

ORDINANCE NO. 18-1816

AN ORDINANCE OF THE CITY OF CARSON, CALIFORNIA, CONSENTING TO THE ASSIGNMENT OF THE MOBIL PACIFIC PIPELINE COMPANY PIPELINE FRANCHISE GRANTING A PUBLIC UTILITY PIPELINE FRANCHISE TO PBF HOLDING COMPANY LLC & AMENDING ORDINANCE NO. 95-1060

WHEREAS, on June 20, 1995, the City Council adopted Ordinance No. 95-1060 granting to Mobil Pacific Pipeline Company (“Mobil Pacific”) a twenty-five (25) year public utility pipeline franchise within the City of Carson; and

WHEREAS, on September 29, 2015 Mobil Pacific entered into a Purchase and Sale Agreement whereby Mobil Pacific agreed to sell certain assets to Torrance Basin Pipeline Company LLC, a designated affiliate of PBF Holding Company, LLC (“PBF” or “Franchisee”), and on July 1, 2016, a Bill of Sale and Assignment was executed by and between Mobil Pacific and PBF to consummate the transfer and assignment of such assets, including the public utility pipeline franchise identified as Ordinance No. 95-1060; and

WHEREAS, PBF has submitted a copy of the duly executed instrument of transfer and assignment between Mobil Pacific and PBF, and a written request for the consent of the City Council to such transfer and assignment of the public utility pipeline franchise identified as Ordinance No. 95-1060; and

WHEREAS, on April 25, 2018, the City and PBF met and agreed that the public utility pipeline franchise identified as Ordinance No. 95-1060 shall be amended, thereby permitting City Council’s consent to the transfer and assignment of the Mobil Pacific pipeline franchise to PBF.

NOW, THEREFORE, the **CITY COUNCIL** of the **CITY OF CARSON, CALIFORNIA**, does hereby ordain as follows:

Section 1. Recitals. The recitals set forth above are true and correct, and incorporated herein by this reference.

Section 2. Consent. Pursuant to Carson Municipal Code § 6818, the City Council hereby consents to the transfer and assignment of the Mobil Pacific public utility pipeline franchise, identified as Ordinance No. 95-1060, to Franchisee as reflected in this Ordinance.

Section 3. Section 1 of Ordinance No. 95-1060 is hereby amended as follows (deleted text in ~~strikethrough~~; added text in ***bold & italics***):

“The City Council hereby grants ***its consent to the transfer and assignment of the public utility*** a franchise ***which continues a previously granted franchise on behalf of Franchisee*** ~~to Mobil Pacific Pipeline Company (“Franchisee”), a Delaware corporation,~~ for a period of ***fifteen (15) years from and after the date upon which***

this Ordinance No. 18-1816 shall become effective, to lay or construct from time to time, and to maintain, operate, renew, repair, change the size of, remove or abandon in place pipes and pipelines for the collection, transportation or distribution of oil, gas, gasoline, petroleum, wet gas, hydrocarbon substances, water, waste water, mud, steam and other liquid substances not more hazardous than the aforesaid substances together with all manholes, valves, appurtenances and service connections necessary or convenient for the operation of said pipes or pipelines including conduits, cathodic protection devices, wires, cables and other appurtenances necessary or convenient for the exercise of the Franchisee's business as a public utility, in, under, along or across any and all streets within the City of Carson, as approved from time to time by Resolution of the City Council. Said franchise shall be solely for a public utility pipeline system in which the subject pipelines are dedicated to the service of the public. The rates for transportation shall be established pursuant to tariffs filed with the Public Utilities Commission ("Commission") and shall be just, reasonable, and nondiscriminatory. Franchisee's accounts and records are established pursuant to rules and regulations adopted by the Commission and Franchisee has filed an appropriate annual report with the Commission."

Section 4. Subsection B of Section 2 of Ordinance No. 95-1060, entitled "Adjustments," is hereby amended as follows (deleted text in ~~strikethrough~~; added text in ***bold & italics***):

"Adjustments.

1. ~~The amount of the fee provided for in subsection A of this Section, shall be adjusted at the time payment is due by multiplying the base fee by the Consumer Price Index, All Urban Consumers for the Los Angeles-Anaheim-Riverside Area as published by the United States Department of Labor, Office of Information for the month of September immediately preceding the month in which payment is due and payable, and divided by the Consumer Price Index for June 30, 1989 (June 30, 1989 = 100.0).~~ ***"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 index as measured by the All Urban Consumers in the Los Angeles-Long Beach-Anaheim 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(D), as may be amended."***
2. In no event shall an annual fee be charged which is less than the base annual fee amount established by subsection A of this Section.

3. The indices specified in paragraph 1 of this subsection B are calculated and published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau discontinues the calculation or publication of the Consumer Price Index, all Urban Consumers for the ~~Los Angeles-Anaheim-Riverside~~ *Los Angeles-Long Beach-Anaheim* area (~~June 30, 1989~~ *1967* = 100), and no transposition table is available to convert to another index, then the amount of each annual adjustment in base fees shall be computed by using a comparable governmental index.”

Section 5. Section 3 of Ordinance No. 95-1060 is hereby repealed and replaced with the following:

"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 \$15,000,000, 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 workers' compensation insurance policy obtained by the Franchisee must:

- (1) Provide coverage as required by the Statutory Limits of the State of California. 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. Employer's Liability Coverage. Each employer liability insurance policy obtained by Franchisee must include a coverage limit of no less than \$1,000,000 per accident for bodily injury or disease.

D. Professional Coverage (Errors and Omissions). Each professional liability insurance policy obtained by Franchisee must be appropriate for the Franchisee's profession and include a coverage limit of no less than \$15,000,000 per occurrence or claim, \$15,000,000 aggregate.

E. 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 of Carson.

F. 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.

G. Claims Made Policies. If any of the required policies provide claims-made coverage:

- (1) The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
- (2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- (3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.

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

I. 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 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. CEQA. The pipelines which are the subject of this franchise were previously owned and operated by Mobil Pacific under Ordinance No. 95-1060. The Franchisee will continue use of the pipelines as previously approved. Therefore, this grant of consent to the transfer and assignment of the franchise is exempt from the requirements of California Environmental Quality Act as a Class 1 Categorical Exemption, Existing Facilities, pursuant to Section 15301 of the CEQA Guidelines.

Section 8. Ordinance 95-1060. Except as amended by and to the extent that it is not in conflict with this Ordinance, Ordinance No. 95-1060 shall otherwise remain in full force and effect.

Section 9. 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 10. 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 11. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

Section 12. 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 ____ day of _____, 2018.

MAYOR ALBERT ROBLES

ATTEST:

CITY CLERK DONESIA GAUSE

APPROVED AS TO FORM:

CITY ATTORNEY SUNNY K. SOLTANI