

JOINT REVOCABLE PERMIT
BNSF Railway Company

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-2876 adopted by the Board of Harbor Commissioners of the City of Long Beach at its February 13, 2017 meeting, the Cities hereby issue this Joint Revocable Permit (the "Permit") and grant permission to BNSF Railway Company, a Delaware corporation ("Permittee") to operate and maintain two subsurface telecommunication conduits within the area (the "Permit Area") as shown on Exhibit A attached hereto and by this reference made a part hereof. This Permit shall be effective as of February 1, 2007. Such date shall be known as the "Effective Date" for purposes of this Permit.

The Permit Area shall be used and occupied by Permittee subject to the following terms, conditions and limitations:

1. PERMITTED USE. The Permit Area shall be used to operate and maintain on a non-exclusive basis two subsurface 4-inch telecommunication conduits, each containing three maxcell interducts, under the Permit Area and for no other purpose without the prior written consent of the Executive Director and the Chief Executive of the respective Harbor Departments of the Cities (referred to hereinafter as "Executive" singular or the "Executives" plural). As of the Effective Date of this Permit, each conduit has two empty interducts and the third interduct contains 1-100 PR Cable, 1-96 Fiber Cable and 1-98 Fiber Cable. No additional telecommunication conduit or cable installation is permitted without the express written permission of the Cities. Permittee may not rent or sublease any portion of the underground permit area or Permittee's telecommunication lines to any other party without the express written permission of the Cities. Permittee has inspected the Permit Area 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 Area, except as described in writing and attached hereto as an addendum, and in entering into this Permit, Permittee agrees it relies only on the provisions of this Permit.

2. PERMIT FEE.

2.1 Amount and Time of Payment. Permittee shall pay to the Cities, as a permit fee (the "Permit Fee") for the use of the Permit Area, without deduction, set off, demand or prior notice, the amount of Nineteen Thousand Three Hundred Sixty Nine Dollars and Seventy Nine Cents (\$19,369.79) for the period February 1, 2007 through January 31, 2016.

Thereafter, Permittee shall pay to the Cities, as a Permit Fee for the use of the Permit Area, without deduction, set off, demand or prior notice, the amount of Two Thousand Two Hundred Fifty Six Dollars and Fifty Nine Cents (\$2,256.59) per annum plus the Adjustment indicated in Section 2.2 Below.

In addition, a one time permit processing fee of Two Thousand Five Hundred Dollars (\$2,500.00) shall be paid to the Cities to cover costs associated with the administration of this Joint Revocable Permit. The permit processing fee and the Permit Fee due shall be paid in advance on or before the Cities' execution of this Permit. Thereafter, the Permit Fee shall be paid on each anniversary of the Effective Date. The Permit Fee and the permit processing fee shall be made payable to Cal Pacific Land Services, Inc. Trust Account and delivered to the Cities' designated property manager, which shall be Cal Pacific Land Services, Inc., 7245 Garden Grove Blvd. Ste. M, Garden Grove, CA 92841, or as otherwise instructed by written notice of Executives.

2.2 Adjustment. The Permit Fee shall be adjusted as of the anniversary of the Effective Date each year during the term (the "Adjustment Date"). The phrase "Permit Year" shall mean each twelve (12) consecutive calendar month period commencing on the ninth anniversary of the Effective Date, i.e. February 1, 2016. The Permit Fee shall be adjusted by comparing the Consumer Price Index for All Urban Consumers (base year 1982-84=100) for Los Angeles-Riverside-Orange County, published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), which is published for the date nearest the Adjustment Date (the "Current Index"), with the Index published nearest the Effective Date (the "Beginning Index"). If the Current Index has increased over the Beginning Index, the Permit Fee for the then-current Permit Year shall be set by multiplying the Permit Fee set forth above by a fraction, the numerator of which is the Current Index and the denominator of which is the Beginning Index. In no event shall the Permit Fee be less than the Permit Fee applicable during the immediately preceding Permit Year. If the Index is discontinued or revised during the period in which this Permit is in effect, another government index or computation shall be selected by the Cities and used in order to obtain substantially the same result as if the Index had not been discontinued. On adjustment of the Permit Fee as provided herein, the parties shall immediately execute in writing setting forth the adjusted Permit Fee and when the writing is executed by both Executives, it shall constitute a legally binding agreement of the parties without further municipal, corporate or other action.

