

ORDINANCE NO. 17-1629

**AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, AMENDING
ORDINANCE NO. 09-1416 GRANTING A NONPUBLIC UTILITY PIPELINE
FRANCHISE TO TESORO REFINING & MARKETING COMPANY LLC**

The CITY COUNCIL of the CITY OF CARSON does hereby ordain as follows:

Section 1. Recitals.

A. On December 5, 2000, the City Council passed Resolution No. 00-112 delineating certain locations for the installation and operation of pipelines or other facilities in connection with a nonpublic utility pipeline franchise awarded to Equilon Enterprises LLC ("Equilon" herein).

B. On December 19, 2000, the City Council adopted Ordinance No. 00-1208 granting to Equilon a twenty-five (25) year franchise to construct, lay, operate, maintain, use, renew, repair, replace, remove, change the size and number of, and remove or abandon in place a pipes and pipelines for conducting, transporting, conveying and carrying oil, gas, petroleum, wet gas, hydrocarbon substances, water, waste water, mud, steam and other liquid substances not more hazardous than the aforesaid substances on, along, in, under and across designated public streets, ways, alleys and places within the city of Carson.

C. On May 10, 2007, Equilon sold a part of its franchise to Tesoro Refining & Marketing Company LLC, a Delaware corporation ("Franchisee").

D. Subsequently, Franchisee filed with the City Council an application requesting approval of a nonpublic utility pipeline franchise.

E. On December 2, 2008, the City Council adopted Resolution No. 08-140 to consider the granting of a nonpublic utility pipeline franchise to Franchisee.

F. On February 3, 2009, the City Council adopted Ordinance No. 09-1416 granting a franchise to Franchisee.

G. The City and Franchisee have met and conferred and have agreed that such franchise shall be amended as follows:

Section 2. Section 3 of Ordinance No. 09-1416, entitled "Base Franchise Fee," is hereby amended as follows (deleted text in ~~strike through~~; added text in ***bold & italics***):

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"Base Franchise Fee.

1. A base franchise fee shall be paid by the Franchisee to the city of Carson for the pipeline area occupied by the pipelines *associated with the length of the pipelines* at an annual rate of one dollar and sixty-eight cents (\$1.68) *two dollars and fifty-six cents (\$2.56)* per cubic *lineal* foot. The franchise fee shall be due and payable semi-annually, at the end of each franchise payment period, as defined in Carson Municipal Code § 6803(h), during the life of the franchise, including the year of granting the franchise. Such franchise fee shall accrue at the end of each semi-annual period for the pipeline area occupied by the greatest number of feet of pipeline covered by the franchise during the franchise payment period. For purposes of this paragraph, the *length of* pipelines area occupied by a pipeline or conduit including protective covering, pipe connections, cathodic protection facilities, pipe casings and other minor appurtenances, *as well as manholes and vaults* shall be taken as equivalent to *lineal feet* the volume occupied by a cylinder of equal length having a diameter of one (1) inch (for metal pipe) or two (2) inches (for plastic pipe) greater than the nominal internal diameter of the pipe or conduit but in no case with an equivalent cylinder diameter less than four (4) inches, and the payment rate therefor shall be computed to the nearest tenth of a cent per lineal foot of pipe. Pipeline area occupied by any appurtenances such as manholes or vaults shall be computed from the outside dimensions of the structure. The semi-annual fee shall be paid no later than January 1st and July 1st of each calendar year. A penalty at the rate of ten percent (10%) per month or fraction thereof beyond thirty (30) days after the payment due date shall be charged, but in no event shall such penalty exceed fifty percent (50%). *The base franchise fee shall adjust annually on January 1st of each calendar year by an amount equal to one hundred percent (100%) of the increase in the consumer price increase as measured by the All Urban Consumers in the Los Angeles-Riverside-Orange County Metropolitan Area (commonly known as the "CPI-U") as provided by the United States Bureau of Labor Statistics (based on 1967 = 100 base) as measured over the preceding twelve (12) months ending on November 30 of the preceding calendar year, or by two percent (2%), which ever amount is greater. The provisions of this Ordinance shall supersede the terms of Carson Municipal Code § 6832(B), as may be amended.."*

Section 3. Section 4 of Ordinance No. 09-141, entitled "Term," is amended to reduce the term of the same to fifteen (15) years from and after the date upon which this Ordinance No. 17-1629 becomes effective.

Section 4. Section 5 of Ordinance No. 09-1416, entitled "Compliance With Law," is hereby repealed and replaced with the following:

"Section 5. Insurance. Franchisee shall obtain, and provide satisfactory evidence of having obtained, policies of liability and workers' compensation insurance and pollution liability insurance from companies that are authorized to

transact business in the state of California by the Insurance Commissioner of California and have a minimum rating of or equivalent to A-:VIII in Best's Key Rating Guide, Comprehensive Liability Insurance. The provisions of this Ordinance shall supersede the terms of Carson Municipal Code § 6809, as may be amended.

