AGENDA ITEM NO. 9

CITY OF HAWTHORNE
CITY COUNCIL
AGENDA BILL
For the meeting of September 11, 2018
Originating Department: Planning & Community Development

City Manager: Arnold Shadbehr        Planning Director: Brian James

SUBJECT:
Consideration of an amendment to the Municipal Code to establish a process by which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence for the purpose of examining the capabilities of a zero-emissions, underground travel option for personal vehicles may be conditionally permitted.

RECOMMENDED MOTION:
Conduct public hearing and introduce Ordinance 2164.

NOTICING PROCEDURES:
A public hearing notice (Attachment 1) was published in the Hawthorne Tribune, posted on the website and at the City Hall, and mailed to property owners within a 300 foot radius of the project site on August 30, 2018.

FISCAL IMPACT:
None.

REPORT:
A. Introduction & Background
1. Existing Test Tunnel
The Boring Company was previously approved and is in the process of constructing a two-mile long tunnel for the research and development of a zero-emission, underground travel option for personal vehicles extending from the SpaceX property, located at 12200 Crenshaw Boulevard, under 120th Street, to the intersection of 120th Street and Hawthorne Boulevard (Test Tunnel). The Test Tunnel accommodates a "skate" system that would be tested to prove the viability of transporting pedestrians or personal vehicles. The concept is that a vehicle would be driven onto the skate, the engine would be turned off and the vehicle and its passenger would be transported from one end of the Test Tunnel to the other.

The Test Tunnel will not be used by the public and involves engineers testing and experimenting with personal vehicle types suitable for placement on the skates; refinement of the design and technology; and general data collection on performance, durability, and application.

2. Proposed Test Elevator/Spur

As shown in Attachment 2, the Boring Company has acquired a residentially zoned property located at 3834 W. 119th Place (Property) and desires to connect the Test Tunnel to the Property via an underground shaft (spur) that provides access into an enclosed garage at the surface via a car elevator. The purpose is to further examine the capabilities of the Test Tunnel and not to accommodate the public. The Hawthorne Municipal Code (HMC) does not allow the proposed Test Elevator/Spur, which is a research and development use, in a residential zone and the request is to amend the HMC to allow the proposed use. In order to consider the request, the Boring Company submitted the following applications:

a. Zone Text Amendment 2018ZA06 is to amend the HMC to establish a process and parameters to allow a Test Elevator/Spur as an ancillary use in the High Density Residential (R-3) Zone abutting the Test Tunnel in 120th Street with approval of a conditional use permit.

b. Conditional Use Permit 2018CU05 is to permit a Test Elevator/Spur on a property located at 3834 119th Place and establish the specific physical improvements and construction, operating, monitoring, and safety procedures that would apply to the Project. This application was approved by the Planning Commission on August 22, 2018, contingent upon approval of the Zone Text Amendment by the City Council.
B. Project Description

1. Ordinance 2164. The proposed Ordinance (Attachment 7) would amend Section 17.18.020 (Permitted and conditionally permitted uses) and add new Chapter 17.100 (Test Elevator and Spur) to the HMC to:
   a. Establish locational criteria for a Test Elevator/Spur (site must abut the existing Test Tunnel and the elevator must breach the surface into an enclosed garage)
   b. Establish operational requirements, including:
      • Public use of the Test Elevator/Spur shall not occur.
      • Cars may not enter/exit the Test Elevator/Spur from the residential property and must only enter/exit the Test Elevator/Spur via the SpaceX property on Crenshaw Avenue.
      • There shall be no obvious signs of the presence of the Test Elevator/Spur and the property shall appear and function as a private residence.
      • The Test Elevator/Spur shall not be visible and shall not impact the surrounding neighborhood in terms of safety, health, odors, noise, vibration, traffic, lights, parking, events, and activity.
      • There shall be no special events, promotional activities, or advertising.
      • The Test Elevator/Spur shall be completely filled-in and capped prior to the discontinued use of the Test Tunnel or sale of the property.
   c. Establish submittal requirements (operational plan, physical improvement plan, and security plan)
   d. Require a construction and safety plan, a subsurface easement and encroachment permit, and recordation of a covenant stipulating to the conditions of approval.
   e. Establish findings necessary for approval of a conditional use permit application for a Test Elevator/Spur.

2. Conditional Use Permit 2018CU05, which will not be considered by the City Council and was approved by the Planning Commission contingent upon City Council approval of Ordinance 2164, permits a Test Elevator/Spur on a property located at 3834 119th Place. The CUP includes the following:
   a. A Physical Plan (Attachment 3) addresses the physical modifications to the property. The plans were slightly revised since the Planning Commission’s action to move the location of the garage one foot to the east. The revised plans are contained in this report and are considered an
insignificant change to the Planning Commission’s action and a revision to Conditional Use Permit 2018CU05 has been deemed not to be necessary.

- The existing garage would be demolished and a new 975 square foot garage (26’ x 37’-6”) would be constructed in the rear (southern end) to contain the test elevator. The garage would be setback two feet-six inches from the rear property line abutting 120th Street, six feet from the western property line, and 16’-6” from the eastern property line.
- The façade of the existing residence would be upgraded and new drought-tolerant landscaping would be installed.
- An eight foot tall block wall would be installed along the rear and side property lines to enclose the rear two-thirds of the yard and an approximately five foot tall block wall and access gate would be installed on the eastern side of the house.
- The Test Elevator would drop approximately 40 feet from the floor of the garage to the new tunnel spur and an electric elevator would raise/lower vehicles from the tunnel spur to the garage. The opening of the test elevator is approximately 20 feet long and 10 feet wide and would accommodate one vehicle at a time.

b. An Operational Plan (Attachment 4) works in conjunction with the conditions of approval and establishes the long-term operational parameters for the home and test elevator. In addition to the conditions of approval, it commits The Boring Company to:
- A maximum of four on-site employees.
- Zero emissions test elevator and skate.
- Maximum of five residents on one year leases.
- Testing hours between 9:00 AM to 7:00 PM Mondays through Saturdays
- Construction hours between 9:00 AM and 5:00 PM

c. The Security Plan (Attachment 4) describes and allows a process for the Hawthorne Police Department to be involved in the long-term security of the property, including:
- Locking and securing the garage and blocking the elevator entrance when not in use.
- Installation of security cameras.
- Restriction of property to employees of the Boring Company.
C. Existing Conditions

As shown on Attachment 2, the 7,529 square foot property is located at 3834 W. 119th Place. The property fronts on 119th Place and the rear of the property abuts 120th Street. The property is graded and has been developed with an approximately 730 square foot residence that was built in 1940. Table 1 summarizes the surrounding land uses, zoning, and general plan designations:

<table>
<thead>
<tr>
<th>Table 1 Land Use Summary Table</th>
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<tbody>
<tr>
<td><strong>Existing Use</strong></td>
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<tr>
<td><strong>Subject Site</strong></td>
</tr>
<tr>
<td><strong>North of Subject Site</strong></td>
</tr>
<tr>
<td>(across 119th Pl.)</td>
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<tr>
<td><strong>South of Subject Site</strong></td>
</tr>
<tr>
<td>(across 120th St.)</td>
</tr>
<tr>
<td><strong>East of Subject Site</strong></td>
</tr>
<tr>
<td><strong>West of Subject Site</strong></td>
</tr>
</tbody>
</table>

D. Outreach

The applicant conducted two neighborhood outreach meetings on July 11 and 12, 2018. All residents on 119th Place and on the south side of 119th Street between Prairie and Doty Avenues were invited and a total of 19 residents attended. The purpose of the meetings was to introduce the project and discuss construction, safety, and operational parameters. Based upon input from the residents, the project was refined to: 1) limit construction to the hours between 9:00 AM and 5:00 PM; 2) limit testing hours 9:00 AM and 7:00 PM Mondays through Saturdays with no testing on Sundays and holidays; 3) require one-year leases for the occupants of the home; and 4) commit to the long-term monitoring for fire, gases, and settlement and continual ventilation of the Test Elevator/Spur.

E. General Plan Consistency

The proposed Project is consistent with the General Plan and General Plan designation (Medium Density Residential) of the site for the following reasons:
Land Use Element

GOAL 2: Every effort shall be made to ensure that both existing and future development will be and will remain compatible with surrounding desirable uses.

POLICY 2.1: The design of future development shall consider the constraints and opportunities that are provided by adjacent existing development.

POLICY 3.1: The promotion of businesses that generate positive economic benefits to the community, including generating tax revenue, job creation and enhancing the quality of life for residents and visitors shall be encouraged and assisted.

POLICY 3.6: Land use regulations shall be regularly evaluated and updated to facilitate the attraction of high technology industries which will enhance the local economy and support Hawthorne’s image as an aerospace research and development hub.

The Project updates the City’s land use regulations to assist a subsidiary (The Boring Company) of a major employer (SpaceX) in the City that is exploring transportation alternatives aimed at enhancing the quality of life in the region and would support the City’s growing high-tech industry. The Project is designed to minimize impacts to the adjacent residential neighborhood, including impacts related to noise, odors, vibration, visitation, traffic, and parking. The Project is designed so it will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed to be operated such that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur and the Property will appear and function as a private residence.

