

Council Meeting of
March 10, 2009

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

Members of the Council:

SUBJECT: Public Works – Approve an Agreement to relocate a County Sanitation District No. 5 of Los Angeles County sewer pipeline for the Del Amo Boulevard Extension, T-30. Expenditure: None

RECOMMENDATION

Recommendation of the Public Works Director that City Council approve a Sewer Relocation Agreement with the County Sanitation District No. 5 of Los Angeles County to establish the terms and conditions for the City to relocate an existing sewer pipeline for the Del Amo Boulevard Extension Project, T-30.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

The County Sanitation District No. 5 of Los Angeles County (“District”) owns, operates and maintains a sewer pipeline within the alignment of the proposed future section of Del Amo Boulevard between Maple Avenue and Crenshaw Boulevard. The City will be relocating a portion of the sewer pipeline to accommodate the future construction of the Del Amo Boulevard Extension, T-30. The relocated sewer pipeline will be outside the limits of the pavement of the new roadway. Therefore, the District will be able to maintain the relocated sewer pipeline without any impact to the future Del Amo Boulevard roadway.

The proposed Sewer Relocation Agreement between the District and the City establishes the terms and conditions of both parties for the relocation of the sewer pipeline. Staff has reviewed the Sewer Relocation Agreement and recommends approval.

Staff is currently in progress of finalizing several other agreements required for this project, as well as preparing the request to the State of California for authorization to advertise the project for construction bids. Staff anticipates the Del Amo Boulevard Extension, T-30 will be advertised for bid in summer 2009.

Respectfully submitted,

ROBERT J. BESTE
Public Works Director



By Craig Bilezerian
Engineering Manager



Elizabeth Overstreet
Engineering Manager

CONCUR:

