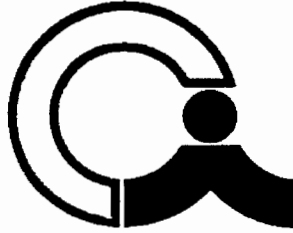


CITY OF INDUSTRY

CITY COUNCIL
REGULAR MEETING AGENDA

DECEMBER 10, 2015
9:00 AM



Mayor Mark Radecki
Mayor Pro Tem Cory Moss
Council Member Abraham Cruz
Council Member Roy Haber, III
Council Member Newell Ruggles

Location: City Council Chamber, 15651 East Stafford Street, City of Industry, California 91744

Addressing the City Council:

- ▶ **Agenda Items:** Members of the public may address the City Council on any matter listed on the Agenda. In order to conduct a timely meeting, there will be a three-minute time limit per person for any matter listed on the Agenda. Anyone wishing to speak to the City Council is asked to complete a Speaker's Card which can be found at the back of the room and at the podium. The completed card should be submitted to the City Clerk prior to the Agenda item being called and prior to the individual being heard by the City Council.
- ▶ **Public Comments (Non-Agenda Items):** Anyone wishing to address the City Council on an item not on the Agenda may do so during the "Public Comments" period. In order to conduct a timely meeting, there will be a three-minute time limit per person for the Public Comments portion of the Agenda. State law prohibits the City Council from taking action on a specific item unless it appears on the posted Agenda. Anyone wishing to speak to the City Council is asked to complete a Speaker's Card which can be found at the back of the room and at the podium. The completed card should be submitted to the City Clerk prior to the Agenda item being called by the City Clerk and prior to the individual being heard by the City Council.

Americans with Disabilities Act:

- ▶ In compliance with the ADA, if you need special assistance to participate in any City meeting (including assisted listening devices), please contact the City Clerk's Office (626) 333-2211. Notification of at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting.

Agendas and other writings:

- ▶ In compliance with SB 343, staff reports and other public records permissible for disclosure related to open session agenda items are available at City Hall, 15625 East Stafford Street, Suite 100, City of Industry, California, at the office of the City Clerk during regular business hours, Monday through Friday 9:00 a.m. to 5:00 p.m. Any person with a question concerning any agenda item may call the City Clerk's Office at (626) 333-2211.

-
1. Call to Order
 2. Flag Salute
 3. Roll Call
 4. Public Comments

5. **CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered to be routine and will be enacted by one vote. There will be no separate discussion of these items unless members of the City Council, the public, or staff request specific items be removed from the Consent Calendar for separate action.

5.1 Consideration of Register of Demands.

RECOMMENDED ACTION: Approve the Register of Demands and authorize the appropriate City Officials to pay the bills.

5.2 Consideration of a work authorization, under Consultant Contract No. 1-Kleinfelder 13-01, in the amount of \$71,013.00, for Kleinfelder to provide geotechnical services in conjunction with the Clark Avenue Widening Project per an On-Call Agreement.

RECOMMENDED ACTION: Approve the work authorization.

6. **ACTION ITEMS**

6.1 Consideration of the appointment of a City Clerk.

RECOMMENDED ACTION: Appoint the City Manager as the City Clerk.

6.2 Discussion regarding vacancy/vacancies on the City of Industry Property and Housing Management Authority.

RECOMMENDED ACTION: Staff has requested that this item be continued to the next regular meeting.

6.3 Consideration of Amendment No. 1 to Standard Software License and Services Agreement between the City and Tyler Technologies for accounting system software.

RECOMMENDED ACTION: Approve the Amendment.

6.4 Consideration of Resolution No. CC 2015-38 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF INDUSTRY AND CT CHESTNUT LLC, FOR THE PROPERTY LOCATED AT 948 S. AZUSA AVENUE, CITY OF INDUSTRY, CALIFORNIA AND ADOPTING THE NOTICE OF EXEMPTION REGARDING SAME.

RECOMMENDED ACTION: Staff recommends to extend the consideration of Resolution No. CC 2015-38 to the next regular scheduled meeting.

- 6.5 Consideration of Resolution No. CC 2015-45 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, CONFIRMING THE CONTINUED EXISTENCE OF AN EMERGENCY CONDITION AT THE FOLLOWS CAMP PROPERTY AND DECLARING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE CERTAIN WORK TO BE PERFORMED WITHOUT COMPETITIVE BIDDING PURSUANT TO CALIFORNIA PUBLIC CONTRACT CODE SECTION 22050 AND SECTION 3.52.110 OF THE CITY'S MUNICIPAL CODE.

RECOMMENDED ACTION: Adopt Resolution No. CC 2015-45.

- 6.6 Consideration of plot plan to construct storage racks for permanent outdoor storage at 680 Lemon Avenue and an accompanying Negative Declaration.

Consideration of Resolution No. CC 2015-43 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, APPROVING A PLOT PLAN TO ALLOW PERMANENT OUTDOOR STORAGE FOR THE PROPERTY LOCATE AT 680 LEMON AVENUE IN THE CITY OF INDUSTRY, WITHIN THE "M"-MANUFACTURING ZONE, AND ADOPTING A NEGATIVE DECLARATION REGARDING SAME.

RECOMMENDED ACTION: Adopt Resolution No. CC 2015-43.

- 6.7 Consideration of Resolution No. CC 2015-44 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY EXPRESSING THE INTENT TO VACATE THREE STORM DRAIN EASEMENTS LOCATED ON ASSESSOR PARCEL NUMBERS 8264-020-050, 8264-020-051, AND 8264-020-052 (ALSO KNOWN AS 18639 RAILROAD STREET) WITHIN THE CITY OF INDUSTRY AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING.

RECOMMENDED ACTION: Adopt Resolution No. CC 2015-44.

- 6.8 Request for authorization to advertise for solicitation of public bids for Contract No. CITY-1421, Valley Boulevard Reconstruction with PCC Pavement from Turnbull Canyon Road to Hacienda Boulevard, for an estimated cost of \$4,800,000.00.

RECOMMENDED ACTION: Approve the plans and specifications, and authorize the advertising for receipt of sealed bids.

- 6.9 Consideration of a Professional Services Agreement between the City of Industry and Biggs Cardoso Associates, Inc., to provide professional engineering services for the repainting of the Azusa Avenue Bridge over Valley Boulevard in an amount not to exceed \$310,625.00.

RECOMMENDED ACTION: Approve the Agreement.

- 6.10 Consideration of an amendment to Master Power Purchase and Sale Agreement with Noble Americas Energy Solutions for scheduling coordinator services and power sales to the electric utility.

RECOMMENDED ACTION: Appoint the Amendment and hourly contract schedules.

7. **CITY COUNCIL COMMITTEE REPORTS**

8. **AB 1234 REPORTS**

9. **CITY COUNCIL COMMUNICATIONS**

10. **CLOSED SESSION**

- 10.1 Conference with real property negotiators pursuant to Government Code Section 54956.8

Property: 2001 East Walnut Drive South, Walnut, CA 91789
Agency Negotiator: City Manager and City Attorney
Negotiating Party: SHRI Guru SINGH ABHA, Inc.
Under Negotiation: Price and terms of payment

- 10.2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Two Potential Cases.

11. Adjournment.

CITY COUNCIL

ITEM NO. 5.1

**CITY OF INDUSTRY
AUTHORIZATION FOR PAYMENT OF BILLS
CITY COUNCIL MEETING OF DECEMBER 10, 2015**

FUND RECAP:

<u>FUND</u>	<u>DESCRIPTION</u>	DISBURSEMENTS
100	GENERAL FUND	2,520,772.32
103	PROP A FUND	9,139.42
120	CAPITAL IMPROVEMENT FUND	129,713.83
161	IPUC - ELECTRIC	200,488.15
440	INDUSTRY PUBLIC FACILITY AUTHORITY	2,500.00
TOTAL ALL FUNDS		2,862,613.72

BANK RECAP:

<u>BANK</u>	<u>NAME</u>	DISBURSEMENTS
BOFA	BANK OF AMERICA - CKING ACCOUNTS	272,085.37
PROP/A	PROP A - CKING ACCOUNT	9,139.42
REF	REFUSE - CKING ACCOUNT	1,122,218.87
WFBK	WELLS FARGO- CKING ACCOUNT	1,459,170.06
TOTAL ALL BANKS		2,862,613.72

**CITY OF INDUSTRY
BANK OF AMERICA
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITYELEC.CHK - City Electric				
1367	11/24/2015		CITY OF INDUSTRY	\$172,799.48
	Invoice	Date	Description	Amount
	11/24/15	11/24/2015	TRANSFER FUNDS-ELECTRIC	\$172,799.48
CITYGEN.CHK - City General				
24284	12/02/2015		VOIDED- PAPER JAM	\$0.00
24285	12/02/2015		VOIDED- PAPER JAM	\$0.00
24286	11/23/2015		CITY OF INDUSTRY	\$96,138.22
	Invoice	Date	Description	Amount
	11/23/15-A	11/23/2015	TRANSFER FUNDS-SAVINGS	\$96,138.22
24287	11/23/2015		CITY OF INDUSTRY	\$189.65
	Invoice	Date	Description	Amount
	11/23/15-B	11/23/2015	TRANSFER FUNDS 91-1 REDEMPTION	\$189.65
24288	11/23/2015		CITY OF INDUSTRY	\$1.91
	Invoice	Date	Description	Amount
	11/23/15-C	11/23/2015	TRANSFER FUNDS 91-1 ADMIN	\$1.91

**CITY OF INDUSTRY
BANK OF AMERICA
December 10, 2015**

PARKCIT.CHK - Parking Citation Checking

546	11/18/2015			SUPERIOR COURT OF CALIFORNIA,	\$2,569.50
	Invoice	Date	Description	Amount	
	OCTOBER 2015	11/16/2015	PARKING CITATIONS RPT-OCT 2015	\$2,569.50	
547	11/18/2015			TURBO DATA SYSTEMS, INC	\$386.61
	Invoice	Date	Description	Amount	
	23578	10/31/2015	CITATION PROCESSING-SEP/OCT 2015	\$386.61	

Checks	Status	Count	Transaction Amount
	Total	8	\$272,085.37

CITY OF INDUSTRY

PROP A

December 10, 2015

Check	Date		Payee Name	Check Amount
PROPA.CHK - Prop A Checking				
11607	12/02/2015		CITY OF INDUSTRY-REFUSE	\$78.80
	Invoice	Date	Description	Amount
	2330704	11/01/2015	DISP SVC-METROLINK	\$78.80
11608	12/02/2015		INDUSTRY SECURITY SERVICES	\$8,480.49
	Invoice	Date	Description	Amount
	14-15719	10/30/2015	SECURITY SVC-METROLINK	\$1,729.73
	14-15787	11/06/2015	SECURITY SVC-METROLINK	\$1,729.73
	14-15853	11/13/2015	SECURITY SVC-METROLINK	\$1,898.05
	14-15916	11/20/2015	SECURITY SVC-METROLINK	\$1,729.73
	14-15978	11/27/2015	SECURITY SVC-METROLINK	\$1,393.25
11609	12/02/2015		SO CALIFORNIA EDISON COMPANY	\$336.33
	Invoice	Date	Description	Amount
	2016-00000658	11/19/2015	9/22-10/22/15 SVC-600 S BREA CYN B	\$336.33
11610	12/02/2015		WALNUT VALLEY WATER DISTRICT	\$243.80
	Invoice	Date	Description	Amount
	2131688	11/10/2015	10/1-11/3/15 SVC-PLATFORM METROLINK BREA CYN	\$18.29
	2130804	11/09/2015	10/1-10/30/15 SVC-IRR METROLINK STN-SPANISH LN	\$225.51

Checks	Status	Count	Transaction Amount
	Total	4	\$9,139.42

**CITY OF INDUSTRY
WELLS FARGO REFUSE**

December 10, 2015

<u>Check</u>	<u>Date</u>		<u>Payee Name</u>	<u>Check Amount</u>
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REFUSE - Refuse Account

WT193	12/01/2015		CITY OF INDUSTRY DISPOSAL CO.	\$1,122,218.87
	Invoice	Date	Description	Amount
	2338236	11/30/2015	REFUSE SVC 11/1-11/30/15	\$1,122,218.87

<u>Check</u>	<u>Status</u>	<u>Count</u>	<u>Transaction Amount</u>
	Total	1	\$1,122,218.87

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
63073	11/24/2015		AT & T	\$249.53
	Invoice	Date	Description	Amount
	2016-00000605	11/17/2015	11/17-12/16/15 SVC - TONNER-RADIO	\$123.44
	2016-00000606	11/17/2015	11/17-12/16/15 SVC - TONNER-GUARD SHACK	\$126.09
63074	11/24/2015		CITY OF CHINO HILL UTILITY	\$250.98
	Invoice	Date	Description	Amount
	2016-00000607	11/18/2015	10/15-11/16/15 SVC - 1550 RANCHO HILLS DR	\$250.98
63075	11/24/2015		GAS COMPANY, THE	\$40.77
	Invoice	Date	Description	Amount
	2016-00000608	11/17/2015	10/14-11/13/15 SVC - 610 S BREA CYN RD	\$40.77
63076	11/24/2015		HOLLYWOOD SOUND SYSTEMS	\$7,064.33
	Invoice	Date	Description	Amount
	53906-A	11/17/2015	AUDIO EQUIPMENT-IMC	\$7,064.33
63077	11/24/2015		L A COUNTY REGISTRAR-	\$75.00
	Invoice	Date	Description	Amount
	DP 15-16	11/20/2015	FEE-NOTICE OF DETERMINATION	\$75.00
63078	11/24/2015		L A COUNTY REGISTRAR-	\$75.00
	Invoice	Date	Description	Amount
	FOLLOW'S	11/23/2015	FEE-NOTICE OF EXEMPTION	\$75.00
63079	11/24/2015		PITNEY BOWES, INC.	\$103.75
	Invoice	Date	Description	Amount
	8554990-NV15	11/13/2015	POSTAGE MACHINE-NOV 2015	\$103.75
63080	11/24/2015		SAN GABRIEL VALLEY WATER CO.	\$646.17
	Invoice	Date	Description	Amount

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	2016-00000609	11/16/2015	10/16-11/13/15 SVC - 14329 VALLEY	\$444.78
	2016-00000610	11/17/2015	10/19-11/16/15 SVC - 336 EL ENCANTO	\$51.81
	841 7TH-NOV15	11/18/2015	10/20-11/17/15 SVC - 841 S SEVENTH	\$149.58
63081	11/24/2015		SO CALIFORNIA EDISON COMPANY	\$60,179.20
	Invoice	Date	Description	Amount
	2016-00000593	11/18/2015	10/16-11/17/15 SVC - 1341 FULLERTON RD	\$41.78
	2016-00000594	11/18/2015	10/16-11/17/15 SVC - 17635 GALE	\$1,570.37
	2016-00000595	11/19/2015	10/16-11/17/15 SVC - VARIOUS SITES	\$3,224.31
	2016-00000596	11/19/2015	10/16-11/17/15 SVC - 15415 DON JULIAN RD	\$2,216.63
	2016-00000597	11/19/2015	10/16-11/17/15 SVC - VARIOUS SITES	\$1,339.56
	2016-00000598	11/19/2015	10/16-11/17/15 SVC - VARIOUS SITES	\$100.04
	2016-00000599	11/19/2015	10/16-11/17/15 SVC - PECK RD S/O PELLISSIER	\$37.73
	841 7TH-NOV15	11/19/2015	10/16-11/17/15 SVC - 841 7TH AVE	\$708.98
	2016-00000600	11/19/2015	10/01-11/01/15 SVC - VARIOUS SITES	\$4,223.84
	2016-00000601	11/19/2015	08/01/14 - 11/01/15 SVC - VARIOUS SITES	\$38,835.79
	2016-00000602	11/19/2015	03/24-11/17/15 SVC - VARIOUS SITES	\$4,168.05
	2016-00000603	11/19/2015	07/17-11/17/15 SVC - VARIOUS SITES	\$3,554.04
	2016-00000604	11/19/2015	10/16-11/17/15 SVC - 15415 DON JULIAN RD	\$158.08
63082	11/24/2015		VERIZON	\$97.75
	Invoice	Date	Description	Amount
	841 7TH-NOV15	11/10/2015	11/10-12/09/15 SVC - 841 S. 7TH	\$97.75
63083	11/25/2015		L A COUNTY DEPT OF PUBLIC	\$5,108.90
	Invoice	Date	Description	Amount
	11/25/15	11/25/2015	PLAN CHECK FEE - FOLLOW'S CAMP - APN #8678-	\$5,108.90
63084	12/01/2015		BANK OF AMERICA - VISA	\$2,330.58
	Invoice	Date	Description	Amount
	2016-00000611	11/06/2015	10/7-11/6/15 AUTHORIZED REP	\$2,330.58

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date			Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo					
63085	12/01/2015			GARCIA'S FENCE CORP	\$490.00
	Invoice	Date	Description	Amount	
	111524	11/24/2015	FENCE REPAIR-333 TURNBULL CYN RD	\$490.00	
63086	12/01/2015			GAS COMPANY, THE	\$79.94
	Invoice	Date	Description	Amount	
	2016-00000612	11/24/2015	10/21-11/20/15 SVC - 15415 DON JULIAN RD	\$79.94	
63087	12/01/2015			SO CALIFORNIA EDISON COMPANY	\$382.75
	Invoice	Date	Description	Amount	
	2016-00000613	11/23/2015	10/22-11/21/15 SVC - 21380 VALLEY PED	\$93.80	
	2016-00000614	11/23/2015	10/22-11/21/15 SVC - 575 S BREA CYN	\$25.81	
	2016-00000615	11/23/2015	10/22-11/21/15 SVC - 580 S BREA CYN	\$25.66	
	2016-00000617	11/25/2015	10/26-11/24/15 SVC - 745 ANAHEIM PUENTE RD CP	\$69.35	
	2016-00000618	11/25/2015	10/01-11/23/15 SVC - 600 S BREA CYN RD	\$126.64	
	2016-00000619	11/25/2015	10/26-11/24/15 SVC - 17378 E GALE B	\$41.49	
63088	12/01/2015			SO CALIFORNIA EDISON COMPANY	\$44.11
	Invoice	Date	Description	Amount	
	2016-00000616	11/24/2015	10/23-11/23/15 SVC - 5010 ENGLISH RD	\$44.11	
63089	12/01/2015			SUBURBAN WATER SYSTEMS	\$2,828.28
	Invoice	Date	Description	Amount	
	180050700665	11/20/2015	10/22-11/20/15 SVC - 205 HUDSON AVE	\$50.35	
	180040755189	11/23/2015	10/23-11/23/15 SVC - AZUSA & GEMINI	\$2,777.93	
63090	12/01/2015			VERIZON	\$827.39
	Invoice	Date	Description	Amount	
	2016-00000620	11/10/2015	11/10-12/09/15 SVC - GENERATOR SITE-TELEMETRY	\$147.10	
	2016-00000621	11/10/2015	11/10-12/09/15 SVC - GENERATOR SITE-TELEMETRY	\$55.72	

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	2016-00000622	11/10/2015	11/10-12/09/15 SVC - 600 BREA CYN RD	\$223.73
	2016-00000623	11/10/2015	11/10-12/09/15 SVC - EM-21808 GARCIA LN-ALARM	\$62.97
	2016-00000624	11/10/2015	11/10-12/09/15 SVC - EM-21508 BAKER PKWY	\$61.37
	2016-00000625	11/16/2015	11/16-12/15/15 SVC - BREA CYN PUMP STN	\$65.77
	2016-00000626	11/16/2015	11/16-12/15/15 SVC - GENERATOR SITE-TELEMETRY	\$47.97
	2016-00000627	11/16/2015	11/16-12/15/15 SVC - PH AUTO PLAZA	\$162.76
63091	12/10/2015		3SI SECURITY SYSTEMS	\$612.00
	Invoice	Date	Description	Amount
	0000412552	10/29/2015	TRACKING DEVICE FOR VEHICLE THEFT	\$612.00
63092	12/10/2015		ADMIN SURE	\$1,900.00
	Invoice	Date	Description	Amount
	8983	11/15/2015	CLAIM ADMIN-DEC 2015	\$1,900.00
63093	12/10/2015		ADVANCED DISCOVERY, INC.	\$5,975.87
	Invoice	Date	Description	Amount
	B162739	10/31/2015	PROF SVC-LITIGATION	\$5,975.87
63094	12/10/2015		APPLIED METERING	\$1,133.63
	Invoice	Date	Description	Amount
	5318	11/18/2015	METER MAINT-OCT 2015	\$1,133.63
63095	12/10/2015		ARAMARK REFRESHMENT SERVICE,	\$165.37
	Invoice	Date	Description	Amount
	9259774	11/20/2015	COFFEE/OFFICE SUPPLIES	\$93.31
	1345547	11/23/2015	COFFEE/OFFICE SUPPLIES	\$72.06
63096	12/10/2015		AT & T	\$176.00
	Invoice	Date	Description	Amount
	6914029201	11/23/2015	10/19-11/18/15 SVC - METROLINK	\$176.00

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
63097	12/10/2015		BALLAS, JOHN	\$550.00
	Invoice	Date	Description	Amount
	12/02/15	12/02/2015	REIMBURSE FOR EXPENSES-REGISTRATION FOR	\$550.00
63098	12/10/2015		BLAKE AIR CONDITIONING	\$13,860.76
	Invoice	Date	Description	Amount
	36597	09/25/2015	REPAIR COOLING TOWER-CITY HALL	\$13,860.76
63099	12/10/2015		BRYAN PRESS	\$630.47
	Invoice	Date	Description	Amount
	0073923	11/13/2015	COI-MAILING LABELS	\$262.15
	0073915	11/19/2015	MEDICAL CHECKS	\$368.32
63100	12/10/2015		CITY OF INDUSTRY DISPOSAL CO.	\$6,162.50
	Invoice	Date	Description	Amount
	2332417	11/02/2015	PROPERTY CLEANUP-333 TURNBULL CYN RD	\$6,162.50
63101	12/10/2015		CITY OF INDUSTRY-MEDICAL	\$186,000.00
	Invoice	Date	Description	Amount
	REG 12/10/15	12/02/2015	TRANSFER FUNDS-MEDICAL	\$186,000.00
63102	12/10/2015		CITY OF INDUSTRY-PAYROLL ACCT	\$150,000.00
	Invoice	Date	Description	Amount
	P/R 11/30/15-A	11/24/2015	PAYROLL REIMBURSEMENT FOR 11/30/15	\$150,000.00
63103	12/10/2015		CITY OF INDUSTRY-REFUSE	\$1,033.32
	Invoice	Date	Description	Amount
	2330636	11/01/2015	STORAGE BOX RENTAL-TONNER CYN	\$1,033.32
63104	12/10/2015		CITY OF SOUTH EL MONTE	\$2,000.00

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date	Payee Name	Check Amount
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CITY.WF.CHK - City General Wells Fargo

Invoice	Date	Description	Amount
1072	11/16/2015	COALITION SR60 PROJ-DEC 2015	\$2,000.00
<hr/>			
63105	12/10/2015	CNC ENGINEERING	\$194,647.89
Invoice	Date	Description	Amount
44131	11/24/2015	PROPERTY MGMT FOR CITY OWNED PROPERTIES	\$2,538.48
44132	11/24/2015	205 HUDSON AVE-SHERIFF YAL OFFICES	\$403.86
44112	11/24/2015	66KV ELECTRICAL SUBSTATION FACILITY	\$1,256.64
44113	11/24/2015	ON-CALL STREET MAINT	\$156.88
44114	11/24/2015	WALNUT DR SOUTH WIDENING	\$2,440.65
44115	11/24/2015	CLARK AVE WIDENING	\$2,652.65
44116	11/24/2015	GENERAL ENGINEERING SVC-CIP	\$46,406.45
44117	11/24/2015	GENERAL ENGINEERING SVC 11/9-11/22/15	\$39,956.21
44118	11/24/2015	TONNER CYN PROPERTY	\$9,024.84
44119	11/24/2015	PUENTE VALLEY OPERABLE UNIT	\$627.52
44120	11/24/2015	MAINT OF CITY HALL	\$1,604.84
44121	11/24/2015	HOMESTEAD MUSEUM MAINT	\$1,037.74
44122	11/24/2015	VALLEY BLVD RESURFACING	\$16,182.76
44123	11/24/2015	PUC RAILROAD SAFETY UPGRADE	\$470.64
44124	11/24/2015	OPERATION AND MAINT OF THE METRO PARKING	\$542.72
44125	11/24/2015	EL ENCANTO HEALTH CARE FACILITY	\$506.68
44126	11/24/2015	TRAFFIC SIGNAL AT DON JULIAN RD/SIXTH	\$6,509.46
44127	11/24/2015	SAN JOSE AVE RECONSTRUCTION	\$2,030.96
44128	11/24/2015	TRAFFIC SIGNAL AT NELSON/SUNSET	\$162.71
44129	11/24/2015	LAUNDRY BLDG SETTLEMENT ISSUES	\$9,866.23
44130	11/24/2015	INDUSTRY HILLS-FUEL STN MAINT	\$470.64
44133	11/24/2015	FISCAL YEAR BUDGET	\$1,529.58
44134	11/24/2015	STORM DRAIN IN AJAX AVE	\$2,823.84
44135	11/24/2015	FOLLOW'S CAMP PROPERTY	\$9,873.93
44136	11/24/2015	VARIOUS ASSIGNMENTS-SA TO IUDA	\$4,481.16
44137	11/24/2015	CITY PROPERTY 110 ACRES SOUTH OF	\$190.01

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	44138	11/24/2015	METROLINK STN/COMMUTER RAIL STATION	\$313.76
	44139	11/24/2015	GATEWAY CITIES COUNCIL-GENERAL	\$406.78
	44140	11/24/2015	BICYCLE MASTER PLAN	\$886.69
	44141	11/24/2015	MAINT OF YARD AT 1123 HATCHER AVE	\$156.88
	44142	11/24/2015	ARENTH AVE RECONSTRUCTION	\$14,634.36
	44143	11/24/2015	CITY OF INDUSTRY MUNICIPAL CODE COMPLIANCE	\$313.76
	44144	11/24/2015	CIVIC FINANCIAL CENTER PARKING LOT	\$633.35
	44145	11/24/2015	PECK RD STORM DRAIN DEBRIS REMOVAL	\$313.76
	44146	11/24/2015	SURVEY OF MUNICIPALITIES	\$1,764.90
	44147	11/24/2015	FULLERTON RD GRADE SEPARATION	\$5,541.69
	44148	11/24/2015	ALAMEDA CORRIDOR EAST RELATED PROJECTS	\$1,025.55
	44149	11/24/2015	FAIRWAY DR GRADE SEPARATION	\$1,725.68
	44150	11/24/2015	NOGALES GRADE SEPARATION	\$784.40
	44088	11/12/2015	2015-2016 TARGET SPEED SURVEY	\$2,398.25
63106	12/10/2015		COMFORT SYSTEMS USA	\$1,973.83
	Invoice	Date	Description	Amount
	238365	11/19/2015	A/C MAINT- EL ENCANTO	\$1,973.83
63107	12/10/2015		CORDOBA CORPORATION	\$135,000.00
	Invoice	Date	Description	Amount
	215-422	11/10/2015	REAL ESTATE ADVISORY SVC	\$135,000.00
63108	12/10/2015		COUNTY OF LA DEPT OF PUBLIC	\$176,238.88
	Invoice	Date	Description	Amount
	PW-15102905172	10/29/2015	PAVEMENT MARKINGS	\$3,348.71
	PW-15102905240	10/29/2015	EMERGENCY ROAD SERVICE	\$781.02
	PW-15102905297	10/29/2015	PAVEMENT STRIPING	\$5,942.24
	PW015102905296	10/29/2015	PAVEMENT MARKINGS	\$6,586.07
	PW-15102905206	10/29/2015	PUMP HOUSE MAINT	\$1,008.99
	PW-15102905146	10/29/2015	WALNUT DR SOUTH-STORM DRAIN	\$464.85

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	PW-15102905148	10/29/2015	CLARK AVE WIDENING-STORM DRAIN	\$464.85
	PW-15102905155	10/29/2015	PAVEMENT STRIPING-VARIOUS STREETS	\$1,963.64
	PW-15102905187	10/29/2015	TRAFFIC SIGNING	\$46.72
	PW-15102905185	10/29/2015	LETTER/DEBRIS REMOVAL	\$2,141.97
	PW-15102905184	10/29/2015	STREET MAINT/INSPECTION	\$1,124.74
	PW-15102905181	10/29/2015	STORM DAMAGE RESPONSE	\$1,404.11
	PW-15102905198	10/29/2015	TRAFFIC ENGINEERING SVC	\$1,632.18
	PW-15102905171	10/29/2015	PAVEMENT STRIPING-VARIOUS STREETS	\$2,349.40
	PW-15102905175	10/29/2015	REPLACE PAVEMENT STRIPING	\$4,846.61
	PW-15102905183	10/29/2015	INSPECTION OF SIDEWALKS	\$6,603.42
	PW-15102905182	10/29/2015	STORM DRAIN MAINT	\$8,486.23
	PW-15102905205	10/29/2015	PUMP HOUSE MAINT	\$17,267.96
	PW-15102905158	10/29/2015	VALLEY BLVD BRIDGE	\$20,772.19
	PW-15102905186	10/29/2015	PAVEMENT PATCHING	\$21,974.62
	PW-15102905412	10/29/2015	TRAFFIC SIGNAL MAINT	\$19,007.16
	PW-15102905411	10/29/2015	TRAFFIC SIGNAL MAINT	\$48,021.20
63109	12/10/2015		COUNTY OF LOS ANGELES	\$655.76
	Invoice	Date	Description	Amount
	743M	11/05/2015	WEED ABATEMENT-VARIOUS SITES	\$655.76
63110	12/10/2015		DEPT OF ANIMAL CARE & CONTROL	\$2,312.17
	Invoice	Date	Description	Amount
	11/15/15	11/15/2015	SHELTER COSTS-OCT 2015	\$2,312.17
63111	12/10/2015		DIGITAL ASSURANCE	\$2,500.00
	Invoice	Date	Description	Amount
	28778	11/12/2015	SETUP FEE-REFUNDING BONDS	\$2,500.00
63112	12/10/2015		ELECTRA-MEDIA, INC	\$1,763.00
	Invoice	Date	Description	Amount

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	4016	11/15/2015	PH AUTO DISPLAY-DEC 2015	\$1,763.00
63113	12/10/2015		ENCO UTILITY SERVICES	\$2,500.00
	Invoice	Date	Description	Amount
	20-3-11-15	11/30/2015	PROF SVC-NOV 2015	\$2,500.00
63114	12/10/2015		FUEL PROS, INC.	\$489.54
	Invoice	Date	Description	Amount
	0000022220	10/16/2015	INDUSTRY HILLS-FUEL STN MAINT	\$489.54
63115	12/10/2015		GONSALVES & SON, JOE A.	\$5,045.00
	Invoice	Date	Description	Amount
	25709	11/18/2015	LEGISLATIVE SVC-DEC 2015	\$5,045.00
63116	12/10/2015		HADDICK'S AUTO BODY	\$1,577.69
	Invoice	Date	Description	Amount
	047600	11/13/2015	AUTO MAINT-LIC 1279695	\$422.90
	047599	11/13/2015	AUTO MAINT-LIC 1264382	\$446.19
	047597	11/13/2015	AUTO MAINT-LIC 1298317	\$271.69
	047596	11/13/2015	AUTO MAINT-LIC 1370863	\$86.23
	047603	11/13/2015	AUTO MAINT-LIC 1347776	\$350.68
63117	12/10/2015		INDUSTRY SECURITY SERVICES	\$38,727.52
	Invoice	Date	Description	Amount
	14-15965	11/27/2015	SECURITY SVC 10/16-11/20-11/26/15	\$17,555.36
	14-15976	11/27/2015	SECURITY SVC-TRES HERMANOS	\$2,355.44
	14-15914	11/20/2015	SECURITY SVC-TRES HERMANOS	\$2,187.12
	14-15903	11/20/2015	SECURITY SVC 10/16-11/13-11/19/15	\$16,629.60
63118	12/10/2015		INTERTIE	\$9,600.00
	Invoice	Date	Description	Amount

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
1676	11/10/2015		ENERGY CONSULTING-METRO SOLAR	\$9,600.00
63119	12/10/2015		L A COUNTY FIRE DEPT.	\$3,260.00
	Invoice	Date	Description	Amount
	IN0224427	11/13/2015	HAZARDOUS MATERIAL-INDUSTRY HILLS FUELING	\$953.00
	IN0231728	11/13/2015	STORAGE TANK-PACIFIC PALMS GENERATOR	\$2,307.00
63120	12/10/2015		L A COUNTY SHERIFF'S	\$18,984.80
	Invoice	Date	Description	Amount
	161613NH	11/20/2015	SPECIAL EVENT-DIRECTED PATROL	\$18,984.80
63121	12/10/2015		LOCKS PLUS	\$805.92
	Invoice	Date	Description	Amount
	32986	11/20/2015	REPAIRS-VARIOUS SITES	\$805.92
63122	12/10/2015		METHOD TECHNOLOGIES	\$47.50
	Invoice	Date	Description	Amount
	22839	11/11/2015	UPDATE CITY WEBSITE	\$47.50
63123	12/10/2015		MR PLANT & INTERIOR BOTANICAL	\$710.00
	Invoice	Date	Description	Amount
	DEC 2782	12/01/2015	PLANT MAINT-DEC 2015	\$122.00
	DEC 2783	12/01/2015	PLANT MAINT-DEC 2015	\$588.00
63124	12/10/2015		MYERS & SONS HI-WAY SAFETY,	\$375.60
	Invoice	Date	Description	Amount
	38390	11/17/2015	STOCK SIGNS	\$375.60
63125	12/10/2015		OLMOS PROFESSIONAL SERVICES	\$8,782.00
	Invoice	Date	Description	Amount
	193	11/30/2015	JANITORIAL SVC-CITY HALL	\$5,500.00

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	195	11/30/2015	JANITORIAL SVC-FIRE STATION	\$1,815.00
	194	11/30/2015	JANITORIAL SVC-IMC	\$1,467.00
63126	12/10/2015		PHILIPS, PAUL J.	\$101.85
	Invoice	Date	Description	Amount
	11/23/15	11/23/2015	REIMBURSE FOR EXPENSES-LUNCH MEETINGS	\$101.85
63127	12/10/2015		PLACEWORKS	\$4,654.67
	Invoice	Date	Description	Amount
	57651	10/31/2015	INDUSTRY CLIMATE ACTION PLAN	\$4,654.67
63128	12/10/2015		POSTMASTER	\$276.00
	Invoice	Date	Description	Amount
	PO BOX - 3366	12/01/2015	ANNUAL FEE-PO BOX 3366	\$276.00
63129	12/10/2015		R.P. LAURAIN & ASSOCIATES, INC.	\$10,100.00
	Invoice	Date	Description	Amount
	9187	10/21/2015	APPRAISAL FEE-19835 E WALNUT DR	\$3,400.00
	9185	10/12/2015	APPRAISAL FEE-PROP #21 & 50 ON HACIENDA BL	\$1,500.00
	9190	10/29/2015	APPRAISAL FEE-PROP #33, 17545 E. GALE AVE	\$5,200.00
63130	12/10/2015		RESERVE ACCOUNT	\$1,000.00
	Invoice	Date	Description	Amount
	11/17/15	11/17/2015	POSTAGE FOR ACCT #15775679	\$1,000.00
63131	12/10/2015		RICOH USA, INC.	\$246.63
	Invoice	Date	Description	Amount
	5039119569	11/13/2015	METER READING	\$246.63
63132	12/10/2015		RICOH USA, INC.	\$903.72
	Invoice	Date	Description	Amount

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	5039159241	11/16/2015	METER READING	\$903.72
63133	12/10/2015		RLH INDUSTRIES, INC.	\$3,066.00
	Invoice	Date	Description	Amount
	H29689	10/26/2015	INSTALL AT GRAND CROSSING SUBSTATION	\$3,066.00
63134	12/10/2015		ROWLAND WATER DISTRICT	\$1,819.65
	Invoice	Date	Description	Amount
	1135HATCH-NOV15	11/24/2015	10/19-11/17/15 SVC - 1135 HATCHER ST	\$55.96
	1123CHATCH-NOV15	11/24/2015	10/19-11/17/15 SVC - 1123C HATCHER ST	\$134.26
	2016-00000636	11/24/2015	10/19-11/17/15 SVC - 17217 & 17229 CHESTNUT ST	\$137.16
	2016-00000637	11/24/2015	10/19-11/17/15 SVC - 755 NOGALES (RC)	\$110.92
	2016-00000638	11/24/2015	10/19-11/17/15 SVC - AZUSA AVE (RC)	\$86.28
	1123DHATCH-NOV15	11/24/2015	10/19-11/17/15 SVC - 1123D HATCHER ST	\$61.76
	2016-00000639	11/24/2015	10/19-11/17/15 SVC - 18044 ROWLAND-LAWSON	\$116.86
	2016-00000640	11/24/2015	10/19-11/17/15 SVC - 17401 VALLEY BLVD	\$251.09
	2016-00000641	11/24/2015	10/19-11/17/15 SVC - 930 AZUSA AVE	\$291.69
	2016-00000642	11/24/2015	10/20-11/16/15 SVC - AZUSA AVE - CENTER	\$90.76
	2016-00000643	11/24/2015	10/20-11/17/15 SVC - AZUSA AVE 205597	\$105.26
	2016-00000644	11/24/2015	10/21-11/17/15 SVC - HURLEY ST & VALLEY	\$224.99
	2016-00000645	11/24/2015	10/20-11/17/15 SVC - 1100 AZUSA AVE	\$152.66
63135	12/10/2015		SAN GABRIEL VALLEY FAMILY	\$4,300.00
	Invoice	Date	Description	Amount
	2717	11/30/2015	GRAFFITI REMOVAL-NOV 2015	\$4,300.00
63136	12/10/2015		SAN GABRIEL VALLEY WATER CO.	\$5,932.39
	Invoice	Date	Description	Amount
	2016-00000646	11/30/2015	10/28-11/25/15 SVC - CROSSROADS PKWY SOUTH	\$629.75
	2016-00000647	11/30/2015	10/28-11/25/15 SVC - CROSSROADS PKWY SOUTH	\$182.61
	2016-00000648	11/30/2015	10/28-11/25/15 SVC - CROSSROADS PKWY SOUTH	\$761.88

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	2016-00000649	11/30/2015	10/28-11/25/15 SVC - CROSSROADS PKWY NORTH	\$976.58
	2016-00000650	11/30/2015	10/28-11/25/15 SVC - CROSSROADS PKWY NORTH	\$902.69
	2016-00000651	11/30/2015	10/28-11/25/15 SVC - CROSSROADS PKWY NORTH	\$301.52
	2016-00000652	11/30/2015	10/28-11/25/15 SVC - PELLISSIER	\$243.29
	2016-00000653	11/30/2015	10/28-11/25/15 SVC - PELLISSIER	\$410.52
	2016-00000654	11/30/2015	10/28-11/25/15 SVC - PECK/UNION PACIFIC BRIDGE	\$362.20
	2016-00000655	11/30/2015	10/28-11/25/15 SVC - S/E COR OF PELLISSIER	\$722.24
	2016-00000656	11/30/2015	10/28-11/25/15 SVC - PELLISSIER	\$242.06
	2016-00000657	11/30/2015	10/28-11/25/15 SVC - IRRIG SALT LAKE/SEVENTH	\$197.05
63137	12/10/2015		SATSUMA LANDSCAPE & MAINT.	\$146,860.18
	Invoice	Date	Description	Amount
	1115TACH	11/25/2015	LANDSCAPE SVC-NOV 2015	\$111,935.18
	1115CHTA	11/25/2015	LANDSCAPE SVC-VARIOUS SITES	\$34,925.00
63138	12/10/2015		SET-POINT CONTROL	\$1,430.00
	Invoice	Date	Description	Amount
	800257	11/18/2015	SCADA SUPPORT RENEWAL 9/1/15-8/31/16	\$1,430.00
63139	12/10/2015		SO CAL INDUSTRIES	\$89.93
	Invoice	Date	Description	Amount
	203465	11/07/2015	FENCE RENTAL-INDUSTRY HILLS	\$89.93
63140	12/10/2015		SO CALIFORNIA EDISON COMPANY	\$574.28
	Invoice	Date	Description	Amount
	2016-00000634	11/28/2015	10/26-11/24/15 SVC - BREA CYN-VARIOUS SITES	\$574.28
63141	12/10/2015		SO CALIFORNIA EDISON COMPANY	\$12,988.32
	Invoice	Date	Description	Amount
	7500602092	11/19/2015	10/01-10/31/15 SVC - OLD RANCH RD/MAYO AVE	\$5,623.22
	7500602093	11/19/2015	10/01-10/31/15 SVC - 208 S. WADDINGHAM WAY	\$3,667.31

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
	7500602094	11/19/2015	10/01-10/31/15 SVC - 745 ANAHEIM-PUENTE RD	\$1,027.46
	7500602113	11/19/2015	08/01-08/31/15 SVC - RELIABILITY SVC	\$768.72
	7500602294	11/20/2015	10/01-10/31/15 SVC - 133 N. AZUSA AVE	\$1,901.61
63142	12/10/2015		SQUARE ROOT GOLF &	\$182,913.95
	Invoice	Date	Description	Amount
	1203H	11/25/2015	LANDSCAPE SVC-NOV 2015	\$122,933.69
	1202ELHM	11/25/2015	LANDSCAPE SVC-NOV 2015	\$42,013.26
	1201ELHM	11/25/2015	LANDSCAPE SVC-NOV 2015	\$17,967.00
63143	12/10/2015		STAPLES BUSINESS ADVANTAGE	\$537.28
	Invoice	Date	Description	Amount
	8036923472	11/21/2015	OFFICE SUPPLIES	\$188.68
	8036838346	11/14/2015	OFFICE SUPPLIES	\$348.60
63144	12/10/2015		STATE COMPENSATION INS. FUND	\$2,728.83
	Invoice	Date	Description	Amount
	DECEMBER 2015	12/02/2015	PREMIUM FOR 12/01-1/01/16	\$2,728.83
63145	12/10/2015		SUNBELT RENTALS	\$175.66
	Invoice	Date	Description	Amount
	56651794	11/19/2015	EQUIPMENT RENTAL-INDUSTRY HILLS	\$175.66
63146	12/10/2015		THE PUN GROUP	\$20,000.00
	Invoice	Date	Description	Amount
	2015-0345	11/20/2015	COI-AUDIT FY 14/15	\$20,000.00
63147	12/10/2015		THIENES ENGINEERING INC.	\$28.77
	Invoice	Date	Description	Amount
	41665	11/09/2015	REIMBURSE FOR EXPENSES	\$28.77

**CITY OF INDUSTRY
WELLS FARGO BANK
December 10, 2015**

Check	Date		Payee Name	Check Amount
CITY.WF.CHK - City General Wells Fargo				
63148	12/10/2015		UNDERGROUND SERVICE ALERT OF	\$22.50
	Invoice	Date	Description	Amount
	1020150155	11/01/2015	DIG ALERTS	\$22.50
63149	12/10/2015		VANGUARD CLEANING SYSTEMS,	\$925.00
	Invoice	Date	Description	Amount
	14565	12/01/2015	JANITORIAL SVC-DEC 2015	\$925.00
63150	12/10/2015		WEATHERITE SERVICE	\$423.00
	Invoice	Date	Description	Amount
	L165031	11/06/2015	A/C MAINT-15660 STAFFORD/15559 RAUSCH	\$271.00
	L165037	11/10/2015	A/C MAINT- IMC	\$152.00

Checks	Status	Count	Transaction Amount
	Total	78	\$1,459,170.06

CITY COUNCIL

ITEM NO. 5.2



CITY OF INDUSTRY

P.O. Box 3366 • 15625 E. Stafford St. • City of Industry, CA 91744-0366 • (626) 333-2211 • FAX (626) 961-6795

MEMORANDUM

To: Honorable Mayor and Members of the City Council
From: Paul J. Philips, City Manager *Paul J. Philips*
Staff: John Ballas, City Engineer *JOB*
Date: November 30, 2015

**SUBJECT: Geotechnical Services for City Contract No. CITY-1422 Clark Avenue
Widening and Sidewalk Construction**

Per the City's request, Kleinfelder has submitted a work authorization to perform geotechnical services in conjunction with the above Capital Improvement Project in the amount of \$71,013.00. In July 2013, the City approved an On-Call Professional Service Agreement with Kleinfelder (1-Kleinfelder 13-01) in the amount of \$1,000,000.00 to provide geotechnical services for projects on the City's Capital Improvement Project ("CIP") list. For budgetary and accounting purposes, separate tasks performed under the on-call contract are submitted by Kleinfelder, reviewed, approved and assigned a letter extension (A,B,C, etc).

The attached work authorization will be assigned letter "O" for work in conjunction with the Clark Avenue Widening and Sidewalk Construction Project. The proposed budget of \$71,013.00 will be deducted from the remaining balance of \$417,000.00.

Staff, therefore, recommends that the City Council approve the work authorization for a budget amount of \$71,013.00 and authorize the City Manager to execute the same.

PJP:JDB:mk



November 20, 2015
Proposal No. MW140073/15-0000

Mr. Paul J. Philips, City Manager
City of Industry
c/o CNC Engineering
255 N. Hacienda Blvd., Suite 222
City of Industry, California 91744

**Subject: Request for Authorization Under On-Call Agreement 1-Kleinfelder 13-01
Soils and Materials Observation and Testing Services
Clark Avenue Widening
City of Industry, California**

Dear Mr. Philips:

In response to the request of Mr. Gerry Perez with CNC Engineering, we have prepared our scope of work and cost estimate for the subject project. We understand that the proposed project consists of On-Call geotechnical observation and testing services for the widening of Clark Avenue within the City of Industry. This cost estimate and assumptions are based on our knowledge of previous projects with the City of Industry and our discussions with you.

Kleinfelder will provide the project with geotechnical and materials testing and inspection services during construction. We will follow the Standard Specifications for Public Works Construction "GREENBOOK" guidelines for appropriate testing and frequencies.

PROJECT DESCRIPTION

The proposed project consists of the widening of Clark Avenue. The Clark Avenue improvements are from approximately 7th Avenue to 9th Avenue. The improvements to the roadways consist of:

- Removal and replacement of Portland Cement Concrete (PCC) curb and gutter;
- Removal of aggregate base and asphalt concrete pavement sections;
- Processing of subgrade soil;
- Replacement and compaction of aggregate base and asphalt concrete; and
- Reconstructing existing driveway aprons as necessary.

FEE ESTIMATE

Based on conversations with Mr. Gerry Perez with CNC Engineering, Kleinfelder expects to provide onsite services for approximately 50 days. Our services will be provided on a time and materials basis using our current 13-01 contract rates. The following is our cost estimate based on our assumptions for our proposed services:

Soils/Asphalt/Concrete onsite technician (400 hours (50 days) at \$112/hour)	\$44,800
Technician Travel (50 trips at one hour per trip at \$90/hour)	\$4,500
Sample Pick up (5 sample pickups, 2-hours each, at \$90/hour)	\$900
Technician Mileage(44 miles roundtrip, 55 trips including sample pickup and site visits, at \$0.575/mile)	\$1,392
Soils Maximum Density Tests (3 tests at \$215/test)	\$645
Aggregate Base Maximum Density Tests (2 tests at \$240/test)	\$480
Sieve Analysis Coarse & Fine Tests (2 tests at \$150/test)	\$300
Sand Equivalent Tests (2 tests at \$135/test)	\$270
Concrete Compression Strength Tests (2 sets of 4 cylinders at \$30/cylinder)	\$240
Hveem Asphalt Concrete Maximum Density Tests (4 tests at \$285/test)	\$1,140
Hveem Asphalt Concrete Stability Tests (4 tests at \$100/test)	\$400
Extraction by Ignition Oven Tests (4 tests at \$140/test)	\$560
Consultation/Project Management/Submittal Review (30 hours Project Management at \$215/hour)	\$6,450
Senior Engineer Site Visits (12 hours Senior Engineer at \$215/hour)	\$2,580
Senior Engineer Mileage(44 miles roundtrip, 3 trips at \$0.56/mile)	\$76
Principal Engineer Consultation (4 hours Principal Engineer at \$240/hour)	\$960
Project Administration (12 hours at \$110/hour)	\$1,320
Final Soils and AC Compaction Report (lump sum)	\$4,000
TOTAL ESTIMATED FEES	\$71,013

Kleinfelder services will be performed on a Time & Materials basis.

Our work will be performed in a manner consistent with that level of care and skill ordinarily exercised by other members of Kleinfelder's profession practicing in the same locality, under similar conditions and at the date the services are provided. Our conclusions, opinions, and recommendations will be based on a limited number of observations and data. It is possible that conditions could vary between or beyond the data evaluated. Kleinfelder makes no guarantee or warranty, express or implied, regarding the services, communication (oral or written), report, opinion, or instrument of service provided.

This proposal is valid for a period of 45 days from the date of this proposal, unless a longer period is specifically required by the RFP in which case that time frame will apply. This proposal was prepared specifically for the client and its designated representatives and may not be provided to others without Kleinfelder's express permission.

Even with diligent monitoring, construction defects may occur. In all cases the contractor is solely responsible for the direction and quality of the work, adherence to plans and specifications, and repair of defects.

If you have questions or comments regarding this request, please contact our Riverside office at (951) 801-3681.

Respectfully submitted,

KLEINFELDER


Jeffery D. Waller, P.E., G.E.
Project Manager


Eric W. Noel, P.E., G.E.
Principal Geotechnical Engineer

JDW:EWN:ws

KLEINFELDER is authorized to proceed with the work listed above. This request for authorization, when signed by the Client, shall be made part of the Contract Agreement executed by and between KLEINFELDER and the CLIENT effective July 29, 2013.

THE CLIENT agrees to pay for the services rendered on this project in accordance with the rates and basis of charges previously authorized by the Client.

CLIENT ACCEPTANCE:

By: _____
(Signature)

Date: _____

Name: _____
(Please Print Name)

Title: _____

CITY COUNCIL

ITEM NO. 6.1



CITY OF INDUSTRY

P.O. Box 3366 • 15625 E. Stafford St. • City of Industry, CA 91744-0366 • (626) 333-2211 • FAX (626) 961-6795

MEMORANDUM

To: Mayor Radecki and Councilmembers

December 10, 2015

From: James M. Casso, City Attorney

Subject: Consideration of the Appointment of a City Clerk

Overview:

Pursuant to Section 500 of the City's Charter, the City Clerk is appointed by, and serves at the pleasure of, the City Council. The Clerk's primary duties include attendance at meetings, maintaining the books and records of the City, administering oaths and affirmations, and other duties as assigned. In accordance with the provisions of Government Code Section 40813, the City Clerk may appoint deputies, who may fulfill the duties of the City Clerk.

The City is currently without a designated City Clerk. It would therefore be appropriate for the City Council to appoint the City Manager as the City Clerk. In his capacity as City Clerk, the City Manager may then appoint deputies to carry out the Clerk's duties.

Recommendation:

Staff recommends that the City Council appoint the City Manager as the City Clerk, or provide Staff with other direction.

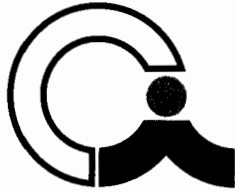
CITY COUNCIL

ITEM NO. 6.2

THIS ITEM IS BEING CONTINUED TO
THE NEXT REGULAR MEETING

CITY COUNCIL

ITEM NO. 6.3



CITY OF INDUSTRY

Incorporated June 18, 1957

MEMORANDUM

To: Honorable Mayor Radecki and Members of the City Council

From: Paul Philips, City Manager *Paul J. Philips*

Staff: Alex Gonzalez, Director of Administrative Services

Date: December 10, 2015

SUBJECT: Approve First Amendment to Agreement with Tyler Technologies for Accounting System Software

On September 23, 2010, the City Council approved an Agreement with New World Systems for the City's accounting system software. This Agreement is scheduled to expire on December 31, 2015.

On November 16, 2015, New World Systems signed an agreement to merge with Tyler Technologies.

In order to maintain financial systems operations, and properly recognize the updated corporate status of our contractor, staff recommends approval of Amendment No. 1 to Standard Software and License Services Agreement with Tyler Technologies.

Exhibits

A: Amendment No. 1 to Standard Software License and Services Agreement

EXHIBIT A

Amendment No. 1 to Standard Software License and Services Agreement

[Attached]

**AMENDMENT NO. 1
TO STANDARD SOFTWARE LICENSE AND SERVICES AGREEMENT**

This Amendment No. 1 to the Standard Software License and Services Agreement (“Agreement”), is made and entered into this 10th day of December, 2015, by and between the City of Industry, a California municipal corporation (“Customer”) and Tyler Technologies, Inc., a Delaware corporation (“Tyler”). The City and Tyler are hereinafter collectively referred to as the “Parties.”

RECITALS

WHEREAS, in or about September 2010, the Agreement was entered into and executed between the Customer and New World Systems Corporation (“New World”) to provide accounting software and related maintenance services; and

WHEREAS, the term of the software maintenance portion of the Agreement expires on December 31, 2015; and

WHEREAS, on November 16, 2015, New World merged with and into Tyler Technologies, Inc., a Delaware corporation (“Tyler”), and Tyler is the surviving entity of the merger; and

WHEREAS, in order to continue the services set forth in the Agreement, and to extend the term of the Standard Software Maintenance Agreement (“SSMA”), the Customer and Tyler desire to enter into this Amendment No. 1, as set forth below.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, it is agreed the aforesaid Agreement, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, shall remain in full force and effect except as otherwise hereinafter provided:

Commencing November 16, 2015, New World is no longer a party to this Agreement. All obligations and rights of New World under the Agreement, are hereby assigned to Tyler. Any and all references in the Agreement to “New World”, “NWS” or other similar naming conventions shall now be understood to reference Tyler.

Section 17.2 Notices

Notices to Tyler shall be deemed effective when sent by Registered or Certified U.S. Mail to the following address (or to any other address so specified by Tyler).

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Associate General Counsel

Exhibit C-Standard Software Maintenance Agreement (“SSMA”)

Section 1. SSMA Period

This SSMA shall remain in effect until December 31, 2016.

Section 4. Billing

Maintenance costs shall be billed annually, as set forth in Section 7.

Section 7. Maintenance Costs for Licensed Standard Software Packages Covered for .NET Server

Annual Maintenance Cost

Period Covered	Annual Amount	Billing Date
1/1/2016 to 12/31/2016	\$14,910	12/15/2015

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to the Agreement as of the Effective Date.

**“CUSTOMER”
City of Industry**

**“TYLER”
Tyler Technologies, Inc.**

By: _____
Paul Philips, City Manager
Counsel

By: _____
Abby Diaz, Associate General

Attest:

By: _____
Diane Schlichting, Acting Deputy City Clerk

APPROVED AS TO FORM

By: _____
James M. Casso, City Attorney

Exhibit A to Amendment No. 1:

Standard Software License and Services Agreement dated September 14, 2010

[Attached]



TO: KEVIN RADECKI AND DUDLEY LANG
FROM: LINDA POLLOCK
SUBJECT: ACCOUNTING SOFTWARE
DATE: 9/15/2010
CC: DEAN YAMAGATA

Please find the enclosed contract to update the accounting software for the City of Industry. I have been looking at several different companies over the past couple of years and feel that this company will best fit the needs of the City.

- 1) The City has been with the AS400 accounting software for many years and the software company has not updated their software to be competitive with the other governmental software packages. AS400 has recently been sold to Xerox and the Finance and IT departments are no longer receiving the technical support that was previously provided.
- 2) I have researched several governmental software packages over the past couple of years and have determined that New World Systems software will best fit the needs of the Finance and Engineering departments. The new software package will also be very helpful to CNC allowing them to view all of the costs and information related to the construction projects.
- 3) The cost of this package is \$122,000 with additional estimated costs of \$15,000 for travel expenses.
- 4) We would like to start the implementation process in January 2011 and go live in July 2011 so that we will not complicate the next year's audit process. We are not going to convert the old accounting information to the new accounting software due to the costs of conversion and the time to sort and clean up the old information.
- 5) AD and Juan reviewed the new system requirements and it is compliant with the recent computer upgrades.
- 6) The contract has been reviewed and approved by Michelle Vadon.

Please let me know if you need additional information or have any question.



STANDARD SOFTWARE LICENSE AND SERVICES AGREEMENT

September 14, 2010

This *Standard Software License and Services Agreement* which includes the attached Exhibits (“this **Agreement**”) is between **New World Systems**[®] Corporation (“**New World**”), a Michigan Corporation and the **City of Industry, CA**, (“**Customer**”). This **Agreement** sets forth the terms and conditions under which **New World** will furnish the Licensed Products and will provide certain services described herein to **Customer**.

The attached Exhibits include:

- Exhibit AA..... **TOTAL COST SUMMARY AND PAYMENT SCHEDULE**
- Exhibit A **LICENSED STANDARD SOFTWARE AND FEES**
- Exhibit B..... **IMPLEMENTATION AND TRAINING SUPPORT SERVICES**
- Exhibit C **STANDARD SOFTWARE MAINTENANCE AGREEMENT**
- Exhibit D **NON-DISCLOSURE AND SECURITY AGREEMENT FOR THIRD PARTIES**

By signing below, each of us agrees to the terms and conditions of this Agreement together with the attached Exhibits. This Agreement contains the complete and exclusive statement of the agreement between us relating to the matters referenced herein and replaces any prior oral or written representations or communications between us. Each individual signing below represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met. If the individual is not so authorized then (s)he assumes personal liability for compliance under this Agreement.

ACKNOWLEDGED AND AGREED TO BY:

NEW WORLD SYSTEMS[®] CORPORATION
(New World)

By: *Larry D. Leinweber*
Larry D. Leinweber, President

CITY OF INDUSTRY, CALIFORNIA
(Customer)

By: *[Signature]* Mayor
Authorized Signature Title

By: *[Signature]* City Clerk
Authorized Signature Title

Date: 09-27-10

Date: September 23, 2010

The “Effective Date” of this Agreement is the latter of the two dates in the above signature block.

I. DEFINITIONS

The following terms as defined below are used throughout this **Agreement**:

1. **"Authorized Copies"**:
Except as provided in Section II, subparagraph 1.3, the only authorized copies of the Licensed Software and Licensed Documentation are the copies of each application software package defined in this Paragraph. They are:
 - (i) the single copy of the Licensed Software and the related Licensed Documentation delivered by **New World** under this **Agreement**; and
 - (ii) any additional copies made by **Customer** as authorized in Section II, subparagraph 1.2.
2. **"An Authorized User/Workstation"**:
Subject to the number of users specified in Exhibit A, any PC workstation that is connected to access the Licensed Software resident on Computer and that may be logged on to access the programs, interfaces, data, or files created and/or maintained by the Licensed Software.
3. **"Computer"**:
The .NET Server(s) to be located at:
*City of Industry
15625 East Stafford Street #100
Industry, CA 91744*
Customer shall identify in writing the serial number of the Computer within ten (10) days of receipt of the Computer or within ten (10) days of the Effective Date, whichever is later. If the Computer is to be relocated, **Customer** shall notify **New World** of the new location in writing prior to the relocation.
4. **"Confidential Information"**:
Information disclosed or obtained by one party in connection with, and during the term of, this **Agreement** and designated as "Confidential" by the party claiming confidentiality at the time of disclosure. Confidential Information does not include any information which was previously known to the other party without obligation of confidence or without breach of this **Agreement**, is publicly disclosed either prior or subsequent to the other party's receipt of such information, or is rightfully received by the other party from a third party without obligation of confidence.
5. **"Customer Liaison"**:
An individual authorized and designated by **Customer** to act as liaison between **Customer** and **New World** for the duration of this **Agreement**. Within ten (10) days of the Effective Date, **Customer** shall notify **New World** of the name of the Customer Liaison.
6. **"Delivery of Licensed Standard Software"**:
Licensed Standard Software will be delivered in a machine readable form to **Customer** via an agreed upon network connection, or on appropriate media if requested, as soon as the software is available after the Effective Date.
7. **"Development Software"**:
Standard application software currently under development by **New World** which, if applicable, will be completed and delivered to **Customer** as Licensed Standard Software when available.
8. **"Hourly Rate"**:
As described in this **Agreement**, **New World** shall provide services to **Customer** at the rate of \$140/hour. The hourly rate is protected for 12 months after the Effective Date, at which time the hourly rate shall be the then-current **New World** hourly rate.
9. **"Installation of Licensed Standard Software"**:
Installation of the Licensed Standard Software shall be deemed to occur, for all billings or other events described herein, upon the earlier of:
 - (a) the transfer or loading of the Licensed Standard Software onto a **Customer** server or computer, or
 - (b) thirty (30) days after delivery of the Licensed Standard Software.
10. **"Licensed Custom Software"**:
Any software (programs or portions of programs) developed by **New World** specifically for **Customer's** own use.
11. **"Licensed Documentation"**:
New World User Manuals which includes the current specifications for the Licensed Standard Software and other written instructions relating to the Licensed Software (such as Product Bulletins, installation instructions, and training materials).
12. **"Licensed Products"**:
The Licensed Software, the related Licensed Documentation, and the Authorized Copies of the foregoing.
13. **"Licensed Software"**:
The Licensed Standard Software, Development Software, Upgrades, and Licensed Custom Software provided under this **Agreement**.
14. **"Licensed Standard Software"**:
The current version of **New World** standard and development application software package(s) (in machine readable code) listed in Exhibit A.
15. **"SSMA"**:
The **New World** Standard Software Maintenance Agreement as set forth in Exhibit C.
16. **"Travel Expenses"**:
All actual and reasonable travel expenses incurred by **New World** for trips relating to this project, including airfare, rental car, lodging, mileage, and daily per diem expenses, which shall not exceed the estimate in Exhibit AA of this **Agreement** without **Customer's** prior written approval.
17. **"Travel Time"**:
Actual **New World** employee travel time billed at the Hourly Rate up to, but not exceeding, four (4) hours per each trip relating to this project.
18. **"Upgrades"**:
Any enhanced and/or improved versions of the Licensed Standard Software provided as Licensed Standard Software under Exhibit C of this **Agreement** and released after the execution of this **Agreement**.

II. GENERAL TERMS AND CONDITIONS

1.0 SINGLE USE LICENSE

- 1.1 **New World** grants **Customer** a nontransferable, nonexclusive, and non-assignable license to use the Licensed Software only on the Computer and only for its internal processing needs. **Customer** shall have the right and license to use, enhance, or modify the Licensed Software only for **Customer's** own use and only on the Computer and only on an authorized workstation. **New World** will deliver to **Customer** one copy of each application of the Licensed Software (in machine readable form compatible with the specified operating environment) and one copy of the related Licensed Documentation. If **Customer** fails to pay all license fees specified in Exhibit A and the applicable custom software fees, if any, **Customer** shall forfeit the right and license to use the Licensed Products and shall return them to **New World**.
- 1.2 In order to assist **Customer** in the event of an emergency, **Customer** is permitted to make up to two (2) back-up copies on magnetic media of each application of the Licensed Software and one back-up copy of the related Licensed Documentation. These Authorized Copies may be stored as defined above so long as they are kept in a location secure from unauthorized use. **Customer** or anyone obtaining access through **Customer** shall not copy, distribute, disseminate, or otherwise disclose to any third party the Licensed Products or copies thereof in whole or in part, in any form or media. This restriction on making and distributing the Licensed Products or copies of any Licensed Product, includes without limitation, copies of the following:
 - (i) Program libraries, either source or object code;
 - (ii) Operating control language;
 - (iii) Test data, sample files, or file layouts;
 - (iv) Program listings; and
 - (v) Licensed Documentation.
- 1.3 Upon written request by **Customer**, and with written permission by **New World**, additional Authorized Copies may be made for **Customer's** internal use only.

2.0 OWNERSHIP

- 2.1 The Licensed Products and all copyright, trade secrets and other proprietary rights, title and interest therein, remain the sole property of **New World** or its licensors, and **Customer** shall obtain no right, title or interest in the Licensed Products by virtue of this **Agreement** other than the nonexclusive, nontransferable, non-assignable license to use the Licensed Products as restricted herein.
- 2.2 The license to use any Licensed Custom Software provided under this **Agreement**, if any, is included in this license. **New World** shall have the right to use any data processing ideas, techniques, concepts, and/or know-how acquired by it in the performance of services under this **Agreement** including the development of Licensed Custom Software for the advancement of its own technical expertise and the performance of other Software License and Service Agreements or any other applicable agreements. **New World** shall have, without restriction, the right to use all programs, procedures, information, and techniques that are publicly available, obtained or obtainable from third parties and/or developed independently by **New World** without specific reference to **Customer's** organization.

3.0 CORRECTION AND SOFTWARE MAINTENANCE ON STANDARD SOFTWARE

- 3.1 **New World** provides software correction service and maintenance for the Licensed Standard Software during the term of **Customer's** SSMA. See Exhibit C for a description of the SSMA start date and term, the services available and the applicable fees and procedures.

4.0 WARRANTIES

- 4.1 **New World** warrants, for **Customer's** benefit only, that the Licensed Standard Software will perform as specified in its user manuals based on the then-current release of the Licensed Standard Software.
- 4.2 **New World** warrants, for **Customer's** benefit only, that it possesses the necessary intellectual rights to license to **Customer** the Licensed Standard Software provided hereunder.

The foregoing warranties do not apply if the Licensed Product(s) have been modified by any party other than **New World**. **New World** does not warrant that the features or functions of the Licensed Software will meet **Customer's** requirements or in any combination or use **Customer** selects. EXCEPT AS SPECIFICALLY PROVIDED IN THIS PARAGRAPH 4.0, AND ITS SUBSECTIONS, **NEW WORLD** EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE LICENSED

PRODUCTS, INCLUDING BUT NOT LIMITED TO, THE LICENSED PRODUCTS' CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

5.0 INSTALLATION AND TRAINING SUPPORT SERVICES

5.1 As provided for in Exhibit B and concurrent with timely payments, **New World** shall make available to **Customer** qualified representative(s) who will provide installation and training support services for each application of the Licensed Software delivered. See Exhibit B for a description of the services provided and the applicable fees and procedures.

6.0 CUSTOMER LIAISON AND CUSTOMER RESPONSIBILITIES

The successful implementation of the Licensed Products into **Customer's** environment requires **Customer's** commitment to and cooperation in the implementation process. Accordingly, **Customer** hereby agrees to the following:

6.1 **Customer** understands that the Licensed Software is designed to run in a specified operating environment which includes hardware, software and related equipment not provided by **New World**. **Customer** is responsible for assuring that the appropriate hardware equipment, related components and all cabling are installed timely and are suitable for the successful installation of the Licensed Software.

6.2 **Customer** agrees to provide the management interface and support necessary to successfully complete the implementation of the Licensed Software. This support includes upper level management priority setting and timely involvement during and after a change in **Customer's** organization, **Customer's** operations and/or after changes in **Customer's** internal policies or procedures which directly affect the software implementation.

6.3 **Customer** shall designate the appropriate individual authorized to serve as the Customer Liaison for the duration of the Licensed Software implementation. If **Customer** must replace the Customer Liaison for reasons beyond its control, **Customer** will assign a new Customer Liaison as soon as reasonably possible. **New World** is not responsible for any delay caused directly or indirectly by the reassignment of the Customer Liaison. In addition to other duties and responsibilities, the Customer Liaison shall:

- (i) provide timely answers to **New World's** requests for information;
- (ii) coordinate a mutually agreeable implementation and training schedule;
- (iii) have authority to sign for and obligate **Customer** to any matters relating to service requests, design documents, performance test documents and/or delivery and service dates;
- (iv) in situations where **Customer** participation is required, provide timely input for systems definition, detail design, and use of the software system.

6.4 **Customer** is responsible for creating and maintaining its master files, tables and the like which includes accurate data entry, accurate file editing and overall file control to assure successful systems performance.

6.5 **Customer** shall provide qualified individuals with sufficient backup to be trained to use the Licensed Software and to interpret the output. Applying the output information in **Customer's** environment is **Customer's** sole responsibility.

7.0 BILLING AND ADDITIONAL AUTHORIZED WORKSTATION CHARGES

7.1 The attached Exhibits set forth the manner in which fees and payments shall be allocated and made under this **Agreement**. Past due amounts are subject to a service charge of 1.5% per month, which charge **Customer** agrees to pay. To the extent **Customer** imposes additional requirements on **New World** for services other than those expressly provided in this **Agreement**, **New World** retains the right to make additional price adjustments and/or any other adjustments that may be necessitated. Before performing these additional services, **New World** will notify **Customer** that the services are subject to additional charge(s).

7.2 If **Customer** wishes to add additional authorized workstations or Licensed Standard Software, **Customer** agrees to pay the additional License fees at the then current software prices in effect. SSMA fees shall be increased according to the additional Licensed Standard Software fees on the next annual billing date after the additional workstations and/or Licensed Standard software is added, or as specified in the future contract. With said payments, the license provided in Section II, Paragraph 1.0 permits **Customer's** use of the Licensed Software for the specified workstations.

- 7.3 **Customer** shall notify **New World** if additional authorized workstations need to be added to access the Licensed Software and will pay the additional authorized workstation fees promptly when invoiced.
- 7.4 Any taxes or fees imposed from the course of this **Agreement** are the responsibility of the **Customer** and **Customer** agrees to remit when imposed. If an exemption is claimed by the **Customer**, an exemption certificate must be submitted to **New World**.

8.0 *NON-RECRUITMENT OF PERSONNEL*

- 8.1 During, and for a period of twenty-four (24) months after the expiration of, the Standard Software Maintenance Agreement and/or any renewal maintenance agreement, each party agrees not to solicit or hire current or former employees of the other without the other's prior written consent.

9.0 *CONFIDENTIAL INFORMATION / NON-DISCLOSURE AGREEMENT*

- 9.1 Subject to the requirements of the Freedom of Information Act (FOIA) and/or other comparable applicable state law, each party shall hold all Confidential Information in trust and confidence for the party claiming confidentiality and not use such Confidential Information absent express written consent by the party claiming confidentiality. The other party agrees not to disclose any such Confidential Information, by publication or otherwise, to any other person or organization. **Customer** agrees to timely notify **New World** of any request(s) made for disclosure of confidential information.
- 9.2 **Customer** hereby acknowledges and agrees that all Licensed Products are Confidential Information and proprietary to **New World**. In addition to the other restrictions set forth elsewhere in this **Agreement** or otherwise agreed to in writing, **Customer** agrees to implement all reasonable measures to safeguard **New World's** proprietary rights in the Licensed Products, including without limitation the following measures:
- (i) **Customer** shall only permit access to the Licensed Products to those employees and designated finance consultants who require access and only to the extent necessary to perform **Customer's** internal processing needs.
 - (ii) With respect to agents or third parties, **Customer** shall permit access to the Licensed Products only after **New World** has received, approved and returned a fully executed Non-Disclosure Agreement to **Customer** (see Exhibit D). With the exception of **Customer's** designated finance consultants, **New World** reserves the right to reasonably refuse access to a third party after it has evaluated the request. **Customer** agrees to provide information reasonably requested by **New World** to assist **New World** in evaluating **Customer's** request to permit third party access to the Licensed Products. In addition to any other remedies, **New World** may recover from **Customer** all damages and legal fees incurred in the enforcement of this provision on third party access;
 - (iii) **Customer** shall cooperate with **New World** in the enforcement of the conditions set forth in the attached Non-Disclosure Agreement or any other reasonable restrictions **New World** may specify in writing in order to permit access;
 - (iv) **Customer** shall not permit removal of copyright or confidentiality labels or notifications from its proprietary materials; and
 - (v) **Customer** shall not attempt to disassemble, decompile or reverse engineer the Licensed Software.
- 9.3 **Customer** agrees that in addition to any other remedies that may be available at law, equity or otherwise, **New World** shall be entitled to seek and obtain a temporary restraining order, injunctive relief, or other equitable relief against the continuance of a breach or threatened breach of this paragraph 9.0 on Confidentiality and Non-Disclosure without the requirement of posting a bond or proof of injury as a condition for the relief sought.

10.0 *LIMITATION OF LIABILITY AND RECOVERABLE DAMAGES*

New World's entire liability and **Customer's** exclusive remedies are set forth below:

- 10.1 For any claim relating to the non-conformance or imperfection of any licensed software provided under this **Agreement**, **New World** will correct the defect so that it conforms to the warranties set forth in Section II, subparagraph 4.1; or if after repeated attempts to correct the non-conformity, **New World** is unable to correct the non-conformity, then **Customer** may recover its actual damages subject to the limits set forth in subparagraph 10.2 below. For any other claim arising under or in connection

with this **Agreement**, **Customer** may recover its actual damages subject to the limits set forth in subparagraph 10.2 below.

- 10.2 **New World's** total liability to **Customer** for all claims relating to the Licensed Products and this **Agreement**, including any action based upon contract, tort, strict liability, or other legal theory, shall be limited to **Customer's** actual damages and in no event shall **New World's** liability exceed the Exhibit A Licensed Standard Software fees paid to **New World**.
- 10.3 **New World** shall not be liable for any special, indirect, incidental, punitive, exemplary, or consequential damages, including loss of profits or costs of cover, arising from or related to a breach of this **Agreement** or any order or the operation or use of the Licensed Products including such damages, without limitation, as damages arising from loss of data or programming, loss of revenue or profits, failure to realize savings or other benefits, damage to equipment, and claims against **Customer** by any third person, even if **New World** has been advised of the possibility of such damages. **New World's** liability for any form of action shall only apply after any and all appropriate insurance coverage has been exhausted.
- 10.4 If it is determined that a limitation of liability or a remedy contained herein fails of its essential purpose, then the parties agree that the exclusion of incidental, consequential, special, indirect, punitive, and/or exemplary damages is still effective.

11.0 INTEGRATION WITH U.S. COPYRIGHT ACT

- 11.1 In addition to all other provisions provided under this **Agreement**, **Customer** agrees to be bound by and to comply with any and all provisions of the U.S. Copyright Act (*The Copyright Act of 1976, U.S.C. Sections 101-810 (1976) as amended*). If a provision of the U.S. Copyright Act and this **Agreement** conflict, the more restrictive of the two applies. If it cannot be determined which is the more restrictive, then the provision within this **Agreement** shall apply.

12.0 INDEPENDENT CONTRACTOR

- 12.1 **New World** is an independent contractor. The personnel of one party shall not in any way be considered agents or employees of the other. To the extent provided for by law, each party shall be responsible for the acts of its own employees.
- 12.2 Each party shall be responsible for Workers' Compensation coverage for its own personnel.

13.0 INSURANCE REQUIREMENTS

New World shall not commence work under this **Agreement** until it has obtained the insurance required under this paragraph.

- 13.1 **Workers' Compensation Insurance:** **New World** shall procure and maintain during the term of this **Agreement**, Workers' Compensation Insurance for all of its employees who engage in the work to be performed.
- 13.2 **Liability and Property Insurance – Comprehensive Form:** **New World** shall procure and maintain during the term of this **Agreement**, Liability and Property Damage Insurance in an amount not less than \$1,000,000 on account for each accident; and in an amount not less than \$1,000,000 for each accident for damage to property.
- 13.3 **Automobile Liability Insurance:** **New World** shall procure and maintain during the term of this **Agreement**, Hired and Non-Ownership Motor Vehicle Bodily Injury and Property Damage Insurance in an amount not less than \$1,000,000 for injuries, including accidental death, to each person; and, subject to the same limit for each person, in an amount not less than \$1,000,000 for each accident; and in an amount not less than \$1,000,000 on account for each accident for damage to property, provided however that the combined single limit for all automotive related claims shall not exceed \$1,000,000.