F. Neighborhood Preservation

The applicant is requesting to use a residential property in a residential neighborhood for research and development, which is a non-residential use. Except in limited circumstances, such as a home-based business, non-residential uses are not permitted in residential neighborhoods in order to preserve and protect the character and living environment for the residents. Staff advised the applicant that the Test Elevator/Spur may be acceptable to the community if the project does not impact or change the neighborhood and, from all outward appearances, the Property appears and functions as a residence. In essence, the Project would need to be ancillary to the primary residential use and designed and operated such that the residents of the neighborhood are not aware of the existence of the Test Elevator/Spur after its construction.

As noted above, the parameters of Zone Text Amendment 2018ZA06 and CUP 2018CU05, including the proposed Physical Plan, Operational Plan and Safety
Plan, are designed to ensure the long-term protection of the neighborhood. The proposed conditions of approval reinforce the requirements of Zone Text Amendment 2018ZA06 and apply them to the Test Elevator/Spur on the property located at 3834 W. 119th Place. In addition, the Test Elevator/Spur would require continual monitoring for fire, gases, and settlement and continual ventilation.

The Project would be required to be reviewed in one year to determine continued conformance with the conditions of approval. If it is found that the applicant has failed to adhere to the conditions of approval and the neighborhood is being negatively impact by the Test Elevator/Spur at any time, then revocation proceedings would be initiated.

G. Review by Other Departments

The proposed project was reviewed by the Departments of Public Works, Police, Airport, Building and Safety, and LA County Fire Prevention and Land Development Divisions. The responses from the other City Departments have been incorporated into the recommended conditions approval.

H. Planning Commission

On August 22, 2018, the Planning Commission held a duly noticed public hearing and adopted PC Resolution 2018-08 (Attachment 5) approving Conditional Use Permit No. 2018CU05, contingent upon approval of Ordinance 2164 by the City Council, and recommending that the City Council approve Zone Text Amendment No. 2018ZA06.

E. Environmental Analysis

The proposed Project constitutes a project within the scope of the California Environmental Quality Act (CEQA) and the City’s CEQA Guidelines. The applicant employed a consultant (Dudek) to conduct its own environmental analysis and an outside environmental expert contracted by the City (Placeworks) independently reviewed the proposed project and environmental information submitted by the applicant on behalf of the City. The results of these analyses are contained in Attachment 6. It has been determined that the proposed project is exempt from review under CEQA for the following reasons:

1. CUP 2018CU05. The proposed Test Elevator/Spur project addressed by CUP 2018CU05, which will be considered by the Planning Commission, is consistent with the Existing Facilities (Section 15301 Class 1) and New Construction or Conversion of Small Structures Facilities (Section 15303 Class 3) categorical exemptions and none of the exclusions in CEQA Guidelines Section 15300.2 apply, as summarized below and detailed in Attachment 6.
a. The Existing Facilities exemption (Section 15301 Class 1) is applicable to the demolition of the existing garage at 3834 119th Place because it is a small structure (400 square feet) and considered to be an accessory structure to the main residence.

b. The New Construction or Conversion of Small Structures Facilities exemption (Section 15303 Class 3) is applicable to the construction of the new garage proposed at 3834 119th Place because the garage is considered to be an accessory structure to the existing residence.

2. Zone Text Amendment 2018ZA06, minor modification to Test Tunnel Alignment, and Exit Tunnel. The Boring Company has proposed to modify the current construction of the Test Tunnel at Prairie Avenue and construct a short lateral shaft from the Test Tunnel to an exit shaft in a property located at 4012 120th Street for purposes of extracting the boring machine, which is currently boring the Test Tunnel (Exit Tunnel). No access to the Test Tunnel would occur using the Exit Tunnel except to provide emergency egress and the previously approved length of Test Tunnel between Hawthorne Boulevard and Prairie Avenue may still be completed at a future date. The City Council will consider easement agreements to address the portions of the Test Elevator/Spur and Exit Tunnel within the public right-of-way. Zone Text Amendment 2018ZA06, minor modification to the Test Tunnel alignment, and construction of an Exit Tunnel, which will be considered by the City Council, are exempt under the Infill Development (Section 15332 Class 32) and Minor Alterations in Land Use Limitations (Section 15305 Class 5) categorical exemptions and none of the exclusions in CEQA Guidelines Section 15300.2 apply, as summarized below and detailed in Attachment 6. Upon City Council’s action on these items, Staff will file the Notice of Exemption with the Los Angeles County Clerk’s office in compliance with CEQA.

a. The Infill Development exemption (Section 15332 Class 32) is applicable because the Exit Tunnel and slightly modified alignment of the Test Tunnel are: 1) located within city limits; 2) less than five acres in size; 3) devoid of natural habitat for sensitive species; 4) surrounded by urban development; 5) served by all required public services and utilities. The Test Tunnel alignment will be modified slightly to accommodate construction of an Exit Tunnel at Prairie Avenue. The Exit Tunnel and Test Tunnel as modified are within the corporate limits of the City of Hawthorne, surrounded by urban uses on all sides, less than five acres in size, and consistent with the General Plan. The Exit Tunnel and minor modification to the alignment of the Test Tunnel are subterranean within the rights-of-way of 120th Street and contain no natural habitat for sensitive species. All utilities and public
services are in place to serve the project as proposed. The project would not result in any significant impact to traffic, noise, air quality, or water quality.

b. The Minor Alterations in Land Use Limitations exemption (Section 15305 Class 5) is applicable because the Project would occur in an area with an average slope of less than 20% and would not result in any changes in land use or density. The Zoning Text Amendment would permit the Test Elevator/Spur as an ancillary use in the R-3 Zone where it qualifies for a conditional use permit meeting these requirements: 1) property must abut the portion of 120th Street containing the Test Tunnel; 2) Test Elevator/Spur shall breach the surface only within a fully enclosed garage; 3) Test Elevator/Spur shall not cross any adjacent properties without evidence of prior written approval from the property owner. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. The Test Elevator/Spur at 3834 119th Place addressed in Conditional Use Permit 2018CU05 meets all these requirements and is treated as an ancillary use within the R-3 zone where no change to land use types or densities would occur.

ATTACHMENTS:

1. Public Hearing Notice
2. Vicinity Map
3. Physical Plan
4. Operational Plan
5. PC Resolution 2018-08
6. Environmental Analysis and Notices of Exemption
7. Ordinance 2164
ATTACHMENT 1

NOTICE OF PUBLIC HEARING
ZONE TEXT AMENDMENT 2018ZA06 AND RELATED ACTIONS

PUBLIC NOTICE is hereby given that the City Council of the City of Hawthorne will hold a public hearing to consider the following matter:

PROJECT DESCRIPTION: Zone Text Amendment 2018ZA06 would establish a process by which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence for the purpose of examining the capabilities of a zero-emissions, underground travel option for personal vehicles may be conditionally permitted as an ancillary use in the High-Density Residential (R-3) Zone.

PROJECT LOCATION: High-Density Residential (R-3) Zone abutting the Test Tunnel

MEETING DETAILS:

Day: Tuesday
Date: September 11, 2018
Time: 6:00 p.m.
Place: City Council Chambers
4455 West 126th Street
Hawthorne, CA 90250

Those interested in this item may appear at the meeting and submit oral or written comments. Written information pertaining to this item must be submitted to the Planning Department prior to 5:30 PM September 10, 2018, at 4455 West 126th Street, Hawthorne, California 90250 or emailed to bjames@cityofhawthorne.org. For additional information, you may contact Brian James at (310) 349-2970 or at the email noted above.

ENVIRONMENTAL REVIEW: The City Council will consider Categorical Exemptions to the California Environmental Quality Act (CEQA) in relation to Zone Text Amendment 2018ZA06, the easement agreement for the spur for the Test Elevator/Spur, and the easement agreement for the spur to remove the boring machine from the main Test Tunnel at a property located at 4012 120th Street.

PLEASE NOTE that pursuant to Government Code Section 65009: In an action or proceeding to attack, review, set aside, void, or annul a finding, determination or decision of the Planning Commission or City Council, the issues raised shall be limited to those raised at the public hearing in this notice or in written correspondence delivered to the Planning Commission or City Council at or prior to the public hearing.
EXISTING/DEMO SITE PLAN

EXISTING RESIDENCE TO REMAIN. EXTERIOR IMPROVEMENTS ONLY.