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

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

2.5 Security Deposit. Permittee shall provide a cash deposit, certificate of deposit, surety bond, irrevocable letter of credit or other form of security (the "Security Deposit") in the name of the Cities and acceptable to the Executives and City Attorneys of the Cities in the amount of Two Thousand Dollars (\$2,000.00) as security for Permittee's faithful performance of its obligations under this Permit, including but not limited to the restoration of the Permit Area and the removal of the Improvements (as defined in Paragraph 4.1) by Permittee as required by this Permit upon any termination, revocation or forfeiture of this Permit. The Security Deposit shall be in a form acceptable to and subject to the approval of the Cities. The Cities shall pay no interest on the Security Deposit. If the financial condition of Permittee substantially changes such that Permittee may not be able to meet its restoration obligations, either Executive may require an increase of the Security Deposit.

3. REVOCABILITY; TERMINATION.

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

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

vacate, and surrender possession of, the Permit Area and (ii) all rights and obligations hereunder (with the exception of Permittee's obligations under Paragraphs 2.4, 4, 6 and 13) shall thereupon terminate.

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

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

4. IMPROVEMENTS; ALTERATIONS.

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

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

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

4.4 As-Built Drawings.

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

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

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

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

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

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

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

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

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

4.10 Rules Governing Pipelines. After installation, and in any event for the duration of this agreement, Permittee shall comply with pipeline testing and inspection requirements of the Pipeline Code, the Pipeline Safety Act, the California Public Utilities Code, California Public Utilities Commission regulations for pipelines, any other state and/or federal agency not mentioned above, and as required by the California State Fire Marshall (CSFM) under the Pipeline Safety Act. The Cities reserve the right to request tests for facilities not under the direct authority of the CSFM, the California Public Utilities Commission, the Federal Office of Pipeline Safety (FOPS), and the State of California Bureau of Conservation/Division of Oil, Gas, and Geothermal Resources (DOGGR). Notwithstanding the foregoing or anything contained herein to the contrary, it is the Permittee's position that this Paragraph 4.10 does not apply to the installation of the telecommunications cables as described in this Permit.

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

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

If Permittee's pipeline test(s) or inspection(s) are approved by the applicable agency requiring or overseeing the test(s) or inspections(s), Permittee shall confirm in writing approval of the test(s) or

inspections(s) and/or submit documentation including master schedule reference number for pipeline(s) being reported on, date(s) of test(s) or inspection(s), method(s) of test(s) or inspection(s) and general nontechnical summary of results.

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

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

Notwithstanding the foregoing or anything contained herein to the contrary, it is the Permittee's position that this Paragraph 4.12 does not apply to the installation of the telecommunications cables as described in this Permit.

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

6. HAZARDOUS SUBSTANCES.

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

6.2 Notification; Removal. During its use and occupancy of the Permit Area, Permittee shall notify the Executives within two (2) days following the release known to Permittee of any Hazardous Substances onto or from the Permit Area. Upon the known release, discharge or spill of any Hazardous Substances arising from or caused by Permittee, its employees, agents, invitees or affiliated predecessors in interest, Permittee, at its cost, shall promptly remove and/or remediate and dispose of all such

Hazardous Substances in accordance with the provisions of Paragraph 6.3 below, and restore the Permit Area to the condition it was in prior to the release of the Hazardous Substances. Permittee also agrees to provide to the Cities a surety bond to assure removal of such Hazardous Substances from the Permit Area if at any time the Cities demand such bond.

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

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

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

9. NO ASSIGNMENT. Except to an Affiliate (as hereinafter defined), Permittee shall not assign, sublet or transfer this Permit or any interest herein (whether by operation of law or otherwise) without the prior written consent of the Cities, which consent shall not be unreasonably withheld, conditioned or delayed. The transfer, on a cumulative basis, of twenty-five percent (25%) or more of the voting control of Permittee shall constitute an assignment for this purpose. Any attempted transfer or assignment without the prior written consent of the Cities shall be void and confer no rights whatsoever upon a transferee or assignee. In addition, Cities shall have the right to terminate this Permit if any assignment or transfer, whether voluntary, by operation of law, or otherwise is made or attempted without the prior written consent of the Cities. Each request for consent to an assignment shall be in writing, accompanied by information relevant to the Cities' determination as to the financial and operational responsibility and appropriateness of the proposed assignee, including but not limited to the intended use and/or required modification of the Permit Area, if any, together with a nonrefundable processing fee of \$3,000 or ten percent (10%) of the current annual Permit Fee applicable to the Permit Area which is the subject of the proposed assignment, whichever is greater, as consideration for the Cities' considering and processing the request. Permittee agrees to provide to the Cities such other or additional information and/or documentation pertaining to the requested consent as may be reasonably requested by the Cities. The Cities acknowledge and agree that, notwithstanding anything in this Paragraph 9 or elsewhere in this Permit to the contrary, Permittee shall have the right to assign, sublease, or transfer the Permit without the Cities' consent to Permittee's Affiliate (as hereinafter defined), so long as Permittee provides prior written notice to Cities of such assignment, sublease or transfer and copies of the applicable assignment, sublease or transfer documents. For purposes of this Permit, an "Affiliate" is any person or entity (i) that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common

control with, Permittee, or (ii) that is or becomes a parent, successor or affiliate of Permittee, or is a successor of Permittee by reason of merger, consolidation or reorganization.

