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37702

Resolution

Declare actions concerning Zenith Energy Terminal Holdings, LLC, including placing communications into the public record, demanding the Mayor to investigate violations of the Zenith franchise agreement, and urging the Auditor to conduct an investigation into the competing statements and arguments heard by Council on January 21st, 2025, by City staff, Zenith, and members of the public

Adopted

Amended by Council

WHEREAS, Portlanders voted to change their form of government in order to increase transparency and accountability from its elected or appointed leaders; and

WHEREAS, under City Charter Section 10-207, Method of Granting, all franchise agreements are granted by ordinance, which shall contain all the terms and conditions of the grant; and

WHEREAS, the purpose of City Code Chapter 2.12, Regulation of Lobbying Entities, is to “preserve the integrity of [the City’s] decision making processes” by reporting lobbying efforts to the public. The provisions of Chapter 2.12 were enacted “to promote transparency, encourage open government processes to avoid even the appearance of favoritism, and assure an accountable City government.” Similarly, City Code Chapter 1.03, Code of Ethics, imposes the duty that “City officials ensure public respect by avoiding even the appearance of impropriety.”; and

WHEREAS, the franchise agreement between the City and Zenith Energy Terminal Holdings, LLC (Zenith) was enacted by Ordinance 188554 (Attachment A), which was later amended and assigned; and

WHEREAS, Ordinance 188554 Sections 2.5 and 12.1 require the franchisee to remain in compliance with all applicable state and local laws, while Section 12.3 subjects the franchisee to the regulatory authority of the City; and

WHEREAS, after an unannounced inspection at the Zenith and McCall terminals on November 13, 2024, the Department of Environmental Quality

Document number

2025-070

Introduced by

[Councilor Angelita Morillo](#);
[Councilor Mitch Green](#);
[Councilor Jamie Dunphy](#);
[Council Vice President Tiffany Koyama Lane](#)

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Agenda Type

Regular

Date and Time Information

Meeting Date

March 19, 2025

Time Requested

1 hour

(DEQ) found evidence that Zenith modified its fuel products transloading facility in northwest Portland. Zenith operated that change from April 2021 to June 2024 without authorization from DEQ (Attachment B); and

WHEREAS, DEQ found evidence that the modified piping transfers ultra-low sulfur diesel (defined as a fossil fuel under City Code Title 33, Planning and Zoning Chapter 33.910, Definitions) and renewable diesel which is in contradiction to the 2035 Comprehensive Plan and the 2022 LUCS (Attachment B); and

WHEREAS, DEQ fined Zenith \$372,600 for this activity and required the company to obtain a new LUCS from the City by February 4, 2025 (Attachment B); and

WHEREAS, it has not been demonstrated that Zenith gave required notice or sought approval from the City for the modifications identified in the DEQ Report (Attachment B) prior to modification, and did not disclose these modifications in its 2022 LUCS application, as a part of its franchise agreement amendment request, or as a part of its 2024 Greenway Review; and

WHEREAS, in its 2022 LUCS materials, Zenith excluded activities, fuels, infrastructure, and properties that were inconsistent with its representations to the City that no new development for handling fossil fuels was proposed as a part of its Air Contaminant Discharge Permit application to DEQ; and

WHEREAS, investigative reporters from *Street Roots* and *Desmog* published the results of records requests demonstrating that the process that resulted in Zenith receiving a LUCS in 2022 was highly abnormal, unprecedented, and prejudicial to the public (Attachments C1 and C2); and

WHEREAS, in investigating Zenith's violations of local lobbying rules, the City Auditor found that the process was abnormal, writing: "[d]uring our interviews with BDS Director Esau and BPS Director Oliveira, it was made clear that the communications involved in this specific LUCS went beyond what they considered the standard process" (Attachment D); and

WHEREAS, the process for Zenith's 2022 LUCS substantially undermined public confidence in the City's administrative apparatus by creating the appearance of impropriety; and

