

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 08-0114

Introduced by: The Council President
At the request of: The Administration (Department of Public Works)
Introduced and read first time: May 5, 2008
Assigned to: Highways and Franchises Subcommittee

Committee Report: Favorable with amendment
Council action: Adopted
Read second time: August 11, 2008

AN ORDINANCE CONCERNING

**Franchise – Private Product Recovery System Pipeline Under and
Across a Portion of the Boston Street Right-of-way**

FOR the purpose of granting a franchise to ExxonMobil to construct, use, and maintain a private product recovery system pipeline under and across a portion of the Boston Street right-of-way, connecting facilities located on the properties known as 4200 Boston Street and 1610 South Newkirk Street, subject to certain terms, conditions, and reservations; and providing for a special effective date.

By authority of
Article VIII - Franchises
Baltimore City Charter
(1996 Edition)

Recitals

ExxonMobil owns a former gasoline refinery and a bulk storage terminal on the property known as 4200 Boston Street. The refinery and terminal are now inactive. The company will be installing several recovery wells on their property to assist with the recovery of their gasoline product.

The recovery wells are to be connected via an underground pipeline and conveyed to a storage tank located on the property known as 1610 South Newkirk Street, where ExxonMobil has an existing access agreement. The storage tank will be periodically emptied by tanker truck and the gasoline product recycled.

Connecting the recovery wells to the storage tank requires a portion of the product recovery pipeline to be located in and begin approximately 4 feet below the surface of the Boston Street right-of-way. The pipeline will be installed using horizontal directional drilling techniques under the right-of-way from entry and

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 exit trenches located on the Boston and South Newkirk Street properties. The
2 installation of the pipeline is not expected to unduly interfere with traffic on
3 Boston Street.

4 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
5 franchise or right is granted to ExxonMobil, its tenants, successors, and assigns (collectively, the
6 “Grantee”) to construct, use, and maintain, at Grantee’s own cost and expense, and subject to the
7 terms and conditions of this Ordinance, a private 12-inch HDPE casing pipe containing one 2-
8 inch steel product pipe, one 2-inch steel spare line, and several 1/2-inch polyethylene air lines
9 needed to operate the pumps in the recovery wells, approximately 77 feet 8 inches long and 1
10 foot wide, between the properties known as 4200 Boston Street and 1610 South Newkirk Street,
11 and more particularly described as follows:

12 Beginning on the south side of Boston Street at the Canton Railroad property, said
13 beginning being distant 107 feet from the westernmost corner of the property of
14 CSXT and then continuing on the south side of Boston Street, in an easterly
15 direction 1 foot, more or less; thence by a straight line, North 27 degrees West, 77
16 feet, more or less to the north side of said Boston Street; thence along the
17 northernmost side of said Boston Street, Westerly 1 foot, more or less; thence by
18 a straight line, South 27 degrees East 77 feet, more or less, to the point of
19 beginning.

20 **SECTION 2. AND BE IT FURTHER ORDAINED,** That to become effective, the franchise or right
21 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
22 6 months after the effective date of this Ordinance.

23 **SECTION 3. AND BE IT FURTHER ORDAINED,** That as compensation for the Franchise, the
24 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$271.85 a
25 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
26 charge must be paid annually, at least 30 days before the initial and each renewal term of the
27 Franchise.

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

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

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

40 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore,
41 acting by and through the Board of Estimates, may increase or decrease the annual franchise
42 charge by giving written notice of the increase or decrease to the Grantee at least 150 days
43 before the end of the original or renewal term immediately preceding the renewal term to which

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1 the increase or decrease will first apply. The new franchise charge will apply to all subsequent
2 annual renewal terms, unless again increased or decreased in accordance with this section.

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

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

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

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

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

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

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

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City