

1 adjusted as of the anniversary of the Effective Date each year during the term (the "Adjustment
2 Date"). The phrase "Permit Year" shall mean each twelve (12) consecutive calendar month period
3 commencing on the Effective Date. The Permit Fee shall be adjusted by comparing the Consumer
4 Price Index for All Urban Consumers (base year 1982-84=100) for Los Angeles-Riverside-Orange
5 County, published by the United States Department of Labor, Bureau of Labor Statistics (the
6 "Index"), which is published for the date nearest the Adjustment Date (the "Current Index"), with
7 the Index published nearest the Effective Date (the "Beginning Index"). If the Current Index has
8 increased over the Beginning Index, the Permit Fee for the then-current Permit Year shall be set by
9 multiplying the Permit Fee set forth above by a fraction, the numerator of which is the Current Index
10 and the denominator of which is the Beginning Index. In no event shall the Permit Fee be less than
11 the Permit Fee applicable during the immediately preceding Permit Year. If the Index is
12 discontinued or revised during the period in which this Permit is in effect, another government index
13 or computation shall be selected by the Cities and used in order to obtain substantially the same
14 result as if the Index had not been discontinued. On adjustment of the Permit Fee as provided
15 herein, the parties shall immediately execute in writing, setting forth the adjusted Permit Fee and
16 when the writing is executed by both Executive Directors, it shall constitute a legally binding
17 agreement of the parties without further municipal, corporate or other action.
18

19 2.3 Late Charge; Default Interest. Permittee acknowledges that if any payment
20 required under this Permit is not paid within ten (10) days after the same becomes due and payable,
21 the Cities will incur extra administrative expenses, in addition to expenses incident to receipt of
22 timely payment, and the loss of the use of funds in connection with the delinquency in payment.
23 Because, from the nature of the circumstances, the actual damages suffered by the Cities by reason
24 of such extra administrative expenses and loss of use of funds would be impracticable or extremely
25 difficult to ascertain, Permittee agrees that five percent (5%) of the amount of the delinquent
26 payment or \$100.00 (whichever is greater), and the imposition of the default interest rate provided
27 for below, shall be the amount of damages to which the Cities are entitled, upon such breach, in
28 compensation therefor. Permittee shall, therefore, in such event, without further notice, pay to the
29 Cities liquidated damages in the amount of five percent (5%) of the amount of such delinquent
30 payment or \$100.00 (whichever is greater) and interest as provided below. The provisions of this
31 Paragraph are intended to govern only the determination of damages in the event of a breach in the
32 performance of the obligation of Permittee to make timely payments hereunder. Nothing in this
33 Permit shall be construed as an express or implied agreement by the Cities to forbear in the
34 collection of any delinquent payment, or be construed as in any way giving Permittee the right,
35 express or implied, to fail to make timely payments hereunder, whether upon payment of such
36 damages or otherwise. The right of the Cities to receive payment of such liquidated and actual
37 damages, and receipt thereof, are without prejudice to the right of the Cities to collect such
38 delinquent payments and any other amounts provided to be paid hereunder or to declare a default
39 hereunder. Further any amounts owing under this Permit and not paid when due shall bear interest a
40 rate equal to ten percent (10%) per annum, payable monthly on the first day of each and every
41 month.
42

43 2.4 Books and Records. All books, accounts and other records showing the
44 affairs of Permittee with respect to its business transacted at, upon or over the Permit Area
45 (collectively, "Permit Records") shall be maintained in Los Angeles County, and shall be subject to
46 copying, examination, audit and transcription by either City, from time to time. In the event it

1 becomes necessary to make such copying, examination, audit or transcription at any place other than
2 within fifty (50) miles of the Permit Area, then all costs and expenses necessary or incident to such
3 copying, examination, audit or transcription, shall be paid by Permittee. The Permit Records shall
4 be retained during the term of this Permit so that the Permit Records for the four (4) most recent
5 years are available. After this Permit terminates, Permittee shall maintain the Permit Records for the
6 four (4) most recent years for at least two (2) years. Upon request in writing by either City,
7 Permittee shall, within fifteen (15) days of the request, furnish a statement of the exact location of all
8 Permit Records and the name and telephone number of the custodian of the Permit Records. Permit
9 Records will include, but not be limited to, general ledgers, charts of accounts, subledgers including
10 cash receipts journals, cash disbursement journals and all original receipts and documents which
11 support the information provided to the Cities.
12

13 2.5 Security Deposit. Permittee shall provide a cash deposit, certificate of
14 deposit, surety bond, irrevocable letter of credit or other form of security (the "Security Deposit") in
15 the name of the Cities and acceptable to the Executive Directors and City Attorneys of the Cities in
16 the amount of One Thousand Dollars (\$1,000.00), as security for Permittee's faithful performance of
17 its obligations under this Permit, including but not limited to the restoration of the Permit Area and
18 the removal of the Improvements (as defined in Paragraph 4.1) by Permittee as required by this
19 Permit upon any termination, revocation or forfeiture of this Permit. The Security Deposit shall be
20 in a form acceptable to and subject to the approval of the Cities. The Cities shall pay no interest on
21 the Security Deposit. If the financial condition of Permittee substantially changes such that
22 Permittee may not be able to meet its restoration obligations, either Executive Director may require
23 an increase of the Security Deposit.
24

25 3. REVOCABILITY; TERMINATION. 26

27 3.1 Revocability without Cause. This Permit is revocable by any party upon
28 sixty (60) days' notice to the other parties without cause. Upon termination of this Permit, Permittee
29 shall vacate, and surrender possession of, the Permit Area (subject to Permittee's obligations under
30 Paragraphs 4 and 6 below). If this Permit is revoked by the Cities pursuant to this Paragraph 3.1,
31 Permittee shall be entitled to a prorated refund of the Permit Fee for the year in which such
32 revocation occurs. If this Permit is revoked by Permittee pursuant to this Paragraph 3.1, Permittee
33 shall not be entitled to receive back any portion of the Permit Fee already paid by it.
34

35 3.2 Termination. The Executive Director of either City may terminate this
36 Permit in the event: (i) Permittee fails to perform any term or condition of this Permit within ten (10)
37 days after notice from the Cities or either of them; (ii) Permittee makes a general assignment or
38 general arrangement for the benefit of creditors; (iii) a petition for adjudication of bankruptcy or for
39 reorganization or rearrangement is filed by or against Permittee and is not dismissed within thirty
40 (30) days; (iv) a trustee or receiver is appointed to take possession of substantially all of Permittee's
41 assets located at the Permit Area or of Permittee's interest in this Permit and possession is not
42 restored to Permittee within thirty (30) days; or (v) substantially all of Permittee's assets or if
43 Permittee's interest in this Permit Area is subjected to attachment, execution or other judicial seizure
44 which is not discharged within thirty (30) days. If any court having jurisdiction in the matter renders
45 a final decision which prevents the performance by the Cities of any of their obligations under this
46 Permit, then any party hereto may terminate this Permit by notice to the other party. Additionally, a

1 seizure of the Permit Area by the Internal Revenue Service shall automatically terminate this Permit.
2 Upon termination of this Permit: (i) Permittee shall immediately vacate, and surrender possession
3 of, the Permit Area and (ii) all rights and obligations hereunder (with the exception of Permittee's
4 obligations under Paragraphs 4, 6 and 13) shall thereupon terminate.
5

6 3.3 Application. This Permit is granted pursuant to an application or applications
7 filed by Permittee with the Cities. If any application or any of the attachments thereto contain any
8 misstatement of fact, which in the judgment of either Executive Director, affected the decision to
9 grant this Permit, that Executive Director may terminate this Permit. Termination pursuant to this
10 Paragraph shall not be termination by forfeiture.
11

12 3.4 No Relocation Assistance. Permittee understands and agrees that nothing
13 contained in this Permit shall create any right in Permittee for relocation assistance or payment from
14 the Cities upon the termination of this Permit. Permittee acknowledges and agrees that it shall not
15 be entitled to, and waives any right to, any relocation assistance or payment pursuant to the
16 provisions of Title 1, Division 7, Chapter 16, of the Government Code of the State of California
17 (Sections 7260 *et seq.*) or any other applicable law with respect to any relocation of its business or
18 activities upon the termination or revocation of this Permit for any reason whatsoever.
19

20 4. IMPROVEMENTS; ALTERATIONS.
21

22 4.1 General. Permittee, at its cost, may install, erect or construct buildings,
23 improvements and structures (collectively, "Improvements") on the Permit Area and alter and repair
24 such Improvements; provided, however, Permittee shall first obtain the written consent of both
25 Executive Directors and any necessary permits prior to the commencement of any work of
26 improvement, alteration or repair. Permittee shall retain title to all such Improvements.
27