14.0 DISPUTE RESOLUTION BY ARBITRATION

- 14.1 Any controversy or claim arising out of or relating to this **Agreement**, or breach thereof, shall be settled in arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
- 14.2 Before a demand for arbitration may be filed by either party, the management of both parties shall have met at least two times in face-to-face meetings in a good-faith effort to resolve any dispute or controversy through normal business management practices. Unless otherwise agreed to in writing, a minimum of one meeting shall take place at each party's home office location.

- 14.3 The arbitrator(s) shall have no power or authority to add to or detract from this **Agreement**. The arbitrator(s) shall have no authority to award damages over and above those provided for in this **Agreement** and in any event shall not exceed the limitations set forth in Section II, subparagraph 10.2, even if the remedy or limitation of liability provisions set forth in this **Agreement** shall for any reason whatsoever be held unenforceable or inapplicable.
- 14.4 Neither party nor the arbitrator(s) may disclose the existence or results of any arbitration hereunder, except if the arbitration results in a Court imposed judgment, the non-disclosure restriction shall not be effective to the extent the matter becomes a public record.
- 14.5 Each party shall bear its own costs in preparing for and conducting arbitration, except that the joint costs, if any, of the actual arbitration proceeding shall be shared equally by the parties.
- 14.6 In the event that a controversy or claim arising out of or relating to this **Agreement**, or breach thereof, is heard or otherwise prosecuted in court, the parties hereby unconditionally waive their respective rights to a jury trial of any such controversy or claim.

15.0 **TERMINATION**

- 15.1 **By Customer:** If **New World** fails to provide the Licensed Software as warranted in accordance with the terms of this **Agreement**, **Customer** may at its option terminate this **Agreement** with ninety (90) days written notice as follows:
 - (i) The termination notice shall provide a detailed description (with examples) of any warranty defects claimed;
 - (ii) **New World** shall have ninety (90) days from receipt of said notice to correct any warranty defects in order to satisfy the terms of this **Agreement**;
 - (iii) During the ninety (90) day cure period, **Customer** shall apply sound management practices and use its best efforts to resolve any issues or obstacles – including cooperating with **New World** and reassigning personnel if necessary to improve the working relationship;
 - (iv) At the end of ninety (90) days unless the termination has been revoked in writing by **Customer**, the **Agreement** terminates.
- 15.2 **By New World:** If **Customer** fails to make prompt payments to **New World** when invoiced, or if **Customer** fails to fulfill its responsibilities under this **Agreement**, including but not limited to those outlined in Section II, Paragraph 6.0, then **New World** may at its option terminate this **Agreement** with written notice as follows:
 - (i) The termination notice shall define the reason for termination;
 - (ii) If the cited reason for termination is **Customer's** failure to make prompt payment, **Customer** shall have ten (10) days from receipt of said notice to make payment in full for all outstanding invoiced payments due;
 - (iii) If the cited reason for termination is **Customer's** failure to fulfill its responsibilities, **Customer** shall have ninety (90) days from receipt of said notice to correct any actual deficiencies in order to satisfy the terms of this **Agreement**;
 - (iv) During the applicable cure period, **New World** will use sound management practices and its best efforts to resolve any issues or obstacles – including the reassignment of personnel if necessary to improve the working relationship;
 - (v) At the end of the applicable cure period, unless the termination has been revoked in writing by **New World**, the **Agreement** terminates.
- 15.3 In the event of termination by either party, **New World** shall continue to provide its services, as previously scheduled, through the termination date and the **Customer** shall continue to pay all fees and charges incurred through the termination date as provided in the attached Exhibits.
- 15.4 Upon termination, **Customer** shall return to **New World** all Licensed Products, including any copies provided to or created by **Customer** under this **Agreement**.
- 15.5 Nothing in this paragraph on termination is intended to infer that either party has or does not have a claim for damages.
- 15.6 The Terms and Conditions relating to ownership, warranties, non-recruitment of personnel, confidentiality and non-disclosure, limitation of liability and recoverable damages, Copyright Act, dispute resolution and the General provisions (18.0), survive termination.

16.0 **PATENT AND TRADEMARK INDEMNIFICATION**

New World agrees to indemnify and save the **Customer** harmless from and against any and all judgments, suits, costs, and expenses subject to the limits set forth in this **Agreement** resulting from any alleged

infringement of any patent or copyright arising from the licensing of the Licensed Standard Software pursuant to this **Agreement**, provided that **Customer** has notified **New World** in writing of such allegation within thirty (30) days of the date upon which the **Customer** first receives notice thereof. **New World's** obligation to indemnify and save **Customer** harmless under this paragraph is void if the claim of infringement arises out of or in connection with any modification made to the Licensed Standard Software or any use of the Licensed Standard Software not specifically authorized in writing by **New World**.

17.0 NOTICES

- 17.1 Notices to **Customer** shall be deemed effective when sent by Registered or Certified U.S. Mail to the business address of the **Customer**.
- 17.2 Notices to **New World** shall be deemed effective when sent by Registered or Certified U.S. Mail to the following address (or to any other address so specified by **New World**):
- New World Systems Corporation
888 West Big Beaver, Suite 600
Troy, Michigan 48084
Attention: President

18.0 GENERAL

- 18.1 This **Agreement** is the entire agreement between the parties superseding all other communications, written or oral, between the parties relating to the subject matter of this **Agreement**. **This Agreement may be amended or modified only in writing signed by both parties.**
- 18.2 This **Agreement** is governed by the laws of the State of Michigan and it shall be binding on the successors and assigns of the parties.
- 18.3 Failure to enforce any provision of this **Agreement** shall not be deemed a waiver of that provision or any other provision of this **Agreement**.
- 18.4 No action, regardless of form, arising out of the services performed or Licensed Products delivered hereunder, may be brought by either party more than two (2) years after the cause of action has accrued.
- 18.5 The paragraph headings which appear herein are included solely for convenience and shall not be used in the interpretation of this **Agreement**. Any provision of this **Agreement** determined to be invalid or otherwise unenforceable shall not affect the other provisions, which other provisions remain in full force and effect.
- 18.6 This **Agreement** is entered into solely for the benefit of **New World** and **Customer**. No third party shall have the right to make any claim or assert any right under it, and no third party shall be deemed a beneficiary of this **Agreement**.
- 18.7 Notwithstanding anything contained herein to the contrary, these terms and conditions may be extended to other public entities for purchase of the license and/or services described under this **Agreement**. To the extent they are required, the parties shall execute any requisite cooperative agreements authorizing such extension of terms and conditions. If this is done, **Customer** assumes no authority, liability, or obligation on behalf of any other public entity that may use this **Agreement** for any such purchase.

EXHIBIT AA
TOTAL COST SUMMARY AND PAYMENT SCHEDULE

I. Total Cost Summary: Licensed Standard Software, Implementation Services, And Third Party Products

<u>DESCRIPTION OF COST</u>	<u>COST</u>
A. LICENSED STANDARD SOFTWARE as further detailed in Exhibit A	\$71,000
1. Licensed Standard Software	\$71,000
B. IMPLEMENTATION SERVICES	51,000
1. PROJECT MANAGEMENT as further described in Exhibit B	
2. INTERFACE INSTALLATION SERVICES as further described in Exhibit B	
3. IMPLEMENTATION AND TRAINING SERVICES as further described in Exhibit B	
4. OTHER IMPLEMENTATION SERVICES as further described in Exhibit B	
ONE TIME PROJECT COST:	<u>\$122,000</u>
C. TRAVEL EXPENSES (Estimate) – billed as incurred	\$15,000
D. STANDARD SOFTWARE MAINTENANCE SERVICES – the services are further detailed in Exhibit C.	

PRICING ASSUMES CONTRACT EXECUTION BY SEPTEMBER 30, 2010.

Exhibit AA / COST SUMMARY AND PAYMENT SCHEDULE

II. Payments for Licensed Standard Software, Implementation Services, and Third Party Products

	<u>DESCRIPTION OF PAYMENT</u>	<u>PAYMENT</u>
A.	LICENSED STANDARD SOFTWARE as further detailed in Exhibit A	\$71,000
	1. Amount invoiced upon Effective Date (50%)	\$35,500
	2. Amount invoiced upon delivery of each Licensed Standard Software (50%)	35,500
B.	IMPLEMENTATION SERVICES	51,000
	1. Amount invoiced upon the Effective Date	\$12,000
	2. Amount invoiced 90 days after the Effective Date	12,000
	3. Amount invoiced 180 days after the Effective Date	12,000
	4. Amount invoiced 270 days after the Effective Date	12,000
	5. Amount invoiced upon project completion or 365 days after the Effective Date, whichever comes first	3,000
	ONE TIME PAYMENTS:	<u>\$122,000</u>
C.	TRAVEL EXPENSES (*Estimate) (These expenses are billed as incurred)	\$15,000*
	1. 10 trips are anticipated.	
	2. Travel Time for the estimated 10 trips is not included in this estimate and will be billed as incurred.	
D.	STANDARD SOFTWARE MAINTENANCE SERVICES – as further detailed in Exhibit C	

ALL PAYMENTS ARE DUE WITHIN FIFTEEN (15) DAYS FROM RECEIPT OF INVOICE.

EXHIBIT A
LICENSED STANDARD SOFTWARE AND FEES

1. **License Fee for Licensed Standard Software And Documentation Selected By Customer:**

LOGOS.NET STANDARD APPLICATION SOFTWARE ^{1,2,3}		
ITEM	DESCRIPTION	INVESTMENT

FINANCIAL MANAGEMENT

(Users included - 15)⁴ *

1. **Logos.NET Financial Management Base Suite**
 - General Ledger
 - Budget Management
 - Annual Budget Preparation
 - Accounts Payable
 - Revenue/Cash Receipting

2. **Logos.NET Additional Financial Management Software**
 - Asset Management
 - Project Accounting
 - Misc. Billing & Receivables
 - Government (GASB) Reporting
 - Bank Reconciliation

3. **Logos.NET Procurement Management Suite**
 - Purchasing Base
 - Contract Accounting

BUSINESS ANALYTICS

4. **Finance Analytics**
 - Includes 2 users

TOTAL SOFTWARE LICENSE FEE^{5,6}	\$71,000
---	-----------------

*User increase from 10 to 15 is contingent upon the Agreement being signed by September 30, 2010.

Exhibit A / LICENSED STANDARD SOFTWARE AND FEES

ENDNOTES

- ¹ *Personal Computers must meet the minimum hardware requirements for New World Systems' Logos.NET product. Microsoft Windows XP or greater with IE 7.0 or greater is the required operating systems for all client machines. Windows 2008 Server is required for the Application Server(s), Web Server(s) and Database Server. Microsoft SQL Server 2008 is required for the Database Server.*
- ² *New World Systems' Logos.NET product requires Microsoft Windows 2008 Server and Microsoft SQL Server 2008 including required Client Access Licenses (CALs) and Windows Server 2008 External Connector (EC) licenses for applicable Microsoft products. Servers must meet minimum hardware requirements provided by New World Systems.*
- ³ *Suggested minimum: 100MB Ethernet Network. 10MB CAT5 Ethernet Network may have less than adequate response time. Further consultation would be required to assess your network.*
- ⁴ *Additional cost per group of 5 for authorized users is \$5,000.*
- ⁵ *Prices assume that all software proposed is licensed.*
- ⁶ *Any taxes or fees imposed are the responsibility of the purchaser and will be remitted when imposed.*

Exhibit A / OPTIONAL LICENSED STANDARD SOFTWARE AND FEES

3. Optional Licensed Standard Software Pricing

Customer may license the following software modules at the indicated current list prices for up to one (1) year from the date of execution of this **Agreement**.

OPTIONAL SOFTWARE MODULES

LOGOS.NET STANDARD APPLICATION SOFTWARE ^{1,2,3}		
ITEM	DESCRIPTION	

FINANCIAL MANAGEMENT

- 1. Logos.NET Additional Financial Management Software**
 - Investment Tracking (development)
 - Debt Service (development)
- 2. Logos.NET Procurement Management Suite**
 - Bid & Quote Management

eSUITE

- 3. eSuite Base Software**
- 4. eFinance**
 - eSupplier

Note: The above software modules vary in cost from \$5,000 to \$9,000 each. The Customer has the ability to add them at any time to the proposed configuration. Training and Support Services costs as well as Maintenance (SSMA) costs for these optional modules are not included on the preceding pages; however, they may be easily incorporated into the proposal upon determination of the final software package.

Note: Training and Support Services cost as well as Maintenance (SSMA) costs for these optional modules are not included.

EXHIBIT B
PROJECT MANAGEMENT, IMPLEMENTATION AND
TRAINING SUPPORT SERVICES

1. Project Management Services

New World shall act as Project Manager to assist **Customer's** management in implementing the Exhibit A software. This responsibility will include documenting, coordinating and managing the overall Implementation Plan with **Customer's** management and the Customer Liaison. Project Management Services include:

- a) a summary level Implementation Plan;
- b) a detail level Implementation Plan;
- c) revised Implementation Plans (if required);
- d) monthly project status reports; and
- e) project status meetings
 - a project review (kickoff) meeting at **Customer's** location to be held no later than January 31, 2011;
 - progress status meeting(s) will occur during implementation via telephone conference or at **Customer's** location; and
 - a project close-out meeting at **Customer's** location to conclude the project.

The implementation services fees described in Exhibit AA include Project Management fees for a period up to 8 months after the Effective Date.

2. Standard Implementation Plan:

This **Agreement** is based on installing Licensed Standard Software with a Standard Implementation Plan to execute your project. Through a coordinated effort involving your staff, this approach will streamline and simplify implementation of the proposed applications.

Based on **New World's** experience with other customers of similar size and staffing resources such as yours, the Licensed Standard Software will be installed with portions of the Licensed Standard Software using standard implementation procedures to include:

- some tables and validation sets will be pre-defined
- some files will be pre-defined
- Some optional set-up decisions will be standardized based on best practices for local government

Early in your implementation plan, your **New World** Project Manager will review the standard software components and project plan with your management team. At that time, you may elect to continue with the standard implementation plan or switch to a custom implementation approach. Under the custom approach, the cost of implementation will increase. In summary, **New World** has found the Standard Implementation Plan to be beneficial for agencies of your size that have similar applications to those proposed for your organization.

3. Implementation and Training Support Hours Recommended

It is recommended that appropriate support hours are allocated for all Licensed Standard Software listed in Exhibit A to insure successful implementation of and training on each application package. Based on the Licensed Standard Software listed on Exhibit A, up to **220** hours of **New World** implementation and training support services have been allocated for this project. Excess hours requested shall be billed at the Hourly Rate. Avoiding or minimizing custom or modified features will aid in keeping the support costs to the amount allocated. **Customer** agrees to reimburse **New World** for support trips canceled by **Customer** less than ten (10) days before the scheduled start date to cover **New World's** out-of-pocket costs and lost revenues. The recommended implementation and training support services include:

Exhibit B / PROJECT MANAGEMENT, IMPLEMENTATION AND TRAINING SUPPORT SERVICES

- a) implementation of each package of Licensed Standard Software; and
- b) **Customer** training and/or assistance in testing for each package of Licensed Standard Software.

The project management, implementation and training support services provided by **New World** may be performed at **Customer's** premises and/or at **New World** national headquarters in Troy, Michigan (e.g., portions of project management are performed in Troy).

4. Interface Installation Service

New World shall provide interface installation services as described in this paragraph below. These services do not include hardware and/or third party product costs which shall be **Customer's** responsibility, if required. Whenever possible, these services will be done remotely, resulting in savings in Travel Expenses and Time. If on-site installation and training is required, **Customer** will be responsible for the actual Travel Expenses and Time. The services include the following interfaces.

- a) Bank Reconciliation

5. Hardware Quality Assurance Service

New World shall provide Hardware Systems Assurance of **Customer's** Logos.NET server(s). These services do not include hardware and/or third party product costs which shall be **Customer's** responsibility, if required. Whenever possible, these services will be provided remotely, resulting in savings in travel expenses and time. If on-site installation is required, **Customer** will be responsible for the actual travel expenses and time.

- a) Hardware Quality Assurance Services (Standard) Environment
Hardware Systems Assurance and Software Installation:
 - Assist with High Level System Design/Layout
 - Validate Hardware Configuration and System Specifications
 - Validate Network Requirements, including Windows Domain
 - Physical Installation of **New World** Application Servers
 - Install Operating System and Apply Updates
 - Install SQL Server and Apply Updates
 - Install New World Applications Software and Apply Updates
 - Establish Base SQL Database Structure
 - Install Anti-Virus Software and Configure Exclusions
 - Install Automated Backup Software and Configure Backup Routines
 - Configure System for Electronic Customer Support (i.e. NetMeeting)
 - Tune System Performance Including Operating System and SQL Resources
 - Test High Availability/Disaster Recovery Scenarios (if applicable)
 - Provide Basic System Administrator Training and Knowledge Transfer
 - Document Installation Process and System Configuration

Exhibit B / PROJECT MANAGEMENT, IMPLEMENTATION AND TRAINING SUPPORT SERVICES

6. **Additional Services Available**

Other **New World** services may be required or requested for the following:

- a) additional software training;
- b) tailoring of Licensed Standard Software by **New World** technical staff and/or consultation with **New World** technical staff;
- c) **New World** consultation with other vendors or third parties;
- d) modifying the Licensed Standard Software;
- e) designing and programming Licensed Custom Software; and
- f) maintaining modified Licensed Standard Software and/or custom software.

Customer may request these additional services in writing using **New World's** Request For Service (RFS) procedure (or other appropriate procedures mutually agreed upon by **Customer** and **New World** and will be provided at the Hourly Rate).

EXHIBIT C
STANDARD SOFTWARE MAINTENANCE AGREEMENT (SSMA)

This Standard Software Maintenance Agreement (SSMA) between **New World** and **Customer** sets forth the standard software maintenance support services provided by **New World**.

1. SSMA Period

New World shall provide **Customer** no-charge SSMA for a period of 90 days from delivery of Licensed Standard Software.

This SSMA shall remain in effect for a term of five (5) years (the SSMA term) beginning on the first day after the end of the no-charge SSMA period ("Start Date") and ending on the same calendar date at the conclusion of the SSMA term.

2. Services Included

New World shall provide the following services during the SSMA term.

- a) upgrades, including new releases, to the Licensed Standard Software (prior releases of Licensed Standard Software application packages are supported no longer than nine (9) months after a new release is announced by **New World**);
- b) temporary fixes to Licensed Standard Software (see paragraph 6 below);
- c) revisions to Licensed Documentation;
- d) reasonable telephone support for Licensed Standard Software on Monday through Friday from 8:00 a.m. to 8:00 p.m. (Eastern Time Zone); and
- e) invitation to and participation in user group meetings.

Items a, b, and c above will be distributed to **Customer** by electronic means.

Additional support services are available as requested by **Customer** at the Hourly Rate.

3. Maintenance for Modified Licensed Standard Software and Custom Software

Customer is advised that if it requests or makes changes or modifications to the Licensed Standard Software, these changes or modifications (no matter who makes them) make the modified Licensed Standard Software more difficult to maintain. If **New World** agrees to provide maintenance support for Custom Software or Licensed Standard Software modified at **Customer's** request, or for prior releases of **New World's** software, then the additional **New World** maintenance or support services provided shall be billed at the Hourly Rate.

4. Billing

Maintenance costs will be billed annually.

Exhibit C / STANDARD SOFTWARE MAINTENANCE AGREEMENT

5. Additions of Software to Maintenance Agreement

Additional Licensed Standard Software licensed from **New World** will be added to the SSMA ninety (90) days after delivery. Costs for the maintenance for the additional software will be billed to **Customer** on a pro rata basis for the remainder of the maintenance year and on a full year basis thereafter.

6. Requests for Software Correction on Licensed Standard Software

At any time during the SSMA term, if **Customer** believes that the Licensed Standard Software does not conform to the warranties provided under this **Agreement**, **Customer** must notify **New World** in writing that there is a claimed defect and specify which feature and/or report it believes to be defective. Before any notice is sent to **New World**, it must be reviewed and approved by the Customer Liaison. Documented examples of the claimed defect must accompany each notice. **New World** will review the documented notice and when a feature or report does not conform to the published specifications, **New World** will provide software correction service at no charge. A non-warranty request is handled as a billable Request For Service (RFS) provided at the Hourly Rate.

The no-charge software correction service does not apply to any of the following:

- a) situations where the Licensed Standard Software has been changed by anyone other than **New World** personnel;
- b) situations where **Customer's** use or operations error causes incorrect information or reports to be generated; and
- c) requests that go beyond the scope of the specifications set forth in the current User Manuals.

7. Maintenance Costs for Licensed Standard Software Packages Covered for .NET Server(s)

New World agrees to provide software maintenance at the costs listed below for the **New World** Licensed Standard Software packages described in Exhibit A.

<u>Annual Maintenance Cost</u>	
90 Days	No charge
Year 1	\$11,360
Year 2	12,070
Year 3	12,780
Year 4	13,490
Year 5	14,200

EXHIBIT D
NEW WORLD SYSTEMS CORPORATION
NON-DISCLOSURE AND SECURITY AGREEMENT FOR THIRD PARTIES

This **Agreement**, when accepted and executed by **New World**, grants the undersigned the permission to use and/or have limited access to certain **New World Systems® Corporation (New World)** proprietary and/or confidential information.

Installed At: City of Industry
Customer Name

Located At: **15625 East Stafford Street #100**
Industry, CA 91744

Authorized Signature of Customer:

Name (Please Print or Type)	Title	Signature

In exchange for the permission to use or have access to **New World** proprietary and/or confidential information, including without limitation, **New World** software and/or documentation, the organization and individual whose names appear below, agree to the following:

1. No copies in any form will be made of **New World** proprietary or confidential information without the expressed written consent of **New World's** President, including without limitation, the following:
 - a) Program Libraries, whether source code or object code;
 - b) Operating Control Language;
 - c) Test or Sample Files;
 - d) Program Listings;
 - e) Record Layouts;
 - f) All written confidential or proprietary information originating from **New World** including without limitation, documentation, such as user manuals and/or system manuals; and/or
 - g) All **New World** Product Bulletins and/or other **New World** Product related materials.

2. **New World** software, **New World** documentation, or other proprietary or confidential information shall not be used for any purpose other than processing the records of the **Customer** identified above as permitted in the **Customer's Standard Software License and Services Agreement** with **New World**.

3. The undersigned agree(s) that this **Agreement** may be enforced by injunction in addition to any other appropriate remedies available to **New World**. If it is determined that the money damages caused by the undersigned's failure to comply with the foregoing terms are difficult to ascertain, they are hereby estimated at liquidated damages of no less than three times the then-current License Fees for the License Software provided to **Customer** under the *Standard Software License and Service Agreement* between **Customer** and **New World**.

Agreed and Accepted by Third Party (Organization)

Agreed and Accepted by Third Party (Individual)

Organization: _____

Individual: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Accepted and Approved by New World Systems Corp.

By: _____

Title: _____

Date: _____

CITY COUNCIL

ITEM NO. 6.4

RESOLUTION NO. CC 2015-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY AND CT CHESTNUT LLC, FOR THE PROPERTY LOCATED AT 948 S. AZUSA AVENUE, CITY OF INDUSTRY, CALIFORNIA AND ADOPTING THE NOTICE OF EXEMPTION REGARDING SAME

RECITALS

WHEREAS, the City of Industry is the owner of certain real property located at 948 S. Azusa, City of Industry, California (APN: 8264-025-911) ("Property"); and

WHEREAS, the Property consists of approximately 22,330 square feet, with a zoning designation of Commercial and a general plan designation of Employment; and

WHEREAS, in or around 2007, as part of a public works project, the City widened Railroad Avenue at its intersection with Azusa Avenue, which resulted in a loss of approximately 2,728 square feet of usable land area at the Property; and

WHEREAS, on or about March 10, 2015, the Successor Agency to the Industry Urban-Development Agency ("Agency") and CT Chestnut LLC ("Developer"), entered into a Purchase Agreement for the real property located adjacent to the Property on the East Side of Azusa, North of Railroad Street and 17300 Chestnut Street in the City of Industry, California ("Agency Property"); and

WHEREAS, pursuant to the terms of the Purchase Agreement for the Agency Property, the Developer is required to construct a Class-A industrial project of approximately 550,000-650,000 square feet, with a maximum of eight buildings; and

WHEREAS, Developer wishes to purchase the Property from the City, for the purpose of constructing certain improvements set forth in the Purchase Agreement for the Agency Property; and

WHEREAS, pursuant to Government Code Section 37350, the City may dispose of real property for the common benefit; and

WHEREAS, California law does not establish any rules, regulations or procedures for the City's sale of real property; and

WHEREAS, by selling the Property to Developer, the City is making use of a remnant parcel that is predominately vacant, and will no longer be responsible for the maintenance and upkeep and the associated costs of the Property; and

WHEREAS, the sale of the Property allows for the development of the Property, which will improve the aesthetics of the City, assist in the elimination of blight, and will allow for a cohesive, well-planned, new development; and

WHEREAS, the future development of the Property will bring additional employment opportunities to the City, and will improve the economic and physical conditions of the City which is a benefit to the City's residents, business owners and members of the community; and

WHEREAS, the sale of the Property is categorically exempt from the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*), pursuant to Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations), because the sale of the property does not have a potential for causing a significant effect on the environment. Any future development will require further analysis pursuant to the requirements of CEQA; and

WHEREAS, based on the foregoing, the City desires to sell the Property to Developer for the fair market value price of Eight Hundred Eighty Thousand Dollars (\$880,000.00).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1: The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

SECTION 2: All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State law and the City's Code.

SECTION 3: Based upon independent review and consideration of the information contained in the Staff Report and the Notice of Exemption for the sale of the Property, City Council hereby finds and determines that the sale of the Property will not result in or have a significant impact on the environment, because the sale would not create any public health or safety hazards and would not have a significant impact on the resources or services within the surrounding area, such as water, sanitary services, surrounding roadways and intersections. Further, any future development at the Property will be subject to additional environmental review and independent analysis as required by CEQA. Therefore, the proposed project is exempt from the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*), pursuant to Section 15061(b)(3). Based on these findings, the City Council adopts the Notice of Exemption and directs staff to file same as required by law.

SECTION 4: The City Council hereby approves the sale of the Property to Developer, pursuant to the terms and conditions set forth in the Purchase Agreement, attached hereto as Exhibit A, and incorporated herein by reference, and subject to the following conditions:

- a. Said approval of the sale shall be contingent upon the Planning Commission's finding that the sale of the Property conforms to the City's General Plan; and
- b. Said approval of the sale shall be contingent upon Developer's dedication of an irrevocable right of way and easement, to account for the widening of Railroad Avenue at the Property. The dedication shall be made at close of escrow.

SECTION 5: The officers and staff of the City are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution.

SECTION 6: The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 7: That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Industry at a regular meeting held on October 22, 2015 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Mark D. Radecki, Mayor

ATTEST:

Cecelia Dunlap, Deputy City Clerk

EXHIBIT A

PURCHASE AGREEMENT
948 S. AZUSA AVE., CITY OF INDUSTRY, CA

CITY OF INDUSTRY, a municipal corporation
“City”

CT CHESTNUT LLC,
a Delaware limited liability company
“Developer”

_____, 2015

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PURCHASE AGREEMENT
948 S. AZUSA AVENUE, CITY OF INDUSTRY, CA

THIS PURCHASE AGREEMENT for the property located at 948 S. AZUSA AVENUE, CITY OF INDUSTRY, CA (this “**Agreement**”), dated as of October _____, 2015 (the “**Effective Date**”) is entered into by and between the **CITY OF INDUSTRY, a municipal corporation** (the “**City**”), and **CT CHESTNUT LLC**, a Delaware limited liability company (the “**Developer**”). The City and the Developer are hereinafter sometimes individually referred to as a “**party**” and collectively referred to as the “**parties**”.

RECITALS

This Agreement is entered into with reference to the following facts:

A. The City owns the fee interest in that certain real property located in the City of Industry, County of Los Angeles, State of California, consisting of approximately 22,330 square feet of land and as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (such real property is referred to herein as the “**Property**”).

B. In addition, the Successor Agency to the Industry Urban-Development Agency (“**Agency**”) and Developer previously entered into that certain Purchase Agreement [East Side of Azusa North of Railroad Street and 17300 Chestnut Road] dated March 10, 2015, as amended by that certain (i) Consent to Extension of Due Diligence Period dated May 11, 2015, (ii) Second Consent to Extension of Due Diligence Period dated June 1, 2015, (iii) Third Consent to Extension of Due Diligence Period dated July 29, 2015, and (iv) Fourth Amendment to Purchase Agreement dated as of October 8, 2015 (collectively the “**Agency Agreement**”), with respect to the real property located adjacent to the Property on the East Side of Azusa, North of Railroad Street and 17300 Chestnut Street in the City of Industry, California, which is more particularly described in the Agreement (the “**Agency Property**”).

C. The Developer wishes to acquire fee title to the Property from the City to enable the Developer to utilize the Property to construct certain improvements, as set forth in the Agency Agreement (the “**Project**”).

D. Development of the Project will assist in the elimination of blight, provide jobs, and substantially improve the economic and physical conditions in the City, and is in the best interests of the City, and the health, safety and welfare of the residents and taxpayers of the City.

E. A material inducement to the City to enter into this Agreement is the agreement by the Developer to develop the Project within a limited period of time, and the City would be unwilling to enter into this Agreement in the absence of an enforceable commitment by the Developer to develop the Project within such period of time.

NOW, THEREFORE, in reliance upon the foregoing Recitals, in consideration of the mutual covenants in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Definitions. The following terms as used in this Agreement shall have the meanings given unless expressly provided to the contrary:

1.1.1 Agreement means this Purchase Agreement.

1.1.2 City means the City of Industry, a municipal corporation, exercising governmental functions and powers, and organized and existing under the laws of the State of California. The principal office of the City is located at 15625 East Stafford Street, Suite 100, City of Industry, California 91744.

1.1.3 Close of Escrow and Closing are defined in Section 2.3.2.

1.1.4 Deemed Disapproved Exceptions is defined in Section 2.5.2.

1.1.5 Default is defined in Section 5.2.

1.1.6 Deposit is defined in Section 2.2.1.

1.1.7 Developer means CT Chestnut LLC, a Delaware limited liability company. The principal office of the Developer for purposes of this Agreement is c/o CT Realty Corporation, 65 Enterprise, Aliso Viejo, California 92656.

1.1.8 Disapproved Exceptions is defined in Section 2.5.2.

1.1.9 Disapproval Notice is defined in Section 2.5.2.

1.1.10 Due Diligence Period is defined in Section 2.7.

1.1.11 Escrow is defined in Section 2.3.1.

1.1.12 Escrow Holder means First American Title Insurance Company. The principal office of the Escrow Holder for purposes of this Agreement is 18500 Von Karman Avenue, Suite 600, Irvine, California 92612, Attention: Patty Beverly, Escrow Officer, Telephone: (949) 885-2465, Fax: (877) 372-0260, Email: pbeverly@firstam.com.

1.1.13 Grant Deed is defined in Section 2.5.3.

1.1.14 Hazardous Materials means any chemical, material or substance now or hereafter defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "pollutant or contaminant," "imminently hazardous chemical substance or mixture," "hazardous air pollutant," "toxic pollutant," or words of similar import under any local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto applicable to the Property, including, without limitation: the Comprehensive Environmental Response, Compensation and Liability Act

of 1980, 42 U.S.C. § 9601, et seq. (“**CERCLA**”); the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1801, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.; and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq. The term “**Hazardous Materials**” shall also include any of the following: any and all toxic or hazardous substances, materials or wastes listed in the United States Department of Transportation Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and in any and all amendments thereto in effect as of the date of the close of any escrow; oil, petroleum, petroleum products (including, without limitation, crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel, not otherwise designated as a hazardous substance under CERCLA; any substance which is toxic, explosive, corrosive, reactive, flammable, infectious or radioactive (including any source, special nuclear or by-product material as defined at 42 U.S.C. § 2012, et seq.), carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority; asbestos in any form; urea formaldehyde foam insulation; transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyl’s; radon gas; or any other chemical, material or substance (i) which poses a hazard to the Property, to adjacent properties, or to persons on or about the Property, (ii) which causes the Property to be in violation of any of the aforementioned laws or regulations, or (iii) the presence of which on or in the Property requires investigation, reporting or remediation under any such laws or regulations.

1.1.15 Holder is defined in Section 3.2.2.

1.1.16 Outside Date is defined in Section 2.3.2.

1.1.17 Project is defined in Recital C.

1.1.18 Property is defined in Recital A.

1.1.19 Purchase Price is defined in Section 2.1.

1.1.20 Released Parties is defined in Section 2.8.

1.1.21 Review Period is defined in Section 2.5.2.

1.1.22 Right of Entry Agreement is defined in Section 2.7.

1.1.23 [Intentionally Left Blank]

1.1.24 Survey is defined in Section 2.5.1.

1.1.25 Title Company is defined in Section 2.5.4.

1.1.26 Title Policy is defined in Section 2.5.4.

1.1.27 Title Report is defined in Section 2.5.1.

1.1.28 Transaction Costs means all costs incurred by either party in entering into this transaction and closing Escrow, including but not limited to escrow fees and costs, attorney's fees, staff time, appraisal costs, and costs of financial advisors and other consultants.

ARTICLE 2 PURCHASE AND SALE OF THE PROPERTY

2.1 Purchase and Sale. The City agrees to sell the Property to the Developer, and the Developer agrees to purchase the Property from the City, for the sum of Eight Hundred Eighty Thousand Dollars (\$880,000.00) (the "**Purchase Price**"). The parties acknowledge and agree that the Purchase Price equals approximately Forty Five Dollars (\$45.00) per square foot based on a net usable land area comprising the Property of approximately 19,602 square feet (19,602 square feet represents the net usable area after the widening of Railroad Street, the total Property area is 22,330 square feet). In addition to the Purchase Price, Developer shall reimburse the City for the City's costs of obtaining an appraisal of the Property and the City's legal costs in connection with this Agreement and the disposition of the Property under this Agreement. Such costs shall not exceed Twenty Five Thousand Dollars (\$25,000.00) (the "**Disposition Costs**") and will be paid by Developer to the City at the closing through Escrow.

2.2 Payment of Purchase Price. The Purchase Price shall be payable by Developer as follows:

2.2.1 Deposit. Within five (5) business days following the opening of Escrow, Developer shall deposit with Escrow Holder the sum of FIFTY THOUSAND DOLLARS (\$50,000.00), in the form of certified or bank cashier's checks made payable to Escrow Holder or by confirmed wire transfers of funds (collectively, the "**Deposit**"). The Deposit shall be invested by Escrow Holder in an interest bearing account acceptable to Developer and City with all interest accruing thereon to be credited to the Purchase Price upon the Close of Escrow. Except as otherwise provided herein, the Deposit shall be applicable in full towards the Purchase Price upon Closing, and except as otherwise provided herein, shall be nonrefundable at the expiration of the Due Diligence Period.

2.2.2 Closing Funds. Prior to the Close of Escrow, Developer shall deposit or cause to be deposited with Escrow Holder, by a certified or bank cashier's check made payable to Escrow Holder or by a confirmed federal wire transfer of funds, the balance of the Purchase Price, plus an amount equal to all other costs, expenses and prorations payable by Developer hereunder, less any credit due Developer under Section 2.1.

2.3 Escrow.

2.3.1 Opening of Escrow. Within five (5) business days after the parties' full execution of this Agreement, the Developer and the City shall open an escrow (the "**Escrow**") with the Escrow Holder for the transfer of the Property to the Developer. The parties shall deposit with the Escrow Holder a fully executed duplicate original of this Agreement, which shall serve as the escrow instructions (which may be supplemented in

writing by mutual agreement of the parties) for the Escrow. If the parties supplement this Agreement by executing the Escrow Holder's standard form of escrow instructions, then in the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of such standard form escrow instructions, the terms and provisions of this Agreement shall control. The Escrow Holder is authorized to act under this Agreement, and to carry out its duties as the Escrow Holder hereunder.

2.3.2 Close of Escrow. "**Close of Escrow**" or "**Closing**" means the date Escrow Holder causes the Grant Deed (as hereinafter defined) to be recorded in the Official Records of the County of Los Angeles and delivers the Purchase Price (less any costs, expenses and prorations payable by the City) to the City. Possession of the Property shall be delivered to the Developer on the Close of Escrow. Close of Escrow shall occur simultaneously with the close of escrow of for the purchase by Developer of land owned by the Successor Agency to the Industry Urban Development Agency at 17300 Chestnut Street, City of Industry, California. If the Closing does not occur for any reason, then, except as otherwise provided in this Agreement, this Agreement shall automatically terminate, the Deposit shall be promptly returned to the Developer, Developer shall pay any Escrow cancellation charges.

2.3.3 Delivery of Closing Documents.

(a) The City and Developer agree to deliver to Escrow Holder, at least two (2) business days prior to the Close of Escrow, the following instruments and documents, the delivery of each of which shall be a condition precedent to the Close of Escrow:

(i) The Grant Deed, duly executed and acknowledged by the City, conveying a fee simple interest in the Property to Developer, subject only to such exceptions to title as Developer may have approved or have been deemed to have been approved pursuant to Section 2.5.2;

(ii) The City's affidavit as contemplated by California Revenue and Taxation Code Section 18662;

(iii) A Certification of Non-Foreign Status signed by City in accordance with Internal Revenue Code Section 1445; and

(iv) Such proof of the City's and Developer's authority and authorization to enter into this transaction as the Title Company may reasonably require in order to issue the Title Policy.

The City and the Developer further agree to execute such reasonable and customary additional documents, and such additional escrow instructions, as may be reasonably required to close the transaction which is the subject of this Agreement pursuant to the terms hereof.

2.4 Conditions to Close of Escrow. The obligations of the City and Developer to close the transaction which is the subject of this Agreement shall be subject to the satisfaction, or waiver in writing by the party benefited thereby, of each of the following conditions:

2.4.1 For the benefit of the City, the Developer shall have deposited the balance of the Purchase Price, together with such funds as are necessary to pay for costs, expenses and prorations payable by Developer hereunder (including the Disposition Costs).

2.4.2 For the benefit of the City, all actions and deliveries to be undertaken or made by Developer on or prior to the Close of Escrow as set forth in this Agreement shall have occurred, as reasonably determined by the City.

2.4.3 For the benefit of the Developer, all actions and deliveries to be undertaken or made by the City on or prior to the Close of Escrow as set forth in this Agreement shall have occurred.

2.4.4 [Intentionally Left Blank]

2.4.5 For the benefit of the City, the Developer shall have executed and delivered to Escrow Holder all documents and funds required to be delivered to Escrow Holder under the terms of this Agreement and the Developer shall otherwise have satisfactorily complied with its obligations hereunder.

2.4.6 For the benefit of the Developer, the City shall have executed and delivered to Escrow Holder all documents and funds required to be delivered to Escrow Holder under the terms of this Agreement and the City shall otherwise have satisfactorily complied with its obligations hereunder.

2.4.7 For the benefit of the City, the representations and warranties of the Developer contained in this Agreement shall be true and correct in all material respects as of the Close of Escrow.

2.4.8 For the benefit of the Developer, the representations and warranties of the City contained in this Agreement shall be true and correct in all material respects as of the Close of Escrow.

2.4.9 For the benefit of the Developer, Title Company shall be irrevocably committed to issuing in favor of the Developer the Title Policy, in form and substance, and with endorsements reasonably acceptable to the Developer, as provided in Section 2.5.2.

2.4.10 For the benefit of the City and Developer, the simultaneous close of escrow for the purchase and sale of the Agency Land under the Agency Agreement.

If all the foregoing conditions have not been met to the benefitted party's sole satisfaction or expressly waived in writing by the benefitted party on or before the respective dates set forth therein, or if no date is set forth therein on the Outside Date, then this Agreement shall, at the option of the benefitted party, become null and void and in which event, neither party shall have, except as expressly set forth in this Agreement, any further rights, duties or obligations hereunder, and, unless the condition or conditions not met were for the City's benefit, Developer shall be entitled to the immediate refund of the Deposit.

2.5 Condition of Title; Survey; Title Insurance.

2.5.1 Within ten (10) days after the Effective Date, the City shall deliver to the Developer for the Developer's review and approval, (i) a current preliminary title report covering the Property (the "**Title Report**") and the most legible copies available of any instruments noted as exceptions thereon, and (ii) any survey of the Property in the City's possession. The Developer at its sole expense may obtain a current or updated ALTA survey of the Property in connection with the issuance of the Title Policy and the City shall cooperate with the same. Any survey provided by the City or obtained by the Developer are each a "**Survey**" hereunder.

2.5.2 The Developer shall have until the expiration of the Due Diligence Period (the "**Review Period**") to disapprove any exceptions to title shown on the Title Report or reflected on the Survey (collectively, "**Disapproved Exceptions**") and to provide City with notice thereof describing the defect with reasonable particularity (the "**Disapproval Notice**"). Any exceptions to title not disapproved within the Review Period shall be deemed approved. Within five (5) days after the City's receipt of the Disapproval Notice, the City shall notify the Developer whether or not the City intends to remove or endorse over the Disapproved Exceptions. The City shall be under no obligation to remove or endorse over any Disapproved Exception, but the City agrees to cooperate in good faith with the Developer in the Developer's efforts to eliminate or endorse over any Disapproved Exception, provided the City is not obligated to pay any sum or assume any liability in connection with the elimination or endorsing over of any such Disapproved Exception. If the City notifies the Developer that the City intends to eliminate or endorse over all of the Disapproved Exception, the City shall do so concurrently with or prior to the Close of Escrow. If the City notifies the Developer that the City does not intend to eliminate or endorse over some or all of the Disapproved Exception(s), the Developer, by notifying the City within five (5) days after its receipt of such notice, may elect to terminate this Agreement and receive a refund of the Deposit or take the Property subject to the Disapproved Exception(s) which the City will not eliminate or endorse over (which Disapproved Exceptions will be deemed approved). Notwithstanding the foregoing, the City covenants to pay in full all loans secured by deeds of trust, any mechanics' and materialmen's liens, and any other monetary liens (other than liens for charges, assessments, taxes, and impositions subject to proration as provided in Section 2.6.2) (collectively, the "**Deemed Disapproved Exceptions**") prior to, or concurrently with, the Close of Escrow, and Escrow Holder is hereby directed to cause the same to be paid from the Purchase Price. The Title Policy shall include such endorsements as the Developer shall reasonably request. Any endorsements to the Title Policy are to be paid for by the Developer, except that endorsements obtained by the City respecting Disapproved Exceptions as provided above shall be paid for by the City. Notwithstanding the foregoing, the Developer may notify the City of its disapproval of an exception to title (including exceptions reflected on the Survey) first raised by Title Company or the surveyor after the Review Period, or otherwise first disclosed to the Developer after the Review Period, by the earlier of (a) within ten (10) days after the same was first raised or disclosed to the Developer in writing, and (b) fifteen (15) days prior to the Close of Escrow. With respect to any exceptions disapproved by the Developer in such notice, the City shall have the same option to eliminate or endorse over such exceptions that applies

to Disapproved Exceptions, and the Developer shall have the same option to accept title subject to such exceptions or to terminate this Agreement and receive a refund of the Deposit.

2.5.3 At the Close of Escrow, the Developer shall receive title to the Property by grant deed substantially in the form attached hereto as Exhibit "C" and incorporated herein by this reference (the "**Grant Deed**").

2.5.4 At Closing, the Developer shall receive a CLTA Owner's Coverage Policy of Title Insurance (the "**Title Policy**"), together with all endorsements requested by the Developer or obtained by the City pursuant to Section 2.5.2, issued by First American Title Insurance Company ("**Title Company**") in the amount of the Purchase Price, insuring that title to the Property is vested in Developer and is free and clear of all Disapproved Exceptions, all Deemed Disapproved Exceptions and all liens, easements, covenants, conditions, restrictions, and other encumbrances of record except (a) current taxes and assessments of record, but not any overdue or delinquent taxes or assessments, (b) the matters set forth or referenced in the Grant Deed, and (c) such other encumbrances as the Developer approves in writing including those reflected in the Title Report for the Property approved by Developer, or as are deemed approved by Developer as provided in Section 2.5.2. The Developer may obtain an extended coverage policy of title insurance at its own costs.

2.6 Escrow and Title Charges; Prorations.

2.6.1 The City shall pay all documentary transfer taxes and the coverage premiums on the standard CLTA Title Policy, together with the cost of any endorsements obtained by the City pursuant to Section 2.5.2. Developer shall pay the costs of (i) any Survey obtained by the Developer, (ii) any endorsements to the Title Policy obtained by Developer and (iii) any title insurance premiums for any coverage over and above the standard policy coverage on the CLTA Title Policy to be paid by the City. In addition, the Developer shall pay any and all other usual and customary costs, expenses and charges relating to the escrow and conveyance of title to the Property, including without limitation, recording fees, document preparation charges and escrow fees. Each party shall be responsible for its own Transaction Costs, with the exception of the Disposition Costs, which shall be paid by Developer.

2.6.2 All non-delinquent and current installments of real estate and personal property taxes, if any, and any other governmental charges, regular assessments, or impositions against the Property on the basis of the current fiscal year or calendar year shall be pro-rated as of the Close of Escrow based on the actual current tax bill. If the Close of Escrow shall occur before the tax rate is fixed, the apportionment of taxes on the Close of Escrow shall be based on the tax rate for the next preceding year applied to the latest assessed valuation after the tax rate is fixed, which assessed valuation shall be based on the Property's assessed value prior to the Close of Escrow and the City and Developer shall, when the tax rate is fixed, make any necessary adjustment. All prorations shall be determined on the basis of a 365 day year. The provisions of this Section 2.6.2 shall

survive the Close of Escrow and the recordation of the Grant Deed and shall not be deemed merged into the Grant Deed upon its recordation.

2.6.3 Any Escrow cancellation charges shall be allocated and paid as described in Section 2.3.2 above.

2.7 Due Diligence Period; Access. During the period (the “**Due Diligence Period**”) commencing on the Effective Date and ending at 5:00 p.m. on the date which is twenty (21) days after the Effective Date, the Developer may inspect the Property as necessary to (i) approve all zoning and land use matters relating to the Property, (ii) approve the physical condition of the Property, and (iii) satisfy any due diligence requirements of the Developer’s lender, if any. Subject to the terms of the Right of Entry and Access Agreement in the form of which is attached hereto as Exhibit “D” (the “**Right of Entry Agreement**”), the Developer and its agents shall have the right to enter upon the Property during the Due Diligence Period to make inspections and other examinations of the Property and the improvements thereon, including without limitation, the right to perform surveys, soil and geological tests of the Property and the right to perform environmental site assessments and studies of the Property. Prior to the Developer’s entry upon the Property, the parties shall execute the Right of Entry Agreement. The City shall reasonably cooperate with the Developer in its conduct of the due diligence review during the Due Diligence Period. In the event the Developer does not approve of the condition of the Property by written notice given to the City prior to the expiration of the Due Diligence Period, this Agreement shall terminate, the Deposit shall be returned to Developer (including any interest earned thereon) and, except as otherwise expressly stated in this Agreement, neither party shall have any further rights or obligations to the other party.

2.8 Condition of the Property. The Property shall be conveyed from the City to the Developer on an “AS IS” condition and basis with all faults and the Developer agrees that the City has no obligation to make modifications, replacements or improvements thereto. Except as expressly and specifically provided in this Agreement, the Developer and anyone claiming by, through or under the Developer hereby waives its right to recover from and fully and irrevocably releases the City, and its elected and appointed officials, officers, directors, employees, representatives, agents, advisors, servants, attorneys, successors and assigns, and all persons, firms, corporations and organizations acting on the City’s behalf (collectively, the “**Released Parties**”) from any and all claims, responsibility and/or liability that the Developer may now have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to the matters pertaining to the Property described in this Section 2.8 and Section 2.9 below. This release includes claims of which the Developer is presently unaware or which the Developer does not presently suspect to exist which, if known by the Developer, would materially affect the Developer’s release of the Released Parties. If the Property is not in a condition suitable for the intended use or uses, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the Property in a condition suitable for development of the Project thereon. Except as otherwise expressly and specifically provided in this Agreement and without limiting the generality of the foregoing, THE CITY MAKES NO REPRESENTATION OR WARRANTY AS TO (i) THE VALUE OF THE PROPERTY; (ii) THE INCOME TO BE DERIVED FROM THE PROPERTY; (iii) THE HABITABILITY, MARKETABILITY, PROFITABILITY, MERCHANTABILITY OR FITNESS FOR

PARTICULAR USE OF THE PROPERTY; (iv) THE MANNER, QUALITY, STATE OF REPAIR OR CONDITION OF THE PROPERTY; (v) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (vi) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION OR POLLUTION LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS; (vii) THE FACT THAT ALL OR A PORTION OF THE PROPERTY MAY BE LOCATED ON OR NEAR AN EARTHQUAKE FAULT LINE; AND (viii) WITH RESPECT TO ANY OTHER MATTER, THE DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY AND REVIEW INFORMATION AND DOCUMENTATION AFFECTING THE PROPERTY, THE DEVELOPER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND REVIEW OF SUCH INFORMATION AND DOCUMENTATION AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY THE CITY.

THE DEVELOPER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH IS SET FORTH BELOW:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

BY INITIALING BELOW, DEVELOPER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.

Developer's Initials

The waivers and releases by the Developer herein contained shall survive the Close of Escrow and the recordation of the Grant Deed and shall not be deemed merged into the Grant Deed upon its recordation.

2.9 Environmental.

2.9.1 Condition of the Property. California Health & Safety Code section 25359.7 requires owners of non-residential real property who know, or have reasonable cause to believe, that any release of Hazardous Substances has come to be located on or beneath the real property to provide written notice of same to the buyer of real property. The City hereby discloses the following information for the Property, or portions of the Property:

The City acquired the Property in or about 2005, from ConocoPhillips Company (“Conoco”). During the time Conoco owned the Property, it discovered the release of motor fuel hydrocarbons

and other Hazardous Substances on, at or under the Property originating from its activities or the activities of its predecessors in interest.

Conoco prepared a remedial action plan ("RAP") for the Property, which was approved by the Los Angeles Regional Water Quality Control Board ("RWQCB") on or about October 6, 2003. Under the RAP, an ozone groundwater treatment system was installed on the Property to remediate fuel hydrocarbon-impacted groundwater. Operation of the system began on November 24, 2008, and discharges micro-encapsulated ozone below the groundwater table to remediate impacted groundwater.

A Notice of Termination Request was submitted to the California Regional Water Quality Control Board on April 17, 2013, and the Termination of General Waste Discharge Requirements was obtained from the State RWQCB on April 26, 2013.

On April 15, 2014, the Los Angeles RWQCB provided the City with a letter indicating that the underground storage tank release at the Property met the low threat criteria for case closure.

On October 13, 2014, the City received a no further action letter from the RWQCB for the Property.

The Parties acknowledge that the City will not be conducting a public records search of the RWQCB's or any other regulatory agency files, although the City urges Developer to do so to satisfy itself regarding the environmental condition of the Property. By execution of this Agreement, Developer (i) acknowledges its receipt of the foregoing notice given pursuant to Cal. Health & Safety Code section 25359.7; (ii) acknowledges that it will have an opportunity to conduct its own independent review and investigation of the Property prior to the Close of Escrow; (iii) agrees to rely solely on its own experts in assessing the environmental condition of the Property and its sufficiency for its intended use; and (iv) waives any and all rights Developer may have to assert that the Agency has not complied with the requirements of Health & Safety Code section 25359.7.

2.9.2 Investigation of Property. The Developer shall have the right, at its sole cost and expense, to engage its own environmental consultant to make such investigations as Developer deems necessary, during the Due Diligence Period. Developer understands that regardless of the delivery by the City to the Developer of any materials, including, without limitation, third party reports, Developer will rely entirely on Developer's own experts and consultants in proceeding with this transaction.

2.9.3 Remediation of the Property. In the event that the Developer's investigations show that Hazardous Substances are present on, or under the Property at levels that are inappropriate for the anticipated use, then prior to the expiration of the Due Diligence Period, Developer may terminate this Agreement and thereupon Developer shall have no further obligations or liabilities hereunder and the City shall refund the balance of the Deposit to Developer or, in the alternative, Developer may elect to remediate the Property on its own, at its sole cost and expense, after close of escrow. Effective at the close of escrow and in furtherance of the indemnity obligations of Developer pursuant to Section 7.2 of this Agreement, to the extent permitted by law, the City hereby assigns and transfers to Developer any and all claims,

causes of action and rights of recovery against any person or entity for any release, discharge, migration or deposit of Hazardous Substances on, under or about the Property, including without limitation all claims, causes of action and rights of recovery against Conoco.

Any remedial work must be performed in a timely and safe manner and in accordance with applicable Governmental Requirements for the use of the Property. For purposes of this Agreement, "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders, directives and decrees of the United States, the state, the county, the City, or any other political subdivision in which the Property is located, and of any political subdivision, agency or instrumentality exercising jurisdiction over the City, the Developer or the Property.

2.10 Escrow Holder.

2.10.1 Escrow Holder is authorized and instructed to:

(a) Pay and charge the Developer for any fees, charges and costs payable by the Developer under this Article. Before such payments are made, the Escrow Holder shall notify the City and the Developer of the fees, charges, and costs necessary to close the Escrow;

(b) Pay and charge the City for any fees, charges and costs payable by the City under this Article. Before such payments are made, the Escrow Holder shall notify the City and the Developer of the fees, charges, and costs necessary to close the Escrow;

(c) Disburse funds and deliver the Grant Deed and other documents to the parties entitled thereto when the conditions of the Escrow and this Agreement have been fulfilled by the City and the Developer; and

(d) Record the Grant Deed and any other instruments delivered through the Escrow, if necessary or proper, to vest title in the Developer in accordance with the terms and provisions of this Agreement.

2.10.2 Any amendment of these escrow instructions shall be in writing and signed by both the City and the Developer.

2.10.3 All communications from the Escrow Holder to the City or the Developer shall be directed to the addresses and in the manner established in Section 6.3 of this Agreement for notices, demands and communications between the City and the Developer.

2.10.4 The responsibility of the Escrow Holder under this Agreement is limited to performance of the obligations imposed upon it under this Article, any amendments hereto, and any supplemental escrow instructions delivered to the Escrow Holder that do not materially amend or modify the express provisions of these escrow instructions.

ARTICLE 3
BILLBOARD LEASE

3.1 Billboard Lease.

3.1.1 City acknowledges the existence of that certain billboard lease with M&P Outdoor Advertising, LLC ("Lease"). A copy of the Lease is attached hereto as Exhibit D and incorporated herein by reference. City will retain all rights and interests in the Lease, including, without limitation, the right to receive all rent thereunder up to and through the Close of Escrow. After the Close of Escrow, Developer shall forward all rental income payments from the Lease to the City until the termination of the Lease. The City represents, warrants, and covenants the following:

- a. To the best of the City's knowledge, the Lease will terminate on or before June 30, 2017; provided, however, that the Developer shall be responsible, at its sole cost and expense, for the removal of the billboard sign.
- b. The City will not extend the term of the lease for any reason beyond the termination date.
- c. Rent of \$2,000 a month is collected (\$1,000.00) per side.
- d. A notification to Tenant of the purchase by Developer will be executed by City and will be delivered to Tenant from Escrow upon Close of Escrow.
- e. In its discretion, Developer may request that the City deliver to and request from the Tenant an estoppel certificate certifying as to key terms of the Lease such as the rental rate and term. In the event Developer fails to request an estoppel certificate, the City shall not be liable for any of the representations set forth in this Section 3.1.1.

3.1.2 Developer shall not, partially or wholly obstruct the billboard during the term of the Lease. In the event that the billboard is partially or wholly obstructed Developer shall be responsible for any and all damages, and/or claims for damages brought by M&P Outdoor Advertising, or its successors and assigns, including any reduction in rent paid to the City as a result thereof.

ARTICLE 4
LIMITATIONS ON TRANSFERS AND SECURITY INTERESTS

4.1 Limitation As To Transfer of the Property and Assignment of Agreement. Prior to the City's issuance of the Certificate of Completion (as defined in the Agency Agreement), the Developer may assign its rights and obligations under this Agreement to Forever Chestnut, LLC, a California limited liability company, any entity controlled by, or under common control with Developer or its manager, CT Realty Corporation, or to any entity owned or controlled by any institutional investor for which Developer, or CT Realty Corporation, is then acting as investment or development manager, without the City's prior consent, but only upon twenty (20) business days prior written notice to the City and pursuant to an assignment agreement by which

the assignee shall expressly assume all of the Developer's rights and obligations under this Agreement and otherwise in form and substance reasonably acceptable to City. Except as provided in the preceding sentence and prior to the City's issuance of the Certificate of Completion, the Developer shall not transfer its rights and obligations, in whole or in part, under this Agreement, or sell, assign, transfer, encumber, pledge or lease the Property, nor cause or suffer a change of more than 49% of the ownership interests in Developer, directly or indirectly, in one or a series of transactions, without the City's prior written consent, which consent may be granted or withheld in the sole and absolute discretion of the City. The Developer acknowledges that the identity of the Developer is of particular concern to the City, and it is because of the Developer's identity that the City has entered into this Agreement with the Developer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement in violation of the terms hereof. Notwithstanding any provision contained herein to the contrary, this prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Project, or any mortgage or deed of trust permitted by this Agreement. Upon the City's issuance of the Certificate of Completion, the Developer may transfer the Property to a transferee without restriction so long as the transferee agrees to all of the applicable covenants and conditions set forth in Article 5 of this Agreement. Any assignment or other transfer by Developer prior to issuance of the Certificate of Completion shall not release Developer from any of its obligations under this Agreement.

4.2 Security Financing; Right of Holders.

4.2.1 No Encumbrances Except Mortgages, Deeds of Trust, Conveyances or Other Conveyance for Financing For Development.

(a) Notwithstanding Section 4.1 or any other provision herein to the contrary, only mortgages, deeds of trust, sales and leasebacks, or any other form of encumbrance, conveyance, security interest or assignment required for any reasonable method of construction and permanent financing are permitted prior to the issuance of a Certificate of Completion, but only for the purpose of securing loans of funds to be used for the purchase of the Property or financing the direct and indirect costs of the development of the Project (including reasonable and customary developer fees, loan fees and costs, and other normal and customary project costs), and each such loan secured by the Property shall expressly allow for its prepayment or assumption (upon payment of a market standard prepayment or assumption fee) by and at the option of the City upon the exercise of its option to purchase provided in Section 5.7.

(b) The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing commonly used in real estate acquisition, construction and land development. Any reference herein to the "holder" of a mortgage or deed of trust shall be deemed also to refer to a lessor under a sale and leaseback.

4.2.2 Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure. Whenever the City shall deliver a notice or demand to the Developer with respect to any Default by the Developer in completion of development of the Project or otherwise, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any first mortgage, deed of trust or other security

interest authorized by this Agreement who has previously made a written request to the City for special notice hereunder (a “**Holder**”). No notice of Default to the Developer shall be effective against any such Holder unless given to such Holder as aforesaid. Such Holder shall (insofar as the rights of the City are concerned) have the right, at such Holder’s option, within sixty (60) days after receipt of the notice, to cure or remedy any such Default and to add the cost thereof to the security interest debt and the lien of its security interest; provided, however, that if longer than sixty (60) days is required to cure such Default, such longer period shall be granted to Holder, provided that Holder diligently pursues such cure during such longer period. If such Default shall be a default which can only be remedied or cured by such Holder upon obtaining possession of the Property, such Holder shall seek to obtain possession of the Property with diligence and continuity through a receiver or otherwise, and shall remedy or cure such Default within a reasonable period of time as necessary to remedy or cure such Default of the Developer. If such Default shall be a default as to or by Developer which cannot be cured, City shall not seek to enforce the same against Holder and Holder shall not be subject thereto.

4.2.3 Noninterference with Holders. The provisions of this Agreement do not limit the right of Holders to foreclose or otherwise enforce any mortgage, deed of trust, or other security instrument encumbering the Property and the improvements thereon, or the right of Holders to pursue any remedies for the enforcement of any pledge or lien encumbering the Property; provided, however, that in the event of a foreclosure sale under any such mortgage, deed of trust or other lien or encumbrance, or sale pursuant to any power of sale contained in any such mortgage or deed of trust, the purchaser or purchasers and their successors and assigns, and the Property, shall be, and shall continue to be, subject to all of the conditions, restrictions and covenants of this Agreement and all documents and instruments recorded pursuant hereto.

ARTICLE 5 USE OF THE PROPERTY

5.1 Use. The Developer covenants and agrees for itself, and its successors and its assigns, that the Developer, such successors, and such assigns shall use the Property, and every part thereof, only for the construction of the Project thereon, and thereafter for any use permitted by applicable laws. Notwithstanding the foregoing, if and when the Developer conveys the Property to a third party after completion of the Project thereon in accordance with this Agreement, the Developer shall be relieved of any further responsibility under this Section 5.1 as to the Property so conveyed.

5.2 Maintenance of the Property. After completion of the Project, Developer shall maintain the Property and the Project (including landscaping) in a commercially reasonable condition and repair to the extent practicable and in accordance with industry health and safety standards. Notwithstanding the foregoing, if and when the Developer conveys the Property to a third party after completion of the Project thereon in accordance with the Agreement, the Developer shall be relieved of any further responsibility under this Section 4.2 as to the Property so conveyed.

5.3 Obligation to Refrain from Discrimination. The Developer covenants and agrees for itself, its successors and assigns, and for every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, marital status, age, handicap, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, and the Developer (itself or any person claiming under or through the Developer) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property or any portion thereof. Notwithstanding the foregoing, if and when the Developer conveys the Property to a third party after completion of the Improvements thereon in accordance with the Agreement, the Developer shall be relieved of any further responsibility under this Section 4.3 as to the Property so conveyed.

5.4 Form of Nondiscrimination and Nonsegregation Clauses. All deeds, leases or contracts for sale shall contain the following nondiscrimination or nonsegregation clauses:

5.4.1 In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the Grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

5.4.2 In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of

discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

5.4.3 In contracts: “The contracting party or parties hereby covenant by and for himself or herself and their respective successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the contracting party or parties, any subcontracting party or parties, or their respective assigns or transferees, establish or permit any such practice or practices of discrimination or segregation.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

5.5 Restrictive Covenant. In order to insure the Developer’s compliance with the covenants set forth in Sections 5.1, 5.2, 5.3, and 5.4 hereof, such covenants shall be set forth in the Grant Deed. Such covenants shall run with the Property for the benefit of the City.

5.6 Effect and Duration of Covenants. The following covenants shall be binding upon the Property and Developer and its successors and assigns and shall remain in effect for the following periods, and each of which shall be set forth with particularity in any document of transfer or conveyance by the Developer:

(1) The use and non-discrimination and non-segregation requirements set forth in Sections 5.1, 5.3 and 5.4 shall remain in effect in perpetuity;

(2) The maintenance requirements set forth in Section 5.2 shall remain in effect for the period described therein, and;

(3) Easements to the City, or other public agencies for utilities existing as of the execution of this Agreement, which shall remain in effect according to their terms.

ARTICLE 6
EVENTS OF DEFAULT, REMEDIES AND TERMINATION

6.1 Developer Events of Defaults. Occurrence of any or all of the following, if uncured after the expiration of any applicable cure period, shall constitute a default (“**Developer Event of Default**”) under this Agreement:

6.1.1 The Developer’s sale, lease, or other transfer, or the occurrence of any involuntary transfer, of the Property or any part thereof or interest therein in violation of this Agreement; or

6.1.2 Filing of a petition in bankruptcy by or against the Developer or appointment of a receiver or trustee of any property of the Developer, or an assignment by the Developer for the benefit of creditors, or adjudication that the Developer is insolvent by a court, and the failure of the Developer to cause such petition, appointment, or assignment to be removed or discharged within ninety (90) days;

6.1.3 The Developer’s failure to perform any requirement or obligation of Developer set forth herein, on or prior to the date for such performance set forth herein (subject to delays pursuant to Section 7.9), and, so long as such failure is not caused by any wrongful act of the City, the Developer’s failure to cure such breach within thirty (30) days after receipt of written notice from the City of the Developer’s breach; or

6.1.4 The Developer’s failure to deposit with Escrow Holder the Deposit or the balance of the Purchase Price as required by Section 2.2.

6.2 City Events of Default. Occurrence of any or all of the following, if uncured after the expiration of the applicable cure period, shall constitute a default (“**City Event of Default**”, and together with the Developer Event of Default, a “**Default**”) under this Agreement:

6.2.1 The City, in violation of the applicable provision of this Agreement, fails to convey the Property to Developer at the Close of Escrow; or

6.2.2 The City breaches any other material provision of this Agreement.

Upon the occurrence of any of the above-described events, the Developer shall first notify the City in writing of its purported breach or failure, giving the City thirty (30) days from receipt of such notice to cure such breach or failure (other than a failure by the City to convey the Property at the Close of Escrow, for which there shall be no cure period) or if a cure is not possible within the thirty (30) day period, to begin such cure and diligently prosecute the same to completion, which shall, in any event, not exceed one hundred eighty (180) days from the date of receipt of the notice to cure.

6.3 Remedies in the Event of Default.

6.3.1 Remedies General. In the event of a breach or a default under this Agreement by either Developer or City, prior to the Close of Escrow, the non-defaulting party shall have the right to terminate this Agreement by providing ten (10) days written notice thereof to the defaulting party. If such breach or default is not cured within such ten (10) day period (other than a failure by the City to convey the Property at the Close of Escrow, for which there shall be no cure period), this Agreement and the Escrow for the purchase and sale of the Property shall terminate, and if Developer is the non-defaulting party, Developer shall thereupon promptly receive a refund of the Deposit and all interest accrued thereon. Except as herein otherwise expressly provided, such termination of the Escrow by a non-defaulting party shall be without prejudice to the non-defaulting party's rights and remedies against the defaulting party at law or equity.

In the event of a Default under this Agreement after the Close of Escrow, the non-defaulting party may seek against the defaulting party any available remedies at law or equity, including but not limited to the right to receive reimbursement for its documented out-of-pocket costs relating to this purchase transaction or to pursue an action for specific performance, but in no event shall such non-defaulting party be entitled to receive any consequential or special damages.

IF THE DEVELOPER FAILS TO COMPLETE THE ACQUISITION OF THE PROPERTY AS HEREIN PROVIDED BY REASON OF ANY DEFAULT OF THE DEVELOPER, IT IS AGREED THAT THE DEPOSIT SHALL BE NON-REFUNDABLE AND THE CITY SHALL BE ENTITLED TO SUCH DEPOSIT, AND ANY DISPOSITION COSTS, WHICH AMOUNTS SHALL BE ACCEPTED BY THE CITY AS LIQUIDATED DAMAGES AND NOT AS A PENALTY AND AS THE CITY'S SOLE AND EXCLUSIVE REMEDY. IT IS AGREED THAT SAID AMOUNTS CONSTITUTE A REASONABLE ESTIMATE OF THE DAMAGES TO THE CITY PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1671 ET SEQ. THE CITY AND DEVELOPER AGREE THAT IT WOULD BE IMPRACTICAL OR IMPOSSIBLE TO PRESENTLY PREDICT WHAT MONETARY DAMAGES THE CITY WOULD SUFFER UPON THE DEVELOPER'S FAILURE TO COMPLETE ITS ACQUISITION OF THE PROPERTY. THE DEVELOPER DESIRES TO LIMIT THE MONETARY DAMAGES FOR WHICH IT MIGHT BE LIABLE HEREUNDER AND THE DEVELOPER AND CITY DESIRE TO AVOID THE COSTS AND DELAYS THEY WOULD INCUR IF A LAWSUIT WERE COMMENCED TO RECOVER DAMAGES OR OTHERWISE ENFORCE THE CITY'S RIGHTS. IF FURTHER INSTRUCTIONS ARE REQUIRED BY ESCROW HOLDER TO EFFECTUATE THE TERMS OF THIS PARAGRAPH, THE DEVELOPER AND CITY AGREE TO EXECUTE THE SAME. THE PARTIES ACKNOWLEDGE THIS PROVISION BY PLACING THEIR INITIALS BELOW:

City Developer

6.3.2 Liberal Construction. The rights established in this Agreement are to be interpreted in light of the fact that the City will convey the Property to the Developer for development and operation of the Project thereon and not for speculation in undeveloped land or for construction of different improvements. The Developer acknowledges that it is of the

essence of this Agreement that the Developer is obligated to complete all Improvements comprising the Project.

6.4 No Personal Liability. Except as specifically provided herein to the contrary, no representative, employee, attorney, agent or consultant of the City shall personally be liable to the Developer, or any successor in interest of the Developer, in the event of any Default or breach by the City, or for any amount which may become due to the Developer, or any successor in interest, on any obligation under the terms of this Agreement.

6.5 Legal Actions.

6.5.1 Institution of Legal Actions. Any legal actions brought pursuant to this Agreement must be instituted in either the Superior Court of the County of Los Angeles, State of California, or in an appropriate municipal court in that County.

6.5.2 Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

6.5.3 Acceptance of Service of Process. If any legal action is commenced by the Developer against the City, service of process on the City shall be made by personal service upon the City Manager or City Clerk of the City, or in such other manner as may be provided by law. If any legal action is commenced by the City against the Developer, service of process on the Developer shall be made by personal service upon the Developer, or in such other manner as may be provided by law, whether made within or without the State of California.

6.6 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same Default or any other Default by the other party.

6.7 Inaction Not a Waiver of Default. Except as expressly provided in this Agreement to the contrary, any failure or delay by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

ARTICLE 7 GENERAL PROVISIONS

7.1 Insurance.

7.1.1 Prior to commencement of any demolition or construction work on the Property by the Developer, the Developer shall obtain (or cause the General Contractor to obtain), at the Developer's sole cost and expense, and shall maintain in force until completion of construction of the Improvements, with a reputable and financially responsible insurance company reasonably acceptable to the City, broad form commercial general public liability

insurance, insuring the Developer and the City against claims and liability for bodily injury, death, or property damage arising from the use, occupancy, condition, or operation of the Property and the Improvements thereon, which insurance shall provide combined single limit protection of at least Two Million Dollars (\$2,000,000.00), and include contractual liability endorsement. Such insurance shall name the City, as additional insureds.

7.1.2 Prior to commencement of any demolition or construction work on the Property by the Developer, the Developer shall also obtain, or cause to be obtained, at the Developer's sole cost and expense, and shall maintain in force until completion of the construction of the Improvements, with a reputable and financially responsible insurance company reasonably acceptable to the City (i) "all risk" builder's risk insurance, including coverage for vandalism and malicious mischief, in a form and amount and with a reputable and financially responsible insurance company reasonably acceptable to the City, and (ii) workers' compensation insurance covering all persons employed in connection with work. The builder's risk insurance shall cover improvements in place and all material and equipment at the job site furnished under contract, but shall exclude contractors', subcontractors', and construction managers' tools and equipment and property owned by contractors' and subcontractors' employees.

7.1.3 Prior to the commencement of any demolition or construction work on the Property by the Developer, the Developer shall also furnish or cause to be furnished to the City evidence satisfactory to the City that any contractor with whom it has contracted for the performance of work on the Property carries workers' compensation insurance as required by law.

7.1.4 With respect to each policy of insurance required above, the Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on the insurance carrier's form setting forth the general provisions of the insurance coverage. The required certificate shall be furnished by the Developer prior to commencement of any demolition or construction work on the Property.

7.1.5 All such policies required by this Section shall be nonassessable and shall contain language to the effect that (i) the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to the City, and (ii) the City shall not be liable for any premiums or assessments. All such insurance shall have deductibility limits reasonably satisfactory to the City. The provisions of this Section shall survive the Close of Escrow and the recordation of the Grant Deed and shall not be deemed merged into the Grant Deed upon its recordation.

7.2 Indemnity.

From and after the Close of Escrow, Developer hereby agrees to indemnify, defend, protect and hold harmless, with counsel of the City's choosing, the City and any and all officials, officers, agents, employees, attorneys and representatives of the City (collectively "City Representatives"), and each of them, from and against all losses, liabilities, claims, damages, penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) and demands of any nature whatsoever, including

attorneys' fees (collectively "Losses and Liabilities"), related directly or indirectly to, or arising out of or in any way connected with the Developer's use, ownership, management, occupancy or possession of the Property; any breach or Default of Developer hereunder; any of the Developer's activities on the Property (or the activities of the Developer's agents, employees, lessees, representatives, licensees, guests, invitees, contractors, subcontractors, or independent contractors on the Property), including without limitation, the construction of the Improvements on the Property; the presence or clean-up of Hazardous Substances on, in or under the Property to the extent the same was caused by Developer or Developer's affiliates, agents or employees; Developer's obligation upon Developer's acquisition of the Property to remediate the existing Hazardous Substances thereon so that the Property is in compliance with all applicable environmental laws relating to the anticipated use of the Property, the construction of any improvements on the Property, or the use or condition of any such improvements; any other fact, circumstance or event related to the Developer's performance hereunder of any covenant to be performed following the closing, or which may otherwise arise from the Developer's ownership, use, possession, improvement, operation or disposition of the Property after the Closing, regardless of whether such damages, losses and liabilities shall accrue or are discovered before or after termination or expiration of this Agreement. This indemnification requires Developer to indemnify the City and any and all City Representatives from and against all Losses and Liabilities, including attorneys' fees, related directly or indirectly to, or arising out of or in any way connected with any existing or future Hazardous Substances on the Property after the acquisition thereof by Developer. Developer's obligation to defend shall arise regardless of any claim or assertion that the Agency and/or City caused or contributed to the Losses and/or Liabilities. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

7.3 Notices. All notices and demands shall be given in writing by certified mail, postage prepaid, and return receipt requested, by nationally recognized overnight courier or by personal delivery (including by commercial messenger service) or by facsimile transmission. Notices shall be considered given upon the earlier of (a) personal delivery, (b) three (3) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested, (c) the next business day after deposit with a nationally reorganized overnight courier, (d) on the day of facsimile transmission, in each instance addressed to the recipient as set forth below. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

City: City of Industry
15625 East Stafford Street, Suite 100
City of Industry, California 91744
Attention: Paul Philips, City Manager
Facsimile: (626) 961-6795

with a copy to: Casso & Sparks, LLP
Post Office Box 4131
West Covina, CA 91791
Attention: James M. Casso

Developer: CT Chestnut LLC
c/o CT Realty Corporation
65 Enterprise, Suite 150
Aliso Viejo, California 92656
Attention: Michael W. Traynham
Facsimile: (949) 330-5571

7.4 Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto.

7.5 Developer's Warranties. The Developer warrants and represents to the City as follows:

7.5.1 The Developer has full power and authority to execute and enter into this Agreement and to consummate the transaction contemplated hereunder. This Agreement constitutes the valid and binding agreement of the Developer, enforceable in accordance with its terms subject to bankruptcy, insolvency of other creditors' rights laws of general application. Neither the execution nor delivery of this Agreement, nor the consummation of the transactions covered hereby, nor compliance with the terms and provisions hereof, shall conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which the Developer is a party.

