Council Meeting of
November 25, 2008

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager – Adopt Ordinance granting Pacific Pipeline, LLC a Pipeline Franchise in the City of Torrance.

RECOMMENDATION

Recommendation of the City Manager that the City Council adopt an ordinance granting Pacific Pipeline System, LLC a pipeline franchise to replace expired Franchise Ordinance No. 3116 to construct, lay, operate, test, maintain, use, renew, repair, replace, move, change the size and number of, and remove or abandon in place a system of pipelines and appurtenances, for the purpose of conducting, transporting, conveying and carrying gas, oil, petroleum products and water, on, along, in, under and across public streets, ways, alleys and places within the City of Torrance.

FUNDING

No funding is required for the requested action. Adoption provides an annual revenue stream of $9,223.00 with annual CPI adjustments.

BACKGROUND/ ANALYSIS

The subject pipeline was covered under Franchise Ordinance 3116. Upon conducting audits of the City's Franchises it was discovered that this Ordinance expired in October 1994. Pacific Pipeline has continued making payments on the Franchise as if the Ordinance was in full effect. Staff has been working to secure new Franchise Ordinances for these types of Franchises and will be bringing these before Your Honorable Body from time to time as they are competed.

The pipeline covered under the proposed Ordinance is known as a "Common Carrier" pipeline with rates set by the California Public Utilities Commission. The initial term of the proposed Franchise is twenty-five (25) years with options for ten year extensions provided the City receives written notice and the City approves the extension.

Respectfully submitted,

LeROY J. JACKSON
City Manager

By: Brian K. Sunshine
Assistant to the City Manager

CONCUR:

LeRoy J. Jackson
City Manager

Attachment: Franchise Ordinance

12B

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE GRANTING TO PACIFIC PIPELINE SYSTEM LLC, A FRANCHISE, TO CONSTRUCT, LAY, OPERATE, TEST, MAINTAIN, USE, RENEW, REPAIR, REPLACE, MOVE, CHANGE THE SIZE AND NUMBER OF, AND REMOVE OR ABANDON IN PLACE A SYSTEM OF PIPELINES AND APPURTENANCES, FOR THE PURPOSE OF CONDUCTING, TRANSPORTING, CONVEYING AND CARRYING GAS, OIL, PETROLEUM PRODUCTS AND WATER, ON, ALONG, IN, UNDER AND ACROSS PUBLIC STREETS, WAYS, ALLEYS AND PLACES WITHIN THE CITY OF TORRANCE.

The City Council of the City of Torrance does ordain as follows:

Section 1 DEFINITIONS: Whenever in this Ordinance the words or phrases defined in this section are used, whether those words or phrases are in the present tense, future tense, singular or plural, it is intended that they will have the respective meanings assigned to them in the following definitions (unless, in the given instance, the context in which they are used clearly imports a different meaning):

(a) The word "Grantee" means Pacific Pipeline System LLC and its lawful successors and assigns.

(b) The word "City" means the City of Torrance, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

(c) The word "streets" means the public streets, ways, alleys and places as the same now or may hereafter exist within the City.

(d) The phrase "pipes and appurtenances" means pipe, pipeline, cable, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, appliance, attachment, appurtenance and any other property located or to be located in, upon, along, across, under or over the

streets of the City, and used or useful in, or in carrying on the business of, conducting, transporting, conveying and carrying gas, oil, petroleum products, and water.

(e) The phrase “cost” means the actual cost of such work as defined.

(f) The phrase "lay and use" means to lay, construct, excavate, erect, install, encroach, operate, maintain, use, repair, replace, relocate, or remove.

(g) The word "Franchise" means and includes any authorization granted by this ordinance in terms of a Franchise, privilege, permit, license or otherwise to lay and use a system of pipes and appurtenances for conducting, transporting, conveying, and carrying gas, oil, petroleum products and water for any and all purposes in, along, across, upon, over, and under streets within the City. Any authorization, in whatever terms granted, means and includes any license or permit required for the privilege of transacting and carrying on the Grantee’s pipeline business within the City.

Section 2 NATURE OF FRANCHISE: A Franchise is granted to Grantee its successors and assigns, to construct, lay, operate, test, maintain, use, renew, repair, replace, move, change the size and number of and remove or abandon in place a system of pipes and appurtenances, not to exceed sixteen inches in internal diameter, including any pipes and appurtenances already laid and constructed, together with such valves, fittings, manholes, vaults, pumps and other appliances, appurtenances, attachments or equipment as the Grantee, its successors and assigns may deem necessary or convenient for the purpose of conducting, transporting, conveying and carrying gas, oil, petroleum products, other hydrocarbon and like substances and water for maintenance purposes, on, along, in, under, over and across the public streets, ways, alleys and places

within the City, as described on the attached Exhibits "A" and "B", which are incorporated into this ordinance by this reference, upon the terms and conditions set forth in the Franchise Act of 1937.