28 4.2 Plans. The Improvements shall be installed only in accordance with
29 approved plans and specifications previously submitted to the Cities with the application for this
30 Permit. Permittee shall proceed diligently and in a workmanlike manner in the installation, repair,
31 relocation, reconstruction or removal of the Improvements. Any and all work shall be done by
32 Permittee in accordance with all applicable Laws (as defined in Paragraph 8 below).
33

34 4.3 Damage; Repair. If the Improvements become damaged or malfunction,
35 Permittee, at its cost, shall immediately make such repairs as will insure the future safe and proper
36 operation of the Improvements. Permittee shall perform such cleanup and repairs as shall be
37 required by the Cities.
38

39 4.4 As-Built Drawings.
40

41 4.4.1 Within thirty (30) days after the completion of the installation of the
42 Improvements, Permittee shall furnish to Cities four (4) sets of survey notes and "as-built"
43 drawings, signed by a California licensed land surveyor, who shall certify to the correctness
44 of the horizontal and vertical alignment of the Improvements.
45

1 4.4.2 All of the “as-built” drawings furnished pursuant to Paragraph 4.4.1
2 shall be drawn to a scale in which the number of feet per inch shall not exceed two hundred
3 (200). The drawings shall show the accurate alignment of the Improvements by centerline
4 traverses. The elevations of the tops of the Improvements shall be shown on the drawings.
5 All survey work, both horizontal and vertical, shall be to the latest third order of accuracy as
6 established by the National Geodetic Survey.
7

8 4.4.3 In the event Permittee is granted permission to install, relocate or
9 remove pipelines, tanks or pressure vessels, Permittee shall furnish to the Cities, in addition
10 to the “as-built” drawings thereof required by this Paragraph, four (4) sets of revised
11 composite drawings drawn to a scale in which the number of feet per inch does not exceed
12 two hundred (200). The revised composite drawings shall be submitted on or before March
13 1 of each calendar year this Permit remains in force and effect and shall show all pipelines
14 owned or operated by Permittee and the total lineal footage thereof in existence as of
15 December 31 of the calendar year just ended.
16

17 4.4.4 Where applicable, as-built drawings shall be available at the Permit
18 Area at all times and copies thereof shall be provided to the Cities upon thirty (30) days’
19 written notice.
20

21 4.5 Removal Upon Termination; Restoration. No later than the date upon which
22 this Permit terminates (the “Termination Date”), Permittee, at its cost, shall remove the
23 Improvements, and any personal property placed by it on the Permit Area and restore the Permit
24 Area to a condition acceptable by both Cities. Permittee shall repair, at Permittee’s expense, any
25 damage to the Permit Area caused by the removal of any Improvements or personal property.
26 Permittee understands and agrees it is responsible for complete restoration of the Permit Area,
27 including the clean up of any Hazardous Substances (as defined in Paragraph 6.1 below) required
28 pursuant to Paragraph 6 below on or before the Termination Date. If, for any reason, removal of
29 Improvements and personal property from the Permit Area or restoration of the Permit Area is not
30 completed by the Termination Date, then Permittee is obligated to pay the Cities, as compensation
31 during such restoration, a permit fee in an amount equal to the then fair market rental value of the
32 Permit Area as reasonably determined by the Cities; however, the new permit fee shall not be less
33 than provided in Paragraph 2. Additionally, if the Improvements and any personal property of
34 Permittee have not been removed and the Permit Area not restored to an acceptable condition by the
35 Termination Date, the Cities shall have the right, but not the obligation, to remove any such property
36 and to restore the Permit Area at Permittee’s expense. Permittee shall pay to the Cities, upon
37 demand, all costs incurred by the Cities in removing such property and restoring the Permit Area,
38 together with interest from the date the Cities incur any cost or expense, at the maximum rate
39 allowed by law on any such sum. The restoration requirements of Paragraph 4.5 shall apply to
40 Permittee whether improvements were installed by Permittee or any prior users of the premises.
41

42 4.6 Restoration Plan. Upon request of either Executive Director, Permittee shall,
43 at its expense, provide to the Cities a site characterization study and site restoration plan in a form
44 acceptable to the Cities. The study and plan shall be used in part by the Cities to determine if
45 Permittee has breached its obligations pursuant to Paragraph 6 below.
46

1 4.7 Waiver. The Cities, at their election, may waive the requirement that
2 Permittee remove all or a portion of the Improvements from the Permit Area and that Permittee
3 restore the Permit Area. However, unless such waiver is in writing executed by both Cities stating
4 such waiver is "permanent and final," Cities reserve the right to require Permittee at any time in the
5 future to remove all or a portion of the Improvements from the Permit Area or to restore the Permit
6 Area despite such waiver.

7
8 4.8 Removal; Relocation. Whenever and as often as the Executive Directors
9 deem convenient or necessary, Permittee, at its cost, shall either remove, relocate or alter the
10 Improvements constructed on the Permit Area and restore the Permit Area. Permittee shall
11 commence such removal, alteration or change of location within sixty (60) days after notice from the
12 Executive Directors, and shall proceed to complete such work with due diligence.

13
14 4.9 Failure to Commence Work. In case Permittee fails to commence work in
15 compliance with the notice given pursuant to Paragraph 4.8 within sixty (60) days after such notice
16 (unless Permittee is unable to comply with such instructions due to strikes, riots, acts of God or acts
17 of public enemies), the Executive Directors may, but shall not be required to, cause the work
18 required in such notice to be done; and Permittee agrees to pay the Cities' cost thereof within thirty
19 (30) days after delivery of an itemized bill.

20
21 4.10 Rules Governing Pipelines. After installation, and in any event for the
22 duration of this agreement, Permittee shall comply with pipeline testing and inspection requirements
23 of the Pipeline Code, the Pipeline Safety Act, the California Public Utilities Code, California Public
24 Utilities Commission regulations for pipelines, any other state and/or federal agency not mentioned
25 above, and as required by the California State Fire Marshall (CSFM) under the Pipeline Safety Act.
26 The Cities reserve the right to request tests for facilities not under the direct authority of the CSFM,
27 the California Public Utilities Commission, the Federal Office of Pipeline Safety (FOPS), and the
28 State of California Bureau of Conservation/Division of Oil, Gas, and Geothermal Resources
29 (DOGGR).

30
31 4.11 Location of Subsurface Pipelines and Structures. Upon at least two (2) days'
32 notice from the Cities, Permittee shall commence exploration for any subsurface structures under
33 Permittee's control or servicing Permittee's operation within the Permit Area. Exploration and
34 preparation of all documentation recording the location of substructures shall be completed within
35 the time specified in the notice. The subsurface exploration shall verify the vertical and horizontal
36 location of all substructures. Documentation reflecting the results of the exploration shall be
37 provided to the Executive Directors. If Permittee fails or refuses within the time specified in the
38 notice to begin or fails to prosecute diligently to complete the work of locating any substructure
39 under Permittee's control or servicing Permittee's operation within the Permit Area, the Cities shall
40 have the right to enter onto the Permit Area and perform the work designated in the notice. All
41 subsurface exploration required by the provisions contained herein, whether performed by Permittee
42 or the Cities, shall be performed at Permittee's expense. In addition, Permittee agrees to bear the
43 cost of any and all damage of whatever nature caused by any act, omission or negligence of the
44 Cities and any and all of their boards, officers, agents, consultants, and employees in the
45 performance of the subsurface exploration as required by this provision. Notwithstanding any work
46 performed by the Cities or the Cities' contractors under this provision, Permittee shall remain

1 obligated to maintain the Permit Area in a safe condition, both during and after completion of the
2 work.

3
4 4.12 Pipeline Tests or Inspections. Within thirty (30) days from the commencement
5 date of the permit, Permittee shall provide the Executive Directors with a master schedule showing
6 dates for pipeline testing and inspection(s) in accordance with the requirements referenced in
7 Paragraph 4.10 above. The master schedule shall include an itemized list with corresponding line
8 item reference numbers for each pipeline covered under the subject permit, corresponding required
9 test(s) or inspection(s), date(s) of test(s) or inspection(s), method(s) of test(s) or inspection(s),
10 applicable agency, the frequency of required test(s) or inspection(s), and the California State Fire
11 Marshall Line No. and the California State Fire Marshall Test ID No., if applicable. If Permittee
12 existing pipelines are modified, or new pipelines are added to Permittee's premises, Permittee shall
13 provide Ports with written notice, including an updated master schedule with any addition or
14 subtraction of pipelines. This should cover testing or inspection requirements of all agencies
15 mentioned in Paragraph 4.10 of the permit, as well as any other additional required test(s) or
16 inspection(s).

