



## Legislation Text

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**File #:** 24-0253, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Erick Lee, Public Works Director

Katherine Doherty, City Engineer

Erika King, Senior Management Analyst

**SUBJECT:**

Conduct a Public Hearing to Consider:

- a) Adoption of Urgency Ordinance No. 24-0007-U and Introduction of Ordinance No. 24-0007 to Extend an Existing Franchise Agreement with Zenith Energy West Coast Terminals LLC for a 25-Year Term; and
- b) Determination of Exemption from Environmental Review Pursuant to the California Environmental Quality Act (CEQA) (Public Works Director Lee).

**(Estimated Time: 15 Mins.)**

**A) CONDUCT PUBLIC HEARING**

**B) ADOPT URGENCY ORDINANCE NO. 24-0007-U**

**C) INTRODUCE ORDINANCE NO. 24-0007**

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**RECOMMENDATION:**

Staff recommends that the City Council:

- 1) Conduct a Public Hearing.
- 2) Find the proposed action categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA).
- 3) Adopt Urgency Ordinance No. 24-0007-U granting an extension of an existing franchise agreement to Zenith Energy West Coast Terminals LLC for a 25-year term.
- 4) Introduce Ordinance No. 24-0007 granting an extension of an existing franchise agreement to Zenith Energy West Coast Terminals LLC for a 25-year term.

**FISCAL IMPLICATIONS:**

The State of California regulates franchise fees for utility pipeline franchises under the Public Utilities Code. As a grantee in 2023, Zenith Energy West Coast Terminals LLC paid approximately \$7,400 in franchise fees under the existing franchise. If the proposed Urgency Ordinance No. 24-0007-U and the regular Ordinance No. 24-0007 are adopted extending the franchise for 25 years, Zenith Energy

West Coast Terminals LLC, as grantee, shall continue to pay to the City an annual sum of money that shall be equivalent to the base rate per lineal foot as outlined in Public Utilities Code Section 6231.5. In addition, Zenith will pay for all costs associated with public right-of-way work resulting from their operation and/or use of the pipeline.

### **BACKGROUND:**

On April 19, 1967, City Council approved a pipeline franchise agreement with Southern California Edison ("SCE") to operate a pipeline carrying petroleum products between SCE facilities.

On July 20, 1999, the City Council adopted Ordinance No. 2002 which granted SCE a new 25-year franchise ("franchise") to operate a pipeline within the City. Ordinance No. 2002 granted a franchise to SCE for a pipeline that runs easterly to the intersection of Elm Avenue and Rosecrans Avenue, then southerly to the intersection of Elm Avenue and Marine Avenue, then easterly along Marine Avenue to the eastern boundary of the City. Under the franchise, SCE was granted the right to conduct, transport, convey or carry gas, oil, petroleum products, water, and wastewater, excepting the carrying of any Class 1 flammable liquids that are not crude oils or flammable gases. The pipeline is approximately 8,333 feet long.

Zenith Energy West Coast Terminals LLC (hereinafter "Zenith" or "Grantee") is a public utility regulated by the California Public Utilities Commission and is a successor in interest to SCE. In August of 2003, SCE assigned all of its rights, title, interest, and obligations in the franchise to Pacific Terminals LLC. In June of 2009, Pacific Terminals LLC notified the City that it had changed its name to Plains West Coast Terminals LLC. In October 2020, Plains West Coast Terminals LLC notified the City that it had changed its name to Zenith Energy West Coast Terminals LLC. Under Ordinance No. 2002, the existing franchise will expire on August 19, 2024. Zenith has requested that the existing franchise be extended for an additional 25 years.

On June 18, 2024, the City Council approved Resolution No. 24-0077 declaring an intention to adopt ordinances granting an extension of an existing franchise to Zenith Energy West Coast Terminals LLC and setting a public hearing on the adoption of the ordinances for July 16, 2024.

### **DISCUSSION:**

Staff has prepared two ordinances for the City Council's consideration: (1) an urgency ordinance that, if adopted, becomes effective immediately; and (2) a regular ordinance that requires a first and second reading, and becomes effective 30 days after the second reading. If the proposed Urgency Ordinance No. 24-0007-U and the regular Ordinance No. 24-0007 are adopted, they will extend the franchise agreement with Zenith Energy West Coast Terminals LLC for 25 years.

Please note that the Urgency Ordinance and regular Ordinance are substantively the same with respect to the extension of the existing franchise agreement. Government Code Section 36937 authorizes the City Council to adopt an ordinance on an urgency basis by a four-fifths vote. If adopted, the Urgency Ordinance is effective immediately. Adoption of the Urgency Ordinance is proposed because the existing franchise will expire on August 19, 2024, prior to the effective date of the regular ordinance.

The terms, conditions, and provisions of the ordinances will protect the City and provide revenue to the City in exchange for allowing the Grantee to maintain its pipeline through the City.

If the extension is granted by adoption of an ordinance, the franchise shall require that the Grantee comply with the Manhattan Beach Municipal Code, the Franchise Act of 1937, and the terms and conditions of the ordinance including but not limited to the requirement that the Grantee pay to the City during the life of the 25-year extension a franchise fee in accordance with the Public Utilities Code Section 6231.5.

Under the proposed ordinance, the Grantee shall also post a performance bond; provide insurance that names the City and its officers and employees as additional insureds; and defend, indemnify and hold harmless the City and its officers, employees and agents with regard to claims, losses and/or liabilities resulting from the Grantee's operation or possession of the franchise. In addition, the Grantee will pay the costs associated with any work or relocation that might affect property, including the city's rights-of-way. In order for the franchise to be effective, the Grantee shall be required to file a written acceptance of its terms and conditions.

#### **PUBLIC OUTREACH:**

Pursuant to the adoption of Resolution No. 24-0077, the Public Hearing date was set for July 16, 2024 for consideration of the proposed extension of the franchise. Notice of the Public Hearing was published in The Beach Reporter Newspaper on June 20, 2024 within 15 days after adoption of the resolution. The Public Hearing provides an opportunity for members of the public to comment upon and register any protests to the proposed extension of the franchise. Following the Public Hearing, the City Council will also have an opportunity to rule upon any protests and consider adoption of the proposed ordinances.

#### **ENVIRONMENTAL REVIEW:**

The City has reviewed the proposed action and associated agreement for compliance with the California Environmental Quality Act (CEQA). Staff has determined that the proposed action qualifies for a Class 1 categorical exemption pursuant to Section 15301(b), which exempts existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. A Notice of Exemption shall be filed with the County Clerk of the County of Los Angeles in accordance with the CEQA Guidelines.

#### **LEGAL REVIEW:**

The City Attorney has approved the ordinances as to form.

#### **ATTACHMENTS:**

1. Urgency Ordinance No. 24-0007-U
2. Ordinance No. 24-0007
3. Resolution No. 24-0077
4. Ordinance No. 2002
5. Pacific Terminals LLC Notice of Assignment as SCE's Authorized Successor
6. Plains West Coast Terminals LLC Name Change Form
7. Zenith Energy West Coast Terminals LLC Name Change Form
8. PowerPoint Presentation