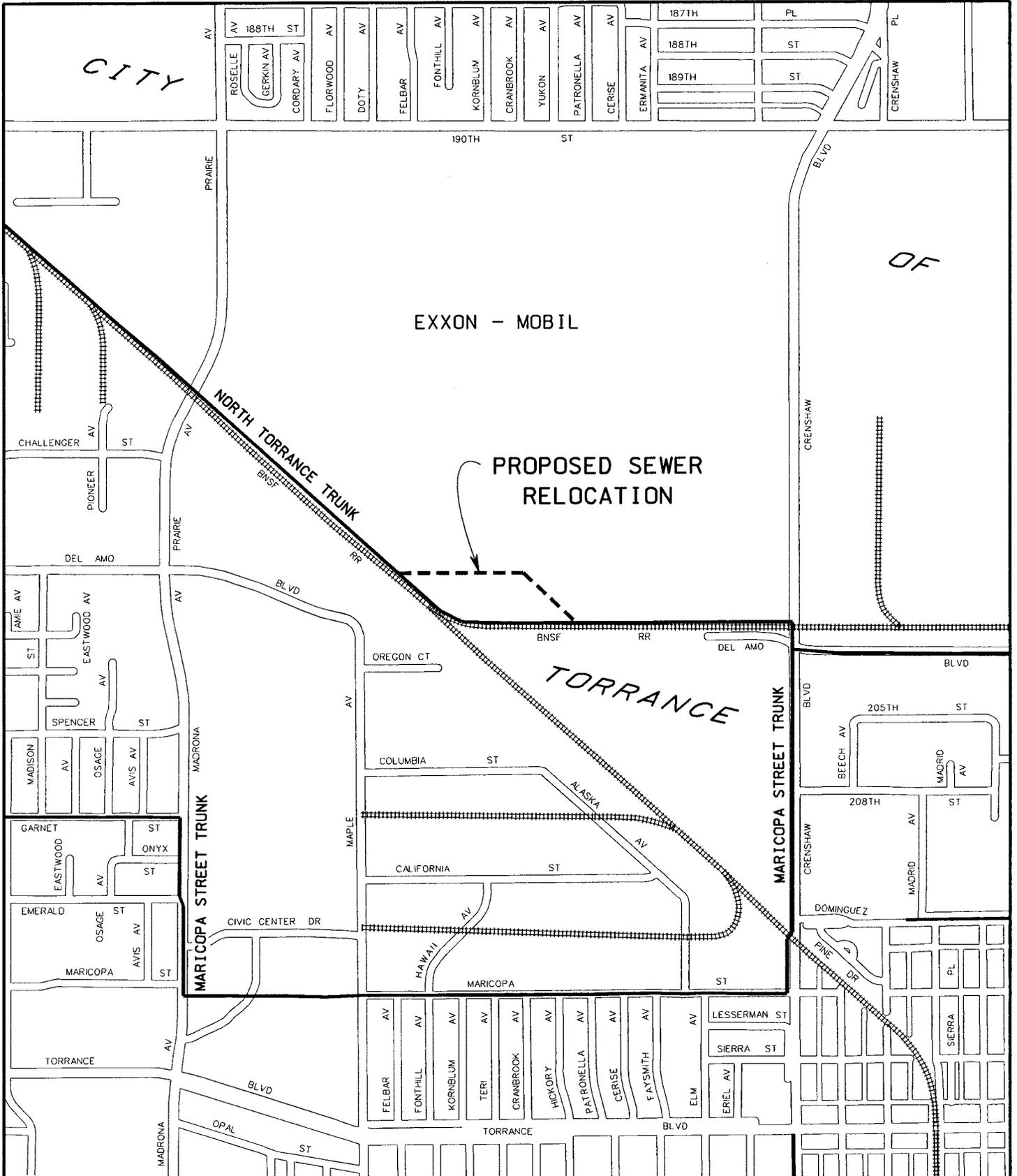


Robert J. Beste
Public Works Director



LeRoy J. Jackson
City Manager

Attachments: A. Map of proposed sewer relocation
B. Sewer Relocation Agreement



RELOCATION OF A PORTION OF
NORTH TORRANCE TRUNK SEWER, SECTION 2

COUNTY SANITATION DISTRICT NO. 5 OF LOS ANGELES COUNTY



EXHIBIT "A"

RECORDING REQUESTED BY:
 COUNTY SANITATION DISTRICTS
 OF LOS ANGELES COUNTY
 1955 WORKMAN MILL ROAD
 P.O. BOX 4998
 WHITTIER, CA 90607-4998

WHEN RECORDED, MAIL TO ABOVE ADDRESS

ATTN: RONNIE BURTNER
 FACILITIES PLANNING DEPARTMENT

SEWER RELOCATION AGREEMENT

This sewer relocation agreement (“Agreement”) is dated _____, 2009, and is between CITY OF TORRANCE, a municipal corporation, (the “City”) and COUNTY SANITATION DISTRICT NO. 5 OF LOS ANGELES COUNTY, a county sanitation district organized and existing under the provisions of the County Sanitation District Act, Health & Safety Code Section 4700 et seq., (the “District”).

The City proposes to construct an extension of Del Amo Boulevard between Crenshaw Boulevard and Maple Avenue (the “Project”) that includes the construction of a proposed bridge over the Burlington Northern Santa Fe railroad tracks located adjacent to ExxonMobil Oil Company’s (“Mobil”) property. Mobil is successor to General Petroleum Corporation.

The District owns, operates and maintains a sewer facility in and under Mobil’s property identified as the North Torrance Trunk Sewer, Section 2 (the “Existing Sewer”). The District is the holder of permanent easement for the Existing Sewer by way of January 13, 1954 Right of Way Agreement between General Petroleum Corporation and the District (the “1954 Agreement”).

The construction of the proposed bridge requires the relocation of various utilities on Mobil’s property, including a portion of the District’s Existing Sewer.

The City proposes to relocate a portion of the Existing Sewer to avoid any impact of the Project on the Existing Sewer at the City’s cost and expense.

The relocation will be accomplished by construction of a new sewer facility, and appropriate closure of the abandoned portion of sewer (together the “Sewer Relocation”) to be described and located in accordance with the engineering plans and details set forth in Drawing No. 5-p-22, Sheet Nos. 1A and 1B, copies of which are on file at District’s Joint Administration Office and the provisions of which are incorporated in this Agreement by reference, and the general location indicated in Exhibit “A” attached to this Agreement.

DOC #1207435

The District has determined that the Sewer Relocation, if carried out as provided in this Agreement, will not have any adverse impact on the remaining portions of the Existing Sewer or otherwise adversely affect District operations.

