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**MASTER JOINT REVOCABLE PERMIT NO. 09-18**

The City of Los Angeles, a municipal corporation duly organized and existing under its charter and the constitution and laws of the State of California, and the City of Long Beach, a municipal corporation duly organized and existing under its charter and the constitution and laws of the State of California (individually, a "City" and together, the "Cities"), by and through their respective Boards of Harbor Commissioners, jointly own certain real property located in the County of Los Angeles. Pursuant to a recommendation adopted by the Board of Harbor Commissioners of the City of Los Angeles under Resolution No. \_\_\_\_\_ at its \_\_\_\_\_, 20\_\_ meeting, and Resolution No. HD- 2656 adopted by the Board of Harbor Commissioners of the City of Long Beach at its March 12, 2012 meeting, the Cities hereby issue this Master Joint Revocable Permit (the "Permit") and grant permission to Plains West Coast Terminals LLC, a Delaware limited liability company ("Permittee") to operate and maintain various underground structures such as pipes, pipelines, cables, conduits, casings, and similar structures ("Subsurface Facilities") and facilities such as cathodic protection systems, manholes, communication lines, valves, and meters, that are attached to the Subsurface Facilities ("Appurtenant Facilities"), more particularly described on the Schedule of Permit Areas attached hereto and made a part hereof as Exhibit A or subsequent Exhibit A(x), within the various permitted areas as defined under Paragraph 1 below (collectively, the "Permit Areas"). This Permit shall be effective upon last execution by the Executive Directors of the respective Harbor Departments of the Cities (the "Executive Directors"). Such date shall be known as the "Effective Date" for purposes of this Permit.

This Permit shall be subject to the following terms, conditions, and limitations:

1. PERMIT AREAS. The Cities hereby grant Permittee the right to use various properties listed in Exhibit A or subsequent Exhibit A(x) and more particularly shown in Exhibit B1 through B(x), attached hereto and made a part hereof.

1.1 Permittee shall have the right to add and delete certain Permit Areas to this Permit by requesting and acquiring approvals of such addition or deletion from both Executive Directors. The Executive Directors shall have the right to execute Permit Supplements to this Permit for additions and deletions of Permit Areas using rents based on rental rates described in Exhibit C. Upon execution of any future Permit Supplement in substantially the form as shown in Exhibit F, attached hereto and incorporated herein ("Permit Supplement Template), an Exhibit A(x) and Exhibit B(x) shall also be prepared and attached to the Permit. At the time of their preparation, such Exhibit A(x) and B(x) shall reflect the current facilities subject to this Permit.

2. PERMITTED USE. The Permit Areas shall be used to operate and maintain, on a non-exclusive basis, the Subsurface Facilities and Appurtenant Facilities as specifically described in Exhibit A or subsequent Exhibit A(x), over, under and/or across the Permit Areas and for no other purpose without the prior written consent of the Executive Directors, which may be withheld in their sole and absolute discretion. Permittee has inspected the Permit Areas and agrees that it is suitable for the uses permitted herein. No officer or employee of either City has made any representation or warranty with respect to the Permit Areas, except as described in writing and attached hereto as an

1 addendum, and in entering into this Permit, Permittee agrees it relies only on the provisions of this  
2 Permit.

3  
4 3. PERMIT FEE.

5  
6 3.1 Amount and Time of Payment. Permittee shall pay to the Cities, as a permit  
7 fee, for the use of the Permit Areas, without deduction, set off, demand or prior notice, the annual  
8 sum of Two Thousand Dollars (\$2,000.00) (the total of each and all rents for the Permit Areas as  
9 indicated in Exhibit A or subsequent Exhibit A(x)) or as subsequently adjusted pursuant to this  
10 Paragraph and Paragraph 3.2 (the "Permit Fee"). The Permit Fee shall be increased or decreased  
11 according to modifications caused by additions or deletions of the Permit Areas for this Permit, and  
12 as shown in any subsequent Permit Supplement updates. Such increase or decrease in the Permit  
13 Fee shall be effective upon the final execution date of any Permit Supplement by both Executive  
14 Directors. The Permit Fee shall be paid in advance on or before the Effective Date and thereafter on  
15 each anniversary of that date. The Permit Fee shall be made payable to Paragon Partners Ltd. FBO  
16 Port of LA/ Port of LB and delivered to the Cities' designated property manager, which shall be  
17 Paragon Partners Ltd., 5762 Bolsa Avenue, Suite 201, Huntington Beach, California 92649, or as  
18 otherwise instructed by written notice of the Executive Directors.

19  
20 3.2 Adjustment. The Cities may, in their sole and absolute discretion, increase  
21 the Permit Fee upon sixty (60) days' notice to Permittee. Additionally, the Permit Fee shall be  
22 adjusted each year on the anniversary of the Effective Date during the term (the "Adjustment Date").  
23 The phrase "Permit Year" shall mean each twelve (12) consecutive calendar month period  
24 commencing on the Effective Date. The Permit Fee shall be adjusted by comparing the Consumer  
25 Price Index for All Urban Consumers (base year 1982-84=100) for Los Angeles-Riverside-Orange  
26 County, published by the United States Department of Labor, Bureau of Labor Statistics (the  
27 "Index"), for the month of the Adjustment Date (the "Current Index"), with the Index published 12  
28 months before the Adjustment Date (the "Beginning Index"). If the Current Index has increased  
29 over the Beginning Index, the Permit Fee for the then-current Permit Year shall be set by  
30 multiplying the current Permit Fee by a fraction, the numerator of which is the Current Index and the  
31 denominator of which is the Beginning Index. In no event shall the Permit Fee be less than the  
32 Permit Fee applicable during the immediately preceding Permit Year. If the Index is discontinued or  
33 revised during the period in which this Permit is in effect, another government index or computation  
34 shall be selected by the Cities and used in order to obtain substantially the same result as if the Index  
35 had not been discontinued. On adjustment of the Permit Fee as provided herein, the parties shall  
36 immediately execute a writing setting forth the adjusted Permit Fee and when such writing is  
37 executed by both Executive Directors, it shall constitute a legally binding agreement of the parties  
38 without further municipal, corporate or other action.

39  
40 3.3 Late Charge; Default Interest. Permittee acknowledges that if any payment  
41 required under this Permit is not paid within ten (10) days after the same becomes due and payable,  
42 the Cities will incur extra administrative expenses, in addition to expenses incident to receipt of  
43 timely payment, and the loss of the use of funds in connection with the delinquency in payment.  
44 Because, from the nature of the circumstances, the actual damages suffered by the Cities by reason  
45 of such extra administrative expenses and loss of use of funds would be impracticable or extremely  
46 difficult to ascertain, Permittee agrees that five percent (5%) of the amount of the delinquent

1 payment or \$100.00 (whichever is greater), and the imposition of the default interest rate provided  
2 for below, shall be the amount of damages to which the Cities are entitled, upon such breach, in  
3 compensation therefor. Permittee shall, therefore, in such event, without further notice, pay to the  
4 Cities liquidated damages in the amount of five percent (5%) of the amount of such delinquent  
5 payment or \$100.00 (whichever is greater) and interest as provided below. The provisions of this  
6 Paragraph are intended to govern only the determination of damages in the event of a breach in the  
7 performance of the obligation of Permittee to make timely payments hereunder. Nothing in this  
8 Permit shall be construed as an express or implied agreement by the Cities to forbear in the  
9 collection of any delinquent payment, or be construed as in any way giving Permittee the right,  
10 express or implied, to fail to make timely payments hereunder, whether upon payment of such  
11 damages or otherwise. The right of the Cities to receive payment of such liquidated and actual  
12 damages, and receipt thereof, are without prejudice to the right of the Cities to collect such  
13 delinquent payments and any other amounts provided to be paid hereunder or to declare a default  
14 hereunder. Further any amounts owing under this Permit and not paid when due shall bear interest a  
15 rate equal to ten percent (10%) per annum, payable monthly on the first day of each and every  
16 month.

17  
18 3.4 Books and Records. All books, accounts and other records showing the  
19 affairs of Permittee with respect to its business transacted at, upon or over the Permit Areas  
20 (collectively, "Permit Records") shall be maintained in Los Angeles County, and shall be subject to  
21 copying, examination, audit and transcription by either City, from time to time. In the event it  
22 becomes necessary to make such copying, examination, audit or transcription at any place other than  
23 within fifty (50) miles of the Permit Areas, then all costs and expenses necessary or incident to such  
24 copying, examination, audit or transcription, shall be paid by Permittee. The Permit Records shall  
25 be retained during the term of this Permit so that the Permit Records for the four (4) most recent  
26 years are available. After this Permit terminates, Permittee shall maintain the Permit Records for the  
27 four (4) most recent years for at least two (2) years. Upon request in writing by either City,  
28 Permittee shall, within fifteen (15) days of the request, furnish a statement of the exact location of all  
29 Permit Records and the name and telephone number of the custodian of the Permit Records. Permit  
30 Records will include, but not be limited to, general ledgers, charts of accounts, subledgers including  
31 cash receipts journals, cash disbursement journals and all original receipts and documents which  
32 support the information provided to the Cities.

33  
34 3.5 Security Deposit. Permittee shall provide a cash deposit, certificate of  
35 deposit, surety bond, irrevocable letter of credit or other form of security (the "Security Deposit") in  
36 the name of the Cities and acceptable to the Executive Directors and City Attorneys of the Cities in  
37 the amount of One Thousand Dollars (\$1,000.00), as security for Permittee's faithful performance  
38 of its obligations under this Permit, including but not limited to the restoration of the Permit Areas  
39 and the removal of the Subsurface Facilities and Appurtenant Facilities (as defined in Paragraph 5.1)  
40 by Permittee as required by this Permit upon any termination, revocation or forfeiture of this Permit.  
41 The Security Deposit shall be in a form acceptable to and subject to the approval of the Cities. The  
42 Cities shall pay no interest on the Security Deposit. If the financial condition of Permittee  
43 substantially changes such that Permittee may not be able to meet its restoration obligations, either  
44 Executive Director may require an increase of the Security Deposit.

45  
46 4. REVOCABILITY; TERMINATION.

1           4.1     Revocability without Cause. This Permit is revocable by any party upon  
2 sixty (60) days' written notice to the other parties without cause. Upon termination of this Permit,  
3 Permittee shall vacate, and surrender possession of, the Permit Areas (subject to Permittee's  
4 obligations under Paragraphs 5 and 7 below). If this Permit is revoked by the Cities pursuant to this  
5 Paragraph 4.1, Permittee shall be entitled to a prorated refund of the Permit Fee for the year in which  
6 such revocation occurs. If this Permit is revoked by Permittee pursuant to this Paragraph 4.1,  
7 Permittee shall not be entitled to receive back any portion of the Permit Fee already paid by it.

8  
9           4.2     Termination. The Executive Director of either City may terminate this  
10 Permit in the event: (i) Permittee fails to perform any term or condition of this Permit within ten (10)  
11 days after notice from the Cities or either of them; (ii) Permittee makes a general assignment or  
12 general arrangement for the benefit of creditors; (iii) a petition for adjudication of bankruptcy or for  
13 reorganization or rearrangement is filed by or against Permittee and is not dismissed within thirty  
14 (30) days; (iv) a trustee or receiver is appointed to take possession of substantially all of Permittee's  
15 assets located at the Permit Areas or of Permittee's interest in this Permit and possession is not  
16 restored to Permittee within thirty (30) days; or (v) substantially all of Permittee's assets or if  
17 Permittee's interest in this Permit Areas is subjected to attachment, execution or other judicial  
18 seizure which is not discharged within thirty (30) days. If any court having jurisdiction in the matter  
19 renders a final decision which prevents the performance by the Cities of any of their obligations  
20 under this Permit, then any party hereto may terminate this Permit by notice to the other party.  
21 Additionally, a seizure of the Permit Areas by the Internal Revenue Service shall automatically  
22 terminate this Permit. Upon termination of this Permit: (i) Permittee shall immediately vacate, and  
23 surrender possession of, the Permit Areas and (ii) all rights and obligations hereunder (with the  
24 exception of Permittee's obligations under Paragraphs 5, 7 and 14) shall thereupon terminate.

25  
26           4.3     Application. This Permit is granted pursuant to an application or applications  
27 filed by Permittee with the Cities. If any application or any of the attachments thereto contain any  
28 misstatement of fact, which in the judgment of either Executive Director, affected the decision to  
29 grant this Permit, that Executive Director may terminate this Permit. Termination pursuant to this  
30 Paragraph shall not be termination by forfeiture.

