updated Base Franchise Fee rate (from \$1.68 to \$2.56 per linear foot) and the revised rate calculation methodology, the annual increase in fees will total approximately \$24,875.94, equating to a total of \$248,759.40 in new revenues to the City during the ten (10) year term of this agreement. This amount does not include the annual CPI adjustment, so the actual revenue received by the City over the term of this agreement will be greater than the estimate. Based on the retroactive penalty fee, a one-time payment of \$68,414.63 shall be made by Praxair to the City upon the adoption of Ordinance 19-1932. Pursuant to Charter Section 1001.B, City Council may set and collect any franchise fee it deems reasonable, so long as such fee is not arbitrary or confiscatory.

VI. EXHIBITS

1. Ordinance 19-1932. (pgs. 3 - 10)

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