

**MASTER JOINT REVOCABLE PERMIT  
NAME OF PERMITTEE**

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 delegating its authority to its Executive Director, and Resolution No. HD-\_\_\_\_\_ adopted by the Board of Harbor Commissioners of the City of Long Beach at its \_\_\_\_\_, 20\_\_ meeting, the Cities hereby issue this Master Joint Revocable Permit (the “Permit”) and grant permission to a California \_\_\_\_\_ [e.g. corporation, LLC, GP, etc.] (“Permittee”), to operate and maintain multiple improvements and structures (“Facilities”), more particularly described on the Schedule of Permit Areas attached hereto and made a part hereof as Exhibit A, and as may be subsequently revised by Permit Supplements after the effective date as 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 (referred to hereinafter as “Executive Director” singular or the “Executive Directors” plural). 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 B attached hereto and made a part hereof, and as may be subsequently revised by Permit Supplements after the effective date as B(x).

1.1 Permit Supplements. Permittee shall have the right to add and delete certain Permit Areas to this Permit and change uses of Permit Areas by requesting and acquiring approvals of such addition, deletion, or change in use from both Executive Directors. The Executive Directors shall have the right to execute Permit Supplements to this Permit for additions, deletions, or change of use of Permit Areas using rents based on rental rates described in Exhibit C, or as Exhibit C may be revised from time to time in accordance with Paragraph 3.2. Permit Supplements shall be effective upon last execution by the Executive Directors. Upon execution of any future Permit Supplement in substantially the form as shown in Exhibit G, attached hereto and incorporated herein (“Permit Supplement Template”), an Exhibit A(x) and Exhibit B(x) and where applicable Exhibit C(x) shall also be prepared and attached to the Permit. At the time of their preparation, such Exhibits A(x) and B(x) shall reflect the current facilities subject to this Permit.

**POLA NO.  
POLB NO.**

2. PERMITTED USE. The Permit Areas shall be used to operate and maintain, on a non-exclusive basis, the 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, employee, agent, or property manager 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 addendum, and in entering into this Permit, Permittee agrees it relies only on the provisions of this Permit.

3. PERMIT FEE.

3.1 Amount and Time of Payment. Permittee shall pay to the Cities, as a permit fee, for the use of the Permit Areas, without deduction, set off, demand or prior notice, the annual sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents (\$X,XXX.XX) (the total of each and all rents for the Permit Areas as indicated in Exhibit A or subsequent Exhibit A(x)) or as subsequently adjusted pursuant to this Paragraph , Paragraph 3.2, and Paragraph 3.3 and payable monthly in the amount of \_\_\_\_\_ (the "Permit Fee"). The Permit Fee shall be increased or decreased according to modifications caused by additions or deletions of the Permit Areas for this Permit as permitted pursuant to Paragraph 1.1, and as shown in any subsequent Permit Supplement updates. Such increase or decrease in the Permit Fee shall be effective upon the final execution date of any Permit Supplement by both Executive Directors. In addition, a one-time Permit Processing Fee of Two Thousand Five Hundred Dollars (\$2,500.00) [to be adjusted periodically as necessary] shall be paid to the Cities to cover costs associated with the administration of this Permit. The Permit Processing Fee shall be paid in advance on or before the Effective Date. The Permit Fee shall be paid in advance on or before the Effective Date and [monthly or quarterly or annually] thereafter on each [first day of the month or first day of the quarter or 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 [3<sup>rd</sup> party consultant may change as necessary], or as otherwise instructed by written notice of the Executive Directors.

3.2 Adjustment. The Cities may, in their sole and absolute discretion, increase the Permit Fee upon sixty (60) days' written notice to Permittee. The Executive Directors are hereby delegated authority to increase, but not decrease, the rental rates, minimum rates and percentage of surface rate shown in Exhibit C as those items may apply to Permit Supplements authorized pursuant to Paragraph 1.1. Concurrent with any Permit Supplement, which includes an increase in rates shown in Exhibit C, a new Exhibit C(x) shall also be prepared and attached to the Permit. Each revised Exhibit C(x) shall be effective upon the final execution date of any Permit Supplement by both Executive Directors. At the time of its preparation, each revised Exhibit C(x) shall reflect the rates applicable to the corresponding Permit Areas subject to this Permit and each corresponding Permit Supplement shall set forth the adjusted Permit Fee.