7.5.2 As of the Close of Escrow, the Developer will have inspected the Property and will be familiar with all aspects of the Property and its condition, and will accept such condition.

7.5.3 The Developer has not paid or given, and will not pay or give, to any third person, any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers and attorneys.

7.6 Interpretation. In this Agreement the neuter gender includes the feminine and masculine, and singular number includes the plural, and the words "person" and "party" include corporation, partnership, firm, trust, or association where ever the context so requires.

7.7 Time of the Essence; Definition of Business Day. Time is of the essence of this Agreement. For purposes of this Agreement, "business day" means any day other than Saturday, Sunday or a holiday observed by national or federally chartered banks. Unless the context otherwise requires, all periods terminating on a given day, period of days, or date shall terminate at 5:00 p.m. (California time) on such date or dates, and references to "days" shall refer to calendar days except if such references are to business days. Any event specified to occur on a non-business day shall be extended automatically to the end of the first business day thereafter.

7.8 Attorneys' Fees. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable

attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

7.9 Enforced Delay: Extension of Times of Performance. Notwithstanding anything to the contrary in this Agreement, unexcused failure to commence construction of the Improvements on or prior to the Commencement Date, as defined in the Agency Agreement, or to complete construction of the Improvements on or prior to the Completion Date, as defined in the Agency Agreement, shall constitute a Default hereunder as herein set forth; provided, however, nonperformance of such obligations or any other obligations to be performed hereunder shall be excused when performance is prevented or delayed by reason of any of the following forces reasonably beyond the control of the party responsible for such performance: (i) war, insurrection, riot, flood, severe weather, earthquake, fire, casualty, acts of public enemy, governmental restriction, litigation, acts or failures to act of any governmental or quasi-governmental agency or entity, including the City, or public utility, or any declarant under any applicable conditions, covenants, and restrictions affecting the Property, or (ii) inability to secure necessary labor, materials or tools, strikes, lockouts, delays of any contractor, subcontractor or supplier or (iii) other matters generally constituting a force majeure event in circumstances similar to those contemplated by this Agreement (but which shall not in any event include the availability of financing to construct the Improvements). In the event of an occurrence described in clauses (i), (ii) or (iii) above, such nonperformance shall be excused and the time of performance shall be extended by the number of days the matters described in clauses (i), (ii) or (iii) above materially prevent or delay performance.

7.10 Approvals by the City and the Developer. Unless otherwise specifically provided herein, wherever this Agreement requires the City or the Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not unreasonably be withheld, conditioned or delayed.

7.11 Developer's Private Undertaking. The development covered by this Agreement is a private undertaking, and the Developer shall have full power over and exclusive control of the Property while the Developer holds title to the Property; subject only to the limitations and obligations of the Developer under this Agreement.

7.12 Entire Agreement, Waivers and Amendments. This Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement, together with all attachments and exhibits hereto, constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter hereof. No subsequent agreement, representation or promise made by either party hereto, or by or to any employee, officer, agent or representative of either party, shall be of any effect unless it is in writing and executed by the party to be bound thereby. No person is authorized to make, and by execution hereof the Developer and the City acknowledge that no person has made, any representation, warranty, guaranty or promise except as set forth herein; and no agreement, statement, representation or promise made by any such person which is not contained herein shall be valid or binding on the Developer or the City.

7.13 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.14 Severability. Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected hereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

7.15 Survival. The provisions hereof shall not terminate but rather shall survive any conveyance hereunder and the delivery of all consideration.

7.16 Representations of City. The City warrants and represents to the Developer as follows:

(a) The City has full power and authority to execute and enter into this Agreement and to consummate the transactions contemplated hereunder. This Agreement constitutes the valid and binding agreement of the City, enforceable in accordance with its terms subject to bankruptcy, insolvency and other creditors' rights laws of general application. Neither the execution nor delivery of this Agreement, nor the consummation of the transactions covered hereby, nor compliance with the terms and provisions hereof, shall conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which the City is a party.

(b) As of the Effective Date and the Close of Escrow, the Property is not presently the subject of any condemnation or similar proceeding, and to the City's knowledge, no such condemnation or similar proceeding is currently threatened or pending.

(c) As of the Close of Escrow, there are no management, service, supply or maintenance contracts affecting the Property which shall affect the Property on or following the Close of Escrow.

(d) The City has not authorized any broker or finder to act on its behalf in connection with the sale and purchase hereunder and the City has not dealt with any broker or finder purporting to act on behalf of the City or otherwise.

(e) As of the Close of Escrow, there are no leases or other occupancy agreements affecting the Property, with the exception of the billboard lease, as set forth in Article 3, which shall affect the Property on or following the Close of Escrow.

(f) As of the Close of Escrow and to the actual knowledge of the City, the City has not received any written notice from any governmental entity regarding the violation of any law or governmental regulation with respect to the Property.

7.17 Developer's Broker(s). Developer shall pay all commissions and fees that may be payable to any broker, finder or salesperson engaged by Developer, and shall defend, indemnify and hold City harmless from and against any and all claims, liabilities, losses, damages, costs and expenses relating thereto.

IN WITNESS WHEREOF, the parties hereto have entered into this agreement as of the day and year first above written.

DEVELOPER

CT CHESTNUT LLC,
a Delaware limited liability company

By: CT Realty Corporation,
a California corporation, its Manager

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

CITY OF INDUSTRY

By: _____
Mark D. Radecki, Mayor

ATTEST:

Cecelia Dunlap, Deputy City Clerk

APPROVED AS TO FORM:

By: _____
James M. Casso, City Attorney

LIST OF EXHIBITS

- Exhibit "A" Legal Description of the Property
- Exhibit "B" Form of Grant Deed
- Exhibit "C" Form of Right of Entry Agreement
- Exhibit "D" Billboard Lease

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the City of Industry, County of Los Angeles, State of California, and is described as follows:

A PORTION OF LOT 2 OF THE BIDART TRACT, IN THE CITY OF INDUSTRY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN MAP BOOK 15, PAGE 79 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL 2, DESCRIBED IN QUITCLAIM DEED TO TOSCO OPERATING COMPANY INC., RECORDED DECEMBER 29, 2000, AS INSTRUMENT NO. 00-2027298 OF OFFICIAL RECORDS OF SAID COUNTY, SAID POINT OF BEGINNING ALSO BEING ON THE NORTHERLY LINE OF RAILROAD STREET, 60.00 FEET WIDE, DESCRIBED IN DEED RECORDED APRIL 30, 1964, AS INSTRUMENT NO. 1517, IN BOOK D2453, PAGE 676 OF OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHERLY LINE, NORTH 84° 15' 00" WEST, 120.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 30.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.12 FEET TO THE EASTERLY LINE OF AZUSA AVENUE, 120.00 FEET WIDE, AS SHOWN ON PARCEL MAP NO. 113, RECORDED IN BOOK 91, PAGE 51, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE TANGENT TO THE LAST CURVE AND ALONG SAID EASTERLY LINE, NORTH 05° 45' 00" EAST, 73.73 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1440.00 FEET; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 50' 51", AN ARC DISTANCE OF 46.44 FEET TO ITS INTERSECTION WITH THE NORTHERLY LINE OF SAID TOSCO OPERATING COMPANY INC. PARCEL; THENCE ALONG SAID NORTHERLY LINE, SOUTH 84° 15' 00" EAST, 149.25 FEET TO THE EASTERLY LINE OF SAID PARCEL; THENCE ALONG SAID EASTERLY LINE, SOUTH 05° 45' 00" WEST, 150.20 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ONE-HALF OF ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES THAT MAY BE PRODUCED IN, UNDER OR UPON SAID LAND BUT WITHOUT THE RIGHT TO LOCATE DRILLING RIG, OR RIGS WITHIN 100 FEET OF ANY IMPROVEMENTS THEREON AT THE TIME OF DRILLING, AS RESERVED IN THE DEED FROM BESSIE ISRAEL, A WIDOW, AND EDITH E. SERCOMBE, A MARRIED WOMAN, EACH AS TO AN UNDIVIDED ONE-HALF INTEREST, RECORDED FEBRUARY 09, 1955 IN BOOK 46858, PAGE 390 OF OFFICIAL RECORDS.

APN: 8264-025-911

EXHIBIT "B"

FORM OF GRANT DEED

RECORDING REQUESTED BY:

FIRST AMERICAN TITLE INSURANCE COMPANY

AND WHEN RECORDED RETURN TO:

City of Industry
15625 East Stafford Street, Suite 100
City of Industry, California 91744
Attention: City Clerk

[The undersigned declares that this Grant Deed is exempt from Recording Fees pursuant to California Government Code Section 27383]

GRANT DEED

Documentary Transfer Tax: \$ _____

THE UNDERSIGNED GRANTOR DECLARES:

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the **CITY OF INDUSTRY** (the "**Grantor**"), hereby grants to **CT CHESTNUT LLC**, a Delaware limited liability company (the "**Grantee**"), that certain real property described in Exhibit A attached hereto (the "**Site**") and incorporated herein by this reference, together with all of Grantor's right, title and interest in and to all easements, privileges and rights appurtenant to the Site.

This Grant Deed of the Site is subject to the provisions of a Purchase Agreement [_____] (the "**Agreement**") entered into by and between the Grantor and Grantee dated as of _____, 2015, the terms of which are incorporated herein by reference. A copy of the Agreement is available for public inspection at the offices of the Grantor located at 15625 East Stafford Street, Suite 100, City of Industry, California 91744. The Site is conveyed further subject to all easements, rights of way, covenants, conditions, restrictions, reservations and all other matters of record, and the following conditions, covenants and agreements.

1. The Site as described in Exhibit A is conveyed subject to the condition that the Grantee covenants and agrees for itself, and its successors and its assigns, that the Grantee, such successors, and such assignees shall use the Site, and every part thereof, only for the construction of certain improvements thereon as described in the Agreement and thereafter for any use allowed under applicable law.

2. The Site is conveyed subject to the condition that:

(a) The Grantee covenants and agrees for itself, its successors and assigns, and every successor in interest to the Site, that after completion of the Project (as defined in the Agreement), the Grantee and the Grantee's transferees, successors and assigns, shall maintain the Site and the Project (including landscaping) in a commercially reasonable condition and repair for a period of fifteen (15) years, and following construction of certain improvements thereon shall use the Site for any such uses as are allowed under applicable law.

(b) The Grantee covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the Grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.

3. All deeds, leases or contracts entered into with respect to the Property shall contain or be subject to substantially the following nondiscrimination/nonsegregation clauses:

(a) In deeds: "The Grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the Grantee himself or herself, or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of

the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

(b) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the leasing, subleasing, transferring, use or occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

(c) In contracts: “The contracting party or parties hereby covenant by and for himself or herself and their respective successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the contracting party or parties, any subcontracting party or parties, or their respective assigns or transferees, establish or permit any such practice or practices of discrimination or segregation.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the California Government Code. With respect to familial status, nothing in said paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the California Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the California Civil Code and subdivisions (n), (o) and (p) of Section 12955 of the California Government Code shall apply to said paragraph.”

4. All covenants and agreements contained in this Grant Deed shall run with the land and shall be binding for the benefit of Grantor and its successors and assigns and such covenants shall run in favor of the Grantor and for the entire period during which the covenants shall be in force and effect as provided in the Agreement, without regard to whether the Grantor is or

remains an owner of any land or interest therein to which such covenants relate. The Grantor, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies provided herein or otherwise available, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor and its successors and assigns.

5. The covenants contained in Paragraphs 2 and 3 of this Grant Deed shall remain in effect in perpetuity except as otherwise expressly set forth therein.

6. This Grant Deed may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signatures appear on next page.]

IN WITNESS WHEREOF, Grantor and Grantee have caused this Grant Deed to be executed and notarized as of this ____ day of _____, 20__.

GRANTOR:

CITY OF INDUSTRY

By: _____
Name: Mark D. Radecki
Title: Mayor

ATTEST:

Cecelia Dunlap, Deputy City Clerk

GRANTEE:

CT CHESTNUT LLC,
a Delaware limited liability company

By: CT Realty Corporation,
a California corporation, its Manager

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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 California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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 California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

(Attached.)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the City of Industry, County of Los Angeles, State of California, and is described as follows:

A PORTION OF LOT 2 OF THE BIDART TRACT, IN THE CITY OF INDUSTRY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN MAP BOOK 15, PAGE 79 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL 2, DESCRIBED IN QUITCLAIM DEED TO TOSCO OPERATING COMPANY INC., RECORDED DECEMBER 29, 2000, AS INSTRUMENT NO. 00-2027298 OF OFFICIAL RECORDS OF SAID COUNTY, SAID POINT OF BEGINNING ALSO BEING ON THE NORTHERLY LINE OF RAILROAD STREET, 60.00 FEET WIDE, DESCRIBED IN DEED RECORDED APRIL 30, 1964, AS INSTRUMENT NO. 1517, IN BOOK D2453, PAGE 676 OF OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHERLY LINE, NORTH 84° 15' 00" WEST, 120.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 30.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.12 FEET TO THE EASTERLY LINE OF AZUSA AVENUE, 120.00 FEET WIDE, AS SHOWN ON PARCEL MAP NO. 113, RECORDED IN BOOK 91, PAGE 51, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE TANGENT TO THE LAST CURVE AND ALONG SAID EASTERLY LINE, NORTH 05° 45' 00" EAST, 73.73 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1440.00 FEET; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 50' 51", AN ARC DISTANCE OF 46.44 FEET TO ITS INTERSECTION WITH THE NORTHERLY LINE OF SAID TOSCO OPERATING COMPANY INC. PARCEL; THENCE ALONG SAID NORTHERLY LINE, SOUTH 84° 15' 00" EAST, 149.25 FEET TO THE EASTERLY LINE OF SAID PARCEL; THENCE ALONG SAID EASTERLY LINE, SOUTH 05° 45' 00" WEST, 150.20 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ONE-HALF OF ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES THAT MAY BE PRODUCED IN, UNDER OR UPON SAID LAND BUT WITHOUT THE RIGHT TO LOCATE DRILLING RIG, OR RIGS WITHIN 100 FEET OF ANY IMPROVEMENTS THEREON AT THE TIME OF DRILLING, AS RESERVED IN THE DEED FROM BESSIE ISRAEL, A WIDOW, AND EDITH E. SERCOMBE, A MARRIED WOMAN, EACH AS TO AN UNDIVIDED ONE-HALF INTEREST, RECORDED FEBRUARY 09, 1955 IN BOOK 46858, PAGE 390 OF OFFICIAL RECORDS.

APN: 8264-025-911

EXHIBIT "C"

RIGHT OF ENTRY AND ACCESS AGREEMENT

THIS RIGHT OF ENTRY AND ACCESS AGREEMENT (herein called this "Agreement") is made and entered into as of _____, 2015, by the **SUCCESSOR CITY OF INDUSTRY**, a public body, corporate and politic (herein called "Grantor"), and **CT CHESTNUT LLC**, a Delaware limited liability company (herein called "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the real property more particularly described on Exhibit A, which exhibit is attached hereto and incorporated herein by reference (herein called the "Property");

WHEREAS, concurrently with the execution of this Agreement, Grantor and Grantee contemplate entering into a Purchase Agreement related to the Property (the "Purchase Agreement");

WHEREAS, Grantee has requested the right of entry upon and access to the Property for the purpose of undertaking tests, inspections and other due diligence activities (herein called the "Due Diligence Activities") in connection with the proposed acquisition by Grantee of the Property;

WHEREAS, Grantor has agreed to grant to Grantee, and Grantee has agreed to accept from Grantor, a non-exclusive, revocable license to enter upon the Property to perform the Due Diligence Activities in accordance with the terms and provisions of this Agreement;

WHEREAS, Grantor and Grantee desire to execute and enter into this Agreement for the purpose of setting forth their agreement with respect to the Due Diligence Activities and Grantee's entry upon the Property.

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee do hereby covenant and agree as follows:

1. Access by Grantee.

(a) Subject to Grantee's compliance with the terms and provisions of this Agreement, until the earlier to occur of (i) the expiration of the Due Diligence Period (as defined in the Purchase Agreement); or (ii) the earlier termination of this Agreement, Grantee and Grantee's agents, employees, contractors, representatives and other designees (herein collectively called "**Grantee's Designees**") shall have the right to enter upon the Property for the purpose of conducting the Due Diligence Activities.

(b) Grantee expressly agrees as follows: (i) any activities by or on behalf of Grantee, including, without limitation, the entry by Grantee or Grantee's Designees onto the

Property in connection with the Due Diligence Activities shall not materially damage the Property in any manner whatsoever or disturb or interfere with the rights or possession of any tenant on the Property, (ii) in the event the Property is materially altered or disturbed in any manner in connection with the Due Diligence Activities, Grantee shall immediately return the Property to substantially the same condition existing prior to the Due Diligence Activities, and (iii) Grantee, to the extent allowed by law, shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, attorneys' fees and expenses and court costs) suffered, incurred or sustained by Grantor as a result of, by reason of, or in connection with the Due Diligence Activities or the entry by Grantee or Grantee's Designees onto the Property; provided, however, that in no event shall Grantee be liable for any liabilities, damages, losses, costs or expenses of any kind or nature that relate, directly or indirectly, to (y) consequential or punitive damages; or (z) matters that are merely discovered, but not exacerbated, by Grantee. Notwithstanding any provision of this Agreement to the contrary, Grantee shall not have the right to undertake any invasive activities or tests upon the Property, or any environmental testing on the Property beyond the scope of a standard "Phase I" investigation, without the prior written consent of Grantor of a workplan for such "Phase II" or invasive testing. If Grantor does not respond or reject any workplan within ten (10) days of Grantee's delivery of the written workplan proposal to Grantor pursuant to the notice provisions of this Agreement, then Grantor shall be deemed to have approved the submitted workplan and Grantee may proceed with such testing. If Grantor rejects such proposed workplan in whole or in part, then this Agreement shall become null and void at the sole option of Grantee, which option must be exercised by Grantee's giving Grantor written notice on or before the expiration of the Due Diligence Period, as defined in the Purchase Agreement.

2. Lien Waivers. Upon receipt of a written request from Grantor, Grantee will provide Grantor with lien waivers following completion of the Due Diligence Activities from each and every contractor, materialman, engineer, architect and surveyor who might have lien rights, in form and substance reasonably satisfactory to Grantor and its counsel. Grantee hereby indemnifies Grantor from and against any claims or demands for payment, or any liens or lien claims made against Grantor or the Property as a result of the Due Diligence Activities.

3. Insurance. Grantee shall, and shall cause all of Grantee's Designees performing the Due Diligence Activities to, procure or maintain a policy of commercial general liability insurance issued by an insurer reasonably satisfactory to Grantor covering each of the Due Diligence Activities with a single limit of liability (per occurrence and aggregate) of not less than One Million Dollars (\$1,000,000.00), and to deliver to Grantor a certificate of insurance evidencing that such insurance is in force and effect, and evidencing that Grantor has been named as an additional insured thereunder with respect to the Due Diligence Activities. Such insurance shall be maintained in force throughout the term of this Agreement.

4. Successors. To the extent any rights or obligations under this Agreement remain in effect, this Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

5. Limitations. Grantor does not hereby convey to Grantee any right, title or interest in or to the Property, but merely grants the specific rights and privileges hereinabove set forth.

6. Notices. Whenever any notice, demand, or request is required or permitted under this Agreement, such notice, demand, or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or shall be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below the respective executions of the parties hereof, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below their respective executions hereof, or to such other numbers as are specified by written notice given in accordance herewith. All notices, demands, or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice, demand, or request must be given shall commence to run from the date of receipt of the notice, demand, or request by the addressee thereof. Any notice, demand, or request not received because of changed address or facsimile number of which no notice was given as hereinabove provided or because of refusal to accept delivery shall be deemed received by the party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

7. Assignment. This Agreement may be assigned by Grantee, in whole or in part.

8. Governing Law. This Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of California.

9. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

10. No Recording of Agreement or Memorandum of Agreement. In no event shall this Agreement or any memorandum hereof be recorded in the Official Records of Los Angeles County, California, and any such recordation or attempted recordation shall constitute a breach of this Agreement by the party responsible for such recordation or attempted recordation.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed and sealed, all the day and year first written above.

GRANTEE:

CT CHESTNUT LLC,
a Delaware limited liability company

By: CT Realty Corporation,
a California corporation, its Manager

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Address for notices: CT Chestnut LLC
c/o CT Realty Corporation
65 Enterprise, Suite 150
Aliso Viejo, California 92656
Attention: Michael W. Traynham
Facsimile: (949) 330-5571

(Signatures continued)

GRANTOR:

CITY OF INDUSTRY

By: _____

Name: Mark D. Radecki

Title: Mayor

Address for notices: City of Industry
15625 East Stafford Street, Suite 100
City of Industry, California 91744
Attention: Paul Philips, City Manager
Telephone: (626) 333-1480
Facsimile: (626) 336-4273

With a copy to: Casso & Sparks, LLP
Post Office Box 4131
West Covina, CA 91791
Attn.: James M. Casso, Esq.
Telephone: (626) 512-5470

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

(Attached.)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the City of Industry, County of Los Angeles, State of California, and is described as follows:

A PORTION OF LOT 2 OF THE BIDART TRACT, IN THE CITY OF INDUSTRY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN MAP BOOK 15, PAGE 79 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL 2, DESCRIBED IN QUITCLAIM DEED TO TOSCO OPERATING COMPANY INC., RECORDED DECEMBER 29, 2000, AS INSTRUMENT NO. 00-2027298 OF OFFICIAL RECORDS OF SAID COUNTY, SAID POINT OF BEGINNING ALSO BEING ON THE NORTHERLY LINE OF RAILROAD STREET, 60.00 FEET WIDE, DESCRIBED IN DEED RECORDED APRIL 30, 1964, AS INSTRUMENT NO. 1517, IN BOOK D2453, PAGE 676 OF OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHERLY LINE, NORTH 84° 15' 00" WEST, 120.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 30.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.12 FEET TO THE EASTERLY LINE OF AZUSA AVENUE, 120.00 FEET WIDE, AS SHOWN ON PARCEL MAP NO. 113, RECORDED IN BOOK 91, PAGE 51, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE TANGENT TO THE LAST CURVE AND ALONG SAID EASTERLY LINE, NORTH 05° 45' 00" EAST, 73.73 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 1440.00 FEET; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 50' 51", AN ARC DISTANCE OF 46.44 FEET TO ITS INTERSECTION WITH THE NORTHERLY LINE OF SAID TOSCO OPERATING COMPANY INC. PARCEL; THENCE ALONG SAID NORTHERLY LINE, SOUTH 84° 15' 00" EAST, 149.25 FEET TO THE EASTERLY LINE OF SAID PARCEL; THENCE ALONG SAID EASTERLY LINE, SOUTH 05° 45' 00" WEST, 150.20 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ONE-HALF OF ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES THAT MAY BE PRODUCED IN, UNDER OR UPON SAID LAND BUT WITHOUT THE RIGHT TO LOCATE DRILLING RIG, OR RIGS WITHIN 100 FEET OF ANY IMPROVEMENTS THEREON AT THE TIME OF DRILLING, AS RESERVED IN THE DEED FROM BESSIE ISRAEL, A WIDOW, AND EDITH E. SERCOMBE, A MARRIED WOMAN, EACH AS TO AN UNDIVIDED ONE-HALF INTEREST, RECORDED FEBRUARY 09, 1955 IN BOOK 46858, PAGE 390 OF OFFICIAL RECORDS.

APN: 8264-025-911

EXHIBIT "D"
BILLBOARD LEASE

[Attached]

M&P OUTDOOR ADVERTISING, LLC

42 Via Paradiso
Henderson, Nevada 89011

Telephone: (702) 566-7473 -- Fax: (702) 566-7481

City: Industry State: California Date

1. The undersigned Lessor hereby Leases exclusively to M&P OUTDOOR ADVERTISING (Lessee) subject to cancellation by either party only as herein provided the use of the following described premises and full right of access to the premises for the purpose of maintaining printed or illuminated advertising signs (14x48' sign face) including necessary structures, devices and connections:

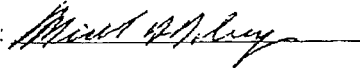
APN: 8264-025-002
LOCATION: Azusa Blvd & Railroad Street N.E.

Situated in the City of Industry, County of Los Angeles, State of California for a period of Ten (10) years from date construction of the sign structure is completed..
2. The consideration shall be One Thousand Dollars (\$1000.00) per month per face, payable by Lessee monthly in advance, commencing the first day of each month after the sign is constructed.
3. Lessee shall save the Lessor harmless from all damage to persons or property by reason of accidents resulting from the negligent acts of its agents, employees or others employed in the construction, maintenance, repair or removal of its signs on the premises.
4. Lease shall continue in full force and effect for its term and thereafter on a month-to-month basis until terminated by either party giving 30 days' written notice thereof. If this Lease is for a portion of land which is unimproved, Lessor shall have the right to terminate the Lease at any time during the period of this Lease if the Lessor is to improve the unimproved property by erecting thereon a permanent private commercial or residential building and Lessee's sign structure would interfere with placing of same, Lessee shall remove its signs within thirty (30) days after receipt of a copy of the applicable building permit, but only if in addition it has been paid in full at the time notice of building is given and the consideration described in the sentence which follows immediately is paid. The Lessor will upon giving such notice of commencement of construction, return to the Lessee all rent paid for the unexpired term plus the total cost of the construction and the removal of Lessee's signs, less 1/60th of such cost for each full month of this Lease prior to the notice of termination. If the Lessor fails to commence the erection of the private commercial or residential building within ninety (90) days after Lessee removes its signs, Lessee shall again have the right to occupy the premises and maintain advertising signs subject to the provisions of this Lease. If any portions of the property are not to be utilized for such building, the Lessee has the option to relocate its signs on the remaining portion on the same terms. At the expiration of the full term of this Lease, Lessor shall not have any obligation to pay compensation of any nature to Lessee.
5. If the view of the property or advertising sign or signs is partially or wholly obstructed, or the advertising value impaired or diminished by reduced vehicular circulation, or the use of such sign or signs is prevented or restricted by law or if permits are not obtained or once obtained, canceled or revoked, the Lessee may immediately at its option either reduce rental in direct proportion to the diminution in value as a result of such obstruction, impairment, prevention or restriction of use, or cancel this agreement and receive all rent paid for the unexpired term of this Lease, by giving the Lessor notice in writing of such obstruction, impairment, prevention or restriction of use.
6. Lessor agrees that he, his tenants, agents, employees, or any other persons acting in his behalf, shall not place or maintain any object on the property or on any neighboring property which would in any way wholly or partially obstruct the view of Lessee's sign structures. If such obstruction occurs the Lessee has the option of requiring the Lessor to remove said obstruction, or the Lessee may itself remove the obstruction charging the cost of said removal to the Lessor or the Lessee may reduce the rental herein paid to the sum of Five Dollars (\$5.00) per year so long as such obstruction continues.
7. The Lessee is and shall remain the owner of all signs, building permits, governmental approvals and improvements placed by it upon Lessor's property.
8. The Lessor represents that they are the owner of the above described property and has the authority to make this Lease and grant the rights herein provided.
9. The word "Lessor" as herein used shall include all "Lessors." This Lease is binding upon the heirs, assigns and successors of both the Lessor and Lessee.
10. In the event of any litigation to determine the rights of either party under this Lease or to construe the said Lease, or the obligations of either party in regard hereto, the prevailing party shall be entitled to reasonable attorney's fees and all court costs.
11. Lessee shall not be bound by any terms, conditions or oral representations made to Lessor by its officers, agents, or employees, unless the same are incorporated in this Lease.
12. The parties agree that in the event of any conflict between the printed form of this Lease and any rider or addendum hereto, the language contained in such rider or addendum shall govern and prevail.
13. The lessor will have the right of approval as to all advertising that includes nudity, profanity, or deemed lewd, crude or offensive.
14. Lessee will not display any advertising that is in direct competition with current or future tenants of Lessor.
15. Throughout the term of this Lease, Lessee shall maintain liability insurance with policy limits of not less than a combined single limit of Two Million Dollars (\$2,000,000.00) and naming Lessor as an additional insured.

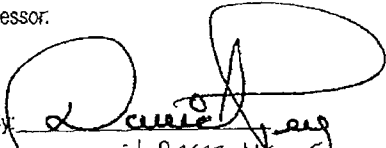
M&P OUTDOOR ADVERTISING, LLC

42 Via Paradiso
Henderson, Nevada 89011
Telephone: (702) 566-7473 -- Fax: (702) 566-7481

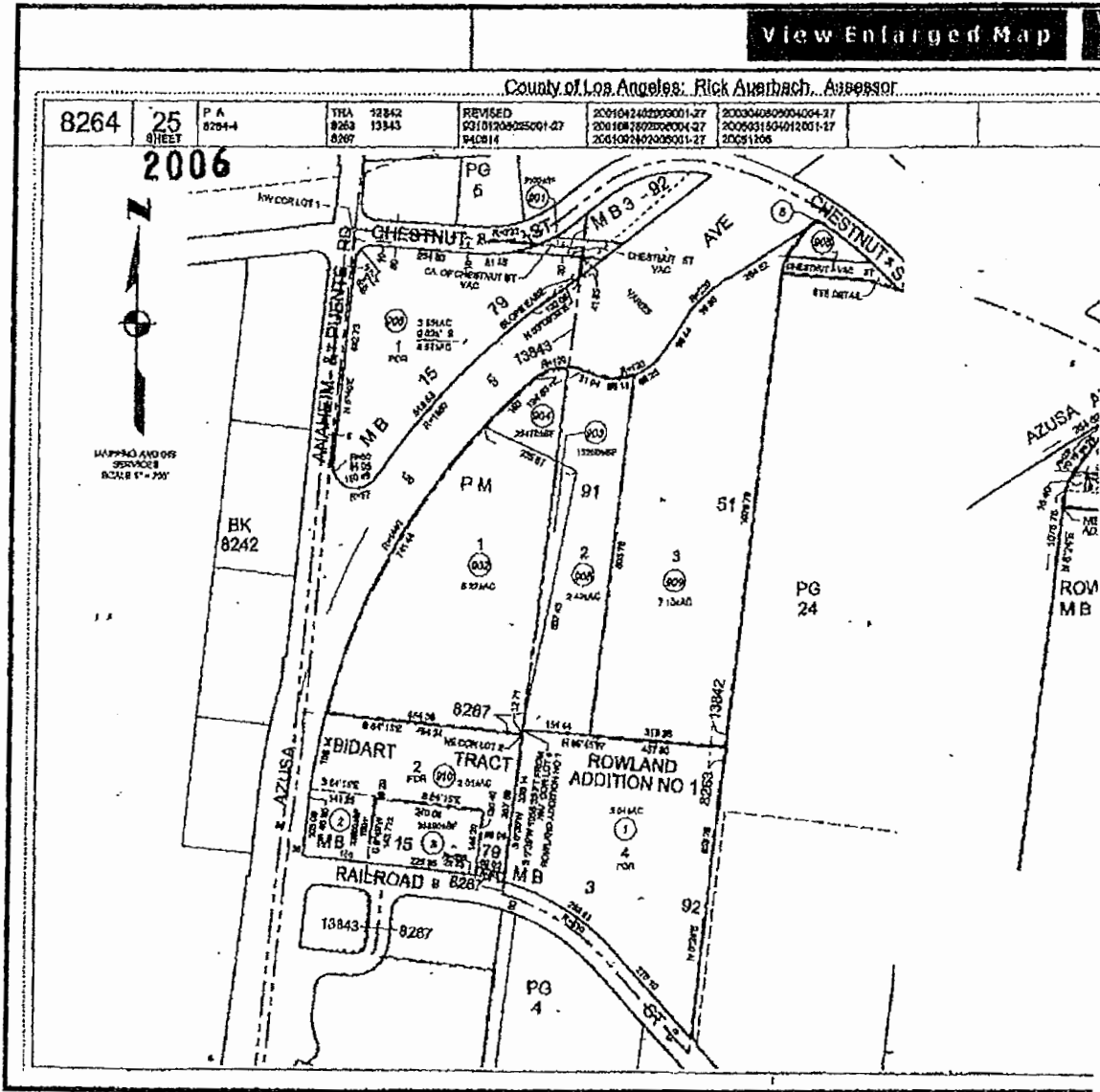
Accepted: M&P Outdoor Advertising, LLC
a California Limited Liability Company

By: 

Lessor.

By: 
Name: David Perez, Mayor
Address:

CITY OF INDUSTRY
P.O. Box 3366
City of Industry, CA 91744



Addendum to Lease Agreement

Addendum to Lease Agreement by and between M & P Outdoor Advertising, LLC and the City of Industry, California regarding the property located at Azusa Avenue and Railroad Street N/E.

Paragraph 4 line 8 of the Lease Agreement is amended as follows:

removal of Lessee's sign not to exceed \$72,000.00, less 1/60th of such cost for each full month of this lease prior to the notice of termination.

Paragraph 5 line 3 of the following wording is deleted:

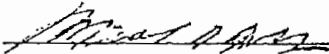
at its option either reduce rental in direct proportion to the diminution in value.

The following three paragraphs are added to the Lease Agreement:

1. Lessee shall arrange and pay for providing a supply of electrical power to the sign or signs and shall be responsible for the cost of all electrical power used in the construction, operation and maintenance of the sign or signs.
2. Lessee, at its own cost and expense, shall keep and maintain the sign or signs and all facilities appurtenant to the sign or signs in good order and repair and in as safe, clean and attractive condition as when erected, and shall promptly repair any damage to the sign or signs as a result of graffiti, vandalism, storms and weather, or other causes. If Lessee fails to do so for any period of 30 or more days after receipt from Lessor of a notice to maintain the sign or signs, then Lessor shall have the option to repair the sign or signs and recoup the costs from Lessee or to demolish and remove the sign or signs at Lessee's expense.
3. Lessee, at Lessee's own cost and expense, shall comply with the statutes, ordinances, regulations, and requirements of all governmental entities, whether Federal, State, County, or local relating to Lessee's use of the premises, whether those statutes, ordinances, regulations, or requirements are now in force or are yet to be enacted. The judgement of any court of competent jurisdiction, or the admission by Lessee in a proceeding brought against Lessee by any government entity, that Lessee has violated any such statute, ordinance, regulation, or requirement shall be conclusive as between Lessor and Lessee and shall be grounds for termination of this Agreement by Lessor.

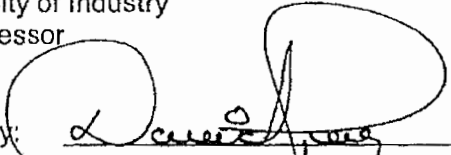
Accepted:

M & P Outdoor Advertising, LLC
Lessee

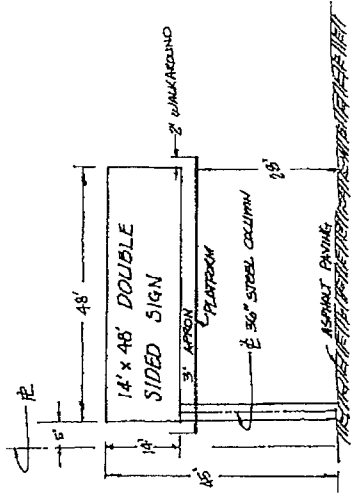
By: 

Date: 2/2/07

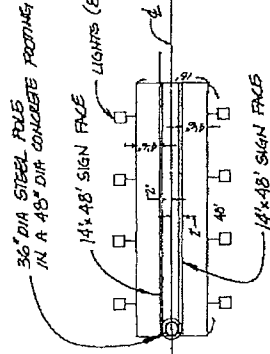
City of Industry
Lessor

By: 

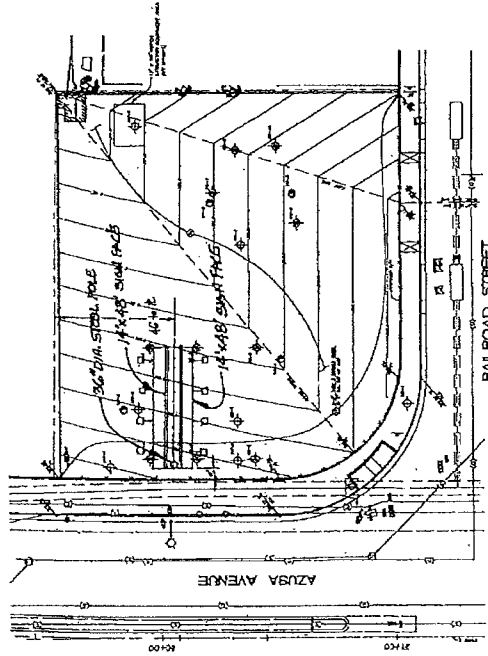
Date: JAN 25 2007



SIGN ELEVATION
Scale: 1" = 10'



SIGN DETAIL
Scale: 1" = 10'



SITE PLAN
Scale: 1" = 20'

- LEGEND
- Existing Boundary
 - Proposed Boundary
 - Construction Notes
 - Setbacks
- CONSTRUCTION NOTES
1. All dimensions are in feet and inches.
 2. All bearings are true bearings.
 3. All corners are 90 degrees unless otherwise noted.
- SCALE
- 1" = 20'

PROPERTY ADDRESS:
 545 Azusa Avenue
 City of Industry, CA, 91744

PLOT PLAN

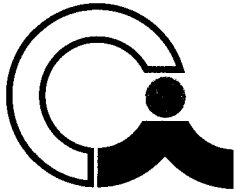
NO.	DATE	REVISIONS	BY

JOB NO.: _____
 SHEET: 1 OF 1

NOTE:
 The plan showing the proposed asphalt paving over this parcel was prepared by CNC Engineering and dated "Paving Lot Caddis Plan" dated June 2006. It shows the approximate location of the existing groundwater monitoring wells. Their exact location should be verified.

CITY COUNCIL

ITEM NO. 6.5



CITY OF INDUSTRY

Incorporated June 18, 1957

MEMORANDUM

To: Honorable Mayor Radecki and Members of the City Council

From: Paul Philips, City Manager *Paul J. Philips*

Staff: Alex Gonzalez, Director of Administrative Services
Clem Calvillo, CNC Engineering
Josh Nelson, CNC Engineering

Date: December 10, 2015

SUBJECT: Consideration of Resolution 2015-45 Confirming the Continued Existence of an Emergency Condition for Follows Camp Facilities Maintenance and Repair Project Pursuant to California Public Contract Code Section 22050 and Section 3.52.110 of the City's Municipal Code, and Notice of Exemption regarding same

The City retains title to 84.37 acres of land commonly known as "Follows Camp" at 23100 and 23400 E. East Fork Road in Azusa ("Property"). The Property is situated in the San Gabriel Mountains, adjacent to the boundaries of the San Gabriel Mountains National Monument above the cities of Azusa and Glendora. The Property currently contains two crossing points over the East Fork of the San Gabriel River, a small bridge commonly known as the "Railroad Car Bridge" and an Arizona Crossing. During storm events, the waterway is a dynamic system which moves large quantities of debris which includes large cobbles, sand, and trees within the riverbed limits. As a result of storm events that have accumulated debris in the riverbed, the Railroad Car Bridge maintains less than one foot of freeboard on its northern end, and the Arizona Crossing is impassable due to downed trees and debris.

Based on the predicted severity of winter El Niño driven storm events, it has been determined that emergency repair activities are necessary to ensure: 1) the structural integrity of the Railroad Car Bridge, 2) the structural integrity of the Arizona Crossing, and 3) the structural integrity of the East Fork Road. It is critical to maintain the integrity of these assets to: maintain access to Southern California Edison powerlines on the Follows Camp property ridgeline that serve Camp Williams and National Forest Service properties, and ensure the structural integrity of the East Fork Road, which is a critical link within the National Monument and the only road that parallels the East Fork of the San Gabriel River.

On November 25, 2015 the City Council adopted Resolution 2015-42 for the Follows Camp Facilities Maintenance and Repairs Project, declaring that the public interest and

necessity demand the immediate expenditure of public money and completion of certain work without competitive bidding to safeguard life, health, or property and authorizing the City Manager to execute all necessary contracts and documents with qualified contractors to respond to the emergency conditions.

On November 27, 2015, the City received Notice to Proceed from the U.S. Army Corps of Engineers under Region General Permit (RGP) No. 63 for Repair and Protection Activities in Emergency Situations (Exhibit B).

City staff is currently in the process of securing approvals from the County of Los Angeles, and is expected to procure a qualified contractor and commence repair activities prior to December 11, 2015 to comply with the conditions of RGP No. 63.

The City has adopted the Uniform Public Construction Cost Accounting Act ("Act"), and under the provisions of the Act (California Public Contract Code Section 22035(b)), and Section 3.52.110 of the City's Code, in the event of an emergency, upon a four-fifths vote by the City Council, the City may procure any necessary equipment, services and supplies for the emergency without engaging in the competitive bidding process. In accordance with the provisions of Section 22050(a)(2) of the Public Contract Code, it is necessary for the City Council to make a finding that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

Under the provisions of Section 22050 of the Public Contract Code, upon adoption of an emergency action, the City Council must review the emergency action at every regularly scheduled meeting until the action is terminated, to determine, whether by a four-fifths vote, there is a need for continued action. The City Council's adoption of Resolution 2015-45 would make the findings needed pursuant to the California Public Contract Code Section 22050 to continue the declared emergency action to allow the City Manager to immediately retain the services necessary to complete the work according to the RGP No. 63 emergency permit.

Pursuant to California Public Contracts Code Section 22050, the City Council will be provided project updates at every regularly scheduled Council meeting until the project is completed.

Exhibits

A: Resolution No. CC 2015-45

B: U.S. Army Corps of Engineers RGP No. 63 Notice to Proceed

EXHIBIT A

Resolution No. CC 2015-45

[Attached]

RESOLUTION NO. CC 2015-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, CONFIRMING THE CONTINUED EXISTENCE OF AN EMERGENCY CONDITION AT THE FOLLOWS CAMP PROPERTY AND DECLARING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE CERTAIN WORK TO BE PERFORMED WITHOUT COMPETITIVE BIDDING PURSUANT TO CALIFORNIA PUBLIC CONTRACT CODE SECTION 22050 AND SECTION 3.52.110 OF THE CITY'S MUNICIPAL CODE

RECITALS

WHEREAS, the City owns 84.37 acres of land commonly known as "Follows Camp" located at 23100 and 23400 E. East Fork Road in Azusa ("Property"); and

WHEREAS, the Property currently has two crossing points over the East Fork of the San Gabriel River, a small bridge commonly known as the "Railroad Car Bridge" and an Arizona Crossing. During storm events, the waterway is a dynamic system which moves large quantities of debris which includes large cobbles, sand, and trees within the riverbed limits. Due to storm events that have accumulated debris in the riverbed, the Railroad Car Bridge maintains less than one foot of freeboard on its northern end, and the Arizona Crossing is impassable due to downed trees and debris; and

WHEREAS, given the predicted severity of winter El Niño driven storm events, it has been determined that emergency repair activities are necessary to ensure the structural integrity of the Railroad Car Bridge; the structural integrity of the Arizona Crossing; and the structural integrity of the East Fork Road; and

WHEREAS, the City has adopted the Uniform Public Construction Cost Accounting Act ("Act"), and under the provisions of the Act (California Public Contract Code Section 22035(b)), and Section 3.52.110 of the City's Municipal Code, in the event of an emergency, upon a four-fifths vote by the City Council, the City may procure any necessary equipment, services and supplies for the emergency without engaging in the competitive bidding process; and

WHEREAS, on November 25, 2015 the City Council adopted Resolution 2015-42 for the Follows Camp Facilities Maintenance and Repairs Project, declaring that the public interest and necessity demand the immediate expenditure of public money and completion of certain work without competitive bidding to safeguard life, health, or property, and authorizing the City Manager to execute all necessary contracts and documents with qualified contractors to respond to the emergency conditions; and

WHEREAS, the City has applied for, and received, a permit from the U.S. Army Corps of Engineers to perform emergency maintenance and repair activities; and

WHEREAS, pursuant to Section 22050 of the Public Contract Code, upon adoption of an emergency action, the City Council must review the emergency action at every regularly scheduled meeting until the action is terminated, to determine, whether by a four-fifths vote, there is a need for continued action; and

WHEREAS, there is a need for continued emergency action at the Property to ensure the structural integrity of the Railroad Car Bridge; the structural integrity of the Arizona Crossing; and the structural integrity of the East Fork Road.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1: The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

SECTION 2: The City Council hereby finds and determines that due to the prediction of increased winter storm activity as a result of El Niño conditions, continued, immediate attention must be taken to ensure the viability of the river crossings over the East Fork of the San Gabriel River at Follows Camp to ensure access to the area's electrical distribution lines. Moreover, continued, immediate attention must be taken to protect the East Fork Road adjacent to Follows Camp, as it provides a critical link in the area to Camp Williams and National Forest Service properties just east of Follows Camp. The U.S. Army Corps of Engineers also determined that emergency conditions are currently present at the Property and approved the City's request to complete the necessary steps to rectify the emergency situation.

SECTION 3: Based on the foregoing, pursuant to California Public Contract Code Section and 22050 and Section 3.52.110 of the City's Municipal Code, the City Council hereby finds that an emergency situation continues to exist and declares that the public interest and necessity demand the immediate expenditure of public money for such repair work to safeguard life, health, and property without complying with the competitive bidding requirements of the California Public Contract Code. The emergency will not permit a delay resulting from a competitive solicitation for bids, and the action is necessary to respond to the emergency. The City Council hereby continues to waive competitive bidding under Public Contract Code 22050, and Section 3.52.110 of the City's Municipal Code.

SECTION 4: The City Council hereby authorizes the City Manager to execute all necessary contracts and documents with a qualified contractor(s) or vendor(s), for the Follows Camp emergency repair project.

SECTION 5: The City Council shall review the emergency action at every regularly scheduled meeting until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action.

SECTION 7: The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or

inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 8: That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Industry at a meeting held on December 10, 2015 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Mark D. Radecki, Mayor

ATTEST:

Diane Schlichting, Acting Deputy City Clerk

EXHIBIT B

U.S. Army Corps of Engineers Regional General Permit 63 Notice to Proceed

[Attached]



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CA 90017-3401

November 27, 2015

Paul Phillips, City Manager
City of Industry
15625 E. Stafford Street, Suite 100
Industry, California 91744

DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT 63 NOTICE TO PROCEED

Dear Mr. Phillips:

This correspondence is in response to your application (SPL-2015-00833-TWJ), dated November 18, 2015, for a Department of the Army Permit. Your proposed project, Follows Camp Facilities Maintenance and Repair Project, would result in discharges of temporary fill into a total of approximately 0.31 acre of non-wetland waters of the U.S. Therefore, pursuant to section 404 of the Clean Water Act (33 C.F.R. parts 323 and 330), your proposed project requires a Department of the Army permit. The proposed project would take place within and along the East Fork of the San Gabriel River (lat/long: 34.236340°N, -117.809369°W) in the City of Azusa, Los Angeles County, California.

I have determined the Follows Camp Facilities Maintenance and Repair Project, if constructed as described in your application, would comply with Regional General Permit (RGP) No. 63 for Repair and Protection Activities in Emergency Situations. Specifically, and as shown in the enclosed figure(s), you are authorized to:

1. Discharge temporary fill material into approximately 0.28 acre (310 linear feet) of non-wetland waters of the U.S. consisting of a temporary access ramp and dewatering berms associated with removal of up to 1,500 cubic yards of sediment along a 250 linear-foot reach located immediately upstream of the railroad car bridge and a 60 linear-foot reach downstream of the bridge. Excavated material will be temporarily stockpiled outside waters of the U.S. and shall not be reintroduced to Corps jurisdiction/waters of the U.S.
2. Discharge temporary fill material into approximately 0.03 acre (100 linear feet) of non-wetland waters of the U.S. in order to reconstruct vehicle access within the existing Arizona crossing corridor, which a previous landowner originally established in the 1930s. The temporary discharge is associated with filling minor crevasses using excess bladed sediment resulting from clearing the Arizona crossing right-of-way. Downed trees, debris, and rock will also be mechanically side-casted outside of waters of the U.S. to maintain road access.

For this RGP No. 63 Notice to Proceed letter to be valid, you must comply with all of the terms and conditions in Enclosure 1. Furthermore, you must comply with the non-discretionary Special Conditions listed below:

1. A qualified monitor shall be present during the proposed activity. Prior to clearing and grubbing activities, the Permittee shall survey the area and note the native vegetation to be impacted. The Permittee shall also delineate the extent of waters of the U.S. in the vicinity of the bridge and Arizona crossing that would be affected and record the actual acreage of impact. Information about waters of the U.S. and native vegetation impacts shall be documented and submitted to the Corps Regulatory Division (see Special Condition 8, below).
2. Upon project completion, the Permittee shall remove the temporary access ramp and temporary dewatering berms and re-contour the stream banks/bed where these temporary fills had been placed to pre-construction condition to the maximum extent practicable. In addition, the Permittee shall hydroseed, where possible, the disturbed portions of the earthen stream banks/bed with native, non-invasive species, as appropriate to the affected areas, to reduce the potential for erosion.
3. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter waters of the U.S. and riparian wetland/habitat areas to be avoided. Adverse impacts to waters of U.S. beyond the Corps Regulatory Division-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil, or criminal penalties, and/or substantial compensatory mitigation requirements.
4. Appropriate Best Management Practices (BMPs) shall be utilized to limit downstream sedimentation, including an onsite settling basin for proposed dewatering activities at the railroad car bridge location. Turbidity monitoring for dewatering discharge shall be within 20 percent of active channel turbidity.
5. The Permittee shall provide the full name and contact information of the BMP program manager to USACE-Regulatory Project Manager Tim Jackson, (213) 452-3419, Timothy.W.Jackson@usace.army.mil, prior to commencement of impacts to waters of the U.S.

Emergency (RGP No. 63):

6. The work authorized by this RGP must be underway no later than fourteen (14) calendar days from date of issuance of this letter of verification. All work must be completed no later than December 31, 2015. If the Permittee is unable to complete the authorized work by this date, the Permittee must request, in writing, an extension from the Corps Regulatory Division (ATTN: Tim Jackson) prior to the deadline.

7. As directed in RGP No. 63, any work authorized by this RGP must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction does not result in significantly increased impacts to aquatic resources and logistical concerns indicate such reconstruction is as expedient considering the condition of the project site and is limited to in-kind replacement or refurbishment.

8. As directed in RGP No. 63, the Permittee shall provide a written report to this office (within 45 days of completing the project) after completion of any action conducted under this RGP. PROVIDING THIS REPORT IS MANDATORY. At a minimum the Report shall include the following:
 - A) The name, address, and telephone number of the Permittee and the Permittee's agent (if appropriate)
 - B) Full description of the activity including:
 - i) description of the emergency and the potential for loss of life or property
 - ii) purpose of the activity
 - iii) final goal of the entire activity
 - iv) location (e.g., latitude/longitude in decimal degrees or UTM coordinates; section/township/range on appropriate USGS topographic map; Thomas Guide map, or other source to accurately portray project location);
 - v) date(s) work within waters of the U.S. was initiated and completed;
 - vi) size and description of project area (include maps or drawings showing the aerial and lineal extent of the project)
 - vii) quantities of materials used
 - C) Information on receiving waterbody impacted including:
 - i) name of waterbody
 - ii) type of receiving waterbody (e.g., river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland type, etc.)
 - iii) temporary/permanent adverse impact(s) in acres/cubic yards/linear feet
 - iv) compensatory mitigation in acres/cubic yards/linear feet
 - v) other mitigation steps (to avoid, minimize, compensate)
 - vi) completed and signed preliminary jurisdictional determination (JD) or request for approved JD

Endangered Species Act:

9. To minimize impacts to and avoid take of the federally-listed Santa Ana sucker (*Catostomus santaanae*), the Permittee shall implement the following conservation measures sent by the U.S. Fish and Wildlife Service (USFWS) in e-mail correspondence dated November 19, 2015 (see attached):

- A) A qualified biologist holding a 10(a)(1)(A) recovery permit shall conduct a pre-construction survey to provide information regarding the current status of the species in the vicinity of the proposed work area. A brief summary of survey results shall be provided to the USACE and USFWS prior to initiating project activities.
- B) Activities completed within the wetted channel shall be conducted in the presence of a qualified biologist familiar with the Santa Ana sucker using appropriate methods for removal and relocation of this species. The qualified biologist shall coordinate with the construction manager to determine appropriate methods to minimize direct impacts to Santa Ana suckers in the work area during dewatering and work with heavy equipment in the channel. The project sponsor shall submit to the USACE and the USFWS the name, address, phone number, and e-mail address of the qualified biologist selected prior to initiation of the project.
- C) The qualified biologist shall survey areas dewatered by the project using a seine or dip net and relocate any Santa Ana suckers collected to an area that is not affected by the project. Work in the dewatered areas is prohibited until the qualified biologist has determined that all Santa Ana suckers have been removed from the area, to the maximum extent practicable.
- D) All required mechanized equipment shall travel at less than 5 miles per hour in the wetted channel to minimize the chances of crushing fish.
- E) Debris removal and sediment excavation shall be conducted in such a way as to prevent impediments to upstream fish passage following completion of the project.
- F) Erosion and sedimentation of the wetted channel downstream from project activities shall be minimized through the use of silt fencing, siltation basins, gravel bags, or other controls necessary to stabilize the soil in the project area. These measures are to be maintained in good repair until the completion of project activities.
- G) The qualified biologist is required to prepare and submit a report containing photographs to Mr. Jonathan Snyder of the U.S. Fish and Wildlife Service in Carlsbad, CA, documenting Santa Ana sucker observed and/or relocated during project activities, the extent of project related disturbance, and any measures implemented to minimize erosion/sedimentation associated with the project.
- H) As the Permittee has identified the project area as needing regular maintenance going forward, the USFWS is requesting the Permittee pursue a more comprehensive strategy for evaluating and minimizing cumulative impacts to Santa Ana sucker (resulting from regular maintenance) through normal permitting procedures.

The USFWS is the appropriate authority to determine compliance with the above conservation measures.

10. The Permittee shall ensure all material excavated/removed from the stream channels is stockpiled outside of waters of the U.S. and at a sufficient distance and location from the streams so that it cannot be readily conveyed to a water of the U.S. by storm water runoff or gravity.

This Notice to Proceed is valid through December 31, 2015. A general permit does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in the regulatory program. If you have any questions, please contact me at 213-452-3419 or via e-mail at Timothy.W.Jackson@usace.army.mil.

Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

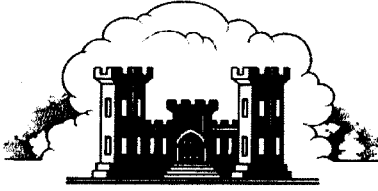
Sincerely,

**MACNEIL.SPENCE
R.D.1228487852**

Digitally signed by
MACNEIL.SPENCER.D.1228487852
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=MACNEIL.SPENCER.D.1228487852
Date: 2015.11.27 13:22:47 -0800'

Spencer D. MacNeil, D. Env.
Chief, Transportation and Special Projects
Branch

Enclosures



**LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS**

**CERTIFICATE OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT**

Permit Number: *SPL-2015-00833-TWJ*

Name of Permittee: *City of Industry (POC: Paul Phillips)*

Date of Issuance: *November 27, 2015*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it by **ONE** of the following methods;

1) Email a digital scan of the signed certificate to Timothy.W.Jackson@usace.army.mil
OR

2) Mail the signed certificate to
U.S. Army Corps of Engineers
ATTN: Regulatory Division (SPL-2015-00833-TWJ)
915 Wilshire Boulevard, Suite 930
Los Angeles, CA 90017-3401

I hereby certify that the authorized work and any required compensatory mitigation has been completed in accordance with the RGP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 CFR § 332.3(l)(3) to confirm that the appropriate number and resource type of credits have been secured.

Signature of Permittee

Date

From: [Chau, Victoria@Wildlife](mailto:Chau.Victoria@Wildlife)
To: [Jackson, Timothy W SPL](mailto:Jackson.Timothy.W.SPL)
Cc: jonathan_d_snyder@fws.gov; [Wilson, Erinn@Wildlife](mailto:Wilson.Erinn@Wildlife); [O'Brien, John@Wildlife](mailto:O'Brien.John@Wildlife); [Harris, Scott P.@Wildlife](mailto:Harris.Scott.P.@Wildlife); [Schmoker, Kelly@Wildlife](mailto:Schmoker.Kelly@Wildlife)
Subject: [EXTERNAL] RE: RGP63 Agency Notifications: East Fork of San Gabriel River, Follows Camp, SPL-2015-00833-TWJ
Date: Friday, November 20, 2015 11:57:23 AM

Dear Mr. Jackson:

The California Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Regional General Permit No. 63 Pre-Construction Notification (File No. SPL-2015-00833-TWJ) for the Follows Camp Facilities Maintenance and Repair Project (Project). The Project area is located at Follows Camp, 23400 East Fork Road, Azusa, California. The proposed Project would remove accumulated sediment within the active river channel under the existing railroad car bridge crossing. The excavated sediment would be stockpiled in the channel and then transported and used to repair and remove a small dirt road in a nearby upland area. In addition, an upstream Arizona Crossing would be repaired and cleared of debris/vegetation.

The Department has the following comments and recommendations regarding the proposed Project.

- 1) **Stockpiling in the Channel.** The Project proposes to stockpile excavated sediment within the channel during the storm season for an unknown amount of time. Given the impending El Nino storm event, there is a strong likelihood that a major flood event would wash the stockpiled sediment downstream. This would increase the water turbidity and add unnecessary impacts to biological resources, including the Santa Ana sucker (*Catostomus santaanae*), a federally threatened species under the Endangered Species Act and a species of special concern. The Department requests all excavated sediment to be stockpiled outside of the channel in a location that would not be able to re-enter the stream.
- 2) **Arizona Crossing.** The Project proposes to fill small crevasses within the Arizona Crossing. It is unclear how this activity would constitute as an emergency if the crevasses are small. Emergency activities should only be limited to actions involving "a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate the loss of, or damage to, life, health, property, or essential public services" (Pub. Resources Code, § 21060.3). Activities on the Arizona Crossing should be considered as maintenance work, and therefore, the Project proponent should submit a separate notification/application for a maintenance permit.
- 3) **Dirt Road Removal.** It is unclear how the removal and re-establishment to pre-existing contour of the dirt road at the bottom of the East Fork Road slope would constitute as an emergency action. Placing excavated sediment on the dirt road to re-establish the slope contour would increase sedimentation that could enter the stream channel and cause unnecessary impacts, especially during the El Nino storm event. The removal of the road and re-establishment of the slope do not meet the purpose of the Project to ensure the structural integrity of the access routes. Rather, the removal of the existing dirt road would remove an access route.
- 4) **Lake or Streambed Notification.** The Project Proponent is required to submit a Lake or Streambed Alteration (LSA) Notification of Emergency Work pursuant to Fish and Game Code section 1610 within 14 days after the work begins. Based on the provided information, the Department is concerned that certain activities of the proposed Project would not constitute as emergency work. Therefore, the project may require a LSA Agreement with appropriate conditions for avoidance, minimization, and mitigation. Early consultation and notification will enable the Department to identify ways to minimize both impacts to resources and the need for remedial actions.

We appreciate the opportunity to comment on the proposed Project. Questions and further coordination on these issues should be directed to Victoria Chau, Environmental Scientist, at (909) 455-8443 or Victoria.Chau@wildlife.ca.gov <<mailto:Victoria.Chau@wildlife.ca.gov>> .

Victoria Chau
Environmental Scientist
CA Dept. of Fish and Wildlife
South Coast Region 5
4665 Lampson Avenue
Los Alamitos, CA 90720
(909) 455-8443

Every Californian should conserve water. Find out how at:

<Blocked<http://saveourwater.com/>>

SaveOurWater.com <Blocked<http://saveourwater.com/>> · Drought.CA.gov <Blocked<http://drought.ca.gov/>>

Begin forwarded message:

From: "Snyder, Jonathan" <jonathan_d_snyder@fws.gov <mailto:jonathan_d_snyder@fws.gov> >
Date: November 18, 2015 at 6:00:40 PM PST
To: <Timothy.W.Jackson@usace.army.mil <<mailto:Timothy.W.Jackson@usace.army.mil>> >
Cc: "erinn.wilson@wildlife.ca.gov <<mailto:erinn.wilson@wildlife.ca.gov>>" <erinn.wilson@wildlife.ca.gov> >, "erinn.wilson@wildlife.ca.gov" <<mailto:erinn.wilson@wildlife.ca.gov>> >, "dan.blankenship@wildlife.ca.gov <<mailto:dan.blankenship@wildlife.ca.gov>>" <dan.blankenship@wildlife.ca.gov <<mailto:dan.blankenship@wildlife.ca.gov>> >, "danacole@waterboards.ca.gov <<mailto:danacole@waterboards.ca.gov>>" <danacole@waterboards.ca.gov <<mailto:danacole@waterboards.ca.gov>> >, "Inye@waterboards.ca.gov <<mailto:Inye@waterboards.ca.gov>>" <Inye@waterboards.ca.gov <<mailto:Inye@waterboards.ca.gov>> >, "bill.orne@waterboards.ca.gov <<mailto:bill.orne@waterboards.ca.gov>>" <bill.orne@waterboards.ca.gov <<mailto:bill.orne@waterboards.ca.gov>> >, "jenan.saunders@parks.ca.gov <<mailto:jenan.saunders@parks.ca.gov>>" <jenan.saunders@parks.ca.gov <<mailto:jenan.saunders@parks.ca.gov>> >, "christine_medak@fws.gov <mailto:christine_medak@fws.gov>" <christine_medak@fws.gov <mailto:christine_medak@fws.gov> >, "david_zoutendyk@fws.gov <mailto:david_zoutendyk@fws.gov>" <david_zoutendyk@fws.gov <mailto:david_zoutendyk@fws.gov> >, "goldmann.elizabeth@epa.gov <<mailto:goldmann.elizabeth@epa.gov>>" <goldmann.elizabeth@epa.gov <<mailto:goldmann.elizabeth@epa.gov>> >
Subject: Fwd: RGP63 Agency Notifications: East Fork of San Gabriel River, Follows Camp, SPL-2015-00833-TWJ

Mr. Jackson,

This message responds to your request for site specific comments regarding the emergency road repair/cleanout activities that will be conducted under Regional General Permit (RGP) 63 in the East Fork of the San Gabriel River, at Follows Camp, 23400 East Fork Road in the City of Azusa, Los Angeles County, California. The City of Industry proposes to excavate accumulated sediment from within the active stream channel at an existing railroad car bridge crossing and use the sediment to repair a nearby upland road slope. In addition, a 15-foot wide Arizona crossing, located about 1,800 feet upstream of the railroad car bridge, will be repaired and cleared of debris/vegetation. According to the notification, the work is required to prepare for greater than normal storm events that may threaten roadway access this winter. The work

would be initiated the week of November 23, 2015.

Our primary concern with respect to this project is the proposed use of heavy equipment within the active stream channel and the potential effects on the federally threatened Santa Ana sucker (*Catostomus santaanae*) and its designated critical habitat. The Corps has made a preliminary determination that the project will not affect federally listed species; however, the project involves work in critical habitat for the Santa Ana sucker and is known to be occupied by the Santa Ana sucker. Impacts to Santa Ana sucker may include crushing, burying, and/or stranding fish while conducting work in the active channel; degradation of habitat (due to direct disturbance to the substrate, sedimentation downstream from the project area; removal of sediment/debris that would otherwise contribute to habitat for Santa Ana sucker in the San Gabriel River); and degradation of water quality (associated with turbidity generated by the project). Based on the likely impacts to Santa Ana sucker and its critical habitat, we disagree with your preliminary determination that the project will have no effect on the species or its critical habitat.

The following is a link to the Draft Recovery Plan for the Santa Ana sucker that includes information about the current listing status, range, life history, threats, and conservation needs:

Blockedhttp://ecos.fws.gov/docs/recovery_plan/Draft%20Recovery%20Plan%20for%20the%20Santa%20Ana%20Sucker.pdf

In addition to our concerns about potential effects to the Santa Ana sucker and its critical habitat from the proposed project, we are concerned that this project could have been addressed through the normal regulatory process with appropriate planning instead of waiting until immediately prior to winter rains and then requesting an emergency permit. If the Corps chooses to issue an emergency permit for the proposed action, the provisions for emergency section 7 consultation with our agency should be followed. These provisions include coordination with our office prior to implementing the project to develop appropriate avoidance and minimization measures and completion of section 7 consultation at the earliest possible time. We recommend the following special conditions are included to minimize adverse effects of the project on the Santa Ana sucker and its designated critical habitat.

1. Have a qualified biologist holding a 10(a)(1)(A) recovery permit conduct a pre-construction survey to provide information regarding the current status of the species in the vicinity of the proposed work area. Provide a brief summary of survey results to our office prior to initiating project activities

2. Complete project activities within the wetted channel in the presence of a qualified biologist familiar with the Santa Ana sucker and appropriate methods for removal and relocation of this species. The qualified biologist should coordinate with the construction manager to determine appropriate methods to minimize direct impacts to Santa Ana suckers in the work area during dewatering and work with heavy equipment in the channel. We would appreciate your submittal of the name, address, phone number, and email address of the qualified biologist selected prior to initiation of the project.

3. Have the qualified biologist survey areas dewatered by the project using a seine or dip net and relocate any Santa Ana suckers collected to an area that is not affected by the project. Work in the dewatered areas should not be conducted until the qualified biologist has determined that all Santa Ana suckers have been removed from the area, to the maximum extent practicable.

4. Require mechanized equipment to travel at less than 5 miles per hour in the wetted channel to minimize the chances

of crushing fish.

5. Debris removal and sediment excavation should be conducted in such a way as to prevent impediments to upstream fish passage following completion of the project.

6. Minimize erosion and sedimentation of the wetted channel downstream from project activities through the use of silt fencing, siltation basins, gravel bags, or other controls necessary to stabilize the soil in the project area. These measures should be maintained in good repair until the completion of project activities.

7. Have the qualified biologist prepare and submit a report (with photos) to our office documenting Santa Ana sucker observed and/or relocated during project activities, the extent of project related disturbance, and any measures implemented to minimize erosion/sedimentation associated with the project.

8. To alleviate the need for future emergency consultations in this location, request that the applicant apply for a regular maintenance permit that includes a more comprehensive strategy for evaluating and minimizing cumulative impacts of maintenance on the Santa Ana sucker. In addition, we request you encourage the applicant to replace the existing crossing with a larger bridge structure.

We appreciate the opportunity to comment on the proposed RGP 63. Please contact me if you have any questions regarding these recommendations.

Sincerely,

Jonathan Snyder

----- Forwarded message -----

From: Jackson, Timothy W SPL <Timothy.W.Jackson@usace.army.mil
<<mailto:Timothy.W.Jackson@usace.army.mil>> >
Date: Tue, Nov 17, 2015 at 8:54 AM
Subject: RGP63 Agency Notifications: East Fork of San Gabriel River, Follows Camp, SPL-2015-00833-TWJ
To: "erinn.wilson@wildlife.ca.gov <<mailto:erinn.wilson@wildlife.ca.gov>>" <erinn.wilson@wildlife.ca.gov
<<mailto:erinn.wilson@wildlife.ca.gov>> >, "dan.blankenship@wildlife.ca.gov <<mailto:dan.blankenship@wildlife.ca.gov>>"
<dan.blankenship@wildlife.ca.gov <<mailto:dan.blankenship@wildlife.ca.gov>> >, "danacole@waterboards.ca.gov
<<mailto:danacole@waterboards.ca.gov>>" <danacole@waterboards.ca.gov <<mailto:danacole@waterboards.ca.gov>> >, "lnye@waterboards.ca.gov <<mailto:lnye@waterboards.ca.gov>>" <lnye@waterboards.ca.gov
<<mailto:lnye@waterboards.ca.gov>> >, "bill.orme@waterboards.ca.gov <<mailto:bill.orme@waterboards.ca.gov>>"
<bill.orme@waterboards.ca.gov <<mailto:bill.orme@waterboards.ca.gov>> >, "jenan.saunders@parks.ca.gov
<<mailto:jenan.saunders@parks.ca.gov>>" <jenan.saunders@parks.ca.gov <<mailto:jenan.saunders@parks.ca.gov>> >, "christine_medak@fws.gov <mailto:christine_medak@fws.gov>" <christine_medak@fws.gov
<mailto:christine_medak@fws.gov> >, "david_zoutendyk@fws.gov <mailto:david_zoutendyk@fws.gov>"
<david_zoutendyk@fws.gov <mailto:david_zoutendyk@fws.gov> >, "goldmann.elizabeth@epa.gov
<<mailto:goldmann.elizabeth@epa.gov>>" <goldmann.elizabeth@epa.gov <<mailto:goldmann.elizabeth@epa.gov>> >

Hello everyone,

Please see the attached RGP63 cover letter notification and attachments.

Please review the materials and notify me if you intend to provide substantive, site-specific comments. Please respond with any comments no later than 3:00 PM on November 18, 2015.

Thanks,
Tim

Timothy W. Jackson, PWS
Project Manager
U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
Office: (213) 452-3419
Mobile: (213) 220-6808

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Jonathan Snyder, Division Chief
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
(760) 431-9440 x307
jonathan_d_snyder@fws.gov <mailto:jonathan_d_snyder@fws.gov>

City of Industry - Follows Camp Facilities
 East Fork of the San Gabriel River, Los Angeles County, California



City of Industry - Follows Camp Facilities
East Fork of the San Gabriel River, Los Angeles County, California



Looking downstream (west) from the bridge.


 Northern side of the bridge has less than 1 foot freeboard.

Photo taken on October 13, 2015

Photo 1 - Downstream of Railroad Car Bridge

City of Industry - Follows Camp Facilities
East Fork of the San Gabriel River, Los Angeles County, California



Looking at the bridge from upstream.



Northern side of the bridge has less than 1 foot freeboard.

Photo taken on October 13, 2015.

Photo 2
Railroad Car Bridge

City of Industry - Follows Camp Facilities
East Fork of the San Gabriel River, Los Angeles County, California



○ Southern portion of the Arizona Crossing is covered by sediment and debris, prohibiting vehicle crossing.
Photo taken on October 13, 2015.

Photo 3
Arizona Crossing

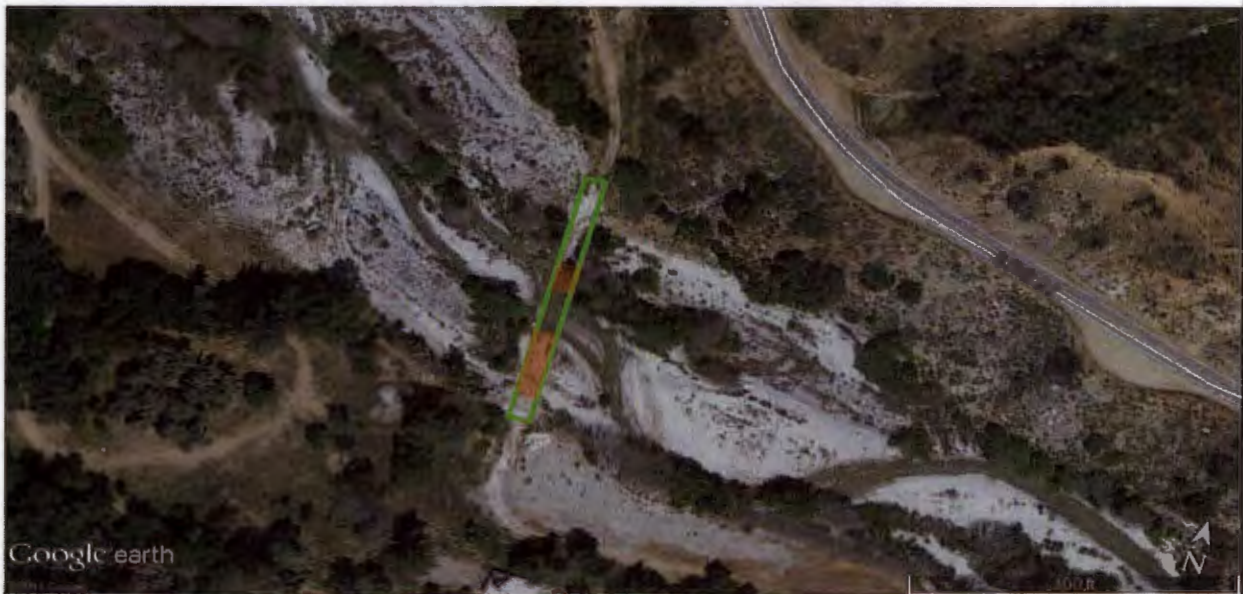
City of Industry - Follows Camp Facilities
East Fork of the San Gabriel River, Los Angeles County, California



- Proposed Excavation Area [Total: 1,500 cubic yards (cu), 310 linear feet (lf)]
Upstream: 1,200±cu, 250± lf
Downstream: 300±cu, 60±lf
- Downstream Sediment to remain in place
- Existing sediment berm to remain in place to separate active channel from excavation area, thereby limited sediment loading in active waterway
- Pilot channel to be installed at completion of excavation

Exhibit 2
Railroad Car Bridge Excavation
Work Plan

City of Industry - Follows Camp Facilities
East Fork of the San Gabriel River, Los Angeles County, California



- Existing Arizona Crossing
approximate alignment 280 linear feet (lf), 15 feet width
- Proposed Blading Area [Total: 100 lf, 15 feet in width]

Exhibit 3
Arizona Crossing – Proposed Blading
Work Plan



*LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS*

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NUMBER 63
FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

SPONSOR AND ISSUING OFFICE: U.S. Army Corps of Engineers, Los Angeles District

PERMIT NUMBER: Regional General Permit No. 63 (File No. SPL-2013-00609-BAH)

ISSUANCE DATE: November 29, 2013

PERMITTEE: Public agencies, businesses, or private parties (i.e., the public in general)

Note: The term "you" and its derivatives, as used in this permit, means the permittee. The term "this office" refers to the Los Angeles District office of the Corps of Engineers, which has jurisdiction over the permitted activity, or the appropriate official of this office acting under the authority of the commanding officer.

After you receive written approval that your project complies with the terms and conditions of this RGP from this office, you are authorized to perform work in accordance with the General Conditions and any project-specific conditions specified below.

PROJECT DESCRIPTION: This permit authorizes discharges of dredged or fill material into Waters of the United States, including wetlands, and/or work or structures in Navigable Waters of the United States for necessary repair and protection measures associated with an emergency situation. An "emergency situation" is present where there is a clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).

PROJECT LOCATION: Within those parts of the State of California subject to regulatory review by this office, including the coastal slopes of San Luis Obispo County, all of Santa Barbara County except for the Carrizo Plain, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego, Imperial and Inyo counties, Mono County to the Conway Summit above Mono Lake, the southern slopes of the Tehachapi Mountains in Kern County, and all of the State of Arizona. In the event of future modifications to District boundaries, this permit would also apply in any areas so revised.