New pipelines and appurtenances will be constructed in conformity with all ordinances, rules or regulations in effect at the time of granting of this franchise and operated, maintained, replaced or repaired in conformity with all ordinances, rules or regulations currently in effect and in accordance with the terms and conditions of any permit issued by the Public Works Director of the City or designee ("Public Works Director").

Section 3 LOCATION OF PIPES AND APPURTENANCES: So far as is practicable, any pipes and appurtenances laid pursuant to this Franchise will be located along the edge or shoulder of the streets or in the parking areas adjacent to the streets so as not to unreasonably disturb the flow of traffic and where possible will be laid in the unpaved portion of the street.

If the pipes and appurtenances are laid across or along the paved portion of a street, the repair of the street, after the pipes and appurtenances have been laid, will be made by the Grantee at the expense of the Grantee. If the Grantee fails or neglects to make the repairs, then thirty (30) days after notice is given to the Grantee by the City, the City may repair the street at the expense of the Grantee, and upon presentation of a bill for the expense, the Grantee will pay the bill at once. The amount chargeable to the Grantee will be the actual cost of the repair.

All new pipes and appurtenances constructed will be located in conformity with the orders of the Public Works Director.

Section 4 RIGHT TO CONSTRUCT AND MAINTAIN PIPES AND APPURTENANCES: The Grantee will have the right to construct and maintain pipes and appurtenances as may be necessary or convenient for the proper

maintenance and operation of the pipes and appurtenances under the Franchise. The Grantee has the right, subject to such ordinances, rules, or regulations as are now or may hereafter be in force, to make all necessary excavations in the streets, for the construction, testing, and repair of new or existing pipes and appurtenances.

Section 5 TERM: The term of the Franchise is twenty-five (25) years, commencing on the Effective Date, as provided by section 30, unless the Franchise is forfeited prior to the end of the term. The Grantee may request, by written notice, ten (10) year extensions to the term of this Franchise prior to its expiration, as may be extended from time to time. Such extensions shall be subject to approval by the City in its sole discretion. Franchisee will provide written notice to the City one hundred and eighty (180) days prior to expiration of the Franchise of its desire to extend and the City will provide written notice ninety (90) days prior to expiration of the franchise to the Grantee of its approval of any extension request.

Section 6 COMPENSATION: The Grantee shall pay to the City a sum equivalent to the base rate revised annually, as provided in section 6231.5 of the Public Utilities Code, arising from the use, operation or possession of the Franchise. If the Grantee sells, transfers, assigns, or leases this Franchise, in compliance with section 17, to an entity or individual that will not operate the pipes and appurtenances as a public utility pipeline, then the City may change the annual payment to an amount otherwise authorized by applicable state or local law.

Payment is due annually on or before the first day of the first April after the Effective Date. Grantee will provide City with a statement setting forth the computation of the annual fee as provided for by this section 6 of this ordinance and section 6231.5 of the Public Utilities Code. Grantee's continued

failure to file a statement, or to pay the compensation due, after thirty (30) days from receipt of written notice from the City will be subject to a 3% penalty. An additional 2% penalty will accrue every subsequent thirty (30) day period. If Grantee fails to file a statement, or to pay the compensation due inclusive of penalties, it will be grounds for the declaration of a forfeiture of this Franchise and of all rights under this Franchise.

Section 7 MAPS AND CAPITAL IMPROVEMENT PLAN: Prior to approval of this Franchise and within ninety (90) days following the date in which any pipes and appurtenances or additional pipes and appurtenances have been laid or constructed under this Franchise, the Grantee will file a map or maps in such forms as may be required by the Public Works Director showing the accurate location and size of all its pipes and appurtenances then in place, and will, upon installation of any additional pipes and appurtenances, or upon removal, change, or abandonment of all or any portion of the pipes and appurtenances, file a revised map or maps showing the location and size of all such additional, removed, or abandoned pipes and appurtenances as of that day.

Annually, prior to January 1st, if the Grantee has plans to repair, replace or modify its facilities subject to this ordinance during the subsequent five calendar years, than the Grantee will submit a projected five-year capital improvement plan. Scheduling for repair, replacement or modifications will be described by year and location in order to provide information to the City for coordination with its public works capital improvement program. Projects not on such a schedule may be denied a permit unless the work is an emergency or the need was unforeseen. Justification may be required from the Franchisee.