17
18 If Permittee's pipeline test(s) or inspection(s) are approved by the applicable agency requiring or
19 overseeing the test(s) or inspections(s), Permittee shall confirm in writing approval of the test(s) or
20 inspections(s) and/or submit documentation including master schedule reference number for
21 pipeline(s) being reported on, date(s) of test(s) or inspection(s), method(s) of test(s) or inspection(s)
22 and general non-technical summary of results

23
24 Permittee shall submit a summary of its certified test or inspection approval results to the Executive
25 Directors within thirty (30) days after they have been approved by the agencies which required the
26 pipeline testing or inspection(s), and the records of such test(s) shall be retained by Permittee for as
27 long as is required by applicable law, but in any event not less than three (3) years. Records of all
28 tests will be made available for inspection by the Executive Directors or their designees at their
29 request.

30
31 If Permittee's pipeline test(s) or inspection(s) are disapproved, and/or there are irregularities with
32 Permittee's pipeline test(s) or inspection(s), indicating a leak or other operational deficiency,
33 Permittee shall notify the Executive Directors within three (3) days of disapproval and/or receipt of
34 test(s) or inspection(s) results with a non-technical summary of the results including the
35 circumstances that resulted in the disapproval or test(s)/inspection(s) irregularities as well as all test
36 documentation produced and a description and schedule for implementation of corrective action as
37 directed by the applicable agency requiring or overseeing the test(s) or inspection(s).

38
39 5. MAINTENANCE. The Cities have no duty to make any improvement or repair to
40 the Permit Area or any improvements thereon. Permittee's sole and exclusive remedy by reason of
41 any condition of the Permit Area (whether such condition now or hereafter exists) shall be to
42 terminate this Permit and vacate the Permit Area. Any and all uses of the Permit Area by Permittee,
43 its agents, contractors and their employees shall be at their sole risk, cost and expense. Permittee, at
44 its cost, shall keep and maintain the Permit Area and all Improvements thereon during its use and
45 occupancy thereof, in good order, condition and repair, free and clear of all rubbish, debris and litter.

1 6. HAZARDOUS SUBSTANCES.

2
3 6.1 Hazardous Substances. As used in this Permit, the term “Hazardous
4 Substance” means any product, substance, chemical, material or waste, the presence, nature, quantity
5 and/or intensity of which, either by itself or in combination with other materials on the Permit Area,
6 is either: (i) potentially injurious to the public health, safety or welfare, the environment or the
7 Permit Area; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential
8 liability of the Cities to any governmental agency or third party under any applicable statute or
9 common law theory. Hazardous Substances shall include, but not be limited to, any substance or
10 material deemed hazardous or toxic pursuant to any federal or state statute or regulation, including
11 but not limited to hydrocarbons, petroleum, gasoline, crude oil or any products or by-products
12 thereof. Permittee shall not direct, suffer or permit any of its agents, contractors, employees,
13 licensees or invitees at any time to handle, use, manufacture, store, release or dispose of any
14 Hazardous Substances in or about the Permit Area.
15

16 6.2 Notification; Removal. During its use and occupancy of the Permit Area,
17 Permittee shall notify the Executive Directors within two (2) days following the release of any
18 Hazardous Substances onto or from the Permit Area. Upon the release, discharge or spill of any
19 Hazardous Substances arising from or caused by Permittee, its employees, agents, invitees or
20 affiliated predecessors in interest, Permittee, at its cost, shall promptly remove and/or remediate and
21 dispose of all such Hazardous Substances in accordance with the provisions of Paragraph 6.3 below,
22 and restore the Permit Area to the condition it was in prior to the release of the Hazardous
23 Substances. Permittee also agrees to provide to the Cities a surety bond to assure removal of such
24 Hazardous Substances from the Permit Area if at any time the Cities demand such bond.
25

26 6.3 Excavation. If Permittee discovers or believes that any material being
27 excavated from the Permit Area contains any Hazardous Substances, Permittee, at its cost, shall: (i)
28 promptly notify both Executive Directors of Permittee’s discovery or belief; (ii) at the request of
29 either Executive Director, initiate chemical and/or physical analyses of the suspected Hazardous
30 Substances; (iii) promptly submit all laboratory or other test results upon receipt thereof to both
31 Executive Directors; (iv) develop and submit, for approval by both Executive Directors, a
32 remediation plan providing for the disposal and/or treatment of the hazardous materials; (v) treat and
33 dispose of or remove the Hazardous Substances in accordance with all applicable Laws; (vi) if
34 Hazardous Substances are removed, replace the same with clean structurally suitable fill material
35 and cause the excavation to be backfilled and compacted; and (vii) promptly submit copies of all
36 waste manifests to both Executive Directors. Waste manifests shall identify Permittee and its
37 contractors, not the Cities, as the generator of any Hazardous Substances removed pursuant to this
38 provision.
39

40 7. UTILITIES. Permittee shall pay all charges for services or utilities furnished to the
41 Permit Area or used in connection with its occupancy, and shall pay all deposits, connection fees,
42 charges and meter rentals required by the supplier of any such service, including the Cities.
43

44 8. LEGAL COMPLIANCE. Permittee shall comply with all applicable laws,
45 regulations, ordinances, rules, regulations, policies, guidelines, specifications, procedures and orders
46 of any government entities (“Laws”) in connection with its use and occupancy of the Permit Area

1 and obtain all necessary licenses, consents and permits from all federal, state and local governmental
2 authorities having jurisdiction over the Permit Area and Permittee's activities thereon.

3
4 9. NO ASSIGNMENT. Permittee shall not assign, sublet or transfer this Permit or any
5 interest herein (whether by operation of law or otherwise) without the prior written consent of the
6 Cities. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting
7 control of Permittee shall constitute an assignment for this purpose. Any attempted transfer or
8 assignment without the prior written consent of the Cities shall be void and confer no rights
9 whatsoever upon a transferee or assignee. In addition, Cities shall have the right to terminate this
10 Permit if any assignment or transfer, whether voluntary, by operation of law, or otherwise is made or
11 attempted without the prior written consent of the Cities. Each request for consent to an assignment
12 shall be in writing, accompanied by information relevant to the Cities' determination as to the
13 financial and operational responsibility and appropriateness of the proposed assignee, including but
14 not limited to the intended use and/or required modification of the Permit Area, if any, together with
15 a nonrefundable processing fee of \$3,000 or ten percent (10%) of the current annual Permit Fee
16 applicable to the Permit Area which is the subject of the proposed assignment, whichever is greater,
17 as consideration for the Cities' considering and processing the request. Permittee agrees to provide
18 to the Cities such other or additional information and/or documentation pertaining to the requested
19 consent as may be reasonably requested by the Cities.

20
21 10. ACCESS. The Cities' representatives shall have access to and across the Permit Area
22 during normal business hours and, in the event of an emergency, at any time for inspection, repair of
23 publicly owned utilities and structures and for fire and police department purposes.

24
25 11. RIGHTS-OF-WAY. The Permit Area is subject to all existing and future rights of
26 way and entry thereon for the installation, relocation, removal, operation and maintenance of rail
27 lines, sewers, pipelines, conduits, and telephone, telegraph, light, heat and power lines (whether
28 underground or overhead).

29
30 12. RAILROAD APPROVAL AND NOTICE, EMERGENCY NOTIFICATION.

31
32 12.1 In non-emergency situations, Permittee shall obtain the written approval from
33 the rail carriers that operate on the rail line traversing the Permit Area ("Railroads") prior to the
34 commencement of any work within the Permit Area in connection with the construction, repair,
35 renewal, modification, reconstruction, relocation or removal of the Improvements, excepting only
36 periodic inspection of the Improvements. Permittee shall comply with all permits, notifications,
37 protective and safety requirements imposed by the Railroads, and Permittee shall pay all associated
38 costs. In addition, the Cities have included in this agreement, certain Safety Protocols, hereto
39 attached as Exhibit B. Permittee agrees to perform all safety precautions, approvals and notices
40 associated with activities in the vicinity of the rail lines as set forth in Exhibit B.

41
42 12.2 If an emergency should arise requiring immediate attention for Permit Areas
43 in the Alameda Corridor, Permittee shall call the maintenance contractor for the Alameda Corridor,
44 presently Balfour Beatty at (562) 285-0366; the ACTA Construction and Maintenance Manager at
45 (310) 650-1651; the Alameda Corridor Transportation Authority ("ACTA") at (310) 233-7480; and
46 Pacific Harbor Line's ("PHL") Badger Bridge at (310) 830-0660.