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

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

12. RAILROAD APPROVAL AND NOTICE, EMERGENCY NOTIFICATION.

12.1 In non-emergency situations, Permittee shall obtain the written approval from the rail carriers that operate on the rail line traversing the Permit Area ("Railroads") prior to the commencement of any work within the Permit Area in connection with the construction, repair, renewal, modification, reconstruction, relocation or removal of the Improvements, excepting only periodic inspection of the Improvements. Permittee shall comply with all permits, notifications, protective and safety requirements imposed by the Railroads, and Permittee shall pay all associated costs. In addition, the Cities have included in this agreement, certain Safety Protocols, hereto attached as Exhibit B. Permittee agrees to perform all safety precautions, approvals and notices associated with activities in the vicinity of the rail lines as set forth in Exhibit B; provided, however, the parties acknowledge that Section 1.12 of Exhibit B does not apply to areas that BNSF controls and dispatches (including signal maintenance, track and time). Exhibit B may be updated from time to time by the Directors or their designees upon fourteen (14) days' prior written notice to Permittee.

12.2 Deleted.

12.3 Deleted.

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

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

14. INSURANCE.

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

14.1.1 Commercial General Liability Insurance which affords coverage at least as broad as Insurance Service Office "occurrence" form CG 0001 with minimum limits of at least \$10,000,000 per occurrence and the aggregate shall be double the per occurrence limit. The policy shall contain no provisions or endorsements limiting coverage for (1) premises and operations; (2) contractual liability; (3) independent contractors; (4) third party action over claims; and (5) defense costs shall be excess of limits.

14.1.2 Federal Employers Liability Insurance for injury to employees as required under the Federal Employers' Liability Act.

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

14.1.4 Environmental Impairment Liability Insurance. Coverage shall apply to bodily injury; property damage, including third party claims for on-site and off-site bodily injury and property damage; cleanup costs; and defense. The policy limit shall be no less than twenty-five million dollars (\$25,000,000) per occurrence, which is to remain in effect at least three (3) years after the termination of the Permit. If the insured is using Subcontractors, coverage must include work performed "by or on behalf" of the insured. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to Cities or any employee or agent of the Cities.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on any required insurance policy. The policy or policies of insurance for Commercial General Liability Insurance shall contain the following provisions or be endorsed to provide the following:

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

Additional insured endorsements shall not:

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

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

Permittee may self-insure with respect to any or all of the above if customary under such risk management program and in keeping with risks assumed by Class I railroads generally and provided Permittee maintains a Net Worth (defined as total assets less total liabilities) as presented in Permittee's

most recent audited financial statements of at least Fifty Million Dollars (\$50,000,000). Such coverage may provide for deductible amounts as are customary under the Permittee's risk management program and in keeping with risks assumed by Class I railroads generally. Permittee shall, at its own expense, be entitled to make all proofs of loss and take all other steps necessary to collect the proceeds of such insurance. Permittee agrees to provide a letter from an authorized individual describing its program of self-insurance annually or upon written request.

14.2 General Requirements.

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

14.2.2 The procuring of such policy or policies of insurance, or the use of deductibles, self-insured retentions, or self-insurance programs shall not be construed to be a limitation in any respect upon Permittee's obligations and liabilities under this Permit.

14.2.3 Deleted.

14.2.4 Each policy of insurance shall not be cancelled until a thirty (30) day written notice of cancellation has been served upon the Executives of the Harbor Departments of City of Los Angeles and the City of Long Beach except notice of ten (10) days shall be allowed for non-payment of premiums.

14.3 Evidence of Insurance. For the City of Los Angeles, electronic submission is the required method of submitting Permittee's insurance documents. Track4LA® is the City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the ACORD 25 Certificate of Liability Insurance in electronic format. Permittee's Auto Liability insurance broker or agent shall obtain access to Track4LA® at <http://track4la.lacity.org/> and follow the instructions to register and submit the appropriate proof of insurance on Permittee's behalf.

For the City of Long Beach, Permittee, concurrently with the execution of this Permit and as a condition precedent to the effectiveness thereof, shall deliver endorsements on forms approved by the City of Long Beach acting by and through the Board of Harbor Commissioners ("Evidence of Insurance") or a letter from an authorized individual describing its program of self-insurance.

Permittee shall notify Cities in writing at least fifteen (15) days prior to any cancellation or non-renewal of any insurance policies required by this Section 14.

