

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 **MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF**
2 **LONG BEACH AND THE BOARD OF WATER COMMISSIONERS OF**
3 **THE CITY OF LONG BEACH RELATING TO THE CONSTRUCTION OF**
4 **THE LONG BEACH AIRPORT TERMINAL AREA IMPROVEMENT**
5 **PLAN**

6 **31543**

7 This MEMORANDUM OF UNDERSTANDING ("MOU") is entered as of July
8 16, 2009 for reference purposes only, by and between the CITY OF LONG BEACH
9 ("City") and the BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG
10 BEACH ("Board") acting through the LONG BEACH WATER DEPARTMENT ("LBWD").

11 WHEREAS, the City is proposing to construct a parking structure and other
12 improvements commonly known as the Long Beach Airport ("LGB") Terminal Area
13 Improvement Plan ("Project") on a portion of certain property more particularly described
14 in Exhibit "A" attached hereto and incorporated herein by this reference; and

15 WHEREAS, the construction of the Project will require abandonment of
16 existing sewer lines and construction of new sewer lines as more fully described on
17 Exhibit "B" attached hereto and incorporated herein by this reference; and

18 WHEREAS, the City will install and maintain a trash removal system at the
19 Airport's sewage dump station and LBWD's S-27 sewer lift station to minimize
20 maintenance burden and blockages in the public sewer system; and

21 WHEREAS, the City will hire a qualified Consultant for the preparation of
22 the plans, specifications, and cost estimate for said sewer relocation work; and

23 WHEREAS, the City wishes said sewer facilities to be publicly owned,
24 operated and maintained by LBWD; and

25 WHEREAS, Section 301 of Rules, Regulations and Charges Governing
26 Potable Water, Reclaimed Water, Sewer Service, and the Emergency Water
27 Conservation Plan ("Rules") established by the Board, requires such sewer facilities to be
28 installed in accordance with the terms and conditions of this MOU between the City and

1 Board and in accordance with the engineering plans and specifications approved by
2 LBWD;

3 NOW, THEREFORE, in consideration of the mutual terms and conditions
4 herein, the City and Board agree as follows:

5 1. The above recitals are true and correct and are incorporated by this
6 reference.

7 2. Following execution of this MOU by the parties, the City can at its
8 discretion retain a consultant or seek other means to design the sewer relocation plan as
9 approximately depicted on Exhibit "B". The sewer relocation plans shall be delivered to
10 LBWD for approval. LBWD will deliver to City approved plans and specifications for the
11 sewer relocation at LGB. All changes in the sewer facilities from what is depicted on the
12 approved plans must be approved in writing in advance by LBWD.

13 The City will submit Request for Information(s) (RFI)(s) signed by an
14 engineer for LBWD's review and approval for any changes to the approved plans.
15 Proposed changes shall not begin until the RFIs are approved by LBWD. Such approval
16 shall not be unreasonably withheld. When it appears that approval might be withheld,
17 LBWD will notify the City and to meet and confer with City to discuss the reasons for such
18 action and to consider potential remedies.

19 3. The "Date of Completion" is determined by the completion date of
20 the Critical Path Method (CPM) schedule prepared by City and approved by LBWD. The
21 City will construct or cause to be constructed the sewer facilities at no cost to the Board,
22 including sewer mains, sewer connections, manhole installations, and such appurtenant
23 facilities as may be necessary, prior to the "Date of Completion" unless an extension is
24 agreed by both parties.

25 4. Construction of sewer facilities shall be in compliance with LBWD's
26 Standard Drawings, General Procedures for Sewer, Appendix A, (the Standard Drawings
27 and Appendix collectively referred to herein as "Specifications") and City of Long Beach
28 Municipal Code, Title 15. All construction materials and work shall be subject to the

1 inspection and approval of LBWD.

