

**CITY OF BALTIMORE
COUNCIL BILL 10-0611
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of General Services)
Introduced and read first time: October 18, 2010
Assigned to: Highways and Franchises Subcommittee

REFERRED TO THE FOLLOWING AGENCIES: Planning Commission, Department of Housing and Community Development, Department of General Services, Department of Transportation, Fire Department, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Private 115 kV Conduit Under and Across Portions of the West Patapsco**
3 **Avenue, Potee Street, Hanover Street, Baltic Avenue, Second Street, Frankfurst Avenue,**
4 **Frankfurst Avenue Relocated, Shell Road and East Patapsco Avenue Rights-of-way**

5 FOR the purpose of granting a franchise to Energy Answers International, Inc., to construct, use,
6 and maintain a private 115 kV cable conduit system under and across portions of the West
7 Patapsco Avenue, Potee Street, Hanover Street, Baltic Avenue, Second Street, Frankfurst
8 Avenue, Frankfurst Avenue Relocated, Shell Road, and East Patapsco Avenue rights-of-way,
9 to connect a Fairfield Alternative and Renewable Energy Project located on the property
10 known as 1701 E. Patapsco Avenue with the Pumphrey Substation located in Anne Arundel
11 County, Maryland, subject to certain terms, conditions, and reservations; and providing for a
12 special effective date.

13 BY authority of
14 Article VIII - Franchises
15 Baltimore City Charter
16 (1996 Edition)

17 **Recitals**

18 Energy Answers International, Inc. is proposing to develop a privately-funded
19 resource recovery system, to be known as the Fairfield Alternative and
20 Renewable Energy Project, located on the former FMC site (1701 E. Patapsco
21 Avenue) in the Fairfield peninsula area of Baltimore City. The facility will
22 produce electricity and steam through the combusting of processed materials,
23 sourced primarily from municipal solid waste. The raw materials will be
24 processed at locations off-site, with ferrous and non-ferrous metals recovered
25 from the combustion residue. The remaining residue materials may be used as
26 landfill cover or as part of recycled content building materials.

27 On August 6, 2010, the Public Service Commission approved the proposed
28 project as a power plant. Energy Answers projects that up to 140 megawatts of

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 10-0611

1 steam and electricity can be produced for the power grid through a PJM
2 interconnection, with the potential to provide energy to nearby industrial
3 customers.

4 To create the PJM interconnection and convey the generated energy to the power
5 grid, a 115 kV cable conduit system needs to be constructed from the Fairfield
6 Alternative and Renewable Energy Project to the Pumphrey Substation located in
7 Anne Arundel County, Maryland. Portions of this conduit system will be located
8 under and across public rights-of-way.

9 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
10 franchise or right is granted to Energy Answers International, Inc., its tenants, successors, and
11 assigns (collectively, the “Grantee”) to construct, use, and maintain, at Grantee’s own cost and
12 expense, and subject to the terms and conditions of this Ordinance, a private 115 kV cable
13 conduit system consist of two rows of three conduit and one row of two communications conduit
14 measuring 2 feet wide by 3 feet deep, with a minimum of 3 foot cover, with manholes installed
15 along the alignment to allow for servicing of the system. The conduit will connect the properties
16 known as the Fairfield Alternative and Renewable Energy Project, located at 1701 E. Patapsco
17 Avenue, with the Pumphrey Substation located in Anne Arundel County, Maryland; and more
18 particularly described as follows:

19 Beginning for the centerline of an electrical conduit at a point on the
20 Eastbound side, southerly right-of-way line of West Patapsco Avenue, 100 feet
21 wide, said point being distant 4,891 feet westerly from the intersection of the
22 southerly right-of-way line of West Patapsco Avenue and the westerly right-of-
23 way line of Potee Street, said point being at alignment centerline station of
24 212+52, thence running through the right-of-way of West Patapsco Avenue
25 Northeasterly 218 feet to intersect the Westbound side, northerly right-of-way
26 line of West Patapsco Avenue, said point being at conduit alignment centerline
27 station of 214+70. Being a total centerline length of approximately 218 feet.

28 Beginning for the centerline of an electrical conduit at a point on the
29 Southbound side, westerly right-of-way line of Potee Street where it intersects the
30 northerly right-of-way line of the Maryland Route I-895, said point being at the
31 conduit alignment centerline station of 254+70 and being at the 3400 block of
32 Potee Street, thence running through the right-of-way of Potee Street Northerly
33 142 feet to the electrical conduit equality station 256+12 = 300+50, thence
34 continuing through Potee Street northerly 545 feet to the Northbound side,
35 easterly right-of-way line of Potee Street, said point being at the conduit
36 alignment centerline station of 305+95, being at 3400 Block of Potee Street.
37 Being a total centerline length of approximately 687 feet.

38 Beginning for the centerline of an electrical conduit at a point on the westerly
39 right-of-way line of Hanover Street and being southerly 222 feet from Frankfurst
40 Avenue, said point being at the conduit alignment centerline station of 309+55,
41 thence running easterly through the rights-of-way of Hanover Street, Baltic
42 Avenue, Second Street and along the Westbound side, northerly right-of-way line
43 of Frankfurst Avenue 4,528 feet to the northerly right-of-way line of Maryland
44 Route I-895 Westbound Exit Ramp to Frankfurst Avenue. Being a total length of
45 approximately 4,528 feet.