The City and the District therefore agree as follows:

1. The City or its agents, at no cost to the District, shall prepare detailed engineering plans and specifications for the construction of the Sewer Relocation, designated as District's Drawing No. 5-p-22, Sheet Nos. 1A and 1B, and submit them to the District's Chief Engineer and General Manager ("Chief Engineer") for review and approval. The Chief Engineer's prior approval is required to ensure suitability for District's ownership, operation, and maintenance of the Sewer Relocation.

2. The City or its agents shall acquire, at no cost to the District, all permits and occupational rights of way necessary for the construction and future operation and maintenance of the Sewer Relocation.

3. The City shall construct, or cause to be constructed, at no cost to the District, the Sewer Relocation by a contractor appropriately licensed by the State of California in strict compliance with the detailed engineering plans and specifications set forth in District's Drawing Nos. 5-p-22, Sheet 1A and 1B, as approved by the Chief Engineer and designated as the *North Torrance Trunk Sewer, Section 2*. The City shall assume all financial responsibility for the construction and all costs incidental thereto.

4. The City acknowledges and agrees that the Sewer Relocation may be regarded as a public work and that there are legal requirements applicable to a project regarded as a public work including, but not limited to, payment of prevailing wages, mode of selecting a contractor, selection of subcontractors, and administration of the construction contract, and the City agrees to identify and comply with all applicable laws. Upon execution of this Agreement, the City acknowledges and agrees to indemnify and hold harmless the District, its officers, agents and employees from all claims, actions, damages, losses, costs, liabilities, penalties arising out of any failure by the City to comply with all such legal requirements.

5. The City shall convey or cause to be conveyed to the District without cost, free and clear of any claims, liens or encumbrances, title to the Sewer Relocation and appurtenances that are necessary to carry out the purposes of this Agreement. The City shall facilitate and cause to be conveyed, without cost to the District and to the District's reasonable satisfaction, amendments to the 1954 Agreement necessary to enable the Sewer Relocation to be constructed, operated, maintained, and rehabilitated or replaced.

6. The City or its agents shall comply with the California Environmental Quality Act and prepare the necessary environmental documents for the Sewer Relocation at no cost to the District. The

City shall award the construction contract in accordance with the requirements of Public Contract Code 20783 and 20784.

7. The City or its agents shall obtain and shall name the District, through appropriate endorsements, as an additional insured on a policy of liability insurance, meeting all requirements provided for in Section 7-3 of the latest edition of the *Standard Specifications for Public Works Construction* as adopted by the District and District's latest Amendments to the *Standard Specifications* (together the "Amended Standard Specifications"). The Amended Standard Specifications have been provided by the District to the City and will be incorporated into the City's Specifications and Special Provisions for the Sewer Relocation, unless the District provides a subsequent revision to the City no later than twenty (20) working days prior to the opening of bids. The Amended Standard Specifications, or any subsequent revisions, provided by the District to the City no later than twenty (20) working days prior to the opening of bids shall be considered as in effect at the time the City awards the contract for construction of the Sewer Relocation. Accordingly, the City shall furnish the District with a copy of that policy prior to the commencement of any work on the Sewer Relocation.

8. The District shall accept a tender of conveyance of title to the Sewer Relocation from the City and shall quitclaim (as defined in paragraph 8(e)) to Mobil the easement for the abandoned portion of the Existing Sewer if the District determines to its reasonable satisfaction that:

- (a) The City and its construction contractor have constructed the Sewer Relocation in strict accordance with the detailed engineering plans and specifications per District's Drawing No. 5-p-22, Sheet Nos. 1A and 1B, and in compliance with the Amended Standard Specifications;
- (b) The City has satisfied all conditions of this Agreement;
- (c) There are no legal actions pending or threatened concerning any of the provisions of this Sewer Relocation Agreement or any work of construction provided herein;
- (d) There are no liens against the Sewer Relocation, that the City has fully complied with Sections 3184 and 3185 of the Civil Code and that at least sixty (60) calendar days have elapsed since the recording of a notice of completion;
- (e) The Quitclaim Deed shall quitclaim all District easement rights in Mobil's property not reasonably required for the Existing Sewer and the Sewer Relocation. The City shall cause to be conveyed, to District's reasonable satisfaction, such documents and legal descriptions as may be necessary.