14.4 Adjustment. Not more frequently than once every five years, the Cities and Permittee agree to meet to review current trends in the insurance industry and jointly determine if the coverages or the limits of insurance described in this Paragraph are adequate. If upon such review the parties jointly agree that the coverages or the limits of insurance are not adequate, Permittee shall modify the insurance coverage as agreed to by the parties.

15. TAXATION. THIS PERMIT MAY CREATE A POSSESSORY INTEREST IN FAVOR OF PERMITTEE, WHICH MAY BE SUBJECT TO TAXES. PERMITTEE SHALL PAY, PRIOR TO DELINQUENCY, ANY SUCH TAXES, AND ANY OTHER ASSESSMENTS OF WHATEVER

CHARACTER LEVIED UPON ANY INTEREST CREATED BY THIS PERMIT. PERMITTEE SHALL ALSO PAY ALL LICENSE AND PERMIT FEES REQUIRED FOR THE CONDUCT OF ITS OPERATIONS. PERMITTEE SHALL DELIVER SATISFACTORY EVIDENCE OF ALL SUCH PAYMENTS TO EACH EXECUTIVE UPON DEMAND.

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

To the Cities: Chief Executive
Long Beach Harbor Department
Post Office Box 570
Long Beach, California 90801
Fax No.: (562) 901-1739

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

With copies to: Port of Long Beach
4801 Airport Plaza Drive
Long Beach, CA 90815
Attention: Director of Real Estate
Fax No. (562) 283-7761

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

Cal Pacific Land Services, Inc.
7245 Garden Grove Blvd., Ste. M
Garden Grove, CA 72841
Attn: Ports' Property Manager
Telephone No.: (714) 799-0900
Fax No.: (714) 799-0500

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

To Permittee: BNSF Railway Company
3770 East 26th Street
Los Angeles, California
Attn: General Manager
Fax No.: (562) 901-9519
Telephone: (323) 267-4000

BNSF Railway Company
2301 Lou Menk Drive - GOB-3
Fort Worth, Texas 76131
Attn: Sandra Bye, Director of Acquisitions and Development

With copies to: Jones Lang LaSalle Brokerage, Inc.
4300 Amon Carter Blvd., Suite 100
Fort Worth, Texas 76155-2670
Attn: Licenses/Permits

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

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

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

19. MISCELLANEOUS PROVISIONS.

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

19.2 Deleted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. DELETIONS. Paragraphs 12.2, 12.3, 14.2.3, and 19.2 are deleted and are not to be considered as constituting a part of this permit, and they are so marked.

“PERMITTEE”

BNSF Railway Company,
a Delaware corporation

December 21, 2016

By:  _____

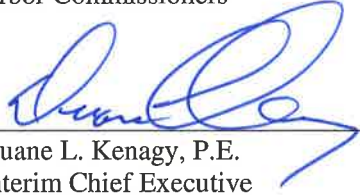
Name: KURT GERINGER

Title: General Director Real Estate

"CITIES"

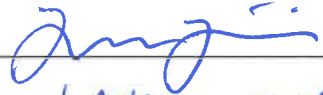
THE CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

FEB 28, 2017

By: 
Duane L. Kenagy, P.E.
Interim Chief Executive
Long Beach Harbor Department

Approved as to form this 23 day of February, 2017.

CHARLES PARKIN, City Attorney

By: 
LAUREN MINTON
Deputy City Attorney

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

_____, 20__

By: _____
Eugene D. Seroka
Executive Director
Los Angeles Harbor Department

Attest: _____
Secretary

Approved as to form and legality this 6th day of March, 2017.

MICHAEL N. FEUER, City Attorney
Janna B. Sidley, General Counsel
By:


Deputy City Attorney

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Texas)
County of Tarrant)

On December 21, 2016, before me, Joyia Simmons, a Notary Public, personally appeared Kurt Geringer, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