31  
32           4.4     No Relocation Assistance. Permittee understands and agrees that nothing  
33 contained in this Permit shall create any right in Permittee for relocation assistance or payment from  
34 the Cities upon the termination of this Permit. Permittee acknowledges and agrees that it shall not  
35 be entitled to, and waives any right to, any relocation assistance or payment pursuant to the  
36 provisions of Title 1, Division 7, Chapter 16, of the Government Code of the State of California  
37 (Sections 7260 *et seq.*) or any other applicable law with respect to any relocation of its business or  
38 activities upon the termination or revocation of this Permit for any reason whatsoever.

39  
40           5.     SUBSURFACE FACILITIES AND APPURTENANT FACILITIES;  
41                 ALTERATIONS.

42  
43           5.1     General. Permittee, at its cost, may install or construct improvements and  
44 structures (collectively, "Subsurface Facilities and Appurtenant Facilities") on the Permit Areas and  
45 alter and, repair, relocate, reconstruct or remove Subsurface Facilities and Appurtenant Facilities;  
46 provided, however, Permittee shall first obtain the written consent of both Executive Directors,

1 which may be withheld in their sole and absolute discretion, and any necessary permits prior to the  
2 commencement of any work of improvement, relocation, alteration, removal or repair. Permittee  
3 shall retain title to all such Subsurface Facilities and Appurtenant Facilities.  
4

5           5.2     Plans. The Subsurface Facilities and Appurtenant Facilities shall be installed  
6 only in accordance with approved plans and specifications previously submitted to the Cities with  
7 the application for this Permit. Permittee shall proceed diligently and in a workmanlike manner in  
8 the installation, repair, relocation, reconstruction or removal of the Subsurface Facilities and  
9 Appurtenant Facilities. Any and all work shall be done by Permittee in accordance with all  
10 applicable Laws (as defined in Paragraph 9 below).  
11

12           5.3     Damage; Repair. If the Subsurface Facilities and Appurtenant Facilities  
13 become damaged or malfunction, Permittee, at its cost, shall immediately make such repairs as will  
14 insure the future safe and proper operation of the Subsurface Facilities and Appurtenant Facilities.  
15 Permittee shall perform such cleanup and repairs as shall be required by the Cities.  
16

17           5.4     As-Built Drawings.  
18

19           5.4.1 Within thirty (30) days after the completion of the installation of the  
20 Subsurface Facilities and Appurtenant Facilities, Permittee shall furnish to Cities four (4)  
21 sets of survey notes and "as-built" drawings, signed by a California licensed land surveyor,  
22 who shall certify to the correctness of the horizontal and vertical alignment of the Subsurface  
23 Facilities and Appurtenant Facilities.  
24

25           5.4.2 All of the "as-built" drawings furnished pursuant to Paragraph 5.4.1  
26 shall be drawn to a scale in which the number of feet per inch shall not exceed two hundred  
27 (200). The drawings shall show the accurate alignment of the Subsurface Facilities and  
28 Appurtenant Facilities by centerline traverses. The elevations of the tops of the Subsurface  
29 Facilities and Appurtenant Facilities shall be shown on the drawings. All survey work, both  
30 horizontal and vertical, shall be to the latest third order of accuracy as established by the  
31 National Geodetic Survey.  
32

33           5.4.3 In the event Permittee is granted permission to install, relocate or  
34 remove pipelines, tanks or pressure vessels, Permittee shall furnish to the Cities, in addition  
35 to the "as-built" drawings thereof required by this Paragraph, four (4) sets of revised  
36 composite drawings drawn to a scale in which the number of feet per inch does not exceed  
37 two hundred (200). The revised composite drawings shall be submitted on or before March  
38 1 of each calendar year this Permit remains in force and effect and shall show all pipelines  
39 owned or operated by Permittee and the total lineal footage thereof in existence as of  
40 December 31 of the calendar year just ended.  
41

42           5.4.4 Where applicable, as-built drawings shall be available at the Permit  
43 Areas at all times and copies thereof shall be provided to the Cities upon thirty (30) days'  
44 written notice.  
45

1                   5.5     Removal Upon Termination; Restoration. No later than the date upon which  
2 this Permit terminates (the "Termination Date"), Permittee, at its cost, shall remove the Subsurface  
3 Facilities and Appurtenant Facilities, and any personal property placed by it on the Permit Areas and  
4 restore the Permit Areas to a condition acceptable to both Cities. Permittee shall repair, at  
5 Permittee's expense, any damage to the Permit Areas caused by the removal of any Subsurface  
6 Facilities and Appurtenant Facilities or personal property. Permittee understands and agrees it is  
7 responsible for complete restoration of the Permit Areas, including the clean up of any Hazardous  
8 Substances (as defined in Paragraph 7.1 below) required pursuant to Paragraph 7 below on or before  
9 the Termination Date. If, for any reason, removal of Subsurface Facilities and Appurtenant  
10 Facilities and personal property from the Permit Areas or restoration of the Permit Areas is not  
11 completed by the Termination Date, then Permittee is obligated to pay the Cities, as compensation  
12 during such restoration, a permit fee in an amount equal to the then fair market rental value of the  
13 Permit Areas as reasonably determined by the Cities; however, the new permit fee shall not be less  
14 than provided in Paragraph 3. Additionally, if the Subsurface Facilities and Appurtenant Facilities  
15 and any personal property of Permittee have not been removed and the Permit Areas not restored to  
16 an acceptable condition by the Termination Date, the Cities shall have the right, but not the  
17 obligation, to remove any such property and to restore the Permit Areas at Permittee's expense.  
18 Permittee shall pay to the Cities, upon demand, all costs incurred by the Cities in removing such  
19 property and restoring the Permit Areas, together with interest from the date the Cities incur any cost  
20 or expense, at the maximum rate allowed by law on any such sum. The restoration requirements of  
21 Paragraph 5.5 shall apply to Permittee whether improvements were installed by Permittee or any  
22 prior users of the premises.  
23

24                   5.6     Restoration Plan. Upon request of either Executive Director, Permittee shall,  
25 at its expense, provide to the Cities a site characterization study and site restoration plan in a form  
26 acceptable to the Cities. The study and plan shall be used in part by the Cities to determine if  
27 Permittee has breached its obligations pursuant to Paragraph 7 below.  
28

29                   5.7     Waiver. The Cities, at their election, may waive the requirement that  
30 Permittee remove all or a portion of the Subsurface Facilities and Appurtenant Facilities or personal  
31 property from the Permit Areas and that Permittee restore the Permit Areas. However, unless such  
32 waiver is in writing executed by both Cities stating such waiver is "permanent and final," Cities  
33 reserve the right to require Permittee at any time in the future to remove all or a portion of the  
34 Subsurface Facilities and Appurtenant Facilities or personal property from the Permit Areas or to  
35 restore the Permit Areas despite such waiver.  
36

37                   5.8     Removal; Relocation. Whenever and as often as the Executive Directors  
38 deem convenient or necessary, Permittee, at its cost, shall remove, relocate or alter the Subsurface  
39 Facilities and Appurtenant Facilities constructed on the Permit Areas and restore the Permit Areas.  
40 Permittee shall commence such removal, alteration or change of location within sixty (60) days after  
41 notice from the Executive Directors, and shall proceed to complete such work with due diligence.  
42

43                   5.9     Failure to Commence Work. In case Permittee fails to commence work in  
44 compliance with the notice given pursuant to Paragraph 5.7 within sixty (60) days after such notice  
45 (unless Permittee is unable to comply with such instructions due to strikes, riots, acts of God or acts  
46 of public enemies), the Executive Directors may, but shall not be required to, cause the work  
47 required in such notice to be done; and Permittee agrees to pay the Cities' cost thereof within thirty  
48 (30) days after delivery of an itemized bill.

1           5.10 Rules Governing Pipelines. After installation, and in any event for the  
2 duration of this agreement, Permittee shall comply with pipeline testing and inspection requirements  
3 of the Pipeline Code, the Pipeline Safety Act, the California Public Utilities Code, California Public  
4 Utilities Commission regulations for pipelines, any other state and/or federal agency not mentioned  
5 above, and as required by the California State Fire Marshal (CSFM) under the Pipeline Safety Act.  
6 The Cities reserve the right to request tests for facilities not under the direct authority of the CSFM,  
7 the California Public Utilities Commission, the Federal Office of Pipeline Safety (FOPS), and the  
8 State of California Bureau of Conservation/Division of Oil, Gas, and Geothermal Resources  
9 (DOGGR).

10  
11           5.11 Location of Subsurface Pipelines and Structures. Upon at least two (2) days'  
12 notice from the Cities, Permittee shall commence exploration for any subsurface structures under  
13 Permittee's control or servicing Permittee's operation within the Permit Areas. Exploration and  
14 preparation of all documentation recording the location of substructures shall be completed within  
15 the time specified in the notice. The subsurface exploration shall verify the vertical and horizontal  
16 location of all substructures. Documentation reflecting the results of the exploration shall be  
17 provided to the Executive Directors. If Permittee fails or refuses within the time specified in the  
18 notice to begin or fails to prosecute diligently to complete the work of locating any substructure  
19 under Permittee's control or servicing Permittee's operation within the Permit Areas, the Cities shall  
20 have the right to enter onto the Permit Areas and perform the work designated in the notice. All  
21 subsurface exploration required by the provisions contained herein, whether performed by Permittee  
22 or the Cities, shall be performed at Permittee's expense. In addition, Permittee agrees to bear the  
23 cost of any and all damage of whatever nature caused by any act, omission or negligence of the  
24 Cities and any and all of their boards, officers, agents, consultants, and employees in the  
25 performance of the subsurface exploration as required by this provision. Notwithstanding any work  
26 performed by the Cities or the Cities' contractors under this provision, Permittee shall remain  
27 obligated to maintain the Permit Areas in a safe condition, both during and after completion of the  
28 work.

29  
30           5.12 Pipeline Tests or Inspections. Within thirty (30) days from the commencement  
31 date of the permit, Permittee shall provide the Executive Directors with a master schedule showing  
32 dates for pipeline testing and inspection(s) in accordance with the requirements referenced in  
33 Paragraph 5.10 above. The master schedule shall include an itemized list with corresponding line  
34 item reference numbers for each pipeline covered under the subject permit, corresponding required  
35 test(s) or inspection(s), date(s) of test(s) or inspection(s), method(s) of test(s) or inspection(s),  
36 applicable agency, the frequency of required test(s) or inspection(s), and the California State Fire  
37 Marshal Line No. and the California State Fire Marshal Test ID No., if applicable. If Permittee's  
38 existing pipelines are modified, or new pipelines are added to Permittee's premises, Permittee shall  
39 provide Ports with written notice, including an updated master schedule with any addition or  
40 subtraction of pipelines. This should cover testing or inspection requirements of all agencies  
41 mentioned in Paragraph 5.10 of the permit, as well as any other additional required test(s) or  
42 inspection(s).