9. Compliance with the provisions of paragraph 8 of this Agreement will be in part determined by the Chief Engineer and the District's Field Engineering Section. The City hereby authorizes the Chief Engineer and the District's staff, at the expense of the City, to inspect construction of the Sewer Relocation, specifically the sewer pipe, pipe subbedding, pipe bedding, pipe laying, pipe testing and manholes. Written approval by the District's Field Engineering Section is required as a condition for acceptance of the Sewer Relocation. All other activities such as trenching, consolidation of backfill, paving and street work installed by or on behalf of the City must be done in accordance with local city and/or county or other governmental requirements and the inspection related to these activities is the responsibility of the City.

10. The City shall inspect and supervise the construction of the Sewer Relocation as owner of the Project. The City shall provide continuous access for the District's staff or their agents in order to afford the District the full and complete ability to inspect, at the expense of the City, the construction of the Sewer Relocation, including items identified in paragraph 9. Construction survey for the Sewer Relocation is the responsibility of the City or its agents. The City or its agents shall provide all surveying required to construct the Sewer Relocation and shall provide to the District, at the completion of construction, "as-built" drawings that are stamped by a Registered Professional Civil Engineer or Registered Land Surveyor licensed to practice in the State of California. The District may, at no cost to the City, survey to determine grade and alignment and conduct a final survey. The City shall cause to be made available for inspection by a District representative, the sewer pipe and manholes at the manufacturer's facility. The sewer pipe and manhole shafts must be approved by a District representative prior to delivery to the job site. The District shall inspect the sewer pipe and manholes at the manufacturer's facility within ten (10) working days of a written request from the City for such inspection. Subsequently, the District shall provide notification to the City of the approval or a written rejection of the sewer pipe or manholes within 5 working days of the inspection. The City shall construct the Sewer Relocation in strict accordance with the detailed engineering plans and specifications per District's Drawing No. 5-p-22, Sheet Nos. 1A and 1B, and in compliance with the Amended Standard Specifications and in compliance with the provisions of this Agreement and all documents incorporated in this Agreement. The District's inspection is for the purpose of determining whether the District will accept the Sewer Relocation.

11. Upon completion of construction and before diversion of wastewater flow into the Sewer Relocation, the City or its agents shall conduct a Closed Circuit Television (CCTV) inspection of the Sewer Relocation in accordance with Section 500-1.1.5 of the Amended Standard Specifications as provided by the District in paragraph 7. A digital and video tape recording of the CCTV shall be submitted to the District for review. Within 30 days, the District shall review the recording and inform

the City in writing of any damaged or poorly constructed pipe and pipe joints. The City then shall cause to be replaced any and all damaged or poorly constructed pipe and pipe joints at no cost to the District, prior to the District accepting ownership of the Sewer Relocation.

12. The City shall reimburse the District for the total cost of the District's construction inspection for the Sewer Relocation, as described in paragraph 9, which is to be determined by a final accounting prepared by District. The City shall reimburse the District in accordance with following procedures:

- (a) The construction inspection costs will include currently-effective percentage markups added to total salaries, wages and equipment costs to cover overhead and administration.
- (b) The District's Field Engineering Section or its inspection staff shall prepare a "Daily Log Sheet" for each day of construction for the Sewer Relocation. Each "Daily Log Sheet" shall include a chronological description, including but not limited to, any and all work activities, equipment, labor and materials related to the Sewer Relocation. Each Daily Log Sheet will be provided to the City within 5 working days after the day of work.
- (c) The District shall furnish to City, within ninety (90) calendar days after the District approves and accepts the Sewer Relocation, an original billing invoice that gives a final accounting of the actual construction inspection costs that includes an itemization of names, number of hours spent on inspection, and hourly wage. The original billing invoice will be transmitted to Torrance Public Works Department, 20500 Madrona Avenue, Torrance, CA 90503, ATTN: Mr. Craig Bilezerian.
- (d) The City shall pay to the District the billing amount, as verified by the City, within forty-five (45) calendar days of demand. If the City's payment is not received within forty-five (45) calendar days after the date of the invoice, the District shall recover interest on all amounts due beginning forty-five (45) calendar days from the date of the invoice at the interest rate of six percent (6 %) per annum.