Joyia Simmons

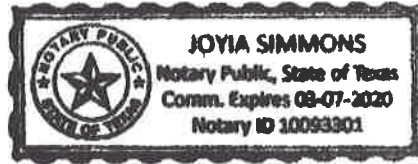
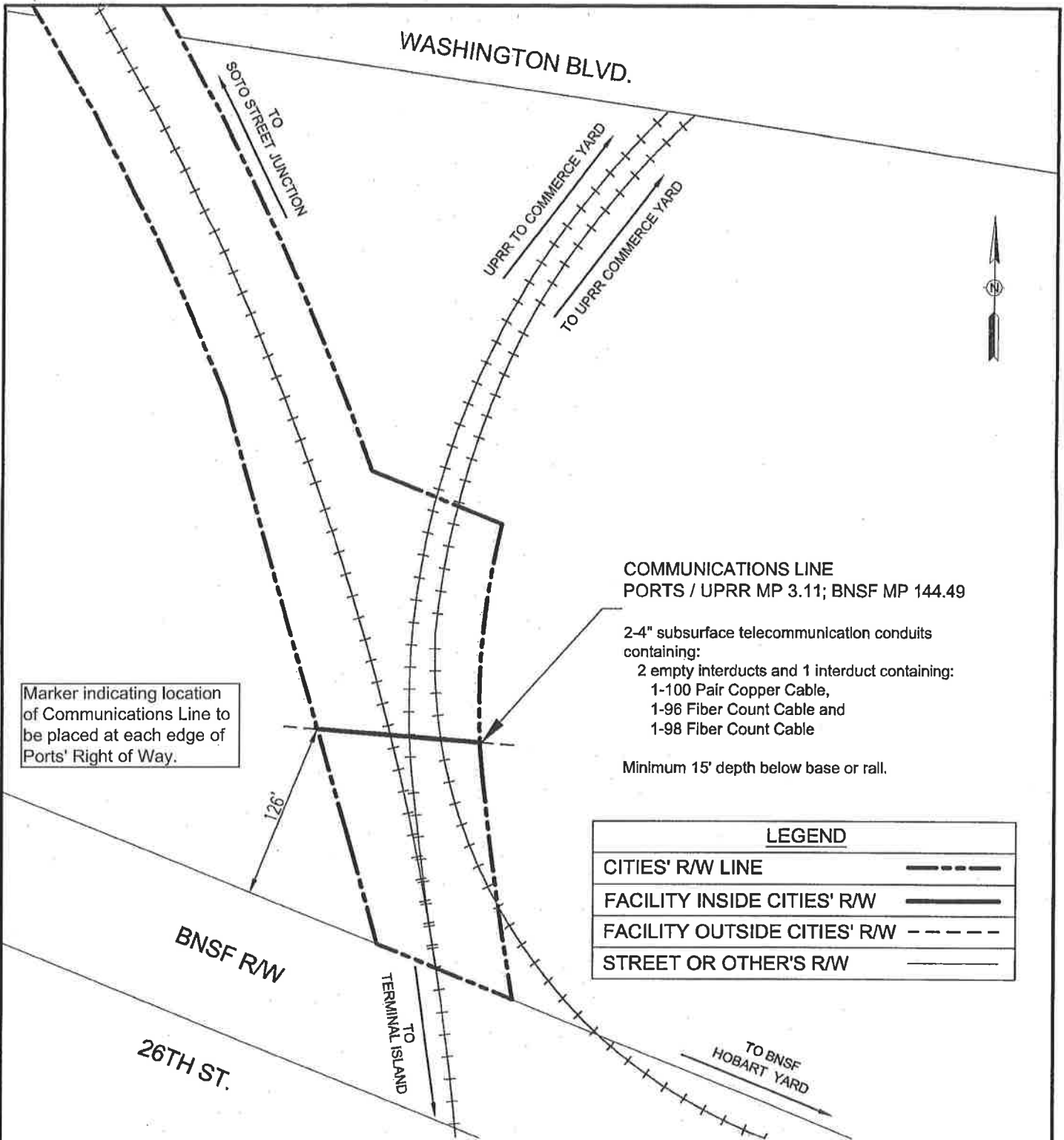


EXHIBIT A



Marker indicating location of Communications Line to be placed at each edge of Ports' Right of Way.

COMMUNICATIONS LINE
 PORTS / UPRR MP 3.11; BNSF MP 144.49

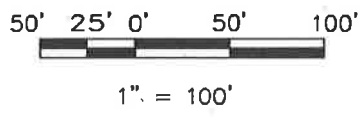
2-4" subsurface telecommunication conduits containing:
 2 empty interducts and 1 interduct containing:
 1-100 Pair Copper Cable,
 1-96 Fiber Count Cable and
 1-98 Fiber Count Cable

Minimum 15' depth below base of rail.

LEGEND	
CITIES' R/W LINE	- - - - -
FACILITY INSIDE CITIES' R/W	—————
FACILITY OUTSIDE CITIES' R/W	- - - - -
STREET OR OTHER'S R/W	—————

NOTE: FACILITY IS PERMITTED FOR BNSF INTERNAL COMMUNICATIONS USE ONLY
 NO THIRD PARTY USE IS ALLOWED

BNSF WILL OBTAIN APPROVAL OF ANY ADDITIONAL CABLE THROUGH PERMITTED CONDUITS.