Section 8 CONSTRUCTION OF PIPES AND APPURTENANCES:

A. Terms of Construction. The pipes and appurtenances constructed or maintained pursuant to section 4 of this ordinance will be constructed and maintained in a good, workmanlike manner and in conformity with all applicable ordinances, rules or regulations in force at the time of such work, as now or subsequently adopted or prescribed by the City Council. All pipes laid under this Franchise will meet State Fire Marshal standards, and no pipe laid under this Franchise may exceed sixteen inches in internal diameter.

Except in an emergency, the Grantee may not excavate in a City street right-of-way without having first applied for and obtained a Construction - Excavation Permit from the Public Works Director. Such application may include a traffic control plan and other information as required by the Public Works Director. The Grantee will pay any fees (including inspection) required by such permit.

B. Restoration of Streets. The work of constructing, maintaining or repairing all pipes and appurtenances will be conducted with the least practicable hindrance to the use of the streets for purposes of travel, and as soon as such work is completed, all portions of the street that have been excavated or otherwise damaged will be placed in as good condition as they were before the commencement of such work, to the satisfaction of the Public Works Director. All street repair work will be made by the Grantee at the expense of the Grantee in accordance with the ordinances of the City and the reasonable conditions of the Construction – Excavation Permit issued by the Public Works Director.

C. Certified Test Results: Conformance Requirements.

(1) Certified Test Results: For those pipes and appurtenances subject to the provisions of the Pipeline Safety Act of 1981

(Government Code §51010, et seq.) the testing will be performed in accordance with State Fire Marshal requirements, and certified test results will be requested by the City from the Fire Marshal. In the event the State Fire Marshal fails to provide certified test results to the City, Grantee will provide the test results to the City upon request.

For those pipes and appurtenances that are not subject to the Pipeline Safety Act of 1981, the City reserves the right to require Grantee, at its expense, to have tests performed once every three years by an independent testing agency or company approved by the Public Works Director (which approval will not be unreasonably withheld). The tests will be of the same kind and extent as tests performed by the State Fire Marshal.

(2) Conformance Requirements: The pipes and appurtenances will be operated, maintained, replaced or repaired in accordance with the latest applicable revision of the "American National Standard Code for Pressure Piping ANSI/ASME B31.4-1979;" the American Petroleum Institute Standard 1104; the Code of Federal Regulations, Part 195, Title 49 U.S.C. or other applicable standards and codes, whichever is the most stringent. The pipes and appurtenances will further be operated, maintained, replaced or repaired in accordance with all applicable Federal and/or State standards for the construction of intrastate pipelines as set forth in Federal laws, rules and regulations. Whenever there is a conflict in Federal or State standards, the more stringent standard will prevail.

Section 9 EMERGENCY EQUIPMENT AND CREWS: At all times during the term of this Franchise, the Grantee will maintain on a twenty-four hour a day basis adequate equipment and a properly trained crew, or qualified contractors, with the ability to quickly shut off the pressure and the flow of contents of the pipes and appurtenances in the event of an emergency resulting from an

earthquake, act of war, civil disturbance, flood, computer malfunction or other cause.

Section 10 BREAKS OR LEAKS: If any portion of any street is damaged by reason of breaks or leaks in any pipe or appurtenance constructed under this Franchise, the Grantee will, at its own expense, immediately following written or oral notification, repair any such damage and put the street in as good condition as it was in before the break or leak, to the satisfaction of the Public Works Director. Nothing herein shall be construed as waiving Grantee's rights to seek recovery from a third party for any such break or leak.

Section 11 REARRANGEMENT OF PIPES AND APPURTENANCES:

A. Expense of Grantee.

(1) If any of the Grantee's pipes and appurtenances endanger the public in the use of the public streets or interfere with or obstruct the use of any street by the public or for the public purposes, the City will have the right to require the Grantee, at the Grantee's expense, to move, alter or relocate the pipes and appurtenances (the "Rearrangement") to avoid such danger, interference or obstruction, in conformity with the written notice of the Public Works Director.

(2) Whenever, during the existence of this Franchise, the City changes the grade, width or location of any street or improves any street in any manner, including the laying of any city sewer, storm drain, conduits, gas, water or other pipes, or construct any pedestrian tunnels, or other work of the City, (the right to do all of which is specifically reserved to the City without any admission on its part that it would not otherwise have such rights) and such work will, in the opinion of the Public Works Director, render necessary any change in the position or location of any pipes and appurtenances of the Grantee in the street, while such work is being done or performed, the Grantee will, at its own

cost and expense, do any and all things reasonable to effect such change in position, in conformity with the written notice of the Public Works Director if the work is for city purposes; provided, however, that the City will not require the Grantee to remove its conduits or lines entirely from the street.