43  
44 If Permittee's pipeline test(s) or inspection(s) are approved by the applicable agency requiring or  
45 overseeing the test(s) or inspections(s), Permittee shall confirm in writing approval of the test(s) or  
46 inspections(s) and/or submit documentation including master schedule reference number for

1 pipeline(s) being reported on, date(s) of test(s) or inspection(s), method(s) of test(s) or inspection(s)  
2 and general non-technical summary of results  
3

4 Permittee shall submit a summary of its certified test or inspection approval results to the Executive  
5 Directors within thirty (30) days after they have been approved by the agencies which required the  
6 pipeline testing or inspection(s), and the records of such test(s) shall be retained by Permittee for as  
7 long as is required by applicable law, but in any event not less than three (3) years. Records of all  
8 tests will be made available for inspection by the Executive Directors or their designees at their  
9 request.  
10

11 If Permittee's pipeline test(s) or inspection(s) are disapproved, and/or there are irregularities with  
12 Permittee's pipeline test(s) or inspection(s), indicating a leak or other operational deficiency,  
13 Permittee shall notify the Executive Directors within three (3) days of disapproval and/or receipt of  
14 test(s) or inspection(s) results with a non-technical summary of the results including the  
15 circumstances that resulted in the disapproval or test(s)/inspection(s) irregularities as well as all test  
16 documentation produced and a description and schedule for implementation of corrective action as  
17 directed by the applicable agency requiring or overseeing the test(s) or inspection(s).  
18

19 6. MAINTENANCE. The Cities have no duty to make any improvement or repair to  
20 the Permit Areas or any improvements thereon. Permittee's sole and exclusive remedy by reason of  
21 any condition of the Permit Areas (whether such condition now or hereafter exists) shall be to  
22 terminate this Permit and vacate the Permit Areas. Any and all uses of the Permit Areas by  
23 Permittee, its agents, contractors and their employees shall be at their sole risk, cost and expense.  
24 Permittee, at its cost, shall keep and maintain the Permit Areas and all Subsurface Facilities and  
25 Appurtenant Facilities thereon during its use and occupancy thereof, in good order, condition and  
26 repair, free and clear of all rubbish, debris and litter.  
27

28 7. HAZARDOUS SUBSTANCES.  
29

30 7.1 Hazardous Substances. As used in this Permit, the term "Hazardous  
31 Substance" means any product, substance, chemical, material or waste, the presence, nature, quantity  
32 and/or intensity of which, either by itself or in combination with other materials on the Permit Areas,  
33 is either: (i) potentially injurious to the public health, safety or welfare, the environment or the  
34 Permit Areas; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential  
35 liability of the Cities to any governmental agency or third party under any applicable statute or  
36 common law theory. Hazardous Substances shall include, but not be limited to, any substance or  
37 material deemed hazardous or toxic pursuant to any federal or state statute or regulation, including  
38 but not limited to hydrocarbons, petroleum, gasoline, crude oil or any products or by-products  
39 thereof. Permittee shall not direct, suffer or permit any of its agents, contractors, employees,  
40 licensees or invitees at any time to handle, use, manufacture, store, release or dispose of any  
41 Hazardous Substances in or about the Permit Areas.  
42

43 7.2 Notification; Removal. During its use and occupancy of the Permit Areas,  
44 Permittee shall notify the Executive Directors within two (2) days following the release of any  
45 Hazardous Substances onto or from the Permit Areas. Upon the release, discharge or spill of any  
46 Hazardous Substances arising from or caused by Permittee, its employees, agents, invitees or

1 affiliated predecessors in interest, Permittee, at its cost, shall promptly remove and/or remediate and  
2 dispose of all such Hazardous Substances in accordance with the provisions of Paragraph 6.3 below,  
3 and restore the Permit Areas to the condition it was in prior to the release of the Hazardous  
4 Substances. Permittee also agrees to provide to the Cities a surety bond to assure removal of such  
5 Hazardous Substances from the Permit Areas if at any time the Cities demand such bond.  
6

7           7.3 Excavation. If Permittee discovers or believes that any material being  
8 excavated from the Permit Areas contains any Hazardous Substances, Permittee, at its cost, shall: (i)  
9 promptly notify both Executive Directors of Permittee's discovery or belief; (ii) at the request of  
10 either Executive Director, initiate chemical and/or physical analyses of the suspected Hazardous  
11 Substances; (iii) promptly submit all laboratory or other test results upon receipt thereof to both  
12 Executive Directors; (iv) develop and submit, for approval by both Executive Directors, a  
13 remediation plan providing for the disposal and/or treatment of the hazardous materials; (v) treat and  
14 dispose of or remove the Hazardous Substances in accordance with all applicable Laws; (vi) if  
15 Hazardous Substances are removed, replace the same with clean structurally suitable fill material  
16 and cause the excavation to be backfilled and compacted; and (vii) promptly submit copies of all  
17 waste manifests to both Executive Directors. Waste manifests shall identify Permittee and its  
18 contractors, not the Cities, as the generator of any Hazardous Substances removed pursuant to this  
19 provision.  
20

21           8. UTILITIES. Permittee shall pay all charges for services or utilities furnished to the  
22 Permit Areas or used in connection with its occupancy, and shall pay all deposits, connection fees,  
23 charges and meter rentals required by the supplier of any such service, including the Cities.  
24

25           9. LEGAL COMPLIANCE. Permittee shall comply with all applicable laws,  
26 regulations, ordinances, rules, regulations, policies, guidelines, specifications, procedures and orders  
27 of any government entities ("Laws") in connection with its use and occupancy of the Permit Areas  
28 and obtain all necessary licenses, consents and permits from all federal, state and local governmental  
29 authorities having jurisdiction over the Permit Areas and Permittee's activities thereon.  
30

31           10. NO ASSIGNMENT. Permittee shall not assign, sublet or transfer this Permit or any  
32 interest herein (whether by operation of law or otherwise) without the prior written consent of the  
33 Cities. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting  
34 control of Permittee shall constitute an assignment for this purpose. Any attempted transfer or  
35 assignment without the prior written consent of the Cities shall be void and confer no rights  
36 whatsoever upon a transferee or assignee. In addition, Cities shall have the right to terminate this  
37 Permit if any assignment or transfer, whether voluntary, by operation of law, or otherwise is made or  
38 attempted without the prior written consent of the Cities. Each request for consent to an assignment  
39 shall be in writing, accompanied by information relevant to the Cities' determination as to the  
40 financial and operational responsibility and appropriateness of the proposed assignee, including but  
41 not limited to the intended use and/or required modification of the Permit Areas, if any, together  
42 with a nonrefundable processing fee of \$3,000 or ten percent (10%) of the current annual Permit Fee  
43 applicable to the Permit Areas which are the subject of the proposed assignment, whichever is  
44 greater, as consideration for the Cities' considering and processing the request. Permittee agrees to  
45 provide to the Cities such other or additional information and/or documentation pertaining to the  
46 requested consent as may be reasonably requested by the Cities.

1           11.    ACCESS. The Cities’ representatives shall have access to and across the Permit  
2 Areas during normal business hours and, in the event of an emergency, at any time for inspection,  
3 repair of publicly owned utilities and structures and for fire and police department purposes.  
4

5           12.    RIGHTS-OF-WAY. The Permit Areas are subject to all existing and future rights of  
6 way and entry thereon for the installation, relocation, removal, operation and maintenance of rail  
7 lines, sewers, pipelines, conduits, and telephone, telegraph, light, heat and power lines (whether  
8 underground or overhead).  
9

10           13.    RAILROAD APPROVAL AND NOTICE, EMERGENCY NOTIFICATION.  
11

12           13.1    In non-emergency situations, Permittee shall obtain the written approval from  
13 the rail carriers that operate on the rail line traversing the Permit Areas (“Railroads”) prior to the  
14 commencement of any work within the Permit Areas in connection with the construction, repair,  
15 renewal, modification, reconstruction, relocation or removal of the Subsurface Facilities and  
16 Appurtenant Facilities, excepting only periodic inspection of the Subsurface Facilities and  
17 Appurtenant Facilities. Permittee shall comply with all permits, notifications, protective and safety  
18 requirements imposed by the Railroads, and Permittee shall pay all associated costs. In addition, the  
19 Cities have included in this agreement, certain Safety Protocols, hereto attached as Exhibits D-1, D-  
20 2 and D-3. Permittee agrees to perform all safety precautions, approvals and notices associated with  
21 activities in the vicinity of the rail lines as set forth in Exhibits D-1, D-2 and D-3.  
22

23           13.2    If an emergency should arise requiring immediate attention for Permit Areas  
24 in the Alameda Corridor, Permittee shall call the maintenance contractor for the Alameda Corridor,  
25 presently Balfour Beatty at (562) 285-0366; the ACTA Construction and Maintenance Manager at  
26 (310) 650-1651; the Alameda Corridor Transportation Authority (“ACTA”) at (310) 233-7480; and  
27 Pacific Harbor Line’s (“PHL”) Badger Bridge at (310) 830-0660.  
28

29           13.3    If an emergency should arise requiring immediate attention for Permit Areas  
30 in the Pacific Harbor Line, Inc. right-of-way, Permittee shall call PHL’s Badger Bridge at (310) 830-  
31 0660, the ACTA Construction and Maintenance Manager at (310) 650-1651, ACTA at (310) 233-  
32 7480 and Balfour Beatty at (562) 285-0366.  
33

34           13.4    If an emergency should arise requiring immediate attention for Permit Areas  
35 in the Union Pacific Railroad Company right-of-way (Former San Pedro Branch), Permittee shall  
36 call the Union Pacific Police at (888) 877-7267.  
37

38           14.    INDEMNIFICATION. Permittee shall, indemnify, defend (using counsel selected by  
39 the Cities) and hold harmless: (a) the Cities; (b) ACTA; (c) Railroads; and (d) each of their  
40 respective council members, mayors, trustees, boards, officers, employees, agents, contractors,  
41 property managers, representatives and designees (collectively, “Indemnified Parties”) from and  
42 against any and all actions, suits, proceedings, claims, demands, damages, loss, liens, costs  
43 (including court costs and attorneys’ fees including the allocated cost of in-house counsel), expenses  
44 or liabilities, of any kind or nature whatsoever, for injury to or death of persons or damage to  
45 property, including property owned by or under the care and custody of the Cities, which may be  
46 brought, made, filed against, imposed upon or sustained by the Indemnified Parties, or any of them,  
47 and arising from or attributable to or caused by any acts or omissions of Permittee or any of the

1 Indemnified Parties relating to or arising out of the Permit Areas, or by reason of any actual or  
2 asserted failure of Permittee to keep, observe or perform any provision of this Permit, except to the  
3 extent that such injury, death or damage is caused by the active negligence or willful misconduct of  
4 the Indemnified Parties or any of them. The indemnity required herein shall survive the termination  
5 or expiration of this Permit.  
6

7 15. INSURANCE.  
8

9 15.1 Specific Coverages Required. Permittee, at its cost and as a condition  
10 precedent to the effectiveness of this Permit, shall procure and maintain in full force and effect while  
11 this Permit shall remain in effect the following policies of insurance:  
12

13 15.1.1 Commercial General Liability Insurance which affords coverage at  
14 least as broad as Insurance Service Office "occurrence" form CG 0001 with minimum limits  
15 of at least \$5,000,000.00 per occurrence, and if written with an aggregate, the aggregate shall  
16 be double the per occurrence limit. The policy shall contain no provisions or endorsements  
17 limiting coverage for (1) premises and operations; (2) products – completed operations; (3)  
18 contractual liability; (4) contractual liability – railroads; (5) independent contractors; (6)  
19 third party action over claims; (7) explosion, collapse or underground hazard (XCU), if there  
20 is exposure; and (8) defense costs shall be excess of limits.  
21

22 15.1.2 Environmental Impairment Liability Insurance to include onsite and  
23 offsite coverage for bodily injury (including death and mental anguish), property damage,  
24 defense costs and cleanup costs with minimum limits of \$10,000,000.00 per loss and  
25 \$20,000,000.00 total all losses. Non-owned disposal site coverage shall be provided if  
26 handling, storing or generating hazardous materials or any material/substance otherwise  
27 regulated under environmental laws/regulations.  
28

29 15.1.3 Workers' Compensation Insurance as required by the State of  
30 California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per  
31 accident for bodily injury and disease.  
32

33 15.1.4 Automobile Liability Insurance with coverage at least as broad as  
34 Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum  
35 limits of \$1,000,000.00 each accident.  
36

37 Insurance policies will not be in compliance with the Permit if they include any  
38 limiting endorsement that has not been approved in writing by Cities.  
39

40 The policy or policies of insurance for Commercial General Liability, Automobile  
41 Liability, and Environmental Impairment Liability Insurance shall contain the following  
42 provisions or be endorsed to provide the following:  
43

44 (1) The Indemnified Parties shall be additional insureds with regard to  
45 liability and defense of suits or claims arising out of the Permit.  
46

1 Additional insured endorsements shall not:

- 2  
3 i. Be limited to ongoing operations;  
4  
5 ii. Exclude contractual liability;  
6  
7 iii. Restrict coverage to the sole liability of Permittee; or  
8  
9 iv. Contain any other exclusion contrary to the Permit.