3.3 Annual Adjustment. The Permit Fee shall be increased annually for each year the Permit is in effect on every annual anniversary of the Effective Date ("Adjustment Date"). The Permit Fee shall be adjusted by comparing the Consumer Price Index for All Urban Consumers (base year 1982-84=100) for Los Angeles-Long Beach-Anaheim, published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), using the month that is two months prior to the Adjustment Date (the "Current Index"), with the Index published 14 months before the Adjustment 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 current Permit Fee 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 Cities shall provide notice in writing to the Permittee of the adjusted Permit Fee. When such notice is provided to Permittee, Permit Fee amount shown in said notice shall constitute a legally binding agreement of the parties without further municipal, corporate or other action.

3.4 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. Because 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 from the nature of the circumstances, 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.

3.5 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 Areas (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 Areas, 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.

3.6 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 Executive Directors and City Attorneys of the Cities in an amount equal to three months' rent or One Thousand Dollars (\$1,000.00), whichever is higher, as security for Permittee's faithful performance of its obligations under this Permit, including but not limited to the restoration of the Permit Areas and the removal of the Facilities (as defined in Paragraph 5.1) by Permittee as required by this Permit upon any termination, revocation or forfeiture of this Permit. 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 Director may require an increase of the Security Deposit.

#### 4. REVOCABILITY; TERMINATION.

4.1 Revocability without Cause. This Permit is revocable by any party upon sixty (60) days' [up to 180] written notice to the other parties without cause. Upon termination of this Permit, Permittee shall vacate, and surrender possession of, the Permit Areas (subject to Permittee's obligations under Paragraphs 5 and 7 below). If this Permit is revoked by either City pursuant to this Paragraph 4.1, 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 4.1, Permittee shall not be entitled to receive back any portion of the Permit Fee already paid by it.

4.2 Termination. The Executive Director 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 written 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 Areas 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 Permittee's interest in the Permit Areas are 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 parties. Additionally, a seizure of the Permit Areas 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 Areas and (ii) all rights and obligations hereunder (with the exception of Permittee's obligations under Paragraphs 5, 7 and 14) shall thereupon terminate.

4.3 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 Director affected the decision to grant this Permit, that Executive Director may terminate this Permit. Termination pursuant to this Paragraph shall not be termination by forfeiture.

4.4 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 or revocation 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 no reason or any reason whatsoever.

## 5. FACILITIES; ALTERATIONS.

5.1 General. Permittee, at its cost, may install or construct Facilities on the Permit Areas, and alter, repair, relocate, reconstruct or remove Facilities; provided, however, Permittee shall first obtain the written consent of both Executive Directors, which may be withheld in their sole and absolute discretion, and any necessary permits prior to the commencement of any work of improvement, relocation, alteration, removal or repair. Permittee shall retain title to all such Facilities.

5.2 Port of Los Angeles Harbor Engineer Permit. All excavation and/or construction work undertaken on property owned by the City of Los Angeles Harbor Department requires the Permittee obtain, pay for, and abide by the terms and conditions of the Harbor Engineer Permit. Notwithstanding any other provision of this Permit, no such work is authorized on property owned by City of Los Angeles Harbor Department without Permittee obtaining said Harbor Engineer Permit.

5.3 Port of Long Beach Harbor Development Permit. Notwithstanding any other provision of this Permit, if Permit Area, or any portion thereof, is within the Port of Long Beach Harbor District, all excavation and/or construction work related to the Permitted Use within such Permit Area requires the Permittee obtain, pay for, and abide by the terms and conditions of a Port of Long Beach Harbor Development Permit. No work is authorized on property within

the Port of Long Beach Harbor District without Permittee obtaining said Port of Long Beach Harbor Development Permit.

5.4 Plans. The Facilities 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 Facilities. Any and all work shall be done by Permittee in accordance with all applicable Laws (as defined in Paragraph 9 below).