PORT OF LONG BEACH/PORT OF LOS ANGELES			
<i>Perrigan Partners Ltd.</i> 5762 Bolsa Avenue, Ste. 201 Huntington Beach, CA 92649	PERMITTEE	LENGTH: 115' WIDTH: 5' SQUARE FEET: 575'	
	BNSF RAILROAD COMPANY		
	RR: SAN PEDRO BRANCH PORTS/UPRR MP 3.11 BNSF MP 144.49		
CITY	VERNON	COUNTY	LOS ANGELES
SCALE	THOMAS BROS.	DATE	PAGE
AS SHOWN	675-B2	04-19-13 REV. 4	1 OF 1
			PREPARED BY
			MT

EXHIBIT B

LOS ANGELES
CALIFORNIA

UNION PACIFIC
RAILROAD COMPANY

LONG BEACH
CALIFORNIA

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

The former Union Pacific Railroad Company (UPRR) San Pedro Branch railroad right-of-way (“Railroad Property”) is owned by the Harbor Departments of the Cities of Los Angeles and Long Beach (Ports). It is operated pursuant to agreements dated December 22, 1994 between the Ports and the UPRR. The Work Permit Protocols set out below are applicable to the Permittee and any of its 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 MJRP 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. The Permittee and/or Contractor acknowledge that trains and/or locomotives may be expected at any time and on any track. The Contractor shall report any accidents, injuries, track defects within the railroad right-of-way to the UPRR and the Ports by the first available means of communication.

1.2 A Railroad Work Plan (RRWP) shall be submitted a minimum of 14 days prior to any work to the Ports 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.

1.3 Upon approval of the RRWP, the Permittee or their Contractor must make arrangements for access with the UPRR’s Manager of Track Maintenance (see Attachment 1, Contact List). Failure to do so or failure to abide by his/her requirements and instructions will be cause for termination of the MJRP/license and will result in personnel being removed from the right-of-way.

1.4 At the Ports or UPRR’s discretion, a full time qualified inspector, employed by the Ports, Ports’ Property Manager or UPRR and paid by the entity requiring access for any work or access to the Ports owned Railroad Property may be required. The inspector will provide for railroad safety.

EXHIBIT B

- 1 1.5 Daily written email or faxed reports of work within the Ports' Railroad
2 Property may be required. These reports will include all activity within the
3 railroad right-of-way (including work force, equipment, date/time, and actual
4 work performed) and a description of any injuries, accidents, or unusual
5 circumstances, which occurs. Ports' Property Manager to distribute the daily
6 reports to UPRR and Ports.
- 7 1.6 Any work within 25 feet measured at track centerline (including the length of
8 crane boom) within the railroad right-of-way shall require a Flagperson. This
9 includes above and below ground work. The Flagperson shall be provided by
10 UPRR and paid for by the entity doing work or requiring access to the Ports'
11 Railroad Property. The request for a Flagperson shall require no less than a 14
12 day advance notice to UPRR from the entity doing work or requiring access.
13 UPRR will provide a Flagperson at their own discretion. The UPRR contact
14 for any Flagperson on the San Pedro Branch shall be the Manager of Track
15 Maintenance (Attachment 1, Contact List).
- 16 1.7 Daily contact shall be required between UPRR and the entity doing work or
17 access to the Railroad Property. The UPRR contact is the Manager of Track
18 Maintenance.
- 19 1.8 All excavations shall be continuously shored. Shoring shall be designed for a
20 minimum of E80 loading using AREMA standards and the method of shoring
21 shall be approved by UPRR engineering or subcontractor at Permittee's
22 expense. Prior to the start of work, the approved plans shall be sent to the
23 Ports and UPRR. The full length of all excavations on the railroad right-of-
24 way shall have trench plate covering when unattended.
- 25 1.9 All work shall be performed during daylight hours, Monday through Friday,
26 unless approved otherwise in writing by the Ports and UPRR. Work shall
27 progress in a manner that all work shall be completed in the least possible
28 time.
- 29 1.10 Temporary Horizontal Construction Clearances:
- 30 A minimum temporary horizontal construction clearance of 12 feet, measured
31 perpendicular or normal from the centerline of the nearest track to all physical
32 obstructions including but not limited to formwork, stockpiled materials,
33 parked equipment, bracing or other construction supports, shall be provided.
34 Temporary horizontal construction clearance shall provide space for drainage
35 ditches parallel to the standard roadbed section or provide an alternative
36 system that maintains positive drainage. Greater clearances may be required
37 for special cases to satisfy local operating conditions such as required sight
38 distance for signals. All access roads along the right-of-way shall remain
39 unobstructed at all times so that maintenance and emergency vehicles may
40 pass unrestricted through work areas. The work and storage areas shall be
41

EXHIBIT B

1 kept free of tripping hazards at all times. All excavated materials shall be
2 stockpiled in an area approved by the Ports and the UPRR. The temporary
3 horizontal clearances are subject to local operating requirements and UPRR
4 approval. All walkways shall be maintained to be in compliance with
5 California Public Utilities Commission regulations at all times.