10  
11 (2) This insurance shall be primary and any other insurance, deductible, or  
12 self-insurance maintained by the Indemnified Parties shall not contribute with this primary  
13 insurance.  
14

15 (3) The policy shall not be canceled or the coverage reduced until a thirty  
16 (30) day written notice of cancellation has been served upon the Executive Directors of the  
17 Harbor Departments except notice of ten (10) days shall be allowed for non-payment of  
18 premium.  
19

20 The policy or policies of insurance for Workers' Compensation shall be endorsed, as  
21 follows:  
22

23 (1) A waiver of subrogation stating that the insurer waives all rights of  
24 subrogation against the Indemnified Parties.  
25

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

31 Any deductible or self-insured retention must be approved in writing by the Cities'  
32 Executive Directors or their designees and shall protect the Indemnified Parties in the same  
33 manner and to the same extent as they would have been protected had the policy or policies  
34 not contained a deductible or self-insured retention.  
35

36 Upon expiration or termination of coverage of required insurance, Permittee shall  
37 obtain and submit to Cities evidence of "tail" coverage or an extended reporting coverage  
38 period endorsement for the period of at least three (3) years from termination or expiration of  
39 this Permit.  
40

#### 41 15.2 General Requirements. 42

43 15.2.1 The insurance required by this Permit shall be issued by an insurance  
44 company or companies with an AM Best rating of A:VII or better and may contain  
45 deductibles in amounts approved by the Cities' Executive Directors or their designees.  
46

47 15.2.2 The policy or policies shall either contain a blanket form of  
48 contractual liability coverage, including contracts and agreements, or there shall be attached

1 to the policy or policies an endorsement or extension, providing that such insurance as is  
2 provided therein shall apply to the obligations assumed by Permittee under Paragraph 13 of  
3 this Permit.  
4

5 15.2.3 The procuring of such policy or policies of insurance shall not be  
6 construed to be a limitation in any respect upon Permittee's obligations and liabilities under  
7 this Permit.  
8

9 15.2.4 Upon request by either of the Cities, Permittee shall furnish the Cities  
10 with an endorsement issued by the insurance company waiving the insurance company's  
11 right to demand and receive payment of insurance premiums and assessments from either of  
12 the Cities.  
13

14 15.2.5 All insurance shall be on an occurrence basis, not a claims made  
15 basis, unless otherwise agreed to by the Cities. Should any portion of the required insurance  
16 be on a "Claims Made" policy, Permittee shall, at the policy expiration date, whether such  
17 date occurs during or after the term of this Permit, provide evidence that the "Claims Made"  
18 policy has been renewed or replaced with the same limits, terms and conditions of the  
19 expiring policy, or that an extended discovery period has been purchased on the expiring  
20 policy for at least three years after the term of this Permit.  
21

22 15.3 Evidence of Insurance. For the City of Los Angeles, electronic submission is  
23 the required method of submitting Permittee's insurance documents. Track4LA<sup>®</sup> is the City's online  
24 insurance compliance system and is designed to make the experience of submitting and retrieving  
25 insurance information quick and easy. The system is designed to be used primarily by insurance  
26 brokers and agents as they submit client insurance certificates directly to the City. It uses the  
27 standard insurance industry form known as the ACORD 25 Certificate of Liability Insurance in  
28 electronic format. The advantages of Track4LA<sup>®</sup> include standardized, universally accepted forms,  
29 paperless approval transactions (24 hours, 7 days per week), and security checks and balances.  
30 Permittee's insurance broker or agent shall obtain access to Track4LA<sup>®</sup> at <http://track4la.lacity.org/>  
31 and follow the instructions to register and submit the appropriate proof of insurance on Consultant's  
32 behalf.  
33

34 Permittee shall deliver two (2) certified copies of the policy or Certificates of  
35 Insurance and insurance carrier authorized endorsements as required ("Evidence of Insurance") to  
36 the Long Beach Harbor Department Executive Director or his designee for approval as to sufficiency  
37 and to the City of Long Beach City Attorney or designee for approval as to form, and upon request  
38 by either City, Permittee shall deliver a certified copy of any policy. If such coverage is cancelled or  
39 reduced, Permittee shall, within ten (10) days after receipt of notice of such cancellation or reduction  
40 of coverage, file with Track4LA<sup>®</sup> and the Long Beach Harbor Department Executive Director  
41 Evidence of Insurance showing that the required insurance has been reinstated or provided through  
42 another insurance company or companies, and the policy shall be submitted for approval as herein  
43 provided. At least fifteen (15) days prior to the expiration of any such policy, Evidence of Insurance  
44 showing that the insurance coverage has been renewed or extended, shall be filed with Track4LA<sup>®</sup>  
45 and the Long Beach Harbor Department Executive Director. Upon failure of Permittee to provide  
46 Evidence of Insurance as required herein, the Cities have the right, but not the obligation, to  
47 purchase any such insurance and Permittee agrees to pay for such insurance. Permittee agrees, at its

1 own expense, to suspend and cease all activities on the Permit Area during such periods of time as  
2 Evidence of Insurance has not been provided as set forth herein. Notwithstanding any other  
3 provision of this Permit to the contrary, upon failure to so file such Evidence of Insurance, the Cities  
4 may, without further notice, cancel or terminate this Permit and exercise such other rights as they  
5 may have in the event of Permittee's default.  
6

7 15.4 Adjustment. Not more frequently than once each year, if in the opinion of  
8 either Executive Director, the coverages or the limits of insurances described in this Paragraph are  
9 not adequate, Permittee shall modify the insurance coverage or increase the limits as required by  
10 either Executive Director.  
11

12 16. TAXATION. THIS PERMIT MAY CREATE A POSSESSORY INTEREST IN  
13 FAVOR OF PERMITTEE, WHICH MAY BE SUBJECT TO TAXES. PERMITTEE SHALL PAY,  
14 PRIOR TO DELINQUENCY, ANY SUCH TAXES, AND ANY OTHER ASSESSMENTS OF  
15 WHATEVER CHARACTER LEVIED UPON ANY INTEREST CREATED BY THIS PERMIT.  
16 PERMITTEE SHALL ALSO PAY ALL LICENSE AND PERMIT FEE REQUIRED FOR THE  
17 CONDUCT OF ITS OPERATIONS. PERMITTEE SHALL DELIVER SATISFACTORY  
18 EVIDENCE OF ALL SUCH PAYMENTS TO EACH EXECUTIVE DIRECTOR UPON  
19 DEMAND.  
20

21 17. NOTICE. Any notice, demand, request, consent or communication that any party  
22 desires or is required to give to the other parties shall be in writing and either be served personally,  
23 by facsimile transmission with electronic verification of transmission or sent by prepaid, certified  
24 mail, addressed as follows:  
25

26 To the Cities: Executive Director  
27 Long Beach Harbor Department  
28 Post Office Box 570  
29 Long Beach, California 90801  
30 Fax No.: (562) 901-1739  
31

32 And: Executive Director  
33 Los Angeles Harbor Department  
34 425 South Palos Verdes Street  
35 San Pedro, California 90731  
36 Fax No.: (310) 831-6936  
37

38 With copies to: The Port of Long Beach  
39 925 Harbor Plaza Drive  
40 Long Beach, California 90802  
41 Attention: Director of Real Estate  
42 Fax No.: (562) 901-1739  
43  
44  
45  
46  
47

1 The Port of Los Angeles  
2 425 South Palos Verdes Street  
3 Post Office Box 151  
4 San Pedro, California 90731  
5 Attention: Director of Real Estate  
6 Fax No.: (310) 547-4611  
7

8 Paragon Partners Ltd.  
9 5762 Bolsa Avenue, Suite 201  
10 Huntington Beach, CA 92649  
11 Attn: Ports' Property Manager  
12 Fax No.: (714) 373-1234  
13

14 Or such other Property Management firm as may be designated by  
15 the Cities from time to time.  
16

17  
18 To Permittee: Plains West Coast Terminals LLC  
19 5900 Cherry Ave.  
20 Long Beach, California 90805  
21 Attn: Land Department-Western Region Manager  
22 Fax No.: (562) 728-2866  
23 Telephone: (562) 728-2020  
24

25 Any party may change its address by notifying the other parties of the change of address in  
26 accordance with this Paragraph. Notice shall be deemed communicated upon delivery if personally  
27 served or given by facsimile transmission and within seventy-two (72) hours from the time of  
28 mailing if mailed as provided in this Paragraph.  
29

30 18. NO DISCRIMINATION. Permittee promises, and it is a condition to the continuance  
31 of this Permit, that it will not discriminate in its employment practices against any employee or  
32 applicant for employment because of the employee's or applicant's race, religion, ancestry, national  
33 origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical  
34 condition or in any manner prohibited by any applicable Law, including any Laws established by the  
35 Cities. Permittee hereby agrees to comply with all reporting requirements related to such Laws.  
36 Any contracts relating to the Permit Areas entered into by Permittee shall contain this provision, if  
37 applicable. The provisions of Section 10.8.4 of the Administrative Code of the City of Los Angeles  
38 are attached hereto as Exhibit E and, if applicable, are hereby incorporated herein and made a part  
39 hereof. The Cities make no payments to Permittee under this Permit.  
40

41 19. CONFLICT OF INTEREST. It is understood and agreed that the parties to this  
42 Permit have read and are aware of the provisions of Sections 1090 *et seq.* and Sections 87100 *et seq.*  
43 of the Government Code relating to conflict of interest of public officers and employees, as well as  
44 the conflict of interest policies of the Cities. All parties hereto agree that they are unaware of any  
45 financial or economic interest of any public officer or employee of the Cities relating to this Permit.  
46 Notwithstanding any other provision of this Permit, it is further understood and agreed that if such a  
47 financial interest does exist at the inception of or at any time during the continuance of this Permit,

1 the Executive Director of either City may immediately terminate this Permit by giving notice to  
2 Permittee. Termination pursuant to this Paragraph shall not be termination by forfeiture.

3  
4 20. MISCELLANEOUS PROVISIONS.

5  
6 20.1. Effect of Waiver. No waiver by any party at any time of any terms or  
7 conditions of this Permit shall be a waiver at any subsequent time of the same or any other term or  
8 condition. The acceptance of a late Permit Fee by the Cities shall not be deemed a waiver of any  
9 other breach by Permittee of any term or condition of this Permit other than the failure of Permittee  
10 to make timely the particular payment so accepted.

11  
12 20.2 Termination of Prior Agreements. This Permit supersedes Agreements  
13 described in Exhibit A or subsequent Exhibit A(x) to the extent of the Subsurface Facilities and  
14 Appurtenant Facilities described in Exhibit A or subsequent Exhibit A(x), each as of the effective  
15 date of this Permit. This Permit shall not operate to extinguish the indemnity and hazardous  
16 materials and premises restoration obligations imposed by said Agreements.

17  
18 20.3 Costs of Cities. Whenever this Permit requires Permittee to reimburse the  
19 Cities for costs of the Cities, such costs are agreed to include all direct and indirect costs which the  
20 Cities incur whether with the Cities' own forces or with independent contractors. These costs  
21 include salaries and all other costs the Cities incur for their employees, including attorneys, all  
22 material and equipment costs, together with an administrative handling charge and allocation of  
23 general overhead expense as determined by the Cities in good faith.

24  
25 20.4 No Joint Venture. Nothing contained in this Permit shall have the effect of  
26 creating a joint venture or partnership between or among the parties, or of rendering one liable for  
27 any of the debts or obligations of any other, unless expressly provided in this Permit. Further,  
28 nothing contained in this Permit shall have the effect of creating a joint venture or partnership  
29 between the Cities or to render either of such entities liable for the debts, obligations or actions of  
30 the other, nor shall either the City of Los Angeles or the City of Long Beach be liable or responsible  
31 hereunder for any default, failure of performance, action or inaction of the other solely as a result of  
32 this Permit.

33  
34 20.5 Actions of the Cities. All actions (except as otherwise specified in this  
35 Permit), approvals, decisions and consents of the Cities under this Permit shall require the consent of  
36 both the City of Los Angeles and the City of Long Beach in the Cities' sole and absolute discretion.

37  
38 20.6 Governing Law; Venue. This Permit shall be governed by and construed in  
39 accordance with the laws of the State of California, without reference to the conflicts of law rules  
40 and principles of such State. The parties agree that all actions or proceedings arising in connection  
41 with this Permit shall be tried and litigated exclusively in the State and Federal courts located in the  
42 County of Los Angeles, State of California, in the judicial district required by court rules. The  
43 aforementioned choice of venue is intended by the parties to be mandatory and not permissive in  
44 nature, thereby precluding the possibility of litigation between the parties with respect to or arising  
45 out of this Permit in any jurisdiction other than that specified in this Paragraph, except that the Cities

1 or either of them may in their sole and absolute discretion file and pursue actions in other forums in  
2 order to obtain such relief as the Cities or either of them deem appropriate.

3  
4           20.7 Construction; Headings. The language in all parts of this Permit shall be in all  
5 cases construed simply according to its fair meaning and not strictly for or against any of the parties.  
6 Paragraph headings in this Permit are solely for convenience of reference and shall not govern the  
7 interpretation of any of the provisions of this Permit. Whenever required by the context of this  
8 Permit, the singular shall include the plural, the plural shall include the singular and the masculine,  
9 feminine and neuter genders shall each include the other. References in this Permit to days shall  
10 mean calendar days unless otherwise expressly provided.