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

5.6 As-Built Drawings.

5.6.1 Within thirty (30) days after the completion of the installation of the Facilities, 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 Facilities.

5.6.2 All of the “as-built” drawings furnished pursuant to Paragraph 5.6.1 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 Facilities by centerline traverses. The elevations of the tops of the Facilities 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.

5.6.3 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.

5.6.4 Where applicable, “as-built” drawings shall be available at the Permit Areas at all times and copies thereof shall be provided to the Cities upon thirty (30) days’ written notice.

5.7 Removal Upon Termination; Restoration. No later than the date upon which this Permit terminates (the “Termination Date”), Permittee, at its cost, shall remove the Facilities and any personal property placed by it on the Permit Areas and restore the Permit Areas to a condition acceptable to the Executive Directors of both Cities. Permittee shall repair, at

Permittee's expense, any damage to the Permit Areas caused by the removal of any Facilities or personal property. Permittee understands and agrees it is responsible for complete restoration of the Permit Areas, including the clean-up of any Hazardous Substances (as defined in Paragraph 7.1 below) required pursuant to Paragraph 7 on or before the Termination Date. If, for any reason, removal of Facilities and personal property from the Permit Areas or restoration of the Permit Areas 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 Areas as reasonably determined by the Cities; however, the new permit fee shall not be less than provided in Paragraph 3. Additionally, if the Facilities and any personal property of Permittee have not been removed and the Permit Areas 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 Areas 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 Areas, 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 5.7 shall apply to Permittee whether improvements were installed by Permittee or any prior users of the premises.

5.8 Restoration Plan. Upon request of either Executive Director, 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 7 below.

5.9 Waiver. The Cities, at their election, may waive the requirement that Permittee remove all or a portion of the Facilities or personal property from the Permit Areas and that Permittee restore the Permit Areas. 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 Facilities or personal property from the Permit Areas or to restore the Permit Areas despite such waiver. This provision survives the termination of this Permit.

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

5.11 Failure to Commence Work. In case Permittee fails to commence work in compliance with the notice given pursuant to Paragraph 5.10 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 Executive Directors 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.

5.12 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 Marshal (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).

5.13 Location of Subsurface Pipelines and Structures. Notwithstanding Paragraph 5.6, Permittee shall maintain at Permittee's nearest office to the Permit Area the as-built drawings that identify the precise position of any pipelines, utilities or improvements of any type Permittee places on the Permit Area, whether placed above or below ground. Upon at least two (2) days' written notice from the Cities, Permittee shall commence exploration for any subsurface structures under Permittee's control or servicing Permittee's operation within the Permit Areas. 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 Executive Directors. 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 Areas, the Cities shall have the right to enter onto the Permit Areas 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 Areas in a safe condition, both during and after completion of the work.

5.14 Pipeline Tests or Inspections. Within thirty (30) days from the commencement date of the permit, Permittee shall provide the Executive Directors with a master schedule showing dates for pipeline testing and inspection(s) in accordance with the requirements referenced in Paragraph 5.12 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 Marshal Line No. and the California State Fire Marshal Test ID No., if applicable. If Permittee's 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 notice should cover testing or inspection requirements of all agencies mentioned in Paragraph 5.12, 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 non-technical summary of results.

Permittee shall submit a summary of its certified test or inspection approval results to the Executive Directors 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 Executive Directors 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 Executive Directors 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).

Cities' receipt of any notice and/or documentation regarding any pipeline tests, inspection results, and/or irregularities with Permittee's pipelines does not constitute a waiver of any kind of Permittee's obligations under this Permit or under Applicable Laws and does not waive any rights and/or remedies of Cities.

6. MAINTENANCE. The Cities have no duty to make any improvement or repair to the Permit Areas or any improvements thereon. Permittee's sole and exclusive remedy by reason of any condition of the Permit Areas (whether such condition now or hereafter exists) shall be to terminate this Permit and vacate the Permit Areas. Any and all uses of the Permit Areas 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 Areas and all Facilities thereon during its use and occupancy thereof, in good order, condition and repair, free and clear of all rubbish, debris and litter.

7. HAZARDOUS SUBSTANCES.

7.1 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 Areas, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Permit Areas; (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. 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 Areas.