(3) In case the Grantee fails to commence work in compliance with written notice provided in subsection B(1), within sixty (60) days after service of the notice upon Grantee, (unless Grantee is unable to comply with such notice by reason of strikes, riots, acts of God, or acts of public enemies), the Public Works Director may cause the work required in the notice to be done to be performed by the City or, at the election of the City, by a qualified private contractor. City will pay for, or cause the entity who performs the work to pay for, the cost to effect such change in position. The Grantee agrees to pay the reasonable costs within thirty (30) days after delivery of an itemized bill. If the Grantee is dissatisfied with any determination of the Public Works Director permitted by this section, it may petition the City Manager to review the Public Works Director's decision within twenty (20) days after the Public Works Director's decision. During the pendency of such petition, the work required to be done will be suspended. The decision of the City Manager will be final and conclusive City action.

B. City Utility Systems; Rearrangement at Expense of Others.

(1) The City will have the right to require the Grantee to rearrange any part of the Grantee's pipes and appurtenances for the accommodation of the City when such rearrangement is done for the accommodation of any water, electric, gas or other utility system now or hereafter owned or operated by the City. Except as otherwise provided in subsection B(2) of this section 11, such rearrangement will be at the Grantee's expense.

(2) When such rearrangement is done for the accommodation of any person, firm or corporation other than one of the utility systems owned or operated by the City, the cost of such rearrangement will be borne by the accommodated party. The accommodated party, in advance of any rearrangement, will deposit with the Grantee or the City Clerk cash or a corporate surety bond in an amount, as in the reasonable discretion of the Public Works Director, required to pay the costs of such rearrangement and such accommodated party will execute an instrument agreeing to indemnify and hold harmless the Grantee from any and all damages or claims caused by the rearrangement.

(3) The rearrangement referred to in subsection (1) of this subsection B of this section 11 will be accomplished in conformity with the written notice of the Public Works Director. In case the Grantee fails to commence work in compliance with the written notice within sixty (60) days after service of the notice upon the Grantee (unless the Grantee is unable to comply with the notice by reason of strikes, riots, acts of God, or acts of public enemies), the Public Works Director may cause the work required in the notice to be done to be performed by the City or, at the election of the City, by private contractor. The Grantee agrees to pay to the City within thirty (30) days after delivery of an itemized bill covering the cost of performing the work, an amount equal to the amount provided by the accommodated party. If the Grantee is dissatisfied with any determination of the Public Works Director permitted by this section, it may petition the City Manager to review the decision within twenty (20) days after the determination. The decision of the City Manager will be final and conclusive City action.

C. Rearrangements of the Pipes and Appurtenances of Others: Nothing in this Franchise will be construed to require the City, or

any person, firm or corporation now or hereafter owning a public utility system of any type or nature, to move, alter or relocate any part of its system upon the streets for the convenience, accommodation or necessity of the Grantee.

D. Notice: Grantee will be given not less than sixty (60) days written notice of any rearrangement of pipes and appurtenances, which Grantee is required to make under this Franchise. The notice will specify in reasonable detail the work to be done by the Grantee and will specify the time that the work is to be accomplished. In the event that the City changes the provisions of any such notice given to Grantee, the Grantee will be given an additional period not less than thirty (30) days to accomplish the work.

Section 12 REMOVAL OR ABANDONMENT OF PIPES AND APPURTENANCES: At the time of the expiration of the Franchise and with reasonable cause the City denies an extension or grant of a superseding Franchise Agreement, or of the revocation, or termination of this Franchise or of the permanent discontinuance of the use of its pipes and appurtenances, the Grantee will, within thirty days thereafter, make a written application to the Public Works Director for authority to engage in one of the following: (1) abandon all, or a portion, of such pipes and appurtenances in place; (2) remove all, or a portion, of such pipes and appurtenances; or (3) to transfer ownership of the pipes and appurtenances to the City to use as a conduit. Such application will describe the pipes and appurtenances desired to be abandoned by reference to the map or maps required by section 7 of this ordinance and will also describe with reasonable accuracy the relative physical condition of the pipes and appurtenances. Thereupon, the Public Works Director will determine whether any abandonment, removal or transfer that is proposed may be effected without detriment to the public interest or under what conditions the proposed abandonment, removal or transfer may be safely effected and will then notify the

Grantee of any such requirements and to either remove all, or a portion of such pipes and appurtenances, abandon in place all, or a portion, of such pipes and appurtenances, or transfer ownership of the pipes and appurtenances to the City to use as a conduit.