1 12.3 If an emergency should arise requiring immediate attention for Permit Areas
2 in the Pacific Harbor Line, Inc. right-of-way, Permittee shall call PHL's Badger Bridge at (310) 830-
3 0660, the ACTA Construction and Maintenance Manager at (310) 650-1651, ACTA at (310) 233-
4 7480 and Balfour Beatty at (562) 285-0366.
5

6 12.4 If an emergency should arise requiring immediate attention for Permit Areas
7 in the Union Pacific Railroad Company right-of-way (Former San Pedro Branch), Permittee shall
8 call the Union Pacific Police at (888) 877-7267.
9

10 13. INDEMNIFICATION. Permittee shall, indemnify, defend (using counsel selected by
11 the Cities) and hold harmless: (a) the Cities; (b) ACTA; (c) Railroads; and (d) each of their
12 respective council members, mayors, trustees, boards, officers, employees, agents, contractors,
13 property managers, representatives and designees (collectively, "Indemnified Parties") from and
14 against any and all actions, suits, proceedings, claims, demands, damages, loss, liens, costs
15 (including court costs and attorneys' fees including the allocated cost of in-house counsel), expenses
16 or liabilities, of any kind or nature whatsoever, for injury to or death of persons or damage to
17 property, including property owned by or under the care and custody of the Cities, which may be
18 brought, made, filed against, imposed upon or sustained by the Indemnified Parties, or any of them,
19 and arising from or attributable to or caused by any acts or omissions of Permittee or any of the
20 Indemnified Parties relating to or arising out of the Permit Area, or by reason of any actual or
21 asserted failure of Permittee to keep, observe or perform any provision of this Permit, except to the
22 extent that such injury, death or damage is caused by the active negligence or willful misconduct of
23 the Indemnified Parties or any of them. The indemnity required herein shall survive the termination
24 or expiration of this Permit.
25

26 14. INSURANCE.

27
28 14.1 Specific Coverages Required. Permittee, at its cost and as a condition
29 precedent to the effectiveness of this Permit, shall procure and maintain in full force and effect while
30 this Permit shall remain in effect the following policies of insurance:
31

32 14.1.1 Commercial General Liability Insurance which affords coverage at
33 least as broad as Insurance Service Office "occurrence" form CG 0001 with minimum limits
34 of at least \$5,000,000 per occurrence, and if written with an aggregate, the aggregate shall be
35 double the per occurrence limit. The policy shall contain no provisions or endorsements
36 limiting coverage for (1) premises and operations; (2) products – completed operations; (3)
37 contractual liability; (4) contractual liability – railroads; (5) independent contractors; (6)
38 third party action over claims; (7) explosion, collapse or underground hazard (XCU), if there
39 is exposure; and (8) defense costs shall be excess of limits.
40

41 14.1.2 Environmental Impairment Liability Insurance to include onsite and
42 offsite coverage for bodily injury (including death and mental anguish), sudden and
43 accidental pollution, property damage, defense costs and cleanup costs with minimum limits
44 of \$10,000,000 per loss and \$20,000,000 total all losses. Non-owned disposal site coverage
45 shall be provided if handling, storing or generating hazardous materials or any
46 material/substance otherwise regulated under environmental laws/regulations.

1 14.1.3 Workers' Compensation Insurance as required by the State of
2 California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per
3 accident for bodily injury and disease.
4

5 14.1.4 Automobile Liability Insurance with coverage at least as broad as
6 Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum
7 limits of \$1,000,000 each accident.
8

9 Insurance policies will not be in compliance with the Permit if they include any
10 limiting endorsement that has not been approved in writing by Cities.
11

12 The policy or policies of insurance for Commercial General Liability, Automobile
13 Liability, and Environmental Impairment Liability Insurance shall contain the following
14 provisions or be endorsed to provide the following:
15

16 (1) The Indemnified Parties shall be additional insureds with regard to
17 liability and defense of suits or claims arising out of the Permit.
18

19 Additional insured endorsements shall not:
20

- 21 i. Be limited to ongoing operations;
- 22 ii. Exclude contractual liability;
- 23 iii. Restrict coverage to the sole liability of Permittee; or
- 24 iv. Contain any other exclusion contrary to the Permit.
25
26
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28

29 (2) This insurance shall be primary and any other insurance, deductible, or
30 self-insurance maintained by the Indemnified Parties shall not contribute with this primary
31 insurance.
32

33 (3) The policy shall not be canceled or the coverage reduced until a thirty
34 (30) day written notice of cancellation has been served upon the Executive Directors of the
35 Harbor Departments except notice of ten (10) days shall be allowed for non-payment of
36 premium.
37

38 The policy or policies of insurance for Workers' Compensation shall be endorsed, as
39 follows:
40

41 (1) A waiver of subrogation stating that the insurer waives all rights of
42 subrogation against the Indemnified Parties.
43

44 (2) The policy or policies shall not be canceled or the coverage reduced until
45 a thirty (30) day written notice of cancellation has been served upon the Cities' Executive
46 Directors of the Harbor Departments except notice of ten (10) days shall be allowed for non-
47 payment of premium.
48

1 Any deductible or self-insured retention must be approved in writing by the Cities'
2 Executive Directors or their designees and shall protect the Indemnified Parties in the same
3 manner and to the same extent as they would have been protected had the policy or policies
4 not contained a deductible or self-insured retention.
5

6 Upon expiration or termination of coverage of required insurance, Permittee shall
7 obtain and submit to Cities evidence of "tail" coverage or an extended reporting coverage
8 period endorsement for the period of at least three (3) years from termination or expiration of
9 this Permit.
10

11 14.2 General Requirements. 12

13 14.2.1 The insurance required by this Permit shall be issued by an insurance
14 company or companies with an AM Best rating of A:VII or better and may contain
15 deductibles in amounts approved by the Cities' Executive Directors or their designees.
16

17 14.2.2 The policy or policies shall either contain a blanket form of
18 contractual liability coverage, including contracts and agreements, or there shall be attached
19 to the policy or policies an endorsement or extension, providing that such insurance as is
20 provided therein shall apply to the obligations assumed by Permittee under Paragraph 13 of
21 this Permit.
22

23 14.2.3 The procuring of such policy or policies of insurance shall not be
24 construed to be a limitation in any respect upon Permittee's obligations and liabilities under
25 this Permit.
26

27 14.2.4 Upon request by either of the Cities, Permittee shall furnish the Cities
28 with an endorsement issued by the insurance company waiving the insurance company's
29 right to demand and receive payment of insurance premiums and assessments from either of
30 the Cities.
31

32 14.2.5 All insurance shall be on an occurrence basis, not a claims made
33 basis, unless otherwise agreed to by the Cities. Should any portion of the required insurance
34 be on a "Claims Made" policy, Permittee shall, at the policy expiration date, whether such
35 date occurs during or after the term of this Permit, provide evidence that the "Claims Made"
36 policy has been renewed or replaced with the same limits, terms and conditions of the
37 expiring policy, or that an extended discovery period has been purchased on the expiring
38 policy for at least three years after the term of this Permit.
39

40 14.3 Evidence of Insurance. For the City of Los Angeles, electronic submission is
41 the required method of submitting Permittee's insurance documents. Track4LA[®] is the City's online
42 insurance compliance system and is designed to make the experience of submitting and retrieving
43 insurance information quick and easy. The system is designed to be used primarily by insurance
44 brokers and agents as they submit client insurance certificates directly to the City. It uses the
45 standard insurance industry form known as the ACORD 25 Certificate of Liability Insurance in
46 electronic format. The advantages of Track4LA[®] include standardized, universally accepted forms,
47 paperless approval transactions (24 hours, 7 days per week), and security checks and balances.

1 Permitee's insurance broker or agent shall obtain access to Track4LA[®] at <http://track4la.lacity.org/>
2 and follow the instructions to register and submit the appropriate proof of insurance on Consultant's
3 behalf.
4

5 Permitee shall deliver two (2) certified copies of the policy or Certificates of
6 Insurance and insurance carrier authorized endorsements as required ("Evidence of Insurance") to
7 the Long Beach Harbor Department Executive Director or his designee for approval as to sufficiency
8 and to the City of Long Beach City Attorney or designee for approval as to form, and upon request
9 by either City, Permitee shall deliver a certified copy of any policy. If such coverage is cancelled or
10 reduced, Permitee shall, within ten (10) days after receipt of notice of such cancellation or reduction
11 of coverage, file with Track4LA[®] and the Long Beach Harbor Department Executive Director
12 Evidence of Insurance showing that the required insurance has been reinstated or provided through
13 another insurance company or companies, and the policy shall be submitted for approval as herein
14 provided. At least fifteen (15) days prior to the expiration of any such policy, Evidence of Insurance
15 showing that the insurance coverage has been renewed or extended, shall be filed with Track4LA[®]
16 and the Long Beach Harbor Department Executive Director. Upon failure of Permitee to provide
17 Evidence of Insurance as required herein, the Cities have the right, but not the obligation, to
18 purchase any such insurance and Permitee agrees to pay for such insurance. Permitee agrees, at its
19 own expense, to suspend and cease all activities on the Permit Area during such periods of time as
20 Evidence of Insurance has not been provided as set forth herein. Notwithstanding any other
21 provision of this Permit to the contrary, upon failure to so file such Evidence of Insurance, the Cities
22 may, without further notice, cancel or terminate this Permit and exercise such other rights as they
23 may have in the event of Permitee's default.
24