GENERAL CONDITIONS OF THIS RGP:

1. **Time Period Covered:** This RGP shall expire on November 22, 2018.
2. **Notification/Communication:**
 - a. **Timing:** The applicant must notify the District Engineer (DE) as early as possible and shall not begin the activity until notified by the DE that the activity may proceed under this RGP with any site-specific special conditions imposed by the District or Division Engineer. The Corps recognizes there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed from the DE. It is not the intention of this office to imply that one allows such threat to life or property result in actual loss. If one proceeds without such notice from the DE, one must ensure that prior notice of such a unilateral decision to proceed is made to this office by telephone, facsimile, e-mail, delivered written notice or other alternative means.
 - b. **Contents of Notification:** The notification should be in writing and include the following information:
 - (1) The name, address, e-mail address and telephone number of the applicant and the designated point of contact and their address, e-mail address and telephone number;
 - (2) The location of the proposed project, including the identification of the waterbody(ies) (this should include a copy of a U.S. Geologic Survey [USGS] topographic map, electronic map images, annotated photographs, Thomas Guide map, or hand-drawn location map with suitable landmarks; the map should have sufficient detail to clearly indicate the location and extent of the project, as well as detailed directions to the site);
 - (3) A brief, but clear, description of the imminent threat to life or property and the proposed project's purpose and need;
 - (4) A description of methods anticipated to be used to rectify the situation ("field engineering" is not an adequate description. It is presumed if one mobilizes matériel and a particular piece of equipment to a site, then one probably has a fairly well-defined intention for that matériel and equipment. Photographs, visual renderings of the project, plans, drawings or sketches showing the area to be impacted, cross sections showing details of construction, if appropriate, and a short narrative describing how the work is to be completed should be provided as a minimum); and
 - (5) A brief description of the project area's existing conditions and anticipated environmental impacts resulting from the proposed work (amount of dredge or fill material, acreage of disturbance, removal of significant vegetation, loss of habitat, etc.).
 - c. **Form of Notification:** The standard Application for Department of the Army Permit (Form ENG 4345), available from the District's website at http://www.spl.usace.army.mil/Portals/17/docs/regulatory/Permit_Process/Eng4345_2012OCT.pdf, may be used as the notification and must include all of the information required in General Condition 2.b. Items (1)-(5) above. A letter, facsimile transmission or electronic mail may also be used. In certain situations where there is an imminent threat to life or property and the applicant is unable to make direct contact with this office, a message shall be left on voice mail or an e-mail message shall be sent. Again,

those messages should include the information identified in General Condition 2.b. Items (1)-(5) above. Formal written notification should be sent to this office as soon as possible.

- d. **Agency Coordination:** Upon receipt of a notification, the DE will immediately provide (i.e., by facsimile transmission, overnight mail, electronic mail or other expeditious manner) a copy to the offices of the Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), the Monterey Bay National Marine Sanctuary, the California Department of Fish and Wildlife (CDFW), the California State Water Resources Control Board (SWRCB), the Arizona Department of Environmental Quality (ADEQ), the Arizona Game and Fish Department, the Navajo Nation, the Hopi Tribe, the Hualapai Tribe, the White Mountain Apache Tribe; the Big Pine Paiute Tribe of Owens Valley, the Bishop Paiute Tribe, and the Twenty-Nine Palms Band of Mission Indians (collectively, "Tribes"), the California Regional Water Quality Control Boards (RWQCB), the California Coastal Commission (CCC), and the State and Tribal Historic Preservation Offices of California or Arizona (SHPO/THPO), as appropriate. These agencies will be requested to provide a response to the Corps Regulatory Branch Project Manager as expeditiously as possible by telephone, facsimile transmission (fax) or e-mail, indicating whether they intend to provide substantive, site-specific comments regarding the proposed project. If notified that comments will be provided by an agency or tribal representative, the DE will allow them to provide their comments in a short timeframe determined by the DE on a case-by-case basis to not likely result in loss of life or property before making a decision on the proposed project.

The DE will fully consider any comments received within the specified timeframe concerning the proposed activity's compliance with the conditions of the agency's authority, the need to impose terms and conditions to avoid and minimize adverse effects on aquatic resources, and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. The DE will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by electronic mail, facsimile transmission or other means.

- e. **Mitigation:** Discharges of dredged or fill material into Waters of the United States must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Factors that the DE will consider when determining the suitability of appropriate and practicable mitigation will include, but are not limited to:
- (1) The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, etc.;
 - (2) The permanence of the project's impacts on the resource; and
 - (3) The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource.

To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource

values by creating, restoring, or enhancing similar functions and values; or using bioremediation techniques in conjunction with other methods to offset project impacts. To the extent appropriate, applicants should consider mitigation banking and other forms of mitigation, including contributions to wetland trust funds or in-lieu fees to organizations such as State, county or other governmental or non-governmental natural resource management organizations, where such fees contribute to the restoration, creation, replacement, enhancement, or preservation of aquatic resources.

- f. **District Engineer's Decision:** In reviewing the notification for the proposed activity, the DE will determine whether the activity would likely result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. The applicant may, as an option, submit a proposed mitigation plan with the notification to expedite the process and the DE will consider any mitigation (See General Condition 2.e. above.) the applicant has included in the proposal in determining whether the net adverse environmental effects for the proposed work are minimal. If the DE determines the activity complies with the terms and conditions of this RGP and the adverse effects are minimal, this office will notify the applicant and include any situation-specific conditions deemed necessary.

If the applicant elects to submit a mitigation plan as part of the proposed project, the DE will expeditiously review the proposed plan also. However, the DE may approve the mitigation proposal after the work is approved and project work has commenced.

If the DE determines the adverse effects of the proposed work are more than minimal, the DE will notify the applicant either:

- (1) That the project does not qualify for authorization under this RGP and instruct the applicant on the procedures to seek authorization under an individual permit or other general permit, or
- (2) That the project is authorized under this RGP subject to the applicant submitting a mitigation proposal that would reduce the adverse effects to the minimal level.

3. **Authorized Work:** Any work authorized by this RGP must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction only results in very minor additional impact to aquatic resources and logistical concerns indicate such reconstruction is as expedient considering the condition of the project site and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered if the applicant wishes to use bioremediation or other environmentally sensitive solutions. The RGP may NOT be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources, except in very limited circumstances. Such upgrade projects shall be considered separate activities for which other forms of authorization will be required.

Work not described in permit application documentation but deemed necessary after a field assessment is not authorized unless coordinated with the Regulatory project manager and acknowledged by appropriate means (i.e., e-mail or facsimile transmission, memo to the record, etc.). These coordinated permit modifications must also be described in sufficient detail in the post-project report (see RGP 63 General Condition 26).

4. **Start Work Date:** Any projects authorized under this RGP must be initiated within fourteen (14) days of receiving authorization to proceed. If the project start time can be delayed for

more than two weeks, the imminent threat of impending loss may have diminished in magnitude, as well as immediacy, and generally would not meet the definition of an "emergency." However, there may be limited circumstances where, after notice to and input by the agencies, logistical considerations necessitate an extension beyond 14 days. Further, this RGP cannot be used to authorize long-planned-for projects, nor shall it be used for projects that are likely to have been known to the applicant but for which an application was not submitted in a timely manner. That is, the Corps and other agencies are not obligated to authorize work for a self-described emergency situation unless we agree that the situation qualifies as an emergency as defined on page 1.

5. **Access to Site:** You must allow representatives from this office and other agencies to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.
6. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
7. **Water Quality Certification:** Within Los Angeles District, water quality certifications pursuant to Section 401 of the Clean Water Act are administered by the California State Water Resources Control Board (SWRCB) and the Arizona Department of Environmental Quality (ADEQ) for non-tribal land, the U.S. Environmental Protection Agency for tribal lands of Tribes not treated as States, and seven Native American Tribes that are treated as States for Section 401 water quality certification. Section 401 water quality certification from the USEPA is pending as of the date of this permit. Permittees working on tribal land in Los Angeles District must receive individual Section 401 water quality certification from the EPA or one of the seven Tribes identified on page 3 as appropriate. Conditions of the pending water quality certification from the EPA will be incorporated when issued and the permit modified appropriately.

ARIZONA

The ADEQ issued its conditional certification (401 cert reading file rs313:041) on October 24, 2013. As with previous reissuances of the RGP, conditions within issued Section 401 certifications are included within the body of the RGP to facilitate dissemination of information to permittees regarding water quality certifications for work authorized under RGP 63. The ADEQ's water quality conditions are adopted within this permit as RGP 63 General Conditions.

For Arizona Permittees on Non-tribal Land: The Arizona Department of Environmental Quality (ADEQ) issued a conditional Section 401 water quality certification for RGP 63 dated October 24, 2013 for all waters of the United States on non-tribal lands in the State of Arizona, with the following exceptions:

- *Impaired Waters, as defined under Clean Water Act Section 303(d);*
- *Non-Attaining Waters*
- *Outstanding Arizona Waters, or*
- *if the remediation or repair activity is not started within 30 days of the event causing the damage.*

With the exception of these three categories of waters of the State and projects that cannot be initiated within 30 days of the event resulting in imminent threat to loss of life or property, the prospective permittee will be required to acquire an individual Section 401 water quality certification from the ADEQ.

*ADEQ maintains a list of impaired and non-attaining waters at:
<http://www.azdeq.gov/environ/water/assessment/assess.html>*

*ADEQ maintains a list of outstanding waters at:
<http://www.azdeq.gov/environ/water/standards/index.html>*

ADEQ contact information:

Mailing address:

*Arizona Department of Environmental Quality
Surface Water Section, 401 Certifications, mailstop 5415A-1
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4502*

ADEQ CWA 401 Water Quality Certification of these activities to operate under the terms (including the conditions herein) of the applicable CoE CWA RGP does not affect or modify in any way the obligations or liability of any person for any damages, injury, or loss, resulting from these activities. This Certification is not intended to waive any other federal, state or local laws.

ADEQ's issuance of this Section 401 water quality certification for RGP 63 does not imply or suggest that requirements for other state permits including, but not limited to Aquifer Protection Permits, Arizona Pollutant Discharge Elimination System permits, or Reclaimed Water permits are met or superseded. Prospective permittees should contact the ADEQ to ensure all applicable permits are obtained. Furthermore, ADEQ's certification relies on the following definitions:

- Waters of the U.S. (WUS) are defined by the Corps of Engineers and the U.S. Environmental Protection Agency under the Clean Water Act. ADEQ's certification applies only to activities in any WUS.*
- Temporary means not longer than the period of any project schedule.*
- Native material/fill is defined as pollutant-free soil, sand, gravel, etc. that constitutes the streambed or banks in the immediate area of the permitted work.*
- Emergency vehicles and emergency responders are not restricted by the conditions in this certification.*

This State Water Quality Certification is issued by ADEQ under the authority of Section 401(a) of the federal CWA (33 U.S.C. §1251 et seq.) and A.R.S. 49-202. The conditions listed below are in addition to conditions in pending CWA 404 RGP 63 SPL-2013-00609-BAH to be issued by the U.S. Army Corps of Engineers (CoE). These conditions are enforceable by CoE. Civil penalties up to a maximum of \$25,000 per day of violation may be levied if these certification conditions are violated. Criminal penalties may also be levied if a person knowingly violates any provision of the CWA.

This certification is only for the activities described in the subject RGP and is valid for five years or the same period as the RGP, whichever is shorter. Any extensions or other modifications of the RGP will also require ADEQ review and may require modification of the 401 Certification.

- *The permittee shall provide a copy of these State 401 Water Quality Certification Conditions to all appropriate contractors and subcontractors. The permittee shall also post and maintain a legible copy of this certification letter in a weather-resistant location at the construction site where it may be seen by the workers.*
- *The permittee shall notify ADEQ of completion within 30 days after project completion.*
- *The permittee is responsible for all activities certified herein and any exceedences of water quality standards (WQS) in any WUS that such activities may cause or contribute to.*

Specific Conditions

- 1) *Any discharge occurring as a result of activities certified for the subject project shall not cause an exceedence of WQS. Applicability of this condition is as defined in A.A.C. R18-11-102.*
- 2) *This certification does not authorize the discharge of wastewater, process residues or other waste to any WUS.*
- 3) *Runoff and seepage from activities certified herein shall not cause an exceedence of Arizona WQS for any WUS.*
- 4) *Work shall be conducted and monitored to ensure that pollution from the activities certified herein does not cause an exceedence of Arizona WQS in any WUS.*
- 5) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, activities herein certified shall be performed during periods of low flow (baseflow or less) in any perennial WUS, or no flow in the case of ephemeral and intermittent WUS. No work shall be done, nor shall any equipment or vehicles enter any WUS while flow is present, unless all conditions in this certification are met.*
- 6) *The effectiveness of all pollution control measures, including those preventing erosion and sedimentation, shall be reevaluated after each flow event and repaired/modified as needed.*
- 7) *Permittee must minimize clearing, grubbing, scraping or otherwise limit exposure of erodible surface to the minimum necessary for each construction phase or location.*
- 8) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, if activities certified herein are likely to cause or contribute to an exceedence of water quality standard, or create an impediment to the passage of fish or other aquatic life - operations shall cease until the problem is resolved or until control measures have been undertaken.*
- 9) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, erosion control, sediment control*

and/or bank protection measures shall be installed before construction and pre-operation activities, and shall be maintained during construction and post-construction periods to minimize channel or bank erosion, soil loss and sedimentation. Control measures shall not be constructed of uncemented or unconfined imported soil, or other materials easily transported by flow.

- 10) *For portions of the project utilizing potable water or groundwater for irrigation or dust control, direct runoff of such water shall be limited to the extent practicable and shall not cause downstream erosion or flooding.*
- 11) *The permittee is responsible for ensuring construction material and/or fill (other than native fill or that necessary to support revegetation) placed in any WUS, shall not include materials that can cause or contribute to pollution of the WUS. Examples of prohibited fill include pollutant-contaminated soil and materials defined as pollutants or hazardous in Arizona Revised Statutes (A.R.S.) § 49-201. Fill used to support vegetation rooting or growth shall be protected from erosion.*

Any washing of fill material must occur outside of any WUS prior to placement and the rinseate from such washing shall be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) or from causing erosion to any WUS. Other than replacement of native fill or material used to support vegetation rooting or growth, fill placed in locations subject to scour must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

Acceptable construction materials that will or may contact water in any WUS are: untreated logs and lumber; natural stone (crushed or not), crushed clean concrete (recycled concrete); native fill; precast, sprayed or cast-in-place concrete (including soil cement and unmodified grouts); steel (including galvanized); plastic and aluminum. Use of other materials may be allowed, but require written approval from ADEQ.

- 12) *Any dredged material or waste material is to be placed and retained in areas outside any WUS. Runoff from this material/area is to be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) to any WUS.*
- 13) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, upon completion of construction the permittee shall ensure no adverse change, due to the subject project, has occurred in the stability with respect to stream hydraulics, erosion and sedimentation, of any WUS including upstream and downstream from the project. If such change has occurred, the permittee shall take steps to restore the pre-project stability of any impacted segments.*
- 14) *All disturbed areas shall be restored and revegetated as soon as physically practicable. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.*

- 15) *If retention/detention basins are included in a project, permittee will complete the grading necessary to direct runoff towards retention/detention basins no later than immediately following initial land clearing or rough grading.*

Retention/detention basins shall be sized to accept storm runoff and capture sediment prior to it entering any WUS. Detention basins will provide detention through the use of controlled outflow spillways and shall cause no significant change to the hydraulic conditions of the upstream or downstream WUS outside of the project boundaries.

The basins shall be maintained; e.g., have sediment removed, as required to maintain their function.

- 16) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, when flow is present in any WUS within the project area, the permittee and any contractor will not alter the flow by any means except to prevent erosion or pollution of any WUS.*
- 17) *Silt laden or turbid water resulting from activities certified herein shall be settled, filtered or otherwise treated to ensure no violation of Arizona WQS in any WUS.*
- 18) *When flow in any WUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:*
- the flow decreases below the point where sediment movement ceases, or*
 - control measures have been undertaken; e.g., equipment and materials easily transported by flow are protected with non-erodible barriers or moved outside the flow area.*
- 19) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, the permittee will erect any barriers, covers, shields and other protective devices as necessary to prevent any construction materials, equipment or contaminants/pollutants from falling, being thrown or otherwise entering any WUS.*
- 20) *The permittee must designate area(s) for equipment staging and storage located entirely outside of any WUS. In addition, the permittee must designate areas, located entirely outside of any WUS, for fuel, oil and other petroleum product storage and for solid waste containment. All precautions shall be taken to avoid the release of wastes, fuel or other pollutants to any WUS.*

Any equipment maintenance, washing or fueling that cannot be done offsite will be performed in the designated area with the following exception: equipment too large or unwieldy to be readily moved; e.g., large cranes, may be fueled and serviced in the WUS (but outside of standing or flowing water) as long as material specifically manufactured and sold as spill containment is in place during fueling/servicing. All equipment shall be inspected for leaks, all leaks shall be repaired and all repaired equipment will be cleaned to remove any fuel or other fluid residue prior to use within (including crossing) any WUS.

The permittee shall have a spill containment plan onsite to ensure that pollutants are prevented from entering any WUS. Any pollutant generated by activities certified herein shall be properly disposed of in accordance with applicable regulations.

A spill response kit will be maintained in this (these) area(s) to mitigate any spills. The kit will include material specifically manufactured and sold as spill adsorbent/absorbent and spill containment. The permittee will ensure that whenever there is activity on the site, that there are personnel on site trained in the proper response to spills and the use of spill response equipment.

- 21) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, permanent and temporary pipes and culverted crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, headwalls or other structures that dissipate water energy to control erosion.*
- 22) *All temporary structures constructed of imported materials and all permanent structures, including but not limited to, access roadways; culverted and unculverted crossings; staging areas; material stockpiles; berms, dikes and pads, shall be constructed so as to accommodate overtopping and must resist washout of the feature by stream flow.*

Any temporary crossing, other than fords on native material, shall be constructed in such a manner so as to provide armoring of the stream channel. Materials used to provide this armoring shall not include anything easily transportable by flow. Examples of acceptable materials include steel plates, untreated wooden planks, pre-cast concrete planks or blocks; examples of unacceptable materials include clay, silt, sand and gravel finer than cobble (roughly fist-sized). The armoring must, via mass, anchoring systems or a combination of the two, resist washout.

Permittee will take measures necessary to prevent approaches to any WUS crossing from causing erosion or contributing sediment to any WUS.

No vehicles or equipment shall ford any unarmored WUS crossing when flow greater than baseflow is present.

Any ford, other than fords on native material, shall be designed, and maintained as necessary, to carry the proposed traffic without causing erosion or sedimentation of the stream channel while dry or during a flow event equal to or less than the crossing's design event.

No unarmored ford shall be subject to heavy-truck or equipment traffic after a flow event until the stream bed is dry enough to support the traffic without disturbing streambed material to a greater extent than in dry conditions. Light vehicles (less than 14,000 pounds gross weight) are not restricted by this condition.

- 23) *Temporary structures constructed of imported materials are to be removed no later than upon completion of the permitted activity.*

24) *Temporary structures constructed of native materials, if they provide an obstacle to flow or can contribute to or cause sedimentation or erosion, are to be removed no later than upon completion of the permitted activity.*

25) *Upon completion of the activities certified herein (except as noted in condition 26 –concrete curing), areas within any WUS shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions.*

Washout of concrete handling equipment must not take place within any WUS and any washout runoff shall be prevented from entering any WUS.

26) *If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, permittee will take steps; e.g., sheet piling or temporary dams, to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or otherwise cease to be available; i.e., are no longer a pollutant threat. Where possible, construction work will be during extreme low water conditions or at a time and season with the highest probability of ensuring work is done in "the dry".*

27) *Any permanent WUS crossings other than fords, shall not be equipped with gutters, drains, scuppers or other conveyances that allow untreated runoff (due to events equal to or lesser in magnitude than the design event for the crossing structure) to directly enter a WUS if such runoff can be directed to a local stormwater drainage, containment and/or treatment system.*

28) *Permittee will clear debris as needed from culverts, ditches, dips and other drainage structures in any WUS to prevent clogging or conditions that may lead to washout.*

END OF ADEQ SECTION 401 WATER QUALITY CERTIFICATION CONDITIONS

CALIFORNIA

The SWRCB issued its conditional certification (File No. SB13006IN) on November 25, 2013. As with previous reissuances of the RGP, conditions within issued Section 401 certifications are included within the body of the RGP to facilitate dissemination of information to permittees regarding water quality certifications for work authorized under RGP 63. The SWRCB's water quality conditions are adopted within this permit as RGP 63 General Conditions.

For California Permittees on Non-tribal Land: *The State Water Resources Control Board (SWRCB) issued a conditional Section 401 water quality certification for RGP 63 dated November 25, 2013 for all waters of the United States on non-tribal lands Los Angeles District in the State of California, with the following exception:*

The State's certification does not apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to title 23 of the California Code of Regulations subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

The SWRCB's certification for Regional General Permit No. 63 for Emergency Situations, SB13006IN, is contingent on all of the conditions listed below being met, and any discharge from an authorized project being in compliance with applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards). Discharges covered under this certification are also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes the State's certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act. (Wat. Code, § 13000 et seq.)

Except as modified by any of the certification conditions below, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of the certification and the attachments to the certification, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies and the Regional Water Boards' Water Quality Control Plans and Policies.

Regional Water Quality Control Plan Information

Water quality standards and control measures for the Regional Water Quality Control Boards (Regional Water Board) are contained in the Water Quality Control Plan (Basin Plan) for each region. The Basin Plan designates the beneficial uses for all surface and ground waters within the Regional Water Board's jurisdiction and is the master water quality control planning document. The beneficial uses of water specifically identified in the Basin Plan generally apply to all of its tributaries. The receiving waters and beneficial uses of waters potentially impacted by this Project are located on the appropriate Regional Water Board website. The Basin Plan information may be obtained from the State Water Board's website: <http://www.waterboards.ca.gov/>.

A. Standard Conditions

1. *This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of title 23 of the California Code of Regulations.*
2. *This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to title 23 of the California Code of Regulations subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.*
3. *This Certification is conditioned upon full payment of any fee required under California Code of Regulations, chapter 28, title 23, and owed by the Applicant.*

B. General Conditions

1. *This Certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) definition of an “emergency,” which is defined as follows:*

A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage. (Pub. Resources Code, § 21060.3.)

Emergency actions must meet the above definition of “emergency” and demonstrate an imminent threat to qualify for this Certification. For actions that do not qualify for enrollment under this Certification, the discharger (i.e. the person or entity proposing to conduct actions which may result in a discharge to a water of the state) must contact either the State Water Board or the applicable Regional Water Board to apply for an individual water quality certification.

2. *This Certification is limited to emergency actions that satisfy one or more of the following exemption criteria as defined by the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15269.):*
 - a. *Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code.*
 - b. *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.*
 - c. *Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.*
 - d. *Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.*

- e. *Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.*
3. *This Certification is limited only to sudden, unexpected emergency situations defined in General Conditions 1 and 2 above that: (1) have occurred, or (2) have a high probability of occurring in the short term as a result of recently discovered factors or events not related to known or expected conditions. Additionally, the sudden, unexpected emergency situation must have the potential to result in an unacceptable hazard to life or a significant loss of property if corrective action is not undertaken within a time period less than the normal time needed to process an application under standard procedures.*
4. *Emergency repairs and reconstruction must begin within fourteen (14) calendar days of receiving authorization to proceed and shall be completed within one year of enrollment pursuant to this Certification. All repairs and reconstruction shall be kept to the minimum necessary to alleviate the immediate emergency and limited to in-kind replacement or refurbishment of on-site features. Minor upgrading may be considered if a discharger uses bioremediation or other environmentally sensitive solutions. Permanent restoration work other than that performed as an associated part of the emergency actions, including any minor upgrades, shall not be performed without prior approval and authorization by the State Water Board or the applicable Regional Water Board.*

C. Administrative Conditions

1. **Water Quality Standards Maintained**
Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plan by a Regional Water Board or a State Water Board water quality control plan or policy. The Water Boards may impose monitoring requirements at any time in order to ensure that permitted discharges and activities comport with any applicable water quality standards and/or effluent limitations.
2. **California Endangered Species Act**
Permitted actions shall not result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of such a species unless the activity is authorized by the California Department of Fish and Wildlife pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.
3. **Project Site Access**
Water Boards staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, shall be granted permission to enter the dischargers' site(s) at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the discharge may have on waters of the state.

4. **Compliance**

Failure to comply with any condition of this Certification shall constitute a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Any activities enrolled pursuant to this Certification previously granted, shall immediately be revoked and any or all discharges shall cease. The Applicant and/or the discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

D. Best Management Practices (BMPs)

1. *At all times, appropriate types and sufficient quantities of materials shall be maintained on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or state.*
2. *Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the state, and shall be located outside of waters of the state in areas where accidental spills are not likely to enter or affect such waters.*
3. *If construction related materials reach surface waters, appropriate spill response procedures must be initiated as soon as the incident is discovered. In addition, the State Water Board and applicable Regional Water Board staffs shall be notified pursuant to subsection VII (C) of this Certification within twenty-four (24) hours of the occurrence.*
4. *Construction materials and debris from all construction work areas shall be removed following completion of the emergency actions.*
5. *Water diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.*
6. *All necessary BMPs to control erosion and runoff from areas associated with the emergency actions shall be implemented. All areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States and/or state shall be restored to pre-disturbance conditions. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.*
7. *The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at: <http://www.cal-ipc.org/ip/inventory/weedlist.php>.*

Mitigation

Permitted activities must first avoid and then minimize adverse impacts on aquatic resources to the maximum extent practicable. Any remaining unavoidable adverse impacts to the aquatic resources may be offset by compensatory mitigation requirements in accordance with the conditions of RGP 63.

Emergency Notification and Fee Requirements

- A.** The State Water Board and the applicable Regional Water Board must receive notification by the discharger at least 48 hours prior to initiating emergency actions. This notification must be followed within three (3) business days by submission of all of the information in the Emergency Notification Form (**Attachment D**). The Certification fee must be submitted with Attachment D in accordance with California Code of Regulations, title 23, section 2200 (\$145.00 as of October, 2013; this amount is subject to change annually). Failure to promptly pay the correct fee amount may result in an inability to be enrolled pursuant to this Certification.
- B.** The Water Boards recognize there may be situations where imminent threats to life or property occur and the discharger has not received a notice to proceed. If immediate, specific actions, as defined in the California Code of Regulations, title 14, section 15269(c), are required by a discharger and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the discharger must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the emergency action. This notification must be followed within three (3) business days by submission of all of the information in the Emergency Notification Form (**Attachment D**).
- C.** Notification may be via telephone, facsimile, e-mail, delivered written notice, or other verifiable means.

A staff directory that includes contact information for the State and Regional Water Boards is found at:

http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf

For Regional Water Board map boundaries, see:

http://www.waterboards.ca.gov/waterboards_map.shtml

For State Water Board

Phone: (916) 341-5455 (Division of Water Quality)

Fax: (916) 341-5463 (Attention: Manager CWA Section 401 WQC Program)

Email: Stateboard401@waterboards.ca.gov (Subject: RGP 63)

Written notice should be sent to the following addresses:

ATTN: Manager

CWA Section 401 WQC Program

Division of Water Quality

State Water Resources Control Board
1001 I St. 15th Floor
Sacramento, CA 95814

ATTN: Manager
CWA Section 401 WQC Program
Insert address of appropriate Regional Water Board, obtained from:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf

Final Reporting Requirements

- A.** *The discharger must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 63. In addition, the discharger must fill in and submit the form provided in **Attachment E**. This information must be submitted within 45 calendar days of completion of any emergency actions conducted under RGP 63.*
- B.** *Failure to submit **Attachment E** within 45 calendar days of completion of any emergency actions conducted under this Certification may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.*
- C.** *Electronic submission of all reporting requirements is preferred, however the Final Report Form (**Attachment E**), must be completed and submitted as a pdf with a valid signature.*

END OF SWRCB SECTION 401 WATER QUALITY CERTIFICATION CONDITIONS

8. **Coastal Zone Management:** For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the permittee obtain concurrence from the California Coastal Commission that the project is consistent with the State's certified Coastal Management Program. For activities within the coastal zone that require a coastal development permit from the commission, the permittees should contact the Commission office to request an emergency permit, and no additional federal consistency review is necessary. For activities within the coastal zone that require a coastal development permit from a local government with a certified local coastal program, the permittee should contact the appropriate local government. Because a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the CZMA, the permittee should also contact Larry Simon, Federal Consistency Coordinator for the Commission, at 415-904-5400 to determine the appropriate emergency procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, or for any activity conducted by a federal agency, the permittee should contact Larry Simon, Federal Consistency Coordinator for the Commission at 415-904-5400 to determine the appropriate emergency procedures.

Due to the often limited time constraints with emergency actions, the Corps would not require the permittee to provide proof of review by the Commission, if such an action would result in undue harm to life or property. However, the Corps will require the permittee to provide evidence of consistency upon completion of the project unless the Corps is already

aware that a particular project, class of projects, or projects in a particular area described by the Commission, have received such determinations or waivers.

Disposal of flood-delivered sediments into the marine environment is not authorized under RGP 63 due to potential adverse effects to the habitat and water quality. If such activity is proposed, it shall be addressed through other permitting procedures.

9. **Endangered Species:** No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat as identified under the Federal Endangered Species Act (ESA). Authorization of an activity by the RGP does NOT authorize the "take" of a listed threatened or endangered species, as defined under the Federal ESA. The U.S. Fish and Wildlife Service and/or National Marine Fisheries Service may provide project-specific recommendations to avoid or minimize potential take of listed species or adverse modification of designated critical habitat. The Corps would remain the final arbiter regarding the degree to which the recommendations would be incorporated into the emergency authorization.

Information on the location of listed or proposed threatened or endangered species and their designated or proposed critical habitat can be obtained directly from the FWS or NMFS or from their websites at:

USFWS – <http://www.fws.gov/endangered/>

NMFS – <http://www.nmfs.noaa.gov/pr/species/>

10. **Historic Properties:** Impacts to historic properties listed, proposed for listing, or potentially eligible for listing in the National Register of Historic Places will be avoided to the maximum extent practicable. If such resources are impacted because of actions authorized under this RGP, the permittee shall provide a full report of the action and the impacts incurred by the resource to this office within 45 days after completion of the action. The Corps, the State and Tribal Historic Preservation Officers, and/or the Advisory Council for Historic Preservation will then jointly make a determination as to appropriate procedures and/or mitigation to be addressed.

If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify the Corps Regulatory Branch who will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. **Regional and Case-by-Case Conditions:** The activity must comply with any regional conditions added by the Division Engineer (see CFR Part 330.4(e)) and with any case-specific conditions added by the District Engineer.
12. **Erosion and Siltation Controls:** Every effort must be made to ensure any material dredged or excavated from Waters of the United States is not likely to be washed back into any Waters of the United States. When feasible, erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw bales or other means designed to minimize turbidity in the watercourse above background levels existing at the time of construction, shall be used and maintained in effective operating condition during construction unless conditions preclude their use, or if conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work. All exposed soil

and other fills, as well as any work below the ordinary high water mark or high tide line, must be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation.

13. **Equipment:** When feasible, and if personnel would not be put into any additional potential hazard, heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance, such as use of wide-treaded equipment or floatation devices.
14. **Suitable Material:** No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts. (See Section 307 of the Clean Water Act)
15. **Wild and Scenic Rivers:** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while that river is in an official study status, unless the Federal agency with direct management responsibility for that river has determined in writing that the proposed activity would not adversely effect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the Federal land management agency in the area (e.g., FWS, National Park Service, USDA Forest Service, Bureau of Land Management). Designated Wild and Scenic River segments in the Los Angeles District include the following:

CALIFORNIA

Bautista Creek, from the San Bernardino National Forest boundary in Section 36, T6S, R2E to the San Bernardino National Forest boundary in Section 2, T6S, R1E. (9.8 miles; USDA Forest Service)

Palm Canyon Creek, from the southern boundary of Section 6, T7S, R5E to the San Bernardino National Forest boundary in Section 1, T6S, R4E. (8.1 miles; USDA Forest Service)

Fuller Mill Creek, from the source of Fuller Mill Creek in the San Jacinto Wilderness to its confluence with the North Fork San Jacinto River. (3.5 miles; USDA Forest Service)

San Jacinto River (North Fork), from the source of the North Fork San Jacinto River at Deer Springs in Mt. San Jacinto State Park to the northern boundary of Section 17, T5S, R2E. (10.2 miles; USDA Forest Service)

Piru Creek, from 0.5 miles downstream of Pyramid Dam at the first bridge crossing to the boundary between Los Angeles and Ventura Counties. (7.3 miles; USDA Forest Service)

Sespe Creek, the main stem from its confluence with Rock Creek and Howard Creek downstream to where it leaves Section 26, T5N, R20W. (31.5 miles; USDA Forest Service)

Sisquoc River, from its origin downstream to the Los Padres National Forest boundary. (33.0 miles; USDA Forest Service)

Cottonwood Creek in the White Mountains, Inyo County, from its headwaters at the spring in Section 27, T4S, R34E to the northern boundary of Section 5, T4S, R34E. (21.5 miles; USDA Forest Service)

Owens River Headwaters, Deadman Creek from the two-forked source east of San Joaquin Peak to 100 feet upstream of Big Springs; the upper Owens River from 100 feet upstream of Big Springs to the private property boundary in Section 19, T2S, R28E; and Glass Creek from its two-forked source to its confluence with Deadman Creek. (19.1 miles; USDA Forest Service)

ARIZONA

Fossil Creek, from the confluence of Sand Rock and Calf Pen Canyons to its confluence with the Verde River. (16.8 miles; USDA Forest Service)

Verde River, from the section line between Section 26 and 27, T13N, R5E, Gila-Salt River meridian to the confluence of Red Creek with the Verde River in Section 34, T9 1/2N, R6E. (40.5 miles; USDA Forest Service)

16. **Aquatic Life Movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.

For coastal watersheds in Los Angeles District known to harbor one or more life stages of anadromous salmonid fishes (e.g., steelhead or salmon), all projects requiring replacement of culverts under road crossings shall consider a bridge crossing design that ensures passage and/or spawning of these species is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources important to anadromous salmonids, including migration of adults and smolts, or rearing and spawning.

17. **Shellfish Production:** No discharge of dredged or fill material may occur in areas of concentrated natural or commercial shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by the Corps' Nationwide Permit (NWP) 4.
18. **Spawning Areas:** Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
19. **Waterfowl Breeding Areas:** Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

20. **Navigation:** No activity may cause more than a minimal adverse effect on the course or capacity of a navigable water. The permittee shall agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expenses to the United States. No claim shall be made against the United States on account of any such removal or alteration.
21. **Water Supply Intakes:** No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
22. **Obstruction of High Flows:** To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water except within the existing river plain unless the primary purpose of the fill is to impound waters.
23. **Adverse Effects from Impoundments:** If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
24. **Proper Maintenance:** Any structure or fill authorized by this RGP shall be maintained, including maintenance to ensure public safety, unless it is later determined that the structure is further contributing to other adverse conditions to private or public property. In such situations, corrective measures will be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination with you and the appropriate Federal and State agencies. Temporary levees constructed to control flows shall not be maintained beyond the current storm season (i.e., maintenance of temporary levees is not authorized after the storm season in which the need arose).
25. **Removal of Temporary Fills:** Temporary fills shall be removed in their entirety and the affected areas returned to pre-existing elevations and revegetated with appropriate native riparian or wetland vegetation common to the area. If an area impacted by such a temporary fill is considered likely to naturally re-establish native riparian or wetland vegetation to a level similar to pre-project or pre-event conditions within two years, you will not be required to do so.
26. **Reports:** You shall provide a concise written report to this office as soon as practicable (within 45 days of completing the project) after completion of any action conducted under this RGP. PROVIDING THIS REPORT IS MANDATORY. This office has additional responsibilities pursuant to consultation with the FWS and NMFS under Section 7 of the ESA. Further, these reports enable us to track the use of this RGP to verify that the minimal effects determination is being met as required by Section 404(e) of the CWA. Failure to provide timely reports

following responses to emergencies is non-compliance with the General Conditions of this RGP and would be considered a violation (33 CFR Part 326.4(d)).

At a minimum the Report shall include the following:

- I. The name, address, e-mail address and telephone number of:
 1. the applicant, and
 2. the applicant's agent (if appropriate)

- II. Full description of the activity including:
 1. description of the emergency and the potential for loss of life or property;
 2. purpose of the activity;
 3. final goal of the entire activity;
 4. location (e.g., latitude/longitude or UTM coordinates; section/township/range on appropriate USGS topo map; electronic map images; Thomas Guide map; or other source to accurately portray project location);
 5. size and description of project area (include maps or drawings showing the areal and lineal extent of the project, and pre- and post-construction photographs);
 6. quantities of materials used;
 7. information on receiving waterbody impacted including:
 - a) name of waterbody
 - b) type of receiving waterbody (e.g., river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland type, etc.)
 - c) temporary/permanent adverse impact(s) in acres/cubic yards/linear feet
 - d) compensatory mitigation in acres/cubic yards/linear feet
 - e) other mitigation steps (to avoid, minimize, compensate); and
 8. information on federally listed or proposed endangered species or designated or proposed critical habitat (notification must be provided to FWS and/or NMFS as appropriate) including:
 - a) temporary/permanent adverse impacts
 - b) compensatory mitigation
 - c) other mitigation steps (to avoid, minimize, compensate).

If there are a substantial number of projects and this requirement would consume large quantities of your staff resources, you may, as an option, submit a comprehensive report providing all of the information requested above. If the project was conducted in an area known to harbor Federally listed or proposed endangered species or designated or proposed critical habitat, you must include a list of measures taken to minimize harm to the species and/or habitat and include an additional copy of the report for the FWS and/or the NMFS, as appropriate. If mitigation was determined to be appropriate for a specific project or group of projects, a mitigation proposal must be submitted to this office for review and approval.

FURTHER INFORMATION:

1. **Congressional Authorities:** Activities conducted under this RGP are authorized pursuant to:
 - (X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **Limits of authorization under RGP 63:**
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. **Limits of Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. **Reliance on Applicant's Data:** The determination of this office that issuance of verification under RGP 63 is not contrary to the public interest was made in reliance on the information provided by the permittee.
5. **Reevaluation:** This office may reevaluate its decision to issue this RGP, or on the verification that any particular activity qualifies for this RGP, at any time circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit verification request or after-action report proves to have been false, incomplete, or inaccurate. See Item 4 above.
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may, in certain situations (such as those specified in 33 CFR 209.170), accomplish the corrective measures by contract or otherwise and bill you for the cost.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

E-Signed by CASTANON.DAVID.J.1231966150
EKEY authentication with ApproveIt

CASTANON.DAVID.J.12319

DAVID J. CASTANON
Chief, Regulatory Division

29 Nov 2013
DATE

CITY COUNCIL

ITEM NO. 6.6



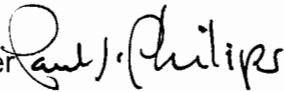
CITY OF INDUSTRY


P.O. Box 3366 • 15625 E. Stafford St. • City of Industry, CA 91744-0366 • (626) 333-2211 • FAX (626) 961-6795

MEMORANDUM

To: City Council

December 3, 2015

From: Paul J. Philips, City Manager 

Staff: Brian James, Planning Director 

Subject: Plot Plan – Outdoor Storage

Overview

This Plot Plan application is proposed by Unical Aviation to construct storage racks for permanent outdoor storage at their facility at 680 Lemon Avenue. Permanent outdoor storage is not permitted unless approved as per Section 17.32.050 of the Municipal Code, which requires approval by the City Council.

Project Description

As shown on the existing site plan (Attachment 1), the 483,169 square foot Unical Aviation facility is located on the southeast corner of Lemon Avenue and Currier Road. The location where the storage racks are proposed is located in the southeast corner of the facility in an area that is paved and shown on the approved site plan as truck parking.

As shown in the proposed site plan and elevations (Attachments 2 and 3), the racks would be 24 feet tall, 17 feet wide, and vary in length from 50 feet to 159 feet. Six single-wide racks and two double-wide racks would be installed. All material storage would be within the 24-foot height of the racks. Screening material on the ends of the racks would help screen the racks from the view of residents in the mobile home park to the south.

According to the applicant, the racks are necessary for the temporary staging of product, which is currently scattered throughout the parking area. In addition, most placement and retrieval of parts and components on and from the racks would be done during the daytime, though some parts and components would be retrieved at night, which is estimated to occur approximately two times each month. All outdoor storage on the property would be consolidated onto the racks except for the brief staging for deliveries.

Location and Surroundings

As shown on the location map (Attachment 4), the project site is located in the southeast corner of Lemon Avenue and Currier Road, at 680 Lemon Avenue. The site is 21.3 acres and is comprised of Los Angeles County Tax Assessor Parcel Numbers (APN) 8760-022-026 and 027. The project

site is home to Unical Aviation, a 483,169 square foot aviation parts distribution facility.

The surrounding area to the immediate west, north, and east consists of industrial warehouses. The Union Pacific railroad tracks adjoin the property on the south, and across the tracks is the Walnut Creek Mobile Estates in the City of Diamond Bar, which is approximately 120 feet south of the nearest point of the proposed outdoor storage area. An approximately 15 foot tall sound wall and berm separate the railroad tracks from the mobile home park.

The approximately 0.6-acre area proposed for outdoor storage racks is paved, striped for 20 truck parking spaces, and used to store materials and supplies. Unaware that the project required City approval, Unical recently installed several storage racks. Work has halted until approvals are obtained. Pictures of the existing racks and construction are provided in Attachment 5.

Staff Analysis

The proposed project is consistent with the Zoning (“M” – Manufacturing) and General Plan (Employment) designations of the site and complies with the following development and design standards in Sections 17.36, *Design Review*, and 17.32.050, *Outside Storage*, of the Industry Municipal Code. Specifically, the project:

- Meets outside storage requirements. Section 17.32.050 requires that the Council consider the impacts to traffic, parking, sight line, fire hazard, rodent control, unsightliness, and other similar criteria. The proposed racks would be located in the rear of the property in an area that is screened from public view by the building itself and a perimeter wall. The racks would not be seen from the nearby mobile homes due to the 15 foot tall sound wall and berm located on the southern side of the railroad tracks. The racks would be located in a paved area striped for truck parking and would not reduce required vehicle parking or landscaping. The proposed project would maintain a 55 foot wide drive-aisle on the southern end of the building and would not block vehicular access or loading. The proposed racks are required to meet all applicable structural and fire codes.
- Meets parking standards. Section 17.36.060.K of the Municipal Code requires 150 parking spaces plus one parking space for every 1,000 square feet over the first 100,000 square feet of building area. Based on this formula, 533 parking spaces are required and 592 parking spaces exist and will be maintained.
- Maintains access requirements. Sections 17.36.060.K and N of the Municipal Code require a minimum driveway and drive-aisle width of 26 feet. The existing driveways of 35 feet in width will not be altered and will continue to provide access from Lemon Avenue. A 55 foot wide internal drive-aisle width is proposed between the proposed storage racks and vehicular parking along the southern side of the building.

Noise

The General Plan calls for the City to respect surrounding non-business uses. Specifically, Policy LU 3-1 of the General Plan states, “Minimize impacts (including noxious fumes, air pollutants, excessive noise, and hazardous materials) to non-business uses through the use of land use regulations, site planning, and design controls.”

Due to the proximity of the residents, a noise analysis was performed as part of the Initial Study that included a comparison to the City of Diamond Bar’s noise standards. The existing noise sources include forklifts and other industrial equipment that are currently occurring on the site.

There are also similar industrial activities at the other industrial buildings to the northeast of Unical Aviation's site. However, the most prominent noise source are the trains. The UPRR line accommodates numerous freight trains and the Metrolink, which operates 12 commuter trains per weekday. Trains produce sound levels between 90 and 100 dBA, as measured approximately 50 feet from the dual-track centerline.

Because the outdoor storage operations are already conducted at the Unical facility, the level of forklift and outdoor activity would not be altered from existing conditions. Accordingly, the noise emissions from activity related to the proposed storage racks would not cause an increase from existing noise levels and would be less than the hourly average ambient noise levels, which are primarily driven by the trains and trucking operations at nearby industrial uses. To minimize noise impacts to nearby residents, a condition of approval is recommended to be included that would limit outdoor loading operations in the rear (south end) of the property between the hours of 7:00 PM and 7:00 AM to five events per month.

Staff recommends that the City Council approve the Plot Plan Application based on the following findings:

- The development is consistent with the provisions of the City's General Plan because the Property is designated as Employment, which allows outdoor storage with approval of a Plot Plan by the City Council. In compliance with Policy LU 3-1 of the General Plan, noise impacts to nearby residents would be minimized by the existing sound wall and by limiting the amount of nighttime loading operations.
- The storage racks will not negatively impact traffic or result in parking deficiencies. The proposed storage racks do not increase habitable area and result in additional employee or truck traffic and will not result in an increase of vehicular trips. The racks will be located in a paved area striped for truck parking and will not reduce required vehicle parking or landscaping. The proposed project will maintain a 55 foot wide drive-aisle on the southern end of the building and will not block vehicular access or loading.
- The storage racks will not be unsightly or impact the sight line of adjacent businesses or residents. The storage racks will be located in the rear of the property in an area that is screened from public view by the building itself and perimeter wall. The racks will not be seen from the nearby mobile homes due to the 15 foot tall sound wall and berm located on the southern side of the railroad tracks. In addition, a screening material will be placed over the ends of the racks to help screen the material stored in the racks.
- Public health and safety will be ensured because the racks will be required to comply with all structural and fire codes and will be used to store airplane components and not hazardous materials. The proposed storage racks will prevent adverse effects upon neighboring properties because noise impacts to nearby residents would be minimized by the existing 15 foot tall sound wall and berm by a condition of approval that limits the amount of nighttime loading operations. The perimeter wall, sound wall, and berm are deemed equivalent to a masonry wall as they serve the purpose of screening the racks and blocking noise. In addition, the material stored in the racks will be airplane components and is not edible or perishable and will not attract rodents or generate odors.

Environmental Analysis

An Initial Study has been prepared in accordance with the California Environmental Quality Act (CEQA) to determine if the proposed use could have a significant impact on the environment (Exhibit A of Attachment 6). The Initial Study determined that the proposed project would not have a significant effect on the environment. The Notice of Intent to adopt a Negative Declaration (Exhibit A of Attachment 6) was posted on the site, fire stations, and council chambers, and published in the San Gabriel Tribune by November 19, 2015.

Recommendation

Because the proposed project complies with the City's development standards, does not pose a significant impact on the environment, and satisfies the above-mentioned findings, Staff recommends that the City Council adopt Resolution No. CC 2015-43 (Attachment 6) approving the Negative Declaration and the Plot Plan Application for permanent outdoor storage with the Standard Requirements and Conditions of Approval contained in the Resolution.

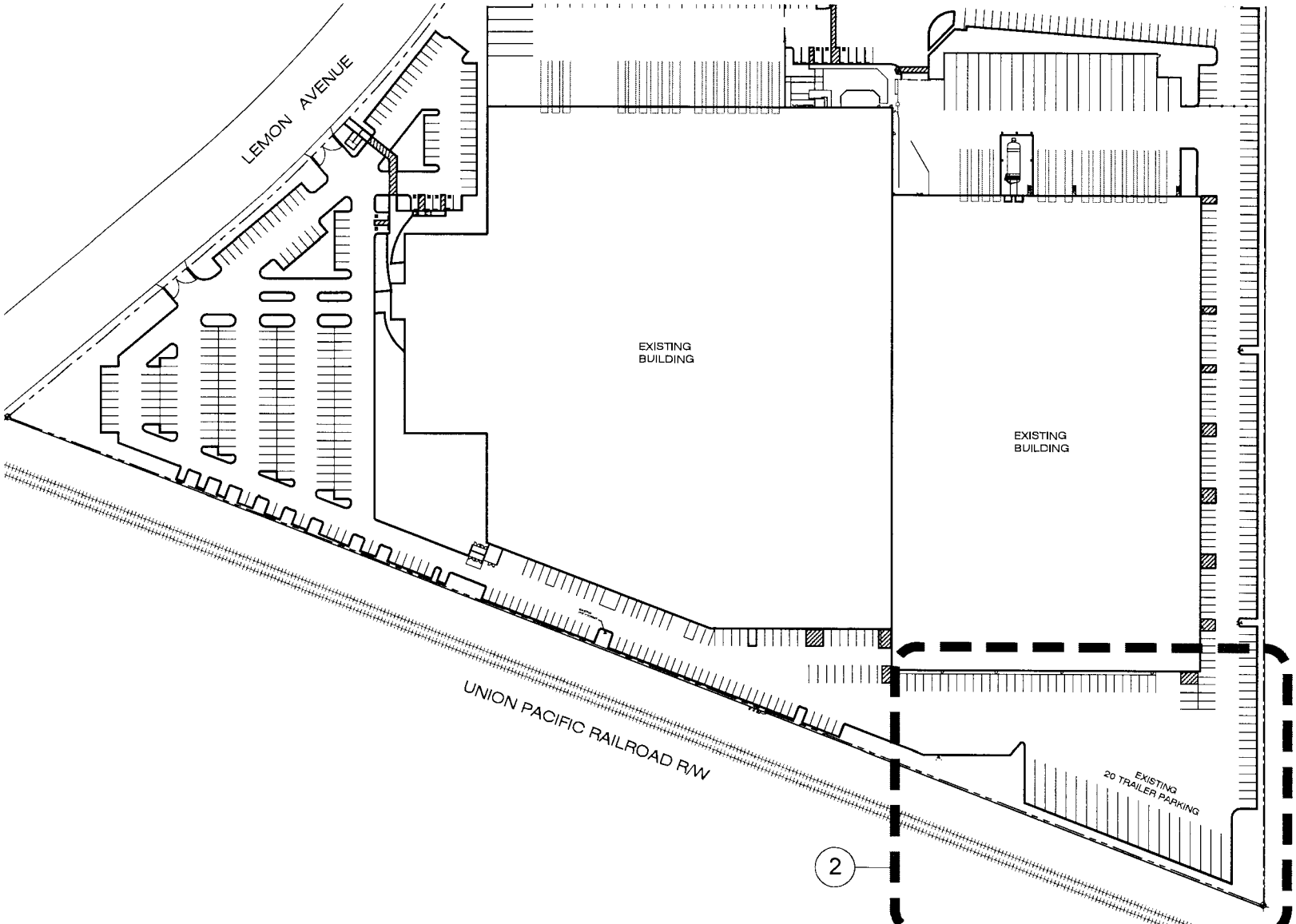
Attachments

- Attachment 1: Existing Site Plan
- Attachment 2: Proposed Site Plan
- Attachment 3: Elevations
- Attachment 4: Location Map
- Attachment 5: Site Photo
- Attachment 6: Resolution No. CC 2015-43

Attachment 1

Existing Site Plan

DP 15-16 Existing Site Plan

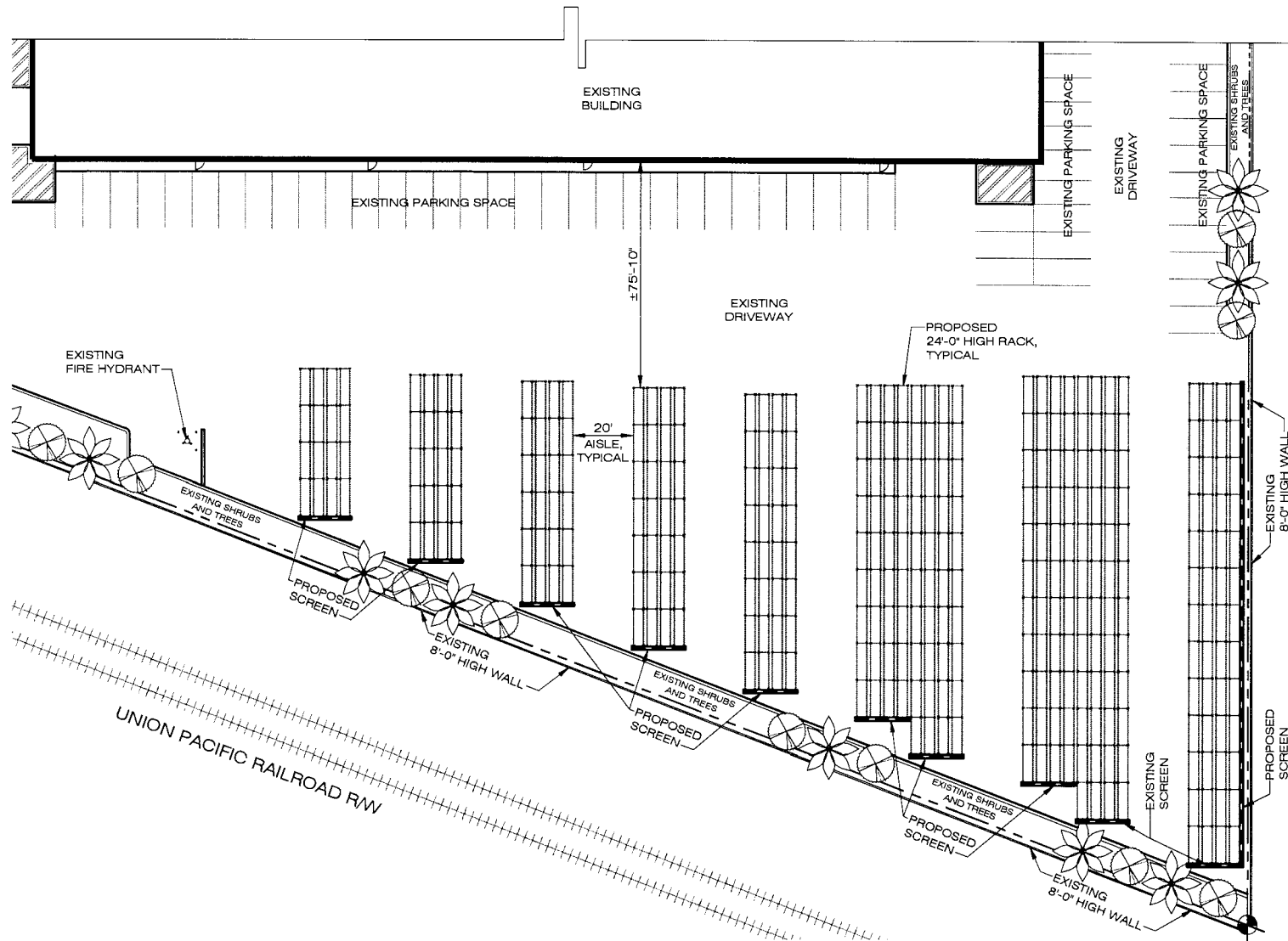


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Attachment 2

Proposed Site Plan

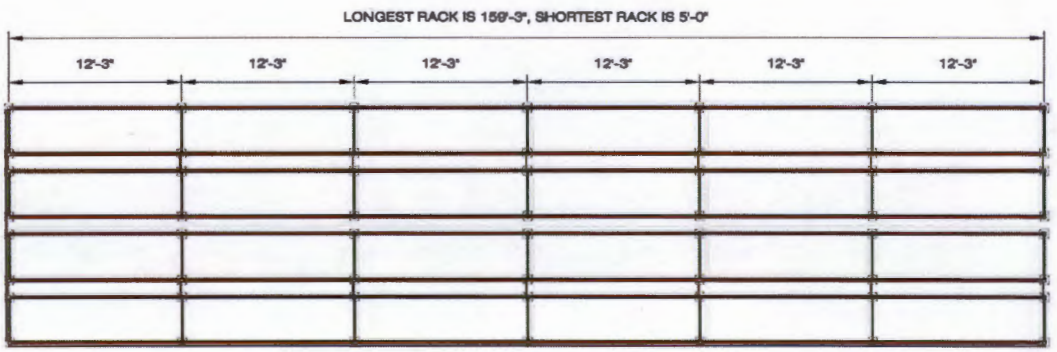
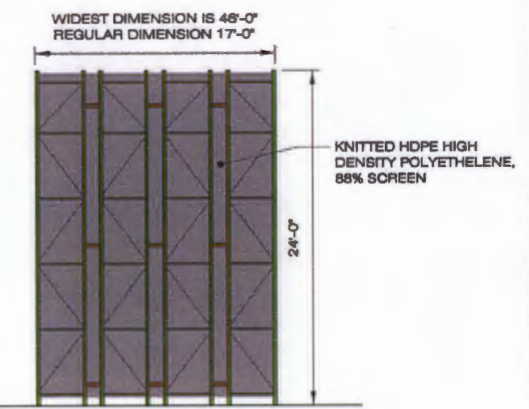
DP 15-16 Proposed Site Plan



Attachment 3:

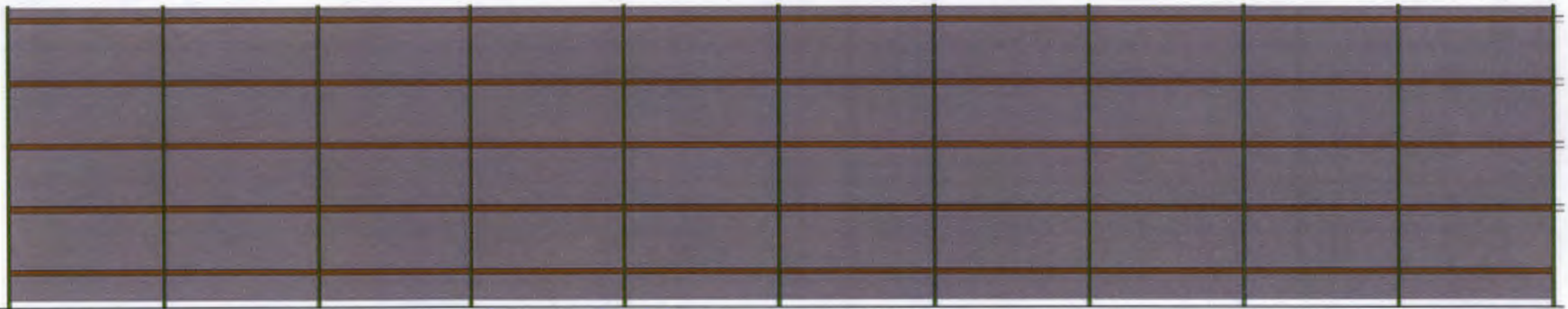
Elevations

DP 15-16 Elevations



Enlarged Elevation Rack Plan Side View 1/8"=1'-0" 3

Enlarged Rack Plan 1/8"=1'-0" 2



Enlarged Rack Elevation Front View 1/8"=1'-0" 1

Attachment 4

Location Map

DP 15-16 Location Map



Attachment 5

Site Photo

DP 15-16 Site Photo



Attachment 6

Resolution No. CC 2015-43

RESOLUTION NO. CC 2015-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, APPROVING A PLOT PLAN TO ALLOW PERMANENT OUTDOOR STORAGE FOR THE PROPERTY LOCATED AT 680 LEMON AVENUE IN THE CITY OF INDUSTRY, WITHIN THE "M"-MANUFACTURING ZONE, AND ADOPTING A NEGATIVE DECLARATION REGARDING SAME

RECITALS

WHEREAS, on September 15, 2015, Unical Aviation, Inc. ("Applicant") filed a complete application requesting the approval of a Plot Plan described herein ("Application"); and

WHEREAS, the Application applies to an existing 483,169 square foot facility located at 680 Lemon Avenue, City of Industry, California, Assessor Parcel Numbers 8760-022-026 and 027 (the "Property"); and

WHEREAS, the Applicant desires to construct storage racks for permanent outdoor storage in the "M" Manufacturing zone and in accordance with Section 17.32.050 of the City's Municipal Code ("Code"), approval by the City Council is required for this type of activity; and

WHEREAS, the Land Use Element of the General Plan designates the Property as Employment. The proposed development is consistent with the General Plan as it would allow for the improvement of an existing industrial building, and does not conflict with the established goals and objectives of the Land Use Element; and

WHEREAS, outside storage is not permitted except as approved via Section 17.32.050 and considering traffic, parking, sight line, fire hazard, rodent control, unsightliness, and other similar criteria; and

WHEREAS, because of the need for additional storage area, the proposed project would place storage racks in the rear of the property in an area that is screened from public view by the building itself and perimeter wall, and would be located in an area that does not reduce required vehicle parking or landscaping and does not block vehicular access or loading; and

WHEREAS, the proposed racks are designed to meet applicable structural and fire codes; and

WHEREAS, an Environmental Assessment form was submitted by the Applicant pursuant to the City's requirements. Based upon the information received and Staff's review and assessment, an Initial Study/Negative Declaration were prepared in accordance with the requirements of the California Environmental Quality Act ("CEQA"), California Public Resources Code section 21000 *et seq.*, the State CEQA Guidelines,

California Code of Regulations, Title 14, Chapter 3, sections 15000 *et seq.*, and the Environmental Impact Report Guidelines of the City of Industry, and the City Council has exercised its independent judgment when considering said Initial Study/Negative Declaration and all public comments received in connection therewith; and

WHEREAS, the Initial Study/Negative Declaration was circulated for public and agency review and comment on November 19, 2015 through, and including, December 9, 2015. Copies of the Initial Study/Negative Declaration were made available to the public at the Planning Department on November 19, 2015, and the Initial Study/Negative Declaration was distributed to interested parties and agencies. On November 19, 2015, a Notice of Intent to Adopt an Initial Study/Negative Declaration (Exhibit A), including the time and place of the Planning Commission meeting to review the Application and Initial Study/Negative Declaration was published in the local newspaper and posted at the project site, City Hall, Council Chambers and Fire Station 118; and

WHEREAS, on December 10, 2015, the City Council of the City of Industry conducted a duly noticed public meeting on the Application, and considered all testimony written and oral; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, it is hereby found, determined and resolved by the City Council of the City of Industry as follows:

SECTION 1: The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

SECTION 2: All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State law and the City's Code.

SECTION 3: In accordance with CEQA, the City Council has considered the Initial Study and Negative Declaration for the Project, including all comments received on the Initial Study and Negative Declaration, and based on the entirety of the record, as described above, the City Council, exercising its independent judgment and analysis, makes the following findings regarding the environmental analysis of the Project:

A. Design features of the Project will operate to ensure the impacts of the proposed Project will not exceed established CEQA thresholds of significance.

B. For the reasons stated in this Resolution, the City Council finds that there is no substantial evidence in the record supporting a fair argument that approval of the Project will result in a significant environmental effect.

Based upon the foregoing findings, the City Council hereby approves the Initial Study/Negative Declaration for the Project contained in Exhibit A, attached hereto, and incorporated herein by reference.

SECTION 4: Based upon substantial evidence presented to the City Council during the December 10, 2015 public meeting, including public testimony and written and oral staff reports, and which includes without limitation, CEQA, the CEQA Guidelines, the Negative Declaration, and the City's Code, the City Council finds as follows:

A. The development is consistent with the provisions of the City's General Plan because the Property is designated as Employment, which allows outdoor storage with approval of a Plot Plan by the City Council. In compliance with Policy LU 3-1 of the General Plan, noise impacts to nearby residents would be minimized by the existing sound wall and by limiting the amount of nighttime loading operations.

B. The storage racks will not negatively impact traffic or result in parking deficiencies. The proposed storage racks do not increase habitable area and result in additional employee of truck traffic and will not result in an increase or vehicular trips. The racks will be located in a paved area striped for truck parking and will not reduce required vehicle parking or landscaping. The proposed project will maintain a 55 foot wide drive-aisle on the southern end of the building and will not block vehicular access or loading.

C. The storage racks will not be unsightly or impact the sight line of adjacent businesses or residents. The storage racks will be located in the rear of the property in an area that is screened from public view by the building itself and perimeter wall. The racks will not be seen from the nearby mobile homes due to the 15 foot tall sound wall and berm located on the southern side of the railroad tracks. In addition, a screening material will be placed over the ends of the racks to help screen the material stored in the racks.

D. Public health and safety will be ensured because the racks will be required to comply with all structural and fire codes and will be used to store airplane components and not hazardous materials. The proposed storage racks will prevent adverse effects upon neighboring properties because noise impacts to nearby residents would be minimized by the existing 15 foot tall sound wall and berm by a condition of approval that limits the amount of nighttime loading operations. The perimeter wall, sound wall, and berm are deemed equivalent to a masonry wall as they serve the purpose of screening the racks and blocking noise. In addition, the material stored in the racks will be airplane components and is not edible or perishable and will not attract rodents or generate odors.

Based upon the foregoing findings, the City Council hereby approves the Application and the conditions contained in Exhibit B, attached hereto, and incorporated herein by reference.

SECTION 4. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 5. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Industry at a regular meeting held on December 10, 2015 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Mark D. Radecki, Mayor

ATTEST:

Cecelia Dunlap, Deputy City Clerk

EXHIBIT A
INITIAL STUDY/NEGATIVE
DECLARATION

**NOTICE OF INTENT TO ADOPT A
NEGATIVE DECLARATION
DEVELOPMENT PLAN 15-160
680 LEMON AVENUE, CITY OF INDUSTRY**

Purpose: In accordance with the State of California Public Resources Code Section 21092, Title 14 of the California Code of Regulations Guidelines for implementation of Section 15063 of the California Environmental Quality Act, and the Industry Municipal Code, this is to advise you that the Planning Department of the City of Industry has prepared an initial study of environmental impacts on the following project and is recommending the environmental determination described below.

Project Description: The project is proposed by Unical Aviation to construct storage racks for permanent outdoor storage. The racks would be 24 feet tall, 17 feet wide, and vary in length from 50 feet to 159 feet. Six single-wide racks and two double-wide racks would be installed.

Location: The proposed project is located at 680 Lemon Avenue in the City of Industry, Los Angeles County (Assessor Parcel Numbers 8760-022-026 and 027).

Environmental Determination: Based on the findings of the Initial Study, the Planning Department has determined that the proposed project would not result in significant environmental impacts. Accordingly, the City intends to adopt a Negative Declaration pursuant to Section 21080 (c) of the Public Resources Code.

The project site is not included on the list of hazardous materials facilities, hazardous waste properties, or hazardous waste disposal sites named under Section 65962.5 of the California Government Code (Cortese List).

Public Review and Comment Period: Copies of the proposed Negative Declaration and Initial Study are available in the Planning Department at the address listed below. **A 20-day public review period for the Negative Declaration begins November 19, 2015, and ends December 9, 2015.** Written comments on the adequacy of the document must be received by the City prior to 5:00 PM on December 9, 2015. If you would like to comment, please send written comments to:

Brian James, Planning Director
15625 E. Stafford Street, Suite 100
P.O. Box 3366
City of Industry, CA 91744
bdjames@cityofindustry.org
(626) 333-2211

Public Hearings: The City Council is scheduled to consider the Negative Declaration and proposed project at a regularly scheduled meeting to be held on December 10, 2015, at 9:00 AM in the City of Industry Council Chambers located at 15651 E. Stafford Street, City of Industry, CA 91744. To confirm the date and time of the meeting, please check the City's website: www.cityofindustry.org.

October 2015 | Initial Study

UNICAL AVIATION OUTSIDE STORAGE

Development Plan 15-16, City of Industry

Prepared for:

City of Industry

Contact: Brian James, Planning Director
15625 East Stafford, Suite 100
City of Industry, California 91774-0366
626.333.2211

Prepared by:

PlaceWorks

Contact: Dwayne Mears, Principal, Environmental Services
3 MacArthur Place, Suite 1100
Santa Ana, California 92707
714.966.9220
info@placeworks.com
www.placeworks.com

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1. Introduction

Unical Aviation is seeking approval of Development Plan 15-16 for the construction of outdoor storage racks on part of an existing Unical Aviation industrial property at 680 South Lemon Avenue in the City of Industry.

This Initial Study has been prepared in accordance with the California Environmental Quality Act (CEQA), as amended, to determine if approval of the discretionary action requested and subsequent development could have a significant impact on the environment. This analysis will also provide the City of Industry with information to document the potential impacts of the proposed project.

1.1 PROJECT LOCATION

The project site is in the City of Industry in the San Gabriel Valley in Los Angeles County, California. The City of Industry extends approximately 14 miles east-west across the southern San Gabriel Valley (see Figure 1, *Regional Location*). The San Gabriel Valley extends east-west from near central Los Angeles on the west to the eastern Los Angeles County boundary, and is bounded to the north by the San Gabriel Mountains and to the south by the Puente Hills. Regional access to the site is from the Pomona Freeway (State Route [SR] 60) via the Brea Canyon Road interchange.

The project site is on the east side of Lemon Avenue, between Currier Road and the Southern Pacific railroad tracks (see Figure 2, *Local Vicinity*, and Figure 3, *Aerial Photo*). Unical Aviation is at 680 South Lemon Avenue, and the Los Angeles County Tax Assessor's Parcel Number (APN) is 8760-22-207. The site is flat, with a northwest slope of about 1 percent grade. The area south of the railroad tracks is in the City of Diamond Bar.

1.2 ENVIRONMENTAL SETTING

1.2.1 Existing Land Use

The project site is an existing industrial warehouse for the refurbishment, storage, movement, and sales of aircraft parts and components for commercial and military aircraft. The entire property is developed except for landscaping along the perimeter and along the building front. The 0.6-acre area proposed for outdoor storage racks is paved and has previously been used to store materials, supplies, and vehicles. The rack site has 20 truck parking spaces that are not used because they are not adjacent to any truck docking or loading/unloading bays. Unaware that the project required City approval, Unical recently installed several storage racks. Further work has halted until approvals are obtained.

The rack site and parking lots northwest and southwest of the rack site are currently used for storage.

1. Introduction

1.2.2 Surrounding Land Use

The surrounding area to the immediate west, north, and east consists of similar large industrial warehouses. The Union Pacific railroad tracks adjoin the property on the south, and across the tracks is the Walnut Creek Mobile Estates in the City of Diamond Bar, which is only about 120 feet from the nearest point of the proposed outdoor storage area.

There are two schools within one-quarter mile of the project site. Walnut Elementary School in the City of Diamond Bar is south of the railroad tracks, about 900 feet from the proposed storage racks. Another school, Ron Hockwalt Academies (a continuation high school) is a minimum of 380 feet north of the Unical Aviation property and 1,200 feet from the outdoor storage area.

1.3 PROJECT DESCRIPTION

1.3.1 Proposed Land Use

Unical Aviation has a facility at the San Bernardino International Airport that used to dismantle airplanes for long-term parts storage. The City of Industry facility on South Lemon Avenue is the company's hub and is used to refurbish and store parts, stage orders, and ship to customers. The company is seeking to erect outdoor storage racks to improve its ability to stage and fill orders. Figure 4, *View of Outdoor Storage Area*, shows that the company already constructed the foundations and erected some of the racks before stopping at the request of the City. The company has submitted an application for Development Plan approval under Municipal Code Section 17.32.050.

Figure 5, *Existing Site Plan and Proposed Storage Rack Layout*, shows the existing site plan for the entire 21.3-acre Unical property and the layout of racks proposed for the eastern corner. As shown in Figure 6, *Rack Design*, the racks are 24 feet tall, and the lengths vary from 50 feet to 159 feet 3 inches. Figure 7, *View of Screen Material*, shows the screen material that is used on the ends of each rack. Each rack would be 17 feet wide. Six single-wide racks and two double-wide racks would be installed.

All material storage would be within the 24-foot height of the racks. Screening material on the southeast ends of the racks would screen the interiors from the view of residents in the mobile home park to the south.

No new lighting is proposed. There is existing exterior building lighting on the south wall of the building next to the proposed rack site. Most placement and retrieval of parts and components on and from the racks would be done during the daytime, though some parts and components would be retrieved at night for shipments. All outdoor storage on the property would be consolidated onto the racks except for brief staging for deliveries.

1.3.2 Project Phasing

The racks would be erected in one phase. The foundations were previously constructed. Rack installation would require 36 workdays, and asphalt paving would require 1 day.

1. Introduction

1.4 EXISTING ZONING AND GENERAL PLAN

The existing zoning for the project site is Industrial (I), and the general plan land use designation is Employment. The proposed project would be consistent with the general plan and is allowed under the current zoning designation.

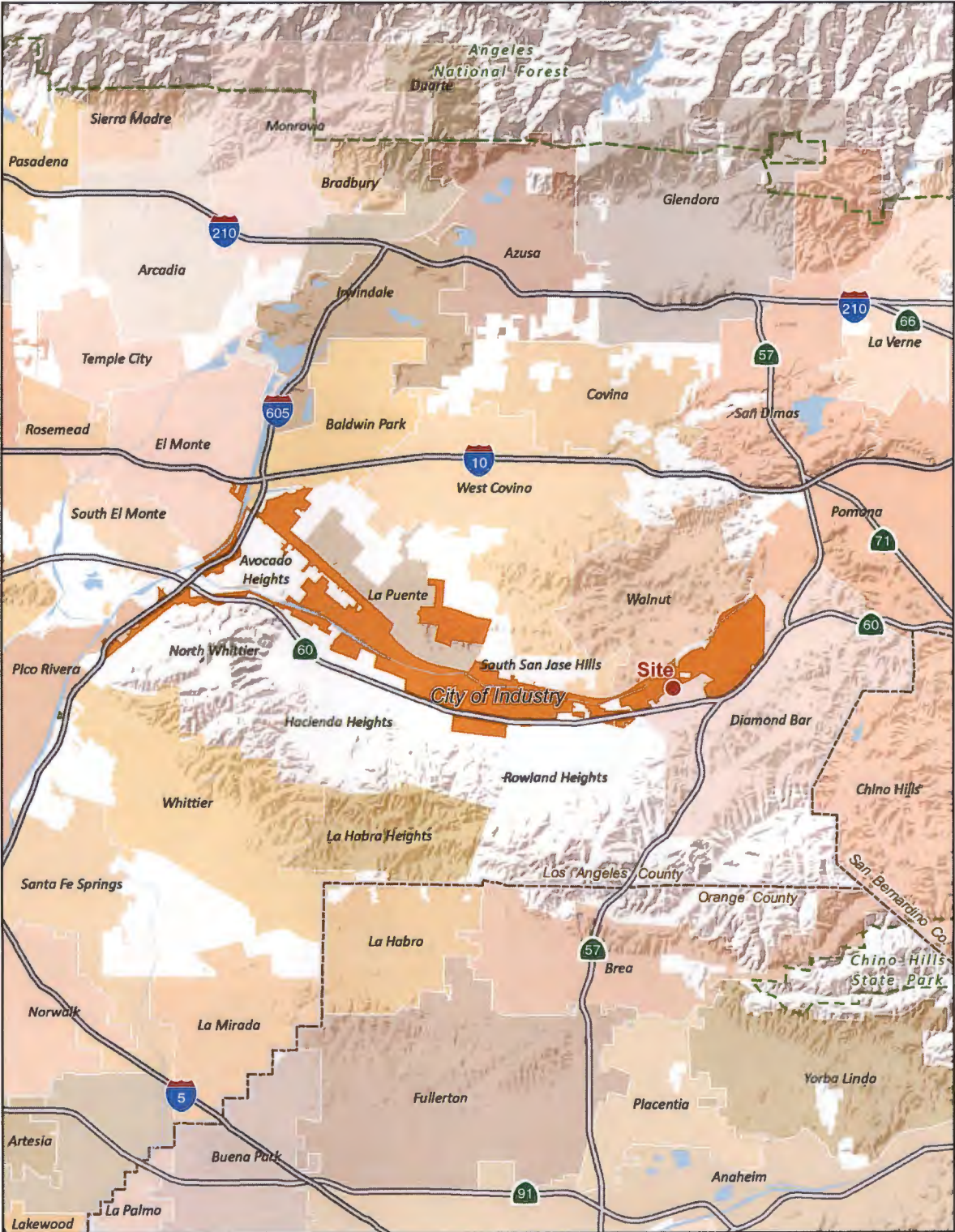
1.5 CITY ACTION REQUESTED

Unical Aviation is seeking approval of Development Plan 15-16 for the construction of outdoor storage racks.