13. The City shall advise the District of the anticipated dates for construction of the Sewer Relocation and the District may file and record a *Notice of Non-responsibility* in accordance with Civil Code Section 3094. The City agrees that construction of the Project and Sewer Relocation shall not restrict the District's access to the Existing Sewer for operation and maintenance and emergency purposes. The City shall bind its construction contractor to diligently pursue completion of the Sewer Relocation. The District shall not be regarded as Owner until the District accepts the title to the Sewer Relocation; however, to minimize any potential conflict, the City shall cause its contractor to provide

performance and labor and materials bonds in full compliance with requirements and procedures set forth in the Amended Standard Specifications provided by the District in accordance with paragraph 7 of this Agreement. Copies of the bonds must be furnished to the Chief Engineer prior to commencement of any construction work.

14. Upon completion of the construction of the Sewer Relocation and approval by the District's Field Engineering Section, the City shall cause to be submitted to the District for review and approval by the District, one (1) set of "as-built" plans for the Sewer Relocation.

15. Upon completion of the construction of the Sewer Relocation and written approval by the District's Field Engineering Section, the City shall sign, verify and record a *Notice of Completion* in accordance with Section 3093 of the Civil Code and in general form of Exhibit "B" attached to this Agreement. Without cost to the District, the City at the time of completion of construction shall execute and deliver to the District a recordable Bill of Sale acceptable to the District and in the general form of Exhibit "C" attached to this Agreement. The District may accept ownership of the Sewer Relocation no earlier than sixty (60) calendar days after recordation of the Notice of Completion of construction of the Sewer Relocation, by recording the Bill of Sale. The District will not accept the Sewer Relocation unless it is free and clear of all liens or claims, unless it is constructed to the District's satisfaction in accordance with the requirements of this Agreement, and until amendments to the 1954 Agreement have been approved and accepted by the District.

16. Upon acceptance and recordation of title to the Sewer Relocation, the District shall use, operate and maintain the Sewer Relocation as part of the District's sewerage system.

17. The City or its agents shall be responsible for all costs, expenses, losses and liabilities relating to the construction of the Sewer Relocation, and shall indemnify, defend, and hold the District, its officers, agents, and employees, and other County Sanitation Districts of Los Angeles County, from all claims, demands, actions, costs, liabilities, losses, damages, including claims for personal injury or property damages arising from or in any way associated with the following:

- (a) Ownership, operation, or maintenance of the Sewer Relocation prior to its acceptance by the District;
- (b) Construction of the Sewer Relocation, including but not limited to trenching, backfill work above the pipe zone, and surface restoration.

This indemnification provision shall exist for 15 years after acceptance by the District, except, however that this indemnification will terminate for that portion of the Sewer Relocation, if the

District or its agents, conduct or perform any repair, maintenance or emergency work that would disturb or modify the existing condition of the Sewer Relocation as constructed by the City.

18. The District shall hold the City and its officers, agents, and employees harmless from all claims, demands, costs, expenses and liability or loss, and assume the defense of all actions for any damages or injuries arising out of the use, ownership, operation, or maintenance of the Sewer Relocation subsequent to the date of acceptance by the District. The City shall remain liable for claims, demands, costs, expenses and liability or loss arising from ownership, operation, maintenance and construction of the Sewer Relocation as provided in paragraph 17.

19. This Agreement does not provide either the City or its agents any right to sewer capacity in the District's sewerage system, or waiver or reduction of any fee or charge that would otherwise be due to the District. Discharge may be available only upon payment and acceptance of the District's connection fees and compliance with all the rules and regulations in effect at the time of connection fee acceptance.

20. The Chief Engineer, or his designee, may accept, without further action by the District's board of directors, the Sewer Relocation and any required easements and execute and deliver the Quitclaim Deed on behalf of the District, as contemplated in paragraphs 5 and 8, and make other determinations and approvals on behalf of the District to fulfill all responsibilities of the District under this Agreement.