2 5. The City shall not connect its new construction of sewer facilities to
3 the City's sewer system until the following conditions are met: (1) the City cleans the
4 interior of its new construction so that the new construction is free of sludge, rags, and all
5 other debris. The City's cleaning effort shall extend to existing sewer facilities if it is
6 proved that the City's construction activities have caused such deposits; (2) the City
7 videotapes its new construction and delivers the tape to LBWD at least seven (7) days
8 prior to its proposed date for connection of its new construction to the City's sewer
9 system. The City shall extend videotaping to cover existing sewer facilities if the City has
10 caused such deposits; and (3) the City receives from LBWD written acceptance of said
11 new construction. The City's breach of this provision shall entitle LBWD to full amount of
12 its costs to clean the City's new construction and/or deposits in existing sewer facilities
13 caused by City, including but not limited to the cost of labor, overhead, materials,
14 supplies, equipment and the like. City shall pay such costs immediately on receipt of an
15 invoice for same from LBWD pursuant to a Journal Voucher (JV) transaction between
16 City departments. This Section shall survive expiration or termination of this MOU until
17 final acceptance of the Project has been issued by LBWD.

18 6. The City will provide "grade sheets" showing stations and "cuts" for
19 all main fittings and grade points. LBWD will retain the original grade sheets and return a
20 copy to the City. The accuracy of the "grade sheets" is the sole responsibility of the City's
21 Registered Engineer/Land Surveyor. The City will provide survey services necessary for
22 construction of the sewer facilities. The City will provide soil compaction reports certified
23 by a registered civil or geotechnical engineer.

24 7. The City will furnish all materials and equipment necessary to
25 satisfactorily complete the sewer facilities, in accordance with the Rules and
26 Specifications.

27 8. LBWD will furnish necessary administrative, engineering, and
28 inspection services. In accordance with Section 301 of the Rules, City shall pay all

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1 LBWD costs in connection with the design and installation of the sewer facilities. LBWD
2 will charge City by Journal Voucher (JV) transaction between City departments. LBWD's
3 charges will be based on time and material costs that will be incurred by LBWD in
4 furnishing administrative, engineering, and inspection services necessary to facilitate
5 construction of the sewer facilities, plus thirty-six percent (36%) thereof for administrative
6 overhead. The estimated LBWD costs are Nine Thousand Three Hundred Dollars
7 (\$9,300) for this sewer relocation project. City shall provide LBWD name of the Project
8 Manager, Index Code, Subobject Code, and Project/Grant Number. Billing will be
9 quarterly. City shall pay such bills within thirty (30) days after receipt. LBWD's charges
10 can be dated back to include the cost for the Board Letter, cost estimate, and MOU
11 preparation that LBWD incurred before the execution of this MOU.

12 9. On acceptance by LBWD of the completed sewer facilities, or a
13 functional portion thereof, title of the facilities or functional portion thereof shall be
14 automatically vested in the Board, and the City shall thereafter have no title, right, or
15 interest in them. The facilities will be connected to and become part of the City of Long
16 Beach's Sewer Collection System, and will be operated and maintained by the LBWD.

17 10. The City will construct or cause to be constructed sewer service
18 connections at the locations shown on the approved plans. If required, and with the
19 approval of LBWD, the connections and installations may be added to or deleted from the
20 facilities shown on the approved plans. Modifications, if done prior to the acceptance of
21 the facilities, may be done under this MOU. The City's engineer will furnish to LBWD a
22 complete set of "Record Drawings" on Mylar and will provide an AutoCAD and PDF files
23 of said "Record Drawings" of the sewer facilities. All work on the sewer facilities following
24 acceptance and vesting of title in the Board will be done entirely by LBWD in accordance
25 with the Rules, Specifications, and fee schedules of LBWD.

26 11. During construction, the City shall ensure that sewage flows from all
27 sewer mains, out of, or around any manhole shall remain uninterrupted at all times and
28 conveyed in closed conduits, and disposed of in the sanitary sewer system, including

1 pumping if required. The City shall provide to LBWD the proposed method of providing
2 continuation of sewer service two (2) weeks prior to the scheduled interruption and/or
3 flow diversion. The submittal shall include a plot plan showing the existing sewer main
4 and the proposed points of flow interruption and/or flow diversion, a construction time
5 schedule showing anticipated time of flow interruption and/or flow diversion, and a
6 description of equipment to be used including standby equipment that will be provided
7 on-site in case of an emergency.