6 1.11 Temporary Vertical Clearances:

7 A minimum temporary vertical construction clearance of 22 feet 6 inches
8 measured above top of high rail for all tracks shall be provided. The
9 temporary vertical clearance shall not be violated due to deflection of
10 formwork. Greater temporary vertical clearances may be required. The
11 temporary vertical clearances are subject to local operating requirements and
12 UPRR approval.

13 1.12 All personnel of the Permittee and or its Contractors and/or subcontractors
14 shall possess a valid railroad Roadway Worker Card if work is to be
15 performed within 25 feet of the nearest tracks and shall abide by all safety
16 rules and instructions from the Flagperson and the Ports and/or UPRR
17 Engineers. Public safety and safeguarding the tracks and the trains that operate
18 on those tracks are paramount. Work over or near the tracks will require one
19 or more of the following personnel at the Ports and/or UPRR's sole discretion
20 and at the Permittee's cost.

21 1.12.1 Flagperson, Signal Maintainer, Inspector, and/or Engineer:
22 Requires 14-day advance notice and will be provided at the current
23 UPRR rate to be provided at time of service.

24 1.13 Railroad Approval: Before entering upon or performing work of any kind on
25 the permit area, Permittee shall obtain the written approval of the operator of
26 the railroad traversing the permit area. Permittee shall comply with all permit,
27 notification, protective, and safety requirements imposed by the Railroad, and
28 Permittee shall pay all associated costs.

29 1.14 The Permittee or Permittee's representative will keep a copy of the Ports'
30 fully executed agreement, exhibits and all attachments including a complete
31 Railroad Work Plan at the job site at all times during the encroachment on the
32 Property. Failure to provide the necessary information or documents at the job
33 site will result in the removal of the Permittee, their employees and equipment
34 from the Railroad Property.

35 1.15 The Permittee or its Contractor shall mark the rails and RR property lines at
36 the centerline of any proposed bore and 10' north and 10' south of the bore
37 centerline. Elevations shall be shot, under the direction of a licensed land
38 surveyor, at the property lines and each rail along each of the three reference
39 lines. A numbering scheme, plan schematic, horizontal coordinates and

EXHIBIT B

1 spreadsheet shall be developed and provided to record elevations on each day
2 that elevations are checked as noted below.
3

4 Threshold limits within the Ports' right-of-way are 0.25" of movement of rail
5 (horizontal or vertical). If it is determined that settlement or movement
6 exceeds these threshold limits, the Contractor and UPRR flagger on-site shall
7 be immediately notified. The Contractor shall suspend all operations until site
8 conditions are reassessed and remediation is coordinated by Permittee or its
9 Contractor with Ports' Property Manager and UPRR.
10

11 Monitoring of settlement shall be performed at minimum intervals as follows:
12 a) once before construction, b) daily during the passage of boring/jacking
13 activities under the RR tracks, c) the day thereafter, d) 14 days thereafter, and
14 e) 30 days after the completion of boring/jacking activities under the RR
15 tracks.
16

17 Reports of the lateral and elevation readings shall be submitted to Cal Pacific
18 after the completion of construction, after the survey reading on the 14th day,
19 and after the survey reading on the 30th day.

20 1.16 All excavation/jacking/boring operations shall be observed for the presence of
21 petroleum products, chemicals, or contaminated soil. Deeply discolored soil or
22 suspected contaminated soil shall be segregated from uncontaminated soil;
23 suspected contaminated soil and related materials shall be sampled and tested
24 for classification in accordance with applicable regulatory requirements and
25 shall be disposed of in accordance with such requirements.

26 1.17 Construction procedures for jacking/boring/drilling under the RR tracks shall
27 be included in the RRWP.

28 1.18 The Contractor shall install a warning marker over the pipeline at each end of
29 the Ports' right-of-way.

30 1.19 Design and construction shall comply with Ports Rail Property Pipeline
31 Crossing standards and AREMA Part 5, Section 5.1 requirement for pipes
32 carrying flammable liquids.

33 1.20 A final job walkthrough shall be provided within 14 days upon written
34 notification to the Ports and UPRR of completion of the work. UPRR and
35 Permittee shall prepare a list of the items remaining to be completed. The
36 Permittee shall promptly remedy the defective and/or uncompleted portions of
37 the work to UPRR's satisfaction. The UPRR contact is the Manager of Track
38 Maintenance. Written confirmation shall be provided to the Ports and UPRR
39 that all items of the final job walkthrough have been completed to the
40 satisfaction of UPRR. Failure to promptly complete the final job walkthrough

EXHIBIT B

1 list of items remaining to be completed shall result in the work being
2 completed by UPRR and Permittee shall pay all associated costs.