21. The City and the District shall do such additional acts as may be deemed necessary by the Chief Engineer to carry out the purpose of this Agreement. The Chief Engineer is delegated the authority to act on behalf of the District in carrying out the terms of this Agreement.

22. This Agreement contains the entire agreement between the parties concerning the rights and obligations assumed in this Agreement. Any subsequent representations or modifications shall be of no force or effect, except for a subsequent modification in writing executed by both parties.

23. City designates Mr. Craig Bilezerian and Ms. Elizabeth Overstreet, whose address and telephone numbers are, 20500 Madrona Avenue, Torrance, CA 90503 and (310) 618-3054 and (310) 618-3074 to be its city engineer and project manager, respectively. Any change is to be by prior written notification to District.

24. If any term or provision of this Agreement is held to any extent to be invalid or unenforceable, the remainder of this Agreement will not be affected.

25. Each party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arise, this Agreement is to be construed as if the parties had

drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of the Agreement.

26. A waiver of any breach of any provision of this Agreement or of any failure to comply with any requirement of this Agreement will not be deemed a waiver of any other provision or requirement of this Agreement, and no waiver will be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of time for performance of any other obligation or act.

27. This Agreement is to be executed in duplicate originals to be retained by each party.

28. This Agreement will inure to the benefit of and will be binding upon the parties and their respective successors and assigns.

29. This Agreement is to be governed and construed in accordance with California law.

30. Each party agrees to execute and deliver any instruments, and to perform any actions that may be necessary, or reasonably requested, in order to give full effect to this Agreement.

The City and the District are signing the Agreement as of the date stated in the introductory clause.

APPROVED AS TO FORM:

LEWIS, BRISBOIS, BISGAARD & SMITH, L.L.P.

**COUNTY SANITATION DISTRICT NO. 5 OF
LOS ANGELES COUNTY**

District Counsel

Chairperson

ATTEST:

Secretary

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

CITY OF TORRANCE
A Municipal Corporation

By: _____
(name)
Deputy City Attorney

By: _____
Frank Scotto, Mayor

ATTEST:

By: _____
Sue Herbers, City Clerk

DATED: _____

(Signatures are to be notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of _____



On _____ before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

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.

Place Notary Seal Above

Signature _____
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

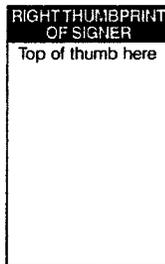
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