25 14.4 Adjustment. Not more frequently than once each year, if in the opinion of
26 either Executive Director, the coverages or the limits of insurances described in this Paragraph are
27 not adequate, Permitee shall modify the insurance coverage or increase the limits as required by
28 either Executive Director.
29

30 15. TAXATION. THIS PERMIT MAY CREATE A POSSESSORY INTEREST IN
31 FAVOR OF PERMITTEE, WHICH MAY BE SUBJECT TO TAXES. PERMITTEE SHALL PAY,
32 PRIOR TO DELINQUENCY, ANY SUCH TAXES, AND ANY OTHER ASSESSMENTS OF
33 WHATEVER CHARACTER LEVIED UPON ANY INTEREST CREATED BY THIS PERMIT.
34 PERMITTEE SHALL ALSO PAY ALL LICENSE AND PERMIT FEES REQUIRED FOR THE
35 CONDUCT OF ITS OPERATIONS. PERMITTEE SHALL DELIVER SATISFACTORY
36 EVIDENCE OF ALL SUCH PAYMENTS TO EACH EXECUTIVE DIRECTOR UPON
37 DEMAND.
38

39 16. NOTICE. Any notice, demand, request, consent or communication that any party
40 desires or is required to give to the other parties shall be in writing and either be served personally,
41 by facsimile transmission with electronic verification of transmission or sent by prepaid, certified
42 mail, addressed as follows:
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To the Cities: Executive Director
Long Beach Harbor Department
Post Office Box 570
Long Beach, California 90801
Fax No.: (562) 901-1739

And: Executive Director
Los Angeles Harbor Department
425 South Palos Verdes Street
San Pedro, California 90731
Fax No.: (310) 831-6936

With copies to: The Port of Long Beach
925 Harbor Plaza Drive
Long Beach, California 90802
Attention: Director of Real Estate
Fax No.: (562) 901-1739

The Port of Los Angeles
425 South Palos Verdes Street
Post Office Box 151
San Pedro, California 90731
Attention: Director of Real Estate
Fax No.: (310) 547-4611

Paragon Partners Ltd.: 5762 Bolsa Avenue, Suite 201
Huntington Beach, CA 92649
Attn: Ports' Property Manager
Fax No.: (714) 373-1234

Or such other Property Management firm as may be designated by
the Cities from time to time.

To Permittee: Equilon Enterprises LLC
20945 S. Wilmington Avenue
Carson, California 90810
Attn: Michael Elmore – Senior Staff Land Agent
Fax No.: (310) 816-2147
Telephone: (310) 816-2208

Any party may change its address by notifying the other parties of the change of address in
accordance with this Paragraph. Notice shall be deemed communicated upon delivery if personally
served or given by facsimile transmission and within seventy-two (72) hours from the time of
mailing if mailed as provided in this Paragraph.

1 17. NO DISCRIMINATION. Permittee promises, and it is a condition to the continuance
2 of this Permit, that it will not discriminate in its employment practices against any employee or
3 applicant for employment because of the employee's or applicant's race, religion, ancestry, national
4 origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical
5 condition or in any manner prohibited by any applicable Law, including any Laws established by the
6 Cities. Permittee hereby agrees to comply with all reporting requirements related to such Laws.
7 Any contracts relating to the Permit Area entered into by Permittee shall contain this provision. The
8 provisions of Section 10.8.4 of the Administrative Code of the City of Los Angeles are attached
9 hereto as Exhibit C, and are hereby incorporated herein and made a part hereof.

10
11 18. CONFLICT OF INTEREST. It is understood and agreed that the parties to this
12 Permit have read and are aware of the provisions of Sections 1090 *et seq.* and Sections 87100 *et seq.*
13 of the Government Code relating to conflict of interest of public officers and employees, as well as
14 the conflict of interest policies of the Cities. All parties hereto agree that they are unaware of any
15 financial or economic interest of any public officer or employee of the Cities relating to this Permit.
16 Notwithstanding any other provision of this Permit, it is further understood and agreed that if such a
17 financial interest does exist at the inception of or at any time during the continuance of this Permit,
18 the Executive Director of either City may immediately terminate this Permit by giving notice to
19 Permittee. Termination pursuant to this Paragraph shall not be termination by forfeiture.

20
21 19. MISCELLANEOUS PROVISIONS.

22
23 19.1. Effect of Waiver. No waiver by any party at any time of any terms or
24 conditions of this Permit shall be a waiver at any subsequent time of the same or any other term or
25 condition. The acceptance of a late Permit Fee by the Cities shall not be deemed a waiver of any
26 other breach by Permittee of any term or condition of this Permit other than the failure of Permittee
27 to make timely the particular payment so accepted.

28
29 19.2 Termination of Prior Agreements. This Permit supersedes Agreement Nos.
30 N/A between N/A and Permittee, each as of the effective date of this Permit. This Permit shall not
31 operate to extinguish the indemnity and hazardous materials and premises restoration obligations
32 imposed by said Agreements.

33
34 19.3 Costs of Cities. Whenever this Permit requires Permittee to reimburse the
35 Cities for costs of the Cities, such costs are agreed to include all direct and indirect costs which the
36 Cities incur whether with the Cities' own forces or with independent contractors. These costs
37 include salaries and all other costs the Cities incur for their employees, including attorneys, all
38 material and equipment costs, together with an administrative handling charge and allocation of
39 general overhead expense as determined by the Cities in good faith.

40
41 19.4 No Joint Venture. Nothing contained in this Permit shall have the effect of
42 creating a joint venture or partnership between or among the parties, or of rendering one liable for
43 any of the debts or obligations of any other, unless expressly provided in this Permit. Further,
44 nothing contained in this Permit shall have the effect of creating a joint venture or partnership
45 between the Cities or to render either of such entities liable for the debts, obligations or actions of
46 the other, nor shall either the City of Los Angeles or the City of Long Beach be liable or responsible

1 hereunder for any default, failure of performance, action or inaction of the other solely as a result of
2 this Permit.

3
4 19.5 Actions of the Cities. All actions (except as otherwise specified in this
5 Permit), approvals, decisions and consents of the Cities under this Permit shall require the consent of
6 both the City of Los Angeles and the City of Long Beach in the Cities' sole and absolute discretion.

7
8 19.6 Governing Law; Venue. This Permit shall be governed by and construed in
9 accordance with the laws of the State of California, without reference to the conflicts of law rules
10 and principles of such State. The parties agree that all actions or proceedings arising in connection
11 with this Permit shall be tried and litigated exclusively in the State and Federal courts located in the
12 County of Los Angeles, State of California, in the judicial district required by court rules. The
13 aforementioned choice of venue is intended by the parties to be mandatory and not permissive in
14 nature, thereby precluding the possibility of litigation between the parties with respect to or arising
15 out of this Permit in any jurisdiction other than that specified in this Paragraph, except that the Cities
16 or either of them may in their sole and absolute discretion file and pursue actions in other forums in
17 order to obtain such relief as the Cities or either of them deem appropriate.

18
19 19.7 Construction; Headings. The language in all parts of this Permit shall be in all
20 cases construed simply according to its fair meaning and not strictly for or against any of the parties.
21 Paragraph headings in this Permit are solely for convenience of reference and shall not govern the
22 interpretation of any of the provisions of this Permit. Whenever required by the context of this
23 Permit, the singular shall include the plural, the plural shall include the singular and the masculine,
24 feminine and neuter genders shall each include the other. References in this Permit to days shall
25 mean calendar days unless otherwise expressly provided.

26
27 19.8 Severability. Each provision of this Permit shall be interpreted so as to be
28 effective and valid to the fullest extent possible. In the event, however, that any provision contained
29 herein shall for any reason be held invalid, illegal or unenforceable in any respect, then, in order to
30 effect the purposes of this Permit it shall be construed as if such provision had never been contained
31 herein.

32
33 19.9 Amendments; Waiver. No provision of this Permit shall be altered, amended,
34 revoked or waived except by an instrument in writing signed by the party to be charged with such
35 alteration, amendment, revocation or waiver.