EXISTING GARAGE AND FOUNDATION TO BE DEMOLISHED

EXISTING DRIVEWAY & WALKWAY

PROPOSED NEW GARAGE

NEW 8' TALL BLOCK WALL

NEW GATE

NEW DRIVEWAY TO CONNECT TO EXISTING DRIVEWAY

NEW 4'-8" TALL BLOCK WALL

NEW 8' TALL BLOCK WALL

PROPERTY LINE

SETBACK TABLE

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRONT (119TH PLACE)</td>
<td>2'-0&quot; (REAR 1/3 OF LOT)</td>
</tr>
<tr>
<td>SIDE (WEST)</td>
<td>2'-0&quot; (REAR 1/3 OF LOT)</td>
</tr>
<tr>
<td>SIDE (EAST)</td>
<td>2'-0&quot; (REAR 1/3 OF LOT)</td>
</tr>
<tr>
<td>REAR (120TH STREET)</td>
<td>2'-0&quot; (REAR 1/3 OF LOT)</td>
</tr>
</tbody>
</table>

FAR CALCULATION

TOTAL SITE AREA 1,580 SF

PRIMARY RESIDENCE 728 SF

PROPOSED GARAGE AREA (NOT IN FAR CALCS) 975 SF

TOTAL PROPOSED FAR 1,580 SF

ALLOWABLE FAR = .6 OF LOT SIZE 1,528, TOTAL FAR IS OK 5,948 SF

NEW STRUCTURE TOTAL HEIGHT 13'-9"
**NEW FLOOR PLAN**

- **BRACED WALL LENGTH**
  - New Garage: 37'-6" B.
  - New Garage: 18'0"x7'0" Overhead Garage Door

- **DOOR SCHEDULE**
  - Door No.: 1
    - Door Type: C
    - Width: 3'-0"
    - Height: 6'-8"
    - Thickness: 1-3/8"
    - Material: Wood Solid Core
    - Frame: Solid Wood
    - Finish: Paint
    - U Factor: 0
    - SHGC: 0

  - Door No.: 2
    - Door Type: D
    - Width: 9'-0"
    - Height: 7'-0"
    - Thickness: 1-3/4"
    - Material: Aluminum or Wood
    - Frame: Solid Wood
    - Finish: Paint

  - Door No.: 3
    - Door Type: D
    - Width: 18'-0"
    - Height: 7'-0"
    - Thickness: 1-3/4"
    - Material: Aluminum or Wood
    - Frame: Solid Wood
    - Finish: Paint

- **WINDOW SCHEDULE**
  - Window No.: 1
    - Type: A
    - Width: 2'-0"
    - Height: 4'-0"
    - Head Height: 6'-8"
    - Material: Wood
    - Operation: Double Hung
    - Finish: Paint
    - U Factor: 0.29
    - SHGC: 0.23

**FLOOR PLAN NOTES:**
1. Contractor shall verify all notes, dimensions & conditions prior to construction.
2. Windows & doors are shown & noted as nominal sizes.
3. Install Simpson Conc. to Wood Holdowns 11" from corners & window rough openings, also see manufacturer's specs.
4. All wood located within 2" of exposed concrete slab shall be protected from decay as required by IRC R317.1

**GENERAL NOTES:**
1. All dimensions to be verified in field.
2. Windows & doors to be verified in field.
3. Hardwired Level 1 Rated Electric Vehicle Charger.
NEW PAINTED BLOCK WALL
SMOOTH STUCCO EXISTING ARCH COMP
ASPHALT SHINGLES - TYPICAL
EXISTING WINDOWS TO REMAIN, TYPICAL
REPAINT EXTERIOR ALL AROUND
PAINTED HALF BLOCK WALL
NEW GATE PAINT
FINISH FLOOR SMOOTH STUCCO
FRONT YARD 875 SQ. FT. NEW LANDSCAPE.
SEE LANDSCAPE PLAN

HOUSE SOUTH ELEVATION

HOUSE EAST ELEVATION

HOUSE NORTH ELEVATION

HOUSE WEST ELEVATION
ELEVATION NOTES:
1. VERIFY SHEAR WALL NAILING & HOLDOWNS PER PLAN & SCHEDULE PRIOR TO INSTALLING SIDING.
2. MASONRY & WOOD FRAME CHIMNEYS ARE TO BE CONSTRUCTED PER I.R.C. CHAPTER 10
3. CAULK ALL EXTERIOR JOINTS & PENETRATIONS.
4. PROVIDE APPROVED CORROSION RESISTANT FLASHING AT EXTERIOR WALL PENETRATIONS & GUTTER VENTS.
5. PROVIDE FLASHING AT ROOF PENETRATIONS PER I.R.C. R903.2 & R903.2.1.
6. PROVIDE WEATHER STRIPPING AT ALL EXTERIOR & GARAGE DOOR & WINDOW SASHES.
7. PROVIDE CONTINUOUS GUTTERS & DOWNSPOUTS AT ALL EAVES, TYP.

GARAGE SOUTH ELEVATION

GARAGE EAST ELEVATION

GARAGE NORTH ELEVATION

GARAGE WEST ELEVATION
12X6 STUDS 16" O.C. W/R-21 INSULATION TYP.

COMPOSITION SHINGLES OVER 15LB FELT OVER 7/16" CDX OR O.S.B. OVER ROOF FRAMING MEMBERS PER PLAN

RIDGE VENT

14'-0" 4 TYP

13'-10" 8'-9" HIGH RIDGE GARAGE PL

1'-6" EAVE TYPICAL

5/8" TYPE 'X' G.W.B. TYP.

40'-0" TEST ELEVATOR

ELECTRIC MOTOR STEEL FRAME

12'-0"

12200 CRENSHAW BLVD.
HAWTHORNE, CA. 90250

A3.0 SECTIONS AS NOTED

GARAGE WEST SECTION
TEST ELEVATOR
PLATFORM
ELECTRIC MOTOR
L-SHAPED STEEL FRAME, TYPICAL
TUNNEL
10'-0"
STEEL FRAME ELECTRIC MOTOR
1'-0" 12'-0"
1'-0"
12'-0"
TEST ELEVATOR DETAIL
SCALE 1/8" = 1'-0" 1/4" = 1'-0"
GARAGE SOUTH SECTION
SCALE 2
TEST ELEVATOR DETAIL
SCALE 1
ATTACHMENT 3
A3.1
Hawthorne Test Elevator and Tunnel Spur Project Summary

July 16, 2018

1. Document Summary

This document details the materials enclosed within The Boring Company’s (“TBC”) application to construct a test elevator and short tunnel spur (Project) at 3834 119th Place (APN #: 4048-011-032) in the City of Hawthorne (Property). This submission, intended to initiate the permitting process, consists of:

- Project Summary (this document)
- Supplemental Environmental Information (including the Test Elevator and the Short Spur Tunnel in the analysis)
- Test Elevator and Tunnel Spur Physical Plan

2. Project Purpose and Description

The purpose of this Project is to construct and utilize a test elevator and short tunnel spur as a proof-of-concept for developing a high-speed underground public transportation system called Loop. Loop would create a significant public benefit as a result of decreases in urban congestion, decreases in driving commute times, increases in public safety, decreases in public transit trip times, decreases in transportation costs/fares, and decreases in greenhouse gas emissions.

Although it would not be made public, the proposed Project would prove the concept of stations within Loop’s network. Loop is a high-speed underground public transportation system comprised of electric skates (all-electric autonomous public transit vehicles, shown below as Figure 3), a tunnel network (main artery tunnel and tunnel spurs), and a number of vehicle elevators (stations).

Figure 1: Rendering of the electric skate in the Loop system
The proposed Project is a small extension of TBC’s Test Tunnel, the effects to the surrounding neighborhood similarly minimal. TBC’s Physical Plan are shown below and as 20180330\_Physical\_Plan.pdf. TBC’s Operational Plan is detailed below. Environmental information has been provided as 20180202\_Test\_Station\_Memo.pdf.

3. Physical Plans

TBC’s Physical Plan for the Project includes dimensioned details of the proposed above ground improvements, including the garage, walls, landscaping, gates, etc). Renovations will be made to the house including exterior upgrades such as the implementation of walls and a gate for security purposes, water-conscious landscaping and other changes to increase the aesthetic appeal of the property. Dimensioned elevation showing the garage and house is included, as is the material improvements to the house. A dimensioned section view of the test elevator is shown.

The Project would be constructed in phases to ensure a minimal effect to the surrounding community. Construction hours will be limited to 9am-5pm every day (City Municipal Code allows for construction between 7:00am and 7:00pm on weekdays and between 9:00am and 5:00pm on weekends). No construction will occur on Federal and State recognized holidays. The first phase of the Project would include the construction of the perimeter walls and, in parallel, the installation of general home improvements. The construction of the garage, test elevator, and tunnel spur would occur as the second phase of the Project. All construction will be contingent upon receipt of all of the necessary permits and approvals from the City of Hawthorne and in accordance with relevant building standards and regulations.

An irrevocable covenant will be included in whichever legal mechanism TBC utilizes to obtain approval to move forward with this Project, specifying that this Project will only be used by TBC and will never be used for commercial purposes. Should TBC ever vacate the property, similar backfill requirements to those outlined in TBC’s easement agreement to construct the Test Tunnel would be adhered to.

4. Operational Plan

Test Elevator

Testing would require no more than 3-4 workers, no more than several times per month, to test the elevator activities. Testing hours will be limited to 9:00 AM and 7:00 PM Mondays through Saturday. No testing will occur on Sundays or on Federal and State recognized holidays. The test elevator access point is shown in the Physical Plan; trips into and out of the site via 119th Place would be confined to the Property as this will not be a secondary station. Only cars belonging to the residents will enter and leave the property at the surface. Operation of the test elevator and electric skate would be zero-emissions. TBC will continue to monitor for settlement, fire, and gases in the unlikely event that they occur throughout testing. TBC will ventilate the Project.
Home

The residential structure located on the Property will be used to house up to 5 residents. The residence will remain and be used as a residential living area at all times with functioning sleeping, cooking, and living quarters. TBC will set a minimum one-year lease period for the residents. No exterior lights other than those typically used in a residential setting will be used. No amplified sounds will emit from the Property; additionally, no special events or promotional activities will occur on the Property. No onsite advertising or signage will be erected on the Property as, in general, TBC will ensure that the Property externally resembles a typical residence. Residents and visitors will park onsite at all times.