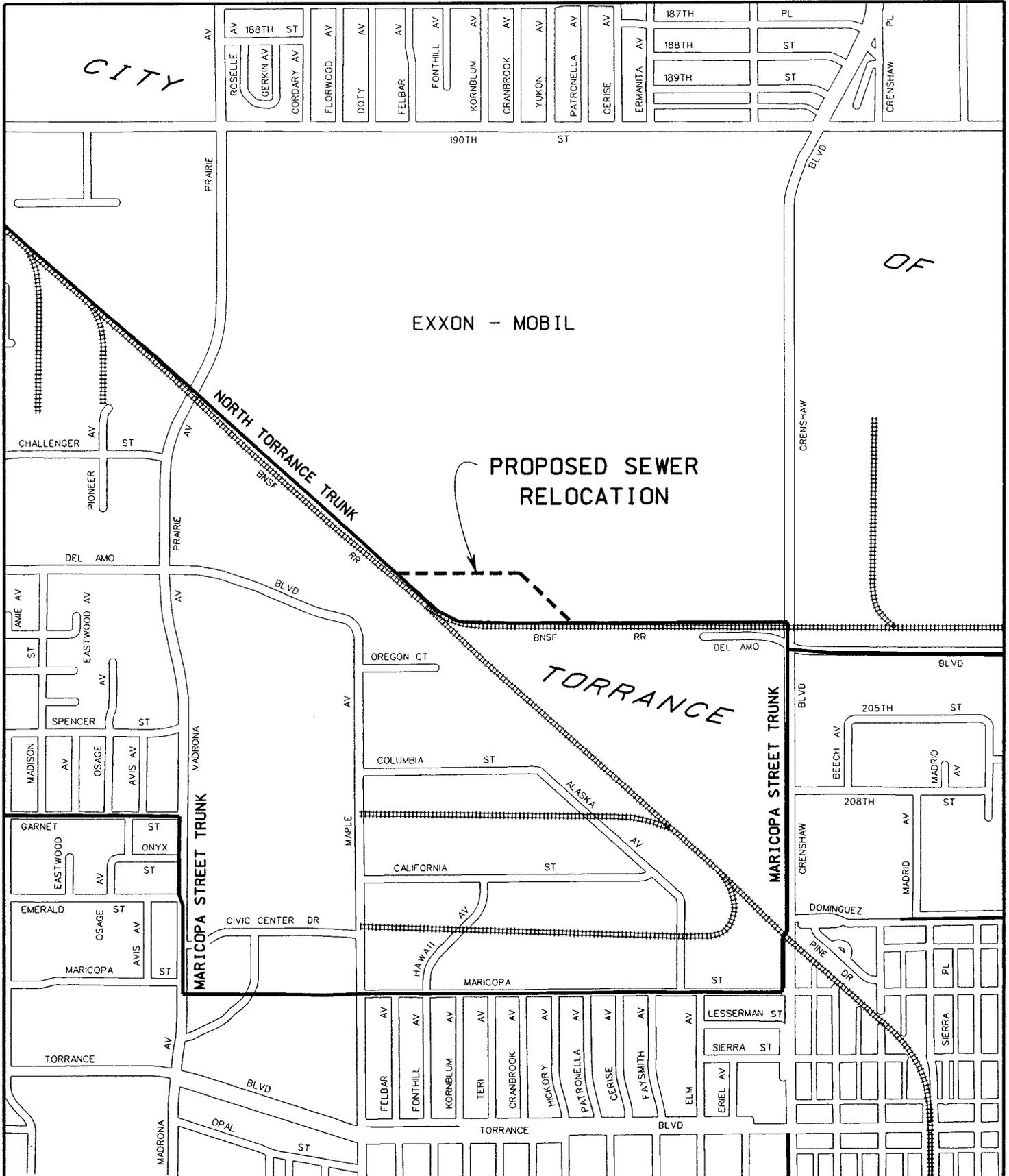


Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____





RELOCATION OF A PORTION OF
NORTH TORRANCE TRUNK SEWER, SECTION 2

COUNTY SANITATION DISTRICT NO. 5 OF LOS ANGELES COUNTY



EXHIBIT "A"

EXHIBIT "B"

Recording Requested By:

(Owner Name)
(Street Address)
(City, State, Zip)

NOTICE OF COMPLETION

In accordance with the provisions of Civil Code Section 3093, (Owner Name), the owner of the work of improvement hereinafter described, hereby gives the following notice:

1. The date of completion of the work of improvement hereinafter described is (Completion Date).
2. The owner of the work of improvement is (Owner Name), (Owner Address).
3. The nature of the interest or estate of the owner is a fee interest.
4. The work of improvement is located all within (City and/or Unincorporated County of Los Angeles), California and is particularly described as follows:

(Sewer Name), consisting of approximately (Length of Sewer) linear feet of (Diameter of Sewer) -inch diameter (type of pipe) vitrified clay/reinforced concrete/high density polyethylene pipe and appurtenant structures beginning at the intersection of (Street) and (Street), then (Direction in Name of Street and End Point).

5. The name of the original contractor for the work of improvement is (All Contractors).

ATTEST:

(CITY OF TORRANCE)

By: _____
Title

By: _____
Title

(Signatures are to be notarized)

EXHIBIT "C"

RECORDING REQUESTED BY:
COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY
1955 WORKMAN MILL ROAD
P.O. BOX 4998
WHITTIER, CA 90607-4998

WHEN RECORDED, MAIL TO ABOVE ADDRESS

ATTN: RONNIE BURTNER
FACILITIES PLANNING DEPARTMENT

BILL OF SALE

For good and valuable consideration, receipt of which is hereby acknowledged, CITY OF TORRANCE, grants to County Sanitation District No. 5 of Los Angeles County, a county sanitation district organized and existing under the provisions of the County Sanitation District, Health and Safety Code Sections 4700 et seq., the following described property:

- 1. *(Sewer system description and location)*

CITY OF TORRANCE

By: _____

Name: _____

Title: _____

(Signatures are to be notarized)