

Council Meeting of
March 24, 2009

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

Members of the Council:

SUBJECT: Public Works – Approve an Agreement for Conveyance of Property at 2807 Oregon Court required for the Del Amo Boulevard Extension, T-30. Expenditure: \$66,000

RECOMMENDATION

Recommendation of the Public Works Director that City Council:

1. Approve an Agreement for Conveyance of Property with TMT South Bay Business Park, Inc for the purchase and sale of a non-exclusive Permanent Utility Easement and a non-exclusive Temporary Construction Easement located at 2807 Oregon Court (Assessor Parcel No. 7352-009-027) for the installation of underground utilities related to the Del Amo Boulevard Extension, T-30; and
2. Authorize the expenditure and deposit of \$56,000 for said easements into escrow with Fidelity National Title Company; and
3. Authorize the Mayor and City Clerk to execute the Agreement for Conveyance of Property and any and all other documents related to the purchase and sale of said easements located at 2807 Oregon Court, without further action by the City Council; and
4. Authorize the not-to-exceed expenditure of \$10,000 to pay the cost of the Title Policy, all Escrow fees, recording costs and other administrative costs related to the Agreement for Conveyance of Property with TMT South Bay Business Park, Inc.

Funding

Funding is available from the Del Amo Boulevard Extension, T-30.

BACKGROUND AND ANALYSIS

In February 2007, the City Council authorized staff to make a not-to-exceed offer for an amount of \$56,000 to TMT South Bay Business Park, Inc. ("TMT") for the purchase and sale of a non-exclusive Permanent Utility Easement and a non-exclusive Temporary Construction Easement located at 2807 Oregon Court in the City of Torrance. Both easements are needed to construct two (2) subsurface water pipelines as part of the Del Amo Boulevard Extension, T-30 ("T-30 Project"). One water pipeline is owned and operated by the City of Torrance and the other is by California Water Services. Since February 2007, staff has been negotiating with TMT the cost of these easements and the terms and conditions of an Agreement. Staff and TMT have now agreed to the offer of \$56,000 for both easements and have jointly prepared an Agreement for Conveyance of Property. The Agreement for Conveyance of Property ("Agreement") allows the City and its future contractors to enter the property at 2807 Oregon Court and perform the required work. It also compensates the TMT for the impacts during and after construction. Therefore, staff is recommending that City Council approve the Agreement with TMT South Bay Business Park.

Escrow Account, Title Policy and Fees

If approved, the Agreement requires the City to establish an escrow with Fidelity National Title Company. Accordingly, approval of this item includes authorization to deposit \$56,000 into escrow. The Agreement also requires the City to pay the cost of the Title Policy, all Escrow fees, recording costs and other administrative costs. The estimated cost for these, provided by Fidelity National Title Company, is a not-to-exceed amount of \$10,000. Therefore, staff is also recommending authorization to pay those costs as part of the approval of this item. Lastly, staff is also recommending that approval of this item include authorization for the Mayor and City Clerk to execute any and all other documents related to the purchase and sale of said easements located at Oregon Court. This is to help avoid any delays or further Council action, as escrow is required to close within ninety (90) calendar days.

At the close of Escrow, the City would then have possession of the two easements. The City must then provide 30-days prior notice to TMT before initial entry onto the property. Subsequently, the City would have seventy-five (75) calendar days to construct the work.

Staff is currently in progress of finalizing several other agreements 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 Project 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. Temporary Construction Easement
B. Permanent Utility Easement
C. Agreement for Conveyance of Property

