

(O-92-115)

ORDINANCE NUMBER O- 17758 (NEW SERIES)

ADOPTED ON APR 20 1992

AN ORDINANCE AMENDING ORDINANCE NO. 8760 (NEW SERIES) AND CONSTITUTING THE FOURTH AMENDMENT TO ORDINANCE NO. 8760 (NEW SERIES), RELATING TO THE GRANTING OF A NON-EXCLUSIVE PIPELINE FRANCHISE TO SAN DIEGO PIPELINE COMPANY FOR A PERIOD OF FORTY YEARS, TO INSTALL, CONSTRUCT, MAINTAIN AND OPERATE A PIPELINE FOR THE TRANSPORTATION OF REFINED PETROLEUM PRODUCTS AND OTHER HYDROCARBON SUBSTANCES IN CERTAIN CITY STREETS OF AND WITHIN THE CITY OF SAN DIEGO.

WHEREAS, San Diego Pipeline Company ("SDPC") was awarded a franchise by the City of San Diego on November 27, 1962, for forty (40) years, which covers approximately 12 miles of fuel pipeline facilities in public streets; and

WHEREAS, said franchise was amended by Ordinance No. 10955 (New Series) on November 21, 1972, by Ordinance No. 12462 (New Series) on October 16, 1978, and by Ordinance 16512 (New Series) on September 30, 1985; and

WHEREAS, SFPP, L.P., a limited partnership, of which Santa Fe Pacific Pipelines, Inc. (SFPP) is sole general partner, is successor in interest to all of the rights, obligations, interests and assets of SDPC; and SFPP, L.P. has requested the City's consent to the assignment to it of the franchise; and

WHEREAS, the franchise by its specific terms cannot be sold, transferred, leased, assigned, or disposed of either by forced sale, merger, consolidation, or otherwise without prior consent of City expressed by ordinance, and then only under such

conditions as may be therein prescribed; NOW, THEREFORE,

BE IT ORDAINED, that the Council of The City of San Diego consents to the assignment of the franchise granted San Diego Pipeline Company to SFPP, L.P., provided that the assignee agrees in writing that:

Section 1. The words "Five Thousand and No/100 Dollars (\$5,000.00)" in the 16th line of Section 3 are deleted and the following words substituted therefor: "Twenty Thousand and No/100 Dollars (\$20,000.00)."

Section 2. Section 15, PRESSURE TESTS, is amended by adding the following in sequence:

(e) The City may prescribe the newest test methods specified by applicable State, Federal, or local regulatory agencies or nationally recognized organizations.

Section 3. Section 22, ANNUAL PAYMENTS TO THE CITY, Paragraph (a), is amended to state:

(a) Upon the effective date of the assignment, which is hereby agreed to be December 19, 1988, and annually thereafter commencing January 1, 1990, payments shall accrue to City and be computed and adjusted as follows:

The length of pipe expressed in feet located within the franchise area shall be multiplied by the applicable base rate pursuant to the following schedule:

<u>Pipe Size (Internal Diameter in Inches)</u>	<u>Base Rate per Lineal Foot</u>	<u>Pipe Size (Internal Diameter in Inches)</u>	<u>Base Rate per Lineal Foot</u>
0 - 4	\$0.088	18	\$0.396
6	\$0.132	20	\$0.440
8	\$0.176	22	\$0.484
10	\$0.220	24	\$0.528
12	\$0.264	26	\$0.572
14	\$0.308	28	\$0.616
16	\$0.352	30	\$0.660

For pipeline(s) with an internal diameter not listed above, the fees shall be in the same proportion to the fees of a 12-inch-diameter pipe as the diameter of the unlisted pipe is to 12 inches.

(b) The annual payment for each lineal foot of pipeline shall be computed and revised January 1, 1990, and annually thereafter as follows:

The applicable base rate shall be multiplied by the Consumer Price Index, Los Angeles area, All Items, All Urban Consumers 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, which is declared to be 100.0. Under no circumstances shall the multiplying factor be less than one.