11  
12           20.8 Severability. Each provision of this Permit shall be interpreted so as to be  
13 effective and valid to the fullest extent possible. In the event, however, that any provision contained  
14 herein shall for any reason be held invalid, illegal or unenforceable in any respect, then, in order to  
15 effect the purposes of this Permit it shall be construed as if such provision had never been contained  
16 herein.

17  
18           20.9 Amendments; Waiver. No provision of this Permit shall be altered, amended,  
19 revoked or waived except by an instrument in writing signed by the party to be charged with such  
20 alteration, amendment, revocation or waiver.

21  
22           20.10 No Liens. Permittee shall pay or cause to be paid all costs and charges for  
23 work done by it or caused to be done by it in, on or to the Permit Areas and for all materials  
24 furnished for or in connection with such work. Permittee shall keep the Permit Areas free from any  
25 mechanics' liens, vendors' liens or any other liens arising out of any work performed, materials  
26 furnished or obligations incurred by Permittee. In the event that there shall be recorded against the  
27 Permit Areas or the property of which the Permit Areas are a part any claim or lien arising out of any  
28 such work performed, materials furnished or obligations incurred by Permittee and such claim or  
29 lien is not removed or discharged, or Permittee has not provided a bond therefor, within ten (10)  
30 days of filing, the claim or lien shall constitute a default hereunder and the Cities shall have the right  
31 but not the obligation to pay and discharge the lien without regard to whether such lien shall be  
32 lawful or correct. Nothing contained in this Permit shall be deemed the consent or agreement of the  
33 Cities to subject to the Cities' interest in the Permit Areas to liability under any mechanics' or other  
34 lien law.

35  
36           20.11 Signs. Except for signs, markings and notices required by agencies with  
37 jurisdiction, Permittee shall not install, place, inscribe, paint or otherwise attach any sign,  
38 advertisement, notices, marquee or awning on any part of the Permit Areas without the prior written  
39 consent of the Cities.

40  
41           20.12 Security Measures. Permittee hereby acknowledges that the Permit Fee  
42 payable to the Cities hereunder does not include the cost of guard service or other security measures,  
43 and that the Cities have no obligation whatsoever to provide security. Permittee assumes all  
44 responsibility for the security and protection of the Permit Areas, Permittee, its agents and invitees  
45 and their property from the acts of third parties.

1           20.13 Small Business Development Program. It is the policy of the City of Los  
2 Angeles to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned and all  
3 Other Business Enterprises (MBE/WBE/OBE) an equal opportunity to participate in the  
4 performance of all City of Los Angeles contracts in all areas where such contracts afford such  
5 participation opportunities. Permittee shall assist the City of Los Angeles in implementing this  
6 policy and shall use its best efforts to afford the opportunity for SBEs, MBEs, WBEs, and OBEs to  
7 achieve participation in subcontracts where such participation opportunities present themselves and  
8 attempt to ensure that all available business enterprises, including SBEs, MBEs, WBEs, and OBEs,  
9 have equal participation opportunity which might be presented under the Permit.

10  
11           20.14 Service Contract Worker Retention and Living Wage Policy. The Board of  
12 Harbor Commissioners of the City of Los Angeles adopted Resolution No. 5771 on January 13,  
13 1999 agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service  
14 Contract Worker Retention (SCWR) as the policy of the Harbor Department. Further, Charter  
15 Section 378 requires compliance with the City's Living Wage (LW) requirements. Permittee shall  
16 comply with these policies wherever applicable. Violation of this provision, where applicable, shall  
17 entitle the City to terminate this Permit and otherwise pursue legal remedies that may be available.

18  
19           20.15 Business Tax Registration Certificates. Permittee represents that it has  
20 obtained and presently holds the Business Tax Registration Certificates required by the City of Los  
21 Angeles and/or the City of Long Beach, as applicable. Permittee will provide each City evidence  
22 that such certificates have been obtained. Permittee shall maintain all such certificates required of it  
23 by each of the Cities and shall not allow any such certificates to be revoked or suspended.

24  
25           20.16 Manager; Representatives. The Cities may designate one or more property  
26 managers, representatives, designees or employees to serve as their respective contact person or  
27 persons for purposes of this Permit. Permittee agrees to cooperate with any other persons or entities  
28 occupying, managing, using or performing work on the various portions of the Permit Areas,  
29 including but not limited to ACTA and its designees.

30  
31           20.17 Equal Benefits Policy. The Board of Harbor Commissioners of the City of  
32 Los Angeles adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of  
33 Los Angeles City Ordinance 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et  
34 seq. of the Los Angeles Administrative Code, as a policy of the Harbor Department.  
35 Consultant/Contractor shall comply with the policy wherever applicable. Violation of the policy  
36 shall entitle the City to terminate any agreement with Consultant/Contractor and pursue any and all  
37 other legal remedies that may be available.

38  
39           21. ADDITIONS. There is attached to this permit an addendum, consisting of numbered  
40 Paragraphs N/A, inclusive, the provisions of which are made a part of this permit as though set forth  
41 herein in full.

42  
43           22. DELETIONS. Paragraph(s) N/A (is, are) deleted and (is, are) not to be considered as  
44 constituting a part of this permit, and (it, they) (is, are) so marked.

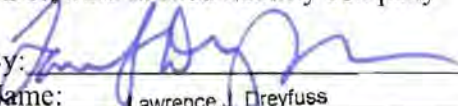
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This Permit shall be effective upon the date of last execution by the Executive Directors.

\_\_\_\_\_, 20\_\_

“PERMITTEE”

Plains West Coast Terminals LLC,  
a Delaware limited liability company

By:   
Name: Lawrence J. Dreyfuss  
Title: Vice President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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"CITIES"

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

March 26, 2012

By: [Signature]  
Richard D. Steinke, Executive Director  
Long Beach Harbor Department

Approved as to form this 20<sup>th</sup> day of March, 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 3<sup>rd</sup> day of May, 2012.

CARMEN A. TRUTANICH, City Attorney

By: [Signature]  
Deputy City Attorney

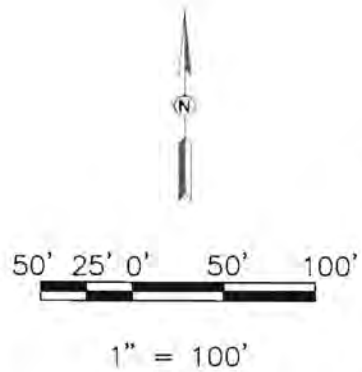
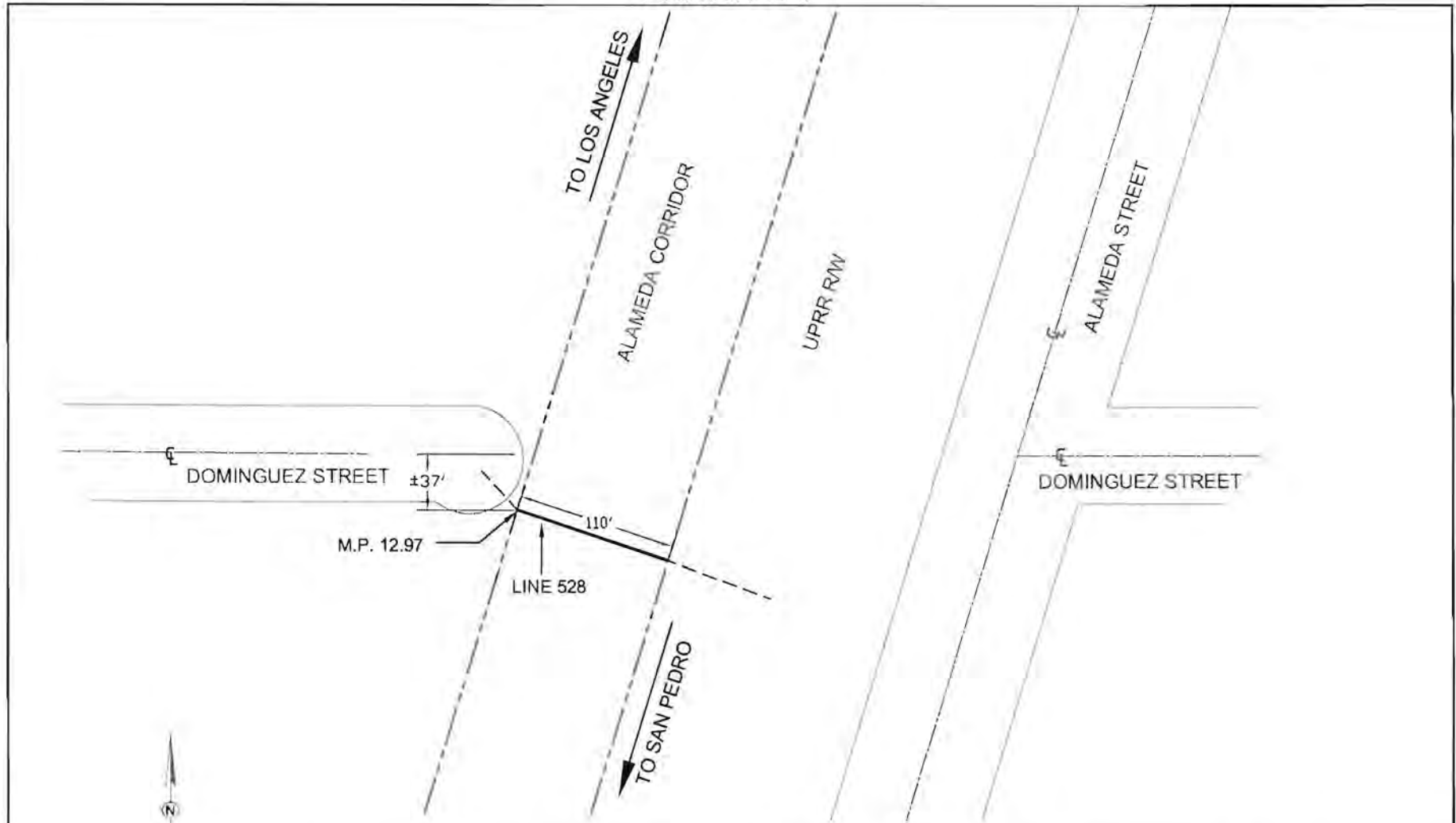
## Exhibit A

3/24/2010

Plains West Coast Terminals LLC  
Facilities on Port of Long Beach/Port of Los Angeles  
Jointly Owned Railroad Rights-of-Way

MJRP Index No.	Railroad Right of Way	Exhibit B Map No.	POLB No. HD-	Mile Post	Former Lease Audit No.	Date of Occupancy	Location	Name or Pipeline No.	Facility Description	Facility Status	Length (ft.)	Width (ft.)	Fee (\$500 Subsurface Minimum)	Notes
1	Alameda Corridor	B-1	5434-889	12.97	172300; SCE # 316575	8/8/1973	South of Dominguez St.	528	Subsurface: 16" high pressure oil pipeline	Active	110	5	\$500.00	
2	Alameda Corridor	B-2	5434-852	15.67	Audit # 152306; File # 19723	11/7/1966	Adjacent to Lomita Blvd.	532	Subsurface: 16" products pipeline in a 20" casing.	Active	65	5	\$500.00	
3	Alameda Corridor	B-2	5434-852	15.67	Audit # 152306; File # 19723	11/7/1966	Adjacent to Lomita Blvd.	517	Subsurface: 16" oil pipeline	Active	65	5	\$500.00	
4	San Pedro Branch	B-3	5438-114	19.68	95105; CLD 15722	5/22/1967	South of Columbia St.	515	Subsurface: 16" oil pipeline	Active	80	5	\$500.00	
5	San Pedro Branch	B-4	5438-194	21.34			SCE ROW North of Grant St.	529	Subsurface: 16" fuel oil pipeline	Active	84	5	\$0.00	No fee due. SCE has prior rights.
6	San Pedro Branch	B-4		21.34			SCE ROW North of Grant St.	536	Subsurface: 24" fuel oil pipeline	Active	84	5	\$0.00	No fee due. SCE has prior rights.
													\$2,000.00	