Exhibit "A" - Temporary Construction Easement

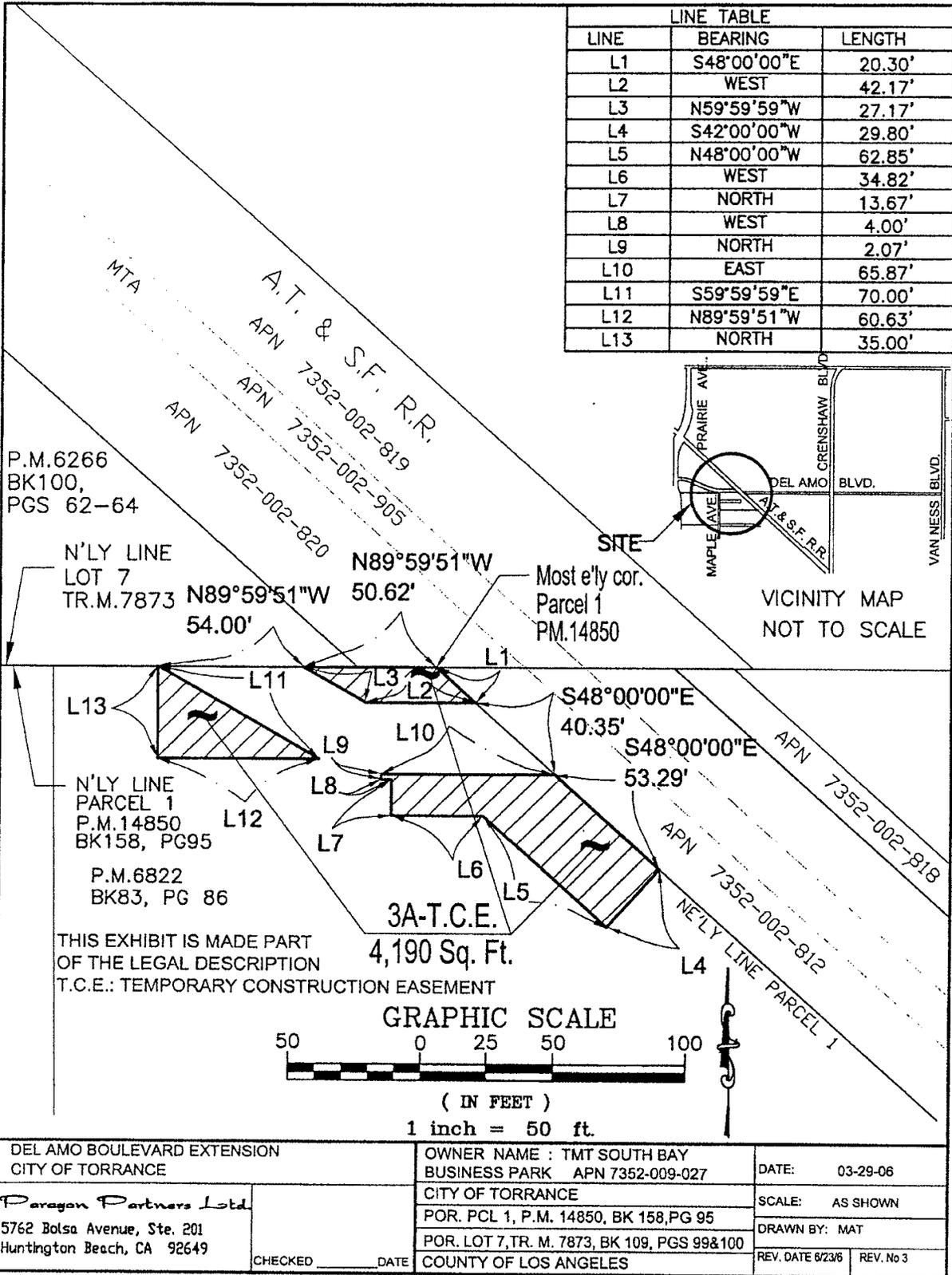
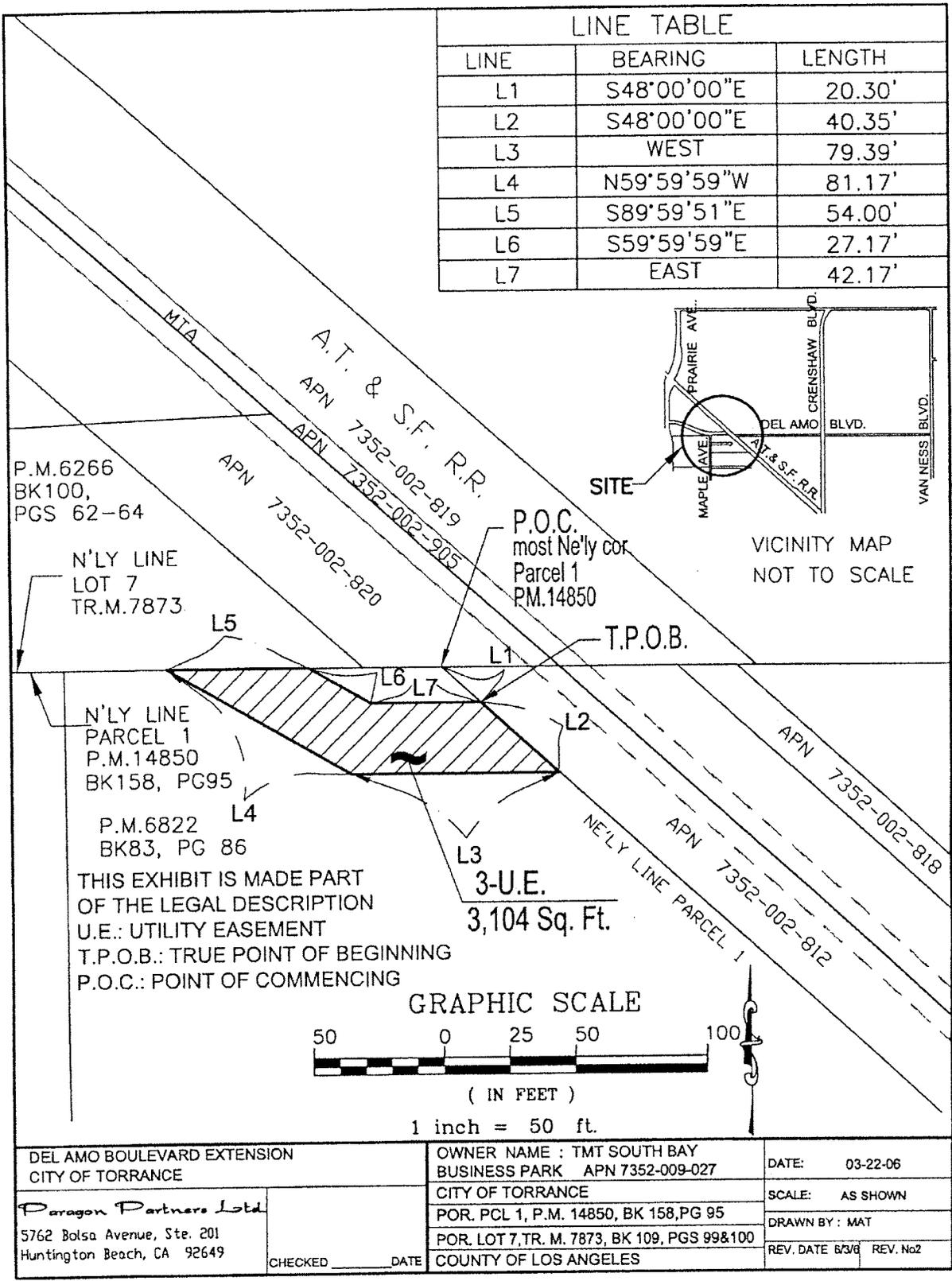


EXHIBIT "B"



LINE TABLE		
LINE	BEARING	LENGTH
L1	S48°00'00"E	20.30'
L2	S48°00'00"E	40.35'
L3	WEST	79.39'
L4	N59°59'59"W	81.17'
L5	S89°59'51"E	54.00'
L6	S59°59'59"E	27.17'
L7	EAST	42.17'

P.M. 6266
BK 100,
PGS 62-64

N'LY LINE
LOT 7
TR. M. 7873

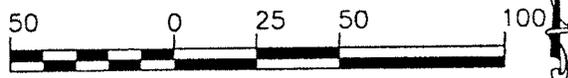
N'LY LINE
PARCEL 1
P.M. 14850
BK 158, PG 95

P.M. 6822
BK 83, PG 86

THIS EXHIBIT IS MADE PART
OF THE LEGAL DESCRIPTION
U.E.: UTILITY EASEMENT
T.P.O.B.: TRUE POINT OF BEGINNING
P.O.C.: POINT OF COMMENCING

3-U.E.
3,104 Sq. Ft.

GRAPHIC SCALE



1 inch = 50 ft.

DEL AMO BOULEVARD EXTENSION CITY OF TORRANCE		OWNER NAME : TMT SOUTH BAY BUSINESS PARK APN 7352-009-027	DATE: 03-22-06
Paragon Partners Ltd. 5762 Bolsa Avenue, Ste. 201 Huntington Beach, CA 92649		CITY OF TORRANCE	SCALE: AS SHOWN
		POR. PCL 1, P.M. 14850, BK 158, PG 95	DRAWN BY: MAT
CHECKED _____ DATE _____		POR. LOT 7, TR. M. 7873, BK 109, PGS 99&100	REV. DATE 6/3/06 REV. No2
		COUNTY OF LOS ANGELES	

AGREEMENT
FOR CONVEYANCE OF PROPERTY

THIS AGREEMENT is entered into by and between TMT South Bay Business Park, Inc., a Delaware Corporation ("Grantor") and the City of Torrance, a municipal corporation ("Grantee"). Grantor and Grantee are each sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

- A. Grantor owns certain real property located at 2807 Oregon Court, City of Torrance, County of Los Angeles, California, bearing Assessor Parcel No. 7352-009-027 (the "Property").
- B. Grantee desires to purchase: a) a non-exclusive Permanent Utility Easement as described in Exhibit "B" and depicted in Exhibit "B" attached hereto and made a part hereof (the "Permanent Utility Easement"); and b) a non-exclusive Temporary Construction Easement as depicted in Exhibit "A" attached hereto and made a part hereof, (the "Temporary Construction Easement"; together with the Permanent Utility Easement, the "Parcel") on a portion of the Property and Grantor desires to sell and convey the Parcel.
- C. The Parties desire by this Agreement to provide the terms and conditions for the purchase and sale of the Parcel.

AGREEMENT

The Parties therefore agree as follows:

1. PURCHASE.

Grantee agrees to buy and Grantor agrees to sell and convey the Parcel for the purchase price and upon the terms and conditions hereinafter set forth. The Purchase Price, defined below, is acknowledged by both Parties to be the fair market value for the Parcel.