7.2 Notification; Removal. During its use and occupancy of the Permit Areas, Permittee shall notify, in addition to appropriate regulatory agencies, the Executive Directors within two (2) days following the release of any Hazardous Substances onto or from the Permit Areas. Upon the 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 7.3 below, and restore the Permit Areas to the condition they were 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 Areas if at any time the Cities demand such bond and in an amount determined by Cities in their sole and absolute discretion.

7.3 Excavation. If Permittee discovers or believes that any material being excavated from the Permit Areas contains any Hazardous Substances, Permittee, at its cost, shall: (i) promptly notify both Executive Directors of Permittee's discovery or belief; (ii) at the request of either Executive Director, 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 Executive Directors; (iv) develop and submit, for approval by both Executive Directors, 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 federal, state and local 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 Executive Directors. Waste manifests shall identify Permittee and its contractors, not the Cities, as the generator of any Hazardous Substances removed pursuant to this provision.

8. UTILITIES. Permittee shall pay all charges for services or utilities furnished to the Permit Areas 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.

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

10. NO ASSIGNMENT. 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. 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 Areas, if any, together with a nonrefundable processing fee of Three Thousand Dollars (\$3,000) or ten percent (10%) of the current annual Permit Fee applicable to the Permit Areas which are 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.

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

12. **RIGHTS-OF-WAY.** The Permit Areas are 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).

13. **RAILROAD APPROVAL AND NOTICE, EMERGENCY NOTIFICATION.**

13.1 **Rail Carrier Approval.** In non-emergency situations, Permittee shall obtain the written approval from the rail carriers ("Railroads") that operate on the rail line traversing the Permit Areas prior to the commencement of any work within the Permit Areas in connection with the construction, repair, renewal, modification, reconstruction, relocation or removal of the Facilities, excepting only periodic inspection of the Facilities. 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 Permit, certain Safety Protocols, hereto attached as Exhibits D-1, D-2, and D-3. Permittee agrees to perform all safety precautions, approvals and notices associated with activities in the vicinity of the rail lines as set forth in Exhibits D-1, D-2, and D-3. Exhibits D-1, D-2, and D-3 may be updated from time to time by the Executive Directors or their designees upon fourteen (14) days written notice to Permittee.

13.2 **Alameda Corridor.** If an emergency should arise requiring immediate attention for Permit Areas in the Alameda Corridor, Permittee shall call the maintenance contractor for the Alameda Corridor Transportation Authority ("ACTA"), presently Railworks at (323) 490-0671 (after hours, (646) 584-2619); the ACTA Construction and Maintenance Manager at (323) 855-8068; ACTA at (562) 247-7777; and Pacific Harbor Line's ("PHL") Badger Bridge at (310) 830-0660.

13.3 **Pacific Harbor Line.** If an emergency should arise requiring immediate attention for Permit Areas in the Pacific Harbor Line, Inc. right-of-way, Permittee shall call PHL's Badger Bridge at (310) 830-0660, the ACTA Construction and Maintenance Manager at (323) 855-8068, ACTA at (562) 247-7777 and Balfour Beatty at (562) 285-0366.

13.4 Union Pacific Railroad Company. 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.

14. INDEMNIFICATION. Permittee shall indemnify, defend (using counsel selected by the Cities) and hold harmless: (a) the Cities; (b) ACTA; (c) the 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 or any of the Indemnified Parties relating to or arising out of the Permit Areas, 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 active negligence or willful misconduct of the Indemnified Parties or any of them. The indemnity required herein shall survive the revocation, termination or expiration of this Permit.

15. INSURANCE.

15.1 Specific Coverages Required. Permittee shall procure and maintain at its expense and keep in force at all times during the term of this Agreement the types and amounts of insurance specified in Exhibit E, attached hereto and incorporated reference herein. Permittee shall also comply with the terms and conditions of said Exhibit E.