If, for any reason, Grantee suspends operations of any of the pipelines contained in this franchise for a period in excess of one year, Grantee will notify the Public Works Director. During this period of suspended operations, the Grantee will maintain its normal pipeline surveillance and all cathodic protection systems to insure pipeline integrity. This will continue until such a time as the line is returned to service or abandoned pursuant to this section.

If any pipes and appurtenances to be abandoned in place subject to prescribed conditions are not abandoned in accordance with all such conditions, then the Public Works Director may make additional appropriate orders, including, if he deems desirable, an order that the Grantee remove all such pipes and appurtenances in accordance with applicable requirements. In the event the Grantee fails to remove any pipes and appurtenances which it is obligated to remove in accordance with such applicable requirements within such reasonable time as may be prescribed by the Public Works Director, then the City may remove such pipes and appurtenances at the Grantee's expense and the Grantee will pay to the City the actual cost of removal.

Should any pipes and appurtenances under this Franchise be abandoned in accordance with directives of the State Fire Marshal and without city approval, whether or not payments have terminated, and the pipes and appurtenances interfere at a future time with any public works project, Grantee will, upon request of the Public Works Director, remove the pipes and appurtenances at Grantee's expense.

This section 12 will survive the termination or expiration of this ordinance.

Section 13 COMPLETION OF WORK: Whenever the Grantee fails to complete any work required of the Grantee by the terms of this Franchise within the time limits required under this Franchise, the City may cause the work to be completed by the City or, at the election of the City, by a qualified private contractor. The Grantee agrees to pay to the City within thirty (30) days after delivery of an itemized bill covering the cost of performing the work, the reasonable cost of the work. If the Grantee is dissatisfied with the determination of the amount, it may petition the City Manager to review the amount within twenty (20) days after such determination. The decision of the City Manager will be final and conclusive City action.

Section 14 FAITHFUL PERFORMANCE BOND:

A. Delivery of Performance Bond. Prior to the Effective Date of any sale, transfer, assignment, or lease of this Franchise, or any part thereof, to a person or entity that is not either an affiliate of Grantee or a public utility pipeline, the buyer, transferee, assignee, or lessee (hereinafter referred to as the Grantee) will deliver to City a performance bond in the sum of $50,000, which secures the faithful performance of the Grantee's obligations under this ordinance. The bond will contain the original notarized signature of an authorized officer of the surety. The bond will be unconditional and remain in full force and effect during the remaining term of this ordinance and will be null and void at the conclusion of the term of this ordinance only if Grantee promptly and faithfully performs all terms and conditions of this ordinance.

B. Forfeiture. In the event Grantee for any reason becomes unable to, or fails in any way to, perform as required by this ordinance, City may declare the portion of the performance bond that is necessary to

recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the performance bond, Grantee will promptly take all steps necessary to restore the performance bond to its face amount.

Section 15 INSURANCE:

A. Grantee must maintain at its sole expense the following insurance, subject to self insurance provisions:

(1) Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:

(a) Primary Bodily Injury with limits of at least $250,000 per person, $500,000 per occurrence; and

(b) Primary Property Damage of at least $100,000 per occurrence, or combined single limits of at least $1,000,000.

(2) General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least $5,000,000 per occurrence.

(3) Pollution Liability including coverage for bodily injury or property damage arising out of the sudden and accidental discharge, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere, or any watercourse or bodies of water with combined single limits of coverage of at least $5,000,000.

(4) Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least $500,000.

B. City, the City Council, and each member thereof, members of boards and commissions, every officer, agent, official, employee

and volunteer must be named as additional insured under the general liability policy.

C. Except as permitted in subsection "F" of this section 15, Grantee must provide certificates of insurance and/or endorsements to the City Clerk of the City at the request of the City Clerk.

D. Each insurance policy required by this section must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to City.

E. Insurance required by this Franchise will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of City ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that an increased or decreased risk of loss is posed to City, Grantee agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that Grantee will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within twenty (20) days of receipt of notice from the Risk Manager.

F. Grantee will have the option to self-assume such risks and insurance obligations, for which Grantee will, at the request of the City, provide its standard letter of self-assumption, in a form acceptable to City, for risks and insurance obligations agreed to under this Franchise.

Section 16 INDEMNIFICATION BY GRANTEE: Grantee will indemnify, defend, and hold harmless City, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss arising out of Grantee's exercise of its rights under this Franchise, excepting these claims or liabilities arising solely out of the gross negligence or willful misconduct of the City. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of Grantee, its officers, employees, agents, subcontractors or vendors in the exercise of its rights under this Franchise. In the event of any dispute between Grantee and City, as to whether liability arises from the negligence of the City or its officers, employees, agents, subcontractors or vendors, Grantee will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as negligent.