8 12. The City shall provide LBWD weekly update schedule including two
9 (2) week look ahead. City shall have a weekly construction meeting and LBWD's
10 representative(s) will attend such meeting. Drafted meeting minutes shall be prepared by
11 City and provided to LBWD within two (2) working days and final meeting minutes shall
12 be provided to LBWD within three (3) working days.

13 13. In the event that City and its contractor cannot meet the work
14 schedule requirements on the approved schedule, and LBWD has to complete the work
15 in order to avoid impacts to water service and public safety, LBWD will notify City of
16 LBWD's action plan. If City fails to respond, LBWD will deploy its means to complete the
17 remaining work in a timely manner. LBWD will bill City for all necessary costs to
18 complete the work, and City shall pay such costs pursuant to Section 8.

19 14. All persons and entities performing work under this MOU on behalf of
20 City shall be properly licensed by the State of California to perform such work and must
21 be approved by LBWD.

22 15. Before commencing any work, City shall obtain or cause to be
23 obtained all permits required for the work, shall make deposits and pay charges required
24 in connection with the work, and shall comply with the Municipal Code of the City of Long
25 Beach and the regulations of all other agencies having jurisdiction over the work.

26 16. The City shall not begin construction of the sewer facilities without
27 first obtaining the approval from the LBWD to proceed. This approval will be given only
28 after this MOU is fully executed, the Bonds, substantially in the forms attached as Exhibit

1 "C" and incorporated by this reference, have been executed and approved by the City,
2 the insurance documents have been submitted and approved by the City, permits have
3 been obtained, City's contractor has attended a pre-construction meeting with
4 representatives of LBWD, and has submitted for approval a work schedule and list of
5 materials. City will have all materials required for the sewer main relocation available on
6 site for LBWD's inspection prior to the start of construction.

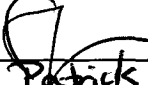
7 17. The City shall require its contractor ("Indemnitor") to defend,
8 indemnify, and hold harmless the City of Long Beach, the Board, and their officials,
9 employees and agents (collectively, "Indemnitee") from and against any and all liability,
10 claims, demands, damage, loss, causes of action, proceedings, penalties, costs, and
11 expenses (including attorney's fees, courts costs, and expert witness fees) (collectively
12 "Claims" or individual "Claim"). Claims include by way of example but are not limited to:
13 Claims for property damage, personal injury or death arising in whole or in part from the
14 negligent act or omission of the City's contractor, its officers, employees, agents,
15 contractors or anyone under the City's contractor's control (collectively "Indemnitor"); and
16 Claims by any employee of Indemnitor relating to worker's compensation. Indemnitor
17 shall notify the City of any Claim within ten (10) days. Likewise, the City shall notify
18 Indemnitor of any Claim and shall assist Indemnitor, as may be reasonably requested, in
19 such defense. The foregoing obligations of Indemnitor shall not comply to the extent any
20 claims involves injury, death or property damage caused by the sole negligence or willful
21 misconduct of any Indemnitees.

22 18. This MOU, including all Exhibits, shall not be amended or any
23 provision or breach waived except in writing authorized and signed by the parties which
24 expressly refers to this MOU.

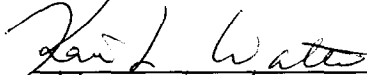
25 19. The City and its contractor will comply with all applicable laws,
26 ordinances, rules and regulations of and obtain such permits, licenses, and certifications
27 required by all federal, state, and local governmental authorities having jurisdiction over
28 the construction described in this MOU.

1 20. This MOU shall remain in effect until the sewer main relocation work
2 has been completed and the work accepted by both the City and the LBWD.