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

15.3 Accident Reports. Permittee shall report in writing to Cities within fifteen (15) days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Fifty Thousand Dollars (\$50,000) to property, occurring upon the Premises, or elsewhere within the Harbor Districts, if Permittee's officers, agents or employees are involved in such an accident or occurrence while undertaking the permitted uses. Such report shall contain to the extent available: (1) the name and address of the persons involved; (2) a general statement as to the nature and extent of injury or damage; (3) the date and hour of occurrence; (4) the names and addresses of known witnesses; and (5) such other information as may be known to Permittee, its officers or managing agents.

16. 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 DIRECTOR UPON DEMAND.

17. 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, or sent by prepaid, certified US Mail, addressed as follows: [may be updated periodically as necessary]

To the Cities:           Executive Director  
                                  Long Beach Harbor Department  
                                  415 W. Ocean Blvd.  
                                  Long Beach, CA 90802  
                                  Mailing address:  
                                  P.O. Box 570  
                                  Long Beach CA 90801-0570  
                                  Fax No.: (562) 283-7451

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

With copies to:       Port of Long Beach  
                                  415 W. Ocean Blvd.  
                                  Long Beach, CA 90802  
                                  (Mailing address:  
                                  P.O. Box 570  
                                  Long Beach CA 90801-0570)  
                                  Attention: Director of Real Estate  
                                  eamonn.killeen@polb.com  
                                  Fax No.: (562) 283-7451  
  
                                  Port of Los Angeles  
                                  425 South Palos Verdes Street  
                                  Post Office Box 151  
                                  San Pedro, CA 90731  
                                  Attention: Director of Cargo/Industrial Real Estate  
                                  realestate@portla.org  
                                  Fax No.: (310) 547-4611  
  
                                  Cal Pacific Land Services, Inc.  
                                  7245 Garden Grove Blvd., Ste. M

Garden Grove, CA 92841  
Attn: Ports' Property Manager  
Fax No.: (714) 799-0500

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

To Permittee:                   XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

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 and within seventy-two (72) hours from the time of mailing if mailed as provided in this Paragraph.

18.     NO DISCRIMINATION. Permittee agrees, and as a condition to the continuance of this Permit, that it shall 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 Areas 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 F, and are hereby incorporated herein and made a part hereof.

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

20.     MISCELLANEOUS PROVISIONS.

20.1.   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.

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

20.3 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.

20.4 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.

20.5 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.

20.6 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.

20.7 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.

20.8 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.

20.9 Amendments. This Permit shall not be altered, modified, or amended except by an instrument in writing, agreed to and signed by all parties. Any such alterations, modifications, or amendments are subject to all applicable approval processes required by, without limitation, either of the Cities' Charter and Administrative Codes.

20.10 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 Areas and for all materials furnished for or in connection with such work. Permittee shall keep the Permit Areas 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 Areas or the property of which the Permit Areas are 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 Areas to liability under any mechanics' or other lien law.

20.11 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 Areas without the prior written consent of the Cities.

20.12 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 Areas, Permittee, its agents and invitees and their property from the acts of third parties.

20.13 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.

20.14 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 of Los Angeles to terminate this Permit and otherwise pursue legal remedies that may be available.

20.15 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.

20.16 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 Areas, including but not limited to ACTA and its designees.

20.17 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. Permittee shall comply with the policy wherever applicable. Violation of the policy shall entitle the City to terminate this Permit with Permittee and pursue any and all other legal remedies that may be available.

21. 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.

22. DELETIONS. Paragraph(s) \_\_\_\_ is/are deleted and is/are not considered as part of this Permit and it is so marked.

23. COUNTERPARTS. This Permit may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

“PERMITTEE”

NAME OF PERMITTEE,  
a California XXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXX.  
a [entity status]

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

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

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

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

“CITIES”

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

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

By: \_\_\_\_\_  
Mario Cordero [To be updated as  
necessary]

Executive Director  
Long Beach Harbor Department

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

CHARLES PARKIN, City Attorney

By: \_\_\_\_\_  
David R. Albers, Deputy [To be  
updated as necessary]

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

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

By: \_\_\_\_\_  
Eugene D. Seroka [To be updated as  
necessary]  
Executive Director  
Los Angeles Harbor Department

Attest: \_\_\_\_\_  
Secretary

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

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

By: \_\_\_\_\_  
Heather M. McCloskey, Deputy [To  
be updated as necessary]