Section 17 ASSIGNMENT: The Grantee will file with the legislative body of the municipality within forty-five (45) days after any sale, transfer, assignment, or lease of the Franchise or any part thereof, or any of the rights or privileges granted thereby, written evidence of the transaction certified to by the Grantee or its duly authorized officers. Grantee may assign or transfer all or any part of this Franchise to any public utility, purchaser, transferee, or assignee,

approved by the California Public Utilities Commission, of all or any part of the oil pipeline system assets covered by this franchise. If any transfer, assignment, lease, or sale of the Franchise is to a person or entity that is not a public utility pipeline, then City approval is required, which approval will not be unreasonably withheld. If the City approves that sale, transfer, assignment, or lease of this Franchise, then the City may change the annual Franchise payment to an amount otherwise authorized by applicable state law. Upon approval, the new Grantee will pay to the City a sum of money sufficient to reimburse it for all expenses incurred by it in connection with the approval of the sale, transfer, assignment, or lease of this Franchise; said payment to be made within thirty (30) days after the City will have furnished said Grantee with a written statement of such expenses.

Section 18 DEFAULT:

A. Default.

In the event that the Grantee defaults in the performance of any of the terms, covenants and conditions contained in this Franchise and the default is curable, the City will give written notice to the Grantee of the default. In the event that the Grantee does not commence the work necessary to cure the default within forty-five (45) days after receipt of notice or fails to prosecute the work diligently to completion, the City may declare this Franchise forfeited. Upon giving written notice of the forfeiture to the Grantee, this Franchise will be void and the rights of the Grantee under this Franchise will cease and terminate and Grantee will execute an instrument of surrender and deliver the surrender to the City.

B. Cumulative Remedies.

No provision made for the purpose of securing the enforcement of the terms and conditions of this Franchise will be deemed an exclusive remedy, or to afford the exclusive procedure, for the enforcement of the terms and conditions, but the remedies and procedure provided in this Franchise, in addition to those provided by law, will be deemed to be cumulative.

Section 19 SUPERSEDURE: This Franchise will be in lieu of any like Franchise, if any has been previously granted by the City to the Grantee and any such other Franchise, if any, will be deemed to be and will be repealed as of the date upon which the grant of this Franchise is effective, and the rights, liabilities and obligations of the Grantee under such other Franchise will thereupon cease and terminate. Should the foregoing be applicable to the grant of this Franchise, the Grantee will pay to the City any and all amounts accrued up to the effective date of this Franchise under such other Franchise so repealed as shown by statement of such amounts in the form required by such other Franchise filed not later than ninety days after this ordinance becomes effective. Payment of such amounts will be made with the filing of such statement.

Section 20 SCOPE OF RESERVATION: Nothing contained in this Franchise will ever be construed so as to exempt the Grantee from compliance with all applicable ordinances of the City now in effect or which may be subsequently adopted which are not inconsistent with the terms of this Franchise. The enumeration in this Franchise of specific rights reserved will not be construed as exclusive, or as limiting the general reservation in the Franchise made or as limiting such rights as the City may now or hereafter have in law.

Section 21 NOTICE: Any notice required to be given under the terms of this Franchise, the manner of service of which is not specifically provided for, may be served as follows:

Upon the City, by serving the City Clerk personally, or by depositing such notice in the United States mail, postage prepaid and addressing it to:

City Clerk of the City of Torrance, City Hall,
3031 Torrance Boulevard,
Torrance, California

Upon the Grantee by addressing a written notice to Grantee, addressed to (or such other address as may from time to time be furnished in writing by one party to the other and depositing the notice in the United States mail, postage prepaid.):

Pacific Pipeline System LLC
5900 Cherry Avenue
Long Beach, CA 90805-4408
Attention: Land Department

With a required copy addressed to:

Pacific Pipeline System LLC
333 Clay Street Suite 1600
Houston, TX 77002
Attention: Lawrence J. Dreyfuss, Vice President and General Counsel

When the service of any such notice is made by mail, the time of such notice will begin with and run from the date of the deposit of the notice in the United States mail, unless specified otherwise.

Section 22 SUCCESSORS: The terms and conditions of this Franchise will inure to the benefit of or will bind, as the case may be, the successors and assigns of the parties to this Franchise, subject, however, to the provisions of section 17.

Section 23 ACCEPTANCE OF FRANCHISE: This Franchise is granted and will be held and enjoyed only upon the terms and conditions contained within this Franchise, and the Grantee must, within thirty (30) days after the passage of the ordinance granting this Franchise, file with the City Clerk of the City a written acceptance of the terms and conditions.