Community Feedback

Comments or concerns from residents are welcomed via TBC’s communityfeedback@boringcompany.com email address. TBC guarantees a prompt response to messages from neighbors and the community. In the case that an issue arises, TBC will work directly with the community member to expeditiously resolve the issue.

5. Security Plan

A perimeter wall around the Property will be installed to ensure Property security and to block visual access from the street. Further, the garage (which will hold the test elevator) will be locked at all times. The tunnel will be blocked by the elevator platform itself. When not in use, the elevator platform will be electrically and mechanically locked as an additional means of security. The Property will be restricted to employees of TBC. 24-7 cameras will allow the Property to be perpetually monitored. TBC will consult with Hawthorne’s Police Department to ensure that its security methods are sufficient.
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HAWTHORNE RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, APPROVE A CATEGORICAL EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVE ZONE TEXT AMENDMENT APPLICATION 2018ZA06 TO AMEND TITLE 17 OF THE HAWTHORNE MUNICIPAL CODE TO ADD CHAPTER 17.100, TEST ELEVATOR AND SPUR, AND TO AMEND SECTION 17.18.020, PERMITTED USES, TO ESTABLISH THE PROCESS FOR ALLOWING A TEST ELEVATOR/SPUR CONNECTING TO THE EXISTING TEST TUNNEL UNDER 120TH STREET FOR THE PURPOSE OF EXAMINING THE CAPABILITIES OF A ZERO-EMISSIONS, UNDERGROUND TRAVEL OPTION WITH APPROVAL OF A CONDITIONAL USE PERMIT IN THE HIGH-DENSITY RESIDENTIAL ZONE (R-3); AND APPROVING CONDITIONAL USE PERMIT APPLICATION 2018CU05 PERMITTING A TEST ELEVATOR/SPUR ON THE PROPERTY LOCATED AT 3834 119TH PLACE CONTINGENT UPON CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT APPLICATION 2018ZA06 AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, on May 2, 2018, The Boring Company Corporation (“Applicant”) filed a complete application requesting to amend Chapter 17.18 (R-3 High-Density Residential) and to add Chapter 17.100, Test Elevator and Spur, to Title 17 (Zoning) of the Hawthorne Municipal Code (“HMC”) to establish a process by which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence for the purpose of examining the capabilities of a zero-emissions, underground travel option for personal vehicles may be permitted with approval of a Conditional Use Permit in the R-3 Zone and concurrently filed a complete application for a Conditional Use Permit (2018CU05) to establish a Test Elevator/Spur on a property located at 3834 119th Place (“Project”); and

WHEREAS, the Applicant was previously approved to construct a two-mile long tunnel for the research and development of a zero-emission, underground travel option for personal vehicles extending from the property located at 12200 Crenshaw Boulevard (portion of parcel 4056-031-007), under 120th Street, to the intersection of 120th Street and Hawthorne Boulevard (“Test Tunnel”); and

WHEREAS, the Test Tunnel accommodates a "skate" system that would be tested to prove the viability for transporting pedestrians or personal vehicles. The concept is that a vehicle would be driven onto the skate, the engine would be turned off and the vehicle and its passenger would be transported from one end of the Test Tunnel to the other; and

WHEREAS, the Test Tunnel project involves engineers testing and experimenting with personal vehicle types suitable for placement on the skates; refinement of the design and technology; and general data collection on performance, durability, and application; and
WHEREAS, the Applicant has acquired a residentially zoned property located at 3834 W. 119th Place, APN # 4048-011-032, (“Property”) with the desire to connect the Test Tunnel with the Property via an underground shaft (spur) that provides vehicular access to the surface into an enclosed garage via an elevator for the purpose of further examining the capabilities of the Test Tunnel (“Test Elevator/Spur”); and

WHEREAS, The HMC does not address or permit the proposed Project; and

WHEREAS, Government Code Section 65853 and Section 17.06.010 of the HMC allow for the amendment of the HMC with approval of the City Council; and

WHEREAS, similar to the Test Tunnel project, the Test Elevator/Spur would involve engineers testing and experimenting with the elevator system, underground skate system connections; refinement of the design and technology; and general data collection on performance, durability, and application; and

WHEREAS, the Test Elevator/Spur would not be used for public transportation purposes and no public use of the Test Tunnel and Test Elevator/Spur would occur. However, the Test Tunnel and Test Elevator/Spur would be used to develop a system of transportation that is planned to someday provide for public transportation in other areas of the region, state, country and the world, and thus providing an area for its testing and development would be helpful in finding new technologies for efficient, zero emissions forms of transportation that are needed for local, regional, state, national and international economic development; and

WHEREAS, the Test Elevator/Spur would include the same design features as the Test Tunnel including components that provide for: (i) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency’s Tier 4 Final emission standards or equivalent; (ii) the preparation and use of a fire prevention plan; (iii) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; (iv) standard testing for soil, gas and water and proper disposal of contaminated soil; (v) compliance with excavation requirements imposed by the California Office of Health and Safety (CalOSHA); (vi) appropriate haul routes to haul away soil to a suitable facility; and (vii) a pre-condition survey of the adjacent residences and process to repair any damages caused by construction; and

WHEREAS, prior to the issuance of any permits, the Applicant will be required to coordinate with all known utility companies and entities that have some improvements in, along or across the portions of the Test Elevator/Spur route and Property to make sure the Test Elevator/Spur is designed to avoid and not impact any of their utilities and to address their concerns and issues, and no permits will be issued by the City until the City Engineer has determined that the construction will not conflict with or impair those utilities; and

WHEREAS, the existing residential structure at the Property will be enhanced with block walls, landscaping, and façade upgrades, and will be maintained as a functioning residence; and
WHEREAS, on the surface of the Property, the Test Elevator/Spur will be completely enclosed within a 975 square foot garage and will not be visible from the adjacent properties or the public right-of-way; and

WHEREAS, vehicles will not be permitted to enter the Test Elevator/Spur or exit the Test Elevator/Spur via the Property and from 119th Place and all residents and visitors to the Property will park on-site; and

WHEREAS, from outward appearances, the Property will appear and function as a normal residence and there will not be any promotional events, amplified sounds, advertising, signs, or increased activity; and

WHEREAS, final approval of Conditional Use Permit Application 2018CU05 is contingent upon approval of Zone Text Amendment application 2018ZA06 by the City Council; and

WHEREAS, City staff and the City’s environmental consultant have evaluated the Project and determined that is qualifies for exemption from California Environmental Quality Act (CEQA) review. Conditional Use Permit 2018CU05 qualifies for the Existing Facilities (Section 15301 Class 1) and New Construction or Conversion of Small Structures Facilities (Section 15303 Class 3) exemptions. Zone Text Amendment 2018ZA06 and accompanying modification to the Test Tunnel alignment and Exit Tunnel at 4012 120th Street qualify for the Minor Alterations in Land Use Limitations exemption (Section 15305 Class 5) and Infill Development exemption (Section 15332 Class 32) because the project satisfies the criteria for use of that exemption as more fully described in the environmental documentation prepared in connection with review of the project, which information is included as attachments to the staff report that accompanies this Resolution; and

WHEREAS, on July 11 and 12, 2018, the Applicant held neighborhood meetings to introduce and discuss the proposed Project with residents near the Property; and

WHEREAS, at the public hearing on August 22, 2018, evidence was heard and presented from all persons in favor of the application, from all persons opposed to the application, and from members of the City staff; and that the Planning Commission having heard and received all of said evidence, testimony, and statements and being fully informed of the application hereby approves Resolution 2018-08 recommending approval of Zone Text Amendment Application 2018ZA06 and approving Conditional Use Permit Application 2018CU05 contingent upon City Council approval of Zone Text Amendment Application 2018ZA06.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HAWTHORNE DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. All of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.
SECTION 2. All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State law and the HMC and two additional community meetings with the surrounding neighbors were conducted by the Applicant on July 11 and 12, 2018.