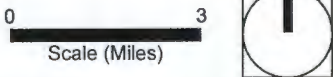
1. Introduction

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Figure 1 - Regional Location
1. Introduction



Note: Unincorporated county areas shown in white.

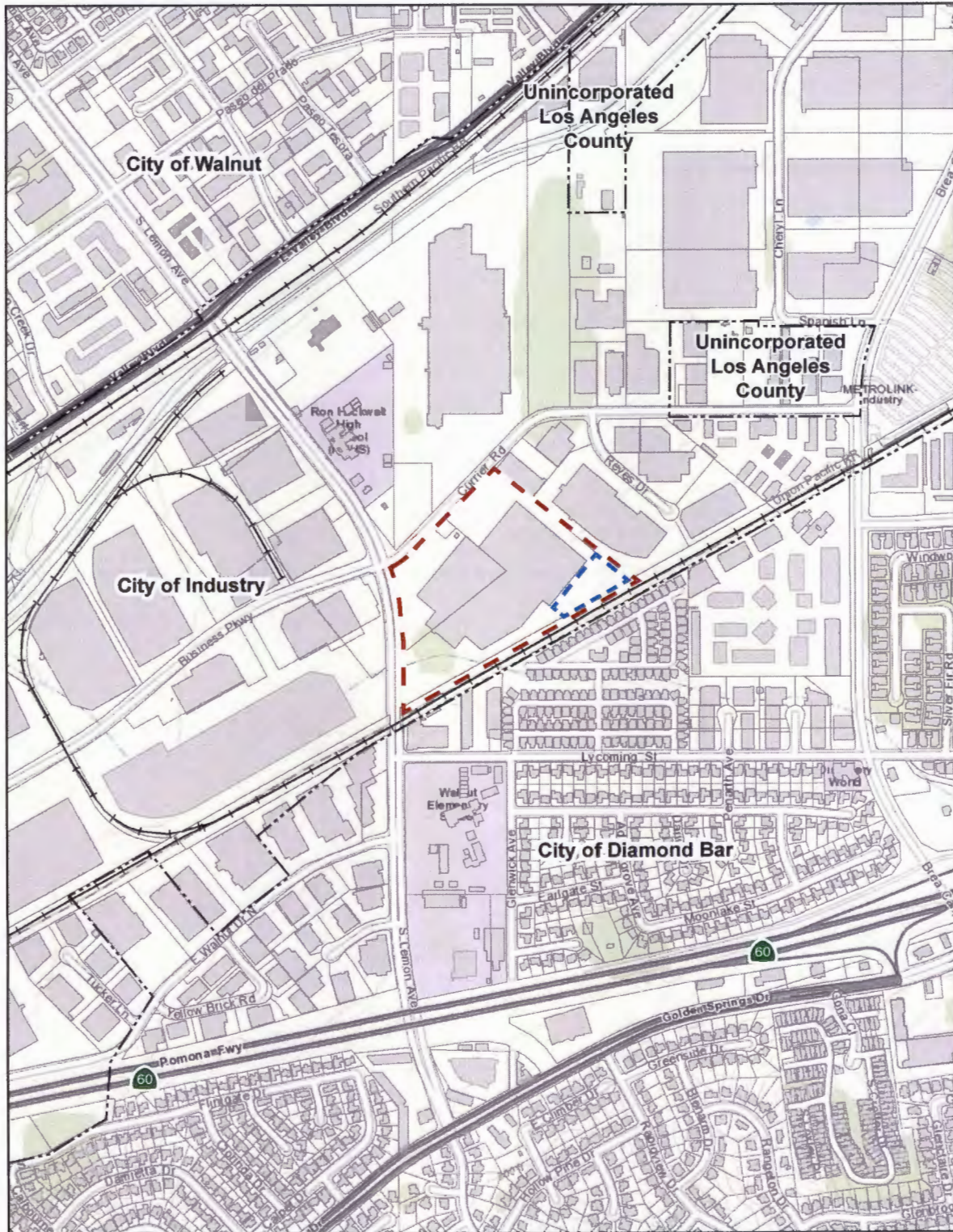


Source: ESRI, 2015.

1. Introduction

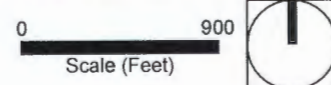
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Figure 2 - Local Vicinity
1. Introduction



--- Unical Property - - - - - City Boundary
- - - - - Project Site

Source: ESRI, 2015.



1. Introduction

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Figure 3 - Aerial Photograph of Project Site and Vicinity
1. Introduction



--- Unical Property - - - - City Boundary

- - - - Project Site

0 400
Scale (Feet)



Source: Google Earth Pro, 2015

1. Introduction

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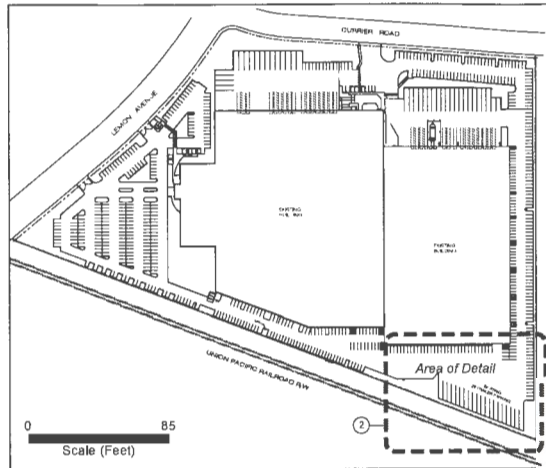
Figure 4 - View of Outside Storage Area
1. Introduction



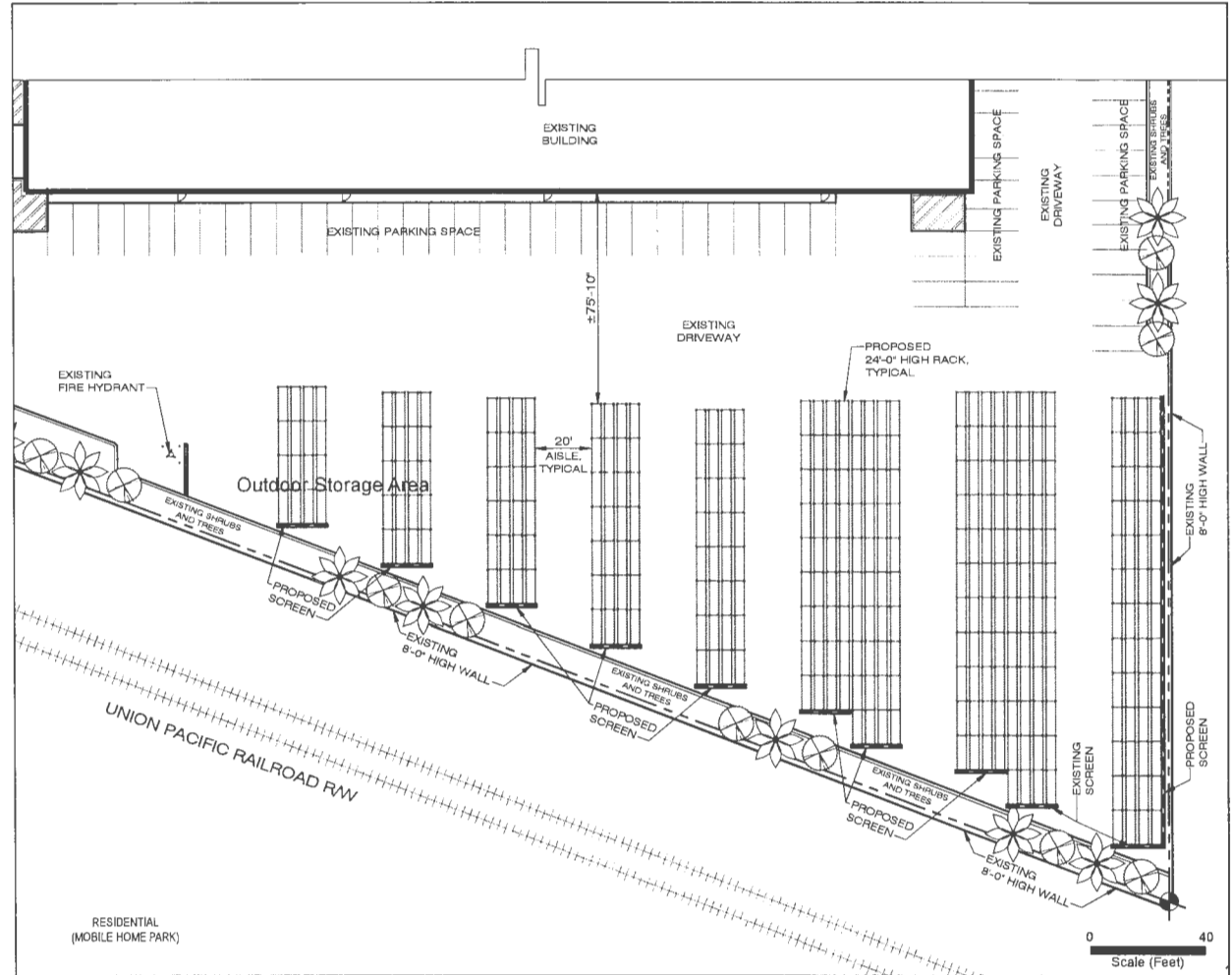
1. Introduction

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Figure 5 - Existing Site Plan and Proposed Storage Rack Layout
1. Introduction



Existing Site Plan



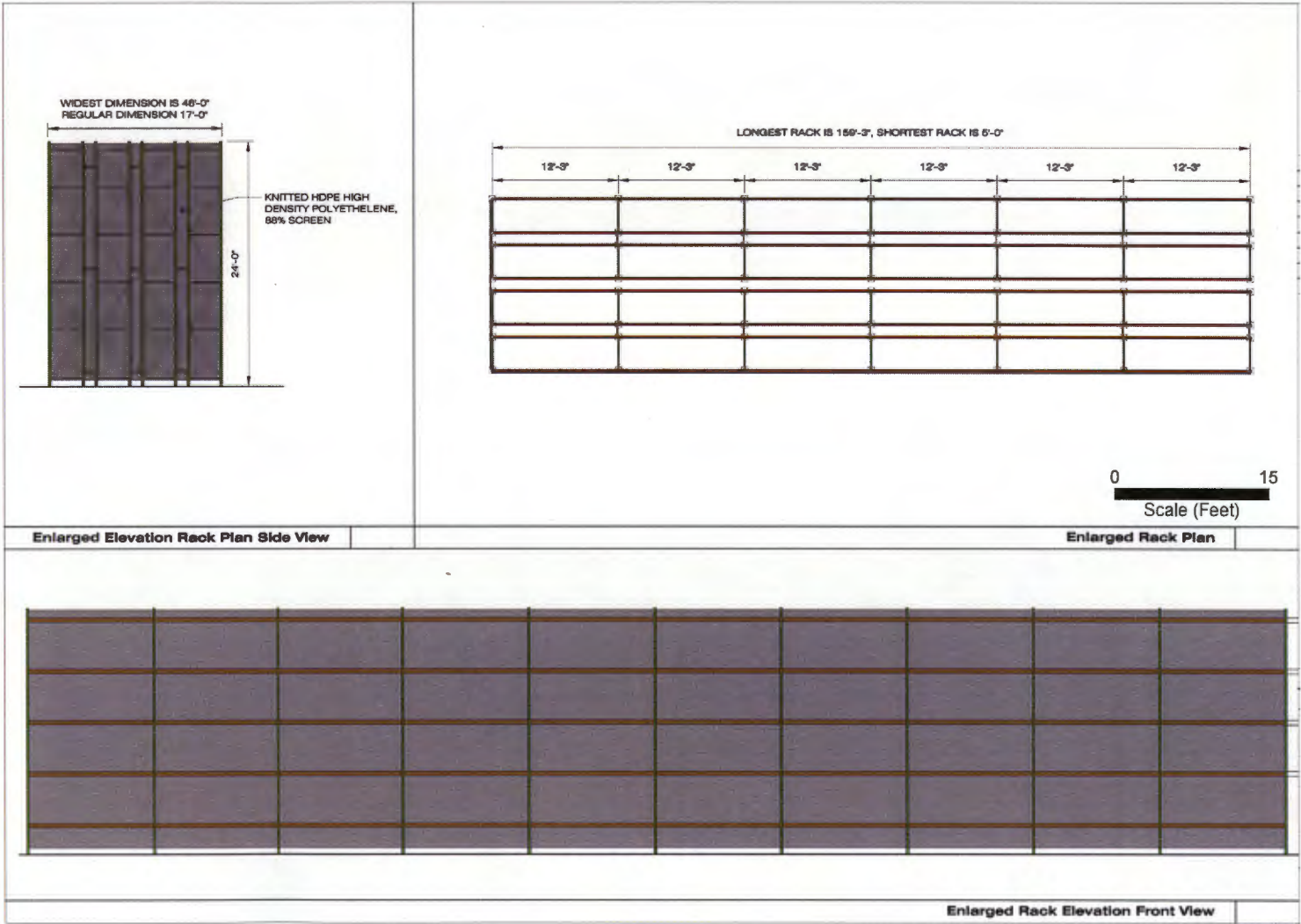
Outdoor Storage Area



1. Introduction

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Figure 6 - Rack Design
1. Introduction



1. Introduction

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Figure 7 - View of Screen Material
1. Introduction



1. Introduction

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2. Environmental Checklist

2.1 BACKGROUND

1. **Project Title:** Unical Aviation Outdoor Racks

2. **Lead Agency Name and Address:**

City of Industry
15625 East Stafford, Suite 100
P.O. Box 3366
City of Industry, CA 91744-0366

3. **Contact Person and Phone Number:**

Brian James, Planning Director
626.333.2211

4. **Project Location:** 680 South Lemon Avenue, City of Industry, CA 91789

5. **Project Sponsor's Name and Address:**

Horizon Pacific Construction Inc.
20888 Amar Road Suite 203
Walnut, CA 91789

6. **General Plan Designation:** Employment

7. **Zoning:** Industrial (I).

8. **Description of Project:**

The City of Industry facility is the company's hub and is used to refurbish and store parts, stage orders, and ship to customers. The company is seeking to erect outdoor storage racks to improve its ability to stage and fill orders. The company already constructed foundations and erected some of the racks before stopping at the City's request. The company has submitted an application for Development Plan approval under Municipal Code Section 17.32.050.

The racks are proposed for the eastern corner. They would be 24 feet tall, and the lengths vary from 50 feet to 159 feet 3 inches. Screening material would be used on the ends of each rack to block views from the residences to the south..

9. **Surrounding Land Uses and Setting:**

The surrounding area to immediate west, north, and east consists of similar large industrial warehouses. Adjoining the property to the south is the Union Pacific railroad tracks, and adjacent to the tracks on the south is residential, the Walnut Creek Mobile Estates, which is only about 120 feet from the proposed outdoor storage area.

2. Environmental Checklist

Two schools are within one-quarter mile of the project site. Walnut Elementary School is south of the railroad tracks, about 900 feet from the proposed storage racks. A continuation high school, Ron Hockwalt Academies, is a minimum of 380 feet north of the Unical Aviation property and 1,200 feet from the outdoor storage area.

-
- 10. Other Public Agencies Whose Approval Is Required** (e.g., permits, financing approval, or participation agreement):
- Los Angeles County Fire Department
 - Los Angeles County Building Department

2. Environmental Checklist

2.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact,” as indicated by the checklist on the following pages.

<input type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture and Forestry Resources	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Geology/Soils
<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Hazards & Hazardous Materials	<input type="checkbox"/> Hydrology/Water Quality
<input type="checkbox"/> Land Use/Planning	<input type="checkbox"/> Mineral Resources	<input type="checkbox"/> Noise
<input type="checkbox"/> Population/Housing	<input type="checkbox"/> Public Services	<input type="checkbox"/> Recreation
<input type="checkbox"/> Transportation/Traffic	<input type="checkbox"/> Utilities/Service Systems	<input type="checkbox"/> Mandatory Findings of Significance

2.3 EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors, as well as general standards (e.g. the project would not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) **Earlier Analysis Used.** Identify and state where they are available for review.
 - b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

2. Environmental Checklist

- c) **Mitigation Measures.** For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
- the significance criteria or threshold, if any, used to evaluate each question; and
 - the mitigation measure identified, if any, to reduce the impact to less than significant.

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X

2. Environmental Checklist

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X

2. Environmental Checklist

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map, issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
VII. GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X

2. Environmental Checklist

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
IX. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g. the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in a substantial erosion or siltation on- or off-site				X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X

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Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
XII. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	

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Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
XIV. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?			X	
b) Police protection?				X
c) Schools?				X
d) Parks?				X
e) Other public facilities?				X
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
XVI. TRANSPORTATION/TRAFFIC. Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?			X	
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X

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Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				X
g) Result in inadequate parking capacity?				X
XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed waste water treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or waste water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources or are new or expanded entitlements needed?			X	
e) Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

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3. Environmental Analysis

Section 2.3 provided a checklist of environmental impacts. This section provides an evaluation of the impact categories and questions in the checklist.

3.1 AESTHETICS

a) Have a substantial adverse effect on a scenic vista?

No Impact. Project development would not block a scenic vista. The existing Unical Aviation building, and an approximately 15-foot-high sound wall and berm along railroad tracks, block views of the San Gabriel Mountains to the north from the Walnut Creek Mobile Estates south of the site. The project site is surrounded to the north and west by industrial land uses and to the east by Union Pacific railroad tracks and a sound wall along the south edge of the railroad right-of-way. Thus, there are no scenic vistas to the south, east, or west of the site that would be blocked by development of the project. No impact would occur.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. There are no scenic resources onsite. The nearest state scenic highway to the project site is State Route 91 (SR-91) about 12 miles to the south (Caltrans 2011). Project development would not impact scenic resources, including resources in a state scenic highway.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

No Impact. The paved project site is used to store materials, supplies, and vehicles; it is surrounded by the Unical Aviation building to the north and west and an adjoining industrial property to the northeast. A tall hedge along the southeast boundary screens the Unical Aviation property from the Union Pacific railroad tracks. The site is only visible from parts of the Unical Aviation property.

The ends of the proposed racks would be covered with architectural screens similar to those used on some tennis courts. The project would result in some aesthetic improvement to the site and no adverse impact would occur.

d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?

No Impact. The project would not involve installation of lights. The proposed architectural screens would not generate glare. Considering the surrounding industrial uses, sound wall and berm, and hedge, nighttime use of forklifts onsite would not generate light that would adversely affect nighttime views. No impact would occur.

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3.2 AGRICULTURE AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

No Impact. The project site is not mapped on the California Important Farmland Finder maintained by the Division of Land Resource Protection (DLRP 2015). Project development would not convert mapped important farmland to nonagricultural uses, and no impact would occur.

- b) **Conflict with existing zoning for agricultural use, or a Williamson Act contract?**

No Impact. The project site is zoned for industrial use and is not zoned for agricultural use. Williamson Act contracts restrict the use of privately owned land to agriculture and compatible open-space uses under contract with local governments; in exchange, the land is taxed based on actual use rather than potential market value. There are no Williamson Act contracts in effect for the project site. No impact would occur.

- c) **Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?**

No Impact. The project site is zoned for industrial use and is not zoned for forest land, timberland, or timberland production use. No impact would occur.

- d) **Result in the loss of forest land or conversion of forest land to non-forest use?**

No Impact. The project site is a paved portion of an industrial property, and project development would not impact forest land.

- e) **Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?**

No Impact. Development of the project would not indirectly impact farmland or forest land. The project site is surrounded by industrial uses to the north, west, and northeast, and by railroad tracks and residential uses to the south.

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3.3 AIR QUALITY

The Air Quality section addresses the impacts of the proposed project on ambient air quality and the exposure of people, especially sensitive individuals, to unhealthy pollutant concentrations.

The primary air pollutants of concern for which ambient air quality standards (AAQS) have been established are ozone (O₃), carbon monoxide (CO), coarse inhalable particulate matter (PM₁₀), fine inhalable particulate matter (PM_{2.5}), sulfur dioxide (SO₂), nitrogen dioxides (NO₂), and lead (Pb). Areas are classified under the federal and California Clean Air acts as either in attainment or nonattainment for each criteria pollutant based on whether the AAQS have been achieved. The South Coast Air Basin (SoCAB), which is managed by the South Coast Air Quality Management District (SCAQMD), is designated nonattainment for O₃ and PM_{2.5} under the California and National AAQS, nonattainment for PM₁₀ under the California AAQS, and nonattainment for lead (Los Angeles County only) under the National AAQS (CARB 2014a).¹

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

a) Conflict with or obstruct implementation of the applicable air quality plan?

Less Than Significant Impact. A consistency determination plays an important role in local agency project review by linking local planning and individual projects to the air quality management plan (AQMP). It fulfills the CEQA goal of informing decision makers of the environmental efforts of the project under consideration at an early enough stage to ensure that air quality concerns are fully addressed. It also provides the local agency with ongoing information as to whether they are contributing to clean air goals in the AQMP. The most recent adopted comprehensive plan is the 2012 AQMP, adopted on December 7, 2012.

Regional growth projections are used by SCAQMD to forecast future emission levels in the SoCAB. For southern California, these regional growth projections are provided by the Southern California Association of Governments (SCAG) and are partially based on land use designations in city/county general plans. Typically, only large, regionally significant projects have the potential to affect the regional growth projections. The proposed project is not considered a regionally significant project that would warrant Intergovernmental Review by SCAG under CEQA Guidelines Section 15206.

The proposed project involves installation of storage racks at an existing industrial warehouse. Installation of the racks would not lead to an increase in employment at the Unical facility. Also, the proposed project would not affect the land use, which is consistent with the underlying City of Industry General Plan land use designation. Therefore, it would not have the potential to substantially affect the regional growth projections. Additionally, the regional emissions generated by construction and operation of the proposed project would be less than the SCAQMD emissions thresholds. Therefore, SCAQMD would not consider the project a substantial source of air pollutant emissions that would have the potential to affect the attainment

¹ On May 24, 2012, CARB approved the State Implementation Plan (SIP) revision for the federal lead standard, which the EPA revised in 2008. Lead concentrations in this nonattainment area have been below the level of the federal standard since December 2011. The SIP revision was submitted to the EPA for approval.

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designations in the SoCAB. The project would not affect the regional emissions inventory or conflict with strategies in the AQMP. Impacts are less than significant and no mitigation measures are required.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Less Than Significant Impact. The following evaluates project-related impacts from short-term construction activities and long-term operation of the project.

Short-Term Air Quality Impacts

Construction activities of the proposed project would result in the generation of air pollutants. These emissions would primarily be exhaust emissions from off-road diesel-powered construction equipment, dust generated by construction activities, and exhaust emissions from on-road vehicles. Based on the construction information provided by the applicant, proposed installation of racks is expected to last 36 workdays, followed by one day of asphalt paving. Installation would involve use of one propane-powered forklift and two lifts. Asphalt paving would require one roller and one paver. Installation and paving would each require two workers. The project would not involve grading or other substantial ground disturbance and would not involve the use of heavy earthmoving equipment. The scale and duration of the construction activities would be negligible, resulting in minimal construction emissions that would not exceed the SCAQMD regional significance thresholds. Therefore, impacts from project-related construction activities to the regional air quality would be less than significant and no mitigation is required.

Long-Term Air Quality Impacts

Installation of the racks would not lead to an increase in employment at the Unical facility, and the racks would store material that is currently stored on parking lots. As a result, the project would not generate an increase in vehicle trips and associated mobile-source emissions. Project operation would not involve a substantial increase in forklift operation related to outdoor storage, and thus would not cause a substantial increase in emissions from such forklift use. The project would not result in a net increase in long-term criteria air pollutant emissions. Therefore, there would be no impact to the regional air quality from project-related operation activities, and no mitigation measures are required.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Less Than Significant Impact. The SoCAB is designated nonattainment for O₃ and PM_{2.5} under the California and National AAQS, nonattainment for PM₁₀ under the California AAQS, and nonattainment for lead under the National AAQS (CARB 2014a). According to SCAQMD methodology, any project that does not exceed or can be mitigated to less than the daily threshold values would not add significantly to a cumulative impact (SCAQMD 1993). Construction emissions would be minimal and would not result in emissions in excess of SCAQMD's significance thresholds. In addition, project operation would not generate an increase in regional criteria air pollutant emissions in the SoCAB. Therefore, the project would not result in

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a cumulatively considerable net increase in criteria pollutants, and impacts would be less than significant. No mitigation measures are required.

d) Expose sensitive receptors to substantial pollutant concentrations?

Less Than Significant Impact. The project could expose sensitive receptors to elevated pollutant concentrations if it would cause or contribute significantly to elevated pollutant concentration levels.

Localized significance thresholds (LSTs) are based on the California AAQS, which are the most stringent AAQS that have been established to provide a margin of safety in the protection of the public health and welfare. They are designed to protect those sensitive receptors most susceptible to further respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Long-term operation of the proposed project would not generate an increase in criteria pollutants on- or off-site, and therefore no localized air pollutant impacts would occur.

Construction LSTs

The closest sensitive receptors are residents in the mobile home park that is approximately 120 feet south of the proposed project site. In accordance with SCAQMD methodology, only on-site stationary sources and mobile equipment occurring on the project site are included in the analysis. Construction activities associated with the construction of the proposed project are not very extensive and do not involve the use of a large number of off-road construction equipment. Construction of the proposed project would involve rack installation and asphalt paving. However, the scale and duration of these activities would be negligible and would not create substantial criteria air pollutants.

Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations. Impacts would be less than significant and no mitigation measures are required.

e) Create objectionable odors affecting a substantial number of people?

Less Than Significant Impact. The proposed project would not result in objectionable odors. The threshold for odor is if a project creates an odor nuisance pursuant to SCAQMD Rule 402, Nuisance, which states:

A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property. The provisions of this rule shall not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.

The type of facilities that are considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating

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operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. Installation and use of the proposed racks would not result in the types of odors generated by the aforementioned land uses. Emissions from construction equipment, such as diesel exhaust and volatile organic compounds from paving activities, may generate odors. However, these odors would be low in concentration, temporary, and not expected to affect a substantial number of people. Therefore, odor impacts would be less than significant and no mitigation measures are required.

3.4 BIOLOGICAL RESOURCES

- a) **Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?**

No Impact. Project development would not impact sensitive species directly or through impacts to habitat. The project site is a paved portion of an industrial property used for storage of materials and vehicles. No suitable habitat for sensitive species is present onsite. No impact would occur.

- b) **Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?**

No Impact. Sensitive natural communities are natural communities that are considered rare in the region by regulatory agencies, known to provide habitat for sensitive animal or plant species; or known to be important wildlife corridors. Riparian habitats occur along the banks of rivers and streams.

- c) **Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

No Impact. Wetlands are defined under the federal Clean Water Act as land that is flooded or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that normally does support, a prevalence of vegetation adapted to life in saturated soils. Wetlands include areas such as swamps, marshes, and bogs. The site is paved, and there are no wetlands onsite. No impact would occur.

- d) **Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

No Impact. The site is paved and is in an area built out with industrial, railroad, and residential uses; thus, the site is not available for overland wildlife movement. Shrubs and trees comprising the hedge next to the southeast site boundary could be used for nesting by migratory birds protected under federal and state laws. The proposed installation would not damage or remove such vegetation, and thus would not impact nesting migratory birds. No impacts would occur.

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- e) **Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

No Impact. The City of Industry has no ordinances protecting biological resources, and no impact would occur.

- f) **Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

No Impact. The project site is not in the plan area of a habitat conservation plan or Natural Community Conservation Plan (USFWS 2015; CDFW 2015), and no impact would occur.

3.5 CULTURAL RESOURCES

- a) **Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?**

No Impact. Section 15064.5 defines historic resources as resources listed or determined to be eligible for listing by the State Historical Resources Commission, a local register of historical resources, or the lead agency. Generally a resource is considered to be “historically significant” if it meets one of the following criteria:

- i) Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
- ii) Is associated with the lives of persons important in our past;
- iii) Embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values;
- iv) Has yielded, or may be likely to yield, information important in prehistory or history.

No Impact. The industrial building onsite was built between 1980 and 1995, based on historical aerial and satellite photographs (NETR 2015; Google Earth Pro 2015). One building is shown on a 1927 topographic map on what is now the Unical Aviation property at the southeast corner of Lemon Avenue and an unnamed roadway (on the current alignment of Currier Road) (USGS 2015); that building was removed before construction of the existing Unical facility.² Buildings less than 45 years of age are typically not evaluated for historical significance in cultural resources studies, since insufficient time has passed to obtain a scholarly perspective on the events or individuals associated with it. Project development would not impact a significant historical resource, and no impact would occur.

² The topographic map is the Covina quadrangle, scale 1:24,000.

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- b) **Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

No Impact. The project site is paved, and foundations for the racks have already been built. Installation of the racks would not involve ground disturbance, and thus would not impact archaeological resources that might be buried in site soils. No impacts would occur.

- c) **Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

No Impact. Paleontological resources are fossils, that is, evidence of past life on earth, including bones, shells, leaves, tracks, burrows, and impressions. Installation of the racks would not involve ground disturbance and would not impact paleontological resources that might be buried in site soils. No impact would occur.

- d) **Disturb any human remains, including those interred outside of formal cemeteries?**

No Impact. Installation of the racks would not involve ground disturbance, and thus would not impact human remains.

3.6 GEOLOGY AND SOILS

- a) **Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**

- i) **Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning map, issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

No Impact. The Alquist-Priolo Earthquake Fault Zoning Act was passed to prevent construction of buildings used for human occupancy on the surface of active faults, in order to minimize the hazard of surface rupture of a fault to people and buildings. Before cities and counties can permit development within Alquist-Priolo Earthquake Fault Zones, geologic investigations are required to show that the sites are not threatened by surface rupture from future earthquakes. Active earthquake faults are faults where surface rupture has occurred within the last 11,000 years. The project site is not in or next to an Alquist-Priolo Earthquake Fault Zone. The nearest such zone to the site is along the Whittier Fault about 5.3 miles to the south (CGS 1980). The project does not propose structures for human occupancy. No impact would occur.

- ii) **Strong seismic ground shaking?**

Less Than Significant Impact. The project site is in a seismically active region, and strong ground shaking is likely to occur in the design lifetimes of the proposed racks. In addition to the Whittier Fault, active faults in the region include the Raymond Fault, about 14 miles to the northwest; the Sierra Madre

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Fault Zone, about 10 miles to the north; the Duarte Fault, about nine miles to the north; the Cucamonga Fault, about 16 miles to the northeast; and the Chino Fault, about nine miles to the east (CGS 2015; CGS 2014). The proposed racks would be mandated to meet Los Angeles County Department of Building and Safety Division requirements for outdoor storage structures. The project does not propose structures for human occupancy. Impacts would be less than significant.

iii) Seismic-related ground failure, including liquefaction?

Less Than Significant Impact. Liquefaction refers to loose, saturated sand or silt deposits that behave as a liquid and lose their load-supporting capability when strongly shaken. Loose granular soils and silts that are saturated by relatively shallow groundwater are susceptible to liquefaction. The project site is in a zone of required investigation for liquefaction designated by the California Geological Survey (CGS 1999).

A limited soils investigation completed in July 2014 for installation of an autoclave next to the north side of the warehouse building on the property determined that site soils were not liquefiable (GSS Engineering 2014). Project implementation would not cause substantial hazards to people or structures arising from liquefaction, and impacts would be less than significant.

iv) Landslides?

No Impact. The site is flat, with a northwest slope of about 1 percent grade. There are no slopes near enough to the project site to pose a landslide hazard, and project implementation would not cause hazards to people or structures from landslides. No impact would occur.

b) Result in substantial soil erosion or the loss of topsoil?

No Impact. The rack foundations have already been built. Project implementation would not involve soil disturbance and would not cause substantial soil erosion or loss of topsoil, and no impact would occur.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Less Than Significant Impact. Liquefaction and landslide hazards are addressed above in Sections 6.a.iii and 6.a.iv, respectively. Lateral spreading is the downslope movement of surface sediment due to liquefaction in a subsurface layer. No impact would arise from lateral spreading because site soils are not considered liquefiable.

Subsidence

The major cause of ground subsidence is withdrawal of groundwater. The project site is in the Walnut Valley Water District (WVWD)'s service area. WVWD's entire potable water supply consists of water imported from northern California and the Colorado River, purchased from the Three Valleys Municipal Water District. The WVWD pumps groundwater from two groundwater basins—the Puente Basin (which underlies the project site) and the Spadra Basin to the northeast—to supplement recycled water supplies for landscape irrigation.

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WVWD estimates that groundwater use in its service area will remain constant at 1,184 acre-feet per year—that is, about 5 percent of its total water supplies—between 2015 and 2035. Groundwater levels and groundwater quality in the Puente Basin are managed by the Puente Basin Watermaster (Carollo 2011). The project site is paved; thus, project implementation would not require groundwater for landscape irrigation. No impact would occur.

Collapsible Soils

Collapsible soils shrink upon being wetted and/or being subject to a load. The site is paved; surficial site soils would have been removed and replaced with engineered fill soils during construction of the parking lot. The rack foundations have already been installed. Project implementation would not cause substantial hazards arising from collapsible soils, and impacts would be less than significant.

- d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

Less Than Significant Impact. Expansive soils shrink or swell as the moisture content decreases or increases; the shrinking or swelling can shift, crack, or break structures built on such soils. The site is paved, and rack foundations have already been built. Impacts would be less than significant.

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?**

No Impact. The project would not generate wastewater and would create no need for wastewater disposal. No impact would occur.

3.7 GREENHOUSE GAS EMISSIONS

Scientists have concluded that human activities are contributing to global climate change by adding large amounts of heat-trapping gases, known as greenhouse gases (GHGs), into the atmosphere. The primary source of these GHG is fossil fuel use. The Intergovernmental Panel on Climate Change (IPCC) has identified four major GHGs—water vapor, carbon dioxide (CO₂), methane (CH₄), and ozone (O₃)—that are the likely cause of an increase in global average temperatures observed within the 20th and 21st centuries. Other GHG identified by the IPCC that contribute to global warming to a lesser extent include nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydro fluorocarbons, per fluorocarbons, and chlorofluorocarbons.^{3, 4}

This section analyzes the project's contribution to global climate change impacts in California through an analysis of project-related GHG emissions. Information on manufacture of cement, steel, and other "life

³ Water vapor (H₂O) is the strongest GHG and the most variable in its phases (vapor, cloud droplets, ice crystals). However, water vapor is not considered a pollutant, but part of the feedback loop rather than a primary cause of change.

⁴ Black carbon contributes to climate change both directly, by absorbing sunlight, and indirectly, by depositing on snow (making it melt faster) and by interacting with clouds and affecting cloud formation. Black carbon is the most strongly light-absorbing component of PM emitted from burning fuels. Reducing black carbon emissions globally can have immediate economic, climate, and public health benefits. California has been an international leader in reducing emissions of black carbon, with close to 95 percent control expected by 2020 due to existing programs that target reducing PM from diesel engines and burning activities (CARB 2014b). However, state and national GHG inventories do not yet include black carbon due to ongoing work resolving the precise global warming potential of black carbon. Guidance for CEQA documents does not yet include black carbon.

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cycle” emissions that would occur as a result of the project are not applicable and are not included in the analysis.⁵

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- a) **Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

Less Than Significant Impact. Global climate change is not confined to a particular project area and is generally accepted as the consequence of global industrialization over the last 200 years. A typical project, even a very large one, does not generate enough greenhouse gas emissions on its own to influence global climate change significantly; hence, the issue of global climate change is, by definition, a cumulative environmental impact.

GHG emissions from installation of the racks would be negligible due to the small scale nature of construction activities involved. In addition, the project would not involve any long-term increase in GHG emissions as outdoor storage is already conducted on parking lots and project operation would not lead to an increase in employment. Therefore, the GHG emissions from the project would not exceed the SCAQMD’s proposed screening threshold of 3,000 MTCO₂e (metric tons of CO₂-equivalent emissions).⁶ Because the GHG emissions associated with the project would not exceed the SCAQMD screening threshold, the proposed project’s cumulative contribution to GHG emissions is less than significant. No mitigation measures are required.

- b) **Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

No Impact. The California Air Resources Board’s (CARB’s) Scoping Plan is California’s GHG reduction strategy to achieve the state’s GHG emissions reduction target established by Assembly Bill (AB) 32, which is to return to 1990 emission levels by year 2020. To estimate the reductions necessary, CARB projected statewide 2020 business-as-usual (BAU) GHG emissions and identified that the state as a whole would need to reduce GHG emissions by 28.5 percent from year 2020 BAU to achieve the target of AB 32 (CARB 2008). The GHG emissions forecast was updated as part of the First Update to the Scoping Plan. In the First Update to the Scoping Plan, CARB projected that statewide BAU emissions in 2020 would be approximately

⁵ Life cycle emissions include indirect emissions associated with materials manufacture. However, these indirect emissions involve numerous parties, each of which is responsible for GHG emissions of their particular activity. The California Resources Agency, in adopting the CEQA Guidelines Amendments on GHG emissions found that lifecycle analyses was not warranted for project-specific CEQA analysis in most situations, for a variety of reasons, including lack of control over some sources, and the possibility of double-counting emissions (see Final Statement of Reasons for Regulatory Action, December 2009). Because the amount of materials consumed during the operation or construction of the proposed project is not known, the origin of the raw materials purchased is not known, and manufacturing information for those raw materials are also not known, calculation of life cycle emissions would be speculative. A life-cycle analysis is not warranted (OPR 2008).

⁶ This threshold is based on SCAQMD’s 3,000 MTons for all land use types combined threshold proposed by SCAQMD’s Working Group, which is based on a survey of the GHG emissions inventory of CEQA projects. Approximately 90 percent of CEQA projects GHG emissions inventories exceed 3,000 MTons, which is based on a potential threshold approach cited in CAPCOA’s White Paper, *CEQA and Climate Change*.

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509 million MTCO₂e.⁷ Therefore, to achieve the AB 32 target of 431 million MTCO₂e (i.e. 1990 emissions levels) by 2020, the state would need to reduce emissions by 78 million MTCO₂e compared to BAU conditions, a reduction of 15.3 percent from BAU in 2020 (CARB 2014b).^{8,9}

Statewide strategies to reduce GHG emissions include the Low Carbon Fuel Standard (LCFS), California Appliance Energy Efficiency regulations, California Renewable Energy Portfolio standard, changes in the Corporate Average Fuel Economy (CAFE) standards, and other early action measures to ensure the state is on target to achieve the GHG emissions reduction goals of AB 32. The project's GHG emissions would be reduced by compliance with statewide measures that have been adopted since AB 32 was adopted.

In addition to AB 32, the California legislature passed Senate Bill (SB) 375 to connect regional transportation planning to land use decisions made at a local level. SB 375 requires the metropolitan planning organizations to prepare a Sustainable Communities Strategy (SCS) in their regional transportation plans to achieve the per capita GHG reduction targets. For the Southern California Association of Governments (SCAG) region, the SCS was adopted in April 2012 (SCAG 2012). The SCS does not require that local general plans, specific plans, or zoning be consistent with the SCS, but provides incentives for consistency for governments and developers. The proposed racks are a permitted use under the Industrial general plan designation; hence, the project is consistent with the underlying General Plan land use designation and would not interfere with SCAG's ability to implement the regional strategies outlined in the 2012 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). No impact would occur and no mitigation measures are required.

3.8 HAZARDS AND HAZARDOUS MATERIALS

- a) **Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?**

Less Than Significant Impact.

Operation

Unical sells parts and components for commercial and military aircraft. Some parts and components contain hazardous materials—for instance, some electronics parts and components. Such hazardous materials would typically be sealed inside the part or component; during normal storage and shipping they would not pose substantial hazards to people or the environment. Unical also refurbishes parts and components in its City of Industry facility. Refurbishment may include dismantling parts and components, exposing hazardous materials, and use of hazardous materials such as solvents for cleaning. However, the proposed racks would be used for storage of parts and components, not for refurbishment.

⁷ The BAU forecast includes GHG reductions from Pavley and the 33% Renewable Portfolio Standard (RPS).

⁸ If the GHG emissions reductions from Pavley I and the Renewable Electricity Standard are accounted for as part of the BAU scenario (30 million MTCO₂e total), then the State would need to reduce emissions by 108 million MTCO₂e, which is a 20-percent reduction from BAU.

⁹ In May 2014, CARB completed a five year update to the 2008 Scoping Plan. CARB recalculated the 1990 GHG emission levels with the updated global warming potential (GWP) in the Intergovernmental Panel on Climate Change's Fourth Assessment Report, and the 427 MMTCO₂e 1990 emissions level and 2020 GHG emissions limit, established in response to AB 32, is slightly higher, at 431 MMTCO₂e (CARB 2014b).

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All uses of hazardous materials at the facility comply with regulations of several agencies, including the Department of Toxic Substances Control (DTSC), the EPA, the US Department of Transportation (USDOT), the Occupational Safety & Health Administration (OSHA), and the Los Angeles County Fire Department.¹⁰

Construction

Installation of the racks is not expected to involve use of substantial amounts of hazardous materials. Given the limited construction effort, fueling and maintenance of construction equipment would be done offsite. Hazardous materials such as cleansers and paints would be used for cleaning and maintaining the racks. Such hazardous materials would be used in compliance with the same regulations described above. Impacts would be less than significant.

- b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

Less Than Significant Impact. Workers at the facility are trained in containing and cleaning up spills of hazardous materials. Unical maintains containment and cleanup equipment and supplies onsite. Facility managers would notify the appropriate emergency response agency immediately in the event of a hazardous materials release that could not be safely contained and cleaned up by facility staff. The proposed racks would be used for storage of parts and components only. Parts and components would not be dismantled on the racks. Project implementation would not cause substantial hazards to the public or the environment due to accidental release of hazardous materials, and impacts would be less than significant.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

Less Than Significant Impact. There are two schools within one-quarter mile of the project site. Walnut Elementary School is located south of the railroad tracks and it is about 900 feet from the proposed storage racks to the nearest point of the campus. A continuation high school, Ron Hockwalt Academies, is north of the project site, a minimum of 380 feet from the Unical Aviation property and 1,200 feet from the outdoor storage area.

Installation and operation of the racks would not expose persons at either of the two schools to substantial hazards. The racks would be used for storage of parts and components; no dismantling or refurbishing work that could expose hazardous materials inside parts and components would be conducted on the racks. Rack installation would generate some diesel emissions, which are considered hazardous. However, installation would be brief (36 days). Health risk is based upon the conservative assumption that exposure is continuous and occurs over a 70-year lifetime. A determination of risk is not appropriate for short-term construction activities. Exposure to diesel exhaust during the construction period would not pose substantial hazards to persons at any of the schools within 0.25 mile of the project site. Impacts would be less than significant.

¹⁰ The Los Angeles County Fire Department is the Certified Unified Program Agency (CUPA) for the City of Industry; the Certified Unified Program coordinates and makes consistent enforcement of several state and federal regulations governing hazardous materials.

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- d) **Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

Less Than Significant Impact. California Government Code Section 65962.5 requires lists of the following types of hazardous materials sites: hazardous waste facilities subject to corrective action; hazardous waste discharges for which the State Water Quality Control Board has issued certain types of orders; public drinking water wells containing detectable levels of organic contaminants; underground storage tanks with reported unauthorized releases; and solid waste disposal facilities from which hazardous waste has migrated.

The following four environmental databases were searched for listings on and within 0.25 mile of the project site on September 29, 2015:

- GeoTracker, State Water Resources Control Board
- EnviroStor, Department of Toxic Substances Control
- EnviroMapper, US Environmental Protection Agency
- Solid Waste Information System (SWIS), California Department of Resources Recovery and Recycling

No listings on the project site were found. Two of the databases, GeoTracker and EnviroMapper, included listings within 0.25 mile of the project site, described below in Table 1.

No hazardous materials sites of types specified in Government Code Section 65962.5 were identified on the project site. The two leaking underground storage tank sites were identified within 1,125 feet of the project site; both cases have been closed. Project development would not create a substantial hazard to the public or the environment arising from listed hazardous materials sites, and impacts would be less than significant.

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Table 1 Environmental Database Listings within 0.25 Mile of the Project Site

Site Name Address Distance from Project Site	Database and Type of Site	Reason for Listing and Regulatory Status
Burgess Transportation Facility 20825 Currier Rd 1,125 feet north	Leaking Underground Storage Tank (LUST)	Gasoline release affected drinking water aquifer. Case closed 2014.
Morrow-Meadows Corporation 610 Reyes Drive 700 feet northeast	LUST	Gasoline release affected drinking water aquifer. Case closed 2001.
	Small Quantity Generator of hazardous wastes (SQG)	
Sysco Food Services 20701 East Currier Road 1,200 feet northwest	SQG	
Lights of America 611 Reyes Avenue Abuts northeast site boundary	SQG	
Ron Hockwalt High School ² 476 S Lemon Ave 1,200 feet northwest	SQG	
Soderberg Manufacturing Co. 20821 Currier Rd 1,130 feet north	SQG	
Keneli Racing 20868 Currier Road 960 feet northeast	SQG	
Trico Drum Co 20875 Currier Rd 1,130 feet northeast	Hazardous waste transporter	
Reed Manufacturing Co 655 Brea Canyon Rd 880 feet east	SQG	
Mold Tech 750 Penarth Ave 880 feet southeast	SQG	
LBA Company 761 Penarth Ave 850 feet southeast	SQG	
Jen-X Enterprises 778 Penarth Ave 970 feet southeast	SQG	
West Best Auto Center 20935 Lycoming St 1,180 feet southeast	SQG	

Sources: State Water Resources Control Board [GeoTracker] 2015a; US Environmental Protection Agency [EnvrioMapper] 2015.

¹ The Burgess Transportation Facility is above the Puente Groundwater Basin; groundwater from the Puente Basin is used for landscape irrigation but not potable use (Carollo 2011).

² Ron Hockwalt High School is listed under the name Del Paso High School, a former school on the same site.

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- e) **For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles or a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?**

No Impact. The project site is outside of safety compatibility zones surrounding public-use airports in which land uses are regulated to minimize hazards to persons on the ground from aviation crashes. The nearest public-use airport to the project site is Brackett Field in the City of LaVerne about 6.8 miles to the northeast. The proposed racks would be 24 feet high, lower than the adjacent building. Project implementation would not cause hazards to persons onsite related to aircraft approaching or departing Brackett Field, and no impact would occur.

- f) **For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

No Impact. The nearest private heliport to the project site is the Recreation and Conference Center Heliport at the Industry Hills Conference Center, approximately five miles to the west. Helicopters fly vertically when landing and taking off, and project implementation would not cause hazards related to helicopters approaching or departing the aforementioned heliport. No impact would occur.

- g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

No Impact. The emergency response plan in effect in Los Angeles County is the Los Angeles County Operational Area Emergency Response Plan (OAERP) maintained by the County Office of Emergency Management and approved by the County Board of Supervisors in 2012. The proposed racks would be installed in the rear portion of a developed industrial property. Project implementation would not impair implementation of the OAERP, and no impact would occur.

- h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

No Impact. The nearest Very High Fire Hazard Severity Zone mapped by the California Department of Forestry and Fire Prevention (CAL FIRE) is one mile south of the site. The project site is in a built-out area developed with industrial, residential, and transportation uses. Project implementation would not expose people or structures to significant wildfire hazards, and no impact would occur.

3.9 HYDROLOGY AND WATER QUALITY

- a) **Violate any water quality standards or waste discharge requirements?**

Less Than Significant Impact. The project site, approximately 0.6 acre, was part of a paved parking lot before the rack foundations were built. Rack installation would not involve substantial amounts of ground disturbance. Project installation would include routine housekeeping to clean up any trash onsite to prevent the trash from contaminating stormwater.

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Project operation would consist of placing and retrieving parts and components on and off the racks with forklifts. Operation would not generate substantial amounts of pollutants that could contaminate stormwater. Impacts would be less than significant.

- b) **Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g. the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?**

No Impact. The project site was a paved parking lot before construction of the rack foundations. Project implementation would not change the amount of impervious surfaces onsite and would not impact groundwater recharge. Project operation would not use water or deplete groundwater supplies. No impact would occur.

- c) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in a substantial erosion or siltation on- or off-site.**

No Impact. Site drainage is via surface flow. A ribbon drain in the parking lot west of the site extends west to a storm drain inlet in the parking lot near the southwest corner of the site. There are also storm drain inlets in Currier Road along the northern property boundary (LACDPW 2015). Project implementation would not change the site drainage pattern. The site would be completely impervious at project completion, as it is now; thus, project implementation would not change the rate or volume of runoff from the site. Drainage pathways from the site to storm drain inlets are entirely paved, and runoff from the site does not cross soil that may be eroded. Project implementation would not cause erosion or siltation, and no impact would occur.

- d) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?**

No Impact. Project implementation would not change the locations, rate, or volume of runoff from the site, as explained above in Section 3.9.c. Therefore, project implementation would not cause flooding, and no impact would occur.

- e) **Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

Less Than Significant Impact. Project implementation would have no effect on the rate or volume of runoff from the site, and thus would have no impact on drainage capacity. The project would not cause substantial stormwater pollution, as explained above in Section 3.9.a. Impacts would be less than significant.

- f) **Otherwise substantially degrade water quality?**

Less Than Significant Impact. Impacts would be less than significant, as substantiated above in Section 3.9.a.

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g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

No Impact. The project site is in Flood Zone X mapped by the Federal Emergency Management Agency, meaning that it is outside of 100-year and 500-year flood zones (FEMA 2015). The project does not propose development of housing. No impact would occur.

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

No Impact. The project site is outside of 100-year flood zones, and no impact would occur.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

No Impact. The project site is not in a dam inundation area mapped by the California Emergency Management Agency (Cal/EMA) and is not in an area mapped as protected from 100-year floods by levees. No impact would occur.

j) Inundation by seiche, tsunami, or mudflow?

No Impact. A seiche is a surface wave created when a body of water is shaken, usually by earthquake activity. Seiches are of concern relative to water storage facilities because inundation from a seiche can occur if the wave overflows a containment wall, such as the wall of a reservoir, water storage tank, dam, or other artificial body of water. Although there are no large water tanks in the area that could impact the proposed project site, there are dams in the region that could create flooding impacts. Thirteen dams in the greater Los Angeles area moved or cracked during the 1994 Northridge earthquake. However, none were severely damaged. This low damage level was due in part to completion of the retrofitting of dams and reservoirs pursuant to the 1972 State Dam Safety Act.

Seiche

A seiche is a surface wave created when an inland water body is shaken, usually by an earthquake. No inland water bodies are near enough to the site to pose a flood hazard due to a seiche.

Tsunami

A tsunami is a sea wave caused by a sudden displacement of the ocean floor, most often due to earthquakes. The project site is about 23.5 miles inland from the Pacific Ocean, and its elevation ranges between about 536 and 539 feet above mean sea level (amsl). The project is not at risk of flooding due to tsunami.

Mudflow

A mudflow is a landslide composed of saturated rock debris and soil with a consistency of wet cement. The site and surroundings are built out, and there are no slopes near the site that could generate a mudflow. No impact would occur.

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3.10 LAND USE AND PLANNING

a) **Physically divide an established community?**

No Impact. The project site is on an industrial property; project implementation would have not divide an established community, and no impact would occur.

b) **Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

No Impact. The proposed outdoor racks are permitted under the current zoning and general plan land use designations for the site—Industrial (I) and Employment, respectively. Project implementation would not conflict with land use regulations, and no impact would occur.

c) **Conflict with any applicable habitat conservation plan or natural community conservation plan?**

No Impact. The project site is outside of the plan areas of any habitat conservation plan or natural community conservation plan, and no impact would occur.

3.11 MINERAL RESOURCES

a) **Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state?**

No Impact. The project site is mapped in Mineral Resource Zone 1 (MRZ-1), meaning that available geologic information indicates that significant mineral resources are unlikely to be present in the area (CGS 2007). The project site is on an industrial property not available for mining. No impact would occur.

b) **Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?**

No Impact. No mining sites are designated in the City of Industry General Plan. Project development would not impact availability of mining sites.

3.12 NOISE

Terminology

The following descriptions of noise are used in this section:

- **Sound.** A vibratory disturbance that, when transmitted by pressure waves through a medium such as air, is capable of being detected by a receiving mechanism, such as the human ear or a microphone.
- **Noise.** Sound that is loud, unpleasant, unexpected, or otherwise undesirable.

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- **Decibel (dB).** A unitless measure of sound on a logarithmic scale, which indicates the squared ratio of sound pressure amplitude to reference sound pressure amplitude. The reference pressure is 20 micropascals.
- **A-Weighted Decibel (dBA).** An overall frequency-weighted sound level in decibels which approximates the frequency response of the human ear.
- **Community Noise Equivalent Level (CNEL).** The energy average of the A-weighted sound levels occurring during a 24-hour period, with 5 dB added to the A-weighted sound levels occurring during the period from 7 to 10 PM and 10 dB added to the A-weighted sound levels occurring during the period from 10 PM to 7 AM.
- **Sensitive Receptor.** Certain land uses are particularly sensitive to noise and vibration. Noise- and vibration-sensitive receptors include land uses where quiet environments are necessary for enjoyment and public health and safety. Residences, schools, guest lodging (motels and hotels), libraries, religious institutions, hospitals, nursing homes, and passive recreation areas are generally more sensitive to noise than are commercial and industrial land uses.

Regulatory Framework

City of Industry Standards

Industry Noise Standards

To limit population exposure to physically and/or psychologically damaging as well as intrusive noise levels, the City of Industry addresses public nuisances under Chapter 1.30 (Public Nuisance) of the City's Municipal Code. The City of Industry has not adopted long-term noise and vibration criteria for land use compatibility consideration, but uses the County of Los Angeles Noise Ordinance and Community Noise Guidelines for environmental noise assessments, which is included by reference in the City of Industry Municipal Code. For the purpose of CEQA analysis for projects in the City, the noise standards in the county's noise ordinance (discussed below) are used as significance thresholds.

Industry Vibration Standards

The City of Industry does not have regulatory standards for construction or operational vibration sources. To evaluate project impacts for CEQA analyses, the City relies on the Los Angeles County Municipal Code (discussed below) to address vibration impacts from the operation of equipment to adjacent uses.

City of Diamond Bar Standards

Diamond Bar Noise Standards

City of Diamond Bar Municipal Code Section 8.12.720 states:

Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between weekday hours of 7:00 p.m. and 7:00 a.m., or

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at any time on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a residential or commercial real-property line, except for emergency work of public service utilities or by variance issued by the health officer is prohibited.

In addition, Section 8.12.720 sets forth the following limits on construction noise from mobile and stationary sources at single-family residences:

- Mobile equipment:
 - Daily, except Sundays and legal holidays, 7:00 a.m. to 8:00 p.m.: 75 dBA
 - Daily, 8:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays: 60 dBA
- Stationary sources:
 - Daily, except Sundays and legal holidays, 7:00 a.m. to 8:00 p.m.: 60 dBA
 - Daily, 8:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays: 50 dBA

Diamond Bar Vibration Standards

Diamond Bar Municipal Code Section 8.12.840:

Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of any individual at or beyond the property boundary of the source if on private property, or at 150 feet (46 meters) from the source if on a public space or public right-of-way is prohibited. The perception threshold shall be a motion velocity of 0.01 in/sec over the range of one to 100 Hertz.

County of Los Angeles Code

The County of Los Angeles regulates noise through the County Code, Title 12, Chapter 12.08 (Noise Control). Pursuant to the County Code, the county restricts noise levels generated at a property from exceeding certain noise levels for extended periods of time.

County Exterior Noise Standards

The county applies the noise control ordinance standards summarized in Table 2 to nontransportation fans, blowers, pumps, turbines, saws, engines, and similar types of machinery. These standards do not gauge the compatibility of developments in the noise environment, but provide restrictions on the amount and duration of noise generated at a property, as measured at the property line of the noise receptor. The county's noise ordinance is designed to protect people from objectionable nontransportation noise sources such as music, construction activity, machinery, pumps, and air conditioners. The noise standards in Table 2, *County of Los Angeles Exterior Noise Standards*, apply to all property within a designated noise zone unless otherwise indicated.

3. Environmental Analysis

Table 2 County of Los Angeles Exterior Noise Standards

Noise Zone	Time Period	Maximum Permissible Noise Level (dBA) ^{1,2}				
		Standard 1 (L ₅₀)	Standard 2 (L ₂₅)	Standard 3 (L ₈)	Standard 4 (L ₂)	Standard 5 (L _{max})
Noise-Sensitive Area	Anytime	45	50	55	60	65
Residential Properties	10 PM to 7 AM	45	50	55	60	65
	7 AM to 10 PM	50	55	60	65	70
Commercial Properties	10 PM to 7 AM	55	60	65	70	75
	7 AM to 10 PM	60	65	70	75	80
Industrial Properties	Anytime	70	75	80	85	90

Source: County of Los Angeles Municipal Code, Section 12.08.390.

¹ According to Section 12.08.390, if the ambient noise levels exceed the exterior noise standards above, then the ambient noise level becomes the noise standard. If the source of noise emits a pure tone or impulsive noise, the exterior noise levels limits shall be reduced by five decibels.

² If the measurement location is on a boundary property between two different zones, the noise limit shall be the arithmetic mean of the maximum permissible noise level limits of the subject zones; except when an intruding noise source originates on an industrial property and is impacting another noise zone, the applicable exterior noise level shall be the daytime exterior noise level for the subject receptor property.

- Standard 1 is the exterior noise level that may not be exceeded for a cumulative period of more than 30 minutes in any hour. Standard 1 is the applicable L₅₀ noise level shown in the table, or if the ambient L₅₀ exceeds that level, the ambient L₅₀ becomes the exterior noise level for Standard 1.
- Standard 2 is the exterior noise level that may not be exceeded for a cumulative period of more than 15 minutes in any hour. Standard 2 is the applicable L₅₀ noise level plus 5dB; if the ambient L₂₅ exceeds this level, the ambient L₂₅ becomes the exterior noise level for Standard 2.
- Standard 3 is the exterior noise level that may not be exceeded for a cumulative period of more than five minutes in any hour. Standard 3 is the applicable L₅₀ noise level plus 10dB; if the ambient L₈ exceeds this level, the ambient L₈ becomes the exterior noise level for Standard 3.
- Standard 4 is the exterior noise level that may not be exceeded for a cumulative period of more than one minute in any hour. Standard 4 is the applicable L₅₀ noise level plus 15dB; if the ambient L₂ exceeds this level, the ambient L₂ becomes the exterior noise level for Standard 4.
- Standard 5 is the exterior noise level that may not be exceeded for any period of time. Standard 5 is the applicable L₅₀ noise level plus 20dB; if the ambient L₀ exceeds this level, the ambient L_{max} becomes the exterior noise level for Standard 5.

County Construction Noise Standards

The county prohibits the operation of any tools or equipment used in construction, drilling, repair, alteration, or demolition work between weekday hours of 7 PM and 7 AM, or at any time on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a residential or commercial real-property line, except for emergency work of public service utilities or by variance. The county also sets maximum noise levels not to exceed the following maximum noise levels from mobile equipment (non-scheduled,

3. Environmental Analysis

intermittent, short-term operations for less than 30 days), as summarized in Table 3, *County of Los Angeles Mobile Construction Equipment Noise Limits*.

Table 3 County of Los Angeles Mobile Construction Equipment Noise Limits

	Single-Family Residential	Multifamily Residential	Semiresidential/ Commercial
Daily, except Sundays and legal holidays, 7 AM to 8 PM	75 dBA	80 dBA	85 dBA
Daily 8 PM to 7 AM, and all day Sunday and legal holidays	60 dBA	64 dBA	70 dBA

Source: County of Los Angeles Municipal Code, Section 12.08.440. For nonscheduled, intermittent, short-term operations for less than 30 days.

Maximum noise levels from stationary equipment (repetitively scheduled and relatively long-term operations of ten days or more) are summarized in Table 4, *County of Los Angeles Stationary Construction Equipment Noise Limits*.

Table 4 County of Los Angeles Stationary Construction Equipment Noise Limits

	Single-Family Residential	Multi-Family Residential	Semi-residential/ Commercial
Daily, except Sundays and legal holidays, 7 AM to 8 PM	60 dBA	65 dBA	70 dBA
Daily 8 PM to 7 AM, and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

Source: County of Los Angeles Municipal Code, Section 12.08.440. For repetitively scheduled and relatively long-term operations of ten days or more.

County Vibration Standards

The County of Los Angeles Municipal Code, Section 12.08.560, prohibits the operation of any device that creates vibration that is above 0.01 inch/second (in/sec) at or beyond the property boundary of the source, if on private property, or at 150 feet from the source if on a public space or public right-of-way. This criterion will be used to evaluate vibration-annoyance impacts from industrial uses to nearby sensitive receptors.

Existing Noise Environment

Existing onsite noise sources include forklifts and other industrial equipment. Likewise, there are similar industrial activities at the Lights of America industrial use at 611 Reyes Drive (abutting the northeast project site boundary). The most prominent environmental noise source, however, is train pass-bys on the nearby Union Pacific/MetroLink tracks. The UPRR line is a double-track major freight line that begins at the Los Angeles/Long Beach ports, traverses several cities (including the City of Industry), and continues to the City of Pomona, where it is contiguous with a transcontinental mainline. Beside the numerous freight trains, MetroLink currently operates the Riverside Line, running 12 daily passenger diesel-locomotive commuter (MetroLink) trains per weekday along the UPRR Los Angeles Subdivision Line. According to the City of Industry General Plan EIR (2014), the ambient noise environment for the project site area is 70 dBA CNEL. Also, measurements at a previous City of Industry project adjacent to the same rail line showed that moment-to-moment sound levels near these rail lines can have typical maxima between 90 and 100 dBA (as measured approximately 50 feet from the dual-track centerline) (PlaceWorks 2012).

3. Environmental Analysis

The nearest noise-sensitive receptors to the project site are in the mobile home park about 120 feet to the south, and at Walnut Elementary School approximately 900 feet to the southwest. The mobile home park is visually screened from the site by a hedge nearly 20 feet high and is acoustically screened by a berm/sound wall that is approximately 15 feet high.

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Less Than Significant Impact. Proposed installation and paving work would be conducted between the hours of 7:00 AM and 4:00 PM on weekdays. Considering the berm/sound wall between the project site and the mobile homes, noise levels from the proposed racking area would be markedly reduced by barrier effects such that noise reaching the mobile homes may be reduced by 10 to upwards of 15 dB (Caltrans, 2006; Caltrans, 2009; FTA, 2006). Thus, noise levels at the mobile homes would not be expected to exceed either the Los Angeles County or the City of Diamond Bar noise limits for mobile sources at single-family residential receptors. At Walnut Elementary School, noise from rack installation would not be audible over noise from roadways, including SR-60; railroad noise; and noise from nearby industrial, commercial, and residential land uses. Due to the distance to sensitive receptors, the presence of the berm/sound wall, and the use of small construction equipment, rack installation would not generate noise levels exceeding Los Angeles County and City of Diamond Bar construction noise limits at noise-sensitive receptors. Therefore, construction impacts would be less than significant. No mitigation is required.

As noted in the project description (see Section 1.2.1), the rack site and parking lots northwest and southwest of the rack site are currently used for storage. As such, ongoing operations using forklifts to move and stack materials at the project site would not notably change community noise levels in comparison to the current conditions at Unical. Thus, like construction noise sources, there would not be significant noise changes to the overall community noise environment as a result of the project. Therefore, operations would not exceed provisions of the pertinent city and county codes or element. Operations impacts would be less than significant and no mitigation is required.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Less Than Significant Impact. Rack installation would not involve construction methods or equipment that would generate substantial ground vibration, such as blasting, heavy earthmoving, vibratory rollers, or use of pile hammers. Rack installation would not generate ground vibration causing either annoyance or architectural damage at either the mobile home park or Walnut Elementary School, and impacts would be less than significant. No mitigation is needed.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Less Than Significant Impact. Rack installation would not cause a permanent increase in noise levels on or near the project site. Rack installation would not lead to an increase in employment at the Unical facility. Outdoor storage operations—with associated forklift use—are already conducted on parking lots at the

3. Environmental Analysis

Unical facility. Noise emissions from forklift usage, coupled with the distances to the nearest receptors and the barrier effects from the berm/sound wall, would relegate project-related noise levels to less than the hourly average ambient noise levels, which are primarily driven by frequent train pass-bys and trucking operations at nearby industrial uses. Thus, installation of the racks would not cause a permanent increase in outdoor use of forklifts or other materials-handling equipment. Impacts would be less than significant, and no mitigation is required.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Less Than Significant Impact. As discussed above in 3.12.a, construction activities during the installation of the racks would not cause a substantial temporary increase in noise levels at the mobile home park or Walnut Elementary School. Since the closest sensitive receptors are at least 125 feet away, construction noise would be lower than the average ambient noise levels, which are elevated due to frequent train pass-bys and trucking operations at nearby industrial uses. Additionally, the site is screened from the mobile home park by a berm/sound wall, and construction activities would only occur during the least noise-sensitive portion of the day; in accordance with the Municipal Code time limitations. Impacts would be less than significant and no mitigation is needed.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Less Than Significant Impact. The nearest airport to the site is Brackett Field, 6.8 miles to the northeast. People onsite would not be exposed to excessive noise levels from aircraft approaching or departing Brackett Field. In addition, the installation of the storage racks would not increase the number of workers on site or expose current employees to more aircraft noise than they currently experience. Impacts would be less than significant, and no mitigation is needed.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The nearest private heliport to the project site is the Recreation and Conference Center Heliport at the Industry Hills Conference Center, approximately five miles to the west. Installation of the racks would not expose workers onsite to excessive noise levels from helicopters, and no impact would occur.

3.13 POPULATION AND HOUSING

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less Than Significant Impact. Project operation would not increase employment at the Unical facility. Rack installation would briefly generate a small number of construction jobs.

3. Environmental Analysis

- b) **Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

No Impact. No housing or residents are onsite, and no impact would occur.

- c) **Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

No Impact. No residents are onsite, and no impact would occur.

3.14 PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- a) **Fire protection?**

Less Than Significant Impact. Project operation would not cause any increase in demands for fire protection or emergency medical services. Rack installation could briefly generate a very small increase in demands for fire protection and emergency medical services. The Los Angeles County Fire Department (LACoFD) provides such services to the City of Industry, including the project site. The project site is in the service area of Fire Station 61 at 20011 La Puente Road in the City of Walnut, about 1.2 miles northwest of the site. Project implementation would not require construction of new or expanded fire stations, and impacts would be less than significant.

- b) **Police protection?**

No Impact. The Los Angeles County Sheriff's Department provides police protection to the City of Industry. Project installation and operation are not expected to cause increased demands for police protection, and no impact would occur.

- c) **Schools?**

No Impact. Demands for schools are generated by the numbers of households in the schools' service areas. The project does not propose development of housing, and no impacts would occur.

- d) **Parks?**

No Impact. Demands for parks are generated by the population in the parks' service areas. The project does not propose development of housing, and no impacts would occur.

3. Environmental Analysis

e) **Other public facilities?**

No Impact. Demands for libraries are generated by the population in the libraries' service areas. The project does not propose development of housing, and no impacts would occur.

3.15 RECREATION

a) **Would the project increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?**

No Impact. Project implementation would not increase population in the project region and would have no impact on use or deterioration of parks.

b) **Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?**

No Impact. The project does not propose, and project implementation would not require, construction of new or expanded parks. No impact would occur.

3.16 TRANSPORTATION/TRAFFIC

a) **Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?**

Less Than Significant Impact.

Existing Conditions

Lemon Avenue next to the Unical facility consists of four lanes with a raised median and sidewalks on both sides of the street. Carrier Road fronting the Unical facility consists of four lanes with a striped median and sidewalks on both sides of the street. Lemon Avenue crosses Union Pacific railroad tracks at-grade near the southwest corner of the Unical facility. The intersection of Carrier Road with Brea Canyon Road, about 0.3 mile northeast of the site, is signalized. The nearest ramps to and from SR-60 are at Brea Canyon Road about 0.5 mile southeast of the site.

Bicycle

The nearest bicycle facility to the project site shown on the Metro Bike Map published by the Metropolitan Transportation Authority of Los Angeles County is on Lycoming Street, about 0.2 mile to the south (Metro 2014).

3. Environmental Analysis

Pedestrian

There are sidewalks on both sides of Lemon Avenue and Currier Road fronting the Unical Aviation property.

Public Transit

Foothill Transit is the primary provider of public transit bus services in the San Gabriel Valley. Three Foothill Transit bus routes serve the Industry Metrolink Station at 600 South Brea Canyon Road, next to the east side of the intersection of Brea Canyon Road and Currier Road.

- Route 482 extends east-west between the City of Pomona and Puente Hills Mall in the City of Industry.
- Route 493 extends east-west between the City of Diamond Bar and downtown Los Angeles.
- Route 495 extends east-west between Industry Metrolink Station and downtown Los Angeles.

The Metrolink Riverside Line commuter rail service, which operates between the City of Riverside and downtown Los Angeles, stops at the Industry Station. The Riverside Line is scheduled to begin operating to Perris in Riverside County in late 2015.

Project Impacts

Rack installation is estimated to require two workers, a forklift, and two lifts. Operation of the proposed racks is not expected to increase employment at the Unical facility and thus would not cause an increase in operational vehicle trips. Considering that Lemon Avenue and Currier Road are each four-lane roadways, the very small amount of construction traffic would have negligible effects on operation of nearby intersections. The project site is in the southeast corner of the Unical facility, away from sidewalks; thus, the installation would not impact the safe use of sidewalks.

Impacts would be less than significant and no mitigation is required.

- b) **Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?**

Less Than Significant Impact. The Los Angeles County Congestion Management Program (CMP) was issued by the Metropolitan Transit Authority in December 2010 (Metro 2010). All freeways and selected arterial roadways are designated elements of the CMP Highway System. The nearest freeway to the site is SR-60. The nearest CMP arterial roadway to the site is Grand Avenue, about 1.6 miles to the east.

The CMP requires that individual development projects of potentially regional significance undergo a traffic impact analysis. Per the CMP Transportation Impact Analysis (TIA) guidelines, a significant impact may result and a traffic impact analysis is required under the following conditions.

- At CMP arterial monitoring intersections where the proposed project will add 50 or more vehicle trips during either morning or evening weekday peak hours.

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- At CMP mainline freeway monitoring locations where the proposed project will add 150 or more vehicle trips, in either direction, during either morning or evening weekday peak hours.

Considering the very small volume of project construction traffic, installation of the racks would not require analysis of traffic impacts to CMP roadways. Impacts would be less than significant and no mitigation is needed.

- c) **Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

No Impact. The nearest airport to the site is Brackett Field 6.8 miles to the northeast. Project development would not cause relocation of air traffic patterns or change air traffic levels, and no impact would occur.

- d) **Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?**

No Impact. The project would not change the designs of public roadways or of intersections of driveways with public roadways, and no impact would occur.

- e) **Result in inadequate emergency access?**

No Impact. The project site is in the rear portion of an industrial property. Project implementation would have a favorable impact on emergency access to the Unical Aviation facility, as outdoor storage currently on two parking lots next to the warehouse building would be consolidated onto the racks. Project implementation would not block public roadways and would have no impact on emergency access to surrounding land uses.

- f) **Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?**

No Impact. No impact would occur, as substantiated above in Section 3.16.a.

- g) **Result in inadequate parking capacity?**

No Impact. The proposed outdoor storage units would displace 20 existing truck parking spaces. An estimate of existing parking based on the site plan and aerial photo puts the number of existing parking spaces at approximately 608, and with the reduction of 10 spaces, the number is reduced to 598. Many of these spaces are not currently available as they are used for storage of parts and equipment. If approved, it is assumed that a better system of rack storage would allow Unical to reclaim these spaces for parking. (The estimate of existing parking differs from the number reported on application materials because one area is no longer marked for parking (loss of 9 spaces), and the northern most tip of the property was converted from trailer storage to parking (30 spaces gained).

The property has sufficient parking to satisfy the City's standards, and no parking impact is anticipated.

3. Environmental Analysis

3.17 UTILITIES AND SERVICE SYSTEMS

- a) **Exceed waste water treatment requirements of the applicable Regional Water Quality Control Board?**

No Impact. The project site is 0.6 acre, and thus is not subject to the Statewide General Construction Permit (Order No. 2012-0006-DWQ issued by the State Water Resources Control Board in 2012). The project is also not in any of the categories of development and redevelopment projects subject to requirements of the Municipal Stormwater Permit, Order No. R4-2012-0175, issued by the Los Angeles Regional Water Quality Control Board in 2012. Project implementation would not exceed wastewater treatment requirements, and no impact would occur.

- b) **Require or result in the construction of new water or waste water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

No Impact.

Water Treatment

Water treatment facilities filter and/or disinfect water before it is delivered to customers. Project operation would not use water and would have no impact on water treatment capacity.

Wastewater Treatment

The project would not generate wastewater and would not involve installation of sewer laterals. Project implementation would not impact wastewater treatment capacity.

- c) **Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

No Impact. Project implementation would not impact the direction, rate, or volume of drainage from the site. No new or expanded storm drainage facilities would be needed, and no impact would occur.

- d) **Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**

Less Than Significant Impact. Project operation would not use water. Project installation would briefly use a small amount of water, for instance for cleaning. The Walnut Valley Water District (WVWD) provides water to the east part of the City of Industry, including the Unical facility. WVWD's entire potable water supply consists of water imported from northern California and the Colorado River, and purchased from the Three Valleys Municipal Water District. WVWD forecasts that it will have sufficient water supplies to meet water demands in its service area through the 2015–2035 period (Carollo 2011). Project installation would not require WVWD to obtain new or expanded water supplies, and impacts would be less than significant.

3. Environmental Analysis

- e) **Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

No Impact. The project would not generate wastewater and does not propose installation of sewer laterals. Project implementation would not impact wastewater treatment capacity.

- f) **Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

No Impact. Project operation would not increase solid waste generation at the Unical facility. Project operation would consist of consolidating outdoor storage currently in two parking lots into the proposed racks. Project implementation would have no impact on landfill capacity.

- g) **Comply with federal, state, and local statutes and regulations related to solid waste?**

No Impact. Project operation would not generate solid waste. Project construction would generate a small amount of construction waste. Section 5.408 (Construction Waste Reduction, Disposal, and Recycling) of the 2013 California Green Building Standards Code (CALGreen; Title 24, California Code of Regulations, Part 11) requires that at least 50 percent of the nonhazardous construction and demolition waste from nonresidential construction operations be recycled and/or salvaged for reuse. The project would comply with the aforementioned regulation. The project includes an application for construction and demolition waste and recycling services approved by Valley Vista Services, the City franchise waste hauler for such recycling and disposal. No impact would occur.

3.18 MANDATORY FINDINGS OF SIGNIFICANCE

- a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

Less Than Significant Impact. The proposed rack installation would not degrade the quality of the environment; substantially reduce the range, habitat, or population of a fish or wildlife species or rare or endangered species of plant or animal; threaten to eliminate a plant or animal community; or eliminate important examples of the major periods of California history or prehistory. Impacts would be less than significant.

- b) **Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)**

Less Than Significant Impact.

3. Environmental Analysis

The following related projects identified by the City of Industry are within 0.5 mile of the proposed project site; environmental documentation for the related projects has been completed within the last 10 years. Current conditions on each site were checked using Google Earth Pro satellite photographs dated March 2015.