Section 24 EACH CONDITION IS MATERIAL: This Franchise is granted upon each and every condition contained within this Franchise. Nothing will pass hereby unless it be granted in plain and unambiguous terms. Each of the conditions is a material and essential condition to the granting of this Franchise.

Section 25 FORCE MAJEURE: The time within which Grantee is obligated under this Franchise to construct, erect, maintain, operate, repair, renew, change the size of and remove pipes and appurtenances or other improvements will be extended for a period of time equal in duration to, and performance in the meantime will be excused on account of and for and during the period of, any delay caused by strikes, threats of strikes, lockouts, war, threats of war, insurrection, invasion, acts of God, calamities, violent action of the elements, fire, action or regulation of any governmental agency, law or ordinance, impossibility of obtaining materials, or other things beyond the reasonable control of Grantee.

Section 26 DAMAGE TO PUBLIC PROPERTY:

Any damage done directly or indirectly to any public property by Grantee, in exercising directly or indirectly any right, power, or privilege under this Franchise, or in performing any duty under or pursuant to the provisions of this Franchise, will be promptly repaired by Grantee at its sole cost and expense.

Section 27 RECORDS AND PERIODIC REPORTS:

Annually during the life of this Franchise, and concurrently with provision of the annual payment pursuant to section 6, Grantee will file with the Public Works Director, for the immediately preceding Franchise period the length of lines in streets, the internal diameter of such lines, the rate per foot per year, and the total amount due to the City.

Section 28 PRIOR FRANCHISES: All pipes and appurtenances erected, constructed, laid, operated or maintained by Grantee in the streets, whether installed by Grantee or not, in the area described in and by virtue of the authority provided by the ordinance granting this Franchise, prior to the effective date of this ordinance, except those maintained under prior right other than Franchise, will become subject to all the terms and conditions of this ordinance upon its effective date. The parties intend by this provision to ensure that no lineal footage of pipeline which is constructed, erected, maintained, operated, repaired, renewed, changed in size, or removed by Grantee within the City is inadvertently omitted from this Franchise.

Section 29 SEVERABILITY: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

Section 30 EFFECTIVE DATE: This ordinance will take effect thirty (30) days after the date of its adoption (the "Effective Date"). Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

Section 31 ATTORNEY'S FEES: Except as provided for in Paragraph 16, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this ordinance (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this ordinance, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

Section 32 EXCLUSION OF PRIOR DRAFTS; JOINT DRAFTING AND NEUTRAL CONSTRUCTION: Prior drafts of this Franchise and prior correspondence regarding this Franchise shall not be used by either party as evidence of the intent of the parties or otherwise be admissible in evidence in interpreting this Franchise.

This Franchise is a negotiated document and shall be deemed to have been drafted jointly by the parties and no rule of construction or interpretation shall apply against any particular party on a contention that the Franchise was drafted by one of the parties including, but not limited to, California Civil Code section 1654, the provisions of which are hereby waived. This Franchise shall be construed and interpreted in a neutral manner.

Section 33 ENTIRE AGREEMENT, WAIVER: The City and Grantee agree that this Franchise shall constitute the entire agreement between the parties with respect to the transactions contemplated hereby. Any and all previous agreements and understandings between or among the parties regarding the transactions contemplated hereby, whether written or oral, are superseded by this Franchise. Any waiver or amendment of any requirements and/or provisions of this Franchise must be in writing and signed by an officer or authorized representative of the waiving party in order to be effective and enforceable; no purported oral waiver or amendment of any requirements and/or provisions of this Franchise shall be effective or enforceable; and no waiver or amendment of any requirements and/or provisions of this Franchise based on

course of conduct, course of dealing, or course of performance shall be effective or enforceable.

INTRODUCED AND APPROVED this ____ day of _____, _____.

ADOPTED AND PASSED this ____ day of _____, _____.