2. ESCROW.

Upon execution of this Agreement by all Parties, Grantee shall open an escrow (the "Escrow") with Fidelity National Title Company (the "Escrow Holder") for the purpose of consummating the purchase and sale of the Parcel. The Parties hereto shall execute and deliver to Escrow Holder such escrow instructions prepared by Escrow Holder as may be required to consummate this transaction (the "Escrow Instructions"). Any such instructions shall not conflict with, amend, or supersede any provision of this Agreement. If there is any inconsistency between such instructions and this Agreement, this Agreement shall control unless the Parties agree in writing otherwise. The Escrow Instructions shall include the following terms and conditions of sale:

2.1 Purchase Price.

The total purchase price for the Parcel shall be the sum of Fifty Six Thousand and no/100 (\$56,000.00) which shall be paid by Grantee to Grantor through Escrow Holder in cash at Close of Escrow.

2.2 Close of Escrow.

Escrow shall close on or before ninety (90) days following the execution of this Agreement (the "Close of Escrow"). If the Escrow is not in a condition to close by the Close of Escrow, any Party who is not then in default may, in writing, demand the return of its money and/or documents. Thereupon, subject to the provisions in paragraph 3, all obligations and liabilities of the Parties under this Agreement shall cease and terminate. If no such demand is made, the City Manager of Grantee may, by written instrument to Escrow Holder, authorize an extension of the Escrow Holder. Escrow shall be closed as soon as possible.

2.3 Condition of Title to the Parcel.

Grantor shall convey title to the non-exclusive Permanent Utility Easement referenced in paragraph B of the Recitals above (a portion of the Parcel) to Grantee as evidenced by a CLTA Standard Form Policy or Binder of Title Insurance ("Title Policy") issued by a title insurance company to be selected by Grantee in an amount equal to the Purchase Price. The Title Policy shall show as exceptions with respect to the Parcel only matters approved in writing by Grantee. Any exceptions to title representing monetary liens or encumbrances (other than current taxes and assessments) are hereby disapproved by Grantee, and Escrow Holder is hereby authorized and instructed to cause the reconveyance, partial reconveyance, or subordination, as the case may be, of any such monetary exceptions (other than current taxes and assessments) to Grantee's title to the Parcel at or prior to the Close of Escrow. If Grantee objects to any of the exceptions to title other than monetary liens or encumbrances (excluding current taxes and assessments), Grantee's sole remedy shall be to terminate this Agreement upon Grantee's written notice to Grantor. Upon Grantor's receipt of such notice of termination, all obligations and liabilities of the Parties under this Agreement, except for Section 2.5(c) and the obligations of Grantee under Section 5, shall cease and terminate.

2.4 Escrow and Closing Costs.

Grantee shall pay the cost of the Title Policy, all Escrow fees (including reconveyance fees, trustee's fees or forwarding fees for any partial reconveyance or subordination of a deed of trust or mortgage), and all recording costs incurred herein. All Parties acknowledge that Grantee is exempt from payment of documentary transfer taxes.

2.5 Investigations.

A. Prior to the Close of Escrow, Grantee may, at its option, conduct, at Grantee's sole cost and expense, testing of the soil within the boundaries of the Permanent Utility Easement area to a depth of no deeper than one (1) foot below the proposed location of the water pipelines, which are currently contemplated to be located at six (6) feet underground. Grantee shall have the right, at its option, to conduct, at Grantee's sole cost and expense, investigations, inspections, surveys, and tests of the Permanent Utility Easement area including, without limitation, soils (other than the testing of the soils described above), groundwater, wells, percolation, geology, environmental, drainage, engineering and utilities investigations, inspections, surveys, and tests to determine the suitability of the Parcel for Grantee's intended use thereof, provided that Grantee has obtained Grantor's prior written consent, which consent may be given or withheld in Grantor's sole and absolute discretion. If Grantee determines that the Parcel is not suitable for its intended use, Grantee may disapprove this item and

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terminate this Agreement as provided at Section 2.2 above. Grantee's approval of any of such investigations, inspections, surveys, or tests shall not alter or diminish Grantor's representations or warranties under this Agreement, and Grantor acknowledges and agrees that Grantee is relying upon Grantor's representations and warranties made herein, unless such representation or warranty is specifically waived in whole or in part by Grantor.

B. Subsequent to Close of Escrow, Grantee may, at its option, conduct, at Grantee's sole cost and expense, testing of the soil within the boundaries of the Permanent Utility Easement area to a depth of no deeper than one (1) foot below the proposed location of the water pipelines, which are currently contemplated to be located at six (6) feet underground. Grantee shall have the right, at its option, to conduct, at Grantee's sole cost and expense, investigations, inspections, surveys, and tests of the Permanent Utility Easement area including, without limitation, soils (other than the testing of the soils described above), groundwater, wells, percolation, geology, environmental, drainage, engineering and utilities investigations, inspections, surveys, and tests to determine the suitability of the Parcel for Grantee's intended use thereof, provided that Grantee has obtained Grantor's prior written consent, which consent may be given or withheld in Grantor's sole and absolute discretion. If Grantee determines that the Parcel is not suitable for its intended use subsequent to the Close of Escrow, Grantee may disapprove this item and terminate this Agreement as provided at Section 2.2 above. If Grantee elects to terminate this Agreement after the Close of Escrow, Grantee shall reconvey the Parcel to Grantor at no cost to Grantor, and the Parcel shall be subject to only the title exceptions existing on the date the Parcel was conveyed to Grantor. Grantee's approval of any of such investigations, inspections, surveys, or tests shall not alter or diminish Grantor's representations or warranties under this Agreement, and Grantor acknowledges and agrees that Grantee is relying upon Grantor's representations and warranties made herein, unless such representation or warranty is specifically waived in whole or in part by Grantor.

C. In connection with any investigations or testing being performed pursuant to Sections 2.5(A) and 2.5(B), Grantor hereby grants to Grantee, and Grantee's employees, representatives, agents and independent contractors, a license to enter the Property for purposes of conducting such investigations, inspections, surveys, and tests, provided that:

i. In connection with any entry by Grantee, or its agents, employees or contractors onto the Parcel, Grantee shall give Grantor reasonable advance notice of such entry and shall conduct such entry and any inspections in connection therewith (a) during normal business hours, (b) so as to minimize, to the greatest extent possible, interference with Grantor's business and the business of Grantor's tenants, (c) in compliance with all applicable laws, and (d) otherwise in a manner reasonably acceptable to Grantor.

ii. All tests and investigations described in this Section 2.5 shall be performed only by reputable contractors and subcontractors who are licensed in the State of California. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner.

iii. Grantee shall maintain, and shall assure that its contractors maintain, public liability and property damage insurance in amounts (but in no event less than Two Million Dollars (\$2,000,000) with respect to any liability insurance) and in form and substance adequate to insure against all liability of Grantee and its agents, employees or contractors, arising out of any entry or inspections of the Property pursuant to the provisions hereof, and Grantee shall provide Grantor with evidence of such insurance coverage prior to any entry on the Property.

iv. Grantee shall repair any damage to the Property resulting from such investigations, inspections, surveys, and tests conducted by Grantee or Grantee's employees, representatives, agents or independent contractors at Grantee's sole cost and expense. Grantee shall

repair any damage on or before a date that is mutually agreed upon by both the Grantor and Grantee. The Grantee's obligations under this Section 2.5(C)(iv) shall survive beyond the Close of Escrow, or, if the sale is not consummated, beyond the termination of this Agreement.