3
4 CITY OF LONG BEACH

5 By  Assistant City Manager
6 Name: Patrick H. West
7 Title: City Manager
8 Date: 2.2.10 ~~EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.~~

9 BOARD OF WATER COMMISSIONERS OF
10 THE CITY OF LONG BEACH

11 By 
12 Name: KEVIN L. WATTIER
13 Title: GENERAL MANAGER
14 Date: 2/9/10

15 This Memorandum of Understanding is approved as to form on
16 January 27, 2010.

17 ROBERT E. SHANNON, City Attorney
18 By 
19 Deputy

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22 333 West Ocean Boulevard, 11th Floor
23 Long Beach, CA 90802-4664

LEGAL DESCRIPTION

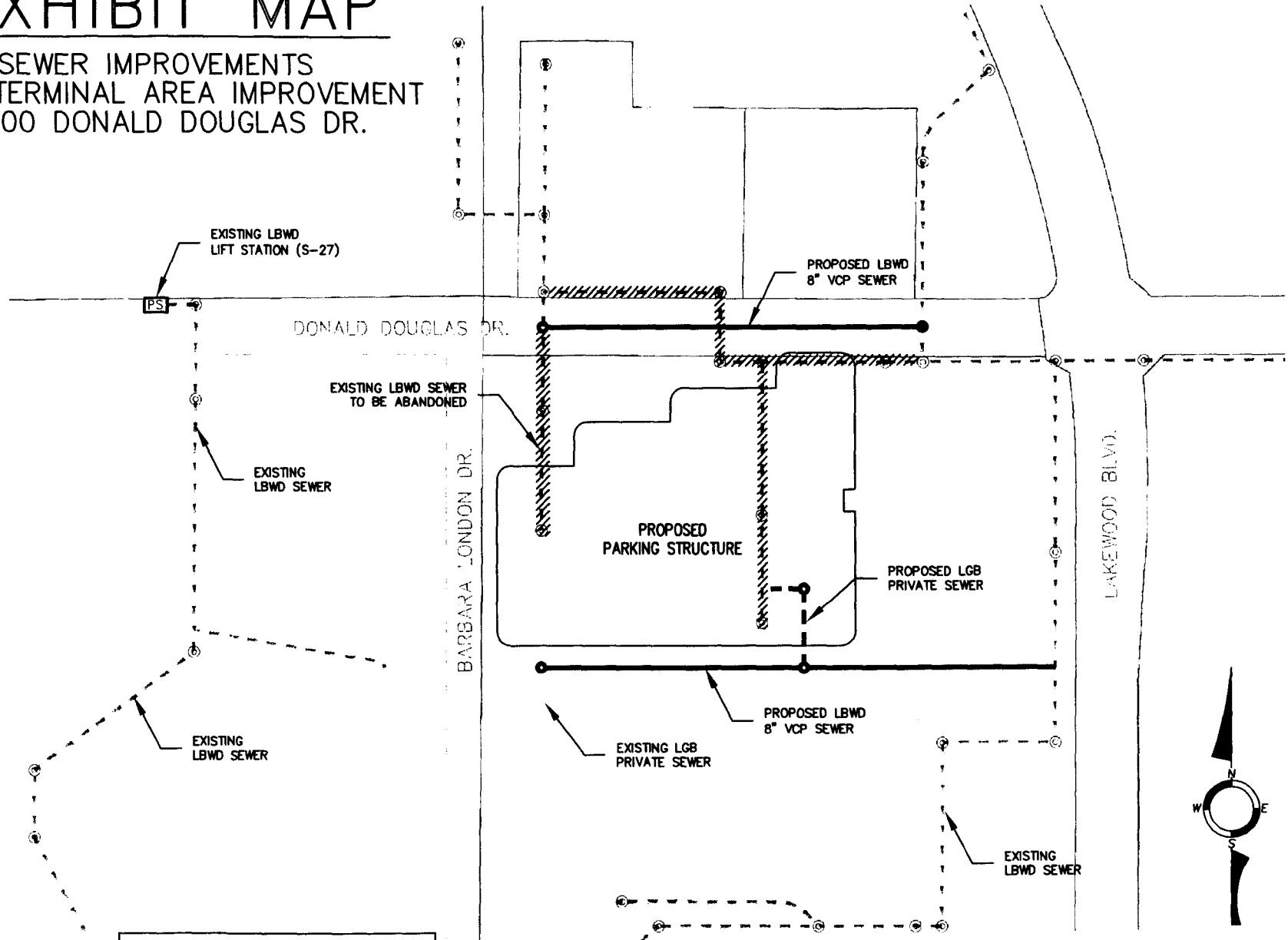
THAT PORTION OF LOTS 60 AND 65 IN TRACT NO. 8084, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 171, PAGES 24 THROUGH 30, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING NORTHERLY OF THE NORTHERLY LINE OF SPRING STREET AS DESCRIBED IN CITY OF LONG BEACH ORDINANCE NO. C-3998, RECORDED FEBRUARY 15, 1960 AS INSTRUMENT NO. 3558 OF OFFICIAL RECORDS, AND LYING WESTERLY OF THE WESTERLY LINE OF LAKEWOOD BOULEVARD AS DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA RECORDED NOVEMBER 2, 1959 AS INSTRUMENT NO. 3959 OF OFFICIAL RECORDS.