WHEREAS, when asked by City Council if City staff had knowledge of illegal and unpermitted construction prior to issuance of the 2022 LUCS, City staff declined to comment on the record despite findings from the DEQ Report showing it to be the case (Attachment B); and

WHEREAS, Zenith did not disclose that it plans to transport renewable naphtha, an extremely volatile and flammable fuel, to the City in its 2022 LUCS materials; and

WHEREAS, where community members have raised concerns over “a consistent record violations and dishonesty” (Attachment E); and

WHEREAS, when asked by Councilor Green during a January 21, 2025 work session if City staff had knowledge of long-run plans for expansion at the Critical Energy Infrastructure Hub no answer was furnished, despite public records indicating that Zenith communicated such plans to the City on December 9, 2024 (Attachment F); and

WHEREAS, City staff presented to City Council during the January 21, 2025 work session that Zenith applied for a new LUCS on December 17, 2024, despite reporting of public records showing that Zenith submitted the application on December 11, 2024. Furthermore, on December 12 at 2:52 pm City Council members received an email that stated, “[...at this time, The City has not received any request for a new or revised LUCS from Zenith.]” This discrepancy warrants further investigation (Attachments G1 and G2); and

WHEREAS, the deadline for issuance of a new LUCS in order for Zenith to proceed with its air permit is not a binding deadline to the City as confirmed by City staff in response to a question by City Council in the Jan 21, 2025 work session; and

WHEREAS, 350PDX staff have submitted a document that suggests there exist factual discrepancies between claims issued by City staff during the Jan 21, 2025 work session, either during the presentation or in response to questions from City Council, and the public record. This warrants further investigation (Attachment H).

NOW THEREFORE, BE IT RESOLVED, City Council seeks to evaluate the findings above and take action to redress past harms, ensure accountability for past City actions, and to involve the public in major decisions affecting human and environmental health and safety.

BE IT FURTHER RESOLVED, the Director of Portland Permitting & Development, the Director of the Bureau of Planning & Sustainability, the Deputy City Administrator for Community & Economic Development, and the City Attorney is demanded to disclose all prior communications between the City and Zenith and its representatives on the public record and redact only information allowed by law.

BE IT FURTHER RESOLVED, Portland Permitting & Development is demanded to evaluate whether its 2024 Greenway Review for Zenith remains in compliance with land use laws in light of new information in DEQ’s recent enforcement action and discrepancies, representations, and omissions in Zenith’s 2022 LUCS application.












BE IT FURTHER RESOLVED, under City Charter Section 2-402, Investigation of and Suits to Cancel Franchises, and pursuant to the authority in PCC 7.12.030 this Council demands the Mayor investigate potential violations of Zenith’s franchise agreement – including, but not limited to Zenith’s failure to disclose the modification and use of infrastructure that resulted in DEQ’s

regulatory action, misrepresentations of the scope of the land use review required for Zenith's proposed activities, and the failure to include renewable naphtha in its 2022 LUCS application – and, if warranted, cancel the agreement. The City Administrator shall deliver to City Council a report that documents the progress of the Mayor's investigation no later than 120 days from the effective date of this resolution.

BE IT FURTHER RESOLVED, under City Charter Section 2-109, Investigations, this Council urges the Auditor to investigate the facts and prepare a report detailing the City's handling of Zenith's LUCS applications to bring clarity and transparency to the situation given the many competing statements and arguments heard by Council on January 21, 2025, from City staff, Zenith, and members of the public.

BE IT FURTHER RESOLVED, City Council demands the Mayor to pause any administrative actions, to the extent allowed by law, related to Zenith pending the results of the investigations pursuant to this resolution.