If the United States Department of Labor, Office

of Information, discontinues the preparation or publication of a Consumer Price Index, and if no translation table prepared by the Department of Labor is available so as to make those statistics which are then available applicable to the index of June 30, 1989, City shall prescribe a rate of payment which shall, in its judgment, vary from the rates specified in this section in approximate proportion as commodity consumer prices then current vary from commodity consumer prices current in December 1988. On this point, the determination of City shall be final and conclusive.

(c) Grantee shall pay the fees so computed and adjusted to City on or before April 1, 1991, for the remainder of calendar year 1988 from December 19 to December 31, 1988, inclusive, and for the ensuing calendar years 1989 and 1990, to the extent not heretofore paid, and shall make such annual payment currently on or before April 1, 1992, and on or before April 1 of each year thereafter during the balance of the term of the franchise.

Section 4. The words, "Five Thousand and No/100 Dollars (\$5,000.00)" in the 4th line of Section 23. FAITHFUL PERFORMANCE BOND, are deleted and the following words substituted therefor: "Twenty Thousand and No/100 Dollars (\$20,000.00)."

Section 5. Section 23. FAITHFUL PERFORMANCE BOND, is further amended by adding the following in sequence:

(c) In the event of a substantial change in the volume of street space occupied by franchise properties pursuant to

Sections 7 and 20 hereof, City may require or permit a corresponding change in the amount of bond.

Section 6. Section 24. INDEMNIFICATION TO THE CITY, is deleted in its entirety and the following substituted therefor:

24. INDEMNIFICATION TO THE CITY. Grantee shall at all times assume the defense of, relieve, indemnify, protect, and save City and any and all of its boards, officers, agents, and employees harmless from any and all claims and demands, actions, proceedings, losses, liens, costs, judgments, civil fines, and penalties of any nature whatsoever by reason of, arising out of or resulting from the use, installation, construction, or maintenance of said pipeline or lines and appurtenances thereon, over, and through the rights-of-way granted by this franchise, including but not limited to expenses incurred in legal actions, death, injury, or damage that may be caused directly or indirectly by:

(a) Any unsafe or defective condition resulting from the installation, construction, or maintenance of said pipeline or lines and appurtenances thereto, on, over and through the rights-of-way granted by this franchise or of any nature whatsoever which may exist by reason of any act, omission, neglect, or any use or occupation of the Grantee;

(b) Any operation, use, or occupation conducted by Grantee on the franchise area;

(c) Any act, omission, or negligence on the part of Grantee, its employees, agents, invitees, or

licensees;

(d) Any failure by Grantee to comply or secure compliance with any of the franchise terms or conditions.

Section 7. Section 27. INSURANCE, is added in sequence:

27. INSURANCE

(a) Grantee shall take out and maintain at all times during the term of this franchise the following insurance at its sole expense:

(1) Public Liability and Property Damage

Insurance in the amount of not less than FIVE MILLION DOLLARS (\$5,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties resulting from the installation, construction, operation, or maintenance of said pipeline or lines and appurtenances thereto, on, over and through the rights-of-way granted by this franchise.

(2) Worker's Compensation and Employer's

Liability Insurance coverage as required by the Labor Code of the State of California with Employers Liability limits of not less than \$500,000.

(b) Grantee's responsibility to maintain said insurance also includes the following:

(1) Additional Insured. All public liability and property damage insurance policies carried by Grantee in connection with the operation of the pipelines

granted by this franchise, shall name the City of San Diego as an additional insured, protect City against any legal costs in defending claims, and will not terminate without thirty (30) days' prior written notice to City. All insurance companies must be satisfactory to City and licensed to do business in California.

Upon adoption of this ordinance, Grantee shall furnish certificates to City evidencing insurance coverage as required by this franchise. At least thirty (30) days prior to the expiration of each policy, Grantee shall furnish certificates showing that a new or extended policy has been obtained which meets the terms of this franchise.

(2) Modification. City, at its discretion, may require the revision of amounts and coverages at any time during the term by giving Grantee sixty (60) days' prior written notice. City's requirements shall be designed to assure protection from and against the kind and extent of risk existing from the use, installation, construction, or maintenance of the pipeline or lines and appurtenances thereon, over and through the rights-of-way granted. Grantee also agrees to obtain any additional insurance required by City for new improvements, in order to meet the requirements of this franchise.

