

Department of Public Works

Board of Public Works,
Office of Petroleum and Natural Gas Administration & Safety
Report No. 2
April 17, 2024

CD: All

NON-COMPLIANCE OF THE CITY OF LOS ANGELES FRANCHISE ORDINANCE SECTION 6.3 FAITHFUL PERFORMANCE BOND REQUIREMENT – MONETARY PENALTY

RECOMMENDATIONS

Recommending the Board:

1. **DIRECT** the Office of Petroleum and Natural Gas Administration and Safety to assess a monetary penalty to the Franchisees as listed for failure to comply with Section 6.3 (Faithful Performance Bond) of the Franchise Ordinance.
 - a. Los Angeles Trade Technical college - Ord. No. 184965
 - b. Nasco Petroleum LLC - Ord. No. 184966

2. **APPROVE** the monetary penalty assessed to each Franchisee as listed for failure to comply with Section 6.3 (Faithful Performance Bond) of the Franchise Ordinance.
 - a. Los Angeles Trade Technical college - \$10,000 Penalty
 - b. Nasco Petroleum LLC - \$10,000 Penalty

DISCUSSION

Background

Pursuant to Section 6.3 (Faithful Performance Bond) of the Franchise Ordinance, a Franchisee is required to maintain in full force and effect, an acceptable corporate surety bond, in duplicate, running to the City in specified penal sum amount equal to three times the value of the annual pipeline franchise fee.

In 2018 the Office of Petroleum and Natural Gas Administration and Safety (OPNGAS) brought a similar item before the board on October 26, 2018 when 9 franchisees were out of compliance: 7 for insurance, 2 for bonds. Originally in April 2018 there were forty-two insurance (42) non-compliant franchisees. By August 2018 there were thirty-four (34) and through the hard work of OPNGAS staff, from September 2018 to October 2018, the number dropped from thirty-two (32) to five non-compliant franchisees. By the end of 2018, all but one franchisee was in compliance with the City Administrative Officer and Risk Management Office insurance requirements.

There were some years during the pandemic when OPNGAS staffing dropped down to 2 members in total and we were not able to verify compliance. In 2021 and 2022 the Petroleum

Administrator worked hard to fill vacant positions and began to work on Franchise compliance verification. It was disheartening to discover how many franchisees had fallen out of that previous stellar record of compliance. As early as September 7, 2022 the OPNGAS began reaching out via email in an effort to bring franchisees into compliance.

On August 3, 2023, the City of Los Angeles (City) issued the **First Notice of Violation** and **First Offense** of non-compliance to the City's Franchise Faithful Performance Bond requirement. On September 7, 2023, the City issued the **Second Notification of Violation** and **Second Offense** of non-compliance to the bond requirement. On February 22, 2024, the City issued the **Third Notice of Violation** and **First Offense** of non-compliance to the bond requirement. Several attempts were made to contact the franchisees to update their bond to meet compliance, but were not successful.

This item was brought to the Board on March 13, 2024. We initially listed 16 non-compliant for Bonds. Per the Board's guidance, OPNGAS put those out of compliance on notice, to come into compliance by April 17, 2024. This item was further continued to today. Many franchisees have worked hard to come into compliance. At this time, 2 remain unresponsive and out of compliance with Bonds and we are recommending a fine. The 2 franchisees have also been invited to attend this Board of Public Works meeting.

Pursuant to Section 2.6(b) of the above referenced ordinance, failure to remedy the violation may result in levy of a monetary penalty up to \$10,000 for the first offense, up to \$25,000 for the second offense within a 12-month period, and up to a maximum of \$50,000 for third and subsequent offenses within the same 12-month period.

In referencing the procedure developed by the BPW Executive Officer and the City Attorney, the City's policy is that for ANY 4th or more offense, regardless of timing and unbounded by years, receives a penalty of \$50,000.

Penalty Summary

Los Angeles Trade Technical College.

As early as September 7, 2022 the OPNGAS began reaching out via email in an effort to have Los Angeles Trade Technical College file a bond with the City of Los Angeles as required by Section 6.3 (Faithful Performance Bond) of the Franchise Ordinance. Since that time, our office has repeatedly notified Los Angeles Trade Technical College to alert them of their non-compliant status. To date Los Angeles Trade Technical College is still not in compliance with the Faithful Performance Bond requirement.

Recommended Penalty Amount: \$10,000

Nasco Petroleum LLC.

As early as September 8, 2022 the OPNGAS began reaching out via email in an effort to have Nasco Petroleum LLC file a bond with the City of Los Angeles as required by Section

6.3 (Faithful Performance Bond) of the Franchise Ordinance. Since that time, our office has repeatedly notified Nasco Petroleum to alert them of their non-compliant status. To date Nasco Petroleum is still not in compliance with the Faithful Performance Bond requirement.

Recommended Penalty Amount: \$10,000

FISCAL IMPACT STATEMENT

No negative fiscal impact is anticipated. \$20,000 in penalties are anticipated to be allocated to the Board of Public Works through this board action.

Respectfully Submitted by:



Erica L. Blyther
Petroleum Administrator

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EB/JC