Exhibits and Attachments

-  [Committee Staff Summary - Transportation and Infrastructure](#) 95.45 KB
-  [Attachment A](#) 10.81 MB
-  [Attachment B](#) 3.34 MB
-  [Attachment C1](#) 2.81 MB
-  [Attachment C2](#) 6.51 MB
-  [Attachment D](#) 323.36 KB
-  [Attachment E](#) 86.51 KB
-  [Attachment F](#) 1.81 MB
-  [Attachment G1](#) 1.45 MB
-  [Attachment G2](#) 700.87 KB
-  [Testimony](#) 485.67 KB

Impact Statement

Purpose of Proposed Legislation and Background Information

The City Council held a work session directly followed by a listening session on January 21, 2025 on the Zenith Energy Terminal Portland Terminal. During those sessions, City Council received presentations from City staff and Zenith representatives, along with public comment. This resolution outlines the actions City Council is directing of the Mayor and City staff based on the information presented in those sessions and the attached Attachments.

Financial and Budgetary Impacts

This action does not directly amend the budget. It may entail some additional costs related to an independent review of the Mayor’s investigation, depending on implementation.

Economic and Real Estate Development Impacts

This action does not have economic impacts to job creation and household income, businesses of any size, and to feasibility of housing production and other real estate development projects.

Community Impacts and Community Involvement

More than 60 members of the public signed up to provide public comment during the January 21, 2025 listening session on Zenith Energy Terminal Portland Terminal. Many commenters expressed strong concerns regarding Zenith’s operations and location.

The Zenith terminal is located within the Critical Energy Infrastructure Hub (CEI Hub), a six-mile area in northwest Portland along the Willamette River. Concerns of a Cascadia Subduction Zone earthquake resulting in damage to CEI Hub infrastructure would severely impact the water, air, and ground in northwest Portland and those nearby residents. The proximity of Zenith’s operations to the Willamette River, Columbia River, and downtown Portland creates concern in the event of a disaster resulting in fuel releases into these assets.

100% Renewable Goal

This action does not increase or decrease the City’s total energy use or renewable energy use.

Financial and Budget Analysis

No Fiscal Impact.

Document History

Document number: 2025-070

Agenda	Council action
March 10, 2025 Regular Agenda <div>Transportation and Infrastructure Committee</div>	Referred to City Council Motion to recommend 2025-070 to full Council with recommendation to be adopted: Moved by Green and seconded by Koyama-Lane. (Aye (3): Koyama Lane,

Agenda	Council action
	Green, Morillo; Absent (2): Smith, Clark)
<p>March 19, 2025</p> <p>Regular Agenda</p> <p>City Council</p>	<p>Adopted As Amended</p> <p>Motion to amend the fourth Resolved statement to add "and pursuant to the authority in PCC 7.12.030" and delete ", with independent review to ensure impartiality,": Moved by Dunphy and seconded by Koyama Lane. (Aye (12): Avalos, Dunphy, Smith, Kanal, Ryan, Koyama Lane, Morillo, Novick, Clark, Green, Zimmerman, Pirtle-Guiney)</p> <p>Motion to remove Whereas statements 11 and 13 through 20 and attachments C1, C2, E, F, G1, and H: Moved by Zimmerman and seconded by Clark. (Aye (4): Novick, Clark, Zimmerman, Pirtle-Guiney; Nay (8) Avalos, Dunphy, Smith, Kanal, Ryan, Koyama Lane, Morillo, Green). Motion failed to pass.</p> <p>Motion to remove the Whereas statements 11 and 13-20 and attachment H: Moved by Zimmerman and seconded by Novick. (Aye (4): Novick, Clark, Zimmerman, Pirtle-Guiney; Nay (8) Avalos, Dunphy, Smith, Kanal, Ryan, Koyama Lane, Morillo, Green). Motion failed to pass.</p> <p>Motion to remove Attachment H: Moved by Morillo and seconded by</p>

Agenda	Council action
	<p>Kanal. (Aye (9): Dunphy, Kanal, Ryan, Koyama Lane, Morillo, Novick, Clark, Zimmerman, Pirtle-Guiney; Nay (3): Avalos, Smith, Green)</p> <p>Aye (11): Avalos, Dunphy, Smith, Kanal, Ryan, Koyama Lane, Morillo, Clark, Green, Zimmerman, Pirtle-Guiney</p> <p>Nay (1): Novick</p>