SECTION 3. Based Upon independent review and consideration of the information contained in the Staff Report and the Notice of Exemption for the Project, the Planning Commission has determined that the proposed Project is exempt from the requirements of preparing an Environmental Impact Report (EIR) or Negative Declaration because the project meets the criteria for the following Categorical Exemptions:

1. The Existing Facilities exemption (Section 15301 Class 1) is applicable to the demolition of the existing garage at 3834 119th Place is a small structure and considered to be an accessory structure.
2. The New Construction or Conversion of Small Structures Facilities exemption (Section 15303 Class 3) is applicable to the construction of the new garage proposed at 3834 119th Place because the garage is considered to be an accessory structure.
3. The Infill Development exemption (Section 15332 Class 32) is applicable because the Exit Tunnel and slightly modified alignment of the Test Tunnel are: 1) located within city limits; 2) less than five acres in size; 3) devoid of natural habitat for sensitive species; 4) surrounded by urban development, 5) served by all required public services and utilities. The Test Tunnel alignment will be modified slightly to accommodate construction of an Exit Tunnel at Prairie Avenue. The Exit Tunnel and Test Tunnel as modified are within the corporate limits of the City of Hawthorne, surrounded by urban uses on all sides, less than five acres in size, and consistent with the General Plan. The Exit Tunnel and minor modification to the alignment of the Test Tunnel are subterranean within the rights-of-way of 120th Street and contain no natural habitat for sensitive species. All utilities and public services are in place to serve the project as proposed. The project would not result in any significant impact to traffic, noise, air quality, or water quality.
4. The Minor Alterations in Land Use Limitations exemption (Section 15305 Class 5) is applicable because the Project would occur in an area with an average slope of less than 20% and would not result in any changes in land use or density. The Zoning Text Amendment would permit the Test Elevator/Spur as an ancillary use in the R-3 Zone where it qualifies for a conditional use permit meeting these requirements: 1) property must abut portion of 120th Street containing the Test Tunnel; 2) Test Elevator/Spur shall breach surface only within fully enclosed garage; 3) Test Elevator/Spur shall not cross any adjacent properties without evidence of prior written approval of property owner. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. The Test Elevator/Spur at 3834 119th Place addressed in Conditional Use Permit 2018CU05 meets all these requirements and is treated as an ancillary use within the R-3 zone where no change to land use types or densities would occur.

SECTION 4. The Planning Commission finds that the Project is consistent with the following goals and policies of the General Plan:
1. Land Use Element

- **GOAL 2**: Every effort shall be made to ensure that both existing and future development will be and will remain compatible with surrounding desirable uses.
- **POLICY 2.1**: The design of future development shall consider the constraints and opportunities that are provided by adjacent existing development.
- **POLICY 3.1**: The promotion of businesses that generate positive economic benefits to the community, including generating tax revenue, job creation and enhancing the quality of life for residents and visitors shall be encouraged and assisted.
- **POLICY 3.6**: Land use regulations shall be regularly evaluated and updated to facilitate the attraction of high technology industries which will enhance the local economy and support Hawthorne's image as a aerospace research and development hub.

The Project updates the City’s land use regulations to assist a subsidiary (The Boring Company) of a major employer (SpaceX) in the City that is exploring transportation alternatives aimed at enhancing the quality of life in the region and would support the City’s growing high-tech industry. The Project is designed to minimize impacts to the adjacent residential neighborhood, including impacts related to noise, odors, vibration, visitation, traffic, and parking. The Project is designed so it will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed to be operated such that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur and the Property will appear and function as a private residence.

**SECTION 5.** Based on its independent judgment and analysis, the Planning Commission recommends that the City Council approve the proposed Ordinance 2164 contained in Exhibit A (Zone Text Amendment application 2018ZA06) amending Title 17 of the HMC to add use and development standards for a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence with approval of a Conditional Use Permit in the R-3 Zone.

**SECTION 6.** Based on substantial evidence presented to the Planning Commission during the August 22, 2018, public hearing, including public testimony and written and oral staff reports, and without limitation, CEQA, the CEQA Guidelines, the Notice of Exemption, and under the imposed Conditions of Approval (Exhibit B), the Planning Commission makes the following findings and approves Conditional Use Permit application 2018CU05 to establish a Test Elevator/Spur on a property located at 3834 119th Place:

A. The proposed Project is consistent with the Hawthorne General Plan. As noted in the in Section 4 above, the Project would update the City’s land use regulations to assist a subsidiary (The Boring Company) of a major employer (SpaceX) in the City that is exploring transportation alternatives aimed at enhancing the quality of life in the region and would support the City’s growing image as a high-tech hub. The Project is designed to minimize impacts to the adjacent residential neighborhood, including impacts related to noise, odors, vibration, visitation, traffic, and parking. The Project is designed so it will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed and structured to be operated such
that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur and the Property will appear and function as a private residence.

B. The proposed Project is properly one for which a conditional use permit is authorized by the HMC. Approval of Conditional Use Permit Conditional Use Permit application 2018CU05 is contingent upon approval of approval of concurrent application 2018ZA06 by the City Council. If approved, Zone Text Amendment 2018ZA06 would amend Chapter 17.18 (R-3 High-Density Residential) and add Chapter 17.100, Test Elevator/Spur, of Title 17 (Zoning) of the HMC to establish a process by which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence may be permitted with approval of a Conditional Use Permit in the R-3 Zone.

C. 1) The location, size, design, and characteristics of the proposed project will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing in or adjacent to the proposed project; and 2) The overall design will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood. The Project is designed to minimize impacts to the adjacent residential neighborhood, including impacts related to noise, odors, vibration, visitation, traffic, and parking. The Project is designed so the Test Elevator/Spur will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed and structured to be operated such that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur, there will be no public use of the Test Elevator/Spur, and the Property will appear and function as a private residence. The existing residential structure at the Property will be enhanced with block walls, landscaping, and façade upgrades, and will be maintained as a functioning residence and the existing garage will be demolished and replaced with a 970 square foot garage that will completely enclose and contain the Test Elevator/Spur such that it will not be visible from the adjacent properties or the public right-of-way. Vehicles will not be permitted to enter the Test Elevator/Spur or exit the Test Elevator/Spur via the Property and from 119th Place. The Test Elevator/Spur will include the same design features as the Test Tunnel including components that provide for: (i) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency's Tier 4 Final emission standards or equivalent; (ii) the preparation and use of a fire prevention plan; (iii) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; (iv) standard testing for soil, gas and water and proper disposal of contaminated soil; (v) compliance with excavation requirements imposed by the California Office of Health and Safety (CalOSHA); (vi) appropriate haul routes to haul away soil to a suitable facility; and (vii) a pre-condition survey of the adjacent residences and process to repair any damages caused by construction. The Applicant will be required to coordinate with all known utility companies and entities and no permits will be issued by the City until the City Engineer has determined that the construction will not conflict with or impair utilities and will comply with all the requirements of the Los Angeles Fire Department, CalOSHA, Hawthorne Department of Building and Safety.

D. The application complies with all the operational and locational requirements contained in Section 17.100.040 of the HMC. The Property abuts the portion of 120th Street containing the Test
Tunnel and the spur does not cross the property lines of the adjacent properties, and the elevator shaft will surface into an enclosed garage. The Applicant has provided all the submittal requirements stipulated in Chapter 17.100, including the physical plan of the proposed Project, the operational and maintenance plan for the Property, and security plan. In addition, the standard requirements and conditions of approval (Exhibit B) provide additional requirements and performance measures that reinforce the operational and maintenance requirements.

**SECTION 7.** Approval of Conditional Use Permit Application 2018CU05 contained in this Resolution is contingent upon approval of the concurrent Zone Text Amendment Application 2018ZA06 by the City Council of the City of Hawthorne. Conditional Use Permit Application 2018CU05 will be considered adopted on the effective date of the Zone Text amendment approved by the City Council. Those provisions of this Resolution pertaining to Conditional Use Permit Application 2018CU05 shall be of no force or effect should the concurrent application be disapproved. All other provisions of this Resolution shall be effective ten days after acknowledgment by certified receipt of this Resolution by the applicant, unless within that time period it is appealed to the City Council.

**SECTION 8.** The documents and other materials that constitute the record of the proceedings upon which the Planning Commission’s recommendations are based, which include, but are not limited to, the staff reports for the Project and all of the materials that support the staff reports for the Project, are located in the office of the Planning Director of the City of Hawthorne, at 4455 West 126th Street, Hawthorne, California 90250. The custodian of these documents is the Planning Director of the City of Hawthorne.

**SECTION 9.** The time within which and the manner in which a legal action seeking judicial review of this resolution, if not appealed to the City Council, on grounds other than failure to comply with the California Environmental Quality Act, may be filed is governed by Government Code Section 65009 and California Code of Civil Procedure Sections 1094.5 and 1094.6.

**SECTION 10.** A copy of this Resolution shall be mailed to the applicant and copies shall be filed with the City.

**SECTION 11.** The Planning Commission Secretary shall certify to the adoption of this Resolution and shall forward a copy to the City Council, City Clerk, City Manager, and City Attorney.

PASSED, APPROVED, and ADOPTED this 22nd day of August, 2018.

______________________________
MIKE TALLEDA, CHAIRPERSON
HAWTHORNE PLANNING COMMISSION

______________________________
BRIAN JAMES, SECRETARY
EXHIBIT A

DRAFT CITY COUNCIL ORDINANCE 2164
EXHIBIT B

STANDARD REQUIREMENTS AND CONDITIONS OF APPROVAL

Application: Conditional Use Permit 2018CU05
Property Owner/Operator: The Boring Company
Property: 3834 W. 119th Place

CONDITIONS OF APPROVAL

Conditions of approval are unique provisions, beyond the requirements of law, the municipal code, or standard practices that are applied to a project per Section 17.48.060 of the Zoning Code. Please note that if the design of your project or site conditions change, the conditions of approval may also change. If you have any questions regarding these requirements, please contact the City of Hawthorne.