v. Notwithstanding anything to the contrary contained herein, Grantee shall not contact any governmental authority or any tenant without first obtaining the prior written consent of Grantor thereto in Grantor's sole discretion, and Grantor, at Grantor's election, shall be entitled to have a representative participate in any telephone or other contact made by Grantee to a governmental authority or tenant and present at any meeting by Grantee with a governmental authority or tenant, unless Grantee is required by law to disclose any conditions of the Parcel discovered by Grantee in connection with Grantee's investigations, testing or work on the Parcel, in which case, Grantee may contact the appropriate governmental authority, provided that (1) Grantee shall notify Grantor of such conditions prior to contacting such governmental authority, and (2) Grantee shall give Grantor a reasonable period of time to analyze the conditions and to determine the form and contents of the required disclosure. Nothing in this Section 2.5(C)(v) shall limit Grantee's obligation to obtain Grantor's consent, which consent may be given or withheld in Grantor's sole and absolute discretion, prior to any testing and investigations performed on the Parcel as provided in Section 2.4 (A) and Section 2.5(B).

2.6 Deposit of Funds and Documents.

A. Prior to Close of Escrow, Grantee shall deposit into Escrow (i) all Escrow and Closing Costs as described above; (ii) the Purchase Price to be paid to Grantor through Escrow; and (iii) such other documentation as is necessary to close Escrow in conformance herewith.

B. Prior to the Close of Escrow, Grantor shall deposit into Escrow (i) a properly executed Grant of Utility Easement Deed for the non-exclusive permanent utility easement in the form of Exhibit "C" attached hereto and made a part hereof, (ii) a non-exclusive Temporary Construction Easement in the form of Exhibit "D" attached hereto and made a part hereof, and (iii) such other documents, if any, as are necessary to close Escrow in conformance herewith.

2.7 Grantee's Conditions Precedent to Close of Escrow.

The Close of Escrow is subject to the following conditions:

(a) All representations and warranties of Grantor set forth in this Agreement shall be true and correct as of the Close of Escrow; and

(b) Grantor shall timely perform all obligations required by the terms of this Agreement to be performed by it.

2.8 Grantor's Conditions Precedent to Close of Escrow.

For the benefit of Grantor, the Close of Escrow shall be conditioned upon the timely performance by Grantee of all obligations required of Grantee by the terms of this Agreement.

3. THE PARCEL.

3.1 Possession of the Parcel.

Grantor hereby agrees that Grantee may take possession of the Parcel and begin construction of the works of improvement thereon as of the date of execution of this Agreement, prior to the Close of Escrow; if escrow should not close for any reason, or under the conditions specified in paragraph 2.2, or in paragraph 7, or in any other paragraph hereunder, Grantee shall have the right to continue in possession and construct the works of improvement, and the purchase price and terms shall be determined by agreement of the Parties, or absent an agreement, by a form of arbitration agreed to by the Parties, or if they cannot so agree, then Grantee may in its sole discretion, initiate an action in eminent domain in which the issue will be to determine the amount of compensation to be paid. If Grantee chooses not to continue with construction of the works of improvement, Grantee shall then immediately restore any and all areas affected by said construction to the condition which existed prior to beginning of said construction. Upon completion of the restoration to the satisfaction of Grantor, this Agreement shall automatically terminate.

3.2 Use of the Parcel.

A. Grantee shall use the non-exclusive Permanent Utility Easement for the purposes of establishing, using and maintaining two separate subsurface water pipelines through portion of the property covered by the Permanent Utility Easement. Grantor shall also grant to grantee (and its successors in title) the non-exclusive right to access the Permanent Utility Easement area for the purpose of use, installation, repair, maintenance and replacement of such pipelines.

B. The non-exclusive Temporary Construction Easement shall be for the use of Grantee in connection with the construction and installation of two subsurface water pipelines within the portion of the property covered by the non-exclusive Permanent Utility Easement, including storing of materials and equipment, provided that no equipment shall remain on the easement area overnight unless it is contained within a protected work area that is equipped with traffic control devices. Grantor shall also grant to Grantee the right to remove and/or replace pavement and soil within the Temporary Construction Easement and the right to use the Temporary Construction Easement for ingress and egress in connection with such construction and installation. Grantee shall provide Grantor with not less than thirty (30) days prior notice before initial entry onto the Parcel (such date of initial entry, the "Commencement Date"). The non-exclusive Temporary Construction Easement shall commence on the Commencement Date and shall terminate seventy-five (75) days thereafter, unless (i) additional time is needed for the removal and disposal of Hazardous Materials, contaminated soil and/or water in accordance with the provisions in this Agreement and/or (ii) extended by mutual agreement of Grantor and Grantee.

4. REPRESENTATIONS AND WARRANTIES OF GRANTOR.

Grantor makes the following representations and warranties, each of which shall survive the Close of Escrow to the extent provided below:

(a) The execution and delivery of this Agreement by Grantor, Grantor's performance hereunder, and the consummation of this transaction will not constitute a violation of any order or decree or result in the breach of any contract or agreement to which Grantor is at present Parties, or by which Grantor is bound; other than

(b) Grantor will not enter into any agreements or undertake any new obligations prior to Close of Escrow which will in any way burden, encumber or otherwise affect the Property without the prior written consent of Grantee;

(c) To Grantor's knowledge, as defined below, no litigation and no governmental, administrative or regulatory act or proceeding regarding the environmental, health and safety aspects of the Property is pending;

(d) To Grantor's knowledge, Grantor has not received any written notice that the Property is in violation of any federal, state or local statute, regulation or ordinance relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions underlying the Property which could affect the Parcel or its use.

(e) If, in connection with any investigations or testing performed in accordance with Section 2.5, Grantee discovers Hazardous Materials, contaminated soil and/or water in, on or under the Property and it is required by either federal, state or local requirements to remove and dispose of said Hazardous Materials, contaminated soil and/or water, Grantor shall be solely responsible for the removal and disposal of any and all such Hazardous Materials, contaminated soil and/or water up to a maximum cost of two thousand (\$2,000.00) dollars.

(f) In the event Grantor fails to remove and dispose of said Hazardous Materials, contaminated soil and/or water on or before a date that is mutually agreed upon by both Grantor and Grantee, Grantee or its designee shall have the right to remove and dispose of said Hazardous Materials, contaminated soil and/or water at Grantee's cost and expense, however, Grantee is entitled to be reimbursed by Grantor of a maximum amount of two thousand (\$2,000.00) dollars within sixty (60) days after being invoiced by Grantee. In the event the Grantor's cost to remove and dispose of said Hazardous Materials, contaminated soil and/or water is proposed to exceed two thousand (\$2,000.00) dollars, Grantor shall inform Grantee in writing prior to Grantor expending funds related to said removal and disposal. Grantee or its designee shall then have the right to remove and dispose of said Hazardous Materials, contaminated soil and/or water at Grantee's cost and expense, however, the Grantee is entitled to be reimbursed by Grantor of a maximum amount of two thousand (\$2,000.00) dollars within sixty (60) days after being invoiced by Grantee.