"A. Liability Coverage. Each liability insurance policy obtained by a Franchisee must:

- (1) Be issued to the Franchisee and name the City of Carson, its elected and appointed officials, employees, officers and agents as additional insureds;
- (2) Provide coverage for Franchisee's liabilities, including without limitation, Franchisee's obligation to indemnify the City of Carson, its elected and appointed officials, employees, officers and agents for all liability for personal and bodily injury, death and damage to property arising from activities conducted pursuant to the franchise, and the acts or omissions of the Franchisee, and its agents, servants and employees, committed in the conduct of franchise operations. The coverage must provide a combined single limit liability insurance in the amount of \$10,000,000, subject to self-insured retention in an amount and form that is appropriate and prudent for operations substantially similar to those of Franchisee, and subject to approval by City of Carson in its sole discretion, and may not be cancelled unless at least thirty (30) days prior written notice is provided to the City by Franchisee or its insurance provider.

B. Workers' Compensation. Each worker's compensation insurance policy obtained by the Franchisee must:

- (1) Cover all of the Franchisee's employees who in the course and scope of their employment conduct or perform work pursuant to the franchise operations;
- (2) Provide for every benefit and payment presently or after conferred by Division 4 of the California Labor Code upon an injured employee, including vocational rehabilitation and death benefits;
- (3) Be noncancellable without forty-five (45) days prior written notice to the City.
- (4) In lieu of the policy of workers' compensation insurance required by this section, a Franchisee may substitute and provide a certificate of consent to self-insure, issued by the Board of Industrial Relations of the State of California.

C. Pollution Coverage. Each pollution liability insurance policy obtained by the Franchisee must:

(1) Provide limits of coverage of \$5,000,000 per occurrence and \$10,000,000 aggregate, or other equivalent insurance as determined acceptable by the City of Carson; and

(2) Be issued to the Franchisee and name the City of Carson, its elected and appointed officials, employees, officers and agents, as additional insureds by endorsement form acceptable to the City.

D. Evidence of Coverage. Upon acceptance of the franchise, and for five (5) years after the termination or expiration of a franchise, Franchisee shall file with the Carson City Manager, or designee, copies of the required liability, workers' compensation, and pollution liability policies, or a certificate of insurance for each of the required policies executed by the company issuing the policy, certifying that the policy is in force, with any necessary endorsements, including without limitation, cancellation notification endorsements. Franchisee shall provide the Carson City Manager, or designee, with renewal certificates throughout the term of the franchise. Franchisee shall provide all of the following information with respect to the policy:

(1) The policy number;

(2) The date upon which the policy will become effective and the date upon which it will expire;

(3) The names of the named insured and any additional insureds;

(4) The additional insured endorsement form(s);

(5) The self-insured retention endorsement (if applicable);

(6) The subject of the insurance;

(7) The type of coverage provided by the insurance;

(8) The amount of limit of coverage provided by the insurance; and

(9) Copies of all endorsements that form a part of the policy and are applicable to the Franchisee's operations under this ordinance.

E. Compliance. All franchise operations must be suspended during any period that the Franchisee fails to maintain these policies in full force and effect.

F. Self Insurance Program. In lieu of any insurance required by this Section the City of Carson may, upon application by Franchisee, permit a Franchisee to substitute a self administered claims program (self-insurance)

covering the risks assumed under this franchise. In the event that Franchisee is permitted to substitute a program of self-insurance, Franchisee shall provide City with a letter evidencing and describing the self administered claims program, duly executed by an authorized officer of Franchisee, and shall notify the Carson City Manager, or designee, in writing 30 days prior to the termination of the self administered claims program.”

Section 5. CEQA.

a. Certain pipelines which are the subject of this Franchise were previously owned and operated by Equilon under Ordinance No. 00-1208, and are depicted on Exhibit A hereto. The Franchisee will continue use of the pipelines as previously approved. Therefore, as to the existing pipelines, this Franchise is exempt from the requirements of California Environmental Quality Act (“CEQA”) as a Class 1 Categorical Exemption, Existing Facilities, pursuant to Section 15301 of the CEQA Guidelines.

b. This Franchise also applies to additional pipelines which will be constructed pursuant to permits including Carson Excavation Permit No. 75339, and routed through the Alameda Street crossing bore and/or the Sepulveda Boulevard crossing bore (collectively, “LARIC Pipelines”), as depicted on Exhibit A hereto. An Environmental Impact Report (“EIR”) was prepared by the South Coast Air Quality Management District (“SCAQMD”) as the lead agency pursuant to CEQA for a project including the LARIC Pipelines. SCAQMD certified the Final EIR (State Clearinghouse No. 2014091020) on May 12, 2017. Therefore, pursuant to California Public Resources Code § 21167.2, the City finds that the EIR satisfies CEQA requirements for the approval of the Franchise as to the LARIC Pipelines.

Section 6. Acceptance. The Franchisee shall, within thirty (30) days after passage of this Ordinance, file with the City Clerk of the City of Carson, a written acceptance of the terms and conditions of this Ordinance.