1. The approved standard requirements and conditions of approval shall be included on building plans upon submission for building permits.

2. In order to ensure continued responsibility and control over the Test Elevator/Spur and Test Tunnel, the Property located at 3834 W. 119th Place shall be owned, operated, and maintained by the entity that owns and operates the Test Elevator/Spur at all times (Operator).

3. The Property must be restored to a typical residential condition prior to the sale of the property or the discontinued use of the Test Elevator/Spur. Accordingly, the Test Elevator/Spur shall be completely filled-in and capped and the garage floor capped and repaved to the satisfaction of the City Engineer and Building Official prior to the discontinued use of the Test Tunnel, discontinued use of the Test Elevator/Spur, or sale of the Property, except as provided in Section 17.100.080 of the HMC.

4. To ensure that the residential character and nature of the surrounding residential neighborhood is protected, there shall be no obvious signs of the presence of the Test Elevator/Spur and the Test Elevator/Spur shall not negatively impact the neighborhood in terms of safety, health, activity, visitation, noise, odors, vibration, lighting, traffic, events, and parking demand and from outward appearances, the property shall appear and function as a private residence. If there are multiple enforcement actions and/or verified complaints, the City shall request that the Property Owner/Operator cease operations immediately and correct negative impacts to the surrounding residential neighborhood or face revocation proceedings.

5. To ensure adherence to the Operating Procedures and conditions of approval, the Property Owner/Operator shall provide a report to the Planning Commission one year from the building final. The Property Owner/Operator shall provide a written report on settlement, ventilation,
Conditions of Approval

2018CU05

1. Staff will report on observations, site visits, police reports, and code enforcement complaints. If it is determined that the neighborhood is being negatively impacted by the operation of the Test Tunnel/Spur and that the Property Owner/Operator has failed to comply with code requirements or the conditions of approval, the Planning Commission will consider initiation of a Public Hearing for revocation of the Conditional Use Permit.

6. To eliminate increases in traffic and to ensure that the residential character and nature of the surrounding residential neighborhood is protected, vehicles shall only enter and exit the Test Elevator/Spur from the Test Tunnel. No vehicle shall enter or exit the Test Elevator/Spur from the Property via 119th Place or 120th Street.

7. To ensure that the residential character and nature of the surrounding residential neighborhood is protected and to eliminate traffic impacts to the neighborhood, the Test Elevator/Spur shall not be used for public transportation purposes and the public use of the Test Elevator/Spur shall not occur.

8. In order to prevent disruption to the residential character and nature of the surrounding neighborhood, the Property Owner and Operator shall implement and comply with the provisions of the Operations Plan, approved on August 22, 2018.

9. To minimize impacts to the surrounding residential neighborhood, the hours of the operation of the Test Elevator/Spur shall be between 9:00 AM and 7:00 PM Mondays through Saturdays. The Test Elevator/Spur shall not operate on Sundays and Federal and State recognized holidays.

10. A security plan shall be approved by the Police Department and the Department of Planning and Community Development prior to issuance of the building permit. If there are multiple law enforcement actions and/or complaints, the Planning Director and the Police Department shall review and revise the security plan and implement those provisions the Police Department determines adequate to address the issue, include limiting hours of operation.

11. The Applicant shall maintain a security camera surveillance system of the exterior of the Property. The High definition 24-hour time lapse security cameras shall be installed and properly maintained on the interior and exterior of the business capable of color recording and storing a minimum of 30 days of continuous video. The security cameras shall be in operation at all times when the business is operating. To the extent allowed by law, the establishment operators may be required to provide any tapes or other recording media from the security cameras to the Police Department. The site/floor plans shall indicate the location of the security cameras, which shall be installed prior to the building final.

12. In order to ensure compliance with the approved plans and conditions of approval, the Property is subject to inspection by the City of Hawthorne Police Department, Code Enforcement, and/or City representative at any reasonable time without prior notification.
13. In order to help enhance the residential character of the neighborhood, the Property and all structures thereon shall be required to be maintained in an "as new" state and updated as materials discolor, fade, break, or fail. If notified by the City, the Property Owner will have 30 days in which to make substantial progress toward repairing and updating the facility to an "as new" state.

14. In order to ensure compatibility with the surrounding residential neighborhood, the Property shall contain a dwelling unit, as defined in the HMC, that at all times operates as a living quarters with fully functioning cooking, bathing, and sleeping facilities and outdoor yards. The Property Owner/Operator shall adhere to the minimum lease period specified in the Operational Plan.

15. For the life of the Test Elevator/Spur, the Operator shall continually ventilate the Test Elevator/Spur and shall monitor for fire safety, settlement, vibration, and gases. The Operator shall also ensure that the Project will maintain lateral and subsurface ground support of properties, improvements and structures located adjacent to the Test Elevator/Spur route. A surface monitoring program will be operated to detect if surface subsidence is detected. The Operator shall provide a report on the results of the monitoring upon request by the City.

16. To minimize impacts to on-street parking and to ensure compatibility with the surrounding residential neighborhood, all on-site parking and vehicular access shown on the approved plans shall remain open, unencumbered, and available for parking and access at all times and all residents of and visitors to the Property shall park on-site at all time.

17. To ensure that the residential character and nature of the surrounding residential neighborhood is protected, there shall be no outdoor storage of equipment, vehicles, testing materials, and construction materials associated with the Test Elevator/Spur. The yards of the property shall appear and function as the yards of a typical private residence as determined by the Planning Director.

18. To ensure that the residential character and nature of the surrounding residential neighborhood is protected, there shall be no special events, promotional activities, amplified sounds, advertising, or signage, or illumination beyond that found at a typical residence, as determined by the Planning Director, on the Property. The property shall be ineligible from applying for community event permits (Chapter 9.39 of the HMC).

19. To minimize impacts to the surrounding residential neighborhood during construction, the Owner/Applicant, including all contractors and subcontractors, shall limit construction and demolition activity, including equipment maintenance and site preparation to between 9:00 AM and 5:00 PM. and there shall be no construction on Federal and State recognized holidays.

20. To ensure a safe construction process, the City Engineer shall approve a construction safety plan identifying hours of construction, appropriate haul routes to haul away soil to a suitable facility, and compliance with excavation requirements imposed by the California Office of
Health and Safety (CalOSHA); a fire prevention plan; a settlement monitoring plan that provides for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; the testing results for soil, gas and water and proper disposal of contaminated soil; a pre-condition survey of the adjacent residences and process to repair any damages caused by construction; and the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency’s Tier 4 Final emission standards or equivalent. The building plan shall depict the location and depth of all underground utilities and easements in the path of the Test Elevator/Spur in the 120th Street right-of-way and on the Property. The construction safety plan shall be approved prior to issuance of the building permit.

21. To address the portion of the Test Elevator/Spur within the 120th Street right-of-way, all necessary subsurface easements and encroachment permits shall be secured through the City Engineer prior to issuance of the building permit.

22. A home occupation permit for the property containing the Test Elevator/Spur stipulating to the conditions of approval shall be approved by the Finance Department prior to the building final. Per Municipal Code Chapter 5.02, the Applicant must conform to all Business License regulations and maintain a current city license at all times. The business license must be posted and available on the Property for inspection by City personnel.

23. Department of Building and Safety requirements:
   a) Provide emergence egress from elevator shaft.
   b) Building and shaft shall be fully sprinkled and smoke exhausted system shall be installed.
   c) Meet all State and County standards and requirements.
   d) Meet all LA county Fire Department requirements

24. Department of Public Works requirements:
   a) The Applicant shall repair all cracked and/or deteriorated sidewalk, curb and gutter along 119th Place and 120th Street caused by construction of the Project prior to the building final.
   b) As part of the landscape plan, provide tree wells and parkway trees on 119th Street.
   c) The Applicant shall install a 5 foot wide sidewalk along the 120th Street property frontage that complies with City of Hawthorne standards. The sidewalk shall be installed and approved prior to the building final.

25. To inform future owners of the requirements placed on the Property, the conditions of approval, and requirements to backfill the Test Tunnel/Spur and restore the site, the Applicant shall record a covenant on the Property describing the Test Elevator/Spur and stipulating to the conditions of approval. The covenant shall bind all successors of the Property to the requirements of the conditional use permit. The property owner shall prepare and the City Attorney shall review and approve the covenant prior to recordation. A copy of the recorded document shall be provided to the Department of Planning and Community Development prior to the building final.
CODE REQUIREMENTS AND STANDARDS
The following is a list of code requirements and standards deemed applicable to the proposed project. The list is intended to assist the Applicant by identifying requirements that must be satisfied during the various stages of project permitting, implementation, and operation. It should be noted that this list is in addition to any approved “conditions of approval” noted above. Please note that if the design of your project or site conditions change, the list may also change. If you have any questions regarding these requirements, please contact the City of Hawthorne.

26. The property shall be developed in complete conformity with the plans approved by the Planning Commission on August 22, 2018, as revised and conditioned by the requirements contained in this resolution of approval for Conditional Use Permit application 2018CU05. Significant modifications to the site plan approved by the Planning Commission, such that the plan no longer is in substantial conformance with the approved plans, shall require the approval of the Planning Commission and a new public hearing.

