



Legislation Text

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Department of General Services)

A BILL ENTITLED

AN ORDINANCE concerning
Franchise - Private 115 kV Conduit Under and Across Portions of the West Patapsco Avenue, Potee Street, Hanover Street, Baltic Avenue, Second Street, Frankfurst Avenue, Frankfurst Avenue Relocated, Shell Road and East Patapsco Avenue Rights-of-way

FOR the purpose of granting a franchise to Energy Answers International, Inc., to construct, use, and maintain a private 115 kV cable conduit system under and across portions of the West Patapsco Avenue, Potee Street, Hanover Street, Baltic Avenue, Second Street, Frankfurst Avenue, Frankfurst Avenue Relocated, Shell Road, and East Patapsco Avenue rights-of-way, to connect a Fairfield Alternative and Renewable Energy Project located on the property known as 1701 E. Patapsco Avenue with the Pumphrey Substation located in Anne Arundel County, Maryland, 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

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

On August 6, 2010, the Public Service Commission approved the proposed project as a power plant. Energy Answers projects that up to 140 megawatts of steam and electricity can be produced for the power grid through a PJM interconnection, with the potential to provide energy to nearby industrial customers.

To create the PJM interconnection and convey the generated energy to the power grid, a 115 kV cable conduit

system needs to be constructed from the Fairfield Alternative and Renewable Energy Project to the Pumphrey Substation located in Anne Arundel County, Maryland. Portions of this conduit system will be located under and across public rights-of-way.

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

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

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

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

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

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

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

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

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

SECTION 4. AND BE IT FURTHER ORDAINED, That:

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

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

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

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

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

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

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

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

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

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

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