

**CITY OF BALTIMORE  
COUNCIL BILL 13-0228  
(First Reader)**

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Introduced by: The Council President  
At the request of: The Administration (Department of General Services)  
Introduced and read first time: May 13, 2013  
Assigned to: Housing and Community Development Committee

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

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Private Pipelines Under and Across or Over and Across**  
3 **Portions of the South Clinton Street, South Highland Avenue, South Haven Street,**  
4 **Boston Street, O’Donnell Street, Eastern Avenue, East Lombard Street, and**  
5 **Pulaski Highway Rights-of-Way**

6 FOR the purpose of granting a franchise to Petroleum Fuel & Terminal Company, to construct, use,  
7 and maintain private pipelines under and across or over and across portions of the 1600 block  
8 of South Clinton Street, the 1600 block of South Highland Avenue, the 1400 block of South  
9 Haven Street, the 4100 block of Boston Street, the 4100 block of O’Donnell Street, the 4400  
10 block of Eastern Avenue, the 4500 block of East Lombard Street, and the 5100 block of  
11 Pulaski Highway rights-of-way, connecting the Company’s North Terminal at 5101 Erdman  
12 Avenue to the Company’s South Terminal at 1622 South Clinton Street, subject to certain  
13 terms, conditions, and reservations; repealing Ordinance 55-1462, Ordinance 79-1157, and  
14 Ordinance 82-851; and providing for a special effective date.

15 BY authority of  
16 Article VIII - Franchises  
17 Baltimore City Charter  
18 (1996 Edition)

19 **Recitals**

20 Petroleum Fuel & Terminal Company owns and operates two petroleum product  
21 terminals, the North Terminal located at 5101 Erdman Avenue and the South  
22 Terminal located at 1622 South Clinton Street. A system of pipelines conveys the  
23 petroleum products between the two terminals. Portions of these pipelines cross  
24 City rights-of-way, either below grade or above grade (via pipeline bridges or  
25 attached by brackets on railroad bridges). Authority to cross City rights-of-way  
26 was granted under several franchise ordinances and Minor Privilege permits issued  
27 over the years to either a predecessor entity or to Petroleum Fuel & Terminal  
28 Company.

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

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1 The pipelines between the Company's two terminals also cross private property,  
2 including railroad rights-of-way. Petroleum Fuel & Terminal Company must  
3 relocate its pipelines for a portion of railroad right-of-way. The Company also  
4 needs to add additional pipelines in alignment areas already covered by existing,  
5 but expired, franchises. This franchise will consolidate all existing franchises and  
6 Minor Privilege permits permitted and assigned to Petroleum Fuel & Terminal  
7 Company into one franchise ordinance that will grant authority to Petroleum Fuel &  
8 Terminal Company for its pipelines and appurtenant structures to be constructed,  
9 operated, and maintained in City rights-of-way for an additional 25 years.

10 The following Ordinances will be repealed:

- 11 (1) Ordinance 55-1462 originally issued to Merchants Terminal Corporation;
- 12 (2) Ordinance 79-1157 issued to Petroleum Fuel & Terminal Company; and
- 13 (3) Ordinance 82-851 issued to Petroleum Fuel & Terminal Company.

14 Structures authorized under Minor Privilege Permits 98405, 87364, and 115393  
15 will also be consolidated into this new franchise ordinance, and these permits will  
16 require Board of Estimates action to rescind them.

17 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a  
18 franchise or right is granted to Petroleum Fuel & Terminal Company, its tenants, successors, and  
19 assigns (collectively, the "Grantee") to construct, use, and maintain, at Grantee's own cost and  
20 expense, and subject to the terms and conditions of this Ordinance, the following described  
21 structures over and across the beds of South Clinton Street, South Highland Avenue, Eastern  
22 Avenue, and Pulaski Highway, and under and across the beds of South Haven Street, Boston  
23 Street, O'Donnell Street, and Lombard Street.

- 24 (a) An existing pipe bridgeway above and across South Clinton Street, approximately 225  
25 feet north of the centerline of Eastbourne Avenue. The portion of the bridgeway  
26 located over and across the right-of-way measures approximately 70 feet long by 8 feet  
27 wide by 7 feet high and is approximately 18 feet above the surface of South Clinton  
28 Street at its lowest point. The bridgeway carries one 1-inch conduit, two 1½-inch  
29 conduits, two 2-inch conduits, two 4-inch conduits, 4 8-inch pipelines, two 10-inch  
30 pipelines, two 12-inch pipelines, and three 14-inch pipelines. The bridgeway occupies  
31 approximately 560 square feet of the right-of-way.
- 32 (b) An existing pipe bridgeway above and across South Highland Avenue, approximately  
33 64 feet south of the south building line of Danville Avenue. The portion of the  
34 bridgeway located over and across the right-of-way measures approximately 134 feet  
35 long by 4 feet 6 inches wide by 3 feet high and is approximately 18 feet above the  
36 surface of South Highland Avenue at its lowest point. The bridgeway extends easterly  
37 50 feet 3 inches from the west building line of South Highland Avenue, at a right angle  
38 to the building line thereof, thence running northerly for approximately 74 feet, parallel  
39 to the building line thereof, and thence easterly for 9 feet 9 inches to the east building  
40 line of Highland Avenue, at a right angle to the building line thereof. The bridgeway is  
41 supported by four 18-inch diameter concrete columns, three on the east side of  
42 Highland Avenue located 4 feet, 24 feet, and 64 feet respectively south of the south  
43 building line of Danville Avenue and projecting 10 feet 6 inches into the Highland  
44 Avenue right-of-way, and one on the west side of Highland Avenue located 64 feet  
45 south of the south building line of Danville Avenue and projecting 10 feet 9 inches into