36
37 19.10 No Liens. Permittee shall pay or cause to be paid all costs and charges for
38 work done by it or caused to be done by it in, on or to the Permit Area and for all materials furnished
39 for or in connection with such work. Permittee shall keep the Permit Area free from any mechanics'
40 liens, vendors' liens or any other liens arising out of any work performed, materials furnished or
41 obligations incurred by Permittee. In the event that there shall be recorded against the Permit Area
42 or the property of which the Permit Area is a part any claim or lien arising out of any such work
43 performed, materials furnished or obligations incurred by Permittee and such claim or lien is not
44 removed or discharged, or Permittee has not provided a bond therefor, within ten (10) days of filing,
45 the claim or lien shall constitute a default hereunder and the Cities shall have the right but not the
46 obligation to pay and discharge the lien without regard to whether such lien shall be lawful or

1 correct. Nothing contained in this Permit shall be deemed the consent or agreement of the Cities to
2 subject to the Cities' interest in the Permit Area to liability under any mechanics' or other lien law.
3

4 19.11 Signs. Except for signs, markings and notices required by agencies with
5 jurisdiction, Permittee shall not install, place, inscribe, paint or otherwise attach any sign,
6 advertisement, notices, marquee or awning on any part of the Permit Area without the prior written
7 consent of the Cities.
8

9 19.12 Security Measures. Permittee hereby acknowledges that the Permit Fee
10 payable to the Cities hereunder does not include the cost of guard service or other security measures,
11 and that the Cities have no obligation whatsoever to provide security. Permittee assumes all
12 responsibility for the security and protection of the Permit Area, Permittee, its agents and invitees
13 and their property from the acts of third parties.
14

15 19.13 Small Business Development Program. It is the policy of the City of Los
16 Angeles to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned and all
17 Other Business Enterprises (MBE/WBE/OBE) an equal opportunity to participate in the
18 performance of all City of Los Angeles contracts in all areas where such contracts afford such
19 participation opportunities. Permittee shall assist the City of Los Angeles in implementing this
20 policy and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, and OBEs to
21 achieve participation in subcontracts where such participation opportunities present themselves and
22 attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, and OBEs,
23 have equal participation opportunity which might be presented under the Permit.
24

25 19.14 Service Contract Worker Retention and Living Wage Policy. The Board of
26 Harbor Commissioners of the City of Los Angeles adopted Resolution No. 5771 on January 13,
27 1999 agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service
28 Contract Worker Retention (SCWR) as the policy of the Harbor Department. Further, Charter
29 Section 378 requires compliance with the City's Living Wage (LW) requirements. Permittee shall
30 comply with these policies wherever applicable. Violation of this provision, where applicable, shall
31 entitle the City to terminate this Permit and otherwise pursue legal remedies that may be available.
32

33 19.15 Business Tax Registration Certificates. Permittee represents that it has
34 obtained and presently holds the Business Tax Registration Certificates required by the City of Los
35 Angeles and/or the City of Long Beach, as applicable. Permittee will provide each City evidence
36 that such certificates have been obtained. Permittee shall maintain all such certificates required of it
37 by each of the Cities and shall not allow any such certificates to be revoked or suspended.
38

39 19.16 Manager; Representatives. The Cities may designate one or more property
40 managers, representatives, designees or employees to serve as their respective contact person or
41 persons for purposes of this Permit. Permittee agrees to cooperate with any other persons or entities
42 occupying, managing, using or performing work on the various portions of the Permit Area,
43 including but not limited to ACTA and its designees.
44

45 19.17 Equal Benefits Policy. The Board of Harbor Commissioners of the City of
46 Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of

1 Los Angeles City Ordinance 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et
2 seq. of the Los Angeles Administrative Code, as a policy of the Harbor Department.
3 Consultant/Contractor shall comply with the policy wherever applicable. Violation of the policy
4 shall entitle the City to terminate any agreement with Consultant/Contractor and pursue any and all
5 other legal remedies that may be available.
6

7 20. ADDITIONS. There is attached to this permit an addendum, consisting of numbered
8 Paragraphs N/A, inclusive, the provisions of which are made a part of this permit as though set forth
9 herein in full.
10

11 21. DELETIONS. Paragraph(s) N/A (is, are) deleted and (is, are) not to be considered as
12 constituting a part of this permit, and (it, they) (is, are) so marked.
13

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This Permit shall be effective upon the date of last execution by the Executive Directors.

“PERMITTEE”

Equilon Enterprises LLC, a Delaware limited liability company, dba Shell Oil Products US

February 2, 2012

By: [Signature]
Name: M. L. Emore
Title: Attorney-in-fact

_____, 20__

By: _____
Name: _____
Title: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles }

On February 2, 2012 before me, Cynthia E. Teague, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared M.L. Elmore
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person ~~(s)~~ whose name ~~(s)~~ is ~~are~~ subscribed to the within instrument and acknowledged to me that he ~~she/they~~ executed the same in his ~~her/their~~ authorized capacity ~~(ies)~~, and that by his ~~her/their~~ signature ~~(s)~~ on the instrument the person ~~(s)~~, or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Cynthia E. Teague
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Joint Revocable Permit No.

Document Date: 2/2/2012 Number of Pages: _____

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

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“CITIES”

THE CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

April 5, 2012

By: [Signature]
J. Christopher Lytle, Executive Director
Long Beach Harbor Department

Approved as to form this 2d day of April, 2012.

ROBERT E. SHANNON, City Attorney

By: [Signature]
Deputy City Attorney

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners

_____, 20__

By: _____
Geraldine Knatz, Ph.D., Executive Director
Los Angeles Harbor Department

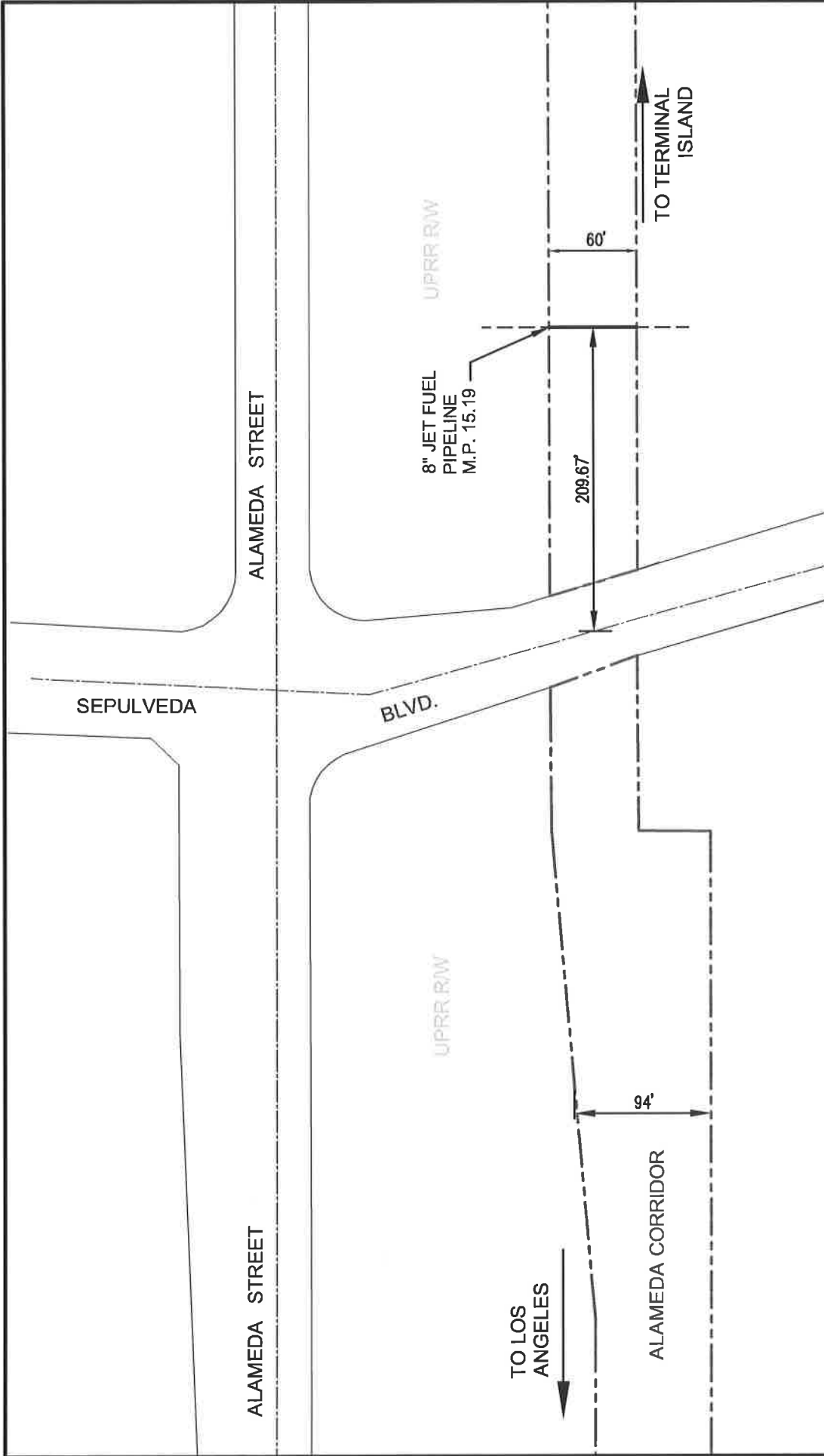
Attest: _____
Secretary

Approved as to form this 16th day of April, 2012.