- **Walnut Valley Water District Water Well No. 5:** Drilling a groundwater well and installing pipe to convey water to an existing recycled water line in Business Parkway 20405 Business Parkway, 0.5 mile east. The well has been completed.
- **Valley Boulevard Road Widening:** Build a third eastbound lane for a 2.9-mile segment of Valley Boulevard from Azusa Avenue on the west to west of Fairway Drive on the east; in addition to other improvements including dedicated right turn lanes and bus turnouts at selected intersections. The improvements have been completed.
- **Zone Change, Ron Hockwalt Academies:** Zone change of the Ron Hockwalt Academies Continuation High School at 476 South Lemon Avenue—about 1,200 feet northwest of the project site—from M-Industrial to INST-Institutional.
- **Solar Carport and Electric Car Charging, Industry Metrolink Station:** Installation of solar carports and electric car charging stations at Industry Metrolink Station at 600 South Brea Canyon Road, next to the east side of the intersection of Brea Canyon Road and Currier Road, about 0.5 mile northeast of the proposed project site. The project has been completed.
- **Cooler Addition, Sysco Foodservice of Los Angeles:** Installation of a 36,546-square-foot addition to an existing cooler at the Sysco Foodservice of Los Angeles, Inc., facility at 20701 Currier Road, north opposite Currier Road from the Unical property. The project has been completed.

The proposed rack installation would require two workers and would thus generate minimal construction traffic, and operation of the racks would not cause a net increase in operational vehicle trip generation by the Unical facility. Thus, no cumulative traffic impacts would occur. No significant cumulative impacts are identified in this Initial Study.

- c) **Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?**

Less Than Significant Impact. No significant impacts to human beings have been identified in this Initial Study, and impacts would be less than significant.

4. Consultant Recommendation

4. Consultant Recommendation

Based on the information and environmental analysis contained in this Initial Study, we recommend that the City of Industry adopt a Negative Declaration for this project. We find that the project would not have a significant effect on the environment. We recommend that the first category be selected for the City's determination (See Section 5, *Lead Agency Determination*).

Date

Dwayne Mears, AICP, for PlaceWorks

5. Lead Agency Determination

5. Lead Agency Determination

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

Printed Name

For

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6. List of Preparers

6. List of Preparers

LEAD AGENCY

Brian James, Planning Director

PLACEWORKS

Dwayne Mears, Principal, Environmental Services

Michael Milroy, Associate

Natalie Foley, Planner, Noise

Stephanie Chen, Planner, Air Quality/GHG and Transportation

Cary Nakama, Graphic Artist

6. List of Preparers

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EXHIBIT B
CONDITIONS OF APPROVAL



CITY OF INDUSTRY

P.O. Box 3366 • 15625 E. Stafford St. • City of Industry, CA 91744-0366 • (626) 333-2211 • FAX (626) 961-6795

EXHIBIT B

Standard Requirements and Conditions of Approval

Application: Plot Plan – Outdoor Storage

Applicant: Unical Aviation, Inc.

Location: 680 Lemon Avenue

Conditions of Approval

Conditions of approval are unique provisions, beyond the requirements of law, the municipal code, or standard practices that are applied to a project by the City Council per Section 17.36.080 of the Zoning Code. Please note that if the design of your project or site conditions change, the conditions of approval may also change. If you have any questions regarding these requirements, please contact the City of Industry.

1. To minimize noise impacts on nearby residents, outdoor loading operations in the rear (south end) of the Property occurring between the hours of 7:00 PM and 7:00 AM shall be limited to five events per month. If, during the operation of the outdoor storage racks, complaints are received and verified by City Staff, the City will work with the operator to address the issue and may require that a noise analysis be prepared and funded by the operator. Remedies to address noise violations may include limiting the hours of outdoor operations, limiting the types of outdoor operations, adjusting hours of operation, or other remedies as appropriate to address the issue.
2. Between the hours of 7:00 PM and 7:00 AM, exterior doors shall remain closed. The exception is during loading/unloading operations.
3. Permanent outdoor storage on the Property shall only occur in the storage racks. The storage of parts and components shall not occur in required parking and landscaping.
4. Flammable or hazardous materials shall not be stored on the storage racks.
5. The Applicant shall regularly inspect the storage racks for evidence of rodents and pests and, if discovered, shall institute measures to eliminate the rodents and pests.

Code Requirements and Standards

The following is a list of code requirements and standards deemed applicable to the proposed project. The list is intended to assist the Applicant by identifying requirements that must be satisfied during the various stages of project permitting, implementation, and operation. It should be noted that this list is in addition to any "conditions of approval" adopted by the City Council and noted above. Please note that if the design of your project or site conditions change, the list may also change. If you have any questions regarding these requirements, please contact the City of Industry.

1. The approval expires twelve (12) months after the date of approval by the City Council if a building permit for each building and structure thereby approved has not been obtained within such period.
2. The Applicant shall construct adequate fire protection facilities to the satisfaction of the Los Angeles County Fire Department.
3. All exterior surfaces of buildings and appurtenant structures shall be painted in accordance with the approved plot plan.
4. The Applicant shall provide off-street parking as shown on the approved plot plan.
5. The Applicant shall provide building plans to be approved prior to the issuance of a building permit. Such plans shall be in substantial conformity with the plot plans. Building plans shall be submitted to and approved by the Los Angeles County Engineer's Office - Building and Safety Division prior to the issuance of a building permit. All development shall be completed in substantial compliance with the approved plot plan.
6. Demolition and construction operations shall be limited to the hours prescribed by the Los Angeles County Noise Ordinance (Los Angeles County Municipal Code, Section 12.08.390).
7. No outdoor storage of any personal property, building materials, or other property not permanently affixed to the Property per the approved plan is allowed.
8. Prior to Planning Final, all outstanding fees and invoices due to the City shall be paid in full. If requested by City Staff, the Applicant shall provide proof of payment.

Interpretation and Enforcement

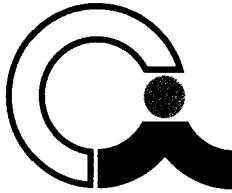
1. The Applicant shall comply with all applicable code requirements, conditions of approval, laws, rules, and regulations applicable to the development of the project.
2. The Planning Director may interpret the implementation of each condition of approval and, with advanced notice, grant minor amendments to approved plans and/or conditions of approval based on changed circumstances, new information, and/or relevant factors as long as the spirit and intent of the approved condition of approval is satisfied. Permits shall not be issued until the proposed minor amendment has been reviewed and approved for conformance with the intent of the approved condition of approval. If the proposed changes are substantial in nature, an amendment to the original entitlement may be required pursuant to the provisions of Industry Municipal Code.

Indemnification and Hold Harmless Condition

1. The Applicant and each of its heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Industry and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council and Planning Commission concerning this project. The City shall promptly notify the Applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

CITY COUNCIL

ITEM NO. 6.7



CITY OF INDUSTRY

Incorporated June 18, 1957

MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Paul Philips, City Manager *Paul Philips*

Staff: Clement N. Calvillo, CNC Engineering *CNC*
Joshua Nelson, CNC Engineering *JN*

Date: December 3, 2015

SUBJECT: Resolution Expressing the Intent to Vacate Three Storm Drain Easements Located on APNs 8264-020-050, 8264-020-051, and 8264-020-052 (also known as 18639 Railroad Street), JN-9141

Herewith is the resolution expressing the intent to vacate three storm drain easements located on assessor's parcel numbers 8264-020-050, 8264-020-051, and 8264-020-052 (also known as 18639 Railroad Street) that are no longer required. No storm drains were constructed within these easements.

Pursuant to Sections 8300 *et seq.* of the California Streets & Highways Code ("Code"), the City is permitted to adopt a resolution vacating a street, highway or public service easement, after a noticed public hearing, and upon making findings that the public service easement is unnecessary for present or prospective public use.

By adopting the attached resolution the City Council will be setting the time and place for the public hearing to vacate subject storm drain easements as required by Section 8320 of the Code. That time and place is to be 9:00 a.m., January 14, 2016, in the City Council Chambers.

It is hereby recommended that the City Council approve and adopt the subject resolution expressing the intent to vacate three storm drain easements located on assessor's parcel numbers 8264-020-050, 8264-020-051, and 8264-020-052 (also known as 18639 Railroad Street); and set the time and place for the public hearing for 9:00 a.m., January 14, 2016, in the City Council Chambers.

PP/JN:cl

RESOLUTION NO. CC 2015-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY EXPRESSING THE INTENT TO VACATE THREE STORM DRAIN EASEMENTS LOCATED ON ASSESSOR PARCEL NUMBERS 8264-020-050, 8264-020-051, AND 8264-020-052 (ALSO KNOWN AS 18639 RAILROAD STREET) WITHIN THE CITY OF INDUSTRY AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING

RECITALS

WHEREAS, California Streets and Highways Code Section 8320 *et seq.*, provides for summary vacation of streets and public service easements; and

WHEREAS, the City proposes to vacate three storm drain easements located at 18369 Railroad Avenue, City of Industry, California, Assessor Parcel Numbers 8264-020-50, 8264-020-051, AND 8264-020-052; and

WHEREAS, the storm drain easements are public service easements as defined in Streets and Highways Code Section 8306; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1: The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

SECTION 1. The City Council of the City of Industry does hereby declare its intention to proceed under and pursuant to the provisions of Chapter 3 of Division 9, Part 3, of the Streets and Highways Code of the State of California, Section 8300 *et seq.*, and hereby declares its intention to order the vacation of three storm drain easements, located on Assessor Parcel Numbers 8264-020-50, 8264-020-51, 8264-020-052 (also known as 18639 Railroad Street) in the City of Industry, as described on the attached legal descriptions, marked Exhibits "A1, A2, and A3" and as shown on the attached maps, marked Exhibits "B1, B2, and B3", said maps and legal descriptions being on file and open to public inspection in the office of the City Clerk.

SECTION 2. The hour of 9:00 a.m. on the 14th day of January, 2016, at 15625 Stafford Street, Suite 100, City of Industry, California, in the Council Chambers, is hereby designated as the time and place for all persons interested, or objecting to the proposed vacation to appear and be heard in connection therewith.

SECTION 3. The City Clerk is directed to post notice of said proposed vacation conspicuously along the line of the public service easements or portions thereof proposed to be vacated at least fourteen (14) days before the date of said hearing. Such notices

shall be prepared and posted pursuant to Section 8323 of the Streets and Highway Code of the State of California.

SECTION 4. This Resolution shall be posted as provided in Section 8322 of the California Streets and Highways Code and shall be published once a week for two weeks prior to the hearing in the San Gabriel Valley Tribune.

SECTION 5. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 6. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Industry at a regular meeting held on December 10, 2015 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Mark D. Radecki, Mayor

ATTEST:

Diane Schlichting, Acting Deputy City Clerk

CITY COUNCIL

ITEM NO. 6.8



CITY OF INDUSTRY

Incorporated June 18, 1957

MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Paul J. Philips, City Manager *Paul J. Philips*

Staff: *CNC* Clement N. Calvillo, CNC Engineering
AL Arlene Lopez, CNC Engineering

Date: December 3, 2015

SUBJECT: Valley Boulevard Reconstruction with PCC Pavement from Turnbull Canyon Road to Hacienda Boulevard (CITY-1421)

At the direction of the City Staff, CNC Engineering has prepared plans and specifications for the above project. This project will be implemented as Contract No. CITY-1421, subject to the approval of the City Council.

The scope of work involves the removal of existing asphalt concrete pavement, underlying Portland Cement Concrete (PCC) pavement, and aggregate base and replacing with PCC pavement on crushed aggregate base over engineered fill. The work also includes the repair of existing PCC curb and gutter, sidewalk, curb ramps, and a cross gutter. In order to maintain two lanes of traffic in each direction and to fix some drainage issues it will include the removal of existing medians and landscaping followed by the installation of new medians, median curb and gutter, irrigation, trees, and landscaping. The project also includes the adjustment of utility manholes and valves, temporary traffic control, permanent striping, pavement markers, and restoration of traffic signal loops. The estimated cost for this project is \$4,800,000.00. It is listed in the budget for a lower amount but after the soils report was received a much thicker section was recommended than what we had anticipated. In addition prices have gone up for concrete materials. So we would still recommend you proceed with the project.

It is hereby recommended that the City Council approve the plans and specifications and authorize the solicitation of public bids.

PJP/CC/AL:af

ESTIMATE FOR:

CITY OF INDUSTRY

PROJECT NO. 421

**VALLEY BOULEVARD RECONSTRUCTION WITH PCC PAVEMENT FROM
TURNBULL CANYON ROAD TO HACIENDA BOULEVARD**

CONTRACT NO. CITY-1421

ENGINEER'S ESTIMATE

\$4,800,000.00

CNC ENGINEERING

COST ESTIMATE SHEET

255 N. Hacienda Blvd., Suite 222
Industry, CA 91744
Tel: (626) 333-0336
Fax: (626) 369-4306

DATE PREPARED:

12/1/2015

ENGINEER/
DESIGNER:

A. Lopez

JOB NO.:

CITY-1421

ESTIMATOR:

A. Lopez

CHECKED BY:

J. Nelson

PROJECT NAME: Valley Boulevard from Turnbull Canyon Road to Hacienda Boulevard

SCOPE OF WORK/PROJECT DESCRIPTION: Improvements to Valley Boulevard between Turnbull Canyon

Road and Hacienda Boulevard includes removal of existing AC pavement and replacing with PCC pavement over crushed aggregate base.

ITEM NO.	DESCRIPTION OF ITEM	QUANTITY		UNIT PRICE	TOTAL COST
		NO. UNITS	UNIT MEAS.		
SCHEDULE A - CIVIL WORK					
1.	Saw Cut and Remove AC Pavement including Base Material	264,670	SF	\$1.00	\$264,670.00
2.	Saw Cut and Remove Curb and Gutter including Base Material	3,410	LF	\$7.00	\$23,870.00
3.	Saw Cut and Remove Driveway/Sidewalk/Pedestrian Ramp including Base Material and Integrated Curb where it Exists	5,120	SF	\$3.00	\$15,360.00
4.	Saw Cut and Remove PCC Cross Gutter including Base Material	720	SF	\$7.00	\$5,040.00
5.	Remove Bus Pad	4,700	SF	\$10.00	\$47,000.00
6.	Cold Milling AC Pavement, 2" Thick	820	SF	\$4.00	\$3,280.00
7.	Remove Existing 8" Thick PCC Pavement (Underneath existing AC Pavement) See Plans for Approximate Locations.	44,300	SF	\$8.00	\$354,400.00
8.	Remove and Reconstruct 9" PCC Pavement on 13" Aggregate Base (Use No. 4 Epoxied Dowels at 18" O.C.)	3,330	SF	\$12.00	\$39,960.00
9.	Remove existing Stamped Concrete in Medians	9,200	SF	\$2.00	\$18,400.00
10.	Temporary Asphalt for Medians, includes Construction and Removal	7,200	SF	\$2.00	\$14,400.00
11.	Unclassified Excavation (Export) including Aggregate Base Removal	8,610	CY	\$30.00	\$258,300.00
12.	Over Excavation and Recompaction of existing Soil	10,000	CY	\$18.00	\$180,000.00
13.	Construct 10.5" PCC Pavement	8,800	CY	\$280.00	\$2,464,000.00
14.	Construct AC Pavement	11	TON	\$100.00	\$1,100.00
15.	Crushed Aggregate Base	6,650	CY	\$50.00	\$332,500.00
16.	Construct 4" PCC Sidewalk per City of Industry Standard Plan 115	1,250	SF	\$7.00	\$8,750.00

CNC ENGINEERING

COST ESTIMATE SHEET

255 N. Hacienda Blvd., Suite 222
Industry, CA 91744
Tel: (626) 333-0336
Fax: (626) 369-4306

DATE PREPARED:

12/1/2015

ENGINEER/
DESIGNER:

A. Lopez

JOB NO.:

CITY-1421

ESTIMATOR:

A. Lopez

CHECKED BY:

J. Nelson

PROJECT NAME: Valley Boulevard from Turnbull Canyon Road to Hacienda Boulevard

SCOPE OF WORK/PROJECT DESCRIPTION: Improvements to Valley Boulevard between Turnbull Canyon

Road and Hacienda Boulevard Includes removal of existing AC pavement and replacing with PCC pavement over crushed aggregate base.

ITEM NO.	DESCRIPTION OF ITEM	QUANTITY		UNIT PRICE	TOTAL COST
		NO. UNITS	UNIT MEAS.		
17.	Construct Curb and Gutter including Base per City of Industry Standard Plan 112, Type A2-8	800	LF	\$30.00	\$24,000.00
18.	Construct Curb and Gutter including Base per City of Industry Standard Plan 112, Type B2-6	540	LF	\$25.00	\$13,500.00
19.	Construct Curb and Gutter including Base per City of Industry Standard Plan 112, Type B3-6	2,900	LF	\$20.00	\$58,000.00
20.	Construct 8" PCC Cross Gutter including Base per City of Industry Standard 113	725	SF	\$12.00	\$8,700.00
21.	Construct Driveway including Base per City of Industry Standard Plan 114	1,400	SF	\$6.00	\$8,400.00
22.	Adjust CSD Manhole Frame and Cover to finish Grade	3	EA	\$750.00	\$2,250.00
23.	Adjust Manhole Frame and Cover to finish Grade	13	EA	\$700.00	\$9,100.00
24.	Construct Catch Basin Local Depression per SPPWC Plan 313-3, Case E	1	EA	\$750.00	\$750.00
25.	Replace Traffic Signal Pullbox and Cover	8	EA	\$250.00	\$2,000.00
26.	Replace Water Meter Box and Cover	4	EA	\$250.00	\$1,000.00
27.	Remove and Reconstruct 4" Grout Cap at Streetlight Base	1	EA	\$2.50	\$2.50
28.	Temporary Traffic Control	1	LS	\$25,000.00	\$25,000.00
26.	SWPPP Preparation and Implementation	1	LS	\$25,000.00	\$25,000.00
27.	Pavement Markers, Markings, Striping	1	LS	\$30,000.00	\$30,000.00
SCHEDULE A SUBTOTAL					\$4,238,732.50
SCHEDULE B LANDSCAPE AND IRRIGATION					
SITE WORK					
1.	Demo existing Landscape on Medians	2,332	SF	\$1.00	\$2,332.00
2.	Soil Preparation	2,332	SF	\$0.25	\$583.00
3.	Fine Grading	2,332	SF	\$0.15	\$349.80

CNC ENGINEERING

COST ESTIMATE SHEET

255 N. Hacienda Blvd., Suite 222
Industry, CA 91744
Tel: (626) 333-0336
Fax: (626) 369-4306

DATE PREPARED:

12/1/2015

ENGINEER/
DESIGNER:

A. Lopez

JOB NO.:

CITY-1421

ESTIMATOR:

A. Lopez

CHECKED BY:

J. Nelson

PROJECT NAME: Valley Boulevard from Turnbull Canyon Road to Hacienda Boulevard

SCOPE OF WORK/PROJECT DESCRIPTION: Improvements to Valley Boulevard between Turnbull Canyon

Road and Hacienda Boulevard includes removal of existing AC pavement and replacing with PCC pavement over crushed aggregate base.

ITEM NO.	DESCRIPTION OF ITEM	QUANTITY		UNIT PRICE	TOTAL COST
		NO. UNITS	UNIT MEAS.		
4.	Weed Control/Abatement	2,332	SF	\$0.10	\$233.20
5.	Tree Removal	8	EA	\$750.00	\$6,000.00
SITework SUBTOTAL					\$9,498.00
HARDSCAPE					
6.	3" Thick Stabilized D.G. Color Gold with 4LB/TON Natracil Stabilizer Over Weed Barrier	22	YD	\$175.00	\$3,850.00
7.	California Gold Boulders Embedded in Concrete Sizes 18"x24" & 30"x36" - Street Median	33	EA	\$300.00	\$9,900.00
8.	River Rock Cobble Embedded in Concrete	4,914	SF	\$15.00	\$73,710.00
HARDSCAPE SUBTOTAL					\$87,460.00
IRRIGATION					
9.	Irrigation	2,332	SF	\$3.50	\$8,162.00
	Irrigation Controller	1	EA	\$5,000.00	\$5,000.00
IRRIGATION SUBTOTAL					\$13,162.00
SOFTSCAPE					
10.	36" Box tree	5	EA	\$750.00	\$3,750.00
11.	15' B.T.H. California Fan Palm	6	EA	\$1,800.00	\$10,800.00
12.	5 Gallon - Shrubs	127	EA	\$30.00	\$3,810.00
13.	15 Gallon - Shrubs	22	EA	\$100.00	\$2,200.00
14.	90 Day Maintenance	2,332	SF	\$0.35	\$816.20
SOFTSCAPE SUBTOTAL					\$21,376.20
SCHEDULE B SUBTOTAL					\$131,496.20

CNC ENGINEERING

COST ESTIMATE SHEET

255 N. Hacienda Blvd., Suite 222
Industry, CA 91744
Tel: (626) 333-0336
Fax: (626) 369-4306

DATE PREPARED:

12/1/2015

ENGINEER/
DESIGNER:

A. Lopez

JOB NO.:

CITY-1421

ESTIMATOR:

A. Lopez

CHECKED BY:

J. Nelson

PROJECT NAME: Valley Boulevard from Turnbull Canyon Road to Hacienda Boulevard

SCOPE OF WORK/PROJECT DESCRIPTION: Improvements to Valley Boulevard between Turnbull Canyon

Road and Hacienda Boulevard includes removal of existing AC pavement and replacing with PCC pavement over crushed aggregate base.

ITEM NO.	DESCRIPTION OF ITEM	QUANTITY		UNIT PRICE	TOTAL COST
		NO. UNITS	UNIT MEAS.		
	TOTAL				\$4,370,228.70
	5% CONTINGENCY				\$218,511.44
	TOTAL				\$4,588,740.14
	5% CONTINGENCY FOR UNFORSEEN CONDITIONS				\$229,437.01
	GRAND TOTAL				\$4,818,177.14
	ENGINEER'S ESTIMATE				\$4,800,000.00

FOR PUBLICATION

NOTICE INVITING SEALED BIDS FOR:

**CITY OF INDUSTRY
PROJECT NO. 421**

VALLEY BOULEVARD RECONSTRUCTION WITH PCC PAVEMENT FROM TURNBULL
CANYON ROAD TO HACIENDA BOULEVARD

CONTRACT NO. CITY-1421

The **CITY OF INDUSTRY**, hereinafter referred to as the **CITY**, will receive sealed bids for the construction of the above project until **10:00 A.M. on January 20, 2015**, in the City Administrative Office, located at 15625 East Stafford Street in the City of Industry, California 91744. All bids will be opened and read in public immediately thereafter.

If a sealed bid is to be mailed, it must be mailed to the City Administrative Office, Post Office Box 3366, City of Industry, California 91744.

It is the responsibility of the bidder to be sure the sealed bid is in the possession of the City Clerk, City of Industry, prior to the date and time indicated.

At the time of submission of the bid and thereafter, each bidder must be licensed as a **Class A, General Engineering Contractor** as defined in Sections 7055-7058 of the Business and Professions Code. Each bidder shall set forth on the Bidder's Information Sheet and the Contractor's License Affidavit the classification and number of the requisite license which that bidder holds.

The **CITY** reserves the right to award the contract to the contractor with another license class if the **CITY** determines that the license class is proper for the proposed work.

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. **Please note: It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.** Any bids submitted without proof that bidder and any listed subcontractor(s) are currently registered and qualified to perform public work, pursuant to Labor Code Section 1725.5, may not be accepted by the City.

(Continued)

The Scope of Work is as follows: The work to be done consists primarily of the removal of existing asphalt concrete pavement, underlying PCC pavement, and aggregate base and replacing with Portland cement concrete pavement on crushed aggregate base on engineered fill. The work also includes the repair of existing PCC curb and gutter, sidewalk, curb ramps, and a cross gutter; the removal of existing medians and landscaping; the installation of new medians, median curb and gutter, irrigation, trees, and landscaping; the adjustment of utility manholes and valves; temporary traffic control; and permanent striping, pavement markers, and restoration of traffic signal loops.

Plans and Specifications are available for inspection at the City Administrative Offices, and may be obtained with bid forms at the City Engineering Offices located at 255 North Hacienda Blvd., Suite 222, City of Industry, California 91744.

There is a non-refundable fee of **\$40.00** for each set of plans and specifications. No cash will be accepted. Checks should be made payable to the **CITY OF INDUSTRY**.

(Continued)

SECTION A

**CITY OF INDUSTRY
PROJECT NO. 421**

VALLEY BOULEVARD RECONSTRUCTION WITH PCC PAVEMENT FROM
TURNBULL CANYON ROAD TO HACIENDA BOULEVARD

CONTRACT NO. CITY-1421

The **CITY OF INDUSTRY**, hereinafter referred to as the **CITY**, will receive sealed bids for the construction of the above project until **10:00 A.M.** on **January 20, 2015**, in the City Administrative Office, located at 15625 East Stafford Street in the City of Industry, California 91744. All bids will be opened and read in public immediately thereafter.

If a sealed bid is to be mailed, it must be mailed to the City Administrative Office, Post Office Box 3366, City of Industry, California 91744.

It is the responsibility of the bidder to be sure the sealed bid is in the possession of the City Clerk, City of Industry, prior to the date and time indicated.

At the time of submission of the bid and thereafter, each bidder must be licensed as a **Class A, General Engineering Contractor** as defined in Sections 7055-7058 of the Business and Professions Code. Each bidder shall set forth on the Bidder's Information Sheet and the Contractor's License Affidavit the classification and number of the requisite license which that bidder holds.

The **CITY** reserves the right to award the contract to the contractor with another license class if the CITY determines that the license class is proper for the proposed work.

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. **Please note:** *It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.* Any bids submitted without proof that bidder and any listed subcontractor(s) are currently registered and qualified to perform public work, pursuant to Labor Code Section 1725.5, may not be accepted by the City.

The Scope of Work is as follows: The work to be done consists primarily of the removal of existing asphalt concrete pavement, underlying PCC pavement, and aggregate base and replacing with Portland cement concrete pavement on crushed aggregate base on engineered fill. The work also includes the repair of existing PCC curb and gutter, sidewalk, curb ramps, and a cross gutter; the removal of existing medians and
(Continued)

landscaping; the installation of new medians, median curb and gutter, irrigation, trees, and landscaping; the adjustment of utility manholes and valves; temporary traffic control; and permanent striping, pavement markers, and restoration of traffic signal loops.

Plans and Specifications are available for inspection at the City Administrative Offices, and may be obtained with bid forms at the City Engineering Offices located at 255 North Hacienda Blvd., Suite 222, City of Industry, California 91744.

There is a non-refundable fee of **\$40.00** for each set of plans and specifications. No cash will be accepted. Checks should be made payable to the **CITY OF INDUSTRY**.

The bid shall be accompanied by a bid guarantee in the form of a Certified or Cashier's Check or Bidder's Bond for not less than ten percent (10%) of the total amount of the bid, payable to the **CITY OF INDUSTRY**. The bid guarantee is to insure that the bidder, if awarded the work, will enter into a contract with the CITY. Failure of a contractor to enter into a contract within ten (10) days following award will cause the bid guarantee to be forfeited.

The CITY may, upon refusal or failure of a successful responsible bidder to accept the contract, award it to the next lowest bidder. If the CITY awards the contract to the second lowest bidder, the amount of the lowest bidder's bid guarantee shall be applied by the CITY to the difference between the low bid and the second lowest bid; the surplus, if any, shall be returned to the lowest bidder if cash is used, or to the surety company if a bond is used.

The successful bidder will be required to furnish a labor and materials bond in an amount equal to one hundred percent (100%) of the contract price and a faithful performance bond in an amount equal to one hundred percent (100%) of the contract price. A maintenance bond equal to ten percent (10%) of the total bid price amount is to remain in force for one (1) year after the date of completion of work, shall be submitted prior to execution of contract. The above bonds shall be secured by a surety company satisfactory to the CITY, and licensed as a Surety Insurer in the State of California and rated at least B+:V in the latest "Best's Insurance Guide." The attached bond forms shall be used without exception.

CONTRACTOR

LIABILITY INSURANCE

Contractor shall obtain and maintain at all times during the term of this agreement Comprehensive General Liability insurance protecting Contractor in amounts not less than \$1,000,000.00 and Automobile Liability Insurance protecting Contractor in amounts not less than \$1,000,000.00. If an umbrella or excess coverage is in effect, it must follow the form of the underlying coverage. Such insurance shall name CNC Engineering; City of Industry; Successor Agency to the Industry Urban-Development Agency; Civic-Recreational-Industrial Authority DBA Industry Hills Recreation and Conference Center; Majestic Industry Hills, LLC; Parking Authority of the City of

Industry; City of Industry Waterworks System; Industry Hills Recreation and Conference Center; and their Officers, Employees, Elected Officials and Members of Boards or Commissions as additional insured parties. Coverage shall be in accordance with the sample certificates and endorsements attached hereto and must include the coverage and provisions indicated.

Contractors using the new I.S.O. form of coverage shall include Endorsement #CG25031185, which provides limits for each separate project that is being undertaken by said contractor.

Contractor shall file and maintain the required certificate(s) of insurance with the Lessor to this agreement at all times during the term of this agreement. The certificate(s) is to be filed prior to the commencement of the work or event and should state clearly:

- (1) The additional insured requested.
- (2) A minimum of ten (10) days prior written notice of cancellation for non-payment of premium and a minimum of thirty (30) days notice of cancellation for any other reason.
- (3) That the insurance is primary to that of the Additional Insured.
- (4) Included coverage.
- (5) Cross-Liability Clause.

WORKER'S COMPENSATION INSURANCE

Contractor shall obtain and maintain at all times during the term of this agreement Worker's Compensation and Employer's Liability insurance and furnish the Additional Insured with a certificate showing proof of such coverage. Insurance company must waive subrogation rights against the above-named additional insureds. An endorsement to that effect must accompany the certificate of coverage.

INSURANCE COMPANIES

Insurance companies must be admitted in California and rated at least B+:XIII in *Best's Insurance Guide*. Non-admitted insurance companies will be considered if they are rated at least A:XIII or better and have a ratio of 3:1 for premium to policy holder surplus or lower in the latest *Best's Insurance Guide*.

Furnish additional insured with an endorsement waiving subrogation against them by the insurance carrier.

All liability insurance policies shall bear an endorsement or shall have attached a rider whereby it is provided that, in the event of expiration or proposed cancellation of such policies for any reason whatsoever, the CITY shall be notified by registered mail, return receipt requested, giving a sufficient time before the date thereof to comply with any applicable law or statute, but in no event less than 10 days in advance of the effective date of cancellation due to non-payment of premium and not less than 30 days in advance of the effective date of cancellation for any other reason or for a policy change.

Notification for all above insurance items shall be submitted to: City of Industry Engineering Offices, 255 North Hacienda Blvd., Suite 222, City of Industry, CA 91744, Attention: Rachel Gonzalez. Failure to provide the CITY with written notice of cancellation or any change in required insurance may constitute a material breach of the Contract, in the sole discretion of the CITY, upon which the CITY may suspend or terminate the Contract.

EXPERIENCE AND SAFETY

The successful bidder may be required to submit a statement attesting to its financial responsibility, technical ability, experience and safety record.

PREVAILING WAGES

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the contractor is required to pay not less than the general prevailing rate of wages for each craft, classification, or type of workman needed in the execution of the public work under the jurisdiction of the CITY. The general prevailing wages shall be these determined by the Director of the Department of Industrial Relations of the State of California. Copies of the applicable determination by the CITY are on file in the office of the CITY and are hereby incorporated and made a part hereof the same as though fully set forth herein. Copies of the applicable determination may be obtained at the office of the CITY.

CONTRACTOR REGISTRATION PROGRAM

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. ***Please note: It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. Any bids submitted without proof that bidder and any listed subcontractor(s) are currently registered and qualified to perform public work, pursuant to Labor Code Section 1725.5, may not be accepted by the City.***

LABOR COMPLIANCE MONITORING AND ENFORCEMENT

The project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (California Labor Code Section 1771.4).

AGREEMENT

When the award of a contract is made to a corporation, the Agreement must be signed by the Secretary/Treasurer of the corporation in addition to the signature of the President/Vice President, or the public agency needs to receive a copy of a resolution adopted by the Board of Directors of the corporation indicating that the party executing the contract has the authority to bind the corporation.

SURETY BONDS

All surety bonds issued in connection with projects for public works must be accompanied by a power of attorney from the surety company authorizing the person executing the bond to sign on behalf of the company. The bonds must also be acknowledged by a Notary Public to the effect that the signature by the surety's representative is that of the person designated in the Power of Attorney.

By the order of the **CITY OF INDUSTRY** dated **December 10, 2015**.

Diane Schlichting – Acting Deputy City Clerk

CITY OF INDUSTRY IMPROVEMENT PROJECT NO. 421

VALLEY BOULEVARD RECONSTRUCTION WITH PCC PAVEMENT FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD CONTRACT CITY-1421

GENERAL NOTES

1. UNLESS OTHERWISE NOTED, ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, CURRENT EDITION WITH ALL CURRENT SUPPLEMENTS, PUBLISHED BY BURNS & MCDONNELL INC., LOCATED AT 1814 SOUTH CLAYMOUNT ST., ANAHEIM, CA 92805 AND APPLICABLE STANDARD SPECIFICATIONS.
2. PRIOR TO BEGINNING ANY WORK, THE CONTRACTOR SHALL OBTAIN A PERMIT FROM THE CITY OF INDUSTRY PERMIT OFFICE AT 225 N. HAZEN RD., CITY OF INDUSTRY, CA 91744, (951) 333-0336.
3. ALL WORK COVERED BY THIS PLAN SHALL BE INSPECTED BY THE CITY ENGINEER. REQUEST FOR INSPECTION SERVICES SHALL BE MADE 24-HOURS IN ADVANCE AT (951) 333-0336.
4. WORK IN EXISTING STREETS SHALL BE COMPLETED AS SOON AS POSSIBLE TO MINIMIZE INCONVENIENCE TO ADJACENT PROPERTY OWNERS AND THE TRAVELING PUBLIC. FAILURE TO COMPLY WITH THIS REQUIREMENT IS A VIOLATION OF CITY ORDINANCE.
5. THE CONTRACTOR SHALL NOTIFY THE LOS ANGELES COUNTY FIRE DEPARTMENT (CAL 800-471-7272) AND THE LOS ANGELES COUNTY DEPARTMENT 7261 323-3322 AT THE CITY OF INDUSTRY SUBSTATION AT LEAST 48-HOURS PRIOR TO START OF WORK.
6. 48-HOURS PRIOR TO ANY STREET WORK, THE CONTRACTOR SHALL CALL THE UNDERGROUND UTILITY ALERT AT 7 (800) 422-4133 AND OBTAIN AN UTILITY IDENTIFICATION NUMBER.
7. ALL UTILITIES EXPOSED IN PUBLIC STREETS SHALL BE PROTECTED WITH A 4" MIN. GRANULAR MATERIAL, HAVING A MINIMUM SAND EQUIVALENT OF 50. BACKFILL SHALL BE COMPACTED TO A MINIMUM RELATIVE DENSITY OF 90 PERCENT.
8. THE USE OF USMC SLAC OR ORGANO INCL. BASE (CMB) IN L&M OF CRUSHED AGGREGATE BASE FOR ANY STREET IMPROVEMENT IS NOT ALLOWED.
9. EXISTING CONCRETE IMPROVEMENTS AND ASPHALT CONCRETE PAVEMENT SHALL BE SAW CUT, FULL DEPTH, TO A TRUE LINE. PATCH NEW CONCRETE OR ASPHALT AS TO JOIN.
10. ALL MANHOLES SHALL BE ADJUSTED TO FINISH GRADE IN ACCORDANCE WITH SECTION 201-1.8 OF THE STANDARD SPECIFICATIONS. CONTRACTOR SHALL NOTIFY COUNTY SANITATION DISTRICT OF LOS ANGELES COUNTY (CSO), SUPERINTENDENT OF MAINTENANCE AT (310) 774-7372 A MINIMUM OF 48 HOURS PRIOR TO THE COMMENCEMENT OF ANY WORK IN THE AREA OF MANHOLES. CONTRACTOR SHALL ASSIST IN THE ADJUSTMENT OF MANHOLES IN ACCORDANCE WITH THESE PROCEDURES 50-1202, PDA 19/08.
11. THE CONTRACTOR SHALL PROTECT AND RESTORE EXISTING UTILITIES AND IMPROVEMENTS AS PER SECTION 5-1, 5-2, AND 7-3 OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION.
12. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE ALL UTILITIES OF EVERY NATURE, WHETHER SHOWN HEREON OR NOT, TO PREVENT THEM FROM DAMAGE. THE CONTRACTOR SHALL BEAR THE TOTAL BURDEN OF REPAIR OR REPLACEMENT OF SAID UTILITIES DAMAGED BY CONDITIONS IN CONNECTION WITH THE PROSECUTION OF THE WORK.
13. THE FOLLOWING IS A LIST OF THE UTILITY COMPANIES AND THE PERSONS TO CONTACT REGARDING THE RESPECTIVE UTILITIES WITHIN THE LIMITS OF THIS PROJECT:

MR. ROBERT L. LUDICK SANITATION DISTRICT OF L.A. COUNTY	(562) 906-4288
MR. THOMAS SHAWES SO. CALIFORNIA GAS COMPANY	(714) 834-3237
MR. JOE ZAMBA SO. CALIFORNIA Edison COMPANY	(909) 582-3728
MR. ABIM ABDELKHALIM VERDON	(708) 489-6383
MR. PAUL GARIBITO SAN GABRIEL VALLEY WATER CO. (S.V.W.C.)	(908) 201-7349
MR. LONG TAN SUNBURNE WATER SYSTEMS (S.W.S.)	(626) 543-2550
MR. HECTOR C. NERVAEZ LA COUNTY PUBLIC WORKS - ROAD DEPT.	(626) 456-3123
MR. MALCOLM EDWIN VERDON FIRELESS	(941) 280-4772
MR. BRUCE BALANOD LA PUENTE VALLEY CO. WATER DISTRICT (L.P.W.D.)	(626) 330-2128
MR. MARK BERNI MOLAND WATER DISTRICT	(626) 879-0808
MR. JOHN HELLER MGA (BUS SERVICES)	(626) 454-2820
14. ANY CONTRACTOR OR SUBCONTRACTOR PERFORMING WORK ON THIS PROJECT SHALL FAMILIARIZE HIMSELF WITH THE SITE AND SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO EXISTING FACILITIES RESULTING DIRECTLY OR INDIRECTLY FROM HIS OPERATIONS, WHETHER OR NOT SUCH FACILITIES ARE SHOWN ON THESE PLANS.
15. WORK IN EXISTING STREETS SHALL BE COMPLETED AS SOON AS POSSIBLE TO MINIMIZE INCONVENIENCE TO ADJACENT PROPERTY OWNERS AND THE TRAVELING PUBLIC. FAILURE TO COMPLY WITH THIS REQUIREMENT IS A VIOLATION OF CITY ORDINANCE.



VICINITY MAP
R15.

CONSTRUCTION NOTES

1. SAW CUT AND REMOVE EXISTING AC PAVEMENT INCLUDING BASE.
2. SAW CUT AND REMOVE EXISTING CURB AND GUTTER, INCLUDING BASE.
3. SAW CUT AND REMOVE EXISTING SIDEWALK, INCLUDING BASE.
4. SAW CUT AND REMOVE EXISTING DRIVEWAY, INCLUDING BASE.
5. SAW CUT AND REMOVE EXISTING PCC PAVEMENT.
6. REMOVE EXISTING PCC BUS PAD.
7. SAW CUT AND RECONSTRUCT PEDESTRIAN RAMP PER CALTRANS STD. PLAN AREA AND ASBE.
8. SAW CUT AND REMOVE EXISTING CROSS GUTTER.
9. COLLECT 2" AND OVERLAY 2" AC (CS-PC 84-16).
10. RECONSTRUCT 1.5" PCC OVER 8" CAS.
11. SAW CUT AND RECONSTRUCT 8" AC OVER 12" CRUSHED AGGREGATE BASE.
12. RECONSTRUCT 4" PCC SIDEWALK INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 115.
13. REMOVE AND RECONSTRUCT 8" PCC PAVEMENT ON 12" AGGREGATE BASE (USE #1 EXPANDED DOWELS @ 18" O.C.).
14. RECONSTRUCT CURB AND GUTTER INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 112, TYPE PER PLAN.
15. REMOVE AND RECONSTRUCT EXISTING PARALLEL DRAIN PER CITY OF INDUSTRY STD. PLAN 214 AND MATCH EXISTING.
16. RECONSTRUCT 4" AC ON 8" AGGREGATE BASE.
17. RECONSTRUCT CSO SEWER MANHOLE FRAME AND COVER TO FINISH GRADE PER LA COUNTY SANITATION DISTRICT PROCEDURE.
18. ADJUST SEWER MANHOLE FRAME AND COVER TO FINISH GRADE.
19. INSTALL DETECTABLE WARNING SURFACE PER CALTRANS STD. PLAN ASBA.
20. ADJUST STORM DRAIN MANHOLE FRAME AND COVER TO FINISH GRADE.
21. SAW CUT AND RECONSTRUCT CATCH BASIN LOCAL DEPRESSION PER APWA 313-1, CASE E.
22. RECONSTRUCT MODIFIED CROSS GUTTER PER DETAIL "A", SHEET X.
23. RECONSTRUCT DRIVEWAY INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 114.
24. REPLACE TRAFFIC PULLBACK AND COVER.
25. REFINISH LANDSCAPING WITH 15-CAL (10% OF THIS) INCLUDING TREE WELL COVER.
26. REPLACE WATER METER BOX AND COVER.
27. REMOVE AND RECONSTRUCT STREET LIGHTING GROUT CAP.
28. REMOVE EXISTING STAMPED CONCRETE FROM MEDIAN.
29. REMOVE EXISTING TREE.

SPECIAL NOTATIONS

- 1. EXISTING ELECTRIC MANHOLE/TANK COVER TO BE ADJUSTED TO GRADE BY DESIGN.
- 2. EXISTING TELEPHONE MANHOLE COVER TO BE ADJUSTED TO GRADE BY DESIGN.
- 3. EXISTING TRAFFIC LOOPS TO BE RESTORED BY LADPW.
- 4. EXISTING WATER VALVE COVER TO BE ADJUSTED TO GRADE.
- 5. PROTECT IN PLACE.

SHEET NO.	DESCRIPTION
1	TITLE SHEET, VICINITY MAP, GENERAL NOTES, CONSTRUCTION NOTES, INDEX OF DRAWINGS, NOTICE TO CONTRACTOR, AND LEGEND
2	PLAN AND PROFILE - TURNBULL CANYON RD. TO STA. 216+00.00
3	PLAN AND PROFILE - STA. 216+00.00 TO STA. 227+00.00
4	PLAN AND PROFILE - STA. 227+00.00 TO STA. 229+50.00
5	PLAN AND PROFILE - STA. 229+50.00 TO HAZEN RD.
6	PCC PAVING PLAN - TURNBULL CANYON RD. TO STA. 222+08.00
7	PCC PAVING PLAN - STA. 222+08.00 TO STA. 234+41.00
8	PCC PAVING PLAN - STA. 234+41.00 TO HACIENDA BLVD.
9	SEWERING AND STORMING PLAN

SYMBOLS & LEGEND

<ul style="list-style-type: none"> 1. SHEET POWER POLE 2. SHEET TELEPHONE POLE 3. SHEET SIGN 4. SHEET CATCH BASIN 5. SHEET FIRE HYDRANT 6. SHEET WATER VALVE 7. SHEET TELEPHONE MANHOLE 8. SHEET SEWER MANHOLE 9. SHEET STORM MANHOLE 10. SHEET BLENDING MANHOLE 11. SHEET TRAFFIC SIGNAL 12. SHEET STREET LIGHT 13. SHEET METER 14. DRAINAGE TO BE RECONSTRUCTED 15. SHEET MANHOLE SIGN 16. SHEET ONE LINE 17. SHEET SEWER LINE 18. SHEET WATER LINE 19. SHEET EXISTING LINE 20. SHEET TELEPHONE LINE 21. SHEET ELECTRIC LINE 22. SHEET FIREALARM LINE 23. SHEET DRAIN LINE 24. SHEET 8" W 	<ul style="list-style-type: none"> 2000 EXISTING ELEVATION 2009 PROPOSED ELEVATION CONSTRUCTION NOTE EXISTING CURB TOP OF CURB FLOW LINE GRADE BROW CLUB AND GUTTER CLUB FACE SEWER BRUSH ASPHALT CONCRETE CRUSHED AGGREGATE BASE PORTLAND CEMENT CONCRETE DRAINAGE FINISHED SURFACE EXISTING PROPERTY LINE COUNTY SANITATION DISTRICT APWA-82 ASPHALT NUMBER NOT 80-CAP CRACKED PROPOSED PCC PAVEMENT
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NOTICE TO CONTRACTOR

APPROVAL OF THIS PLAN BY THE ENGINEER AND CITY ENGINEER DOES NOT CONSTITUTE A REPRESENTATION AS TO THE ACCURACY OF THE LOCATION OR THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES OR STRUCTURES WITHIN THE LIMITS OF THIS PROJECT. THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES AND STRUCTURES SHOWN ON THESE PLANS WERE OBTAINED BY A SEARCH OF AVAILABLE RECORDS.

NO.	DATE	REVISION

CITY OF INDUSTRY
INCORPORATED APR 16, 1917

P.O. Box 3268, City of Industry, California 91744
Administrative Offices 13825 E. Starline Street
(951) 333-2211

Prepared by:
CNC
23315 E. 114th St.
Suite (421) 233-3338
The City of Industry, CA 91744
Contract No. 1421-1421-001

JOSHUA L. NELSON, R.C.E. CHIEF ENGINEER DATE

CITY OF INDUSTRY

APPROVED BY:
JOHN S. BULLAS, R.C.E. 34511 CITY ENGINEER DATE

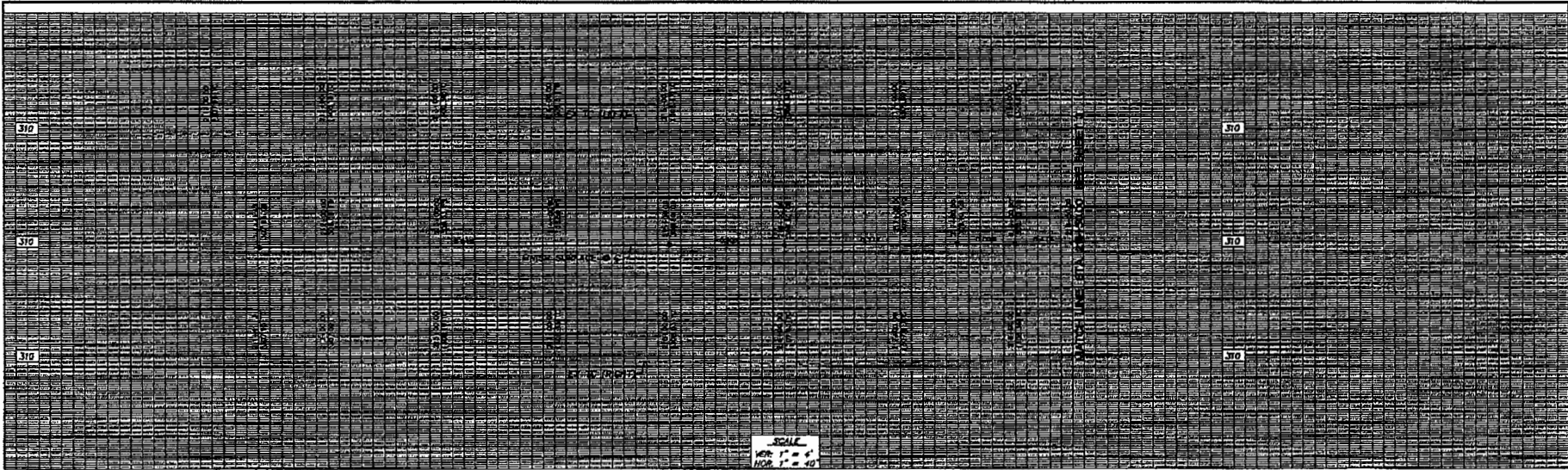
**VALLEY BOULEVARD RECONSTRUCTION WITH PCC PAVEMENT
FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD**

TITLE SHEET, VICINITY MAP, GENERAL NOTES, CONSTRUCTION NOTES, INDEX OF DRAWINGS, NOTICE TO CONTRACTOR, AND LEGEND

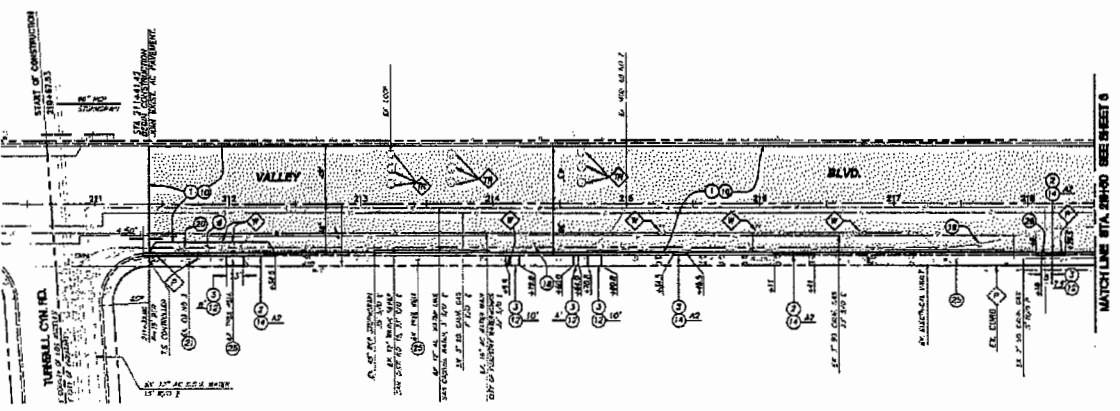
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DRAWN BY: L.L. SHAD: REVISION 001

JOB NO. CITY-1421 SHEET 1 OF 9

VALLEY BOULEVARD RECONSTRUCTION WITH PCC PAVEMENT FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD CONTRACT NO. 1421-1421-001



SCALE
 HORIZ. 1" = 40'
 VERT. 1" = 4'



CONSTRUCTION NOTES

- 1 SAW CUT AND REMOVE EXISTING AC PAVEMENT INCLUDING BASE.
- 2 SAW CUT AND REMOVE EXISTING CURB AND GUTTER, INCLUDING BASE.
- 3 SAW CUT AND REMOVE EXISTING SIDEWALK, INCLUDING BASE.
- 4 SAW CUT AND REMOVE EXISTING DRIVEWAY, INCLUDING BASE.
- 5 REMOVE EXISTING PCC BUS PAD.
- 6 CONSTRUCT 11.5" PCC OVER 8" C&G.
- 7 CONSTRUCT 4" PCC SIDEWALK INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 113.
- 8 CONSTRUCT CURB AND GUTTER INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 113, TYPE A&B PLAN.
- 9 ADJUST SEWER MANHOLE FRAME AND COVER TO FRESH GRADE.
- 10 ADJUST STORM DRAIN MANHOLE FRAME AND COVER TO FRESH GRADE.
- 11 SAW CUT AND RECONSTRUCT DITCH BASH LOCAL DEPRESSION PER APPA 313-3, CASE E.
- 12 CONSTRUCT DRIVEWAY INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 114.
- 13 REBUSH LANDSCAPING WITH 15-GAL (DIA) OF TREES INCLUDING TREE WELL COVER.
- 14 REPLACE WATER METER BOX AND COVER.

SPECIAL NOTATIONS

- ◆ PROTECT IN PLACE
- ◆ EXISTING WATER VALVE, WATER BOX AND COVER TO BE ADJUSTED TO GRADE
- ◆ EXISTING TRAFFIC LOOPS TO BE RESTORED BY LOOPY

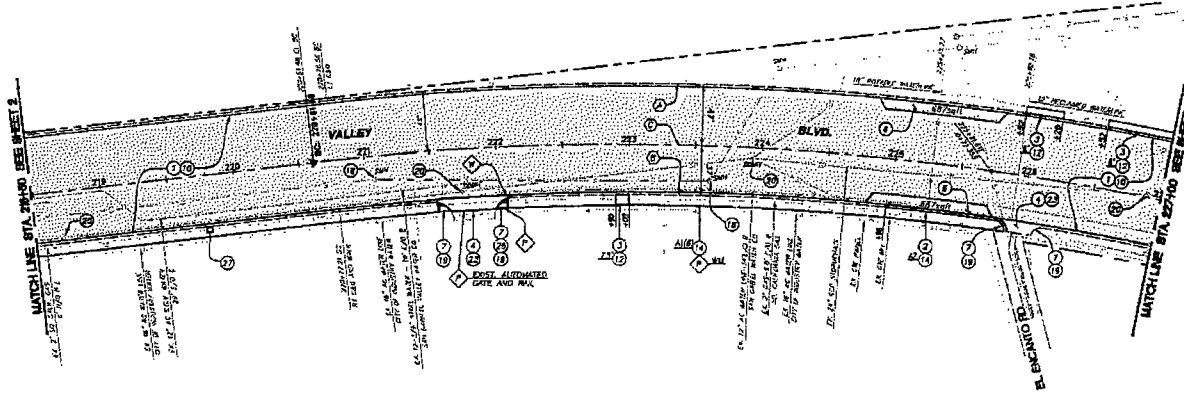
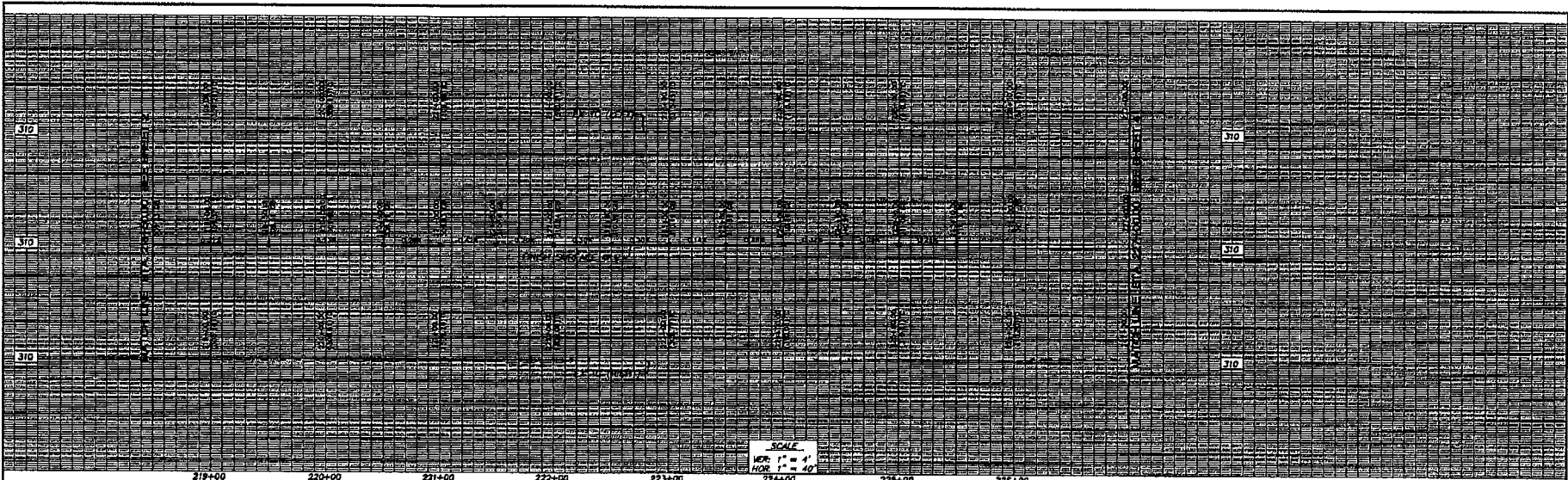
B.M. 432-94 ELEV. 301.282
 B.M. 432-94 is used with 2002 Area between Valley Blvd. & Propper Ave. 1/2 mi north of 4 corners
 City of Industry, 200 S. 214 Street Ave. & Industrial
 City of Industry, 200 S. 214 Street Ave. & Industrial
 City of Industry, 200 S. 214 Street Ave. & Industrial



Drawn by: **CNC**
 200 N. Hacienda Blvd., Ste. 223
 City of Industry, CA 91744
 Phone (951) 233-4334
 Fax (951) 233-7979
 www.cnc-engineers.com
 Joshua L. Nelson, P.E. 044969
 DATE: _____
 DRAWN BY: A.L. SHAWN BY: L.L.

CITY OF INDUSTRY			
APPROVED BY:	DATE:		
DESIGNED BY:	DATE:		
VALLEY BOULEVARD STREET IMPROVEMENTS FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD PLAN AND PROFILE TURNBULL CANYON ROAD TO STA. 218+50.00			
DESIGNED BY: J.L.K.	DATE: JUNE 2014	JOB NO. W/P 03-28	SHT. 2 OF X

SCALE: 1" = 40'



CONSTRUCTION NOTES

1. SAW CUT AND REMOVE EXISTING AC PAVEMENT INCLUDING BASE.
2. SAW CUT AND REMOVE EXISTING CURB AND GUTTER, INCLUDING BASE.
3. SAW CUT AND REMOVE EXISTING SIDEWALK, INCLUDING BASE.
4. SAW CUT AND REMOVE EXISTING DRIVEWAY, INCLUDING BASE.
5. REMOVE EXISTING PCC BUS PAD.
6. SAW CUT AND RECONSTRUCT PEDESTRIAN WALK PER CALTRANS STD. PLAN AREA AND ABB.
7. SAW CUT AND REMOVE EXISTING CROSS CUTTER.
8. CONSTRUCT 11.5" PCC OVER 8" CAR.
9. SAW CUT AND RECONSTRUCT 8" AC OVER 12" CRUSHED AGGREGATE BASE.
10. CONSTRUCT 4" PCC SIDEWALK INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 113.
11. CONSTRUCT CURB AND GUTTER INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 112, TYPE PER PLAN.
12. ADJUST SEWER MANHOLE FRAME AND COVER TO FINISH GRADE.
13. INSTALL DETECTABLE WARNING SURFACE PER CALTRANS STD. PLAN AREA.
14. ADJUST STORM DRAIN MANHOLE FRAME AND COVER TO FINISH GRADE.
15. CONSTRUCT DRIVEWAY INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 114.
16. REPLACE WATER METER BOX AND COVER.
17. REMOVE AND RECONSTRUCT STREET LIGHTING GROUT CAP.

B.M. 8738-84 ELEV. 301.887
 U.S. Map, 8 feet north 3600 feet, Jefferson Valley
 Plotted by: [unclear] 12/18/2014
 Highway to State Map, Co. 254 1/4th Ave. & Tule
 Sacramento, Ca. 222 Nevada Ave. (41 P.P. 1000232)

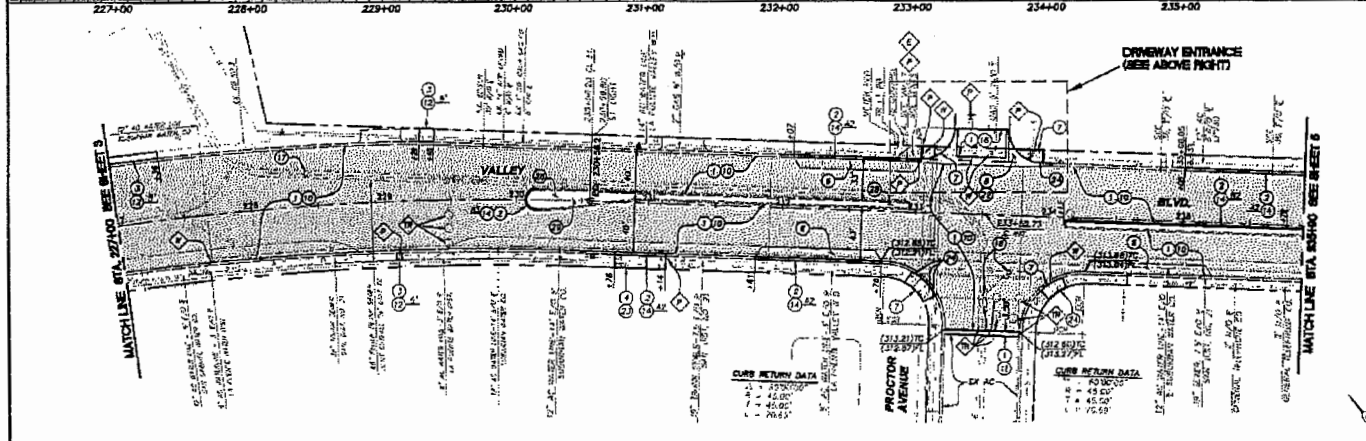
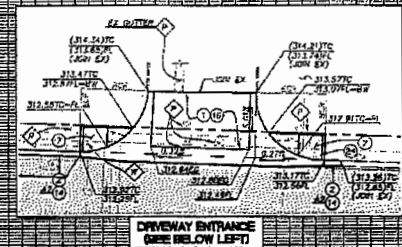
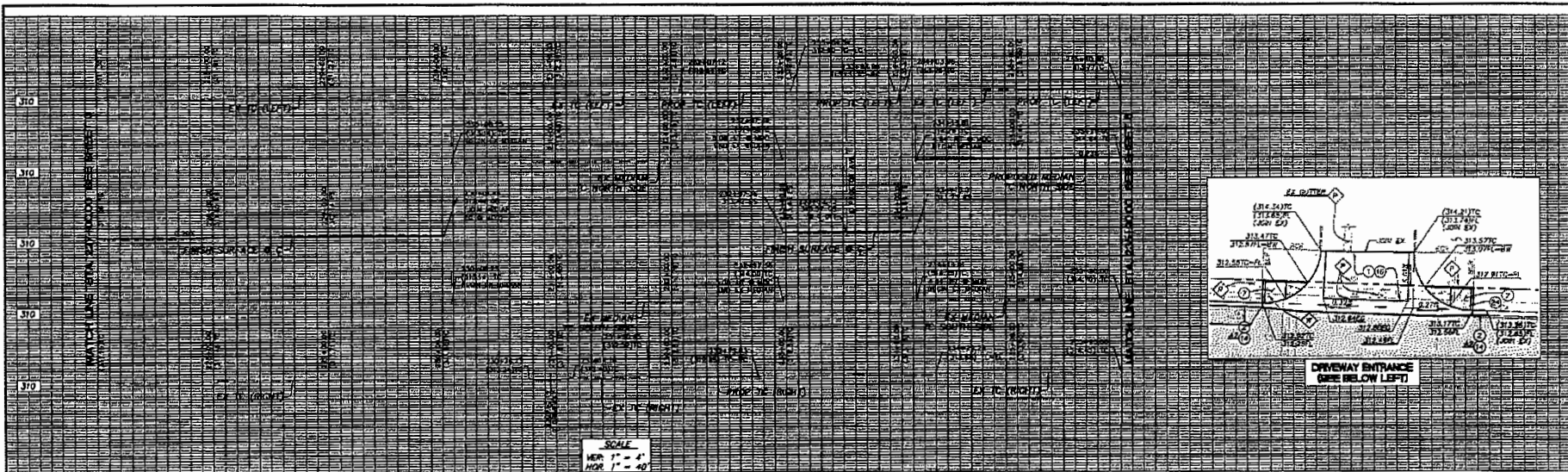
SPECIAL NOTATIONS

- ◆ PROTECT IN PLACE
- ◆ EXISTING WATER VALVE COVER TO BE ADJUSTED TO GRADE



Prepared by: **CNC**
 205 N. Hacienda Blvd., Ste. 222
 City of Industry, Ca. 91744
 Phone (951) 313-6236
 Fax (951) 336-7924
 JOHN L. NELSON, R.C.E. 06898 DATE: 6/10/2014
 DRAWN BY: LL

CITY OF INDUSTRY
 APPROVED BY: JOHN D. KALLAS, R.C.E. 24311 DATE: 6/10/2014
 VALLEY BOULEVARD STREET IMPROVEMENTS
 FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD
PLAN AND PROFILE
 STA. 218+50.00 TO STA. 227+00.00
 DRAWN BY: LL DATE: 6/10/2014 JOB NO. MP 04-26 SHEET: 3 OF X



CONSTRUCTION NOTES

- 1 SAW CUT AND REMOVE EXISTING AC PAVEMENT INCLUDING BASE
- 2 SAW CUT AND REMOVE EXISTING CURB AND CUTTER, INCLUDING BASE
- 3 SAW CUT AND REMOVE EXISTING SIDEWALK, INCLUDING BASE
- 4 SAW CUT AND REMOVE EXISTING DRIVEWAY, INCLUDING BASE
- 5 REMOVE EXISTING PCC BUS PAD
- 6 SAW CUT AND RECONSTRUCT PEDESTRIAN RAMP PER CALTRANS STD. PLAN AREA AND A&B
- 7 SAW CUT AND REMOVE EXISTING CROSS CUTTER
- 8 CONSTRUCT 11.5" PCC OVER 8" C&B
- 9 SAW CUT AND RECONSTRUCT 6" AC OVER 12" CRUSHED AGGREGATE BASE
- 10 CONSTRUCT 4" PCC SIDEWALK INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 115
- 11 CONSTRUCT CURB AND CUTTER INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 112, TYPE PER PLAN
- 12 CONSTRUCT 4" AC OVER 8" CRUSHED AGGREGATE BASE
- 13 RECONSTRUCT CSD SEWER MANHOLE FRAME AND COVER TO FINISH GRADE PER LA COUNTY SANITATION DISTRICT PROCEDURE
- 14 ADJUST SUMP MANHOLE FRAME AND COVER TO FINISH GRADE
- 15 INSTALL DETECTABLE WALKING SURFACE PER CALTRANS STD. PLAN AREA
- 16 CONSTRUCT DRIVEWAY INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 114
- 17 RECONSTRUCT MODIFIED CROSS CUTTER PER DETAIL "C", SHEET X
- 18 REPLACE TRAFFIC PALLIAD AND COVER
- 19 REMOVE EXISTING DME

SPECIAL NOTATIONS

- ◆ EXISTING ELECTRICAL MANHOLE/RAIL COVER TO BE ADJUSTED TO GRADE BY REASON
- ◆ PROTECT IN PLACE
- ◆ EXISTING TRAFFIC LOOPS TO BE RESTORED BY LADWP
- ◆ EXISTING WATER MAIN COVER TO BE ADJUSTED TO GRADE

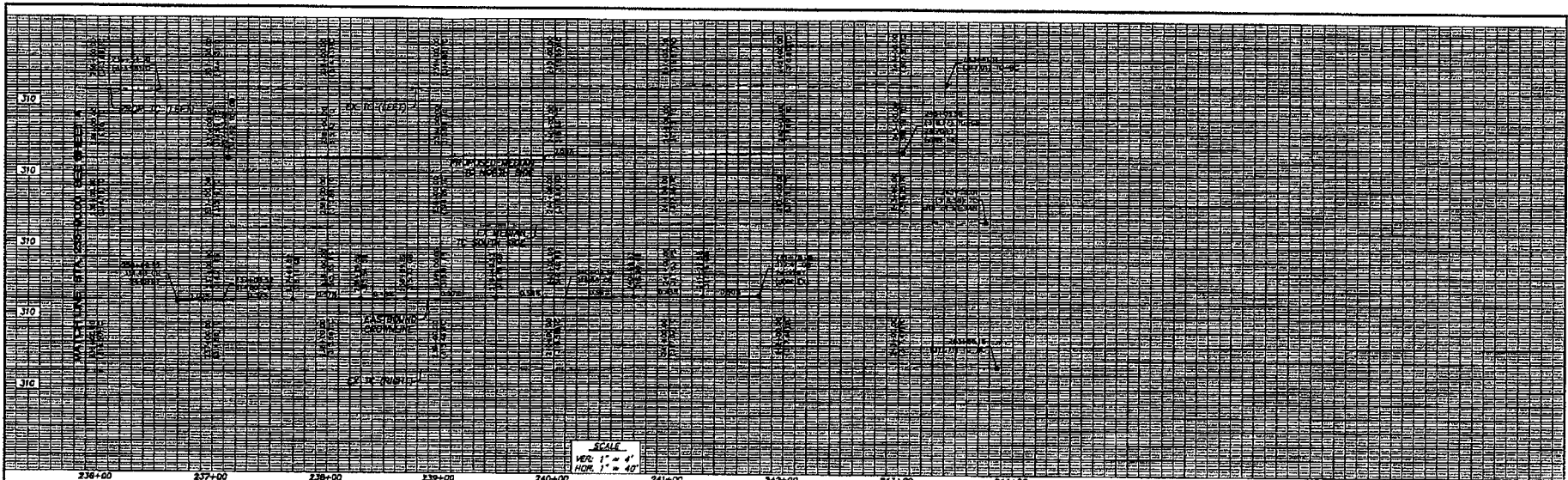


Prepared by
ACNC
 225 N. Market St., Ste. 203
 City of Industry, Ca. 91744
 Phone (909) 592-5500
 Fax (909) 592-1000

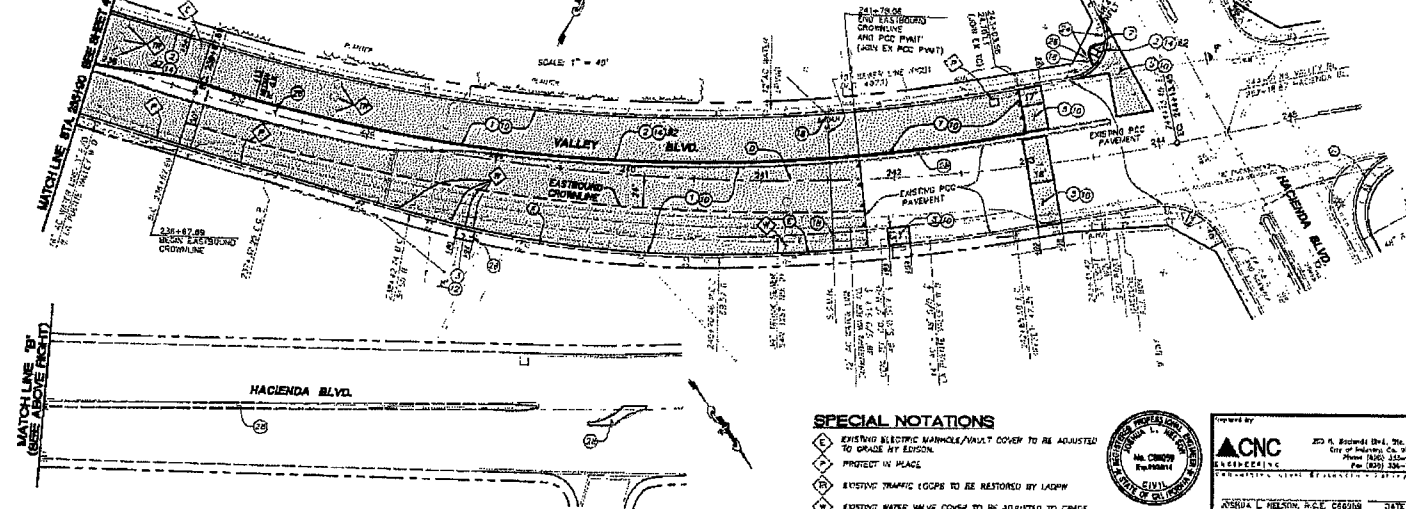
Checked by: JONAS L. NELSON, R.C.E. License No. 12212
 Drawn by: L.C.

CITY OF INDUSTRY	
APPROVED BY:	DATE:
JOHN S. BAHALL, R.C.E. License No. 12212	
VALLEY BOULEVARD STREET IMPROVEMENTS FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD	
PLAN AND PROFILE	
STA. 227+00.00 TO STA. 235+50.00	
DESIGNED BY: JLS	JOB NO. MP 05-26
DRAWN BY: L.C.	SHT. 4 OF X

B.M. 476-58 ELEV. 301.362
 U.C. Iron, 11 East 4th Street, between Valley Blvd. & Proctor Ave. 1/2 mi north of 4 corners.
 Obtained by Eng. Wm. Co. 204 Main Ave. & Belmont, Elmerdale Ca. 22 West Ave. (at N.Y. 4012840)



B.M. 416-28 ELEV. 301.282
 B.C. refers to north-south block area, between 70th
 Blvd. & Proctor Ave. 1/2 & north of it corridor
 shown on Map No. 214 North Ave. & Street
 Improvement On 721 North Ave. (A) P.S. 688893A2



- ### CONSTRUCTION NOTES
- 1 SAW CUT AND REMOVE EXISTING AC PAVEMENT INCLUDING BASE
 - 2 SAW CUT AND REMOVE EXISTING CURB AND GUTTER, INCLUDING BASE
 - 3 SAW CUT AND REMOVE EXISTING SIDEWALK, INCLUDING BASE
 - 4 SAW CUT AND REMOVE EXISTING DRIVEWAY, INCLUDING BASE
 - 5 SAW CUT AND REMOVE EXISTING PCC PAVEMENT
 - 6 SAW CUT AND RECONSTRUCT PEDESTRIAN RAMP PER CALTRANS STD. PLAN AREA AND ASBQ.
 - 7 CONSTRUCT 11.5" PCC OVER 8" GAB.
 - 8 CONSTRUCT 4" PCC SIDEWALK INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 116. (ADDITION PER PLAN)
 - 9 REMOVE AND RECONSTRUCT 8" PCC PAVEMENT ON 10" AGGREGATE BASE (USE #4 SPACED DOSSLES @ 18" O.C.)
 - 10 CONSTRUCT CURB AND GUTTER INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 112, TYPE P&P PLAN.
 - 11 RECONSTRUCT GCS SEWER MANHOLE FRAME AND COVER TO FINISH GRADE PER LA COUNTY SEWAGE DISTRICT PROCEDURE.
 - 12 ADJUST SEWER MANHOLE FRAME AND COVER TO FINISH GRADE.
 - 13 CONSTRUCT DRIVEWAY INCLUDING BASE PER CITY OF INDUSTRY STD. PLAN 114.
 - 14 REPLACE TRAFFIC PULBLOC AND COVER.
 - 15 REPLACE WATER METER BOX AND COVER.
 - 16 REMOVE EXISTING STAMPED CONCRETE FROM MEDIAN.

- ### SPECIAL NOTATIONS
- 1 EXISTING ELECTRIC MANHOLE/VALVE COVER TO BE ADJUSTED TO GRADE BY EDISON.
 - 2 PROTECT IN PLACE.
 - 3 EXISTING TRAFFIC COGERS TO BE RESTORED BY LADWP.
 - 4 EXISTING WATER VALVE COVER TO BE ADJUSTED TO GRADE.