Council Bill 10-0611

1 Being for the centerline of an electrical conduit at a point on the easterly right-
2 of-way line of Frankfurst Avenue, distant southerly 438 feet from the Westbound
3 I-895 Exit Ramp, said point being at the conduit alignment centerline station of
4 358+04, thence running southeasterly through the rights-of-way of Frankfurst
5 Avenue and Shell Road 3,971 feet to the Northbound side, Easterly right-of-way
6 line of Shell Road, 11 feet northwesterly of East Patapsco Avenue, said point
7 being at the conduit alignment centerline station of 397+75. Being a total
8 centerline length of approximately 3,971 feet.

9 Beginning for the centerline of an electrical conduit at a point on the northerly
10 right-of-way line of East Patapsco Avenue, said point being distant Easterly 1,281
11 feet from the easterly right-of-way line of Shell Road, said point being at the
12 conduit alignment centerline station of 401+64, thence running southeasterly
13 through the right-of-way line of East Patapsco Avenue 180 feet to the Eastbound
14 Side, Southerly right-of-way line of East Patapsco Avenue, 1436 feet Easterly of
15 Shell Road, said point being at the conduit alignment centerline station of
16 397+75. Being a total centerline length of approximately 180 feet.

17 Having approximately 9,584 linear feet in the public rights-of-way.

18 **SECTION 2. AND BE IT FURTHER ORDAINED,** That to become effective, the franchise or right
19 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
20 6 months after the effective date of this Ordinance.

21 **SECTION 3. AND BE IT FURTHER ORDAINED,** That as compensation for the Franchise, the
22 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$_____ a
23 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
24 charge must be paid annually, at least 30 days before the initial and each renewal term of the
25 Franchise.

26 **SECTION 4. AND BE IT FURTHER ORDAINED,** That:

27 (a) The initial term of the Franchise is 1 year, commencing on the effective date of this
28 Ordinance. Unless sooner terminated as provided in this Ordinance, the Franchise will
29 automatically renew, without any action by either the Mayor and City Council of Baltimore or
30 the Grantee, for 24 consecutive 1-year renewal terms. Except as otherwise provided in this
31 Ordinance, each renewal term will be on the same terms and conditions as the initial term. The
32 maximum duration for which the Franchise may operate, including the initial and all renewal
33 terms, is 25 years.

34 (b) Either the Mayor and City Council of Baltimore, acting by and through the Director of
35 General Services, or the Grantee may cancel the Franchise as at the end of the initial or any
36 renewal term by giving written notice of cancellation to the other at least 90 days before the end
37 of that term.

38 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore,
39 acting by and through the Board of Estimates, may increase or decrease the annual franchise
40 charge by giving written notice of the increase or decrease to the Grantee at least 150 days
41 before the end of the original or renewal term immediately preceding the renewal term to which
42 the increase or decrease will first apply. The new franchise charge will apply to all subsequent
43 annual renewal terms, unless again increased or decreased in accordance with this section.

Council Bill 10-0611

1 **SECTION 6. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
2 expressly reserves the right at all times to exercise, in the interest of the public, full municipal
3 superintendence, regulation, and control over and in respect to all matters connected with the
4 Franchise and not inconsistent with the terms of this Ordinance.

5 **SECTION 7. AND BE IT FURTHER ORDAINED,** That the Grantee, at its own cost and expense,
6 shall maintain in good condition and in compliance with all applicable laws and regulations of
7 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
8 structures shall be at all times subject to the regulation and control of the Commissioner of
9 Housing and Community Development and the Director of General Services. If any structure for
10 which the Franchise is granted must be readjusted, relocated, protected, or supported to
11 accommodate a public improvement, the Grantee shall pay all costs and expenses in connection
12 with the readjustment, relocation, protection, or support.

13 **SECTION 8. AND BE IT FURTHER ORDAINED,** That at the option of the Mayor and City
14 Council of Baltimore, acting by and through the Director of General Services, the Grantee's
15 failure to comply with any term or condition of this Ordinance constitutes a forfeiture of the
16 Franchise. Immediately on written notice to the Grantee of the exercise of this option, the
17 Franchise terminates. Once so terminated, only an ordinance of the Mayor and City Council of
18 Baltimore may waive the forfeiture or otherwise reinstate the Franchise.

19 **SECTION 9. AND BE IT FURTHER ORDAINED,** That at any time and without prior notice, the
20 Mayor of Baltimore City may revoke the Franchise if, in the Mayor's judgment, the public
21 interest, welfare, safety, or convenience so requires. Immediately on written notice to the
22 Grantee of the exercise of this right, the Franchise terminates.

23 **SECTION 10. AND BE IT FURTHER ORDAINED,** That on cancellation, expiration, forfeiture,
24 revocation, or other termination of the Franchise for any reason, the Grantee shall remove all
25 structures for which the Franchise is granted. The removal of these structures shall be
26 (i) undertaken at the cost and expense of the Grantee, without any compensation from the Mayor
27 and City Council of Baltimore, (ii) made in a manner satisfactory to the Commissioner of
28 Housing and Community Development and the Director of General Services, and (iii) completed
29 within the time specified in writing by the Director of General Services.

30 **SECTION 11. AND BE IT FURTHER ORDAINED,** That the Grantee is liable for and shall
31 indemnify and save harmless the Mayor and City Council of Baltimore against all suits, losses,
32 costs, claims, damages, or expenses to which the Mayor and City Council of Baltimore is at any
33 time subjected on account of, or in any way resulting from, (i) the presence, construction, use,
34 operation, maintenance, alteration, repair, location, relocation, or removal of any of the
35 structures for which the Franchise is granted, or (ii) any failure of the Grantee, its officers,
36 employees, or agents, to perform promptly and properly any duty or obligation imposed on the
37 Grantee by this Ordinance.

38 **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
39 is enacted.