CARMEN A. TRUTANICH, City Attorney

By: [Signature]
HEATHER M. MCCOSKEY
Deputy City Attorney

EXHIBIT A



<p>LEGEND</p> <p>--- CITIES' R/W LINE</p> <p>— FACILITY INSIDE CITIES' R/W</p> <p>- - - FACILITY OUTSIDE CITIES' R/W</p> <p>— STREET R/W LINE</p> <p>— STREET CENTERLINE</p>		<p>PORT OF LONG BEACH/PART OF LOS ANGELES</p> <p>PERMITTEE: EQUILON ENTERPRISES LLC</p> <p>RRI: ALAMEDA CORRIDOR</p> <p>MP: 15.19</p> <p>CITY: CARSON</p> <p>COUNTY: LOS ANGELES</p> <p>SCALE: AS SHOWN</p> <p>THOMAS GUIDE: 794-H2</p> <p>DATE: 02-02-12</p> <p>REV: 3</p> <p>LENGTH: 60'</p> <p>WIDTH: 5'</p> <p>SQUARE FEET: 300'</p> <p>PAGE: 1 OF 1</p> <p>PREPARED BY: MT</p>	
<p>50' 25' 0" 50' 100'</p> <p>1" = 100'</p>		<p>5762 Bolsa Avenue, Ste. 201 Huntington Beach, CA 92649</p> <p>Arbors Ltd.</p>	

EXHIBIT B

1
2 LOS ANGELES
3 CALIFORNIA

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

LONG BEACH
CALIFORNIA

4
5 **Alameda Corridor Transportation Authority Right-of-Way Work Permit Protocols**
6

7 The Alameda Corridor Transportation Authority (ACTA) railroad right-of-way is owned
8 by the Harbor Departments of the Cities of Los Angeles and Long Beach (Cities). These
9 Work Permit Protocols are applicable to the Permittee and any of their contractors, agents
10 or other parties entering the Right-of-Way pursuant to the Permit.

11
12 1.0 Conditions for Physical Access to the ACTA Property.

13 All Permittees, whether under an existing permit or a newly issued JRP must conform
14 to the following conditions for physical access to the ACTA Property.

15 1.1 ACTA is responsible for track integrity within the railroad right-of-way.
16 Permittee is responsible for any damage to the existing track or right-of-way
17 due to any construction, alteration and/or operations. A pre-inspection of the
18 site prior to work is required to verify existing conditions.

19 1.2 A Railroad work plan shall be submitted to the Cities and ACTA for approval
20 of any access to the ACTA railroad right-of-way. A copy of the required
21 Work Plan is included as Attachment 2 of this Exhibit B.

22 1.3 The Permittee or their Contractor must make arrangements for access with
23 ACTA's Manager of Corridor Rail Facilities (See Attachment 1 of this
24 Exhibit B). Failure to do so or failure to abide by his requirements and
25 instructions will be cause for termination of the JRP/license and will result in
26 personnel being removed from the right-of-way.

27 1.4 At the Cities or ACTA's discretion, a full time qualified inspector, employed
28 by the Cities, Paragon or ACTA and paid by the entity requiring access for
29 any work or access to the Cities owned railroad property may be required.

30 1.5 Daily written email or faxed reports of work within the Cities owned railroad
31 property may be required. These reports will include all activity within the
32 railroad right-of-way (including work force, equipment, date/time, and actual
33 work performed) and a description of any injuries, accidents, or unusual
34 circumstances, which occurs. Paragon to distribute the daily reports to ACTA
35 and Cities.

EXHIBIT B

1 1.6 Any work within 25-feet measured perpendicular from centerline of the
2 nearest track (including the length of crane boom) within the railroad right-of-
3 way shall require a Flagperson. This includes above and below ground work.
4 The Flagperson shall be provided by ACTA and paid for by the entity doing
5 work or requiring access to the Cities owned railroad property. The request for
6 a Flagperson shall require no less than a 14-day advance notice to ACTA from
7 the entity doing work or requiring access. ACTA will provide a Flagperson at
8 their own discretion. The ACTA contact for a Flagperson on the ACTA
9 railroad right-of-way shall be the Manager of Corridor Rail Facilities (See
10 Attachment 1 of this Exhibit B).

11 1.7 Daily contact shall be required between ACTA and the entity doing work or
12 access to the railroad property. The ACTA contact is the Manager of Corridor
13 Rail Facilities.
14

15 1.8 All excavations shall be continuously shored. Temporary shoring shall be
16 designed for a minimum of E80 loading using AREMA standards and the
17 method of Shoring shall be approved by Paragon engineering and/or ACTA's
18 Engineer at Permittee's expense. Prior to the start of work, the approved plans
19 shall be sent to the Cities and ACTA. The full length of all excavations on the
20 railroad right-of-way shall have trench plate covering when unattended.

21 1.9 All work shall be performed during daylight hours, Monday through Friday,
22 unless approved otherwise in writing by the Cities and ACTA. Work shall
23 progress in a manner that all work shall be completed in the least possible
24 time.

25 1.10 Temporary Horizontal Construction Clearances

26 A minimum temporary horizontal construction clearance of 12 feet, measured
27 perpendicular from the centerline of the nearest track, to all physical
28 obstructions including but not limited to formwork, stockpiled materials,
29 parked equipment, bracing or other construction supports, shall be provided.
30 Temporary horizontal construction clearance shall provide space for drainage
31 ditches parallel to the standard roadbed section or provide alternative system
32 that maintains positive drainage. Greater clearances may be required for
33 special cases to satisfy local operating conditions such as required sight
34 distance for signals. All access roads along the right-of-way shall remain
35 unobstructed at all times so that maintenance and emergency vehicles may
36 pass unrestricted through work areas. The work and storage areas shall be
37 kept free of tripping hazards at all times. All excavated materials shall be
38 stockpiled in an area approved by the Cities and ACTA. The temporary
39 horizontal clearances are subject to local operating requirements and ACTA
40 approval.

41

EXHIBIT B

1.11 Temporary Vertical Clearances

A minimum temporary vertical construction clearance of 21 feet measured above top of high rail for all tracks shall be provided. The temporary vertical clearance shall not be violated due to deflection of formwork. Greater temporary vertical clearances may be required. The temporary vertical clearances are subject to local operating requirements and ACTA approval.

1.12 All personnel of the Permittee and or its contractors and/or subcontractors shall possess a valid railroad Roadway Worker Card if work is to be performed within 25-feet of the nearest track and shall abide by all safety rules and instructions from the Flagperson and the Cities and/or ACTA Engineers. Public safety and safeguarding the tracks and the trains that operate on those tracks are paramount. Work over or near the tracks will require one or more of the following personnel at the Cities and/or ACTA's sole discretion and at the Permittee's cost.

1.12.1 Flagperson, Signal Maintainer, Inspector, and/or Engineer: Requires a 14-day advance notice and will be provided at the current ACTA rate to be provided at time of service.

1.12.2 ACTA Approval: Before entering upon or performing work of any kind on the permit area, Permittee shall obtain the written approval of ACTA for the permit area. Permittee shall comply with all permit, notification, protective, and safety requirements imposed by ACTA, and Permittee shall pay all associated costs.

1.13 The Permittee or Permittee's representative will keep a copy of the Ports' fully executed agreement, exhibits and all attachments including a complete Railroad Work Plan at the job site at all times during the encroachment on the Property. Failure to provide the necessary information or documents at the job-site will result in the removal of the Permittee, their employees and equipment from the ACTA Property.

1.14 A final job walkthrough shall be provided within 14-days upon written notification to the Cities and ACTA of completion of the work. ACTA and Permittee shall prepare a list of the items remaining to be completed. The Permittee shall promptly remedy the defective and/or uncompleted portions of the work to ACTA's satisfaction. The ACTA contact is the Manager of Corridor Rail Facilities. Written confirmation to be provided to the Cities and ACTA that all items of the final job walkthrough have been completed to the satisfaction of ACTA. Failure to promptly complete the final job walkthrough list of items remaining to be completed, shall result in the work being completed by ACTA, and Permittee shall pay all associated costs.

EXHIBIT B

1 1.15 Paragon Partners shall follow-up and be provided, by Permittee, As-built
2 drawings within 30-days upon completion of the work. The As-built drawings
3 shall be provided to ACTA with copies to the Cities. The ACTA contact for
4 the As-builts is the Manager of Technical Services (See Attachment 1 of this
5 Exhibit B). ACTA shall keep current utility As-builts to date with copies
6 made available to the Cities.

7 1.16 See the following additional attachments: Contact List (Attachment 1) and
8 Railroad Work Plan (Attachment 2). While the Cities make every effort to
9 update and keep the Contact List current (Attachment 1), Permittee shall
10 verify the accuracy of Attachment 1 by contacting Paragon Partners and
11 requesting verification.