Section 7. Ordinance No. 09-1416 to Otherwise Remain in Effect. Except as amended by this Ordinance No. 17-1629, Ordinance No. 09-1416 shall otherwise remain in full force and effect.

Section 8. Name Change. In the event that Franchisee changes its legal name, Franchisee shall advise the City by written notice to the Carson Public Works Director before the expiration of sixty (60) days after the effective date of such name change.

Section 9. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 10. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

Section 11. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted in the manner required by law

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this 5th day of July, 2017.

MAYOR ALBERT ROBLES

ATTEST:

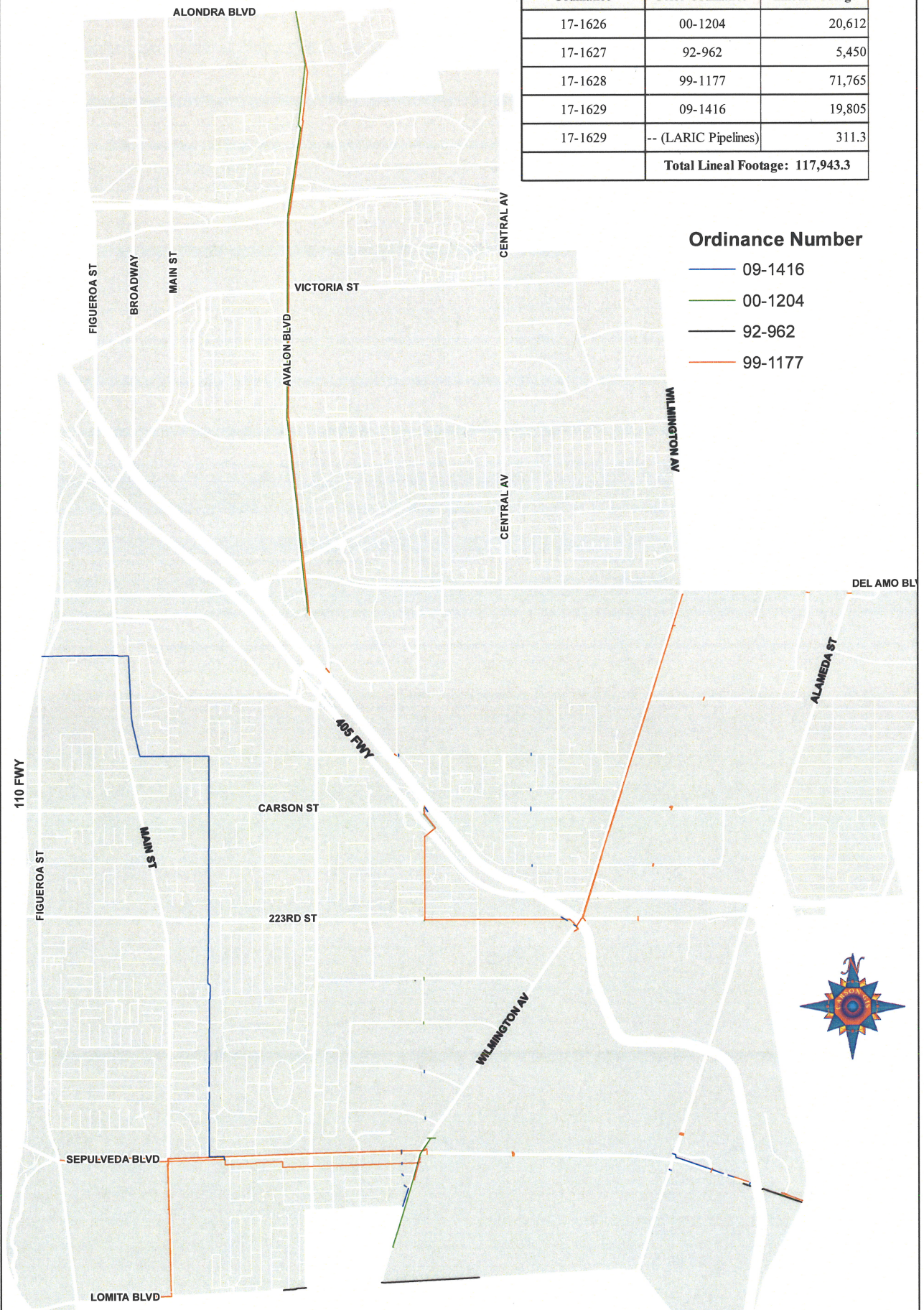
CITY CLERK DONESIA GAUSE

APPROVED AS TO FORM:

CITY ATTORNEY SUNNY K. SOLTANI

Tesoro Pipelines Covered
Under Franchise Agreements

Ordinance	Prior Ordinance	Lineal Footage
17-1626	00-1204	20,612
17-1627	92-962	5,450
17-1628	99-1177	71,765
17-1629	09-1416	19,805
17-1629	-- (LARIC Pipelines)	311.3
		Total Lineal Footage: 117,943.3



0 0.2 0.4 0.8 Miles