

**CITY OF BALTIMORE
COUNCIL BILL 10-0598
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of General Services)
Introduced and read first time: September 20, 2010
Assigned to: Highways and Franchises Subcommittee

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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Private Fuel Pipeline Under and Across a Portion**
3 **of the Frankfurst Avenue Right-of-Way**

4 FOR the purpose of granting a franchise to Apex Oil Company to construct, use, and maintain a
5 private fuel pipeline under and across a portion of the 1800 block of Frankfurst Avenue
6 right-of-way, connecting facilities located on the properties known as NuStar - LP Terminal
7 pier and Center Point Terminal on Vera Street, subject to certain terms, conditions, and
8 reservations; and providing for a special effective date.

9 By authority of
10 Article VIII - Franchises
11 Baltimore City Charter
12 (1996 Edition)

13 **Recitals**

14 Petroleum Fuel and Terminal, a subsidiary of Apex Oil Company, owns the
15 property known as Center Point Terminal located at the corner of Vera Street and
16 Frankfurst Avenue. The property is used as a storage facility for petroleum
17 products.

18 Approximately 4,400 linear feet of new 12-inch diameter fuel line will be
19 constructed from the NuStar – LP Terminal pier to a manifold at the Center Point
20 Terminal. The proposed routing runs from the loading arm on the NuStar
21 Patapsco River pier along an existing above-ground pipeway through the NuStar
22 Terminal, then goes underground to cross the 1800 block of Frankfurst Avenue,
23 the CSX rail line, and a privately owned parcel, before becoming an above-
24 ground pipeway within the Center Point Terminal.

25 This agreement covers the 60-foot right-of-way of Frankfurst Avenue. The
26 pipeline will be crossing approximately 6 feet below the surface of the Frankfurst
27 Avenue right-of-way. The pipeline will be installed using horizontal directional
28 drilling techniques under the right-of-way from jacking and receiving pits located

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

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1 on the north and south sides of Frankfurst Avenue. The installation of the
2 pipeline is not expected to unduly interfere with traffic on Frankfurst Avenue.
3 The same drilling techniques will be utilized when crossing the CSX rail line. All
4 appropriate agreements with the owners of the impacted properties will be
5 obtained prior to start of construction.

6 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
7 franchise or right is granted to Apex Oil Company, its tenants, successors, and assigns
8 (collectively, the “Grantee”) to construct, use, and maintain, at Grantee’s own cost and expense,
9 and subject to the terms and conditions of this Ordinance, a private 12-inch diameter steel, API
10 5L Grade B carrier pipe in 18-inch diameter steel, API 5L Grade B casing pipe between the
11 properties known as NuStar – LP Terminal pier and Center Point Terminal on Vera Street
12 beginning on the north side of Frankfurst Avenue at coordinates (-76.579015, 39.241404)
13 continuing South 13.8 degrees East, 60 feet ending on the south side of Frankfurst Avenue at
14 coordinates (-76.578979, 39.241282).

15 **SECTION 2. AND BE IT FURTHER ORDAINED,** That to become effective, the franchise or right
16 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
17 6 months after the effective date of this Ordinance.

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

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

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

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

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

41 **SECTION 6. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
42 expressly reserves the right at all times to exercise, in the interest of the public, full municipal

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1 superintendence, regulation, and control over and in respect to all matters connected with the
2 Franchise and not inconsistent with the terms of this Ordinance.

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

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

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

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

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

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