12 1.17 Notices to Member Agency Contacts in Writing:

13 The Port of Long Beach
14 925 Harbor Plaza Dr.
15 Long Beach, California 90801
16 Attention: Director of Real Estate
17 Fax No. 562-901-1739

18
19 Port of Los Angeles
20 425 South Palos Verdes Street
21 San Pedro, California 90731
22 Attention: Director of Real Estate
23 Fax No. 310-547-1725

24
25 Alameda Corridor Transportation Authority
26 One Civic Plaza, Suite 350
27 Carson, California 90745
28 Attn: Manager of Corridor Rail Facilities
29 Fax No. 310-816-0464

30
31 Paragon Partners Ltd.
32 5762 Bolsa Avenue, Suite 201
33 Huntington Beach, California 92649
34 Attn: Ports Property Manager
35 Fax no. 714-373-1234

36 Or such other Property Management firm as may be designated by the Cities
37 from time to time.

38 These protocols are approved on this date, February 21, 2009.

EXHIBIT B (Attachment 1)

LOS ANGELES
CALIFORNIA

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

LONG BEACH
CALIFORNIA

Alameda Corridor Track Contact List – December 2009

1. Alameda Corridor Transportation Authority:

- Director of Planning : Art Goodwin (310/847-4303) agoodwin@acta.org
- Manager of Technical Services: Lu Hersh (310/816-0460 x190) hersh@trenchteam.com
- Manager of Corridor Rail Facilities: Dan Davis (213/507-4867) davis@trenchteam.com
- Railroad Crossing/Signals: Mike Mejia (310/863-0860) mmejia@bbri.com

2. Badger Bridge

- For Alameda Corridor Emergency, also call: 310/830-0660

3. Balfour Beatty

- For Alameda Corridor Emergency, also call: 562/285-0366

4. Port of Long Beach

- Real Estate: Mari Takahashi (562/590-4162) takahashi@polb.com
- Engineering: Carlo Luzzi (562/590-4410) luzzi@polb.com

5. Port of Los Angeles

- Real Estate: Regner Globus (310/732-3291) rglobus@portla.org
- Real Estate: George Koury (310/732-3865) gkoury@portla.org
- Real Estate: Frank Sanchez (310/732-3471) ffsanchez@portla.org
- Engineering: Ron Groves (310/732-3648) rgroves@portla.org

6. Paragon Partners

- Jim Lemont (714/379-3376) jiml@paragon-partners.com
- Marcus Garvey (714/379-3376) mgarvey@paragon-partners.com

This Contact List shall change from time to time. Permittee shall be at all times responsible for contacting Paragon Partners for the most current list.

EXHIBIT B (Attachment 2)

LOS ANGELES
CALIFORNIA

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

LONG BEACH
CALIFORNIA

Alameda Corridor Railroad Work Plan – Date: _____

**REQUIREMENTS WHEN WORKING WITHIN, ADJACENT TO, ABOVE, OR
BENEATH RAILROAD RIGHT-OF-WAY**

START DATE: _____

DURATION (Start & End Date): Start on _____ and Ending on _____

TRACK LOCATION: track number _____ track located
_____ (See attached plan.)

START & STOP TIMES: Begin each day at _____ and end at _____

DESCRIPTION OF WORK: The work includes

_____ (See attached plan.)

WORK CREW: The work will be performed by _____. The equipment used
will be _____.

SAFETY PROTECTION:
The work plan is submitted ten (10) days in advance of any work within twenty five (25) feet of
track centerline. ACTA will confirm if a Flagperson or watchman is required.

If a Flagperson is required or if equipment is within twelve (12) feet from the nearest track
measured perpendicular to the centerline, then flagging to be provided by ACTA. When a
Flagperson is required, a new work plan request will be submitted to ACTA a minimum of
fourteen (14) working days prior to any work being performed. If a full track closure/outage is
necessary, a minimum notice of twenty one (21) working days will be provided to the ACTA for
each track closure. The Railroad track closure will be at the full discretion of the ACTA and the
railroads who operate on ACTA tracks. The ACTA primary contact is the Manager of Corridor
Rail Facilities (213-507-4867). The ACTA secondary contact is the Manager of Technical
Services (310-816-0460 x190).

Note: The Contractor shall submit the Railroad Work Plan to the Paragon Partners' Ports
Property Manager (714-379-3376). All related permits shall be obtained prior to submitting the
work plan.

EXHIBIT C

AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such contract:

- A. During the performance of City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the

EXHIBIT C

purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

- E. The failure of any contractor to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.
- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be

EXHIBIT C

used by an awarding authority of the City to accomplish this contract compliance program.

- J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. The Contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 2. A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding

EXHIBIT C

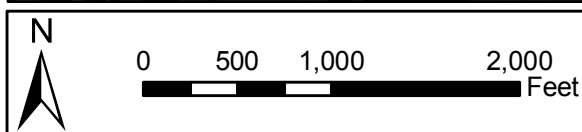
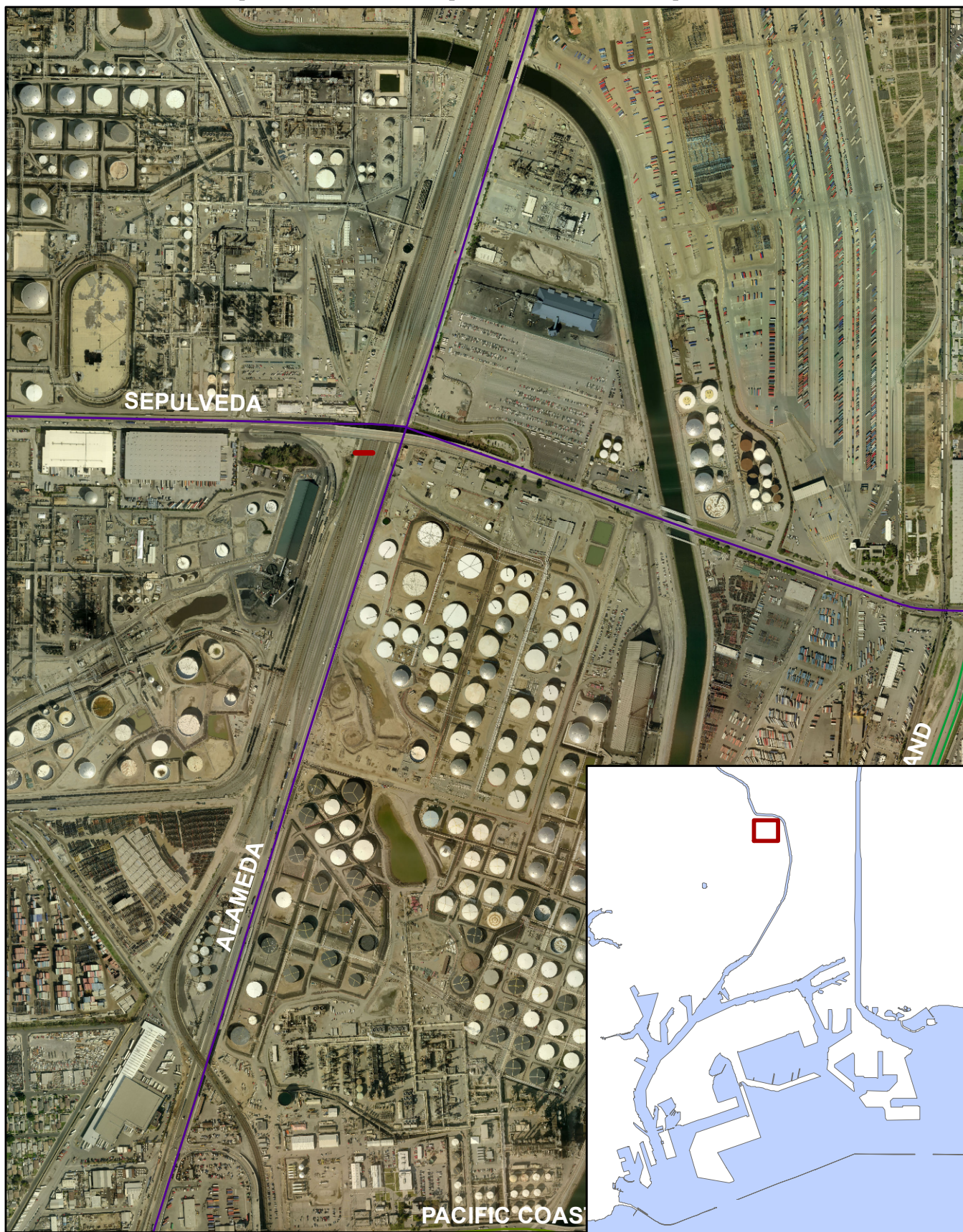
authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.

EXHIBIT C

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

Equilon Enterprise LLC Pipeline



Harbor Department
Planning & Economic Development
Map Produced 04/2012