Prepared by
CNC
 CONSULTANTS
 220 S. Broadway (2nd Fl.), Ste. 222
 City of Industry, CA 91744
 Phone (909) 336-0200
 Fax (909) 336-1070

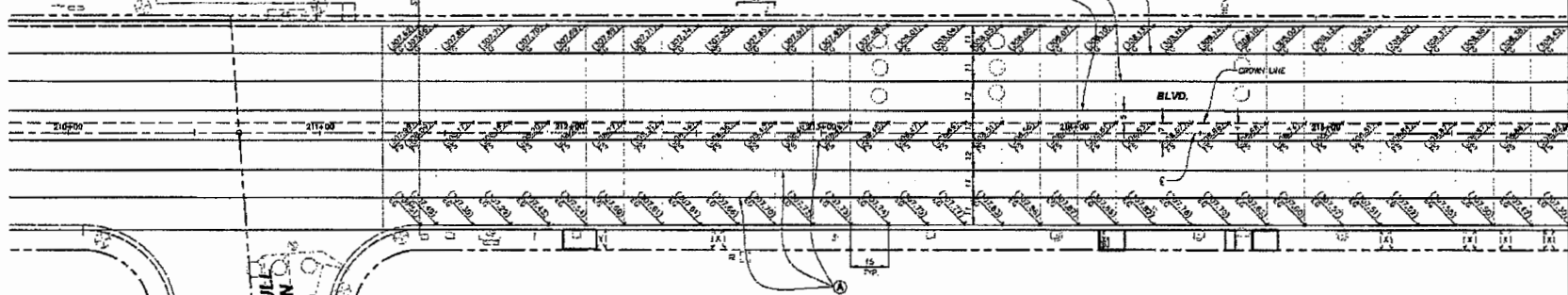
DESIGNED BY: J.C.N. DATE: 1/11/05
 DRAWN BY: J.L.L. DATE: 1/11/05

CITY OF INDUSTRY	
APPROVED BY:	DATE:
JOHN W. EDWARDS, P.E. 34331 CITY ENGINEER	
VALLEY BOULEVARD STREET IMPROVEMENTS FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD	
PLAN AND PROFILE STA. 235+50.00 TO HACIENDA BLVD.	
ORDERED BY: J.A.A.	DATE: 1/11/05
JOB NO. MP 05-26	SHT. 5 OF X

ST/ 21

VALLEY

BLVD.



TURNBULL CANYON ROAD

NOTES:

1. THE CONTRACTOR SHALL SUBMIT A LONGITUDINAL JOINT PLAN FOR AGENCY REVIEW PRIOR TO PLACING ANY CONCRETE. CONTACT OR WEAKENED PLANE JOINTS MAY BE USED AT THE CONTRACTOR'S OPTION.
2. TRANSVERSE WEAKENED PLANE JOINTS SHALL BE CONSTRUCTED AT INTERVALS OF 15 FEET AND SHALL BE AT LEAST 5 FEET FROM ANY TRANSVERSE CONTACT JOINTS. (SEE NOTE 5)
3. TRANSVERSE CONTACT JOINTS SHALL BE CONSTRUCTED AS SHOWN HEREON AT ALL CONSTRUCTION JOINTS AND AS DIRECTED BY THE ENGINEER.
4. SPACE THE BARS AT 24" ON CENTER FOR TRANSVERSE JOINTS AND 10" FOR LONGITUDINAL JOINTS. PLACE THE BARS IN THE MIDDLE THIRD OF THE SLAB THICKNESS. ALL BENDS SHALL HAVE APPROXIMATELY A 1/4" RADIUS.
5. SEE A.P.W.A. "STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION" FOR DETAILS ON CONCRETE PAVEMENT JOINTS.
6. CONSTRUCT CONTACT JOINTS IN THE APPROACH SLABS AT THE FIRST THREE TRANSVERSE JOINTS OF CONCRETE INTERSECTIONS.

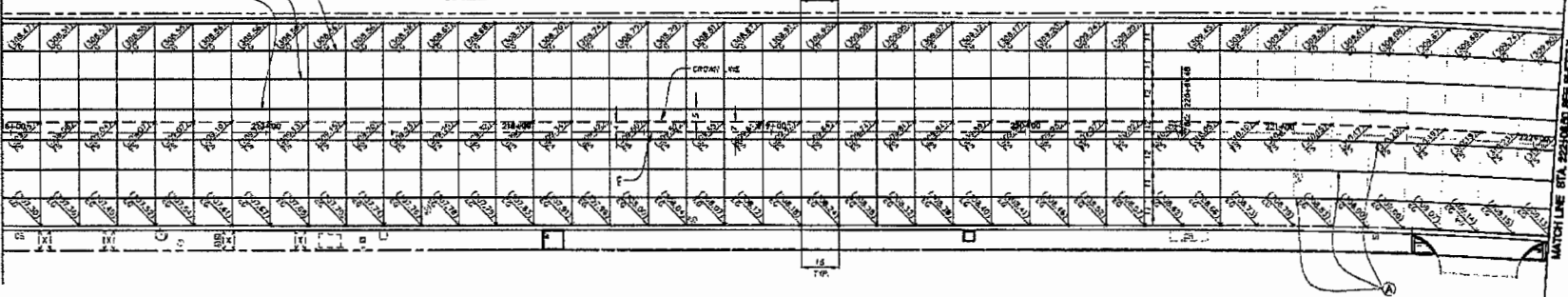
LEGEND:

- (A) LONGITUDINAL CONSTRUCTION JOINT PER SSPRC STD. PLAN 134-2. MODIFY STD. PLAN NOTE 1 TO USE CONTACT JOINTS ONLY.
- (B) TRANSVERSE CONSTRUCTION JOINT @ 15 FT MAXIMUM SPACING PER SSPRC STD. PLAN 134-2.
- (C) JOIN EXISTING PCC PAVEMENT WITH AN EXPOSED JOINTS IN 1" ON CENTER.

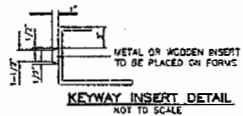
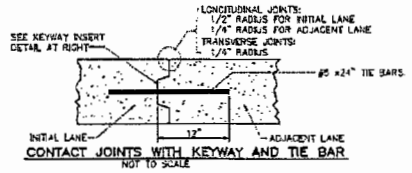
MATCH LINE STA. 218+00.00 SEE ABOVE RIGHT

VALLEY

BLVD.



MATCH LINE STA. 222+00.00 SEE BELOW LEFT



B.M. 638-88 ELEV. 361.282

S.C. line, to start new 1/2 mile Ave. between Valley Blvd. & Harbor Ave. 1/2 mile north of a centerline Highway to Street, City of Industry, Cal. 91704. (See also City of Industry, Cal. 91704. 222+00.00)



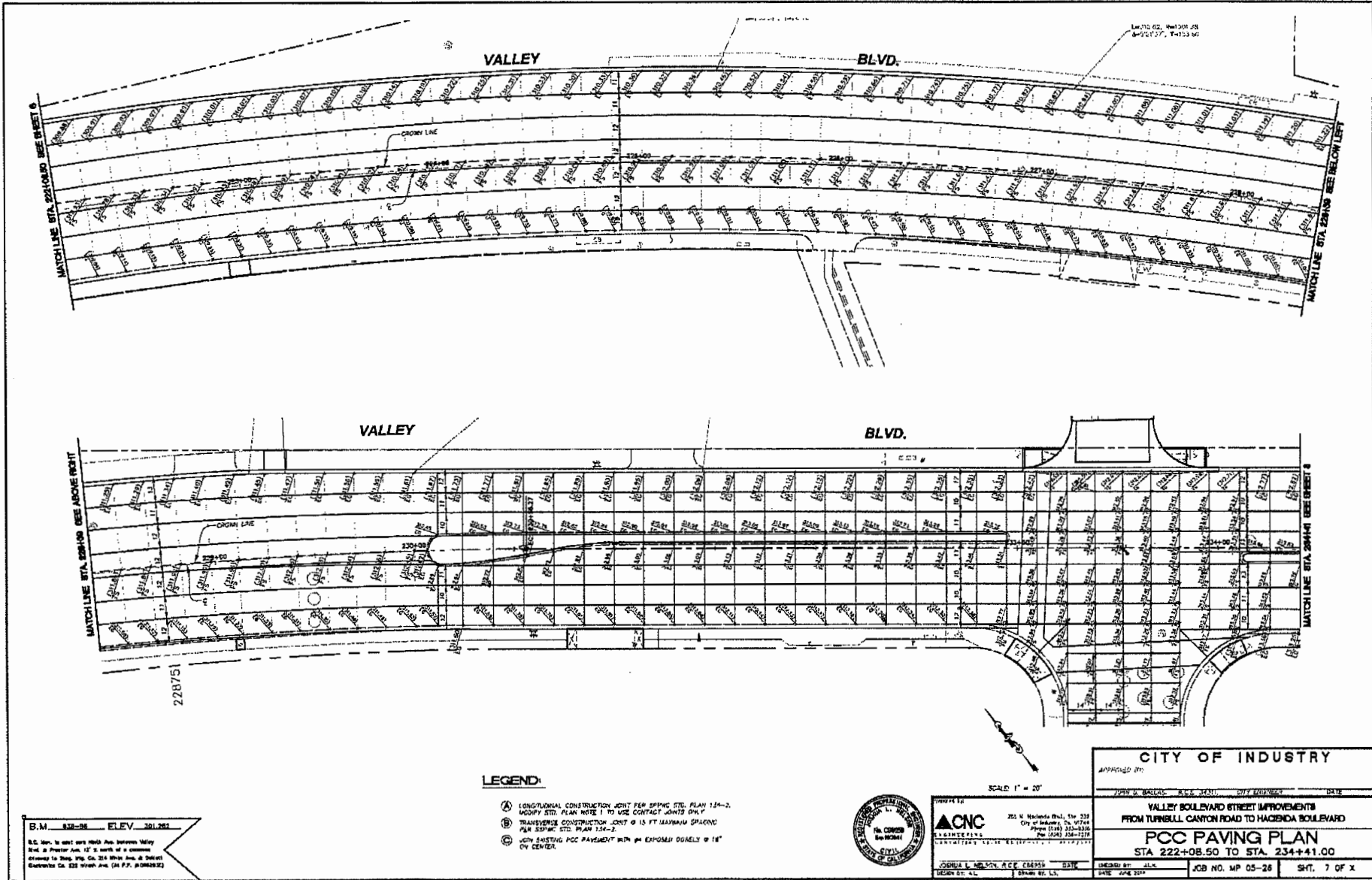
SCALE: 1" = 20'

DESIGNED BY: J.L.N. DATE: 08/28/08

CHECKED BY: J.L.N. DATE: 08/28/08

DATE: AUG 2011

CITY OF INDUSTRY	
APPROVED BY: _____ DATE: _____	
JOHN B. WELLS P.E. 34311 CIVIL ENGINEER	
VALLEY BOULEVARD STREET IMPROVEMENTS FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD	
PCC PAVING PLAN	
TURNBULL CANYON ROAD TO STA. 222+08.50	
DESIGNED BY: J.L.N.	DATE: 08/28/08
CHECKED BY: J.L.N.	DATE: 08/28/08
DATE: AUG 2011	JOB NO. MP 08-28
SHT. 6 OF X	



B.M. 838-08 ELEV. 301.261

R.C. Mark. to east side 1963 Ave. between Valley Blvd. & Proctor Ave. 12' S. north of a common driveway to Shop. Pkg. Co. 214 White Ave. & 2nd St. Sacramento Ca. 95818

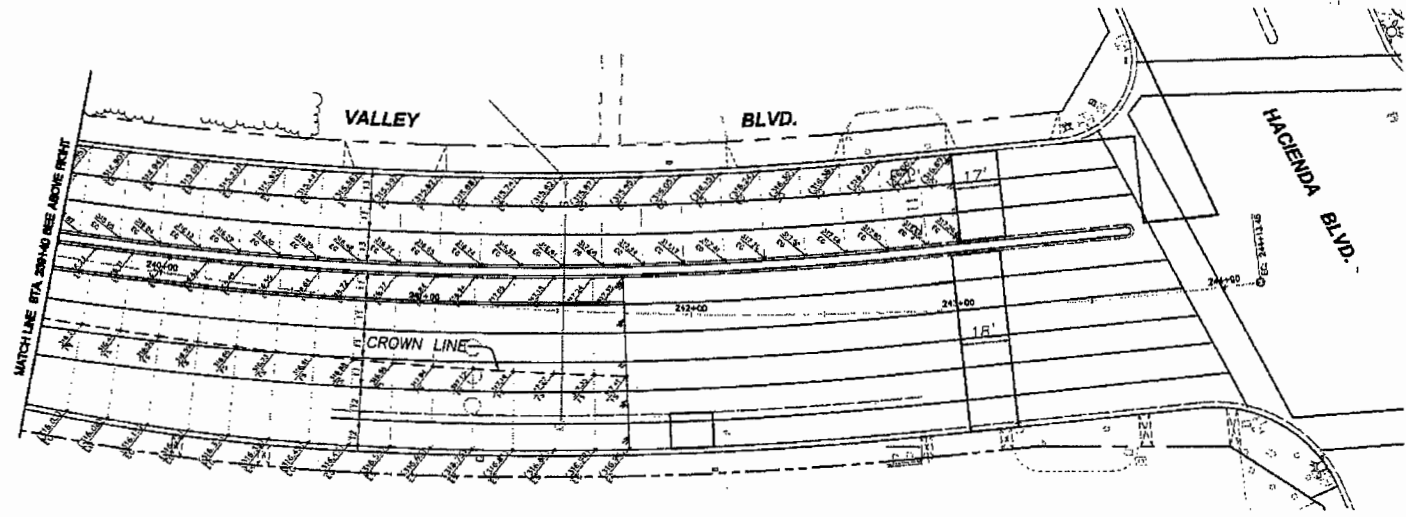
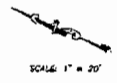
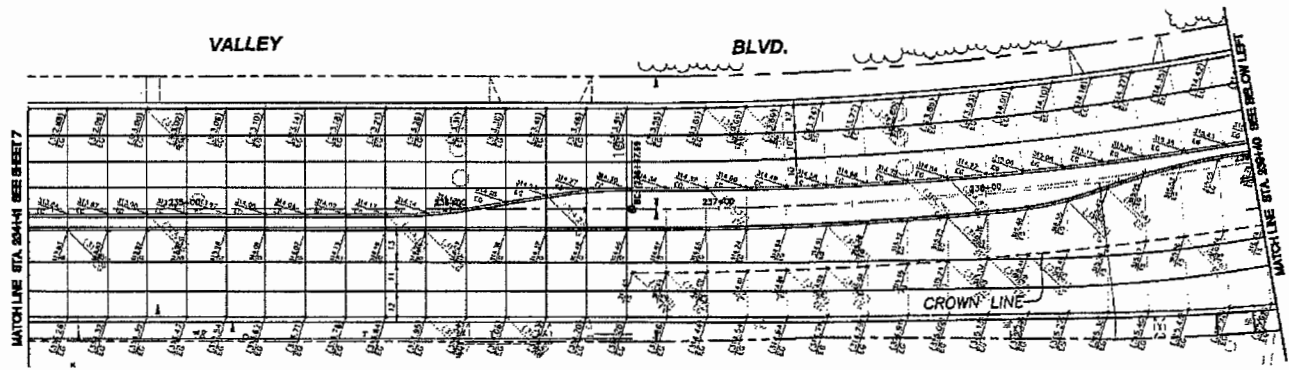
- LEGEND:**
- Ⓐ LONGITUDINAL CONSTRUCTION JOINT PER SPACING STD. PLAN 124-2. MODIFY STD. PLAN NOTE 1 TO USE CONTACT JOINTS ONLY.
 - Ⓑ TRANSVERSE CONSTRUCTION JOINT @ 15 FT MAXIMUM SPACING PER SPACING STD. PLAN 124-2.
 - Ⓒ JOINT SASTING PCC PAVEMENT WITH AN EXPOSURE DIAMETER OF 1/8" ON CENTER.



CNC
 CONSULTANTS
 255 N. Hacienda Blvd., Ste. 238
 City of Industry, Ca. 91744
 Phone (916) 338-8336
 Fax (916) 338-3338

DESIGNED BY: JONAS L. NELSON, ACE, CRES. 0278
 DRAWN BY: A.L. BROWN, ST. L.S.

CITY OF INDUSTRY	
APPROVED BY:	DATE:
VALLEY BOULEVARD STREET IMPROVEMENTS FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD	
PCC PAVING PLAN STA. 222+08.50 TO STA. 234+41.00	
DESIGNED BY: A.L.	JOB NO. MP 05-26
DATE: 2/24/24	SHT. 7 OF X



- LEGEND:**
- (A) LONGITUDINAL CONSTRUCTION JOINT PER SPINAC STD. PLAN 134-2
 - (B) TRANSVERSE CONSTRUCTION JOINT @ 15 FT MAXIMUM SPACING PER SPINAC STD. PLAN 134-2
 - (C) JOIN EXISTING PCC PAVEMENT WITH #4 EXPOSED DOMELS @ 10' ON CENTER

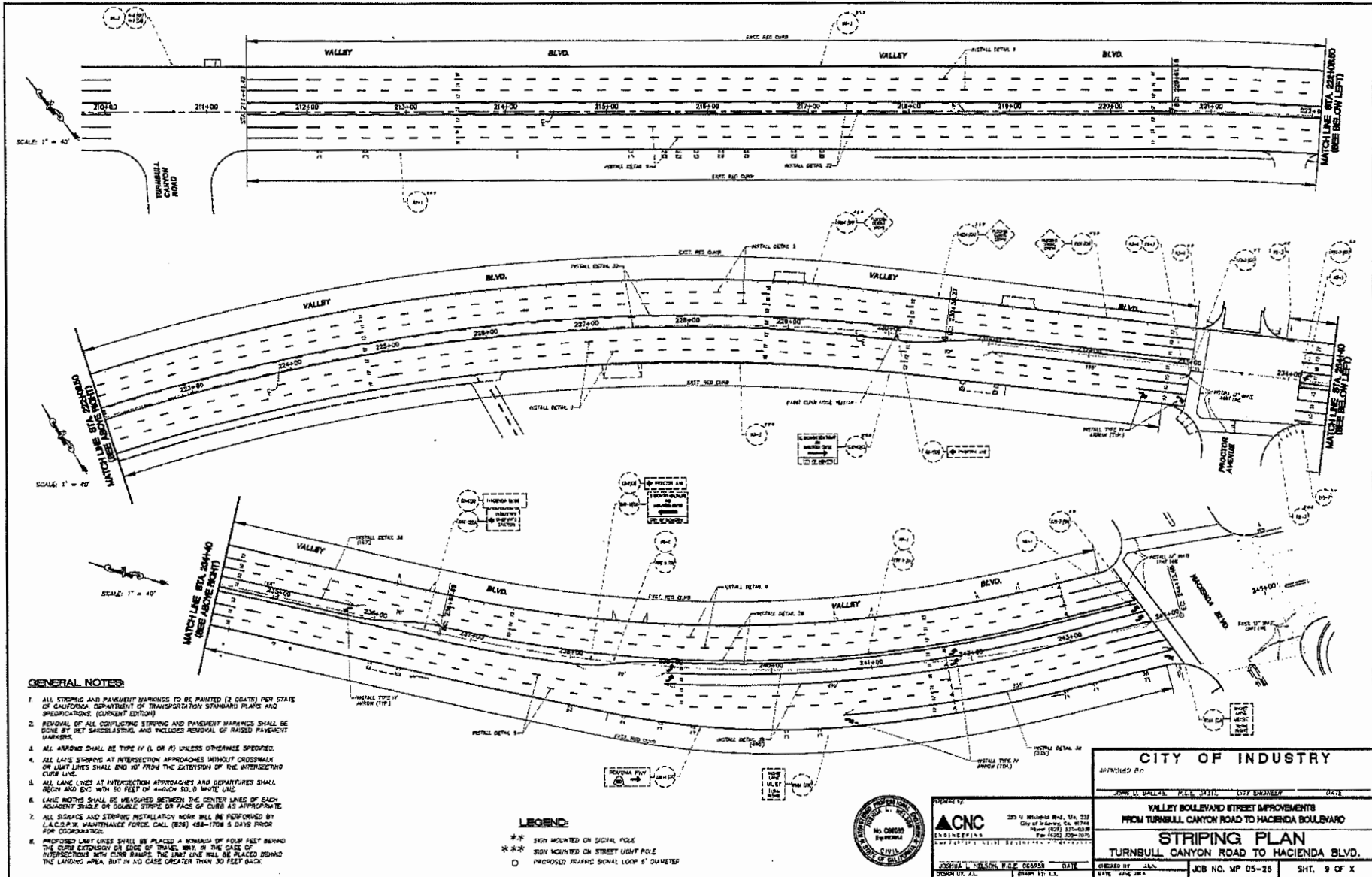
B.M. 532-28 ELEV. 301.282
 S.C. Note: In event any block area between Valley Blvd. & Pioneer Ave. 1/2" is north of it is shown. (Drawing by Strip, W.P. Co. 214 North Ave. & 9th St.)
 Stationed On 237 North Ave. (1/2) 77, #081930



Prepared by
CNC CONSULTANTS
 295 N. Webster Blvd., Ste. 212
 City of Industry, Ca. 91744
 Phone (916) 443-2338
 Fax (916) 239-7074

CITY OF INDUSTRY		
APPROVED BY:	DATE:	
JOHN C. BAILEY, C.E., P.E., CITY ENGINEER		
VALLEY BOULEVARD STREET IMPROVEMENTS FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD		
PCC PAVING PLAN STA. 234+41.00 TO HACIENDA BLVD.		
DESIGNED BY: ALA	JOB NO. MP 05-28	SHT. 8 OF X
DATE: 4-14-2011		

JOHN L. NELSON, P.E., CHIEF ENGINEER
 DATE: 4-14-2011
 DRAWN BY: L.L.



- GENERAL NOTES:**
1. ALL STRIPING AND PAVEMENT MARKINGS TO BE PAINTED (2 COATS) PER STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION STANDARD PLANS AND SPECIFICATIONS (LATEST EDITION).
 2. REMOVAL OF ALL EXISTING STRIPING AND PAVEMENT MARKINGS SHALL BE DONE BY HOT SANDBLASTING AND INCLUDES REMOVAL OF RAISED PAVEMENT MARKERS.
 3. ALL ARROWS SHALL BE TYPE IV (L OR R) UNLESS OTHERWISE SPECIFIED.
 4. ALL LAKE STRIPING AT INTERSECTION APPROACHES WITHOUT CROSSWALK OR LIGHT LINES SHALL END 10' FROM THE EXTENSION OF THE INTERSECTING CURB LINE.
 5. ALL LAKE LINES AT INTERSECTION APPROACHES AND DEPARTURES SHALL BEGIN AND END WITH 30 FEET OF 4-INCH SOLID WHITE LAKE.
 6. LAKE WIDTHS SHALL BE MEASURED BETWEEN THE CENTER LINES OF EACH ADJACENT SHOULDER OR DOUBLE STRIPS ON FACE OF CURB AS APPROPRIATE.
 7. ALL SIGNS AND STRIPING INSTALLATION WORK SHALL BE PERFORMED BY L.A.C.O.P.D. MAINTENANCE FORCE. CALL (826) 488-1708 5 DAYS PRIOR FOR COORDINATION.
 8. PROPOSED LIGHT LINES SHALL BE PLACED A MINIMUM OF FOUR FEET BEHIND THE CURB EXTENSION OR EDGE OF TRAVEL WAY. IN THE CASE OF INTERSECTIONS WITH CURB RAISED, THE LIGHT LINE WILL BE PLACED BEHIND THE LANDING AREA, BUT IN NO CASE GREATER THAN 30 FEET BACK.

- LEGEND:**
- ** SIGN MOUNTED ON SIGNAL POLE
 - ** SIGN MOUNTED ON STREET LIGHT POLE
 - PROPOSED TRAFFIC SIGNAL LOOP 6' DIAMETER



CNC
ENGINEERS
325 W. Main Street, Ste. 210
City of Industry, Ca. 91744
Phone (626) 317-4438
Fax (626) 359-1895

DESIGN BY: JOSHUA L. NELSON, R.E.P. 05/28/20 DATE: _____
DRAWN BY: _____ DATE: _____

CITY OF INDUSTRY

APPROVED BY: _____ DATE: _____

JAMES W. MALCOLM, Public Works, CITY ENGINEER

VALLEY BOULEVARD STREET IMPROVEMENTS
FROM TURNBULL CANYON ROAD TO HACIENDA BOULEVARD

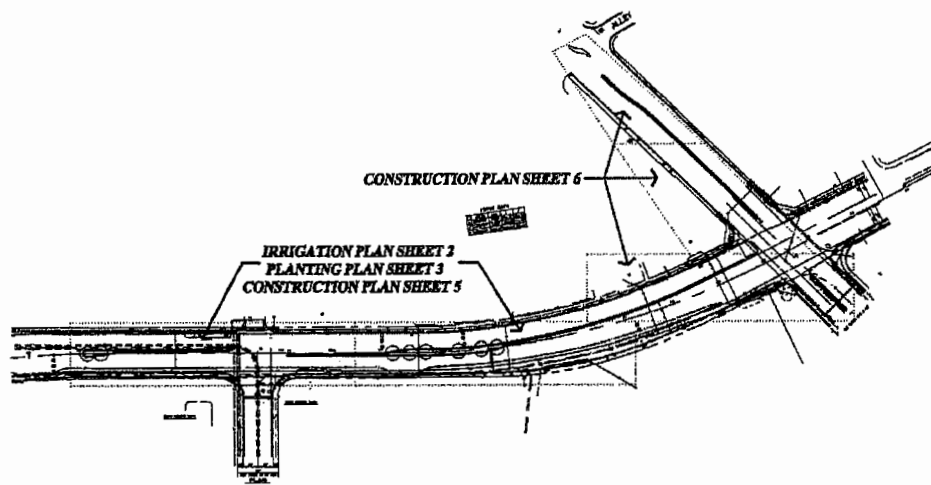
STRIPING PLAN
TURNBULL CANYON ROAD TO HACIENDA BLVD.

CHECKED BY: _____ DATE: _____
DATE: _____ JOB NO. MP 05-28 SHEET 9 OF X

VALLEY MEDIAN AT HACIENDA AVE

LANDSCAPE PLANS

CITY OF INDUSTRY, CA



- IRRIGATION NOTES**
1. IT IS THE INTENT OF THESE DRAWINGS TO PROVIDE A COMPLETE AND OPERATIONAL IRRIGATION SYSTEM WHICH FULLY COMPLIES AND MEETS FOR USE BY THE OWNER. THE DRAWINGS ARE BASED ON LANDSCAPE ARCHITECTURE DRAWINGS IN CONJUNCTION WITH THE THESE DRAWINGS WERE MADE. ANY DISCREPANCIES, OMISSIONS, ERRORS, ETC. ON THESE DRAWINGS OR ON ANY OTHER DRAWINGS, ARE NOT THE RESPONSIBILITY OF THE ARCHITECT OR HIS REPRESENTATIVE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS, ELEVATIONS, AND LOCATIONS. IF NECESSARY, THE CONTRACTOR SHALL MAKE CHANGES TO THE DRAWINGS TO REFLECT THE ACTUAL CONDITIONS AND TO INSURE ADEQUATE AND FULL COVERAGE.
 2. IRRIGATION CONTRACTOR SHALL VERIFY ALL PRESSURES ON SITE PRIOR TO CONSTRUCTION.
 3. CONTRACTOR SHALL INSTALL CHECK VALVES IN ALL LINES IN WHICH LOW HEAD DRAINAGE OCCURS.
 4. LOCATE ALL VALVES IN PLANTING AREAS.
 5. IRRIGATION SYSTEM IS STRICTLY DIRECTIONAL. CONTRACTOR MUST MAKE ADJUSTMENTS IN THE FIELD TO INSURE ADEQUATE COVERAGE.
 6. IRRIGATION SYSTEM SHALL CONFORM TO STATE AND LOCAL CODES.
 7. ALL SUBMERGIBLE-TYPE HEADS ADJUSTABLE TO 1/2" SHALL BE INSTALLED AS LOW AS NECESSARY TO PREVENT ANY DAMAGE TO IRRIGATION SYSTEM.
 8. THE SYSTEM SHALL BE FULLY GUARANTEED FOR A PERIOD OF ONE YEAR. ANY DEFECTIVE MATERIAL OR POOR WORKMANSHIP SHALL BE REPLACED OR CORRECTED BY THE IRRIGATION CONTRACTOR AT HIS COST TO THE OWNER.
 9. LOW VOLT ELECTRICAL POWER CABLE FOR CONTROLLERS SHALL BE PROVIDED AS NOTED. IRRIGATION CONTRACTOR SHALL BE RESPONSIBLE FOR BRINGS 1000'-UP FROM STREET TO CONTROL BOX.
 10. ALL HEADS FROM CONTROLLER TO ELECTRIC CONTROL VALVES SHALL BE COMPOSED OF 3/4" DIA. BLACK BURN. USE BLACK FOR FIELD, WHITE FOR CONTROL. INSTALL IN CONDUIT TRUCKS WITH 1/2" DIA. PIPING WHERE POSSIBLE.
 11. FORMER MAINLINE 1" COVER OVER ALL PRESSURE MAIN LINE TYPICAL AND 12" OVER ALL NON-PRESSURE MAINLINE LINE TYPICAL. ALL PIPE UNDER PAVED AREAS TO BE INSTALLED IN A 18" DIA. OR SLABBE WITH 2" DIA. COVER. SLABBE LOCATIONS TO BE AS SHOWN ON PLANS. CITY NORTH RECOMMENDED FOR PIPE SURFACE ALL THE ABOVE DRAWINGS.
 12. IRRIGATION CONTRACTOR SHALL FLUSH ALL LINES AND ADJUST ALL HEADS FOR WORKMAN PERFORMANCE AND TO PREVENT OVERSPRAY AS MUCH AS POSSIBLE.
 13. DO NOT HASTILY INSTALL THE SYSTEM AS NOTED WHEN IT IS CRUCIAL IN THE FIELD THAT WORKMAN INSTRUCTIONS OR WORK REFERENCES FIRST THAT MORE AND KNOWING DURING THE SETUP PROCESS. SUCH CONDITIONS SHALL BE OBSERVED TO THE ATTENTION OF THE OWNER'S AUTHORIZED REPRESENTATIVE. THEREAFTER, THE IRRIGATION CONTRACTOR MUST ASSUME FULL RESPONSIBILITY FOR THE SYSTEM AND ALL NECESSARY REPAIRS.
 14. FINAL LOCATION OF CONTROLLER AND THE BACKFLOW PREVENTER SHALL BE DETERMINED BY OWNER'S AUTHORIZED REPRESENTATIVE AND/OR LANDSCAPE ARCHITECT.
 15. FLUSH AND ADJUST ALL SPRINKLER HEADS FOR OPTIMUM PERFORMANCE AND TO PREVENT OVERSPRAY AND WALKS AND WALLS/TOILES AS MUCH AS POSSIBLE.
 16. POLYETHYLENE PIPE TO BE BURIED NO DEEPER THAN 4" BELOW SURFACE.
 17. LOCATION OF P.O.C. IS SHOWN ON DRAWINGS. LOCATION MUST BE NOTED IN FIELD.
 18. IN ADDITION TO THE NOTES SHOWN ON THE PLAN, THE IRRIGATION CONTRACTOR SHALL BE RESPONSIBLE FOR THE REGULATION OF ADDITIONAL BLOCKS OF ADDITIONAL BEE UNDER ALL OTHER AREAS PRIOR TO STARTING UPON APPROVAL OF THE OWNER'S REPRESENTATIVE, IF REQUIRED TO OPERATE SYSTEM.
 19. UNABLE TO REPAIR BETWEEN PERIOD OF CONSTRUCTION WITH AND IRRIGATION PREVENTER TO BE AS NOTED, AS REQUIRED BY CURRENT WATER DISTRICT.

SHEET INDEX

COVER SHEET	SHEET 1
IRRIGATION PLANS	SHEET 2
PLANTING PLAN	SHEET 3
HYDROZONE MAP / WATER USE CALCULATIONS	SHEET 4
CONSTRUCTION PLAN	SHEET 5 - 6
TREE REMOVAL PLAN	SHEET 7
LANDSCAPE DETAILS	SHEET 8
SPECIFICATIONS	SHEET 9-11

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INCORPORATED JUNE 18, 1957
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Administrative Offices 18801 E. Starline Street
Tel (626) 333-2223



NO.	DATE	REVISIONS	BY

Prepared by: **Enviro**
LANDSCAPE ARCHITECTURE
1714 N. Hollywood Avenue • Fullerton, CA 92741
Tel: (714) 771-1111 • Fax: (714) 771-1112

XXXX

CITY OF INDUSTRY

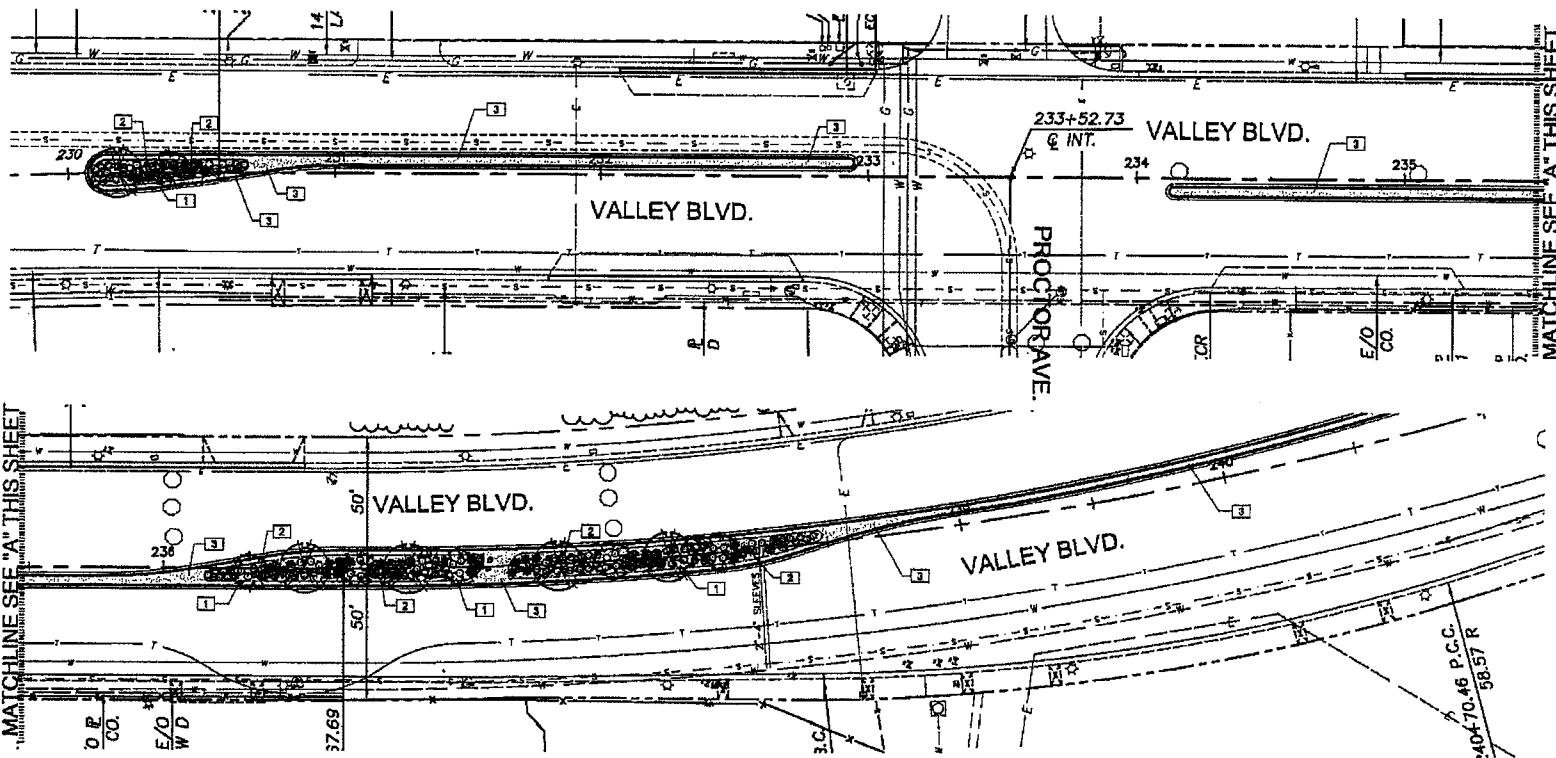
APPROVED BY: _____ DATE: _____

JOHN E. WALLACE, R.C.S., S.E.I.T., CITY ENGINEER

MEDIAN AT VALLEY AND HACIENDA AVE.

COVER SHEET

PROJECT: MEDIAN AT VALLEY AND HACIENDA AVE
DATE: _____
SHEET NO.: _____ JOB NO.: HP 14-07 SHT. 1 OF 11



MATCHLINE SEE "A" THIS SHEET

MATCHLINE SEE "A" THIS SHEET

PLANT SCHEDULE

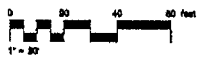
SYMBOL	BOTANICAL NAME / COMMON NAME	QTY	WAGO
	Canadian 'Desert Maroon' Shrubland / Thornless Palo Verde - Shrubland Tree	30' x 30'	Low
	Washingtonia filifera / California Fan Palm	15' x 15'	Low
	Agave attenuata 'Variegata' / Variegated Agave	15' x 15'	Low
	Non shrubs / Cord Aloe	3' x 3'	Low
	Lantana 'New Gold' / New Gold Lantana	3' x 3'	Low
	Mulberry treelets 'Autumn Cloud' / Fall Mahi	3' x 3'	Low

NOTES

- ALL TREES WITHIN 8' OF HANDICAPS SHALL BE IN A BENTONITE LINER (WRAP AROUND NOT ALLOWED) ROOT BARRIERS 36" HIGH LINEAR ROOT BARRIERS SHALL BE CONTINUED ON THIS AND EXCEEDING 8' IN BOTH DIRECTIONS FOR A TOTAL OF 16'
- NOTE QUANTITIES AND AREA CALCULATIONS SHOWN IN LEGEND ARE FOR REFERENCE ONLY. CONTRACTOR RESPONSIBLE FOR ALL QUANTITY TAKE-OFFS AND AREA CALCULATIONS FOR DETERMINING COST AND DELIVERY OF MATERIALS TO SITE.

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION
	3/4" BRICK IMPREGATED D.B. COLOR GOLD WITH 4" DITCH NETWORK, FINISHED, PLACE D.B. OVER WOOD SPANNER, D.B. AVAILABLE FROM GOLD MATERIALS 901-867-6116
	CALIFORNIA GOLD ROLLERS FINISHED IN CONCRETE SIZES 18" 2 1/4" x 8" SIZES. AVAILABLE FROM SOUTHWEST BOLLERS. SEE DETAIL S. SHEET L-5
	RIVER ROCK CORNER DASHED IN CONCRETE SEE DETAIL L-2 SHEET L-5



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Administrative Offices 1560 E. Stafford Street
Tel: (626) 333-2211



NO.	DATE	REVISIONS	BY

Prepared by
Environs
LANDSCAPE ARCHITECTURE
1711 N. Imperial Avenue, Suite 100, Torrance, CA 90501
Tel: (310) 571-1111

BRETT FRENCH, R.L.A. 63416 DATE
REVISED BY: BRF DRAWN BY: BRF

XXXX

CITY OF INDUSTRY

APPROVED BY: _____ DATE: _____
JERRY D. BULLOCK, P.E., 34311, CITY ENGINEER

MEDIAN AT VALLEY AND HACIENDA AVE.

PLANTING PLAN

DESIGNED BY: _____ JOB NO.: MP 14-07 SHT. 3 OF 11
DATE: _____ DRAWN BY: BRF

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION	QTY
	HYDROZONE 1 - SIDEWALKS WITH CURBS, TREES, GROUND COVER, AND MEDIAN-LAN WATER.	8,332 sf
	HYDROZONE 2 - CORNERS	4,759 sf

MAXIMUM APPLIED WATER ALLOWANCE (MAWA)

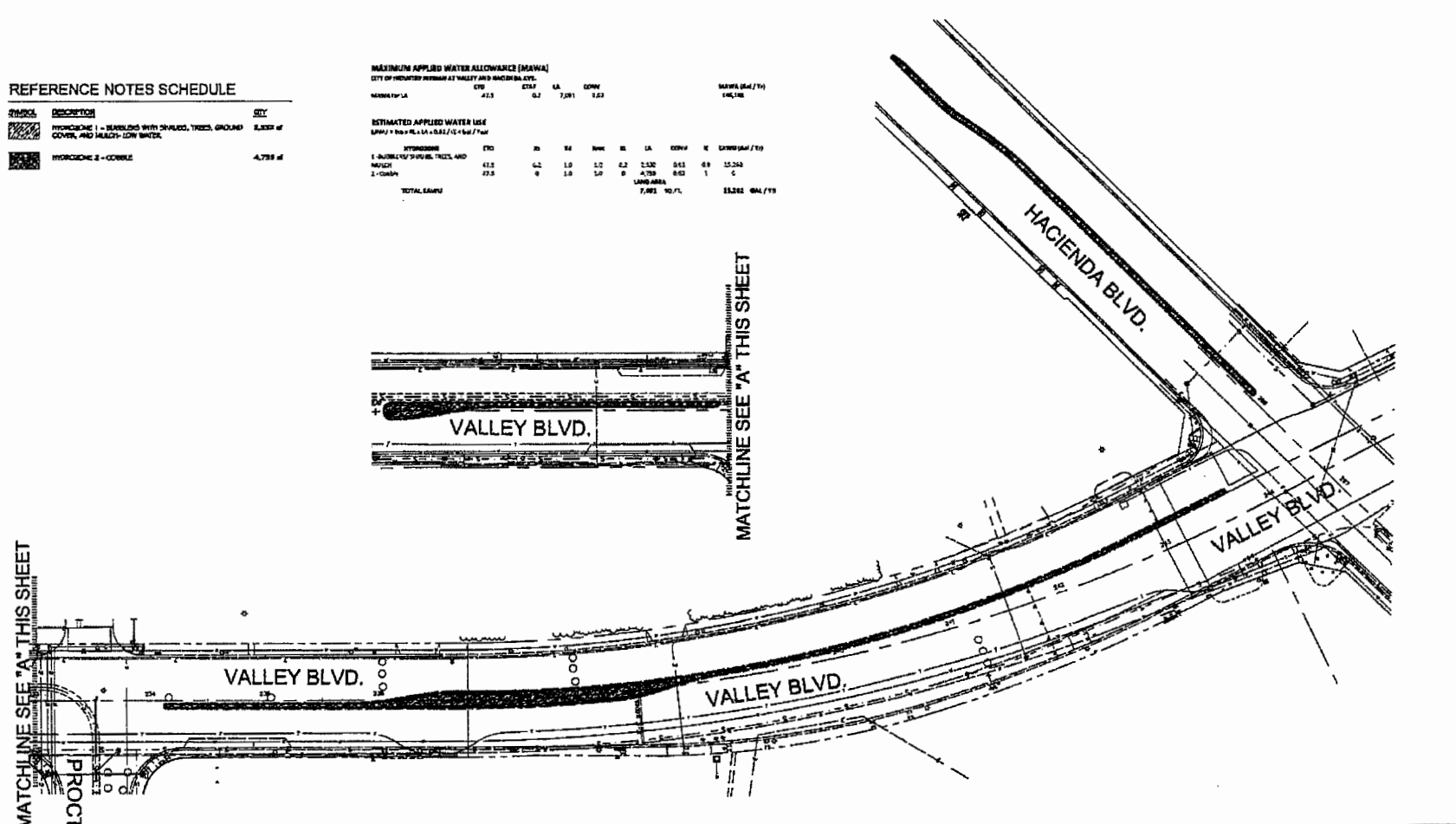
CITY OF INDUSTRY PERMANENT VALLEY AND HACIENDA BLVD.

MAWA (GAL/FT)	CSF	CSAF	LA	CONV	MAWA (GAL/FT)
145,148	41.3	0.7	7,081	2.3	

ESTIMATED APPLIED WATER USE

(EPA) = 100 x RL x LA = 0.82 / (1 - 0.6) / Year

HYDROZONE	EQ	IN	TA	WVC	RL	LA	CONV	E	ESTIMATED (GAL/FT)
1 - SIDEWALKS/TREES/TREES AND MEDIAN	41.3	0.2	1.0	1.0	0.2	2,332	0.63	0.8	12,244
2 - CORNERS	47.8	0	1.0	1.0	0	4,759	0.63	1	5
TOTAL (EPA)						7,091	10.7%		15,249



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PROCTOR AVE.



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Administrative Offices 1569 E. Blufford Street
Tel (626) 332-2218



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Prepared by: **Environs**
LANDSCAPE ARCHITECTURE
17101 Burbank Avenue • Burbank CA 91502
Tel: (818) 332-1111 • Fax: (818) 332-1112

BRETT FRENCH, P.E. (STATE) DATE: _____
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XXXX

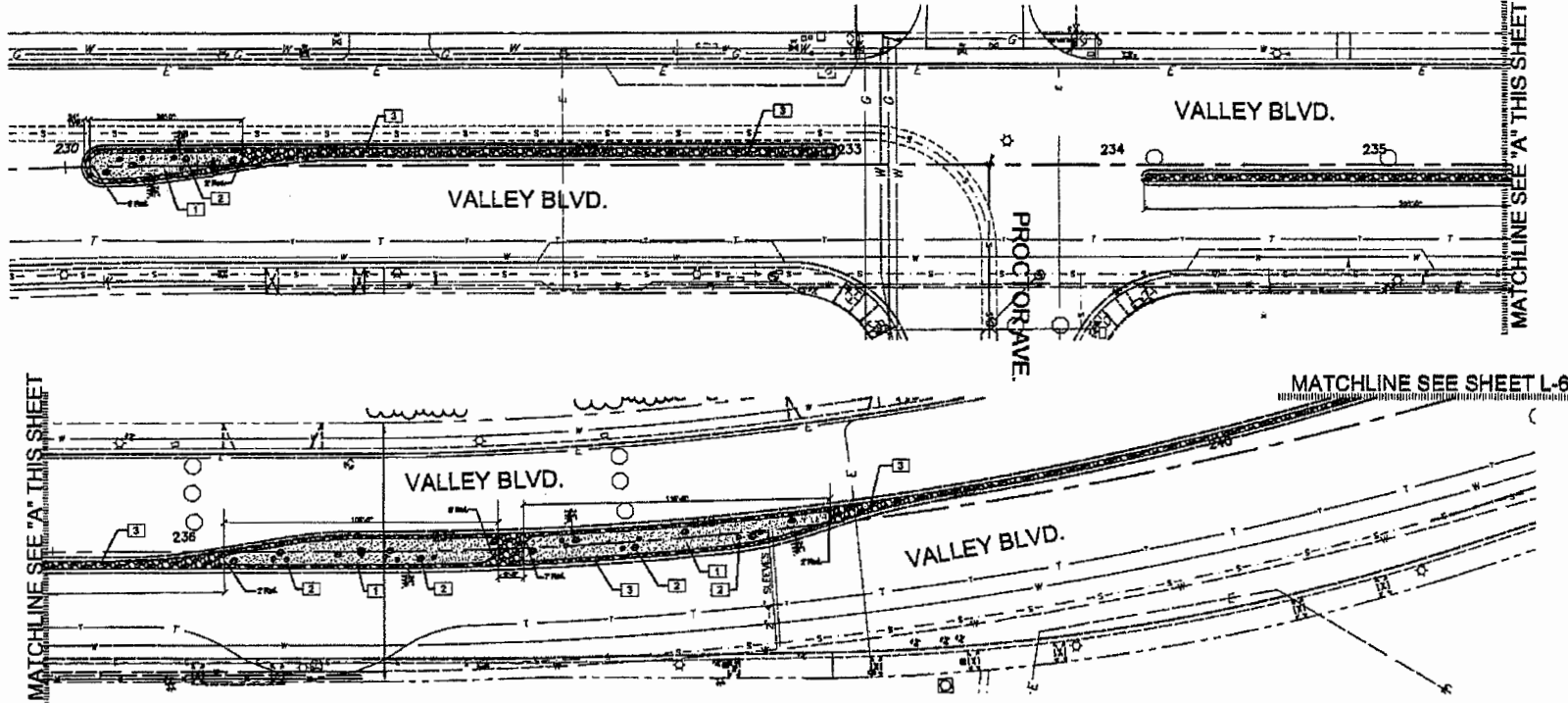
CITY OF INDUSTRY

APPROVED BY: _____
JOHN D. BOLLICK, REG. 34331, CITY ENGINEER DATE: _____

MEDIAN AT VALLEY AND HACIENDA AVE

HYDROZONE MAP & WATER USE CALCS

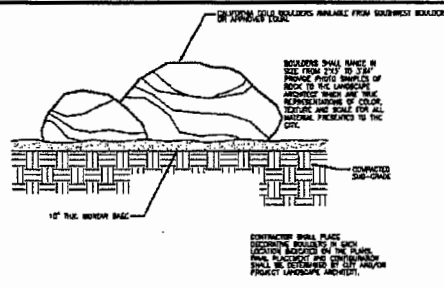
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JOB NO.: MP 14-07 SHT. 4 OF 11



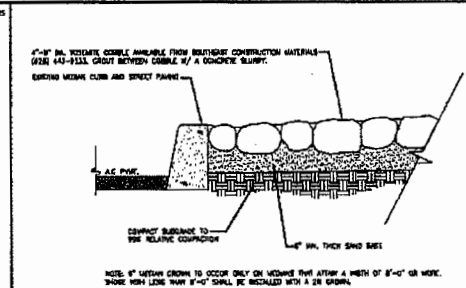
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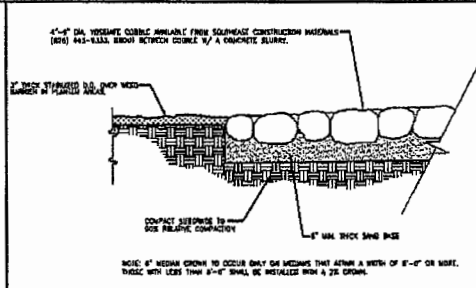
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BOULDER INSTALLATION IN MEDIAN



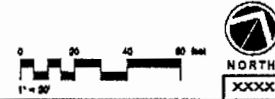
COBBLE INSTALLATION ADJACENT TO STREET CURB



COBBLE INSTALLATION ADJACENT TO PLANTER

REFERENCE NOTES SCHEDULE

- | SYMBOL | DESCRIPTION |
|--------|--|
| ☐ | 2 1/2" THICK UNGRAVELLED 0.85 COARSE SAND WITH 4 LBS/TON NUTCRACK GRANULITE. PLACE 0.85 COARSE SAND NUTCRACK AVAILABLE FROM GARDL MATHEWS 951-687-8100 |
| ☐ | CALIFORNIA GOLD BOULDERS DIMENSIONED IN CONCRETE DETAIL 1 & 2 2 1/2" x 2 1/2" x 2 1/2" AVAILABLE FROM SOUTHWEST BOULDERS - SEE DETAIL 3 SHEET L-6 |
| ☐ | 4" DIA. VESICATE COBBLE DIMENSIONED IN CONCRETE DETAIL 1 & 2 SHEET L-6 |



CITY OF INDUSTRY

APPROVED BY: JOHN D. WALCAS, CITY ENGINEER

MEDIAN AT VALLEY AND HACIENDA AVE.

CONSTRUCTION PLAN

DRAWN BY: BRETT FRENCH, DATE: 05/18/16, JOB NO.: MP 14-07, SHEET: 5 OF 11

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CITY OF INDUSTRY
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Administrative Offices: 5588 E. Bradford Street
Tel: (626) 533-2211



NO.	DATE	REVISIONS	BY	APPROVED BY

Environs
LANDSCAPE ARCHITECTURE
2526 443-9333
BRETT FRENCH, PLS. 05/18/16
DRAWN BY: BRETT FRENCH

MATCHLINE SEE "A" THIS SHEET

HACIENDA BLVD.

HACIENDA BLVD.

MATCHLINE SEE "A" THIS SHEET

VALLEY BLVD.

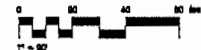
VALLEY BLVD.

HACIENDA BLVD.

MATCHLINE SEE SHEET L-5

REFERENCE NOTES SCHEDULE

- | SYMBOL | DESCRIPTION |
|--------|--|
| [1] | 8" THICK STABILIZED S.S. COLOR GOLD WITH 4 LIGHT WEIGHT FIBERGLASS FIBRE S.S. OVER 1/2" SAND, P.A. AVAILABLE FROM S&S MATERIALS 811-527-6100 |
| [2] | CALIFORNIA GOLD BOLLARDS DIMENSIONS IN CONCRETE SIZES 1/2" X 3/4" X 3/4" AVAILABLE FROM SOUTHWEST BOLLARDS, SEE DETAIL 3 SHEET L-8 |
| [3] | RIVER ROCK CORNER DIMENSIONS IN CONCRETE SEE DETAIL 1 & 2 SHEET L-3 |



XXXXX

CITY OF INDUSTRY

APPROVED BY: JOHN D. BALLAS, R.C.E. 34311, CITY ENGINEER, DATE:

MEDIAN AT VALLEY AND HACIENDA AVE.

CONSTRUCTION PLAN

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CITY OF INDUSTRY

INCORPORATED JUNE 11, 1947

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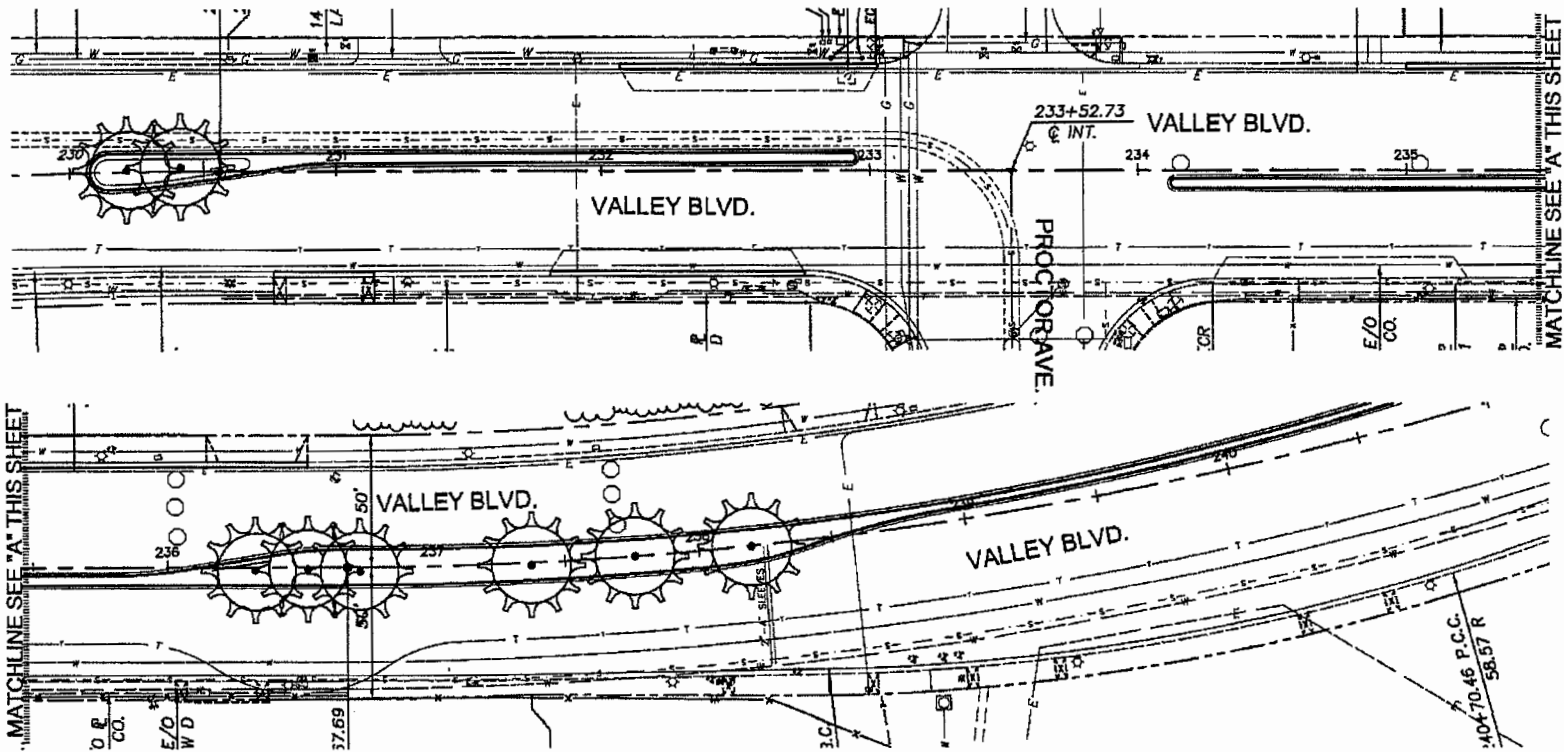


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LANDSCAPE ARCHITECTURE
Creating Beautiful & Useful Outdoor Environments
210-N Hollywood Avenue # 12, Los Angeles CA 90011
(310) 461-1000 / Fax (310) 461-1004

BRETT FRENCH, R.L.A. #3416 DATE: _____
DESIGN BY: BF DRAWN BY: BF

DRAWING NO. _____ JOB NO.: MP 14-07 SHEET 6 OF 11
DATE: _____

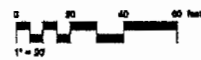


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PLANT SCHEDULE

SYMBOL	NOTED NAME / TECHNICAL NAME
	Existing Trees to be Removed / Existing Trees to be Preserved



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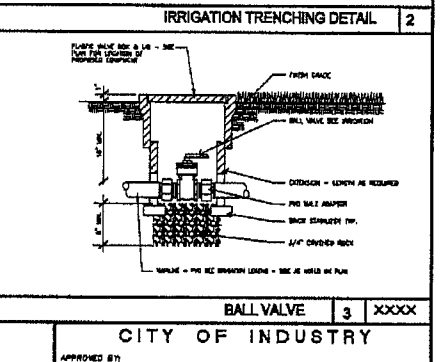
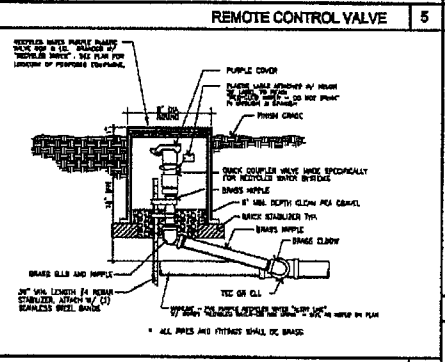
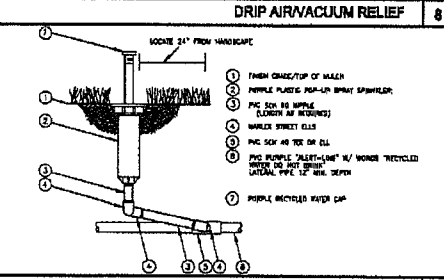
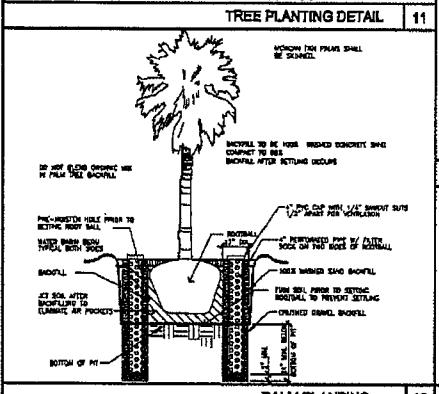
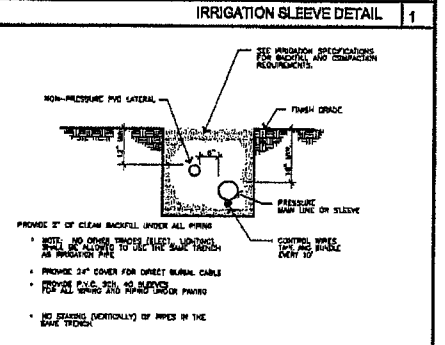
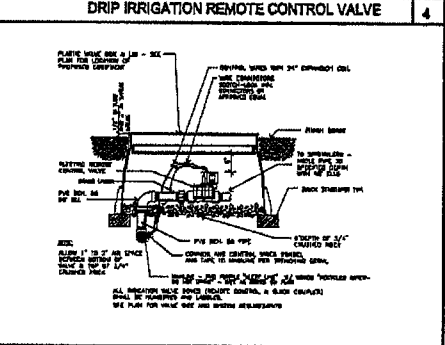
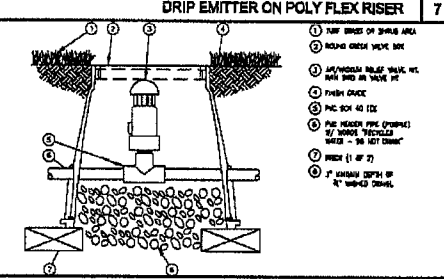
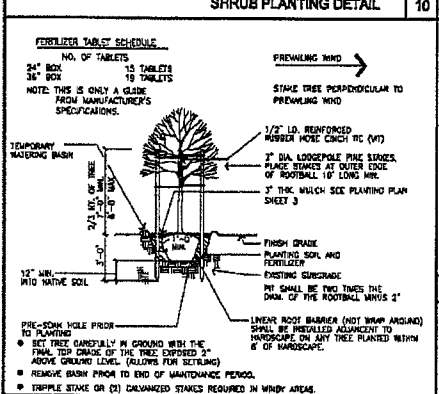
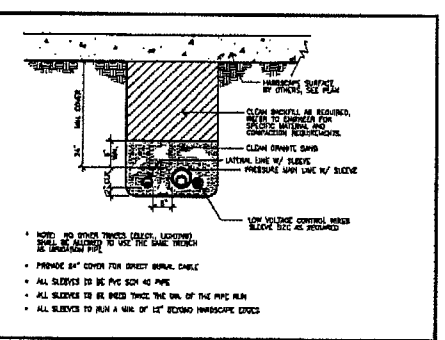
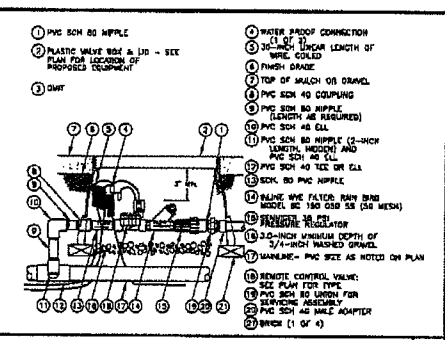
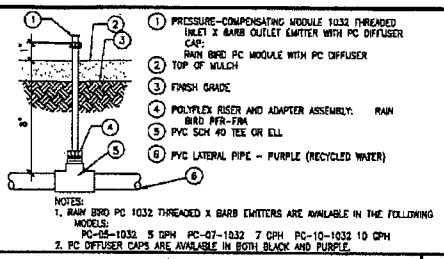
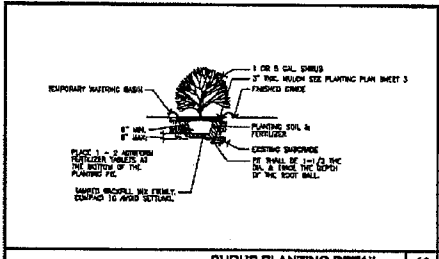
CITY OF INDUSTRY

APPROVED BY:
JERRY D. BALDAS, R.C.C. 34311, CITY ENGINEER DATE

MEDIAN AT VALLEY AND HACIENDA AVE

TREE REMOVAL PLAN

DRAWN BY: DATE
JOB NO.: MP 14-07 SHT. 7 OF 11



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Environs

LANDSCAPE ARCHITECTURE

3141 W. 14th Street, Suite 100, Los Angeles, CA 90024

PH: (213) 948-7777

DATE: 03/16/07

BY: BRETT FRENCH, R.L.A. 03116

DATE: 03/16/07

BY: BRETT FRENCH, R.L.A. 03116

CITY OF INDUSTRY

APPROVED BY: _____ DATE: _____

JOHN D. BALKER, R.E.L.A. 30011, CITY ENGINEER

MEDIAN AT VALLEY AND HACIENDA AVE.

LANDSCAPE DETAILS

JOB NO.: MP 14-07 SHT. 8 OF 11

25. **COMPLETION OF THE WORK** - UPON COMPLETION OF THE WORK IN THE SECTION CONTRACTOR SHALL REMOVE ALL EXCESS GRASS AND SOILS ACCORDING TO THE OPERATIONS REMOVE EXCESS GRASS AND IMPROVED TO EXISTING GRASS FROM THE AREA PROVIDED IN A SAFE AND ACCEPTABLE MANNER TO BE AT THE APPROVAL OF THE LANDSCAPE ARCHITECT (L.A.).
26. **IRRI-GATED**
1. **GENERAL**
- A. EQUIPMENT MUST HAVE MINIMUM CAPACITY OF 1,000 GALLONS AND A PRESSURE DISPLACEMENT PUMP WITH THE ABILITY TO ADJUST AND PREPARE TO USE THE SPECIFIED MATERIAL. PUMP MUST BE CAPABLE OF CIRCULATING THE PESTICIDE AT PRESSURE WITH SUFFICIENT VOLUME TO COVER THE ENTIRE SURFACE OF THE PLANTING AREA WITHIN A 75-MINUTE PERIOD.
- B. EXCESS PESTICIDE REMOVAL - EXCESS PESTICIDE TO REMAIN NOT LESS THAN TWO (2) GALLONS PER 100 SQUARE FEET OF PLANTING AREA.
- C. THE MIXTURE SHALL BE FULLY COVERED THE WORK AND SOILS SHALL BE FULLY COVERED AND BE PROTECTED TO PREVENT RECONTAMINATION OF SOILS FROM EXCESS PESTICIDE.
2. **SLURRY APPLICATION**
- A. **CONSTRUCTION** - PRIOR TO INSTALLATION OF THE IRRIGATION SYSTEM, THE SURFACE OF ALL AREAS SHALL BE CLEANED AND GRASS TO BE REMOVED TO EXPOSE THE SOIL SURFACE FOR SLURRY.
- B. **SLURRY** - TO BE SLURRY FROM PARTS OF 2000 POUNDS PER ACRE, A GREEN COLLOID, FERTILIZER, COMPOST AND SOILS OF ORGANIC MATTER FACTORS. SLURRY MUST BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT. SLURRY SHALL BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT. SLURRY SHALL BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT. SLURRY SHALL BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT.
- C. **SLURRY MIXTURE**
- | | |
|-------------------------|----------------------|
| SLURRY MIXTURE | 2000 POUNDS PER ACRE |
| GREEN COLLOID | 100 POUNDS PER ACRE |
| FERTILIZER | 100 POUNDS PER ACRE |
| COMPOST | 100 POUNDS PER ACRE |
| SOILS OF ORGANIC MATTER | 100 POUNDS PER ACRE |
- D. **SLURRY APPLICATION** - SLURRY MUST BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT. SLURRY SHALL BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT. SLURRY SHALL BE APPLIED TO THE PLANTING AREA WITHIN 10 DAYS OF THE START OF THE PROJECT.
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- 1) WHEN ALL AREAS HAVE BEEN IRRIGATED TO THE SATISFACTION OF THE LANDSCAPE ARCHITECT AND THE MIXTURE IS FULLY COVERED, THE PLANTING SHALL BE INSTALLED TO THE SATISFACTION OF THE LANDSCAPE ARCHITECT.
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IRRIGATION

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CITY OF INDUSTRY
INCORPORATED JAN 18, 1917
P.O. Box 10288, City of Industry, California 91744
Administrative Office 3595 E. Stafford Street
Tel: (626) 333-2211



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Prepared by
EnviroN
LANDSCAPE ARCHITECTURE
1719 N. Hollywood Blvd., Suite 200, Los Angeles, CA 90028
Tel: (310) 441-1111
Fax: (310) 441-1112
www.environ.com

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CITY OF INDUSTRY

APPROVED BY: _____

JOHN D. BALCALA, R.E.C. 34331, CITY ENGINEER

MEDIAN AT VALLEY AND HACIENDA AVE.

LANDSCAPE SPECIFICATIONS

ISSUED BY: _____ DATE: _____

JOB NO.: NP 14-07 SHT. 10 OF 11

IRRIGATION SPECIFICATIONS CONTINUED

- 18. CONTROLS
 - A. AUTOMATIC CONTROLS - AUTOMATIC CONTROLS SHALL BE OF THE TYPE AND MANUFACTURE SHOWN ON THE DRAWINGS OR APPROVED EQUIV. AND INSTALLED PER MANUFACTURER'S RECOMMENDATIONS AND LOCAL CODES.
 - B. LINE VOLTAGE CONTROL UNIT - ALL WIRING TO BE USED FOR OPERATING THE AUTOMATIC CONTROLS TO THE EXISTING SERVICE PANELS SHALL BE INSTALLED IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE. THE INSTALLATION SHALL BE APPROVED BY THE LOCAL ELECTRICAL INSPECTOR. EACH PART OF THE WIRING SHALL BE BACKWASHED AND CLEANED. THE WIRING SHALL BE OF THE QUALITY SPECIFIED ON THE DRAWINGS.
 - C. CONNECTION CABLE - CONNECTION CABLE FROM THE CENTRAL COMPUTER TO THE FIELD CONTROL SHALL BE OF THE TYPE AND MANUFACTURE SHOWN ON THE DRAWINGS.
 - D. USE TEST UNIT TO VERIFY - THE TEST UNIT SHALL BE PER LOCAL CODE AS TO TYPE AND QUALITY. INSTALL IN ACCORDANCE WITH LOCAL CODES.
- 19. BACKFLOW PREVENTION DEVICES
 - A. BACKFLOW PREVENTION DEVICES SHALL BE OF THE TYPE AND TYPE AS REQUIRED ON THE DRAWINGS. ALL BACKFLOW PREVENTION DEVICES SHALL BE INSTALLED IN ACCORDANCE WITH LOCAL ORDINANCES AND THE STANDARDS SET FORTH BY LOCAL CODES AND/OR THE APPLICABLE STANDARDS.
- 20. IRRIGATION HEADS
 - A. OPERATING HEADS SHALL BE OF THE TYPE AND SIZE WITH THE NUMBER OF SPACERS, PITCH, PITCH, PITCH, PITCH AND SPACERS INDICATED HEREON TO ACCORDANCE WITH THE TYPE AND SIZE AS INDICATED ON THE PLANS. THEY SHALL BE CONSTRUCTED OF BRASS, STEEL, BRASS/STEEL OR ANOTHER NON-CORROSIVE MATERIAL.
 - B. ALL HEADS OF A PARTICULAR TYPE OF FINISHES IN THE SYSTEM SHALL BE OF THE SAME MANUFACTURE AND SHALL BE INSTALLED WITH THE MANUFACTURER'S RECOMMENDATIONS AND VERIFICATION AS TO THE POSITION THEY MAY BE ADJUSTED TO BE USED IN THE SYSTEM.
- 21. OTHER MATERIALS
 - A. ALL OTHER MATERIALS NOT OTHERWISE SPECIFIED OR REQUIRED BY A QUALITY AND PROPER APPROVED SYSTEM MANUFACTURER SHALL BE PER THE QUALITY OF THE MATERIALS SHOWN AND SUBJECT TO THE APPROVAL OF THE OWNER.
- 22. INSTALLATION
 - A. GENERAL
 - (1) PRIOR TO ALL WORK OF THE SYSTEM, CONTRACTOR SHALL VERIFY THE INSTALLED WORK OF ALL OTHER TRADES AND VERIFY THAT ALL SUCH WORK IS COMPLETE. THE WORK SHALL BE INSTALLED PER THE SPECIFICATIONS AND APPROVED BY THE LOCAL ELECTRICAL INSPECTOR.
 - (2) VERIFY THAT THE IRRIGATION SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH ALL PERMITS, CODES AND REGULATIONS, THE APPLICABLE STANDARDS, THE APPLICABLE STANDARDS AND THE MANUFACTURER'S RECOMMENDATIONS.
 - (3) VERIFY ALL FIELD CONTROLS INCLUDING PROPERTY LINES, RIGHTS OF WAY, TREE PROTECTION, EROSION CONTROL AND ANY OTHER ITEMS ON PERSONAL RECORDS AS REQUIRED FOR THE SUCCESSFUL COMPLETION OF THE PROJECT.
 - B. DISCREPANCIES
 - (1) IN THE EVENT OF DISCREPANCY, IMMEDIATELY NOTIFY THE CONTRACTOR ON THE AUTHORIZED REPRESENTATIVE.
 - (2) DO NOT PROCEED WITH INSTALLATION IN AREAS OF DISCREPANCY UNTIL ALL SUCH DISCREPANCIES HAVE BEEN FULLY RESOLVED.
- 23. FIELD MEASUREMENTS
 - A. MAKE ALL NECESSARY MEASUREMENTS IN THE FIELD TO OBTAIN PRECISE FIT OF HEADS IN ACCORDANCE WITH THE ORIGINAL DRAWINGS.
- 24. BACKFLOW AND BACKSUCKING
 - A. PREVENTION
 - (1) BACKSUCKING SHALL BE PREVENTED BY INSTALLING A BACKSUCKING PREVENTION DEVICES AS SPECIFIED ON THE DRAWINGS.
 - (2) THE WORK SHALL BE INSTALLED IN ACCORDANCE WITH THE APPLICABLE STANDARDS AND LOCAL CODES.
 - B. BACKSUCKING
 - (1) BACKSUCKING SHALL BE PREVENTED BY INSTALLING A BACKSUCKING PREVENTION DEVICES AS SPECIFIED ON THE DRAWINGS.
 - (2) THE WORK SHALL BE INSTALLED IN ACCORDANCE WITH THE APPLICABLE STANDARDS AND LOCAL CODES.