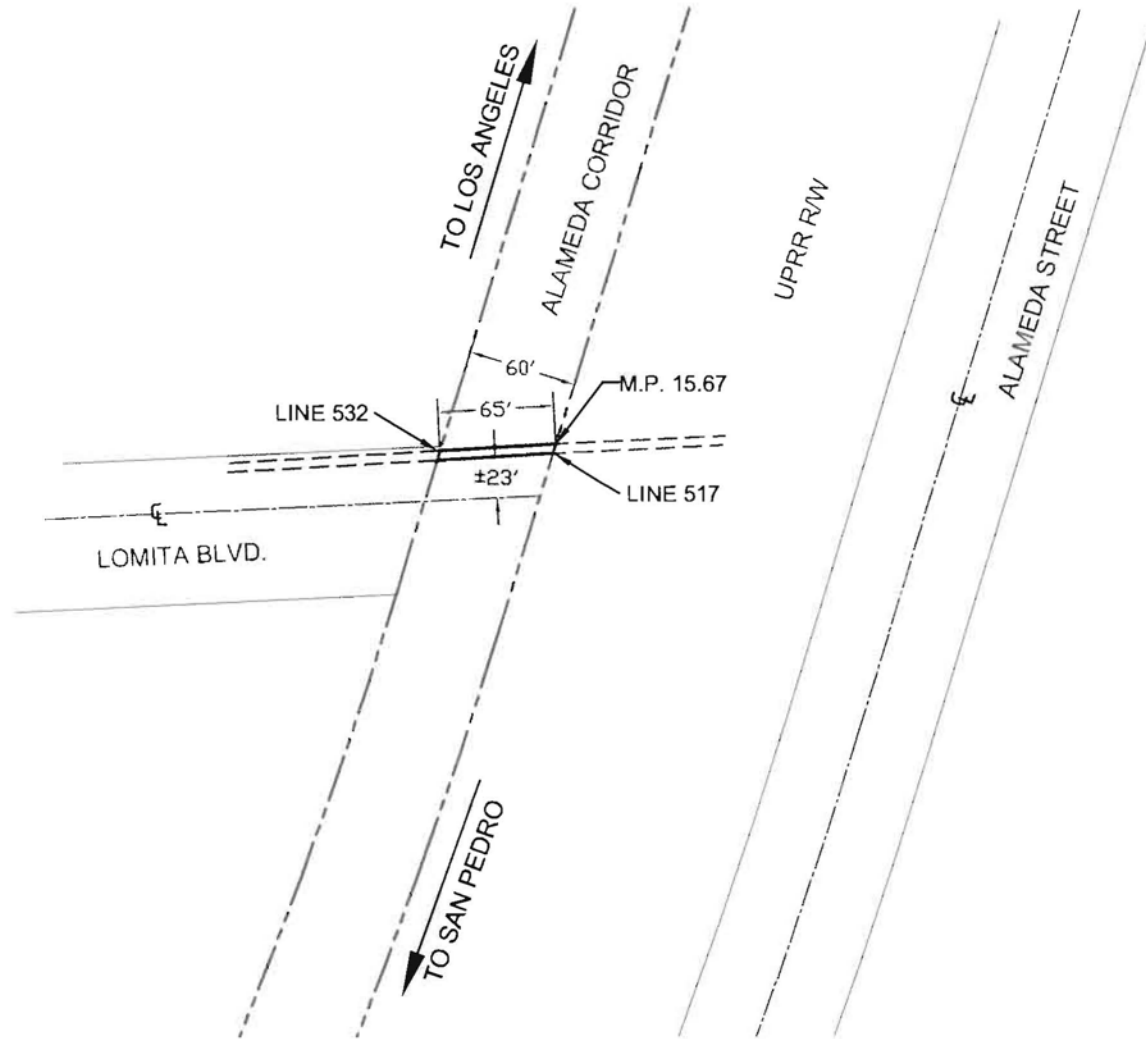
EXHIBIT B-1



LEGEND	
PORTS' R/W LINE	----
FACILITY INSIDE PORTS' R/W	————
FACILITY OUTSIDE PORTS' R/W	----
STREET R/W LINE	----
STREET CENTERLINE	----

Paragon Partners Ltd. 5762 Bolso Avenue, Ste. 201 Huntington Beach, CA 92649				PORT OF LONG BEACH/PORT OF LOS ANGELES	
				PERMITTEE PLAINS WEST COAST TERMINALS LLC INDEX 1, LINE 528	
RR: ALAMEDA CORRIDOR		5' - PERMIT AREA WIDTH		PAGE	
MP 12.97		110' - PERMIT AREA LENGTH		1 OF 1	
CITY CARSON		COUNTY LOS ANGELES		DATE	
SCALE AS SHOWN		THOMAS GUIDE 764-J5		PREPARED BY KW	
		DATE 03-19-10			

# EXHIBIT B-2



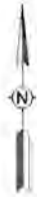
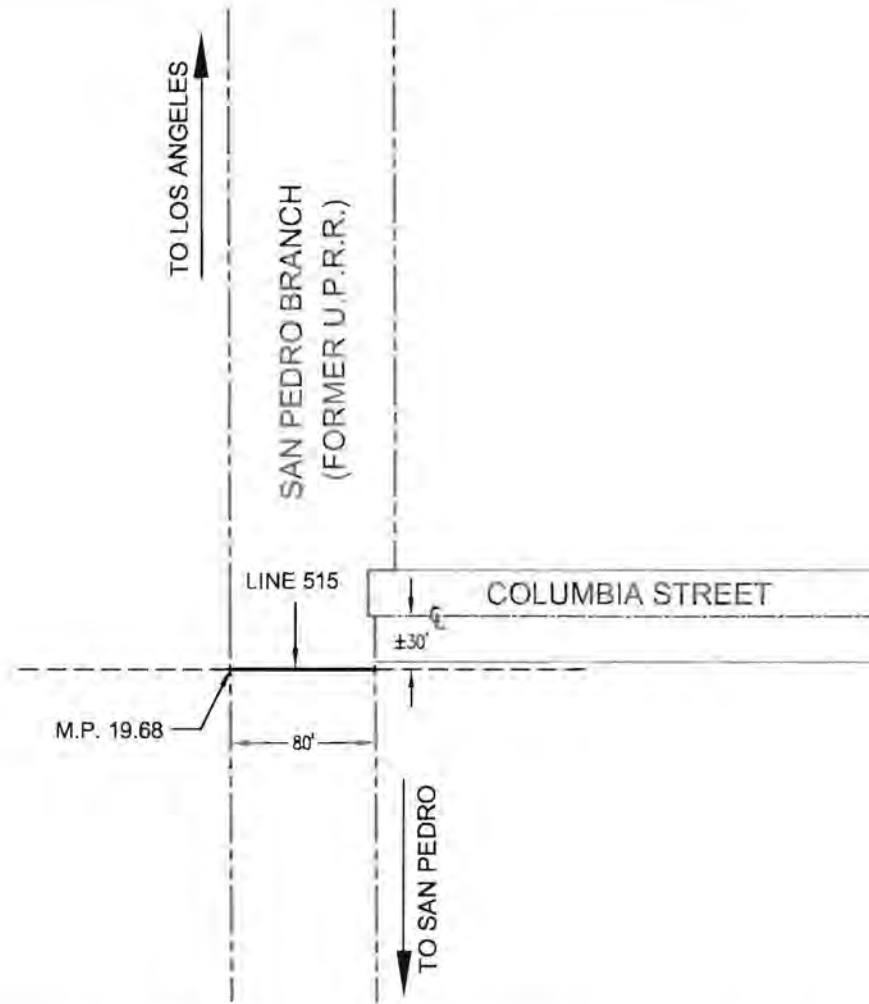
50' 25' 0' 50' 100'

1" = 100'

LEGEND	
PORTS' R/W LINE	----
FACILITY INSIDE PORTS' R/W	————
FACILITY OUTSIDE PORTS' R/W	-----
STREET R/W LINE	=====
STREET CENTERLINE	-·-·-·-

<i>Paragon Partners Ltd.</i> 5762 Bolsa Avenue, Ste. 201 Huntington Beach, CA 92649				PORT OF LONG BEACH/PORT OF LOS ANGELES	
				PERMITTEE PLAINS WEST COAST TERMINALS LLC INDEX 2 & 3, LINE 532 & 517	
RR: ALAMEDA CORRIDOR		5' - PERMIT AREA WIDTH		PAGE 1 OF 1	
MP 15.67		130' - TOTAL PERMIT AREA LENGTH		650 Sq Ft - TOTAL APPROXIMATE PERMIT AREA	
CITY CARSON		COUNTY LOS ANGELES			
SCALE AS SHOWN		THOMAS GUIDE 794-H3		DATE 03-24-10	
				PREPARED BY KW	

EXHIBIT B-3



1" = 100'

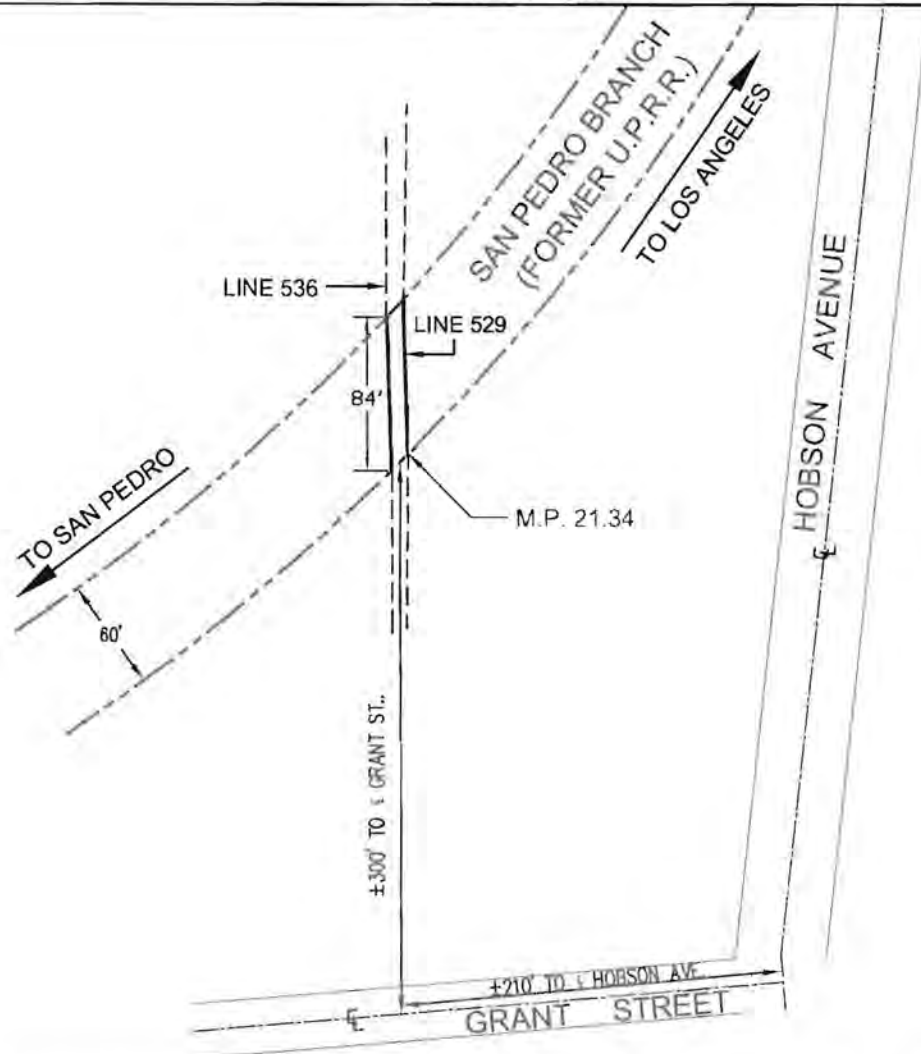
LEGEND	
PORTS' R/W LINE	-----
FACILITY INSIDE PORTS' R/W	—————
FACILITY OUTSIDE PORTS' R/W	-----
STREET R/W LINE	-----
STREET CENTERLINE	-----

*Paragon Partners Ltd.*  
5762 Bolso Avenue, Ste. 201  
Huntington Beach, CA 92649

PORT OF LONG BEACH/PORT OF LOS ANGELES

PERMITTEE PLAINS WEST COAST TERMINALS LLC		INDEX 4, LINE 515	
RR: SAN PEDRO BRANCH	5' - PERMIT AREA WIDTH	±80' - PIPELINE LENGTH IN PERMIT AREA	
MP 19.68	±400 Sq. Ft. - TOTAL APPROXIMATE PERMIT AREA		
CITY LONG BEACH	COUNTY LOS ANGELES	PAGE 1 OF 1	
SCALE AS SHOWN	THOMAS GUIDE 795 A2	DATE 03-19-10	PREPARED BY ESM

EXHIBIT B-4



50' 25' 0' 50' 100'

1" = 100'

LEGEND	
PORTS' RW LINE	-----
FACILITY INSIDE PORTS' RW	—————
FACILITY OUTSIDE PORTS' R/W	- - - - -
STREET RW LINE	=====
STREET CENTERLINE	-----

PORT OF LONG BEACH/PORT OF LOS ANGELES			
PERMITTEE PLAINS WEST COAST TERMINALS LLC INDEX 5 & 6, LINE 529 & 536			
RR/ SAN PEDRO BRANCH	MP 21.34	5' - PERMIT AREA WIDTH ±168' - PIPELINE LENGTH IN PERMIT AREA ±840 Sq. Ft. - TOTAL APPROXIMATE PERMIT AREA	
CITY LOS ANGELES	COUNTY LOS ANGELES	PAGE 1 OF 1	
SCALE AS SHOWN	THOMAS GUIDE 794-J5	DATE 03-19-10	PREPARED BY ESM

Paragon Partners Ltd.  
 5762 Bolsa Avenue, Ste. 201  
 Huntington Beach, CA 92649

## EXHIBIT C

### PERMIT FEE - RENTAL RATES

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**Surface:**

Rental rate is \$2.00 per square foot per year.