CITY OF TORRANCE

_____
Frank Scotto, Mayor

ATTEST:

_____
Sue Herbers, City Clerk

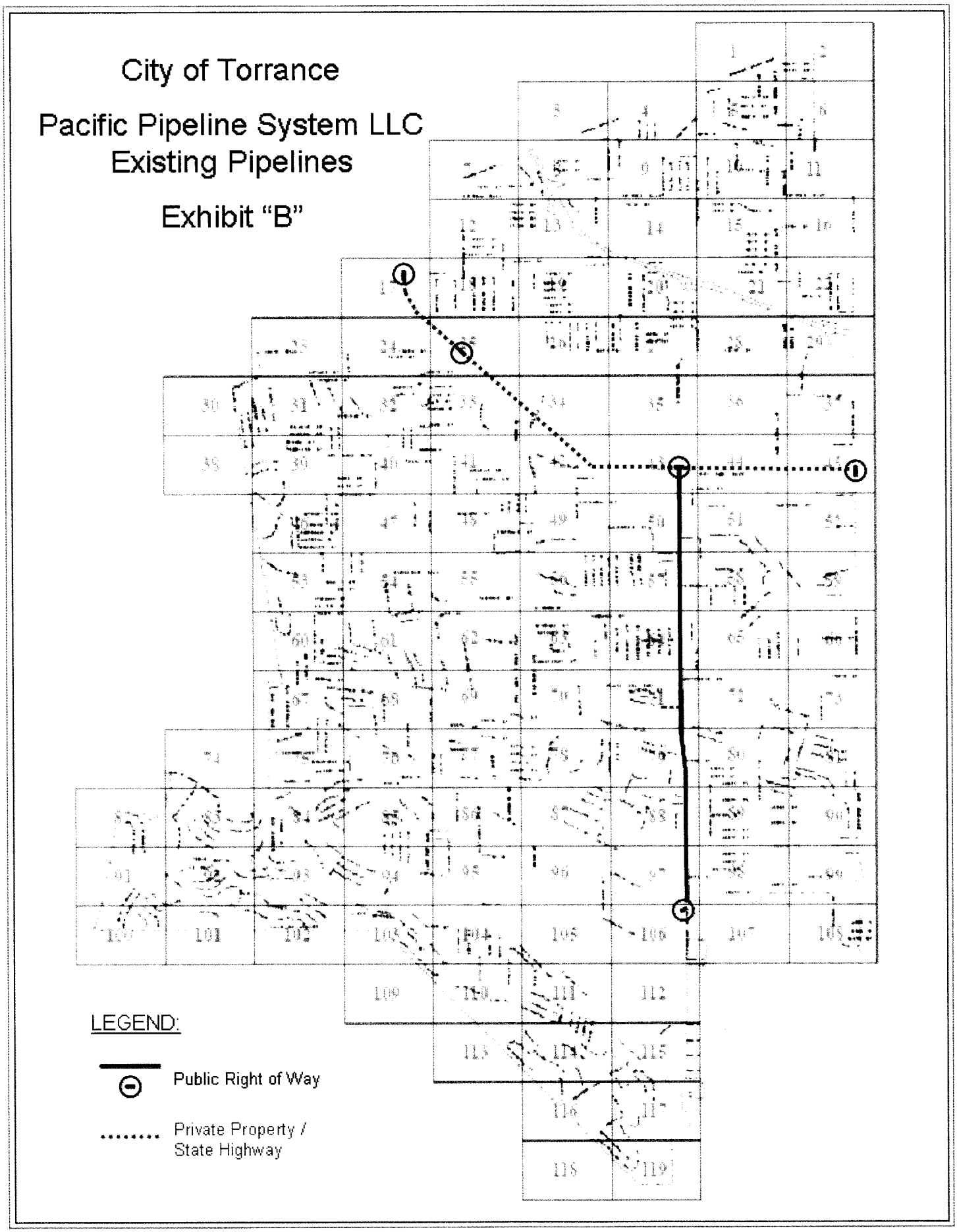
APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By:_____
Ronald T. Pohl, Assistant City Attorney

City of Torrance
Exhibit "A"

Map Reference	PPS Line #	Carrier Diameter	Length	From STA	To STA	In (Across)	From	To	Pipeline Status
PP-346-10	93	16"	60	236+59.92	237+19.92	(182nd)	Crossing Only		Active
PP-346-11	93	16"	187	270+48	272+35	(190th)	Crossing Only		Active
PP-346-14	93	16"	100	359+71.39	360+71.39	(Crenshaw Blvd.)	Crossing Only		Active
PP-346-16	93	16"	250.89	419+44.17	421+95.06	Western Avenue	AT&SF ROW	Los Angeles City Boundary	Active
PP-346-33	93M	16"	139.88	0+00	1+39.88	Lomita Blvd. and Crenshaw Blvd.	Conoco Phillips Tank Farm	Lomita City Boundary	Active
PP-346-33 to 37	93M	16"	14754	3+90	151+44	Crenshaw Blvd.	Lomita City Boundary	ExxonMobil Refinery	Active
	Total Linear Feet:		**15491.77**						


City of Torrance
Pacific Pipeline System LLC
Existing Pipelines
Exhibit "B"
LEGEND:
Public Right of Way
Private Property /
State Highway