(g) Grantor has and shall have paid before Close of Escrow any and all past due taxes, assessments, penalties and interest levied and assessed against the Property. If not paid prior to Close of Escrow, Grantor hereby authorizes Escrow Holder to disburse to the taxing authority from funds otherwise due to Grantors an amount sufficient to discharge said taxes, assessments, penalties and interest. Unless the Parcel is assessed separately, Grantor also covenants and agrees to keep current, year-by-year, all taxes, assessments, penalties and interest levied and assessed against the Parcel and the larger Property of which it is a part.

For the purpose of this Section, Hazardous Materials shall include, without limitation, substances defined as "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes," "extremely hazardous wastes," or "restricted hazardous wastes," or stated to be known to cause cancer or reproductive toxicity, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 9601, et seq; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, et seq; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, et seq; the Federal Water Pollution Control Act, 33 U.S.C. sections 1317, et seq; sections 25115, 25117, 25122.7, 25140, 25249.5, 25249.8, 25281, 25316 or 25501 of the California Health & Safety Code; or any substances so defined or stated in any of the regulations adopted and publications promulgated pursuant to said laws as they may be amended from time to time.

Each of the representations and warranties of Grantor in this Section 4 shall survive for a period of twelve (12) months after the Close of Escrow. Any claim which Grantee may have against Grantor for a breach of any such representation or warranty, whether such breach is known or

unknown, which is not specifically asserted by written notice to Grantor within such twelve (12) month period shall not be valid or effective, and Grantor shall have no liability with respect thereto.

5. REPRESENTATIONS AND WARRANTIES OF GRANTEE.

A. Grantee shall repair and restore any improvements or land (other than the Parcel and any improvements located thereon) belonging to Grantor that may be damaged by Grantee or Grantee's contractor during construction of the works of improvement for which the Parcel is conveyed, or, at Grantee's option, pay to Grantor the market value of such improvements, provided that this Section shall not be construed to require Grantee to pay for the use for which the Parcel is intended. Prior to entering the land to repair and/or restore any damage caused by Grantee or its designee during construction of the works of improvement Grantee shall provide Grantor of written notice, not less than forty-eight (48) hours before commencing such restoration or repair work. Grantee covenants that all restoration and repair work will be performed in a good workmanlike manner and performed in a manner that reasonably minimizes any interference with Grantor's operation of Property and operations of the Grantor's tenants, including without limitation, the reasonable minimization of dust and dirt affecting the Grantor's Property.

B. Grantee shall save harmless and indemnify Grantor against any and all claims, demands, suits, judgments, liens (including any mechanic's liens filed against the Property), damages, losses, expenses and costs relating to injury to, or death of, persons, or loss of, or damage to, the Property or the property of others, arising out of, incurred during or proximately caused by (i) any entry on the Property by Grantee, its agents, employees or contractors in the course of performing the inspections, testings or inquiries provided for in this Agreement, including, without limitation, any release of Hazardous Materials or any damage to the Property; provided that Grantee shall not be liable to Grantor solely as a result of the discovery by Grantee of a pre-existing condition on the Property to the extent the activities of Grantee, its agents, representatives, employees, contractors or consultants do not exacerbate the condition, and/or the (ii) acts or omissions of Grantee or Grantee's contractor in the performance of any work by Grantee or Grantee's contractor to construct the works of improvement for which the Parcel is conveyed. Notwithstanding anything to the contrary contained in this Agreement, the foregoing indemnity and other obligations in this Section 5 shall survive beyond the Close of Escrow, or, if the sale is not consummated, beyond the termination of this Agreement.

6. ACKNOWLEDGMENT OF FULL BENEFITS AND RELEASE.

A. By execution of this Agreement, Grantor, on behalf of itself and its heirs, executors, administrators, successors and assigns, hereby acknowledges that this Agreement provides full payment for the acquisition of the Parcel by Grantee, and Grantor hereby expressly and unconditionally waives any and all claims for damages, relocation assistance benefits, severance damages, interest, loss of goodwill, claims for inverse condemnation or unreasonable pre-condemnation conduct, or any other compensation or benefits, other than as already expressly provided for in this Agreement, it being understood that this is a complete and full settlement of all acquisition claims, liabilities, or benefits of any type or nature whatsoever relating to or in connection with Grantee's acquisition of the Parcel.

B. This Agreement arose out of Grantee's efforts to acquire the Parcel through its municipal authority. The Parties agree that this Agreement is a settlement of claims in order to avoid litigation and shall not in any manner be construed as an admission of the fair market value of the Parcel or of the Property or of liability by any Party to this Agreement. Grantor, on behalf of itself and its heirs, executors, administrators, successors and assigns, hereby fully release Grantee, its successors, agents, representatives, and assigns, and all other persons and associations, known or unknown, from all claims and causes of action by reason of any damage which has been sustained, or

may be sustained, as a result of Grantee's efforts to acquire the Parcel or to construct works of improvement thereon, or any preliminary steps thereto, except as set forth in Section 5 above. Grantor further releases and agrees to hold Grantee harmless from any and all claims brought by any tenant of Grantor relating to any purported interest of such tenant in the Parcel. This release shall survive the Close of Escrow.

7. REMEDIES

A. If Grantor defaults under this Agreement, then Grantee may, at Grantee's option, terminate the Escrow or initiate an action for specific performance of this Agreement, or pursue any other rights or remedies that Grantee may have at law or in equity. If Grantee defaults under this Agreement, then Grantor may, at Grantor's option, terminate the Escrow or pursue any rights or remedies that Grantor may have at law or in equity.

B. Grantee shall diligently proceed with its construction of the permanent improvements and in the event Grantee and Grantee's employees, representatives, agents and/or independent contractors, fails to complete its construction of the permanent improvements within seventy-five (75) calendar days of the commencement of work on the affected property, the Grantee shall pay Grantor Two Hundred Fifty Dollars (\$250), as liquidated damages, and not as a penalty, for each calendar day that Grantee continues work, unless however, additional time is needed for the removal and disposal of Hazardous Materials, contaminated soil and/or water. Grantee acknowledges and understands that it must complete the removal and disposal of Hazardous Materials, contaminated soil and/or water in a timely manner and on or before a date that is mutually agreed upon by both the Grantor and Grantee. Grantor and Grantee acknowledge, recognize and agree that any sums which would be payable pursuant to this Section 7B are in the nature of liquidated damages, and not a penalty, and are fair and reasonable and such payment represents a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from such failure. Unless Grantor otherwise directs, Grantee shall pay all liquidated damages due and owing to Grantor on the last business day of each week.

8. MISCELLANEOUS

A. Notice. Any notice to be given or other document or documents to be delivered to either Party by the other hereunder may be delivered in person or may be deposited in the United States Mail in the State of California, duly registered or certified, with postage prepaid, and addressed as follows:

Grantor: TMT SOUTH BAY BUSINESS PARK, INC
2807 Oregon Court
Torrance, California 90503
Attn: Kevin Apel

With a copy to : RREEF Property Management
1630 South Sunkist Street, Suite A
Anaheim, CA 92806
Attn: Russell D. Binggeli
Manager of Engineering Operations

Grantee: CITY OF TORRANCE
3031 Torrance Boulevard
Torrance, CA 90503
Attn: City Clerk

Any Party hereto may, from time to time, by written notice to the other Party, designate a different address, which shall be substituted for the one specified above. Any notice or other documents sent by registered or certified mail as aforesaid shall be deemed to have been effectively served or delivered at the expiration of twenty-four (24) hours following the deposit of said notice or other documents in the United States mail.