- 25. METEOROLOGICAL DATA
 - A. GENERAL
 - (1) THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE.
 - (2) VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE.
 - B. DATA COLLECTION
 - (1) THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE.
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- 26. IRRIGATION SYSTEM
 - A. GENERAL
 - (1) THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE.
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 - B. SYSTEM OPERATION
 - (1) THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE.
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- 27. TESTING AND INSPECTION
 - A. TESTING
 - (1) PERFORM ALL NECESSARY TESTING EQUIPMENT AND PERSONNEL.
 - (2) CORRECT ALL ERRORS AND RE-TEST UNTIL ACCEPTED BY THE OWNER.
 - B. INSPECTION
 - (1) NOTIFY THE LOCAL ELECTRICAL INSPECTOR AND ANY OTHER AGENCIES AS TO THE WORK OF THE SYSTEM TO BE COMPLETED UPON COMPLETION OF THE PROJECT AND APPROVED BY THE OWNER AND AUTHORIZED AGENCIES. (SEE SECTION 4-1-1)

- 28. BACKSUCKING
 - A. GENERAL
 - (1) VERIFY ALL NECESSARY PREPARATIONS FOR BACKSUCKING PREVENTION DEVICES AS SPECIFIED ON THE DRAWINGS.
 - (2) VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE METEOROLOGICAL DATA IS ACCURATE AND COMPLETE.
 - B. DATA COLLECTION
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- 29. IRRIGATION SYSTEM
 - A. GENERAL
 - (1) THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE. THE CONTRACTOR SHALL VERIFY THE IRRIGATION SYSTEM IS ACCURATE AND COMPLETE.
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 - B. SYSTEM OPERATION
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- 30. TESTING AND INSPECTION
 - A. TESTING
 - (1) PERFORM ALL NECESSARY TESTING EQUIPMENT AND PERSONNEL.
 - (2) CORRECT ALL ERRORS AND RE-TEST UNTIL ACCEPTED BY THE OWNER.
 - B. INSPECTION
 - (1) NOTIFY THE LOCAL ELECTRICAL INSPECTOR AND ANY OTHER AGENCIES AS TO THE WORK OF THE SYSTEM TO BE COMPLETED UPON COMPLETION OF THE PROJECT AND APPROVED BY THE OWNER AND AUTHORIZED AGENCIES. (SEE SECTION 4-1-1)

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Underground Service Alert
Call TOLL FREE
811
THE VENDOR SHALL NOTIFY 1-800-878-1111

CITY OF INDUSTRY
INCORPORATED JAN 18, 1857
P.O. Box 5368, City of Industry, California 91744
Administrative Offices 1585 E. Bradford Street
Tel (928) 353-2211



NO.	DATE	REVISIONS	BY

Prepared by
Environs
LANDSCAPE ARCHITECTURE
27th & Midway, Suite 400, Torrance, CA 90503
Tel (310) 554-1111 Fax (310) 554-1112

BRETT FRODICH, RLA 03415 DATE
BRIAN BYRNE, RLA 03415 DRAWN BY: BFP

XXXX

CITY OF INDUSTRY

APPROVED BY:
JOHN D. BULLMAN, RLA 03415, CITY ENGINEER DATE

MEDIAN AT VALLEY AND HACENDA AVE.
LANDSCAPE SPECIFICATIONS

CHECKED BY: DATE
BATE

JOB NO: IAP 14-07 SHT. 11 OF 11

CITY COUNCIL

ITEM NO. 6.9



CITY OF INDUSTRY

P.O. Box 3366 • 15625 E. Stafford St. • City of Industry, CA 91744-0366 • (626) 333-2211 • FAX (626) 961-6795

MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Paul J. Philips, City Manager *Paul J. Philips*

Staff: John Ballas, City Engineer

Date: December 3, 2016

SUBJECT: Consideration of a Professional Services Agreement between the City and Biggs Cardosa Associates, Inc. to Provide Professional Civil Engineering Services for the repainting of the Azusa Avenue Bridge over Valley Boulevard

In June 2013, the City was awarded a total of \$5,226,422.00 for the repainting of the Azusa Avenue Bridge through the Local Highway Bridge Program, administered by the Local Assistance Division of Caltrans District 7. These federal grant funds will be utilized to pay for preliminary engineering and construction activities.

The Federal Highway Administration ("FHWA") is the federal agency involved in transportation projects undertaken with federal funding. FHWA has the authority and responsibility for implementing and monitoring federal laws, regulations, and executive orders affecting projects that are funded with federal dollars. Caltrans has obtained major delegations of authority and/or responsibility from FHWA as allowed under the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, and previous Transportation Acts. Caltrans has the responsibility to ensure that cities are administering the federal-aid program in conformance with the applicable federal requirements. With each delegation goes the accountability for initiating and completing each project phase in accordance with the appropriate state, and federal laws and regulations without extensive FHWA, or State oversight. Caltrans has the responsibility to ensure that locals are administering the federal-aid program in conformance with the applicable federal requirements.

Resolution No. CC 2015-28 was adopted by the City Council on August 27, 2015 approving the Administering Agency-State Master Agreement for Federal-Aid Projects between the State of California Department of Transportation and the City of Industry together with Program Supplement Agreement No. 003-N for the Azusa Bridge Repainting Project. Prior to the master agreement, a Request for Authorization ("RFA") to proceed with Preliminary Engineering was approved by Caltrans on April 16, 2015. This approval authorizes the use of \$289,493.00 in federal funds for the preliminary

engineering phase of the project. The total estimated cost of this phase is \$327,000 with a local match of 11.47% or \$37,507.00 which is to be provided by the City. On May 28, 2015, the City Council approved the solicitation of proposals. Subsequently, on June 24, 2015, a Request for Proposal for the engineering phase of the project was issued. The Notice Inviting Bids was advertised in various construction industry publications as well as the local newspaper on June 26, 2015. In addition, bids were solicited to a compiled list of twenty (20) civil engineering firms via email.

As required by the Caltrans Local Procedures Manual, steps were followed to ensure award of federally funded engineering and design related contracts are awarded on the basis of fair and open competition. A chronology of events is attached in exhibit B for reference.

On August 10, 2015, proposals were received from two (2) firms. A selection panel was formed with members from the City's Engineering Department; Human Resource Department; the City of La Puente's Development Services Department; and the Los Angeles County Department of Public Works, Construction Division.

Based upon the evaluation, the panelist ranked the firms as follows and requested both firms for the panel interview.

FIRM	RANK
Biggs Cardosa Associates, Inc.	1
IDC Consulting Engineers, Inc.	2

The selection panel determined that Biggs Cardosa Associates, Inc. was more suited and qualified to provide the required services for this project.

At this time, it is being requested that the City Council award a professional services agreement to Biggs Cardosa Associates, Inc. to provide Professional Civil Engineering Services for the Bridge Painting Project – Azusa Avenue over Valley Boulevard for a not-to-exceed amount of \$310,625.

Attachments

Exhibit A – Chronology of Events
Professional Service Agreement

Exhibit A

Chronology of Events Procurement Process for the Azusa Avenue Bridge Painting Project

On April 16, 2015, the Request for Authorization to Proceed with Preliminary Engineering was approved and \$289,493.00 of federal funds were authorized for this phase of the project. Subsequently, on June 24, 2015, a Request for Proposal (RFP) for the Engineering Phase of the project was issued. The Notice Inviting Bids was advertised in various construction industry publications as well as the local newspaper on June 26, 2015. In addition, bids were solicited to a compiled list of twenty (20) civil engineering firms via email.

On July 20, 2015 at 10:00am a pre-bid meeting was held at City Hall with prospective bidders to explain the Federal Requirements and provide them with an opportunity to ask any project related questions. Due to the only one firm attending the meeting the City issued an Addendum adding an additional pre-bid meeting.

On August 3, 2015 a second pre-bid meeting was held at City Hall, the result being the same as the first. Additional advertising efforts were made to solicit for prospective bidders. In addition, a subsequent Addendum was issued to extend the bid date from July 27, 2015 to August 10, 2015.

On August 10, 2015 proposals were received from two (2) firms. Caltrans Local Assistance Procedure Manual (LAPM) states if only two proposals are received, justification must be documented to proceed with procurement. As such, documented justification in the form of additional solicitation efforts and issued addendum's with time extensions has been recorded throughout the procurement process.

A selection panel was formed with members from the City's Engineering Department; Human Resource Department; the City of La Puente's Development Services Department; and the Los Angeles County Department of Public Works, Construction Division.

On August 19, 2015 proposals were evaluated based upon the criteria outlined in the Request for Proposal. (1) Understanding of the project implementation, needs, and issues; and approach to managing projects. Experience with HBP projects; Team (including sub-consultants) work experience on similar projects. (2) Specific technical geometric and structure design experience. (3) Qualifications/experience of key personnel, and availability. References & record of previous budget/schedule project performance. (4) Project management experience in Quality Assurance and Quality Control measures and schedule controls. (5) Familiarity with State and Federal environmental procedures and documents (General CEQA/NEPA, Permitting Process). (6) Capability of developing innovative techniques, such as designing unique solutions for sensitive areas, construction staging, or process streamlining. (7) Financial Responsibility and (8) Experience and ability to work with City as Project Manager.

Based upon the evaluation, the panelist ranked the firms as follows and requested both firms for the panel interview.

FIRM	RANK
Biggs Cardosa Associates, Inc.	1
IDC Consulting Engineers, Inc.	2

On August 21, 2015, prior to the panel interview an additional meeting was conducted with both firms to ensure firms were presented with as much material as is available regarding the project.

On September 2, 2015 panel interviews were conducted with both firms, the selection panel determined that Biggs Cardosa Associates, Inc. was more suited and qualified to provide the required services for this project.

On October 7, 2015 Biggs Cardosa Associates, Inc. proposed fees were opened, evaluated, and negotiated to reasonable costs based on the scope of services. Federal funding requirements dictate that the consultant selection process be qualification-based, not by cost, as long as the fee is reasonable.

CITY OF INDUSTRY

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is made and effective as of December ____, 2015 ("Effective Date"), between the City of Industry, a municipal corporation ("City") and Biggs Cardosa Associates, Inc., a California corporation ("Consultant"). The City and Consultant are hereinafter collectively referred to as the "Parties".

RECITALS

WHEREAS, City desires to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein:

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

1. TERM

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than November 30, 2015, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

(a) Consultant shall perform the tasks ("Services") described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. ("Scope of Services"). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. Consultant shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the City. There shall be no change in Consultant's Project Manager or members of the project team, as listed in the approved Scope of Services, without prior written approval by the City.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City and in a first-class manner in conformance with the standards of quality normally observed by an entity providing engineering consulting services, serving a municipal agency.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*). During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working on the Effective Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) City has not consented in writing to Consultant's performance of such work. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

3. FEDERAL CONFLICTS OF INTEREST PROVISIONS

(a) Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this Agreement, or any ensuing City construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing City construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of Twenty Five Thousand Dollars (\$25,000.00) entered into as a result of this Agreement, shall contain all of the provisions of this Section.

(d) Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

(e) Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

4. PROHIBITION OF EXPENDING CITY STATE OR FEDERAL FUNDS FOR LOBBYING

(a) Consultant certifies to the best of its knowledge and belief that:

1. No state, federal or City appropriated funds have been paid, or will be paid by-or-on behalf of Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative contract.
2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative contract; Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

(c) Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000.00, and that all such sub recipients shall certify and disclose accordingly.

5. CONSULTANT'S REPORTS/MEETINGS

(a) Consultant shall submit progress reports at least once a month. The report should be sufficiently detailed for the City to determine, if Consultant is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

(b) Consultant's Project Manager shall meet with the City, as needed to discuss progress on the project.

6. MANAGEMENT

The City Manager or his designee shall represent the City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

7. PAYMENT

(a) The City agrees to pay Consultant progress payments, monthly in arrears based on services provided and allowable incurred costs, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Three Hundred Ten Thousand Six Hundred Twenty-Five Dollars (\$310,625.00) for the total Term of the Agreement unless additional payment is approved as provided in this Agreement. The use of subcontractors shall not be considered a reimbursable expense, and such costs shall be applied towards the approved budget amount.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, the City shall have the right to delay payment and/or terminate this Agreement in accordance with the provisions of Section 10.

8. RETENTION OF FUNDS

(a) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

(b) No retainage will be withheld by the City from progress payments due Consultant. Retainage by Consultant or subcontractors is prohibited, and no retainage will be held by Consultant from progress due subcontractors. Any violation of this provision shall subject the violating Consultant or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual,

administrative, or judicial remedies otherwise available to Consultant or subcontractor in the event of a dispute involving late payment or nonpayment by Consultant or deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime Consultant and subcontractors.

9. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

(a) Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

(b) Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments.

(c) Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to City.

(d) All subcontracts in excess of Twenty-Five Thousand Dollars (\$25,000.00) shall contain the above provisions.

10. SUSPENSION OR TERMINATION OF AGREEMENT

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City pursuant to Section 5 of this Agreement.

11. OWNERSHIP OF DOCUMENTS/RETENTION OF RECORDS/AUDIT

(a) For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and City shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All Parties shall make such materials available at their respective offices at all reasonable times during the Term of

the Agreement and for three years from the date of final payment under the Agreement. The state, State Auditor, City, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of Twenty Five Thousand Dollars (\$25,000.00) shall contain this provision.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office, and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City.

12. INDEMNIFICATION

(a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnity for other than professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for

which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) Duty to Defend

In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City, Consultant shall have an immediate duty to defend the City at Consultant's cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant and City, as to whether liability arises from the sole negligence of the City or its officers, employees, or agents, Consultant will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as solely negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

13. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

14. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

15. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

16. AUDIT REVIEW PROCEDURES

(a) Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by the Agreement, shall be reviewed by City's Finance Director.

(b) Not later than 30 days after issuance of the final audit report, Consultant may request a review by City's Finance Director of unresolved audit issues. The request for review will be submitted in writing.

(c) Neither the pendency of a dispute nor its consideration by City will excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

(d) Consultant and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, Rate Schedule and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by the City to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by the City at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

17. SUBCONTRACTING

(a) Nothing contained in this Agreement or otherwise, shall create any contractual relation between City and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to City for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant.

(b) Consultant's obligation to pay its subconsultant(s) is an independent obligation from City's obligation to make payments to Consultant.

(c) Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the City, except that, which is expressly identified in the approved Rate Schedule.

(d) Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by City.

(e) Any subcontract in excess of Twenty Five Thousand Dollars (\$25,000.00) entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

(f) Any substitution of subconsultant(s) must be approved in writing by the City prior to the start of work by the subconsultant(s).

18. EQUIPMENT PURCHASE

(a) Prior authorization in writing, by the City shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding Five Thousand Dollars (\$5,000.00) for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

(b) For purchase of any item, service or consulting work not covered in the Scope of Work, and exceeding Five Thousand Dollars (\$5,000.00) prior authorization by the City; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

(c) Any equipment purchased as a result of this Agreement is subject to the following: "Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of Five Thousand Dollars (\$5,000.00) or more. If the purchased equipment needs replacement and is sold or traded in, the City shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, Consultant may either keep the equipment and credit the City in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established City procedures; and credit the City in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the City and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the City."

(d) All subcontracts in excess of Twenty Five Thousand Dollars (\$25,000.00) shall contain the above provisions.

19. STATE PREVAILING WAGE RATES

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1775, and all federal, state, and local laws and ordinances applicable to the work.

(b) Any subcontract entered into as a result of this Agreement if for more than Twenty Five Thousand Dollars (\$25,000.00) for public works construction or more than Fifteen Thousand Dollars (\$15,000.00) for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the services described in the Scope of Work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

20. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right in its discretion; to terminate the Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

21. CONTINGENT FEE

Consultant warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this Agreement upon a contract or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, the City has the right to annul this Agreement without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

22. STATEMENT OF COMPLIANCE

(a) Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

(b) During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry,

religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other contract.

(c) Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

(d) Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

23. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

(a) This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

(b) The goal for DBE participation for this Agreement is **7.82%**. Participation by DBE Consultants or subconsultants shall be in accordance with information contained in C Consultant's Proposal DBE Commitment (Exhibit 10-O1), or in Consultant's Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Agreement. If a DBE subconsultant is unable to perform, Consultants must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

(c) DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. Consultants or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultants shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted contracts. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as City deems appropriate.

(d) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

(e) A DBE firm may be terminated only with prior written approval from City and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting City's consent for the termination, Consultants must meet the procedural requirements specified in 49 CFR 26.53(f).

(f) A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

(g) A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

(h) If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

(i) Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime Consultant shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

(j) Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by Consultants or Consultant's authorized representative and shall be furnished to the City with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the City.

(k) If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify Consultant in writing with the date of certification. Any changes should be reported to City within 30 days.

24. DEBARMENT AND SUSPENSION CERTIFICATION

(a) Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to City.

(b) Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

(c) Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

25. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

26. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

27. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City, unless otherwise required by law or court order. (b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City of such Discovery, court order or subpoena. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

28. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Industry
15625 E. Stafford, Suite 100
City of Industry, CA 91744

Attention: City Manager

With a Copy To: James M. Casso, City Attorney

P.O. Box 4131
West Covina, CA 91791

To Consultant: Michael Thomas, SE
Principal
Biggs Cardosa Associates, Inc.
500 S. Main Street, Suite 400
Orange, CA 92868

29. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

30. GOVERNING LAW/ATTORNEYS' FEES

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

31. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous

agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

32. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

33. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

34. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

35. WAIVER

The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

36. REMEDIES

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

37. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

“CITY”
City of Industry

“CONSULTANT”
Biggs Cardosa Associates, Inc.

By: _____
Paul Philips, City Manager

By _____
Michael Thomas, Principal

Attest:

By: _____
Cecelia Dunlap, Deputy City Clerk

Approved as to form:

By: _____
James M. Casso, City Attorney

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Rate Schedule
	Exhibit C	Insurance Requirements

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A

SCOPE OF SERVICES

Preparation of plans, specifications and cost estimates (PS&E) for the removal of lead based paint and recoating of the Azusa Avenue Bridge over Chestnut Street, San Jose Flood Control Channel, Union Pacific Railroad (UPRR) and Valley Blvd. (State Bridge No. 53C0289). The work includes the preparation of an environmental compliance report, environmental assessments, preparation and processing of all permits, technical assistance with Caltrans compliance management and support during the bidding and repainting contract phases.

TASK 1 PROJECT MANAGEMENT AND CALTRANS CONTRACT MANAGEMENT ASSISTANCE

The Consultant shall perform activities necessary to plan, direct, and coordinate the work of the project team and provide progress reporting. The fee estimate provided in appendix A includes project management and administration tasks for preliminary and final design phases.

A. Project Administration / Budgeting / Cost Accounting

- Develop work plan and work breakdown structure
- Develop person-hour estimates
- Supervise, coordinate, and monitor design for conformance with City of Industry and Caltrans standards and policies
- Monitor and report Project Progress for adherence to schedule and budget (monthly)
- Prepare monthly progress reports
- Prepare accounting summary for internal review (weekly)
- Prepare invoice summary and billing status (monthly)
- Set up Filing System
- Make arrangements with and obtain permission from City for Consultant to work on the City road
- Assist the City in obtaining permission to enter private property for engineering services
- Employ and monitor work of subconsultants
- Close and archive the project records at the end of the project
- This proposal is based on an hourly rate (time + materials). A detailed hour breakdown is included in Exhibit B

B. Meetings / Agency Coordination

- Attend in-person progress meeting or provide teleconference call for progress review meetings. Assume that in-person meetings will

take place once per quarter, and teleconferences will place in all other months.

- Prepare meeting notes and distribute to all attendees
- Perform as-needed coordination with third party agencies

C. Highway Bridge Program (“HBP”) Local Program Compliance Support

- Assist the City with yearly HBP survey funding updates for this project
- Assist the City with preparation of certification requests required prior to requesting the federal Request for Funding Authorization (“RFA”) form for the issuance of a federal E-76 approval for the use of federal construction grant funds
- Assist the CITY with preparation of the required exhibits to request authorization for construction

D. Project Schedule

- Update the overall project schedule as required based on the progress of the project development.

E. Quality Assurance

Implement Biggs Cardosa Associates (“BCA”) quality control plan and quality control procedures during project studies and preparation of deliverables. The Quality Assurance (QA) program at Biggs Cardosa Associates employs a company-wide approach that establishes and oversees policies, procedures, standards and guidelines aimed at producing a superior level of quality on every project. Quality control is maintained by a parallel two-phase process on each individual project.

The first phase consists of a systematic review process prior to performing the preliminary engineering, where project manager sets up a detailed work plan and schedule of the work to be performed and continuously monitor progress of the project. The project manager is also responsible for supervising project engineers and staff engineers. Project engineers and staff engineers will perform the majority of the structural calculations and construction documents development, and will report to the project manager. All bid documents, calculations and reports will be reviewed by the project manager. The project manager is responsible to the client from initial contact through completion of the entire project.

The second phase of quality control is to have an independent check team lead by an engineering manager or higher (not involved in the original design engineering) provide an in-depth independent review of the design calculations, quantity estimate and construction documents. The independent check team will provide a senior review of all deliverables. Where different disciplines are involved, the independent check team will also perform cross-checking to avoid interdisciplinary conflict and misalignment.

F. Deliverables

- One copy of progress report (monthly)
- One copy of invoice summary (monthly)
- Required exhibits for HBP Local Program Compliance
- Updates to the project schedule as required
- Copies of meeting notes prepared by Consultant and distribution to all attendees

TASK 2 PRELIMINARY ENGINEERING

Consultant shall initiate the third party coordination (UPRR, regulatory agencies, etc), perform initial environmental studies, and include the preparation of 25% conceptual design.

A. Data Gathering and Existing Documentation Review

Gather and review all available as-built plans, inspection reports, previous hazardous material reports, and other documents. Perform field review to confirm the following:

- Verify compliance with as-built plans and note discrepancies
- Note potential work site assess points and equipment staging areas
- Measure and verify key dimensions
- Note all utilities supported on structure

B. Roadway Supplemental Survey / Base Mapping

- Perform aerial survey of the project site
- Develop base map to be used as the existing conditions map for project development
- Use High Definition Surveying to determine top of rail elevations without needing to gain access into the UPRR right-of-way
- Perform onsite topographic surveys

C. Third Party Preliminary Design Coordination

Initiate coordination with local agencies, UPRR, local flood control districts, utility companies, etc., to make them aware of the project and to obtain their interest and requirement for the project. Continue coordination efforts until all permitting, encroachment permits and third party approvals are granted

D. Preliminary Environmental Impact Assessment / Phase I Initial Site Assessment ("ISA")

Review existing project documentation to identify recognized environmental conditions at the site

- Perform a site reconnaissance for visual indications on the ground surface of hazardous materials or hazardous waste contamination

Deliverables:

- One electronic copy and up to three hard copies of the Phase I ISA

Preliminary Environmental Study ("PES") / Field Review

- Prepare draft PES form and submit to Caltrans for review
- Hold a field review meeting with Caltrans and the CITY to discuss the PES form and obtain approval of the PES form

Deliverables:

- One electronic copy and up to three hard copies of the PES Form; signed National Environmental Policy Act ("NEPA") Categorical Exclusion ("CE")

Preliminary Engineering (25% Planning Design)

- Prepare preliminary General Plan and Coordination Exhibits
- Prepare preliminary Construction Cost Estimate

Deliverables:

- 25% Level Plan Set Drawings and Coordination Exhibits (11"x17" Plots)
- 25% Level Construction Cost Estimate

TASK 3 ENVIRONMENTAL APPROVAL AND TECHNICAL STUDIES

A. CEQA Determination and Filing

B. Prepare CEQA CE determination and signed exemption form

- File Notice of Exemption with the LA County Clerk's office

The project is exempt from the provisions of California Environmental Quality Act (CEQA) under CEQA Section 15301 Class 1, Existing Facilities, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project involves the regular painting of the Azusa bridge overcrossing to extend its functional life and will not alter or expand upon the basic function or operation of the overcrossing. As such, Categorical Exemption will be the appropriate level of CEQA documentation.

Deliverables:

- One electronic copy and up to three wet-signed copies of the CEQA Determination Form
- Complete Environmental Record

C.NEPA CE and Filing

Coordination with Caltrans such that Caltrans submits signed PES form to Federal Highway Administration ("FHWA") to obtain NEPA clearance. Caltrans does not require public scoping for NEPA CE projects, and it is not anticipated that any other public outreach activities will be required during the environmental process. No public outreach activities have been included in this scope of work.

Deliverables:

- One electronic copy and up to three signed copies of the NEPA CE Determination

D.Phase II Environmental Site Assessment (PSI) and Steel Bridge Paint Survey

Perform hazardous materials testing including asbestos containing materials survey and steel bridge paint survey on 10 bridge steel paint samples.

Deliverables:

- One electronic copy and up to three wet-signed copies of the final Phase II ESA and steel bridge paint survey

TASK 4 FINAL DESIGN ENGINEERING (PS&E SUBMITTALS)

Final design engineering will include roadway and bridge design and preparation of PS&E. The Consultant will perform the final design engineering services anticipating a round of comments to address from the local agencies and third party stakeholders on the 60% and 90% submittals. Because this project is funded with HBRRP funds, Caltrans review comments will be limited to funding oversight issues and not consist of a technical review.

A. Unchecked Design Submittal (60% Design)

Prepare unchecked Structural Plans

- Develop Drawing Control
- Develop General Plan and Title Sheet

Prepare Traffic Handling Plans

Prepare Median Demolition and Street Improvement Plans

Prepare Unchecked Quantities and Estimate

- Develop preliminary quantities
- Prepare preliminary engineer's estimate
-

Prepare Draft Specifications

- Establish pay item list
- Assemble and modify Caltrans "Standard Special Provisions"
- Prepare special provisions for non-standard items
- Coordinate interface specifications between Civil, Environmental, and Structures Specifications
- Coordinate with City and Los Angeles County regarding specific painting specifications to be incorporated
- Coordinate and finalize draft specifications

Deliverables:

- Three half-size sets of plans (Title sheer, civil, structural)
- Three sets of Draft Special Provisions
- Engineer's Estimate
-

B. Checked Design Submittal (90% Design)

Perform in-house Quality Control ("QC") check of 60% PS&E submittal by an independent design team

The independent design team performs the following:

- Reviews 60% level plans for completeness, consistency, constructability
- Performs QC check of cost estimate and quantity calculations
- Reviews 60% Draft Special Provisions

Address in-house QC check comments of 60% PS&E

Address local agency and 3rd party review comments to 60% PS&E submittal

Coordinate and finalize 90% PS&E submittal

Deliverables:

- Three half-size sets of plans (Title sheet, civil, structural)
- Three sets of Special Provisions
- Engineer's Estimate

C. Final Design Submittal (100% Design)

- Address local agency and third party review comments to 90% PS&E Submittal
- Prepare HBP exhibits for Request for Authorization (RFA) for E-76 for construction
- Coordinate and finalize 100% PS&E submittal

Deliverables:

- Three half-size sets of plans (Title sheet, civil, structural)
- Three sets of Special Provisions
- Engineer's Estimate
- All exhibits required for construction E-76 RFA

D. Bidding Assistance and Addressing Bid Inquiries

- The Consultant will assist the City as requested during bidding. The work may include answering questions, providing consultation and interpretation of the construction documents, and assisting the City in preparation of addenda to the PS&E during the advertisement period.

Deliverables:

- Responses to bid inquiries and preparation of addenda as required

TASK 5 CONSTRUCTION PERMITS (REGULATORY AND UPRR)

A. California Fish and Game Code 1602 Streambed Alteration Agreement

- Prepare a Section 1602 Streambed Alteration Notification package to CDFW because the project work will be performed over the San Jose Creek. Because the painting work would be conducted from outside of the San Jose Creek channel, a Clean Water Act (CWA) Section 404 Permit and CWA Section 401 Water Quality Certification, required for dredge and fill activities, would not be required. Because the painting work would be conducted from outside of the San Jose Creek channel, a Clean Water Act (CWA) Section 404 Permit and CWA Section 401 Water Quality Certification, required for dredge and fill activities, would not be required.

Deliverables:

- One electronic copy and up to three hard copies of the 1602 permit application package

B. UPRR Construction Encroachment Permit

Initial Coordination / Project Notification Permit

- Submit plans, specifications, and estimate package to the UPRR as a Draft 100% UPRR submittal for review and to obtain UPRR permit approval

Deliverables:

- Project Notification Letter
- Draft 100% UPRR Submittal and UPRR Encroachment Permit Application

TASK 6 CONSTRUCTION SUPPORT SERVICES

Construction support services will include reviewing contractor submittals, clarifying the contract documents, preparing change orders, and preparing record drawings.

A. Construction Support

The Consultant will assist the CITY as requested during construction to:

- Attend the Pre-Construction Meeting
- Respond to Requests for Information (RFI's)
- Review shop drawings
- Review material submittals
- Develop and issue Contract Change Orders' ("CCO")
- Develop record drawings

- Responding to RFIs and developing associated contract change orders to clarify the contract documents is included in this scope of work. Responding to RFIs and developing associated change orders to address alternative construction methods, unforeseen field conditions, etc. is not included in this scope of work.
- It is anticipated that the City will retain a qualified Construction Management (“CM”) firm to handle the project construction. Biggs Cardosa Associates (“BCA”) will perform the review of all structural shop drawings and structural submittals required by the project specifications and the Caltrans Standard Specifications that are design related (suspended scaffolding, etc.) Field level submittals that do not affect the design of the project will be reviewed by the project Resident Engineer or Structures Representative retained by the City during construction.

Deliverables:

- Response to RFI's
- Stamped shop drawing and material submittals
- CCO's
- Record drawings

EXHIBIT B

RATE SCHEDULE

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to Agency.

General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of Agency, its officers, agents, employees and volunteers.

Proof of insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may

arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the Agency nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass Through Clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

City's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

Timely notice of claims. Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

CITY COUNCIL

ITEM NO. 6.10



CITY OF INDUSTRY

P.O. Box 3366 • 15625 E. Stafford St. • City of Industry, CA 91744-0366 • (626) 333-2211 • FAX (626) 961-6795

MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Paul J. Philips, City Manager

Staff: John Ballas, City Engineer

Date: December 2, 2015

SUBJECT: Renewal of Scheduling Coordination Services with Noble Americas Energy Solutions for the City's Electric Utility

Attached for consideration is an amendment to the Master Power Purchase and Sale Agreement between the City of Industry and Noble Americas Energy Solutions (formerly Sempra Energy Solutions) for scheduling coordinator services and the purchase of electrical power required by the City's electric utility. This amendment will extend the term of the master agreement for an additional two (2) years until December 31, 2017, without an increase in the cost of their services. Noble Americas Energy Solutions ("Noble") serves as the certified scheduling coordinator for the City's Electric Utility and also purchases power for the City on the day ahead spot market.

In October, 2013, the City purchased a block of power from Shell Energy North America, L.P., to deliver 4 megawatts (MW) of continuous power. This block of power is scheduled by Noble and delivered to the utility Monday thru Saturday from 7:00 AM to 10:00 PM. On behalf of the utility, Noble purchases any additional power used by the utility in excess of 4MW on the day ahead spot market. This strategy has resulted in lower energy costs in lieu of purchasing a much larger block of power and selling the unused portion back to the market. The average monthly cost for day ahead power and scheduling services provided by Noble is \$110,000.00.

A detailed description of the services provided by Noble is contained in the attached memo by Richard Mrlik, the City's Energy Consultant.

Staff, therefore, recommends that the amendment with Noble Americas be approved and the attached hourly schedules be signed by the City Manager.

PJP:JDB:mk

MEMO

Attention: Mr. Paul J. Philips
Mr. Richard Mrlik
Subject: Renew Scheduling Coordination (SC) Agreement with Noble
Date: November 24, 2015

Summary

The City of Industry (“City”) has a Scheduling & Settlement Services and Day Ahead Index Electricity Agreement with Noble Americas Energy Solutions, LLC (“Noble”) that expires December 31, 2015. In this agreement, Noble provides Scheduling Coordination (“SC”) services and buys spot power on behalf of the City’s electric utility. Noble proposes that the City extend the agreement under identical terms (w/ no price increases) for two additional years.

Background

The California Independent System Operator (CAISO) manages electricity flow in California’s power grid. The CAISO implements strict energy accounting protocols and hosts various markets for energy, congestion, reliability and other power products & services. Any entity that uses the CAISO controlled grid must use a certified scheduling coordinator (SC) to act on its behalf. The City contracts with Noble, a certified SC, to schedule its forecasted load & wholesale purchases; to buy additional energy, ancillary and reliability services from CAISO markets; and to settle all transactions.

City of Industry 2016 Schedule

A simplified functional description of SC services provided by Noble to City is shown in Figure 1. As the Scheduling Coordinator, Noble preschedules the City’s daily load forecast¹. January & July 2016 weekday forecasts are provided in Figure 1. To match City’s load with resources, Noble schedules the Shell 4 MW 5-Yr block and buys the balance from CAISO spot markets.² As actual hourly loads differ from pre-scheduled forecasts, Noble buys and/or sells imbalance energy from real-time markets to balance the City’s load and resources. Noble also buys ancillary, reliability, transmission and other services required per CAISO rules and passes through these costs to City. Finally, Noble completes the required accounting and settlement processes and bills City every month.

Relative Cost of SC Services and Noble Spot Energy Purchase Performance

As shown in Table 1, scheduling coordination services provided by Noble costs 0.168 cents per kWh, 2.2% of the total \$75.1/MWh cost of purchased power. The average cost of spot power purchased by Noble (including the \$0.85/MWh fee) was \$46.4/MWh, 32% lower than the \$67.7/MWh cost of the 5-year fixed price power supplied by Shell.

Recommendation

We recommend that the City extend the agreement with Noble for two years. Noble’s SC costs are competitive and Day-Ahead purchase strategy implemented by Noble continues

¹ City’s forecast is prepared using prior year average hourly usage, adjusted for anticipated load growth. The City prepared its 2016 & 2017 load forecasts which Noble adopts for its preschedule sent to the CAISO.

² Shell’s block must be sold at CAISO node TH_SP15_GEN-APND and repurchased at CAISO node DLAP_SCE-APND. This is market mechanism to price congestion when delivering power procured outside of SP15.

to be the lowest cost option. Additionally, Noble provides regulatory support at no cost, which helps the City to comply with frequent regulatory changes.

Average IPUC Hourly Weekday Load for Summer & Winter Month

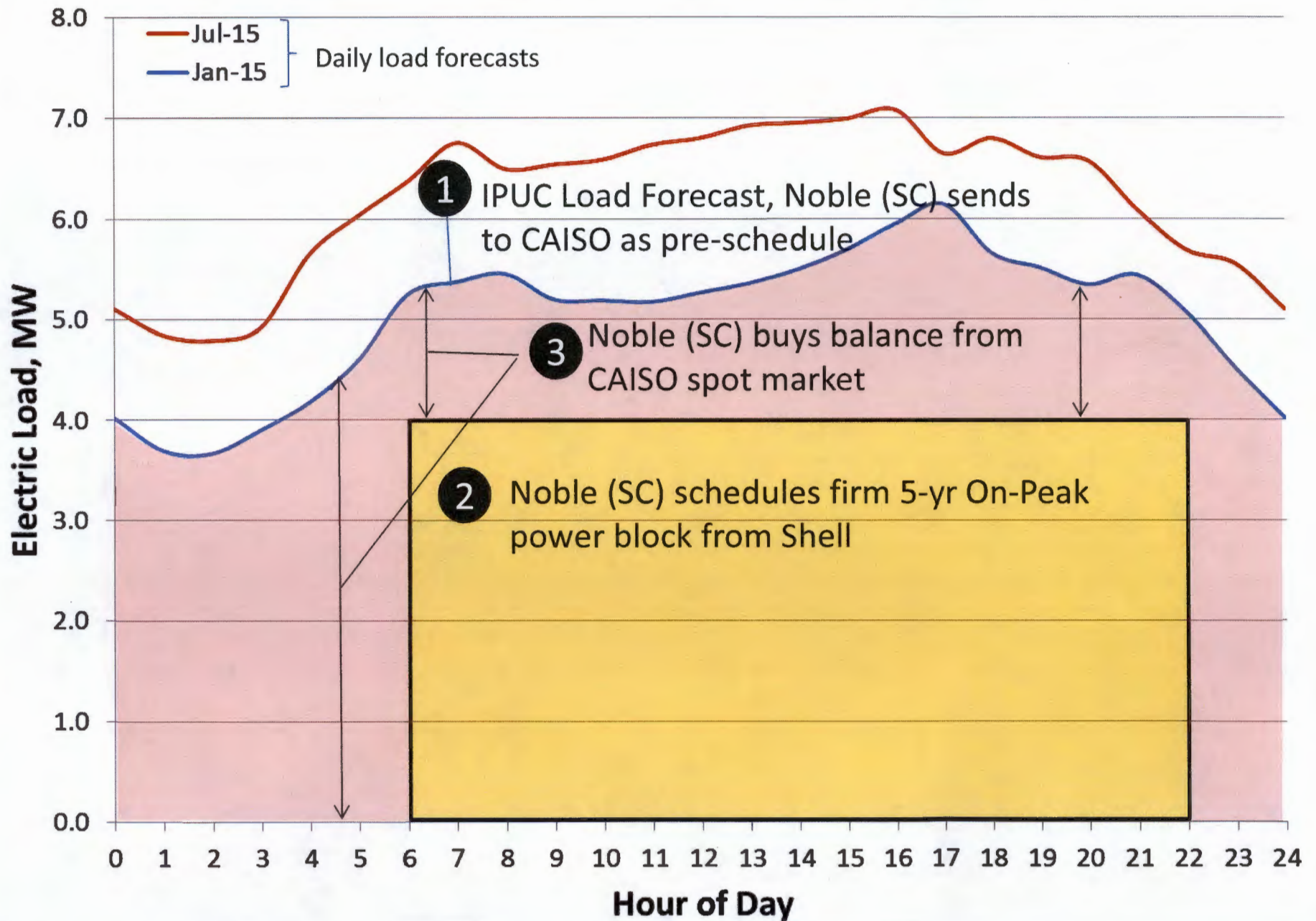


Table 1: IPUC 2014 Purchased Power Costs

Service	Supplier	Purchased Quantity	Total Cost	Cost Per MWh Bought	% of Total Cost
<u>Energy Costs</u>					
Forward Block On-Peak Purchase	Shell	14,736	\$ 967,418	\$ 65.65	
SP15 Basis Charge	CAISO		\$ 30,946	\$ 2.10	
Subtotal Forward On-Peak Cost		14,736	\$ 998,364	\$ 67.75	Shell On-Pk 5-Yr Fixed Price Block
Spot Market Purchase	Noble	17,971	\$ 831,916	\$ 46.29	Noble Spot Market Purchase
Subtotal Energy		32,707	\$ 1,830,280	\$ 55.96	74.5%
<u>Transmission & Control Area Costs</u>					
Transmission	CAISO Tariff	32,707	\$ 276,558	\$ 8.46	11.3%
Control Area Services	CAISO Tariff		\$ 150,943	\$ 4.61	6.1%
Scheduling Fee	Noble Americas		\$ 55,000	\$ 1.68	2.2%
Subtotal TCAS		32,707	\$ 482,500	\$ 14.75	19.7%
Total Purchased Power Costs		32,707	\$ 2,312,780	\$ 70.71	94.2%
Wholesale Distribution	SCE WDAT Tariff		\$ 142,690	\$ 4.36	5.8%
Power Cost to IPUC Distributon System			\$ 2,455,470	\$ 75.07	100.0%

= 0.168 cents per kWh

**AMENDMENT to the
CONFIRMATION FOR SCHEDULING & SETTLEMENT SERVICES AND DAY AHEAD INDEX
ELECTRICITY**

Between Noble Americas Energy Solutions LLC ("Seller")
And
City of Industry ("Buyer")
As of November 20, 2013 ("Confirmation Date")
Amendment Effective Date: December 10, 2015

This Amendment is made and entered into by and between Seller and Buyer in accordance with the terms of the Master Power Purchase and Sale Agreement between Buyer and Seller dated May 23, 2006 (the "Agreement"), and as amended by the Confirmations for Scheduling & Settlement Services and Day Ahead Index Electricity, dated as of November 13, 2015. Effective December 10, 2015, Buyer and Seller hereby agree to amend that certain Confirmation for Scheduling & Settlement Services and Day Ahead Index Electricity between Buyer and Seller dated as of November 20, 2013 (the "Original Confirmation"), and agree to amend the identity of Seller under the Agreement.

For good and sufficient consideration, including the mutual covenants set forth in this Amendment, it is agreed that the aforesaid Agreement and Original Confirmation, shall remain in full force and effect except as otherwise hereinafter provided:

I. The Agreement is hereby amended as follows:

Effective November 1, 2010, Sempra Energy Solutions LLC ("SES") is no longer a party to the Agreement. All obligations and rights of SES under the Agreement are hereby assigned to Noble Americas Energy Solutions LLC ("NAES"). Any and all references in the Agreement to Sempra Energy Solutions, LLC, SES, Seller, or other similar naming conventions shall now be understood to reference NAES.

II. The Original Confirmation is hereby amended as follows:

Section 2 Delivery Period, is amended by deleting the reference to "December 31, 2015" and replacing it with "December 31, 2017."

II. All capitalized terms used, but not defined, in this Amendment shall have the meanings set forth in the Agreement and Confirmation.

III. This Amendment may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. The Parties agree that, if a copy of this Amendment is executed by a Party and transmitted to the other Party by facsimile, the copy received shall be deemed for all legal purposes to be an original executed by the transmitting Party.

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Amendment as of the Amendment Effective Date.

For SELLER:
NOBLE AMERICAS ENERGY SOLUTIONS LLC

By: _____

Title: _____

For BUYER:
CITY OF INDUSTRY

By: _____

Title: _____

Attest:

By: _____
Cecelia Dunlap, Deputy City Clerk

Approved as to form:

By: _____
James M. Casso, City Attorney

SP15

City of Industry - SCHEDULE OF HOURLY CONTRACT QUANTITIES -- WEEKDAYS

Start Date End Date
 1/1/2016 12/31/2017

The Contract Price relates to the Contract Quantities (in MWs) at (choose one) the Delivery Point Buyer's Meter

Month	HE1	HE2	HE3	HE4	HE5	HE6	HE7	HE8	HE9	HE10	HE11	HE12	HE13	HE14	HE15	HE16	HE17	HE18	HE19	HE20	HE21	HE22	HE23	HE24
Jan-16	4.0	3.7	3.7	3.9	4.1	4.6	5.2	5.3	5.4	5.1	5.1	5.1	5.2	5.3	5.5	5.6	5.9	6.1	5.6	5.5	5.3	5.4	5.1	4.5
Feb-16	4.1	3.8	3.8	4.1	4.4	4.7	5.2	5.3	5.4	5.2	5.2	5.3	5.5	5.6	5.7	5.8	5.9	6.1	5.9	5.7	5.6	5.7	5.3	4.8
Mar-16	4.3	4.1	4.2	4.4	4.7	5.1	5.6	5.8	5.6	5.3	5.3	5.4	5.6	5.8	5.9	6.0	6.0	6.0	5.9	5.8	5.9	5.8	5.4	4.9
Apr-16	4.5	4.2	4.1	4.4	4.5	4.9	5.3	5.5	5.6	5.3	5.3	5.5	5.6	5.7	5.7	5.9	5.8	5.8	5.5	5.6	5.8	6.0	5.7	5.2
May-16	4.3	4.0	4.0	4.3	4.5	4.8	5.1	5.5	5.7	5.6	5.6	5.6	5.6	5.8	5.8	5.9	5.8	5.7	5.3	5.4	5.7	5.7	5.3	4.8
Jun-16	5.2	5.0	4.8	4.9	5.1	5.3	5.7	6.2	6.4	6.3	6.3	6.4	6.5	6.6	6.7	6.8	6.6	6.5	6.2	6.2	6.3	6.4	6.1	5.7
Jul-16	5.0	4.8	4.7	4.9	5.0	5.4	5.6	6.1	6.3	6.0	5.9	5.9	5.9	6.0	6.1	6.2	6.1	6.2	5.8	5.8	6.0	6.1	5.8	5.3
Aug-16	5.5	5.3	5.1	5.1	5.0	5.4	5.7	6.4	6.7	6.5	6.6	6.6	6.7	6.8	6.9	7.0	7.0	7.1	6.7	6.6	6.6	6.5	6.2	5.9
Sep-16	5.3	5.0	4.8	4.8	4.9	5.6	5.9	6.2	6.5	6.3	6.4	6.5	6.6	6.7	6.8	6.8	6.9	6.9	6.6	6.7	6.5	6.5	6.0	5.6
Oct-16	4.8	4.4	4.3	4.5	4.7	5.4	5.9	5.9	6.0	5.8	5.9	6.0	6.2	6.3	6.5	6.5	6.5	6.7	6.6	6.4	6.2	6.2	5.8	5.3
Nov-16	4.6	4.2	4.1	4.3	4.5	5.0	5.3	5.4	5.5	5.3	5.4	5.4	5.5	5.6	5.8	5.9	6.2	6.5	6.1	5.8	5.6	5.6	5.4	5.1
Dec-16	4.0	3.7	3.7	3.9	4.3	4.7	5.2	5.2	5.4	5.1	5.1	5.1	5.2	5.3	5.5	5.5	5.8	6.1	5.5	5.4	5.2	5.3	5.0	4.5
Jan-17	4.0	3.7	3.7	3.9	4.2	4.6	5.2	5.3	5.4	5.1	5.1	5.1	5.2	5.3	5.4	5.6	5.9	6.1	5.6	5.5	5.3	5.5	5.1	4.6
Feb-17	4.1	3.8	3.8	4.1	4.4	4.7	5.3	5.3	5.4	5.2	5.2	5.3	5.5	5.6	5.7	5.8	5.9	6.1	5.9	5.7	5.6	5.7	5.3	4.8
Mar-17	4.3	4.1	4.2	4.5	4.7	5.1	5.6	5.8	5.6	5.3	5.3	5.4	5.6	5.8	5.9	6.0	6.0	6.0	5.9	5.8	6.0	5.8	5.4	5.0
Apr-17	4.5	4.2	4.1	4.3	4.5	4.9	5.3	5.5	5.6	5.3	5.3	5.5	5.6	5.7	5.7	5.9	5.8	5.8	5.5	5.6	5.8	6.0	5.7	5.2
May-17	4.4	4.1	4.0	4.3	4.6	4.8	5.2	5.6	5.8	5.6	5.6	5.6	5.7	5.8	5.8	5.9	5.8	5.7	5.4	5.4	5.7	5.7	5.3	4.9
Jun-17	5.2	5.0	4.8	4.9	5.0	5.3	5.7	6.1	6.4	6.3	6.3	6.3	6.5	6.6	6.6	6.7	6.6	6.5	6.2	6.1	6.3	6.4	6.1	5.6
Jul-17	5.0	4.8	4.7	4.9	5.0	5.3	5.6	6.1	6.4	6.0	6.0	6.0	6.1	6.2	6.2	6.3	6.2	6.2	5.9	5.8	6.1	6.2	5.8	5.4
Aug-17	5.6	5.4	5.1	5.1	5.0	5.4	5.8	6.4	6.8	6.5	6.6	6.6	6.7	6.8	6.9	7.0	7.0	7.0	6.7	6.6	6.6	6.5	6.2	5.8
Sep-17	5.3	5.0	4.8	4.8	4.9	5.6	5.9	6.2	6.5	6.3	6.4	6.5	6.6	6.7	6.8	6.8	6.9	7.0	6.6	6.7	6.5	6.5	6.0	5.6
Oct-17	4.8	4.5	4.3	4.5	4.7	5.3	5.8	5.8	5.9	5.8	5.9	6.0	6.2	6.3	6.4	6.5	6.5	6.7	6.6	6.4	6.2	6.2	5.8	5.3
Nov-17	4.6	4.2	4.2	4.4	4.6	5.1	5.4	5.4	5.6	5.3	5.4	5.5	5.6	5.7	5.9	6.0	6.4	6.6	6.2	5.9	5.6	5.6	5.5	5.1
Dec-17	4.1	3.7	3.7	4.0	4.3	4.8	5.2	5.2	5.4	5.2	5.2	5.2	5.3	5.4	5.5	5.6	5.9	6.2	5.6	5.5	5.3	5.4	5.1	4.6

NOBLE ENERGY SOLUTIONS LLC

CITY OF INDUSTRY

Sign: _____

Sign: _____

Print: _____

Print: _____

Title: _____

Title: _____

SP15

City of Industry - SCHEDULE OF HOURLY CONTRACT QUANTITIES – SATURDAYS

Start Date End Date
 1/1/2016 12/31/2017

The Contract Price relates to the Contract Quantities (in MWs) at (choose one) the Delivery Point Buyer's Meter

Month	HE1	HE2	HE3	HE4	HE5	HE6	HE7	HE8	HE9	HE10	HE11	HE12	HE13	HE14	HE15	HE16	HE17	HE18	HE19	HE20	HE21	HE22	HE23	HE24
Jan-16	3.8	3.5	3.4	3.6	3.8	3.9	4.2	4.0	3.9	3.7	3.6	3.6	3.6	3.6	3.4	3.2	3.2	3.5	3.6	3.5	3.5	3.7	3.5	3.3
Feb-16	4.3	4.0	3.8	3.8	4.0	4.1	4.3	4.1	3.8	3.7	3.7	3.7	3.7	3.6	3.4	3.2	3.2	3.5	3.7	3.7	3.7	3.9	3.7	3.5
Mar-16	4.6	4.2	4.0	4.2	4.3	4.6	4.7	4.4	4.2	4.0	4.1	4.1	3.9	3.8	3.8	3.7	3.7	3.6	3.8	4.0	4.1	4.1	3.9	3.9
Apr-16	4.8	4.3	4.0	4.3	4.2	4.4	4.4	4.1	4.0	3.9	4.0	3.9	3.9	3.9	3.9	3.8	3.8	3.6	3.6	3.7	4.0	4.3	4.2	3.9
May-16	4.4	3.9	3.8	4.1	4.1	4.4	4.4	4.5	4.5	4.4	4.3	4.3	4.2	4.2	4.1	4.0	3.9	3.8	3.6	3.7	4.0	4.2	4.0	3.7
Jun-16	5.0	4.8	4.6	4.7	4.7	4.7	4.7	4.8	4.8	4.7	4.7	4.7	4.7	4.5	4.5	4.4	4.2	4.1	4.0	4.0	4.3	4.6	4.4	4.0
Jul-16	5.2	5.0	4.6	4.7	4.8	5.2	5.0	5.1	4.8	4.8	4.7	4.7	4.7	4.5	4.5	4.4	4.2	4.1	4.0	4.1	4.3	4.6	4.2	3.9
Aug-16	5.5	5.0	4.7	4.6	4.6	5.1	5.2	5.2	5.1	4.9	4.9	4.9	4.9	4.9	4.9	4.9	5.0	5.1	4.9	4.8	4.6	4.7	4.6	4.3
Sep-16	5.2	4.7	4.4	4.6	4.5	5.0	5.1	5.0	5.0	4.6	4.7	4.9	4.9	4.9	4.9	4.7	4.8	4.9	4.9	5.0	4.8	4.8	4.6	4.3
Oct-16	4.6	4.2	3.9	4.2	4.6	5.0	5.2	4.9	4.8	4.7	4.6	4.5	4.5	4.4	4.2	4.2	4.2	4.1	4.3	4.5	4.4	4.5	4.2	4.0
Nov-16	4.3	3.9	3.7	4.1	4.3	4.6	4.6	4.6	4.4	4.4	4.3	4.2	4.1	4.0	4.0	3.9	4.0	4.3	4.3	4.3	4.2	4.5	4.3	3.9
Dec-16	3.9	3.6	3.4	3.8	4.0	4.2	4.3	4.1	4.0	3.8	3.9	3.8	3.8	3.8	3.8	3.7	3.7	4.1	4.1	4.0	4.1	4.2	3.9	3.7
Jan-17	3.1	2.9	2.7	2.9	3.0	3.1	3.3	3.2	3.1	2.9	2.9	2.9	2.9	2.8	2.7	2.5	2.5	2.8	2.9	2.8	2.8	2.9	2.8	2.6
Feb-17	4.3	4.0	3.8	3.8	4.0	4.1	4.3	4.1	3.8	3.7	3.7	3.7	3.7	3.6	3.4	3.2	3.2	3.5	3.7	3.7	3.7	3.9	3.7	3.5
Mar-17	4.6	4.2	4.0	4.2	4.3	4.6	4.7	4.4	4.2	4.0	4.1	4.1	3.9	3.8	3.8	3.7	3.7	3.6	3.8	4.0	4.1	4.1	3.9	3.9
Apr-17	4.8	4.3	4.0	4.3	4.2	4.4	4.4	4.1	4.0	3.9	4.0	3.9	3.9	3.9	3.9	3.8	3.8	3.6	3.6	3.7	4.0	4.3	4.2	3.9
May-17	4.4	3.9	3.8	4.1	4.1	4.4	4.4	4.5	4.5	4.4	4.3	4.3	4.2	4.2	4.1	4.0	3.9	3.8	3.6	3.7	4.0	4.2	4.0	3.7
Jun-17	5.0	4.8	4.6	4.7	4.7	4.7	4.7	4.8	4.8	4.7	4.7	4.7	4.8	4.8	4.6	4.5	4.4	4.2	4.1	4.0	4.3	4.6	4.4	4.0
Jul-17	5.2	5.0	4.6	4.7	4.8	5.2	5.0	5.1	4.8	4.8	4.7	4.7	4.7	4.5	4.5	4.4	4.2	4.1	4.0	4.1	4.3	4.6	4.2	3.9
Aug-17	5.5	5.0	4.7	4.6	4.6	5.1	5.2	5.2	5.1	4.9	4.9	4.9	4.9	4.9	4.9	4.9	5.0	5.1	4.9	4.8	4.6	4.7	4.6	4.3
Sep-17	5.2	4.7	4.3	4.5	4.5	5.0	5.1	4.9	5.0	4.7	4.8	4.9	4.9	4.9	4.8	4.7	4.8	4.9	4.9	4.9	4.8	4.8	4.6	4.2
Oct-17	4.6	4.1	3.9	4.2	4.5	4.9	5.2	4.9	4.8	4.6	4.5	4.4	4.4	4.3	4.1	4.1	4.1	4.0	4.3	4.4	4.3	4.5	4.2	4.0
Nov-17	4.4	3.9	3.9	4.1	4.4	4.7	4.8	4.7	4.6	4.4	4.4	4.3	4.2	4.1	4.0	3.9	3.9	4.2	4.3	4.3	4.3	4.4	4.1	3.9
Dec-17	3.9	3.6	3.5	3.8	4.0	4.2	4.4	4.1	4.0	3.9	4.0	3.9	3.9	3.8	3.8	3.6	3.8	4.3	4.3	4.2	4.2	4.3	4.1	3.8

NOBLE ENERGY SOLUTIONS LLC

CITY OF INDUSTRY

Sign: _____

Sign: _____

Print: _____

Print: _____

Title: _____

Title: _____

SP15

City of Industry - SCHEDULE OF HOURLY CONTRACT QUANTITIES – SUNDAYS

Start Date End Date
 1/1/2016 12/31/2017

The Contract Price relates to the Contract Quantities (in MWs) at (choose one) the Delivery Point Buyer's Meter

Month	HE1	HE2	HE3	HE4	HE5	HE6	HE7	HE8	HE9	HE10	HE11	HE12	HE13	HE14	HE15	HE16	HE17	HE18	HE19	HE20	HE21	HE22	HE23	HE24
Jan-16	3.1	2.9	2.8	3.2	3.5	3.6	3.6	3.4	3.3	3.4	3.6	3.6	3.5	3.6	3.6	3.6	3.6	4.1	4.1	4.0	4.0	4.2	4.0	3.7
Feb-16	3.3	3.1	2.9	2.9	3.1	3.3	3.3	3.0	3.0	3.1	3.3	3.3	3.4	3.4	3.5	3.5	3.8	4.0	4.3	4.2	4.2	4.4	4.3	4.1
Mar-16	3.7	3.4	2.6	3.5	3.6	3.6	3.6	3.3	3.1	3.2	3.4	3.5	3.6	3.7	3.8	3.8	3.9	4.2	4.3	4.5	4.6	4.4	4.1	3.9
Apr-16	3.8	3.6	3.4	3.2	3.3	3.6	3.5	3.1	3.0	3.1	3.2	3.3	3.3	3.4	3.5	3.5	3.5	3.7	3.7	4.0	4.3	4.5	4.3	3.9
May-16	3.7	3.5	3.2	3.1	3.3	3.5	3.5	3.3	3.3	3.4	3.6	3.5	3.5	3.6	3.7	3.7	3.7	3.8	3.8	3.9	4.3	4.4	4.3	4.0
Jun-16	3.9	3.9	3.8	4.0	3.9	4.0	3.8	3.8	4.0	4.1	4.2	4.4	4.5	4.6	4.7	4.7	4.8	4.7	4.6	4.7	5.0	5.2	5.0	4.7
Jul-16	4.0	4.1	4.0	3.9	4.1	4.2	4.0	3.9	4.2	4.3	4.3	4.4	4.4	4.5	4.5	4.6	4.5	4.7	4.5	4.6	4.8	5.0	4.8	4.6
Aug-16	4.0	3.9	3.8	3.9	4.0	4.0	3.9	3.8	4.0	4.0	4.3	4.4	4.4	4.5	4.6	4.6	4.6	4.9	4.8	4.9	5.0	5.2	5.1	4.9
Sep-16	4.1	3.8	3.5	3.7	3.9	4.2	4.1	4.0	4.2	4.1	4.4	4.6	4.7	4.8	4.9	5.0	4.9	5.0	4.8	5.0	5.0	5.0	4.9	4.8
Oct-16	4.0	3.9	3.8	3.8	3.8	3.9	4.0	3.9	3.8	4.0	4.1	4.3	4.3	4.3	4.5	4.5	4.5	4.5	4.7	4.8	4.8	4.9	4.8	4.6
Nov-16	3.5	3.4	3.3	3.6	3.7	3.8	3.8	3.6	3.7	3.7	3.8	4.0	4.0	4.1	4.2	4.2	4.3	4.6	4.7	4.6	4.5	4.7	4.5	4.2
Dec-16	3.5	3.3	3.4	3.6	3.6	3.8	3.8	3.6	3.6	3.7	3.8	3.8	3.7	3.8	3.9	3.9	4.0	4.4	4.5	4.5	4.5	4.7	4.5	4.1
Jan-17	3.1	2.9	2.8	3.2	3.5	3.6	3.6	3.4	3.3	3.4	3.6	3.6	3.5	3.6	3.6	3.6	3.6	4.1	4.1	4.0	4.0	4.2	4.0	3.7
Feb-17	3.3	3.1	2.9	2.9	3.1	3.3	3.3	3.0	3.0	3.1	3.3	3.3	3.4	3.4	3.5	3.5	3.8	4.0	4.3	4.2	4.2	4.4	4.3	4.1
Mar-17	3.7	3.4	2.6	3.5	3.6	3.6	3.6	3.3	3.1	3.2	3.4	3.5	3.6	3.7	3.8	3.8	3.9	4.2	4.3	4.5	4.6	4.4	4.1	3.9
Apr-17	3.8	3.6	3.4	3.3	3.4	3.7	3.6	3.2	3.1	3.2	3.3	3.4	3.4	3.5	3.5	3.6	3.5	3.7	3.7	4.0	4.3	4.5	4.4	4.0
May-17	3.6	3.4	3.1	3.0	3.2	3.4	3.4	3.3	3.3	3.4	3.6	3.5	3.5	3.6	3.7	3.7	3.6	3.8	3.8	3.9	4.3	4.5	4.3	4.0
Jun-17	3.9	3.9	3.8	4.0	3.9	4.0	3.8	3.8	4.0	4.1	4.2	4.4	4.5	4.6	4.7	4.7	4.8	4.7	4.6	4.7	5.0	5.2	5.0	4.7
Jul-17	4.0	4.1	4.0	3.9	4.1	4.2	4.0	3.9	4.2	4.3	4.3	4.4	4.4	4.5	4.5	4.6	4.5	4.7	4.5	4.6	4.8	5.0	4.8	4.6
Aug-17	4.0	3.9	3.8	3.9	4.0	4.0	3.9	3.8	4.0	4.0	4.3	4.4	4.4	4.5	4.6	4.6	4.6	4.9	4.8	4.9	5.0	5.2	5.1	4.9
Sep-17	4.1	3.8	3.5	3.7	3.9	4.2	4.1	4.0	4.2	4.1	4.4	4.6	4.7	4.8	4.9	5.0	4.9	5.0	4.8	5.0	5.0	5.0	4.9	4.8
Oct-17	4.0	3.9	3.8	3.8	3.8	3.9	4.0	3.9	3.8	4.0	4.1	4.3	4.3	4.3	4.5	4.5	4.5	4.5	4.7	4.8	4.8	4.9	4.8	4.6
Nov-17	3.5	3.5	3.5	3.7	3.7	3.7	3.7	3.5	3.6	3.7	3.9	4.0	4.0	4.0	4.1	4.1	4.2	4.4	4.6	4.5	4.5	4.6	4.4	4.1
Dec-17	3.5	3.3	3.3	3.6	3.6	3.8	3.8	3.6	3.6	3.7	3.8	3.8	3.8	3.8	4.0	4.0	4.1	4.5	4.6	4.5	4.5	4.7	4.5	4.1

NOBLE ENERGY SOLUTIONS LLC

CITY OF INDUSTRY

Sign: _____

Sign: _____

Print: _____

Print: _____

Title: _____

Title: _____



TRANSACTION CONFIRMATION

Transaction Confirmation #	531774	Transaction Date:	5-25-06
Contract: EEI	Dated:	Contract #:	

This confirmation shall confirm the Transaction agreed to on May 16, 2006 between Sempra Energy Solutions and City of Industry regarding the sale and purchase of the Product under the terms and conditions as follows:

TRANSACTION TERMS
Seller: Sempra Energy Solutions
Buyer: City of Industry
Delivery Point: SP 15
Schedule:
Contract Price: Dow Jones SP 15 Index plus \$2.00 MWH
Contract Quantity: 1.0 MW of Off Peak Power
Delivery Period: HE 1, May 18, 2006 through HE 24, July 30, 2006

22nd L.P.
27 DW

PRODUCT (Check one)	
EEI	WSPP
<input type="checkbox"/> Into _____, Seller's Daily Choice	<input type="checkbox"/> Service Schedule A, Economy Energy Service
<input checked="" type="checkbox"/> Firm (LD)	<input type="checkbox"/> Service Schedule B, Unit Commitment Service
<input type="checkbox"/> Firm (No Force Majeure)	<input type="checkbox"/> Service Schedule C, Firm Capacity/Energy
<input type="checkbox"/> System Firm (Specify System):	
<input type="checkbox"/> Unit Firm (Specify Unit(s)):	Other
<input type="checkbox"/> Capacity:	
<input type="checkbox"/> Transmission Contingency (None, if not marked)	
<input type="checkbox"/> FT- Contract Path Contingency <input type="checkbox"/> Seller <input type="checkbox"/> Buyer	
<input type="checkbox"/> FT- Delivery Point Contingency <input type="checkbox"/> Seller <input type="checkbox"/> Buyer	
<input type="checkbox"/> Transmission Contingent <input type="checkbox"/> Seller <input type="checkbox"/> Buyer	
<input type="checkbox"/> Other transmission contingency (Specify):	

This confirmation letter is being provided pursuant to and in accordance with the Contract stated above between Sempra Energy Solutions and City of Industry, and constitutes part of and is subject to the terms and provisions of such Contract. Terms used but not defined herein shall have the meanings ascribed to them in the Contract.

SEMPRA ENERGY SOLUTIONS:	CITY OF INDUSTRY:
By:	By: David Perez
	Signature:
	Title: Mayor
	Date: 5/17/06

Doug Johnson
Portfolio Manager

MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* ("Master Agreement") is made as of the following date: May 23, 2006 ("Effective Date"). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the "Agreement." The Parties to this *Master Agreement* are the following:

Name ("Sempra Energy Solutions" or "Party A")

Name ("City of Industry" or "Party B")

All Notices:

All Notices:

Street: 101 Ash Street, HQ9

Street: 15651 E. Stafford Street

City: San Diego, CA Zip: 92101

City: City of Industry Zip: 91744-0366

Attn: Contract Administration

Attn: Contract Administration

Phone: 619-696-3187

Phone: (626) 333-2211

Facsimile: 619-686-3101

Facsimile: ~~(626) 330-7944~~ (626) 961-6795

Duns: 96-825-4276

Duns: _____

Federal Tax ID Number: 95-4686779

Federal Tax ID Number: 95-6006023

Invoices:

Invoices:

Attn: Commodity Accounting

Attn: Accounts Payable - Gloria Gilmartin

Phone: 619-696-2531

Phone: (626) 336-5922

Facsimile: 619-696-2534

Facsimile: (626) 330 7944

Scheduling:

Scheduling:

Attn: Energy Commodity Operations

Attn: Automatic Power Exchange

Phone: 619-696-4933

Phone: (408) 562-9112

Facsimile: 619-696-3102

Facsimile: (408) 562-9123

Payments:

Payments:

Attn: Commodity Accounting

Attn: Finance Department - Vicki Gallo

Phone: 619-696-2531

Phone: (626) 333-4676

Facsimile: 619-696-2534

Facsimile: (626) 330-7944

Wire Transfer:

Wire Transfer:

BNK: Union Bank of California, LA, CA

BNK: Bank of America

ABA: 122000496

ABA: 121-000-358

ACCT: 0700497437

ACCT: 00361-80202

Credit and Collections:

Attn: Credit Risk
Phone: 619-696-4921
Facsimile: 619-696-3101

With additional Notices of an Event of Default
or Potential Event of Default to:

Attn: Legal Department
Phone: 619-696-4957
Facsimile: 619-696-3050

Credit and Collections:

Attn: Treasurer- Phyllis Tucker _____
Phone: (626) 333-2211
Facsimile: (626) ~~981-6795~~ 961-6795

With additional Notices of an Event of
Default or Potential Event of Default to:

Attn: Phil Triarte
Phone: (626) 333-2211
Facsimile: (626)

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff FERC Dated 4/10/01 Docket Number ER00-3444
Party B Tariff Tariff _____ Dated _____ Docket Number _____

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:
 Party A: _____ Cross Default Amount \$ _____
 Other Cross Default Amount
Entity: _____ \$ _____

Cross Default for Party B:
 Party B: _____ Cross Default Amount \$ _____
 Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

Option A (Applicable if no other selection is made.)
 Option B - Affiliates shall have the meaning set forth in _____

Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: : _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$100,000.00 USD

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

- Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify:
- Option C Specify: Sempra Energy Solutions

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided,
however, that Party A's Collateral Threshold shall be zero if
an Event of Default or Potential Event of Default with respect
to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$100,000.00 USD

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's
- Other:
Specify: _____

(e) Guarantor for Party A: _____

Guarantee Amount: _____

Article 10

Confidentiality

- Confidentiality Applicable If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable
- Add Section 8.6. If not checked, inapplicable

Other Changes

- 1) In section 1.12 insert "and if such ratings are different, the lowest of such ratings shall apply" after the word "Sheet" in the last line.
- 2) In section 1.27 delete the word "transferable" in the first line and insert the following after the last sentence:

"The value of the Letter of Credit shall be its principal amount (the "Value"), provided that if the Letter of Credit expires within thirty days after the date its Value is being determined, its Value shall be zero. Notwithstanding Article 8, the Secured Party need not return a Letter of Credit unless the entire principal amount is required to be returned. If a Party has delivered more than one form of Performance Assurance to the Secured Party, when a return of Performance Assurance is to be made, the Secured Party may elect which form to transfer."

- 3) In section 1.50, replace Section 2.4 with Section 2.5
- 4) In section 1.51, delete the phrase “at Buyer’s option,” from the fifth line, and replace with, “absent a purchase.” In Section 1.53, delete the words “at Seller’s option,” from the fifth line, and replace with, “absent a sale.”
- 5) In section 2.1, delete “either Party” in the second line and replace with “both Parties”. In section 2.5, delete “Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation,”.
- 6) In section 2.5, insert the phrase “absent manifest error” after the first appearance of the word “Confirmation” on the eleventh line.
- 7) In section 5.1 (a) change “three (3) Business Days” to “one (1) Business Day”.
- 8) In section 6.3, lines 3, 16 & 18, change twelve (12) months to twenty-four (24) months.
- 9) In sections 8.1(b) and 8.2 (b) change “three (3) Business Days” to “two (2) Business Days”.
- 10) Section 8.1 (c) is amended as follows:

In the 14th line after the word “Amount” in the parenthetical, add the following new sentence:

“If there is more than one form of Party B Performance Assurance posted when a reduction of Party B Performance Assurance is required hereunder, Party A may elect which type of Party B Performance Assurance to return to Party B.”
- 11) Sections 8.1(c) and 8.2 (c) are amended as follows:
 - (i) In the 10th line delete the phrase “of the date of such request” and replace with “after such Termination Payment is calculated”.
 - (ii) In the 9th, 10th & 16th lines change “three (3) Business Days” to “one (1) Business Day”.
- 12) In sections 8.1(d) and 8.2(d) on line 5, change “three (3) Business Days” to “two (2) Business Days”.

- 13) In section 8.3, insert the following at the end of the section,
“All cash collateral shall bear interest calculated on a daily basis at overnight LIBID as from time to time in effect (as reported on Telerate), with the net amount of interest accrued monthly being payable on the third Business Day of the following month. Each party shall have the free and unrestricted right to use and dispose of all cash collateral which it holds, subject only to its obligations to return such collateral if and when so required under this Agreement.”
- 14) In section 10.2 (viii) add the following after “doing,” in the 7th line:

“nor is it relying on any unique or special expertise of the other Party and it is not in any special relationship of trust or confidence with respect to the other Party,”
- 15) In section 10.6 add the following after the last line:
“EACH PARTY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN NEW YORK CITY, BOROUGH OF MANHATTAN, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”
- 16) In section 10.9 delete the words “and during normal working hours” and insert the words “copies of” after the word “examine”. In line 9, change twelve (12) months to twenty-four (24) months.
- 17) The following Mobile-Sierra clause shall be added as Section 10.12:


10.12 Standard of Review/Modifications.

- (a) Absent the prior mutual written agreement of all parties to the contrary, the standard of review for any proposed changes to the rates, terms, and/or conditions of service of this Agreement or any Transaction entered into thereunder, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

(b) Without limiting the generality of subsection (a), the rates, terms, and/or conditions of service specified in this Agreement or any Transaction entered into thereunder shall remain in effect for the entire term of the Agreement, and shall not be subject to either prospective or retroactive revision through application or complaint to FERC pursuant to sections 205, 206, or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent the prior written agreement of all Parties hereto.

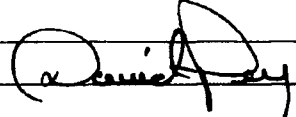
IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A Sempra Energy Solutions

By: 
Name: James M. Wood
Title: President



Party B City of Industry

By: City of Industry
Name: David Perez 
Title: Mayor

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute ("EEI") and National Energy Marketers Association ("NEM") member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

Master Power Purchase & Sale Agreement



Version 2.1 (modified 4/25/00)

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MASTER POWER PURCHASE AND SALES AGREEMENT

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made as of the following date: _____ (“Effective Date”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “*Agreement*.” The Parties to this *Master Agreement* are the following:

Name (“_____” or “Party A”)

Name (“Counterparty” or “Party B”)

All Notices:

All Notices:

Street: _____

Street: _____

City: _____ Zip: _____

City: _____ Zip: _____

Attn: Contract Administration

Attn: Contract Administration

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Duns: _____

Duns: _____

Federal Tax ID Number: _____

Federal Tax ID Number: _____

Invoices:

Invoices:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Scheduling:

Scheduling:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Payments:

Payments:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

Wire Transfer:

Wire Transfer:

BNK: _____

BNK: _____

ABA: _____

ABA: _____

ACCT: _____

ACCT: _____

Credit and Collections:

Credit and Collections:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: _____

Attn: _____

Phone: _____

Phone: _____

Facsimile: _____

Facsimile: _____

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff _____ Dated _____ Docket Number _____

Party B Tariff Tariff _____ Dated _____ Docket Number _____

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:
 Party A: _____ Cross Default Amount \$ _____
 Other Entity: _____ Cross Default Amount \$ _____
 Cross Default for Party B:
 Party B: _____ Cross Default Amount \$ _____
 Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

- Option A (Applicable if no other selection is made.)
- Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____

- Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

- (a) Financial Information:
 - Option A
 - Option B Specify: _____
 - Option C Specify: _____
- (b) Credit Assurances:
 - Not Applicable
 - Applicable
- (c) Collateral Threshold:
 - Not Applicable
 - Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

- Other:
Specify: _____

(e) Guarantor for Party B: _____

Guarantee Amount: _____

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's
- Other:
Specify: _____

(e) Guarantor for Party A: _____

Guarantee Amount: _____

Article 10

Confidentiality

- Confidentiality Applicable If not checked, inapplicable.

Schedule M

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable
- Add Section 8.6. If not checked, inapplicable

Other Changes

Specify, if any: _____

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the date first above written.

Party A Name

Party B Name

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 “Agreement” has the meaning set forth in the Cover Sheet.

1.3 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 “Buyer” means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 “Call Option” means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 “Claiming Party” has the meaning set forth in Section 3.3.

1.8 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 “Confirmation” has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 “Defaulting Party” has the meaning set forth in Section 5.1.

1.15 “Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16 “Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18 “Early Termination Date” has the meaning set forth in Section 5.2.

1.19 “Effective Date” has the meaning set forth on the Cover Sheet.

1.20 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21 “Event of Default” has the meaning set forth in Section 5.1.

1.22 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23 “Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically

to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "Gains" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

1.31 "NERC Business Day" means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.32 “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.33 “Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34 “Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35 “Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

1.36 “Option Seller” means the Party specified in a Transaction as the seller of an option, as defined in Schedule P.

1.37 “Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38 “Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39 “Party A Independent Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.40 “Party B Independent Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.41 “Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.42 “Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.43 “Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.

1.44 “Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.

1.45 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46 “Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47 “Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 “Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 “Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 “Recording” has the meaning set forth in Section 2.4.

1.51 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54 “Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55 “Seller” means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 “Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 “Strike Price” means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 “Terminated Transaction” has the meaning set forth in Section 5.2.

1.59 “Termination Payment” has the meaning set forth in Section 5.3.

1.60 “Transaction” means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), , the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation (“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing

which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties' agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services

with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer's failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller's failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:
 - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;

- (iii) a Guarantor becomes Bankrupt;
- (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
- (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written

explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if “Accelerated Payment of Damages” is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month,

each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR

OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral

Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) (“Party A Performance Assurance”), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A’s Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a “Pledgor”) hereby grants to the other Party (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding

Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes , so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be

made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party’s employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

A. The Parties agree to add the following definitions in Article One.

“Act” means _____.¹

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such

¹ Cite the state enabling and other relevant statutes applicable to Governmental Entity or Public Power System.

positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in

respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF _____² SHALL APPLY.

² Insert relevant state for Governmental Entity or Public Power System.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services” including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

“Capacity” has the meaning specified in the Transaction.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

“Firm Transmission Contingent - Contract Path” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary.

“Firm Transmission Contingent - Delivery Point” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure” in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party which failed to perform an

amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

“Into _____ (the “Receiving Transmission Provider”), Seller’s Daily Choice” means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An “Into” Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty.

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission,” “ADI” and “Available Transmission.” In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider

and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this “Into Product” (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product

“Native Load” means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

“Non-Firm” means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

“System Firm” means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the “System”) with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller’s failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer’s failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system’s, or the control area’s, or reliability council’s reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller’s performance. Buyer’s failure to receive shall be excused (i) by Force Majeure; (ii) by Seller’s failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer’s performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

“Transmission Contingent” means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller’s proposed generating source to the Buyer’s proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller

or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of “Force Majeure” in Article 1.23 to the contrary.

“Unit Firm” means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller’s failure to deliver under a “Unit Firm” Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer’s failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER

This confirmation letter shall confirm the Transaction agreed to on _____, _____
between _____ (“Party A”) and _____ (“Party B”)
regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: _____

Buyer: _____

Product:

Into _____, Seller’s Daily Choice

Firm (LD)

Firm (No Force Majeure)

System Firm

(Specify System: _____)

Unit Firm

(Specify Unit(s): _____)

Other _____

Transmission Contingency (If not marked, no transmission contingency)

FT-Contract Path Contingency Seller Buyer

FT-Delivery Point Contingency Seller Buyer

Transmission Contingent Seller Buyer

Other transmission contingency

(Specify: _____)

Contract Quantity: _____

Delivery Point: _____

Contract Price: _____

Energy Price: _____

Other Charges: _____

Confirmation Letter
Page 2

Delivery Period: _____
Special Conditions: _____
Scheduling: _____
Option Buyer: _____
Option Seller: _____
Type of Option: _____
Strike Price: _____
Premium: _____
Exercise Period: _____

This confirmation letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated _____ (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

[Party A]

[Party B]

Name: _____

Name: _____

Title: _____

Title: _____

Phone No: _____

Phone No: _____

Fax: _____

Fax: _____