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1 the Highland Avenue right-of-way. Each of the four supporting columns has cylindrical  
2 footings that are approximately 2 feet in diameter and 20 feet deep. The bridgeway  
3 carries one 2-inch conduit, two 8-inch pipelines, one 12-inch pipeline, and two 14-inch  
4 pipelines. The bridgeway occupies approximately 603 square feet of the right-of-way.  
5 The volume of each supporting column footing is approximately 62.8 cubic feet, for a  
6 total of 251.2 cubic feet for all 4 column footings.

7 (c) A new 12-inch pipeline under and across South Haven Street. Beginning for the  
8 centerline of the underground 12-inch pipeline on the west building line of Haven  
9 Street, 70 feet wide, at a point about 440 feet south of the south building line of Boston  
10 Street, and running thence in a northeasterly direction in and across Haven Street, about  
11 80 feet to intersect the east building line thereof at a point 400 feet south of the south  
12 building line of Boston Street. The pipeline occupies approximately 80 linear feet of  
13 the right-of-way.

14 (d) An existing 12-inch pipeline under and across Boston Street. Beginning for the  
15 centerline of the 12-inch pipeline on the south building line of Boston Street, 70 feet  
16 wide, at a point approximately 230 feet east of the east building line of Haven Street,  
17 and running thence in and across Boston Street, at a right angle to the building line  
18 thereof, about 70 feet to intersect the north building line thereof at a point  
19 approximately 230 feet east of the east building line of Haven Street. The pipeline  
20 occupies approximately 70 linear feet of the right-of-way.

21 (e) An existing 12-inch pipeline under and across O'Donnell Street. Beginning for the  
22 centerline of the 12-inch pipeline on the south building line of O'Donnell Street, 70 feet  
23 wide, at a point approximately 230 feet east of the east building line of Haven Street,  
24 and running thence in and across O'Donnell Street, at a right angle to the building line  
25 thereof, approximately 70 feet to intersect the north building line thereof at a point  
26 approximately 230 feet east of the east building line of Haven Street. The pipeline  
27 occupies approximately 70 linear feet of the right-of-way.

28 (f) An existing 12-inch pipeline above and across Eastern Avenue Underpass. Beginning  
29 for the centerline of the 12-inch pipeline on the south building line of Eastern Avenue  
30 Underpass, 80 feet wide, at a point approximately 200 feet east of the east building line  
31 of Janney Street, and running thence on a northeasterly direction across and above  
32 Eastern Avenue Underpass on a bracket attached to the railroad bridge there situated,  
33 approximately 96 feet 8 inches to intersect the north building line thereof at a point  
34 approximately 230 feet east of the east building line of Janney Street. The pipeline  
35 occupies approximately 97 linear feet of the right-of-way.

36 (g) An existing 12-inch pipeline under and across East Lombard Street. Beginning for the  
37 centerline of the 12-inch pipeline on the south building line of East Lombard Street, 77  
38 feet wide, at a point approximately 750 feet east of the east building line of Kresson  
39 Street, and running thence on a northeasterly direction in and across East Lombard  
40 Street, approximately 81 feet to intersect the north building line thereof at a point  
41 approximately 815 feet east of the east building line of Kresson Street. The pipeline  
42 occupies approximately 81 linear feet of the right-of-way.

43 (h) An existing 12-inch pipeline under and across Pulaski Highway. Beginning for the  
44 centerline of the 12-inch pipeline on the southeast building line of Pulaski Highway,  
45 110 feet wide, at a point approximately 2,085 feet northeast of the east building line of  
46 Kresson Street, and running thence in a northwesterly direction under and across

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1 Pulaski Highway there situate, approximately 162 feet 8 inches to intersect the  
2 northeast building line thereof at a point approximately 1,985 feet northeast of the east  
3 building line of Kresson Street. The pipeline occupies approximately 162 linear feet  
4 of the right-of-way.

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

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

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

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

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

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

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

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

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

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

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

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

26       **SECTION 12. AND BE IT FURTHER ORDAINED,** That Ordinance 55-1462, Ordinance 79-1157,  
27 and Ordinance 82-851 are hereby repealed.

28       **SECTION 13. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is  
29 enacted.