27. The Applicant shall comply with all applicable requirements and provisions set forth by the California Building Code, Uniform Fire Code, Hawthorne Municipal Code (HMC), CalOSHA, and any additional requirements by the Fire Department, Director of Building and Safety, or Director of Planning, as related to this application.

28. The Applicant shall commence construction of the structure or establish the use that is authorized by this approval within one (1) year of the effective date of this approval. Failure to commence construction of the structure or establish the use within that one-year time period shall render this approval null and void and any attempt to commence construction or establish the use thereafter shall first require approval of a new application. Applications for a time extension to the commencement date as specified herein must be filed a minimum of thirty (30) days prior to the expiration date. Requests for a time extension must be accompanied by a formal application, all required exhibits and plans, and the required application fees. Requests for extension shall require Planning Commission approval.

29. The Applicant/property owner must submit payment for all fees payable to the City and the applicable public facility impact fees in the amount that is in effect at the time such fees are to be collected prior to issuance of any permit, including building, grading, or demolition.

30. In conformance with Chapter 17.89 of the Municipal Code, the Applicant shall provide landscaping and automatic irrigation plans to be approved by the Planning Director prior to approval of the building permit. Such plans shall be in substantial conformance with the approved development plans.

31. In conformance with Chapter 17.89 of the Municipal Code and prior to final landscape inspection and issuance of the building final, the Applicant shall provide a copy of the Certificate of Completion, certifying the irrigation installation and operational efficiency is consistent with the approved landscaping plan.
32. Per Municipal Code Chapter 8.14, all landscaped areas shall be maintained in accordance with the originally approved landscaped plan and in a healthy and well-kept condition and kept weed-free.

33. Per HMC 8.22.050, all graffiti shall be removed by the business owner or operator or building owner within twenty-four (24) hours of sighting. If graffiti is not removed within 24 hours of notification, the City shall remove the graffiti and invoice the applicant for the cost of cleanup.

34. The project developer shall utilize licensed subcontractors and ensure that all asbestos containing materials and lead-based paints encountered during demolition activities are removed, transported, and disposed of in full compliance with all applicable federal, state and local regulations.

35. The Applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

36. The Applicant/property owner shall provide a Construction and Demolition Materials Report detailing all disposal, recycling and reuse activities. Final permit approval requires submittal of this report. A deposit may also be required upon issuance of demo permit. Contact Douglas Krauss, 310-349-2987.

37. The Applicant shall construct adequate fire protection facilities to the satisfaction of the Los Angeles County Fire Department.

38. In conformance with Chapter 8.50 of the Municipal Code and prior to the start of grading and construction, the Applicant shall provide a Stormwater Pollution Prevention Plan (SWPPP), developed by a Qualified SWPPP Developer (QSD) and consistent with the current National Pollutant Discharge Elimination System (NPDES) construction general permit, along with proof that a Waste Discharger Identification (WDID) Number has been obtained, to the City Engineer for review and approval.

39. In conjunction with submittal of the grading permit, the Owner/Applicant shall submit a soils engineering study addressing structure sites and access road(s) to determine structural design criteria.

40. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the Applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.
41. The Applicant shall request a final planning inspection prior to final building inspection by the Building Safety Division. The building final shall not be issued until the Department of Planning and Community Development has determined that the project complies with the approved plans.

42. Any construction trailer, storage equipment, portable restroom or similar temporary equipment / structures not permitted as part of the approved scope of work shall be removed prior to final inspection and the building final.

INTERPRETATION AND ENFORCEMENT

1. The Planning and Community Development Department, Engineering/Public Works Department, Police Department, Building and Safety Department, and contract agencies (Los Angeles County Fire Department) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. Any questions of intent or interpretation of any condition of approval will be resolved by the appropriate Department/Agency upon written request of such interpretation.

2. The Planning Director may interpret the implementation of each condition of approval and, with advanced notice, grant minor amendments to approved plans and/or conditions of approval based on changed circumstances, new information, and/or relevant factors as long as the spirit and intent of the approved condition of approval is satisfied. Permits shall not be issued until the proposed minor amendment has been reviewed and approved for conformance with the intent of the approved condition of approval. If the proposed changes are substantial in nature, an amendment to the original entitlement may be required pursuant to the provisions of Hawthorne Municipal Code.

INDEMNIFICATION AND HOLD HARMLESS

1. The Applicant, and each of its heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Hawthorne and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney’s fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council and Planning Commission concerning this project. The Property Owner/Operator shall enter into an agreement confirming said indemnification prior to release of the final building permit. The City shall promptly notify the Applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.
NOTICE OF EXEMPTION

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA  95814

From: City of Hawthorne
4455 West 126th Street
Hawthorne, CA 90250

☑ County Clerk
County of Los Angeles
12400 E. Imperial Highway, Room 1101
Norwalk, CA 90650

Subterranean Transportation Project Modifications - Zone Text Amendment 2018ZA06
Project Title

High Density Residential (R-3) Zone adjacent to Test Tunnel, portion of 120th Street right-of-way, 3834 119th Place and 4012 120th Street
Project Location - Specific

Hawthorne       Los Angeles
Project Location – City        Project Location – County

The Boring Company’s (TBC) subterranean tunnel (Test Tunnel), which was previously approved and is currently under construction, would extend approximately two miles along 120th Street and Crenshaw Avenue. The proposed project involves Zone Amendment 2018ZA06, which would establish a process in which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence may be conditionally permitted as an ancillary use in the High-Density Residential (R-3) Zone. The proposed project also involves Conditional Use Permit 2018CU05, which would allow a Test Elevator/Spur on a property located at 3834 119th Place. At this property, a new garage will be built enclosing the elevator and improvements will be made to the house and lot. Tests of the elevator and tunnel system will occur without impact to the neighborhood.

TBC proposes to modify current construction of the Test Tunnel at Prairie Avenue and construct a short lateral shaft from the Test Tunnel to an exit shaft in a property located at 12003 Prairie Avenue for purposes of extracting the boring machine that is currently boring the Test Tunnel (Exit Tunnel). The previously approved length of Test Tunnel along 120th Street between Hawthorne Boulevard and Prairie Avenue may be completed at a future date. No access to the Test Tunnel would occur using the Exit Tunnel except to provide emergency egress. The City Council will consider easement agreements to address the portions of the Test Elevator/Spur and Exit Tunnel within the public right-of-way.

The tests conducted using this tunnel may lead to a proof of concept leading to future a high-speed, zero emissions underground transportation facilities system, with resulting reductions in traffic congestion and air pollution.

Description of Nature, Purpose, and Beneficiaries of Project
Hawthorne City Council (Zone Text Amendment 2018ZA06)

Exempt Status: (check one below)

☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: Sec 15332 (Class 32), 15305 (Class 5)
☐ Statutory Exemptions. State code number:

The action of the City Council to approve Zone Text Amendment 2018ZA06 is exempt under the Class 5 categorical exemption, as follows:

Class 5. Minor Alterations in Land Use Limitations: The Zoning Text Amendment permits the Test Elevator/Spur as an ancillary use and no change to land use types or densities is created. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. No exceptions apply under Sec. 15300.2. (See available supplement for supporting documentation.)

Reasons why project is exempt

Brian James, Director of Plan. & Com. Dev. 310.349.2970
Contact Person: Area Code/Telephone/Extension:

If filed by applicant:

1. Attach certified document of exemption findings

2. Has a Notice of Exemption been filed by the public agency approving the project ☐ Yes ☐ No

Date Received for Filing: ________________________________

Signature: ________________________________ Title: ________________________________
CEQA: California Environmental Quality Act

NOTICE OF EXEMPTION

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: City of Hawthorne
4455 West 126th Street
Hawthorne, CA 90250

☑ County Clerk
County of Los Angeles
12400 E. Imperial Highway, Room 1101
Norwalk, CA 90650

Subterranean Transportation Project Modifications – Test Tunnel Minor Alignment Modification, Easement Agreement and Exit Tunnel Construction

Project Title
High Density Residential (R-3) Zone adjacent to Test Tunnel, portion of 120th Street right-of-way, 3834 119th Place and 4012 120th Street

Project Location - Specific
Hawthorne Los Angeles
Project Location – City Project Location – County

The Boring Company’s (TBC) subterranean tunnel (Test Tunnel), which was previously approved and is currently under construction, would extend approximately two miles along 120th Street and Crenshaw Avenue. The proposed project involves Zone Amendment 2018ZA06, which would establish a process in which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence may be conditionally permitted as an ancillary use in the High-Density Residential (R-3) Zone. The proposed project also involves Conditional Use Permit 2018CU05, which would allow a Test Elevator/Spur on a property located at 3834 119th Place. At this property, a new garage will be built enclosing the elevator and improvements will be made to the house and lot. Tests of the elevator and tunnel system will occur without impact to the neighborhood.

TBC proposes to modify current construction of the Test Tunnel at Prairie Avenue and construct a short lateral shaft from the Test Tunnel to an exit shaft in a property located at 12003 Prairie Avenue for purposes of extracting the boring machine that is currently boring the Test Tunnel (Exit Tunnel). The previously approved length of Test Tunnel along 120th Street between Hawthorne Boulevard and Prairie Avenue may be completed at a future date. No access to the Test Tunnel would occur using the Exit Tunnel except to provide emergency egress. The City Council will consider easement agreements to address the portions of the Test Elevator/Spur and Exit Tunnel within the public right-of-way.