**Subsurface:**

Rental rate is \$1.00 per square foot per year.\*

\* calculated at 50% of surface rental rate.

**Notes:**

1. All rates are subject to adjustments as defined in Paragraph 3.2, Adjustment, of this Permit.
2. All rental amounts for all crossings are subject to a minimum annual rental amount of \$500 per crossing.

## EXHIBIT D-1

LOS ANGELES  
CALIFORNIA

ALAMEDA CORRIDOR  
TRANSPORTATION AUTHORITY

LONG BEACH  
CALIFORNIA

### Alameda Corridor Transportation Authority Right-of-Way Work Permit Protocols

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

#### 1.0 Conditions for Physical Access to the ACTA Property.

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

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

1.2 A Railroad work plan shall be submitted to the Cities and ACTA for approval of any access to the ACTA railroad right-of-way. A copy of the required Work Plan is included as Attachment 2 of this Exhibit D-1.

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

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

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

## EXHIBIT D-1

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 D-1).

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

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 D-1

### 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 D-1

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 D-1). 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 D-1 (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](mailto:agoodwin@acta.org)
- Manager of Technical Services: Lu Hersh (310/816-0460 x190) [hersh@trenchteam.com](mailto:hersh@trenchteam.com)
- Manager of Corridor Rail Facilities: Dan Davis (213/507-4867) [davis@trenchteam.com](mailto:davis@trenchteam.com)
- Railroad Crossing/Signals: Mike Mejia (310/863-0860) [mmejia@bbri.com](mailto: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](mailto:takahashi@polb.com)
- Engineering: Carlo Luzzi (562/590-4410) [luzzi@polb.com](mailto:luzzi@polb.com)

**5. Port of Los Angeles**

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

**6. Paragon Partners**

- Jim Lemont (714/379-3376) [jiml@paragon-partners.com](mailto:jiml@paragon-partners.com)
- Marcus Garvey (714/379-3376) [mgarvey@paragon-partners.com](mailto: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 D-1 (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 D-2

LOS ANGELES  
CALIFORNIA

PACIFIC HARBOR  
LINE, INC.

LONG BEACH  
CALIFORNIA

Pacific Harbor Line, Inc. Railroad Right-of-Way Work Permit Protocols

The Pacific Harbor Line, Inc. (PHL) operated railroad right-of-way is owned by the Harbor Departments of the Cities of Los Angeles and Long Beach (Cities). These Work Permit Protocols are applicable to the Permittee and any of their contractors, agents or other parties entering the Right-of-Way pursuant to the Permit.

1.0 Conditions for Physical Access to the Railroad Property

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

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

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

1.3 The Permittee or their Contractor must make arrangements for access with the PHL's Manager of Track Maintenance (See Attachment 1 of this Exhibit D-2). Failure to do so or failure to abide by his requirements and instructions will be cause for termination of the JRP/license and will result in personnel being removed from the right-of-way.

1.4 At the Cities' or PHL's discretion, a full time qualified inspector, employed by the Cities, Paragon or PHL and paid by the entity requiring access for any work or access to the Cities owned railroad property may be required. The inspector will provide for contractor safety.

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

## EXHIBIT D-2

- 1 1.6 Any work within 25-feet measured at track centerline (including the length of  
2 crane boom) and/or having the potential to foul the track within the railroad  
3 right-of-way shall require a Flagperson. This includes above and below  
4 ground work. The Flagperson shall be provided by PHL and paid for by the  
5 entity doing work or requiring access to the Cities owned railroad property.  
6 The request for a Flagperson shall require no less than a 14-calendar day  
7 advance notice to PHL from the entity doing work or requiring access. PHL  
8 will provide a Flagperson at their own discretion. The PHL contact for any  
9 Flagperson on the PHL right-of-way shall be the Manager of Track  
10 Maintenance (See Attachment 1 of this Exhibit D-2).
- 11 1.7 Daily contact shall be required between PHL and the entity doing work or  
12 accessing the railroad property. The PHL contact is the Manager of Track  
13 Maintenance.
- 14 1.8 All excavations shall be continuously shored. Shoring shall be designed for a  
15 minimum of E80 loading using AREMA standards and the method of Shoring  
16 shall be approved by Paragon engineering or subcontractor at Permittee's  
17 expense. Prior to the start of work, the approved plans shall be sent to the  
18 Cities and PHL. The full length of all excavations on the railroad right-of-way  
19 shall have trench plate covering when unattended.
- 20 1.9 All work shall be performed during daylight hours, Monday through Friday,  
21 unless approved otherwise in writing by the Cities and PHL. Work shall  
22 progress in a manner that all work shall be completed in the least possible  
23 time.
- 24 1.10 No material or equipment shall be stored, stacked or parked within 10-feet of  
25 any track centerline (or the nearest rail). The work and storage areas shall be  
26 kept free of tripping hazards at all times. All excavated shall be stockpiled in  
27 an area approved by the Cities and PHL.
- 28 1.11 All personnel of the Permittee and or its contractors and/or subcontractors  
29 shall possess a valid railroad Roadway Worker Card if work is to be  
30 performed within 25-feet of the nearest tracks and shall abide by all safety  
31 rules and instructions from the Flagperson and the Cities and/or PHL  
32 Engineers. Public safety and safeguarding the tracks and the trains that operate  
33 on those tracks are paramount. Work over or near the tracks will require one  
34 or more of the following personnel at the Cities and/or PHL's sole discretion  
35 and at the Permittee's cost.
- 36 1.11.1 Flagperson, Signal Maintainer, Inspector, and/or Engineer:  
37 Requires a 14-calendar day advance notice and will be  
38
- 39

## EXHIBIT D-2

1 provided at the current PHL rate to be provided at time of  
2 service.

3 1.11.2 Railroad Approval: Before entering upon or performing  
4 work of any kind on the permit area, Permittee shall obtain  
5 the written approval of the operator of the railroad  
6 traversing the permit area. Permittee shall comply with all  
7 permit, notification, protective, and safety requirements  
8 imposed by the Railroad, and Permittee shall pay all  
9 associated costs.

10 1.12 The Permittee or Permittee's representative will keep a copy of the Ports'  
11 fully executed agreement, exhibits and all attachments including a complete  
12 Railroad Work Plan at the job site at all times during the encroachment on the  
13 Property. Failure to provide the necessary information or documents at the  
14 job-site will result in the removal of the Permittee, their employees and  
15 equipment from the Railroad Property.

16 1.13 A final job walkthrough shall be provided 14-calendar days upon the  
17 completion of the work. The final job walkthrough shall be confirmed in  
18 writing upon completion. The PHL contact is the Manager of Track  
19 Maintenance. Written confirmation to be provided to the Cities and PHL.

20 1.14 Paragon Partners shall follow-up and be provided, by Permittee, As-built  
21 drawings 30-days upon completion of the work. The As-built drawings shall  
22 be provided to PHL with copies to the Cities. The PHL contact for the As-  
23 built is the Manager of Special/Public/Industry Projects (See Attachment 1 of  
24 this Exhibit D-2). PHL shall keep current utility As-builts to date with copies  
25 made available to the Cities.

26  
27 1.15 Any work within the Port of Long Beach or Los Angeles Harbor District shall  
28 require a Harbor Development Permit with the Railroad Work Plan  
29 (Attachment 2) attached.  
30

31 1.16 See the following additional attachments: Contact List (Attachment 1) and the  
32 Railroad Work Plan (Attachment 2). While the Cities make every effort to  
33 update and keep the Contact List current, Permittee shall verify the accuracy  
34 of Attachment 1 by contacting Paragon Partners and requesting the most  
35 recent edition of Attachment 1.  
36

**EXHIBIT D-2**

1.17 Notices to Member Agency Contacts in Writing:

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

The Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, California 90731  
Attention: Director of Real Estate  
Fax No. 310-547-1725

Chief Engineer  
Pacific Harbor Line, Inc.  
340 Water Street  
Wilmington, California 92316  
Fax No. 310-513-6789

Paragon Partners Ltd.  
5762 Bolsa Avenue, Suite 201  
Huntington Beach, California 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.

These protocols are approved on this date, August 21, 2009.

EXHIBIT D-2 (Attachment 1)

LOS ANGELES  
CALIFORNIA

PACIFIC HARBOR  
LINE, INC.

LONG BEACH  
CALIFORNIA

**Pacific Harbor Line Track Contact List – 2009**

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1. **Pacific Harbor Line, Inc:**

- Chief Engineer: Robert Giannoble (310/984-5780) rgiannoble@anacostia.com
- Manager of Track Maintenance: James Connolly (310/427-5035) jconnolly@anacostia.com

2. **Badger Bridge**

- For PHL Emergency, also call: 310/830-0660

3. **Balfour Beatty**

- For PHL 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 D-2 (Attachment 2)

LOS ANGELES  
CALIFORNIA

PACIFIC HARBOR  
LINE, INC.

LONG BEACH  
CALIFORNIA

**Pacific Harbor Line, Inc. 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 Railroad Work Plan (Work Plan) is submitted ten (14) calendar days in advance of any work within twenty five (25) feet of track centerline. This fourteen (14) calendar day notice starts upon Pacific Harbor Line’s (PHL) receipt of the Work Plan. Prior to start of work, \_\_\_\_\_ will request a watch person training session from Pacific PHL for all work-crew working within 25 feet of the railroad track for the safety of the contractor’s personnel only. Watch persons are not an approved method of protection for working equipment. Once the watch person training is completed, we will submit an approved list to the Engineer prior to working within 25 feet of the track centerline. PHL will confirm if a Flagperson is required.

If a Flagperson is required or if equipment is within ten (10) feet from the track centerline or has the potential to foul the track, then flagging will be provided by PHL only. When a Flagperson is required, a new Work Plan request will be submitted to the Engineer and PHL a minimum of ten (14) calendar days prior to any work being performed. If a full track closure/outage is necessary, a minimum notice of ten (14) calendar days will be provided to the Engineer and PHL for each track closure. The Railroad track closure will be at the full discretion of the Engineer and PHL. The PHL primary contact is the Manager of Track Maintenance (310/427-5035). The PHL secondary contact is the Chief Engineer (310/420-8116).

**Note:** The Contractor shall submit the Work Plan to the Paragon Partners’ Ports Property Manager (714-379-3376). Paragon to submit the Railroad Work Plan to the respective Ports Engineering Departments for review and approval. All related permits shall be obtained prior to submitting the Work Plan.

**EXHIBIT D-3**

LOS ANGELES  
CALIFORNIA

UNION PACIFIC  
RAILROAD COMPANY

LONG BEACH  
CALIFORNIA

**UPRR San Pedro Branch Railroad Right-of-Way Work Permit Protocols**

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The former Union Pacific Railroad Company (UPRR) San Pedro Branch railroad right-of-way is owned by the Harbor Departments of the Cities of Los Angeles and Long Beach (Cities). It is operated pursuant to agreements dated December 22, 1994 between the Cities and the UPRR. These Work Permit Protocols are applicable to the Permittee and any of their contractors, agents or other parties entering the Right-of-Way pursuant to the Permit.

1.0 Conditions for Physical Access to the Railroad Property

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

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

1.2 A Railroad work plan shall be submitted to the Cities and UPRR for approval of any access to the railroad right-of-way. A copy of the required Work Plan is included as Attachment 2 of this Exhibit D-3.