B. Time of Essence. Time is of the essence with respect to each and every provision hereof.

C. Assignment. Neither this Agreement, nor any interest herein, shall be assignable by any Party without prior written consent of the other Party.

D. Governing Law. All questions with respect to this Agreement, and the rights and liabilities of the Parties hereto, shall be governed by and construed in accordance with the laws of the State of California.

E. Inurement. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estates, heirs and legatees of each of the Parties hereto.

F. Attorneys' Fees. If any action, arbitration or other proceeding is brought for the interpretation or enforcement of this Agreement, or because of any alleged dispute, breach, default or misrepresentation in connection with the Agreement, the successful or prevailing Party shall be entitled to recover actual attorneys' fees and other costs it incurs in that action or proceeding, in addition to any other relief to which it may be entitled, including fees for any in-house counsel of the Parties.

G. Entire Agreement. This Agreement contains the entire Agreement of the Parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the Parties hereto, relating to the subject matter contained in this Agreement which are not fully expressed herein.

H. Additional Documents. The Parties hereto agree to execute any and all additional documents and instruments necessary to carry out the terms of this Agreement.

I. No Admissions. This Agreement is a compromise and settlement of outstanding claims between the Parties relating to Grantee's acquisition of the Parcel and shall never be treated as an admission by either Party to the Agreement for any purpose in any judicial, arbitration or administrative proceeding between the Parties. This paragraph shall not apply to any claim that one may have against the other for breach of any provision or covenant of this Agreement.

J. No Merger. All representations, warranties, acknowledgments, releases, covenants and obligations contained in this Agreement shall survive delivery and recordation of the Grant of Utility Easement Deed.

K. Ratification. This Agreement is subject to approval and ratification by the City Council of the City of Torrance.

L. Broker. Grantor and Grantee each represent and warrant to the other that no broker, agent or finder has been engaged by it in connection with the transaction contemplated by this Agreement and that all negotiations relative to these instructions and this transaction have been carried out by such Party directly with the other Party without the intervention of any person in such a

manner as to give rise to any valid claim against either of the Parties for a broker's commission, finder's fee or other like payment. Each of the Parties shall indemnify and defend the other Party and hold it harmless from any and all loss, damage, liability or expense, including costs and reasonable attorneys' fees, which the other Party may incur or sustain by reason of or in connection with any misrepresentation or breach of warranty by the indemnifying Party with respect to the foregoing.

M. Counterparts. This Agreement may be signed in counterpart or duplicate copies, and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.

N. Grantor's Knowledge. For purposes of this Agreement and any document delivered at the Close of Escrow, whenever the phrase "to the best of Grantor's knowledge" or the "knowledge" of Grantor or words of similar import are used, they shall be deemed to mean and are limited to the current actual knowledge only of Kevin Apel, at the times indicated only, and not any implied, imputed or constructive knowledge of such individual(s) or of Grantor, and without any independent investigation or inquiry having been made or any implied duty to investigate or make any inquiries. Furthermore, it is understood and agreed that such individual(s) shall have no personal liability in any manner whatsoever hereunder or otherwise related to the transactions contemplated hereby.

[Signature page follows]

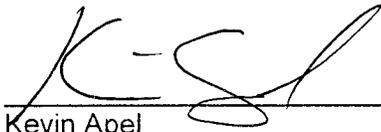
EXECUTED on the date or dates set forth below. This Agreement shall be effective as of the date signed by all parties.

CITY OF TORRANCE,
A Municipal Corporation

TMT South Bay Business Park, Inc.,
A Delaware Corporation

By: RREEF Management Company,
A Delaware Corporation

Frank Scotto, Mayor

By: 

Kevin Apel
Vice President, District Manager

ATTEST:

DATED: 3/5/09

Sue Herbers, City Clerk

DATED: _____

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

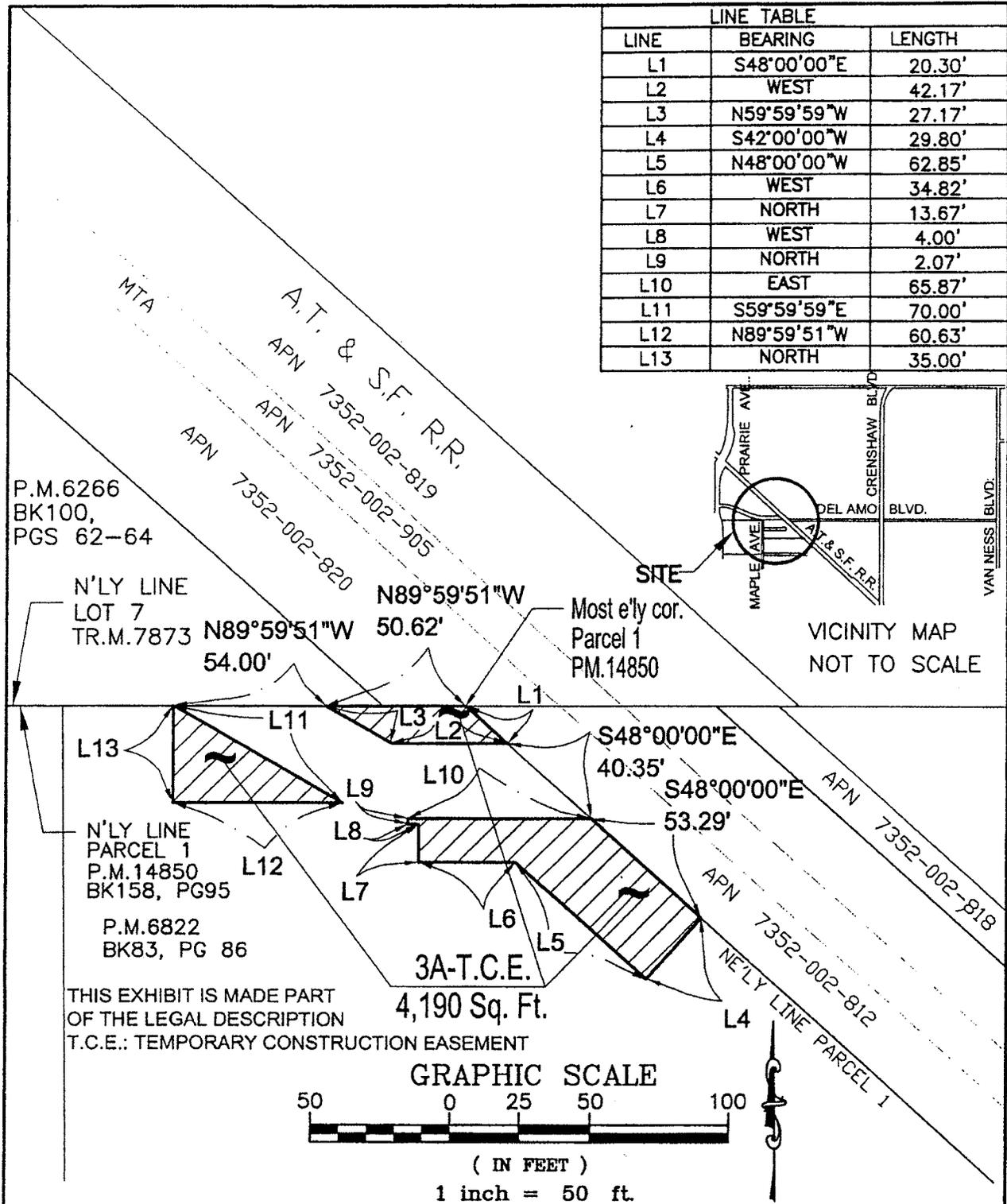
By: _____
(name)
Deputy City Attorney

DATED: _____

Exhibit "A"
Temporary Construction Easement

(see attached)

Exhibit "A" - Temporary Construction Easement



DEL AMO BOULEVARD EXTENSION CITY OF TORRANCE		OWNER NAME : TMT SOUTH BAY BUSINESS PARK APN 7352-009-027	DATE: 03-29-06
Paragon Partners Ltd. 5762 Bolsa Avenue, Ste. 201 Huntington Beach, CA 92649		CITY OF TORRANCE POR. PCL 1, P.M. 14850, BK 158, PG 95	SCALE: AS SHOWN
CHECKED _____ DATE _____		POR. LOT 7, TR. M. 7873, BK 109, PGS 99&100	DRAWN BY: MAT
		COUNTY OF LOS ANGELES	REV. DATE 8/23/06 REV. No 3

Exhibit "B"
Permanent Utility Easement

(see attached)

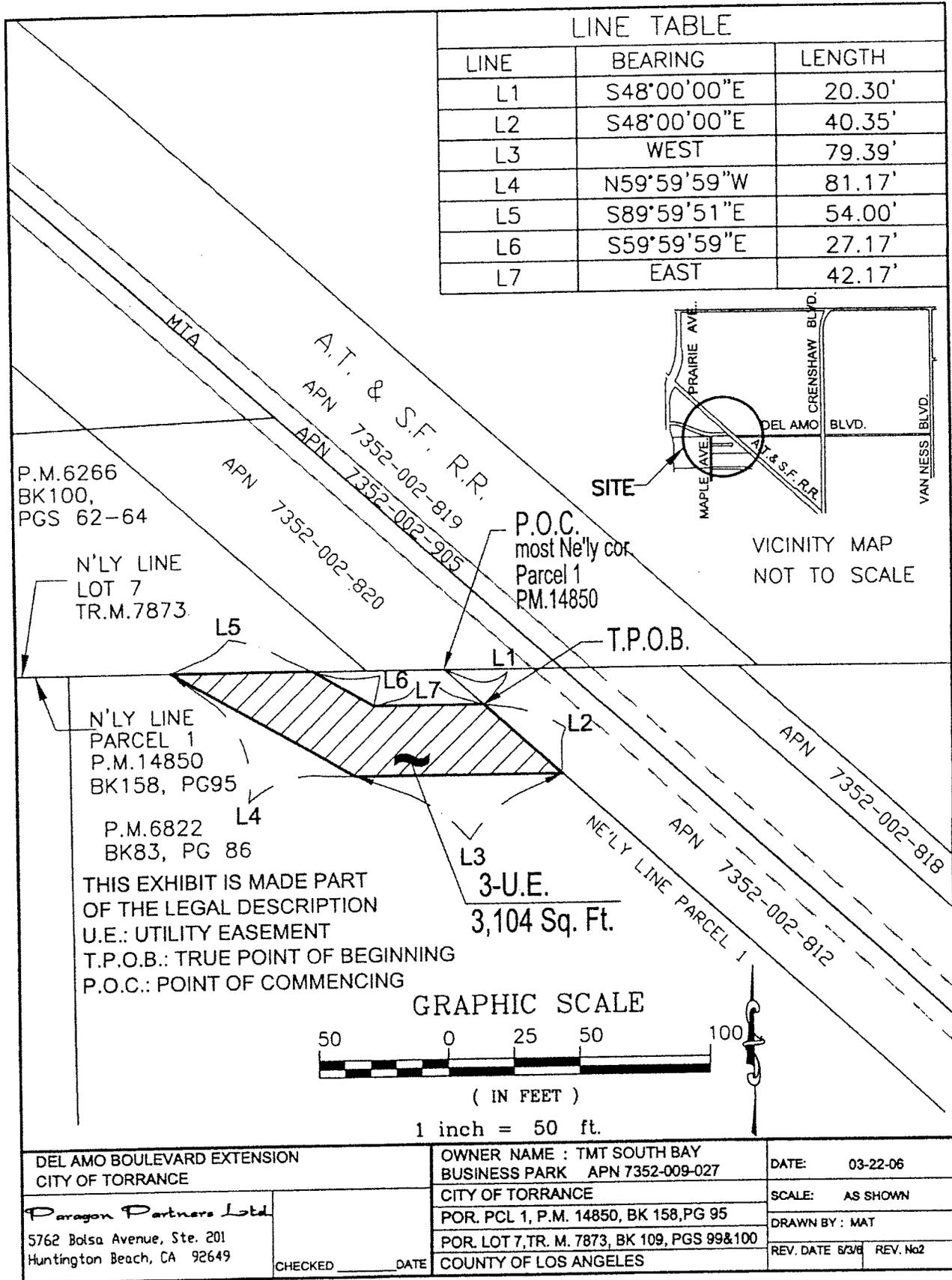
UTILITY EASEMENT

THAT PORTION OF PARCEL 1 IN THE CITY OF TORRANCE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON PARCEL MAP No. 14850 AS FILED IN BOOK 158, PAGES 94 AND 95 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENICING AT THE NORTHEASTERLY CORNER OF SAID PARCEL 1; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 48°00'00" EAST, 20.30 FEET TO THE TRUE POINT OF BEGINNING, SAID LAST MENTIONED LINE ALSO BEING THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY, 60 FEET WIDE, OF THE SANTA FE AND LOS ANGELES HARBOR RAILWAY COMPANY AS DESCRIBED IN PARCEL 1 OF DEED DATED JUNE 14, 1922, RECORDED JULY 1, 1922 IN BOOK 1261, PAGE 48, OFFICIAL RECORDS OF SAID COUNTY; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE SOUTH 48°00'00" EAST, 40.35 FEET; THENCE WEST 79.39 FEET; THENCE NORTH 59°59'59" WEST 81.17 FEET TO THE NORTHERLY LINE OF SAID FIRST MENTIONED PARCEL 1, SAID NORTHERLY LINE ALSO BEING THE NORTHERLY LINE OF LOT 7, AS SHOWN ON TRACT MAP No. 7873, RECORDED IN BOOK 109, PAGES 99 AND 100 OF MAPS IN THE OFFICE OF SAID COUNTY RECORDER ; THENCE ALONG SAID NORTHERLY LINE SOUTH 89°59'51" EAST, 54.00 FEET; THENCE SOUTH 59°59'59" EAST , 27.17 FEET; THENCE EAST TO SAID NORTHEASTERLY LINE OF PARCEL 1, A DISTANCE OF 42.17 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 3,104 SQUARE FEET OR 0.071 ACRES MORE OR LESS.

EXHIBIT "B"



LINE TABLE		
LINE	BEARING	LENGTH
L1	S48°00'00"E	20.30'
L2	S48°00'00"E	40.35'
L3	WEST	79.39'
L4	N59°59'59"W	81.17'
L5	S89°59'51"E	54.00'
L6	S59°59'59"E	27.17'
L7	EAST	42.17'

P.M.6266
BK100,
PGS 62-64

N'LY LINE
LOT 7
TR.M.7873

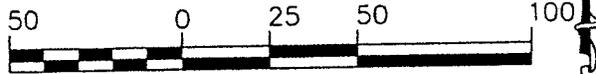
N'LY LINE
PARCEL 1
P.M.14850
BK158, PG95

P.M.6822
BK83, PG 86

THIS EXHIBIT IS MADE PART
OF THE LEGAL DESCRIPTION
U.E.: UTILITY EASEMENT
T.P.O.B.: TRUE POINT OF BEGINNING
P.O.C.: POINT OF COMMENCING

3-U.E.
3,104 Sq. Ft.

GRAPHIC SCALE



(IN FEET)

1 inch = 50 ft.

DEL AMO BOULEVARD EXTENSION
CITY OF TORRANCE

Paragon Partners Ltd.
5762 Bolsa Avenue, Ste. 201
Huntington Beach, CA 92649

CHECKED _____ DATE _____

OWNER NAME : TMT SOUTH BAY
BUSINESS PARK APN 7352-009-027
CITY OF TORRANCE
POR. PCL 1, P.M. 14850, BK 158, PG 95
POR. LOT 7, TR. M. 7873, BK 109, PGS 99&100
COUNTY OF LOS ANGELES

DATE: 03-22-06
SCALE: AS SHOWN
DRAWN BY: MAT
REV. DATE 6/3/06 REV. No2

Exhibit "C"
Form of Grant of Utility Easement Deed

(see attached)

A.P. NO. 7352-009-027

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

GRANT OF UTILITY EASEMENT DEED

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, **TMT SOUTH BAY BUSINESS PARK, INC.**, a Delaware corporation ("**Grantor**"), hereby GRANTS to the **CITY OF TORRANCE**, a municipal corporation ("**Grantee**"), a non-exclusive permanent utility easement (the "**Utility Easement**") on and over a portion of that certain real property ("**Property**") located in the City of Torrance, County of Los Angeles, State of California on the terms and conditions contained in this Agreement and that certain Agreement for Conveyance of Property, dated as of February __, 2009, executed by and between Grantor and Grantee (the "**Agreement**"). The location of the Utility Easement is more particularly described and shown as the shaded area in **Exhibit "A"** attached hereto and incorporated herein (the "**Easement Area**").

The Utility Easement shall be used by Grantee for the purposes of establishing, using and maintaining two separate subsurface water pipelines through the Easement Area. Grantor also hereby grants to Grantee (and its successors in title) the non-exclusive right to access the Easement Area for the purpose of use, installation, repair, maintenance and replacement of such pipelines.

By accepting this Utility Easement, Grantee agrees that all construction, repair and restoration work performed by Grantee in the Easement Area will be performed in a good workmanlike manner and performed in a manner that reasonably minimizes any interference with Grantor's operation of the Property and the operations of Grantor's tenants, including, without limitation, the reasonable minimization of dust and dirt affecting the Property.

This Grant of Utility Easement Deed and the Agreement, the terms of which are incorporated by reference herein, are binding upon Grantor's successors and assigns

[Signature page follows]

DATED: _____

TMT SOUTH BAY BUSINESS PARK, INC.,
a Delaware corporation

By: RREEF Management Company,
A Delaware corporation

By: _____
Kevin Apel
District Manager

EXHIBIT A

Legal Description and Map of Utility Easement

(See attached)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant of Utility Easement Deed from **TMT SOUTH BAY BUSINESS PARK, INC.**, a Delaware corporation, to the **CITY OF TORRANCE**, a municipal corporation, is hereby accepted by the undersigned on behalf of the **CITY OF TORRANCE** pursuant to authority conferred by a resolution of the **CITY OF TORRANCE**, and the grantee hereby consents to the recordation of this Grant of Utility Easement Deed by its duly authorized officer.

Dated this ____ day of _____, 2009.

By: _____
Name: _____
Title: _____

Exhibit "D"
Form of Temporary Construction Easement

(see attached)

A.P. NO. 7352-009-027

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

TEMPORARY CONSTRUCTION EASEMENT

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, **TMT SOUTH BAY BUSINESS PARK, INC.**, a Delaware corporation ("**Grantor**"), hereby GRANTS to the **CITY OF TORRANCE**, a municipal corporation ("**Grantee**"), a non-exclusive temporary construction easement (the "**Construction Easement**") on and over a portion of that certain real property ("**Property**") located in the City of Torrance, County of Los Angeles, State of California. The location of the Construction Easement is more particularly shown as the shaded area in **Exhibit "A"** attached hereto and incorporated herein (the "**Easement Area**").

The Construction Easement shall be for the use of Grantee in connection with the construction and installation of two subsurface water pipelines within the portion of the Property covered by the non-exclusive permanent utility easement concurrently being granted by Grantor to Grantee, including without limitation, storing of materials and equipment, provided that no equipment shall remain on the Easement Area overnight unless it is contained within a protected work area that is equipped with traffic control devices. Grantor also hereby grants to Grantee the right to remove and/or replace pavement and soil within the Easement Area and the right to use the Construction Easement for ingress and egress in connection with such construction and installation.

Grantee shall provide Grantor with not less than thirty (30) days prior notice before initial entry onto the Easement Area (such date of initial entry, the "**Commencement Date**"). The Construction Easement shall commence on the Commencement Date and shall terminate seventy-five (75) days thereafter, unless (i) additional time is needed for the removal and disposal of Hazardous Materials (as defined in the Agreement), contaminated soil and/or water in accordance with the provisions in this Temporary Construction Easement and/or (ii) extended by mutual agreement of Grantor and Grantee.

By accepting this Construction Easement, Grantee agrees that all construction, repair and restoration work performed by Grantee in the Easement Area will be performed in a good workmanlike manner and performed in a manner that reasonably minimizes any interference

with Grantor's operation of the Property and the operations of Grantor's tenants, including, without limitation, the reasonable minimization of dust and dirt affecting the Property.

This Temporary Construction Easement and all of the provisions the Agreement, the terms of which are incorporated by reference herein, are binding upon Grantor's successors and assigns.

[Signature page follows]

DATED: _____

TMT SOUTH BAY BUSINESS PARK, INC.,
a Delaware corporation

By: RREEF Management Company,
A Delaware corporation

By: _____
Kevin Apel
District Manager

Exhibit "A"

MAP OF THE CONSTRUCTION EASEMENT

(See attached)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Temporary Construction Easement from **TMT SOUTH BAY BUSINESS PARK, INC.**, a Delaware corporation, to the **CITY OF TORRANCE**, a municipal corporation, is hereby accepted by the undersigned on behalf of the **CITY OF TORRANCE** pursuant to authority conferred by a resolution of the **CITY OF TORRANCE**, to and the grantee hereby consents to the recordation of this Temporary Construction Easement by its duly authorized officer.

Dated this ____ day of _____, 2009.

By: _____
Name: _____
Title: _____