

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 13-0228

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
Committee Report: Favorable with an amendment
Council action: Adopted
Read second time: November 4, 2013

AN ORDINANCE CONCERNING

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

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

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

Recitals

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

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 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
9 constructed, operated, and maintained in City rights-of-way for an additional 25
10 years.

11 The following Ordinances will be repealed:

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

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

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

- 25 (a) An existing pipe bridgeway above and across South Clinton Street, approximately
26 225 feet north of the centerline of Eastbourne Avenue. The portion of the bridgeway
27 located over and across the right-of-way measures approximately 70 feet long by 8
28 feet wide by 7 feet high and is approximately 18 feet above the surface of South
29 Clinton Street at its lowest point. The bridgeway carries one 1-inch conduit, two 1½-
30 inch conduits, two 2-inch conduits, two 4-inch conduits, 4 8-inch pipelines, two 10-
31 inch pipelines, two 12-inch pipelines, and three 14-inch pipelines. The bridgeway
32 occupies approximately 560 square feet of the right-of-way.

- 33 (b) An existing pipe bridgeway above and across South Highland Avenue, approximately
34 64 feet south of the south building line of Danville Avenue. The portion of the
35 bridgeway located over and across the right-of-way measures approximately 134 feet
36 long by 4 feet 6 inches wide by 3 feet high and is approximately 18 feet above the
37 surface of South Highland Avenue at its lowest point. The bridgeway extends
38 easterly 50 feet 3 inches from the west building line of South Highland Avenue, at a
39 right angle to the building line thereof, thence running northerly for approximately 74
40 feet, parallel to the building line thereof, and thence easterly for 9 feet 9 inches to the
41 east building line of Highland Avenue, at a right angle to the building line thereof.
42 The bridgeway is supported by four 18-inch diameter concrete columns, three on the
43 east side of Highland Avenue located 4 feet, 24 feet, and 64 feet respectively south of
44 the south building line of Danville Avenue and projecting 10 feet 6 inches into the

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1 Highland Avenue right-of-way, and one on the west side of Highland Avenue located
2 64 feet south of the south building line of Danville Avenue and projecting 10 feet 9
3 inches into the Highland Avenue right-of-way. Each of the four supporting columns
4 has cylindrical footings that are approximately 2 feet in diameter and 20 feet deep.
5 The bridgeway carries one 2-inch conduit, two 8-inch pipelines, one 12-inch pipeline,
6 and two 14-inch pipelines. The bridgeway occupies approximately 603 square feet of
7 the right-of-way. The volume of each supporting column footing is approximately
8 62.8 cubic feet, for a total of 251.2 cubic feet for all 4 column footings.

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

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

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

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

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

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1 (h) An existing 12-inch pipeline under and across Pulaski Highway. Beginning for the
2 centerline of the 12-inch pipeline on the southeast building line of Pulaski Highway,
3 110 feet wide, at a point approximately 2,085 feet northeast of the east building line
4 of Kresson Street, and running thence in a northwesterly direction under and across
5 Pulaski Highway there situate, approximately 162 feet 8 inches to intersect the
6 northeast building line thereof at a point approximately 1,985 feet northeast of the
7 east building line of Kresson Street. The pipeline occupies approximately 162 linear
8 feet of the right-of-way.

9 **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right
10 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
11 6 months after the effective date of this Ordinance.

12 **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the
13 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$15,091.46 a
14 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
15 charge must be paid annually, at least 30 days before the initial and each renewal term of the
16 Franchise.

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

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

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

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

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

39 **SECTION 7. AND BE IT FURTHER ORDAINED**, That the Grantee, at its own cost and expense,
40 shall maintain in good condition and in compliance with all applicable laws and regulations of
41 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
42 structures shall be at all times subject to the regulation and control of the Commissioner of

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1 Housing and Community Development and the Director of General Services. If any structure for
2 which the Franchise is granted must be readjusted, relocated, protected, or supported to
3 accommodate a public improvement, the Grantee shall pay all costs and expenses in connection
4 with the readjustment, relocation, protection, or support.

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

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

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

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

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

32 **SECTION 13. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
33 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