EXCEPT THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR THAT MAY BE PRODUCED FROM A DEPTH OF 500 FEET BELOW THE SURFACE OF SAID LAND, WITHOUT RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING OR EXTRACTING SUCH OIL, GAS AND OTHER HYDROCARBON SUBSTANCES OR OTHER USE OR RIGHTS IN OR TO ANY PORTION OF THE SURFACE OF SAID LAND TO A DEPTH OF 500 FEET BELOW THE SURFACE THEREOF, BUT WITH THE RIGHT TO DRILL INTO, LOCATE WELLS AND PRODUCE OIL, GAS AND OTHER HYDROCARBON SUBSTANCES FROM ANY PORTION OF SAID LAND WHICH LIES BELOW 500 FEET FROM THE SURFACE THEREOF, AS RESERVED IN THE DEED FROM MONTANA LAND COMPANY, RECORDED JANUARY 27, 1950 AS INSTRUMENT NO. 1 IN BOOK 32094 PAGE 1 OFFICIAL RECORDS, AND AS PROVIDED IN DECREE RECORDED FEBRUARY 25, 1954 AS INSTRUMENT NO. 3270 IN BOOK 43923 PAGE 236 OFFICIAL RECORDS.

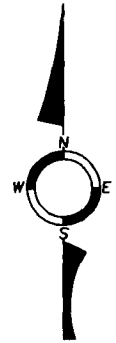
END OF LEGAL DESCRIPTION

EXHIBIT MAP

SEWER IMPROVEMENTS
LGB TERMINAL AREA IMPROVEMENT
4100 DONALD DOUGLAS DR.



LEGEND	
	PROPOSED LBWD SEWER
	EXISTING LBWD SEWER
	LBWD SEWER TO BE ABANDONED
	PROPOSED LGB PRIVATE SEWER
	EXISTING LGB PRIVATE SEWER



NO SCALE

ABANDON 1,600 LF 8" SEWER
CONSTRUCT 1,560 LF 8" SEWER

Exhibit B

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS: That we, _____, as PRINCIPAL, and, _____ located at _____, a corporation, incorporated under the laws of the State of _____, admitted as a surety in the State of California, and authorized to transact business in the State of California, as SURETY, are held and firmly bound unto the BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG BEACH and THE CITY OF LONG BEACH, a municipal corporation, in the sum of **TWO HUNDRED FIFTY THREE THOUSAND DOLLARS (\$ 253,000.00)**, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein by this reference) with said Board for the **relocation of sewer lines and appurtenant facilities** and is required by said Board to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal shall well and truly keep and faithfully perform all of the covenants, conditions, agreements and obligations of said contract on said Principal's part to be kept, done and performed, at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect;

PROVIDED, that any modifications, alterations or changes which may be made in said contract, or in the work to be done, or in the services to be rendered, or in any materials or articles to be furnished pursuant to said contract, or the giving by said Board of any extension of time for the performance of said contract, or the giving of any other forbearance upon the part of either said Board or the Principal to the other, shall not in any way release the Principal or the Surety, or either of them, or their respective heirs, administrators, executors, successors or assigns, from any liability arising hereunder, and notice to the Surety of any such modifications, alterations, changes, extensions or forbearances is hereby waived. No premature payment by said Board to said Principal shall release or exonerate the Surety, unless said Board, at the time it orders such payment made, shall have actual notice that such payment is in fact premature, and then only to the extent that such payment shall result in actual loss to the Surety, but in no event in an amount more than the amount of such premature payment.