1.3 The Permittee or their Contractor must make arrangements for access with the UPRR's Manager of Track Maintenance (See Attachment 1 of this Exhibit D-3). Failure to do so or failure to abide by his requirements and instructions will be cause for termination of the JRP/license and will result in personnel being removed from the right-of-way.

1.4 At the Cities or UPRR's discretion, a full time qualified inspector, employed by the Cities, Paragon or UPRR and paid by the entity requiring access for any work or access to the Cities owned railroad property may be required. The inspector will provide for contractor safety.

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

### EXHIBIT D-3

- 1 1.6 Any work within 25-feet measured at track centerline (including the length of  
2 crane boom) within the railroad right-of-way shall require a Flagperson. This  
3 includes above and below ground work. The Flagperson shall be provided by  
4 UPRR and paid for by the entity doing work or requiring access to the Cities  
5 owned railroad property. The request for a Flagperson shall require no less  
6 than a 14-day advance notice to UPRR from the entity doing work or  
7 requiring access. UPRR will provide a Flagperson at their own discretion. The  
8 UPRR contact for any Flagperson on the San Pedro Branch shall be the  
9 Manager of Track Maintenance (See Attachment I of this Exhibit D-3).
- 10 1.7 Daily contact shall be required between UPRR and the entity doing work or  
11 access to the railroad property. The UPRR contact is the Manager of Track  
12 Maintenance.  
13
- 14 1.8 All excavations shall be continuously shored. Shoring shall be designed for a  
15 minimum of E80 loading using AREMA standards and the method of Shoring  
16 shall be approved by Paragon engineering or subcontractor at Permittee's  
17 expense. Prior to the start of work, the approved plans shall be sent to the  
18 Cities and UPRR. The full length of all excavations on the railroad right-of-  
19 way shall have trench plate covering when unattended.
- 20 1.9 All work shall be performed during daylight hours, Monday through Friday,  
21 unless approved otherwise in writing by the Cities and UPRR. Work shall  
22 progress in a manner that all work shall be completed in the least possible  
23 time.
- 24 1.10 No material or equipment shall be stored, stacked or parked within 10-feet of  
25 any track centerline (or the nearest rail). The work and storage areas shall be  
26 kept free of tripping hazards at all times. All excavated shall be stockpiled in  
27 an area approved by the Cities and UPRR.
- 28 1.11 All personnel of the Permittee and or its contractors and/or subcontractors  
29 shall possess a valid railroad Roadway Worker Card if work is to be  
30 performed within 25-feet of the nearest tracks and shall abide by all safety  
31 rules and instructions from the Flagperson and the Cities and/or UPRR  
32 Engineers. Public safety and safeguarding the tracks and the trains that operate  
33 on those tracks are paramount. Work over or near the tracks will require one  
34 or more of the following personnel at the Cities and/or UPRR's sole discretion  
35 and at the Permittee's cost.
- 36 1.11.1 Flagperson, Signal Maintainer, Inspector, and/or Engineer:  
37 Requires a 14-day advance notice and will be provided at  
38 the current UPRR rate to be provided at time of service.

**EXHIBIT D-3**

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

1.12 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 Railroad Property.

1.13 A final job walkthrough shall be provided 14-days upon the completion of the work. The final job walkthrough shall be confirmed in writing upon completion. The UPRR contact is the Manager of Track Maintenance. Written confirmation to be provided to the Cities and UPRR.

1.14 Paragon Partners shall follow-up and be provided, by Permittee, As-built drawings 30-days upon completion of the work. The As-built drawings shall be provided to UPRR with copies to the Cities. The UPRR contact for the As-builts is the Manager of Special/Public/Industry Projects (See Attachment 1 of this Exhibit D-3). UPRR shall keep current utility As-builts to date with copies made available to the Cities.

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

1.16 Notices to Member Agency Contacts in Writing:  
  
The Port of Long Beach  
925 Harbor Plaza Dr.  
Long Beach, California 90801  
Attention: Director of Real Estate  
Fax No. 562-901-1739

**EXHIBIT D-3**

1 The Port of Los Angeles  
2 425 South Palos Verdes Street  
3 San Pedro, California 90731  
4 Attention: Director of Real Estate  
5 Fax No. 310-547-1725

6  
7 General Superintendent of Transportation Services  
8 Union Pacific Railroad Company  
9 19100 Slover Avenue  
10 Bloomington, California 92316  
11 Fax No. 909-685-238

12  
13 Paragon Partners Ltd.  
14 5762 Bolsa Avenue, Suite 201  
15 Huntington Beach, California 92649  
16 Attn: Ports Property Manager  
17 Fax no. 714-373-1234

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

20 These protocols are approved on this date, February 1, 2009.

EXHIBIT D-3 (Attachment 1)

LOS ANGELES  
CALIFORNIA

UNION PACIFIC  
RAILROAD COMPANY

LONG BEACH  
CALIFORNIA

UPRR San Pedro Branch Track Contact List –2009

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1. Union Pacific Railroad Company:

- General Director– Maintenance of Way: Trent Allen (916/789-6041) tdallen@up.com
- Director of Track Maintenance: Andrew Gonzales (909/685-2211) asgonzal@up.com
- Manager of Track Projects: Denny Gallegos (909/685-2091) drgalleg@up.com
- Manager of Track Maintenance: Anthony Jones (909/562-2881) ajones1@up.com
- Manager of Special/Public/Industry Projects: Dan Miller (909/685-2288) danjmill@up.com
- Railroad Crossing/Signals: Jose Rubio (626/935-7681) jarubio@up.com
- UPRR Railroad Police: 888/877-7267

2. Port of Long Beach

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

3. 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

4. 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 D-3 (Attachment 2)

LOS ANGELES  
CALIFORNIA

UNION PACIFIC  
RAILROAD COMPANY

LONG BEACH  
CALIFORNIA

**San Pedro Branch 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. Prior to start of work, \_\_\_\_\_ will request a watch person training session from Union Pacific Railroad Company (UPRR) for all work-crew working within 25 feet of the railroad track for the safety of the contractor’s personnel only. Watch persons are not an approved method of protection for working equipment. Once the watch person training is completed, we will submit an approved list to the Engineer prior to working within 25 feet of the track centerline. UPRR will confirm if a Flagperson is required.

If a Flagperson is required or if equipment is within ten (10) feet from the track centerline, then flagging will be provided by UPRR only. When a Flagperson is required, a new work plan request will be submitted to the Engineer and UPRR a minimum of ten (10) working days prior to any work being performed. If a full track closure/outage is necessary, a minimum notice of ten (10) working days will be provided to the Engineer and PHL for each track closure. The Railroad track closure will be at the full discretion of the Engineer and PHL. The UPRR primary contact is the Manager of Track Maintenance (909-562-2881). The UPRR secondary contact is the Director of Track Maintenance (909-685-2211).

**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 E

### AFFIRMATIVE ACTION PROGRAM PROVISIONS

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#### **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 E

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 E

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 E

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 E**

- 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.

# Exhibit F

(Permit Supplement Template)

PERMIT SUPPLEMENT NO. \_\_\_\_\_ TO MASTER JOINT REVOCABLE PERMIT NO. \_\_\_\_\_

The undersigned parties hereby acknowledge and agree that the following shall be assigned MJRP Index # \_\_\_\_\_ or replace MJRP Index # \_\_\_\_\_ in Exhibit A [or A(x)] and Exhibit B [or B(x)] to reflect an addition, deletion or modification to the Permit Areas. Pursuant to the above change and Paragraph 3.1 of the Master Joint Revocable Permit, Exhibit A [or A(x)] is now replaced with the attached Exhibit A [or A(x)] [and Exhibit B [or B(x)] if any], which indicates the most recent Permit Fee. As a result of this supplement, the Permit Fee [remains \$ \_\_\_\_\_] or [is now \$ \_\_\_\_\_] and replaces the latest Permit Fee indicated in Paragraph 3.1 and as shown in the previous Exhibit A [or A(x)].

## "CITIES"

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

\_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Richard D. Steinke, Executive Director  
Long Beach Harbor Department

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ROBERT E. SHANNON, City Attorney

By: \_\_\_\_\_  
\_\_\_\_\_  
Deputy City Attorney

## THE CITY OF LOS ANGELES HARBOR DEPARTMENT

\_\_\_\_\_, 20\_\_

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

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CARMEN A. TRUTANICH, City Attorney

By: \_\_\_\_\_  
\_\_\_\_\_  
Deputy City Attorney

## "PERMITTEE"

Plains West Coast Terminals LLC,  
a Delaware limited liability company

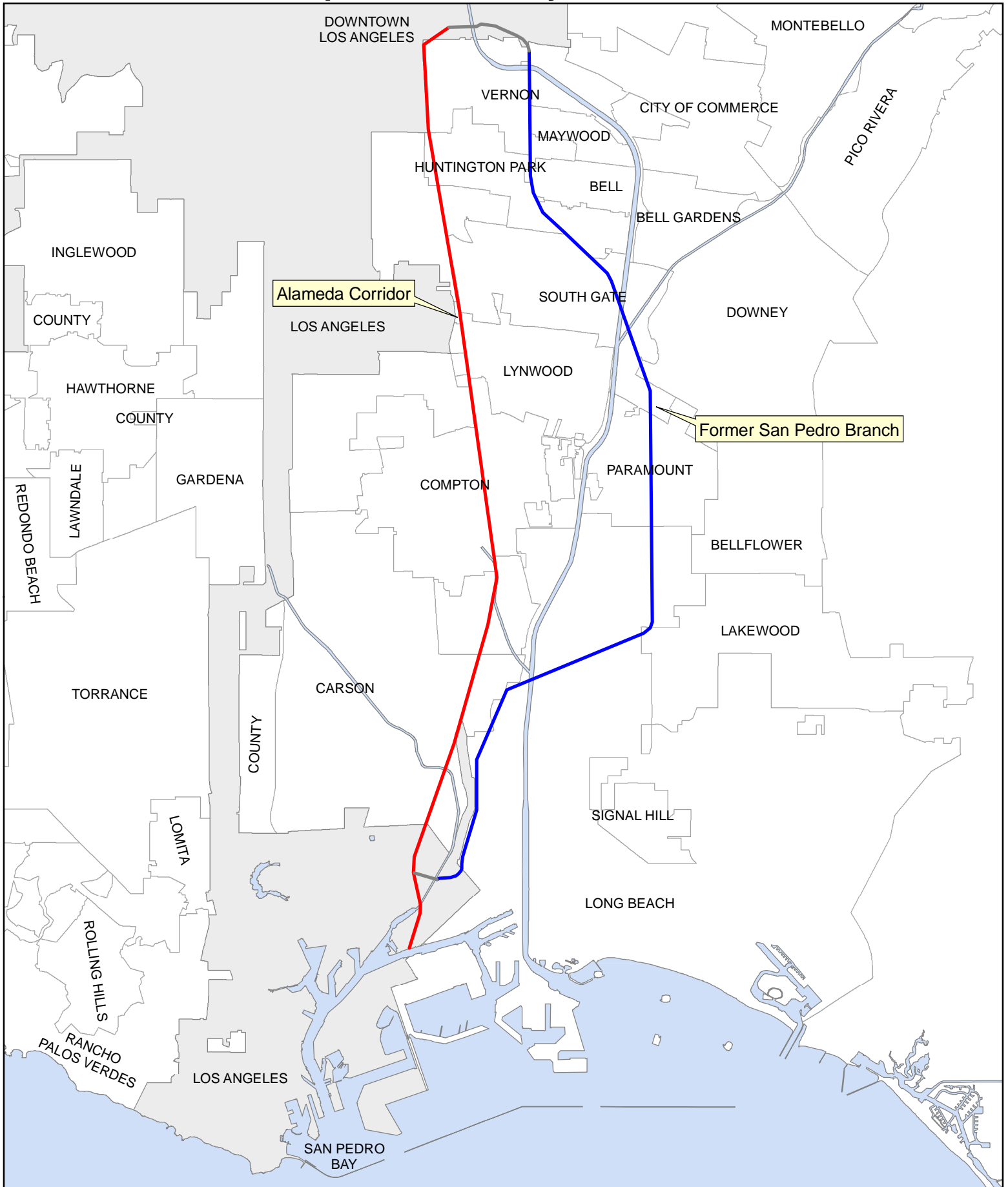
\_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

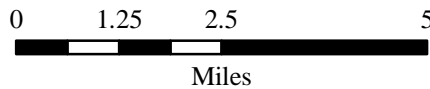
\_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# Harbor Department/Jointly-Owned Railroad



TRANSMITTAL 2



Harbor Department  
Planning & Economic Development  
Map Produced 7/2012

