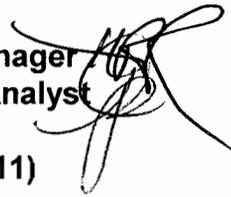


**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Hugh R. Riley, Assistant City Manager  
**By:** Jessica Sandifer, Management Analyst



**DATE:** January 26, 2011 (CC Mtg of 2/2/11)

**SUBJECT:** Consider Resolution of Intention to Grant an Oil Pipeline Franchise to Crimson California Pipeline, L.P. for a Twenty-Year Period Pursuant to the California Public Utilities Code

**SUMMARY**

State law allows municipalities to grant franchises for the purpose of transporting oil and gas and related substances by pipeline within their jurisdiction subject to certain conditions. Crimson California Pipeline, L.P. has applied to the City for an oil pipeline franchise related to approximately 2.5 miles of pipeline that they purchased from Shell Oil Company in May 2005. Pursuant to Public Utilities Code Section 6232-6235, in order to approve such a franchise, the City of Moorpark ("City") must first adopt a resolution that declares its intent to grant the applied for franchise. Over the course of the last year, City staff and the City Attorney's office have worked with Crimson to develop an appropriate franchise agreement that will allow Crimson to operate an oil pipeline in the City and that also provides the City with the necessary protections. The attached Resolution declaring the City's intent to grant an oil pipeline franchise to Crimson is the necessary first step to effectuate this agreement. A public hearing will then be held and the franchise must be adopted by ordinance.

**BACKGROUND**

When the City incorporated in 1983, it assumed a franchise agreement that had been executed between the County of Ventura and Shell Oil Company that allowed Shell to transport hydrocarbons and related substances by pipeline in certain designated unincorporated areas of the County, including approximately 2.5 miles of pipeline within what is now the City. The City and Shell continued to abide by the terms and conditions of the franchise agreement between Shell and the County during the term of the agreement and continued to do so after it expired in December 2002. On May 1, 2005,

Crimson California Pipeline, L.P. ("Crimson") purchased the pipeline operated by Shell and has continued to abide by the terms of the Shell franchise agreement to the present time.

Crimson wishes to execute a franchise directly with the City for a term of twenty years with two options to extend for five years at the discretion of the City. City staff and the City Attorney's office have spent a considerable amount of time negotiating an agreement that allows Crimson to operate a pipeline and provides the necessary protections for the City. Crimson will be required to pay the City a \$15,000 granting fee upon execution of the franchise agreement and make annual payments based on a formula mandated in the Public Utilities Code. Crimson will be responsible for making any repairs to City streets and rights of way that may be necessary due to operation of their pipeline and the City will have the right to require Crimson to move or alter Crimson's facilities to the extent they endanger the public in any way. Crimson will also be required to provide a \$100,000 bond and adequate insurance and is prohibited from assigning the franchise without the City's consent.

If the City decides not to grant the franchise to Crimson, Crimson would technically not be allowed to use the pipeline and the City could order Crimson to remove it from the ground. However, given the public benefit of the pipeline and lack of clarity in the law, it is unclear whether the City could, absent a significant public interest, actually prevent Crimson from using the pipeline and require them to remove it. Entering into a franchise agreement will provide more clarity and ultimately protections to the City because it clearly maps out Crimson's obligations and responsibilities, as well as the City's rights upon violation of the franchise. In addition, the proposed ordinance contains clear procedures for the removal and/or abandonment of Crimson's facilities.

If this resolution is adopted, a public hearing would then be held on the franchise agreement and the agreement will be presented to City Council as a proposed ordinance.

### **FISCAL IMPACT**

There is no fiscal impact upon the City directly as a consequence of City Council's action on this agenda item. If the franchise agreement is ultimately approved as an ordinance by the City Council, the City would receive a one-time \$15,000 granting fee and annual payments from Crimson that would likely be between \$2-3,000. There would be no cost to the City.

### **STAFF RECOMMENDATION**

Adopt Resolution 2011-\_\_\_\_\_, and set public hearing for March 2, 2011.

Attachment - Resolution

RESOLUTION NO. 2011-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, DECLARING THE CITY COUNCIL'S INTENTION TO GRANT AN OIL PIPELINE FRANCHISE TO CRIMSON CALIFORNIA PIPELINE, L.P., AND SETTING A PUBLIC HEARING TO CONSIDER OBJECTIONS

WHEREAS, Crimson California Pipeline, L.P. ("Crimson") has filed with the City Council of the City of Moorpark an application requesting that a franchise be granted to it of the character and for the purposes mentioned in the notice hereinafter set forth; and,

WHEREAS, in the opinion of the City Council the public good requires that the franchise be granted; and

WHEREAS, in order to grant the franchise, Public Utilities Code Section 6232-6235 requires the City Council to adopt a resolution of necessity prior to holding a public hearing to adopt the ordinance and grant the franchise.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby declares its intention to grant a franchise to Crimson. A public hearing to consider any objections to the granting thereof will be held at the time and place specified in the notice hereinafter set forth, which the City Clerk is hereby directed to publish at least once within fifteen (15) days after the passage of this Resolution in a newspaper of general circulation within the City of Moorpark, and that the notice shall be in the following words and figures:

"NOTICE OF INTENTION TO GRANT FRANCHISE

NOTICE IS HEREBY GIVEN that Crimson California Pipeline, L.P. ("Crimson") has filed its application with the City Council of the City of Moorpark requesting that the City Council grant to it a franchise for a twenty-year period, pursuant to the Franchise Act of 1937, to lay and use pipes and appurtenances for transmitting and distributing oil and products thereof, under, along, across, and upon the public highways and streets within the City.

If the franchise is granted to it, Crimson, its successors and assigns will, during the life thereof, pay to the City from the date of the granting of the franchise, an annual Franchise Fee, computed as set forth in California Public Utilities Code Section 6231.5 (a) and (b). If such annual payment

is not made, the franchise will be forfeited.

NOTICE IS HEREBY FURTHER GIVEN that any persons having any objections to the granting of the franchise may appear before the City Council at City Hall, located at 799 Moorpark Avenue, Moorpark, California, at the hour of 7:00 p.m., on Wednesday, the 2nd day of March, 2011, and be heard thereon; and

NOTICE IS HEREBY FURTHER GIVEN that at any time not later than the hour so set for hearing objections, any person interested may make written protest stating objections against the granting of the franchise. Any protest must be signed by the protestant and delivered to the City Clerk. At the time set for hearing any objections, the City Council will proceed to hear and pass upon all protests so made.

For further particulars, reference is hereby made to the application on file in the Office of the City Clerk."

Section 2. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 2nd day of February, 2011.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk