Council Meeting of
September 21, 2010

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

Members of the Council

SUBJECT: Community Development – Approve License Agreement with Phenomenex, Inc., for installation of a private underground communication conduit

RECOMMENDATION

Recommendation of the Community Development Director that City Council approve a License Agreement with Phenomenex, Inc., for installation of an underground communication conduit located in Madrid Avenue and 208th Street.

FUNDING

No funding required.

BACKGROUND AND ANALYSIS

Phenomenex, Inc. requests approval to install a private underground communication conduit between its facilities at 411 and 570 Madrid Avenue. The purpose is to integrate the telephone system they currently use to allow communication between their buildings through one telephone unit. To do this, it is necessary that a three (3) inch conduit, containing private communication lines, be installed beneath Madrid Avenue and 208th Street.

The three (3) inch conduit will have a length of approximately 1100 feet within the public right-of-way. Exhibit "A" (see attached License Agreement), shows the location of the proposed conduit. Also attached is a letter from Phenomenex, Inc. explaining the need for the proposed and the necessity for the conduit to be located in the street area.

The conduit will be installed and inspected under a Construction and Excavation Permit to be issued for this work.

A copy of the License Agreement with Phenomenex, Inc. is attached. The agreement requires a $30,000 bond, a $612 license fee, and $1,000,000 liability insurance. This is a standard License Agreement. It exempts the City from financial or legal encumbrances associated with the construction and operation of the communication conduit.

Respectfully submitted,

JEFFERY W. GIBSON
Community Development Director

By: _____
for FELIPE SEGOVIA
Building Regulations Administrator

CONCUR:

_____
JEFFERY W. GIBSON
Community Development Director

_____
LeROY J. JACKSON
City Manager

Attachments: A. Phenomenex, Inc. letter
B. License Agreement with Exhibit "A"

IGM/cks2320

ATTACHMENT A

phenomenex®
...breaking with tradition℠

411 Madrid Avenue
Torrance, CA
90501-1430
USA
Tel: 310-212-0555
Fax: 310-328-7768
Email: info@phenomenex.com
www.phenomenex.com

17 August 2010

Mr. Issa G. Malki, P.E.
City of Torrance
3031 Torrance Blvd.
Torrance, CA 90509-2970

RE: NEW Underground Communication Lines for Phenomenex

Dear Mr. Malki:

As you may know, we have been doing business in the Torrance Technology Center since 1989 and currently occupy seven buildings in the center. Due to rapid growth in our business, we have leased another 14,000 sq. ft. building located at 570 Madrid Avenue, one block away south of the Torrance Technology Center.

To accommodate our business growth, we would like to install a fiber optic underground communication cable to keep up the bandwidth (speed) of the data communication between our main building, located at 411 Madrid Ave, and the new building, located at 570 Madrid Avenue.

This letter is our formal request to begin the application process and obtain the permit by a general licence contractor to install the fiber optic cables between the buildings.

Thank you for your assistance. Should you require additional information, please contact Juan Martinez or Panha Chham, at 310-212-0555.

Sincerely,

Fasha Mahjoor
President

RECEIVED
AUG 30 2010
CITY OF TORRANCE
COMMUNITY DEVELOPMENT DEPT.

Cc: Mehdi Razzaghi, Engineering & Facilities Manager
Juan Martinez, Information Technology Manager
Panha Chham, Network Administrator

Australia ●
Austria ●
Belgium ●
Canada ●
Denmark ●
Finland ●
France ●
Germany ●
Ireland ●
Italy ●
Luxembourg ●
Mexico ●
Netherlands ●
New Zealand ●
Norway ●
Puerto Rico ●
United Kingdom ●
USA ●

LICENSE AGREEMENT – PRIVATE LINES

THIS LICENSE AGREEMENT, made and entered into this day of , 2010, in the City of Torrance, by and between the **CITY OF TORRANCE,** a municipal corporation, hereinafter called the "City" and **PHENOMENEX, INC.,** a California Corporation, hereinafter called "Grantee."

WHEREAS, Grantee desires to install a private conduit in a City street easement at locations shown on the attached map (Exhibit "A"); and

WHEREAS, said conduit is to be used for the installation of private communication lines beneath Madrid Avenue and 208th Street in the City of Torrance; and

WHEREAS, the location and general description of the conduit is satisfactory to the Community Development Director.

NOW, THEREFORE, the parties hereto agree that Phenomenex, Inc. shall be granted a license for installation and maintenance of a conduit, under terms and conditions set forth below:

ARTICLE 1
NATURE OF LICENSE

A. Proposed Conduit

There is hereby granted to Phenomenex, Inc., a California corporation, hereinafter referred to as "Grantee," for a term of ten (10) years from and after the effective date of this Agreement, subject however to all the limitations and restrictions herein contained, the right and privilege to construct, erect, maintain, operate, repair, renew, remove, and abandon conduit in, under, along, and across the public streets, highways, and alleys (hereinafter collectively referred to as "streets") in the City of Torrance as described and shown on Exhibit A, attached hereto and made a part hereof. If at any time during the Agreement the Grantee no longer has ownership or lease rights to either parcel, said Agreement shall be terminated.

B. Appurtenances

The Grantee shall have the right to operate, maintain, repair or replace such fiber optic cable, conduit, and other appurtenances (hereinafter for convenience collectively referred to as "appurtenances") as may be necessary or convenient for the proper maintenance and operation of the fiber optic system under this License. Said appurtenances shall be kept flush with the surface of the streets and so located as to conform to any order of the Community Development Director in regard thereto and not to interfere with the use of the street for travel. The Grantee shall have the right, subject to such ordinance, rules, or regulations as are now or may hereafter be in force, to make all necessary excavations in said streets for the construction and repair of said conduit and appurtenances.

ARTICLE 2
MAINTENANCE OF CONDUIT

A. Hindrance to Traffic

So far as is practicable, said conduit hereinafter laid, shall be located between 411 Madrid Avenue and 570 Madrid Avenue to the satisfaction of the Community Development Director so as not unreasonably to disturb the flow of traffic. The work of maintaining the said conduit shall be conducted with the least possible hindrance to the use of the streets for purposes of travel.

B. Inspection Fees

The Grantee shall pay any and all permit and inspection fees of the City.

C. Drawings and Maps

Within ninety (90) days following the date by which any facility has been constructed under the agreement, the Grantee shall file as-built drawings and maps, in such form as may be required by the Community Development Director, showing accurately the location and size of all of its facilities, or upon removal, change or abandonment of all or any portion thereof, file revised as-built drawings and maps showing the location of all such additional, removed or abandoned facilities as of that date.

As-built drawing and map format shall be determined by the Community Development Director and may, in the future, include microfilm, computer disc and optical laser disc. Grantee is to submit all date in the format requested by the Community Development Director or pay all costs to have information converted to that format. Maps of all facilities in the City shall be submitted annually no later than January 20th of the subsequent year.

D. New Installation or Replacement

New installation or replacement of conduit and appurtenances and all other facilities necessary for the installation, operation, and maintenance shall be laid and maintained only pursuant to permit issued by the Community Development Director. All such installations shall be reviewed by the Community Development Director as to the most desirable location between 411 Madrid Avenue and 570 Madrid Avenue and his decision shall be final and binding on the Grantee.

E. Completion Statement

Upon completion of the construction of any conduit or appurtenances constructed pursuant to said License, the Grantee shall submit a statement identifying the permit or permits issued by the Department, the total length of conduit, the construction of which was authorized under such permit or permits, and the total length of conduit or appurtenance actually laid.

ARTICLE 3
CONFORMANCE REQUIREMENTS; RECORDS AND PERIODIC REPORTS

A. Conformance with City Ordinances and Permits

The conduit and appurtenances shall be constructed, operated, maintained, replaced or repaired in conformity with all ordinances, rules or regulations in effect at the time of granting of this License, or as prescribed by the City Council, and in accordance with the terms and conditions of any permit issued by the Community Development Director.

B. Records and Periodic Reports

At all reasonable times, Grantee shall permit the City, at the request of the Community Development Director, to examine all property of Grantee erected, constructed, laid, operated or maintained pursuant to the License, together with any appurtenant property of Grantee, and to examine and transcribe any and all books, accounts, papers, maps, and other records kept or maintained by Grantee or under its control, with regard to safety issues associated with the License.

Grantee during the life of the License, within twenty (20) days upon request of the Community Development Director, shall file two copies of a report verified by the oath of a duly authorized representative of Grantee showing for the immediately preceding License period the length of conduit in street and the diameter of such conduit.

ARTICLE 4
STREET EXCAVATION RULES

A. Permit Required

Except in an emergency, the Grantee shall not excavate in a City street right-of-way without having first applied for and obtained a Construction and Excavation Permit from the Community Development Director. Such application may include a traffic control plan and other information as required by the Community Development Director. For the purpose of this Article, "City Street" shall mean any public street, alley, way, or any property owned by the City. The Grantee shall pay any fees (including inspection and mapping) required by such permit.

B. Duty to Repair Streets

As soon as any conduit work is completed, all portions of the street excavated or otherwise damaged thereby shall be placed in as good condition as they were before the commencement of such work, to the satisfaction of the Community Development Director. All street repair work shall be made by the Grantee at the expense of the Grantee in accordance with the ordinances of the City and the conditions of the Construction and Excavation Permit issued therefor by the Community Development Director.

ARTICLE 5
DAMAGE TO PUBLIC PROPERTY

If any portion of any street shall be damaged by reason or any conduit operated or maintained under this License, the Grantee shall, at its own expense, immediately repair or cause to be repaired any such damage and put such street, sidewalk, sewer, storm drain or other facility in as good condition as it was before such break, to the satisfaction of the Community Development Director. Such cleanups shall be accomplished in a timely manner, with as little public disruption as possible.

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

If the Grantee, within ten (10) days after receipt of written notice from the City, instructing it to repair any damage, shall fail to commence to comply with such instructions, or, thereafter, shall fail diligently to prosecute such work to completion, then the City immediately may do whatever work is necessary to carry out said instructions at the cost and expense of the Grantee, which cost and expense, by the acceptance of the License, the Grantee agrees to pay upon demand. If such damage constitutes an immediate danger to the public health or safety requiring the immediate repair thereof, the City without notice may repair such damage and the Grantee agrees to pay the reasonable cost thereof upon demand.

Grantee shall be responsible to reimburse the City for all costs associated with City services provided during such break. The reimbursement shall include the current rate of overhead being charged by the City for reimbursable work. Reimbursable work shall include, but not be limited to, inspection, traffic control, police, fire, street, environmental, and other City response forces.

ARTICLE 6
COMPENSATION TO THE CITY

As consideration for the License granted herewith, the Grantee herewith, the Grantee shall pay to the City the following fees:

A. License Fee

Prior to the effective date of this License, Grantee shall pay to the City a License Fee of $612.00, a one-time payment for ten (10) years.

B. License Bond

This Agreement is granted on the condition that the Grantee has now and shall at all times during the life of this Agreement keep on file with the City a bond or other instrument of equal value running to the City in the sum of Thirty Thousand Dollars ($30,000) executed by a reputable indemnity company entitled to do business in the State of California. The

provisions of this paragraph shall not exempt the Grantee from compliance with any of the laws of the City in force during the term hereof, which require the Grantee to post a Bond other than the bond required by this paragraph.

C. Place of Payment

License fee shall be paid, without deduction or offset except as herein provided, to the Office of the Director of Finance of the City at 3031 Torrance Boulevard, Torrance, CA 90503, or at such place as the City shall from time to time designate in writing.

ARTICLE 7
REARRANGEMENT OF FACILITIES

A. Expense of Grantee

Whenever, during the existence of this License, the City shall change the grade, width or location of any street or improve any street in any manner, including the laying of any sewer, storm drain, pipes, gas, water, electric or other utility system, or other conduits owned or operated by the City or any other public agency, 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 shall, in the opinion of the Community Development Director, render necessary any change in the position or location of any facilities of the Grantee in the street, the Grantee shall, at its own cost and expense, do any and all things to effect such change in position or location, in conformity with the written notice of the Community Development Director as provided in Paragraph D below; provided, however, that the City shall not require the Grantee to remove its conduits or appurtenances entirely from the street.

If the Grantee, after reasonable notice, fails or refuses to relocate permanently or temporarily its facilities located in, on, upon, along, under, over, across or above any highway or to pave, surface, grade, repave, resurface or regrade as required, pursuant to any provision of the License, the City or other public entity may cause the work to be done and shall keep an itemized account of the entire cost thereof, and the Grantee shall hold harmless the City, its officers and employees from any liability which may arise or be claimed to arise from the moving, cutting, or alteration of any of the Grantee's facilities, or the turning on or off of water, oil, or other liquid, gas, or electricity. The Grantee agrees to, and shall, reimburse the City or other public entity for such cost within thirty (30) days after presentation to said Grantee of an itemized account of such costs.

B. Expense of Others

Except as provided in Paragraph A of this Article 7, when rearrangement of facilities is done for the accommodation of any person, firm or corporation other than City or any other public agency, the cost of such rearrangement shall be borne by the accommodated party. Such accommodated party, in advance of such rearrangement, shall (a) deposit with the Grantee either cash or a corporate surety bond in an amount, as in the reasonable discretion

of the Grantee shall be required to pay the costs of such rearrangement; and (b) shall execute the instrument agreeing to indemnify and hold harmless the grantee from any and all damages or claims caused by such rearrangement.

C. Rearrangement of the Facilities of Others

Nothing contained in this License shall be construed to require the City to move, alter or relocate any of its facilities upon said street, at its own expense, for the convenience, accommodation or necessity of any other public utility, person, firm or corporation; or 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 said streets for the convenience, accommodation or necessity of the Grantee.

D. Notice

The Grantee shall be given not less than sixty (60) days written notice of any rearrangement of facilities which the Grantee is required to make hereunder. Such notice shall specify in reasonable detail the work to be done by the Grantee and shall specify the time that such work is to be accomplished. In the event that the City shall change the provisions of any such notice given to the Grantee, the Grantee shall be given an additional period not less than sixty (60) days to accomplish such work. In case the Grantee shall fail to commence work in compliance with such written notice within thirty (30) days after service of same upon the Grantee (unless the Grantee shall be unable to comply with such notice by reason of strikes, riots, acts of God, or act of public enemies), the Community Development Director may cause the work required in said notice to be done by the City or at the election of the City, by a private contractor.

ARTICLE 8
SUSPENSION OF OPERATIONS

If, for any reason, Grantee suspends use of the conduit governed by this License for a period in excess of ninety (90) days, it shall notify the Community Development Director. During this period of suspended operations, the Grantee shall maintain its normal conduit surveillance and all appurtenances to insure conduit integrity. This shall continue until such a time as the line is returned to service or abandoned according to Article 9 herein.

ARTICLE 9
REMOVAL OR ABANDONMENT OF FACILITIES

A. Application to Community Development Director

At the expiration, revocation, or termination of this License or of the permanent discontinuance of the use of its facilities or any portion thereof, the Grantee shall, within thirty (30) days thereafter, make a written application to the Community Development Director for authority either (a) to abandon all or a portion of such facilities in place; or (b) to remove all or a portion of such facilities. Such application shall describe the facilities desired to be

abandoned or removed by reference to the map or maps required by Article 2 of this License and shall also describe with reasonable accuracy the relative physical condition of such facilities.

At the time of abandonment or removal, the Grantee shall offer ownership of the conduit within the public right-of-way to the City. The City shall accept or reject the offer to acquire within sixty (60) days of the offer.

B. Determination of Community Development Director

The Community Development Director shall determine whether such abandonment or removal which is thereby proposed may be affected without detriment to the public interest or under what conditions such proposed abandonment or removal may be safety affected. He shall then notify the Grantee, and according to such requirements as shall be specified in the Community Development Director's order, the Grantee shall, within ninety (90) days thereafter, either:

1. Remove all or a potion of such facilities; or

2. Abandon in place all or a portion of facilities, as set forth in the Community Development Director's order.

C. Failure to Properly Abandon

If any facilities to be abandoned in place subject to prescribed conditions shall not be abandoned in accordance with all such conditions, then the Community Development Director may make additional appropriate orders, including, if he deems desirable, an order that the Grantee shall remove all such facilities in accordance with applicable requirements. In the event the Grantee shall fail to remove any facilities which it is obligated to remove in accordance with such applicable requirements within such time as may be prescribed by the Community Development Director, then the City may remove or cause to be removed such facilities at the Grantee's expense and the Grantee shall pay to the City the actual cost thereof plus the current rate of overhead being charged by the City for reimbursable work.

D. Abandonment at Future Time

Should any conduit or portions thereof under this License be abandoned, whether or not payments therefore have terminated, and said conduit or portions thereof interfere at a future time with any public works project, Grantee shall, upon request of Community Development Director, remove said conduit or portions thereof at Grantee's expense.

ARTICLE 10
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 however the same may be caused and regardless of the responsibility for negligence. 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. It is further agreed, Grantee's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the party of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between GRANTEE and CITY, as to whether liability arises from the sole 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 solely negligent. GRANTEE will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees, and costs of litigation.

ARTICLE 11
INSURANCE REQUIREMENTS

A. Type and Amount

Within five (5) days after the effective date of this License, the Grantee shall furnish to the City Clerk evidence of insurance applicable to all operations conducted under this License and including the liability arising out of the existence of real property, in the following forms and amounts:

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

    c) Combined single limits of $1,000,000 per occurrence.

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 $1,000,000 per occurrence.

3. 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 automobile and general liability policies.

C. Grantee must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance at the request of the City Clerk.

D. Each insurance policy required by this paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty (30) days notice to the City.

E. Insurance required by this Agreement 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 the City of Torrance within ten (10) days of receipt of notice from the Risk Manager.

F. Increase in Requirements

Such insurance shall be maintained by the Grantee for the life of this License, and each year on the anniversary of this License, Grantee will provide updated evidence that such insurance is in force. The City has the right during the terms of this License to amend the insurance requirements to increase the amount and scope of coverage. The City covenants that it will not exercise such right in an unreasonable manner.

ARTICLE 12
DEFAULT

A. Non-Curable Default

In the event the Grantee shall default in the performance of any of the terms, covenants or conditions herein and such default is not curable, the City may declare this License forfeited. Upon giving written notice thereof to the Grantee, this License shall be void and the rights of the Grantee hereunder shall cease and terminate, and the Grantee shall execute an instrument of surrender and deliver the same to the City.

B. Curable Default

In the event the Grantee shall default in the performance of any of the terms, covenants and conditions herein and such default is curable, the City may give written notice

to the Grantee of such default. In the Grantee does not, within the noticed period, begin the work of compliance or after such beginning does not prosecute the work with due diligence to completion, the City may hold a hearing at which the Grantee shall have the right to appear and be heard, and thereupon the City may determine whether such conditions are material and essential to the License and whether the Grantee is in default with respect thereto and may declare the License suspended or forfeited. Notice of said hearing shall be given to the Grantee not less than five (5) days prior to said hearing.

C. Force Majeure

In the event Grantee is unable to perform any of the terms of this License by reason Of strikes, riots, acts of God, acts of public enemies, or other such cause beyond its control, it shall be deemed to be in default or have forfeited its rights hereunder unless it shall commence and prosecute such performance with reasonable promptness as soon as it is possible to do so.

D. Cumulative Remedies

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

ARTICLE 13
SCOPE OF RESERVATION

The enumeration herein of specific rights reserved shall not be construed as exclusive or as limiting any general reservation herein made or as limiting such rights as the City may now or hereafter have in law.

ARTICLE 14
NOTICE

Any notice required to be given under the terms of this License, the manner of services of which is not specifically provided for, may be served as follows:

1. Upon the City, by serving City Clerk personally, or by addressing a written notice to the City Clerk of the City of Torrance, City Hall, 3031 Torrance Boulevard, Torrance, California 90503, and depositing such notice in the United States mail, postage prepaid; or

2. By addressing a written notice to Phenomenex, Inc., 411 Madrid Avenue, Torrance, California 90501, and depositing such notice in the United States Mail postage prepaid.

Notice may also be provided to such other address as may from time to time be furnished in writing by one party to the other, by depositing said notice in the United States mail, postage prepaid.

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

ARTICLE 15
SUCCESSORS

The terms herein shall inure to the benefit of or shall bind, as the case may be, the successors and assigns of the parties hereto.

ARTICLE 16
ACCEPTANCE OF LICENSE

This License is granted and shall be held and enjoyed only upon the terms and conditions herein contained, and the Grantee must, within thirty (30) days after the passage of granting said License, file with the City Clerk of the City of Torrance a written acceptance of such terms and conditions.

ARTICLE 17
SCOPE OF RESERVATION

Nothing herein contained shall ever be construed so as to exempt the Grantee from compliance with all ordinances of the City now in effect or which may be hereafter adopted which are not inconsistent with the terms of this License. The enumeration herein of specific rights reserved shall not be construed as exclusive, or as limiting the general reservation herein made or as limiting such rights as the City may now or hereafter have in law or equity.

ARTICLE 18
ASSIGNMENT

The Grantee shall not sell, transfer, assign or lease the License or any part thereof, except with the consent of the City Council. Such sale, transfer, assignment or lease shall be made only by filing with the City Council a copy of the duly executed instrument of such sale, transfer, assignment or lease and a written request for the consent of the City Council to such sale, transfer, assignment or lease. If such duly executed instrument and such written request is not filed with the City Council before the expiration of sixty (60) days after the effective date of such sale, transfer, assignment or lease, then, upon the expiration of said sixty (60) days, the License shall be subject to forfeiture and the City Council may, without notice, by ordinance, repeal the License. As a condition to the granting of consent to such sale, transfer, assignment or lease, the City Council may impose such additional terms and conditions upon the License and upon the Grantee or assignee, which the City Council may deem to be in the public interest. Nothing herein contained shall be construed to grant to the Grantee the right to sell, transfer, assign or lease the License, or any part thereof, except in the manner aforesaid. This section applies to any assignment, whether by operation of law, by a voluntary act of the Grantee, or otherwise.

ARTICLE 19
SEVERABILITY

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

ARTICLE 20
APPROVALS

Whenever, in this License Agreement, the consent of any party is called for, such consent shall not be unreasonably withheld.

ARTICLE 21
SPECIAL PROVISIONS

This Agreement is granted on the condition that the Grantee shall at all times during the duration of this License be a member of the Underground Service Alert (USA).

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement on the date and year first above written.

CITY OF TORRANCE, a Municipal Corporation

_____
Frank Scotto, Mayor

PHENOMENEX, INC., a California Corporation

_____
Fasha Mahjoor, President

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By:_____
Patrick Q. Sullivan
Assistant City Attorney

IGM/cks2318
12

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Los Angeles

On Sept 8, 2010 before me, Larcenia L Freeman, Notary Public,
(Here insert name and title of the officer)

personally appeared Fasha Mahjoor,

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.

Larcenia L Freeman
Signature of Notary Public

(Notary Seal)

LARCENIA L. FREEMAN
Commission # 1801587
Notary Public - California
Los Angeles County
My Comm. Expires Jul 10, 2012

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

License Agreement - Private Lines
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 12 Document Date N/A

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer

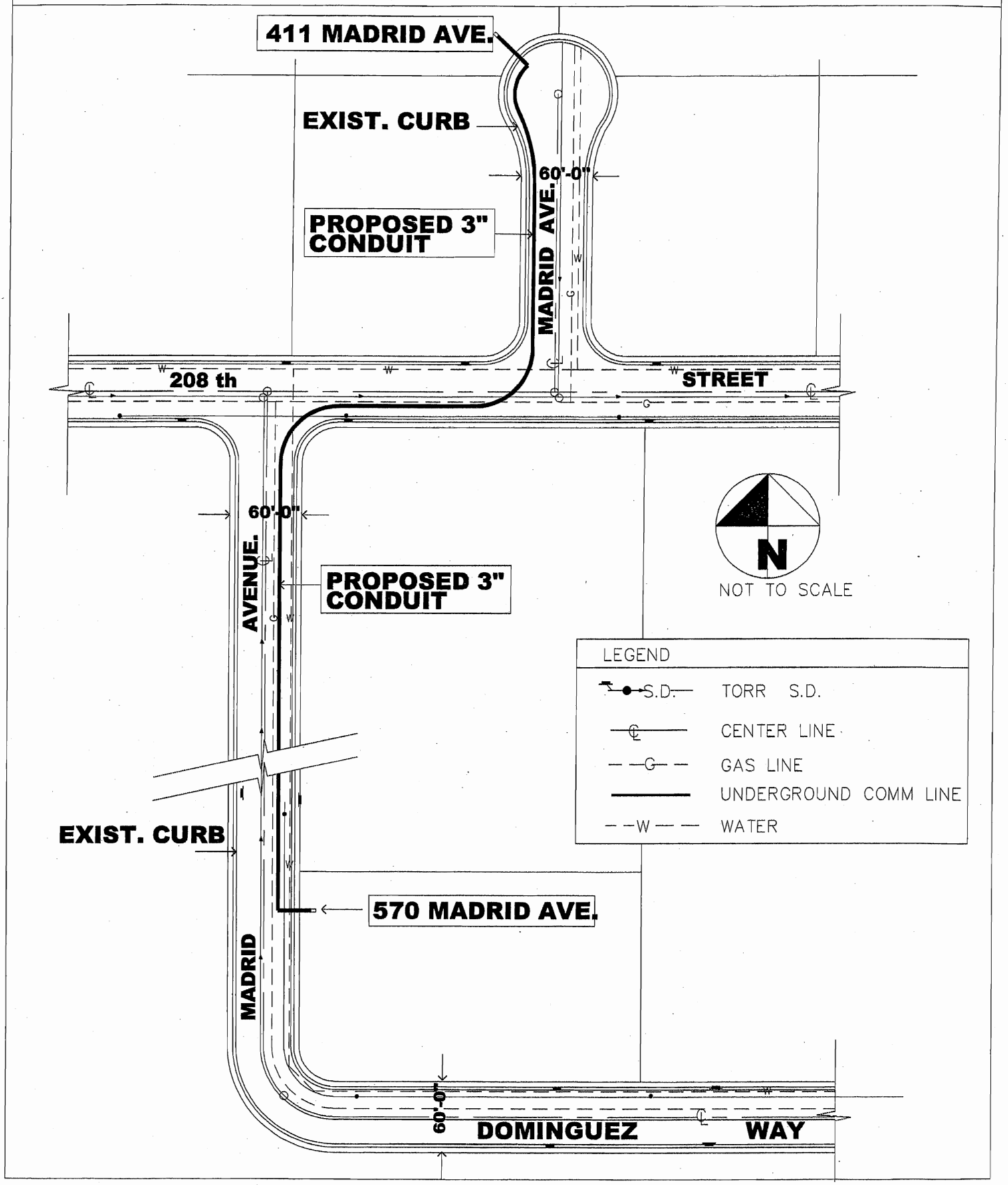
(Title)

- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT "A"

PROPOSED UNDERGROUND COMMUNICATION LINES FOR PHENOMENEX, INC.