3 1.21 Permittee shall provide "As-built" drawings within 30 days upon completion
4 of the work to UPRR and Cal Pacific Land Services, Inc., the Ports' Property
5 Manager. The UPRR contact for the "As-builts" is Projects
6 Review/Engineering and Manager of Special Projects (see Attachment 1).
7 Permittee shall keep "As-builts" current with copies made available to UPRR
8 and the Ports.

9 1.22 See the following additional attachments: Contact List (Attachment 1) and
10 Railroad Work Plan (Attachment 2). While the Ports make every effort to
11 update and keep the Contact List current (Attachment 1), Permittee shall
12 verify the accuracy of Attachment 1 by contacting the Ports' Property
13 Manager and requesting verification.

14 1.23 Notices to Member Agency Contacts in Writing:

15 Port of Long Beach
16 4801 Airport Plaza Drive
17 Long Beach, California 90815
18 Attention: Director of Real Estate
19 Fax No.: 562-901-1739
20

21 Port of Los Angeles
22 425 South Palos Verdes Street
23 San Pedro, California 90731
24 Attention: Director of Cargo/Industrial Real Estate
25 Fax No.: 310-547-1725
26

27 General Superintendent of Transportation Services
28 Union Pacific Railroad Company
29 19100 Slover Avenue
30 Bloomington, California 92316
31 Fax No.: 402-997-3809
32

33 Cal Pacific Land Services, Inc. (Ports' Property Manager)
34 7245 Garden Grove Blvd., Ste. M
35 Garden Grove, CA 92841
36 Attn: Ports' Property Manager
37 Fax No.: 714-799-0500

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

40 These protocols are approved as of September 19, 2015.

**EXHIBIT B
(Attachment 1)**

LOS ANGELES
CALIFORNIA

UNION PACIFIC
RAILROAD COMPANY

LONG BEACH
CALIFORNIA

UPRR San Pedro Branch Track Contact List – June 2016

1. Union Pacific Railroad:

- Primary Contact: Jason Rea 916/789-6243 jcrea@up.com
- Government Affairs: Andy Perez – 562-490-7051 aperez4@up.com
- Government Affairs: Lupe Valdez - 626-935-7617 lcvaldez@up.com
- Tracks: Dan Thompson – 402/203-4402 drthomps@up.com
- Maintenance & Capital Plan: Kyle Krzemien 909/685-2091 kpkrzemi@up.com
- Graffiti/Debris/Weeds #1: Tom Savage 916/789-6258 tcsavage@up.com
- At-grade crossings: MaryBeth Farley 916/789-6356 mfarley@up.com
- Debris/Flagging/Hi-rail (Mngr. Track Maint.): Silvio Molina 909/685-2469 - smolina@up.com
- Public Crossings: Chris Keckeisen 909-685-2264 ctkecke@up.com
- Project Review/Engineering #1: Chris Keckeisen 909-685-2264 ctkecke@up.com
- Bridges: Pete Rodriquez 909/685-2251 eprodriquez@up.com
- Rail Crossing/Signals: Jose Rubio 626/935-7681 jarubio@up.com
- Railroad Police: 800/892-1283 or 888/877-7267

2. Port of Long Beach

- Real Estate: Debra Shepack 562/283-7459 debra.shepack@polb.com
- Real Estate: Mari Takahashi 562/283-7458 mari.takahashi@polb.com
- Rail Operations: Carlo Luzzi 562/283-7278 carlo.luzzi@polb.com

3. Port of Los Angeles

- Real Estate: Paul Andre, 310.732.3479 pandre@portla.org
- Engineering: Ron Groves 310/732-3648 rgroves@portla.org

4. Cal Pacific Land Services, Inc.

- Chuck Wadell 714/799-0900 (714/679-9091 cell) cwadell@calpacland.com

This Contact List shall change from time to time. Permittee shall be at all times responsible for contacting Cal Pacific, the Ports' Property Manager, for the most current list.

**EXHIBIT B
(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 _____.

PURCHASE ORDER NUMBER (Attach Approved Joint Revocable Permit) : _____

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, Permittee 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 UPRR for each track closure. The Railroad track closure will be at the full discretion of the Engineer and UPRR. The UPRR primary contact is Tracks (909/685-2211). The UPRR secondary contact is the Manager of Track Maintenance (909/685-2469).

EXHIBIT B
(Attachment 2)

1 If an Inspector is required by the Ports, the charges relating to such Inspector will be paid for by
2 the Permittee or Permittee's Contractor. Inspection will be arranged by Ports' Property Manager.

3

4 **Note:** The Contractor shall submit the Railroad Work Plan to Cal Pacific, the Ports' Property
5 Manager (714-799-0900). All related permits shall be obtained prior to submitting the work plan.

EXHIBIT C

AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

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

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

EXHIBIT C

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

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

EXHIBIT C

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

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

EXHIBIT C

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.
- 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

EXHIBIT C

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.