(3) Accident Reports. Grantee shall report to City any accident causing more than Twenty-five

Thousand Dollars (\$25,000) worth of property damage or any serious injury to persons on the franchise area. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.

(4) Failure to Comply. If Grantee fails or refuses to take out or maintain insurance as required in this franchise, or fails to provide the proof of insurance, City has the right to declare this franchise in default without further notice to Grantee and City shall be entitled to exercise all legal remedies in the event of such default.

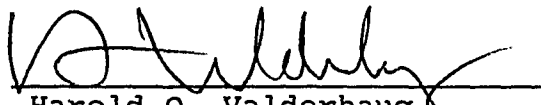
Section 8. Section 28, EQUAL OPPORTUNITY is hereby added in sequence:

28. EQUAL OPPORTUNITY. Grantee shall comply with City's Equal Opportunity and Minority and Women Business Enterprise Contracting Programs, approved by the City Council and filed with the City Clerk as Document No. RR-262633. Grantee shall submit a Certificate of Compliance with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations hereinafter enacted. Grantee understands that if Grantee fails to comply with the above requirements and/or submits false information in response to these requirements, City may declare this franchise in default without further notice to Grantee, and City shall be entitled to exercise all legal

remedies in the event of such default.

Section 9. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Deputy City Attorney

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02/24/92
Or. Dept: Prop.
Job: 220511
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Passed and adopted by the Council of The City of San Diego on APR 20 1992,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Mary Cepeda Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on MAR 30 1992, and on APR 20 1992

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Mary Cepeda Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 17758 Adopted APR 20 1992

RECEIVED

92 MAR 18 PM 3:11

CITY CLERK'S OFFICE
SAN DIEGO, CA

12:30 PM

MAR 18 1992

1000 1000

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CERTIFICATE OF PUBLICATION

4
RECEIVED
CITY CLERK
92 MAY 11 AM 10:55
SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK
CITY ADMINISTRATION BUILDING
202 C ST., 2ND FLOOR
SAN DIEGO, CA 92101

1035

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING ORDINANCE NO. 8760...

ORDINANCE NUMBER O-17758 (NEW SERIES)

AN ORDINANCE AMENDING ORDINANCE NO. 8760 (NEW SERIES) AND CONSTITUTING THE FOURTH AMENDMENT TO ORDINANCE NO. 8760 (NEW SERIES), RELATING TO THE GRANTING OF A NON-EXCLUSIVE PIPELINE FRANCHISE TO SAN DIEGO PIPELINE COMPANY FOR A PERIOD OF FORTY YEARS, TO INSTALL, CONSTRUCT, MAINTAIN AND OPERATE A PIPELINE FOR THE TRANSPORTATION OF REFINED PETROLEUM PRODUCTS AND OTHER HYDROCARBON SUBSTANCES IN CERTAIN CITY STREETS OF AND WITHIN THE CITY OF SAN DIEGO.

This ordinance amends Ordinance No. 8760 (New Series) and constitutes the Fourth Amendment to Ordinance No. 8760 (New Series), relating to the granting of a non-exclusive pipeline franchise to San Diego Pipeline Company for a period of forty years to install, construct, maintain and operate a pipeline for the transportation of refined petroleum products and other hydrocarbon substances in certain city streets of and within the City of San Diego.

A copy of the ordinance is on file in the office of the City Clerk and available for public inspection.

A complete copy of the ordinance is available for inspection in the office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Passed and adopted by the Council of The City of San Diego on APR 20 1992 by the following vote:

YEAS: WOLFSHEIMER, ROBERTS, HARTLEY, STEVENS, BEHR, STALLINGS, MCCARTY, FILNER, MAYOR O'CONNOR.

NAYS: NONE.

NOT PRESENT: NONE.

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By MARY CEPEDA, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. O-17758 (New Series) of the City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on MAR 30 1992, and on APR 20 1992.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By MARY CEPEDA, Deputy
Pub. May. 4

246821

I, Thomas D. Kelleher, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-17758 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

MAY 4

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 4TH day of MAY, 19 92.


(Signature)

95/8" = \$ 128.26