IN WITNESS WHEREOF, the above named Principal and Surety have executed, or caused to be executed, this instrument with all of the formalities required by law on this _____ day of _____, 2009.

Contractor/Principal

Surety, admitted in California

BY: _____

BY: _____

NAME: _____

NAME: _____

Title: _____

Title: _____

BY: _____

NAME: _____

Title: _____

Approved as to form this _____ day
of _____, 2009.

Approved as to sufficiency this _____ day
of _____, 2009.

ROBERT E. SHANNON, City Attorney

BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG BEACH

By: _____
Principal Deputy

By: _____
General Manager

- NOTE:**
1. Execution of the bond must be acknowledged by both PRINCIPAL and SURETY before a Notary Public and a Notary's certificate of acknowledgment must be attached.
 2. A corporation must execute the bond by 2 authorized officers or, if executed by a person not listed in Sec. 313, Calif. Corp. Code, then a certified copy of a resolution of its Board of Directors authorizing execution must be attached.

LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____, as PRINCIPAL, and _____, located at _____, a corporation, incorporated under the laws of the State of _____, admitted as a surety in the State of California, and authorized to transact business in the State of California, as SURETY, are held and firmly bound unto the BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG BEACH and THE CITY OF LONG BEACH, a municipal corporation, in the sum of TWO HUNDRED FIFTY THREE THOUSAND DOLLARS (\$ 253,000.00), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein by this reference) with said Board for relocation of sewer lines and appurtenant facilities and is required by law and by said Board to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal, as Contractor of said contract, or any subcontractor of said Principal, fails to pay for any materials, provisions, equipment, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Act, during the original term of said contract and any extensions thereof, and during the life of any guaranty required under the contract, or shall fail to pay for any materials, provisions, equipment, or other supplies, used in, upon, for or about the performance of the work to be done under any authorized modifications of said contract that may hereafter be made, or for any work or labor done of any kind, or for amounts due under the Unemployment Insurance Act, under said modification, said Surety will pay the same in an amount not exceeding the sum of money hereinabove specified and, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court; otherwise this obligation to be void;

PROVIDED, that any modifications of, or alterations or changes which may be made in said contract, or in any of the work or labor required to be done thereunder, or in any of the materials, provisions, equipment, or other supplies required to be furnished pursuant to said contract, or the giving by said Board of any extension of time for the performance of said contract, or the giving of any other forbearance upon the part of either the Board or the Principal to the other, shall not in any way release the Principal or the Surety, or either of them, or their respective heirs, administrators, executors, successors or assigns, from any liability arising hereunder, and notice to the Surety of any such modifications, alterations, changes, extensions or forbearances is hereby waived. No premature payment by the City to said Principal shall release or exonerate the Surety, unless said Board, at the time it orders such payment made, shall have actual notice that such payment is in fact premature, and then only to the extent that such payment shall result in actual loss to the Surety, but in no event in an amount more than the amount of such premature payment.

THIS BOND shall inure to the benefit of any and all persons, companies and corporations entitled by law to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, the above named Principal and Surety have executed, or caused to be executed, this instrument under their respective hands and seals, and with all the formalities required by law on this _____ day of _____, 2009.

Contractor/Principal

Surety, admitted in California

BY: _____

BY: _____

NAME: _____

NAME: _____

Title: _____

Title: _____

BY: _____

NAME: _____

Title: _____

Approved as to form this _____ day
of _____, 2009.

Approved as to sufficiency this _____ day
of _____, 2009.

ROBERT E. SHANNON, City Attorney

BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG BEACH

By: _____
Principal Deputy

By: _____
General Manager

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