The tests conducted using this tunnel may lead to a proof of concept leading to future a high-speed, zero emissions underground transportation facilities system, with resulting reductions in traffic congestion and air pollution.

Description of Nature, Purpose, and Beneficiaries of Project
Hawthorne City Council (Test Tunnel Minor Alignment Modification, Easement Agreement and Exit Tunnel Construction)

Name of Public Agency Approving Project

The Boring Company

Name of Person or Agency Carrying Out Project

Exempt Status: (check one below)

☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: Sec 15332 (Class 32), 15305 (Class 5)
☐ Statutory Exemptions. State code number:

The action of the City Council to approve a minor modification to the Test Tunnel alignment and construction of an Exit Tunnel is exempt under the Class 32 categorical exemptions, as follows:

Class 32, Infill Development Projects: Exempt under Class 32, the Exit Tunnel and slightly modified alignment of the Test Tunnel are: 1) located within city limits; 2) less than five acres in size; 3) devoid of natural habitat for sensitive species; 4) surrounded by urban development, 5) served by all required public services and utilities. The project is consistent with applicable general plan and zoning designations and would create no significant traffic, noise, air quality or water quality impacts. Slight modification of the Test Tunnel and constructing an Exit Tunnel do not alter the Class 32 exemption (See available supplement for supporting documentation.)

Reasons why project is exempt

Brian James, Director of Plan. & Com. Dev. 310.349.2970

Contact Person: Area Code/Telephone/Extension:

If filed by applicant:

1. Attach certified document of exemption findings

2. Has a Notice of Exemption been filed by the public agency approving the project ☐ Yes ☐ No

Date Received for Filing: ____________________________

Signature: ____________________________ Title: ____________________________
1. Project Location, Existing Conditions, and Surrounding Land Uses

The Boring Company’s (TBC) subterranean tunnel (Test Tunnel), which was previously approved and is currently under construction, would extend approximately two miles along 120th Street and Crenshaw Avenue. The proposed project involves Zone Amendment 2018ZA06, which would establish a process in which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence may be conditionally permitted as an ancillary use in the High-Density Residential (R-3) Zone. The proposed project also involves Conditional Use Permit 2018CU05, which would allow a Test Elevator/Spur on a property located at 3834 119th Place. At this property, a new garage will be built enclosing the elevator and improvements will be made to the house and lot. Tests of the elevator and tunnel system will occur without impact to the neighborhood.

TBC proposes to modify current construction of the Test Tunnel at Prairie Avenue and construct a short lateral shaft from the Test Tunnel to an exit shaft in a property located at 4012 120th Street for purposes of extracting the boring machine that is currently boring the Test Tunnel (Exit Tunnel). The previously approved length of Test Tunnel along 120th Street between Hawthorne Boulevard and Prairie Avenue may be completed at a future date. No access to the Test Tunnel would occur using the Exit Tunnel except to provide emergency egress. The City Council will consider easement agreements to address the portions of the Test Elevator/Spur and Exit Tunnel within the public right-of-way.

The Test Elevator and Spur would permit additional tests of the viability of transporting pedestrians and personal vehicles using this “skate” system. Engineers would test and experiment with personal vehicle types suitable for placement on the skates; refine the design and technology; and collect data on performance, durability and application.

Above ground, the route of the Test Tunnel along 120th Street and Crenshaw Boulevard is highly urbanized. Hawthorne and Crenshaw Boulevards are classified as Major Arterials and 120th Street is a Collector. No on-street parking is allowed on 120th Street west of Doty Avenue. 119th Place is a local street with parking allowed on both sides of the street. The area surrounding the Test Elevator/Spur site includes residential to the west, north, and east and the Hawthorne Airport to the south. Interstate 105 is about 900 feet from the residence at 3834 119th Place. The area surrounding the Exit Tunnel commercial along Prairie Avenue and residential to the west.

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1 Skate: all-electric autonomous public transit vehicle. Personal vehicles would be placed on a skate to access the test tunnel.
Zone Text Amendment 2018ZA06 provides for possible connections the Test Tunnel via additional Test Elevator/Spur Tunnels. The existing conditions for the Zone Text Amendment are urban and land uses include industrial, commercial, residential and the Hawthorne Airport.

Conditional Use Permit 2018CU05 would allow construction of the Test Elevator/Spur at 3834 119th Place. The existing conditions and surrounding land uses are same as described above.

2. Project Description

Test Elevator and Spur Construction Plan

Construction of the Test Elevator and Spur is estimated to take approximately two weeks to complete. The Applicant has committed to limit daily construction activities to the hours of 9 a.m. to 5 p.m. with no construction on federal or state holidays, which is more restrictive than what is permitted by the City. The existing two-car garage on the property would be demolished, and an equivalent-sized building would be constructed to serve as the elevator platform enclosure. The Test Elevator and Spur would be constructed via excavation and pipejacking, with material hauled off-site via 120th Street to I-105. All trucks would access/exit I-105 directly from the Crenshaw Boulevard off/on ramps. Excavating the shaft and spur would generate an estimated 1,000 cubic yards of earth, requiring about 6 to 7 haul trucks per day over ten working days. Additional details of construction phasing are provided below.

Plans also include above-ground improvements for the property, including a new garage, walls, gates, landscaping, and exterior upgrades to the house. Prior to construction of the Test Elevator and Spur, perimeter walls and gates and general improvements to the house and yard would be completed.

Test Elevator and Spur Construction Phasing

Phase 0: Preconstruction
- Notifications regarding scheduled construction operations will be provided to adjacent neighbors.
- Conduct pre-conditions surveys on 3828 and 3840 119th Place and 3837 and 3825 120th Street and to document pre-construction conditions in the event of damages.

Phase 1: Demolition
- Removal of existing garage with mini excavator/back hoe
- Debris placed in dumpster and hauled off-site

Phase 2: Shaft construction
- Excavation using a mini excavator inside shaft
- Construction of shaft using ring beam system
  - Materials to be lowered into the shaft using a small crane
  - Soil to be removed from shaft using crane bucket and placed directly into dump trucks staged on 120th Street
- Small grout mixer on-site for sealing annular space around shaft reinforcements
Phase 3: Access Tunnel
- Lowering of pipejacking equipment into shaft using crane (at approximate 45-foot depth)
- Excavation using loader and crane bucket placed directly into dump truck
- Hydraulic pipejacking equipment using electricity from grid
- Small grout mixer on-site for sealing annular space around tunnel reinforcements
- Removal of mini-excavator and pipejacking equipment using crane

Phase 4: Elevator Construction
- Elevator parts to be lowered into shaft using a crane and/or boom lift
- Elevator assembly from within shaft using hand tools

Phase 5: Garage Enclosure
- The shaft will be covered with a new garage using conventional construction methods

The Test Elevator and Spur will be conditioned to include the same design features as the Test Tunnel, including components that provide for: (i) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency's Tier 4 Final emission standards or equivalent; (ii) the preparation and use of a fire prevention plan; (iii) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring, and if thresholds of one-half inch are exceeded, construction will stop and subsidence will be corrected; (iv) standard testing for soil, gas, and water and proper disposal of contaminated soil; (v) compliance with excavation requirements imposed by the California Office of Health and Safety (CaOSHA); and (vi) appropriate haul routes to haul away soil to a suitable facility.

Test Elevator and Spur Operations Plan
The operation of the Test Elevator and Spur would involve engineers repeatedly testing personal, all-electric vehicles suitable for placement on the skates; refinement of the design and technology; and general data collection on performance, durability, and application. All access for skates loading and testing would be from the SpaceX parking lot end of the tunnel; therefore, the only cars entering and exiting the property will be those belonging to the residents living on-site. Only all-electric vehicles would be tested in the Test Elevator and Spur. No more than three or four workers would be needed for testing the electric skates, and the existing residential structure (i.e., the house) would be left intact. Testing of the Test Elevator would be limited to the hours between 9:00 am and 7:00 pm Monday through Saturday with no testing on Sundays and federal and state recognized holidays. No public use of the Test Elevator or Spur would occur.

The existing dwelling will continue as a functioning residence and occupied by SpaceX employees on one-year leases. Vehicles will not be permitted to enter or exit the Test Elevator and Spur via 119th Place.

Testing of the Test Elevator and Spur would be subject to the same procedures as those implemented during construction of the Test Tunnel, including:
• A fire prevention plan that identifies regulations and common industry safety practices designed to reduce risk of fire in the tunnel during construction and testing.
• The ventilation plan created by a Professional California Engineer and all considerations for worker health and safety—including ventilation and fire procedures as well as encountering gas and the stability of excavation areas—shall be governed by the California Office of Health and Safety (Cal/OSHA) Division of Tunneling and Mining classifications permit.

Exit Tunnel Construction Plan

A shaft will be excavated beginning at 4012 120th Street (APN 4046-008-028), extending northeastward where it will connect the Test Tunnel. The boring machine will be extracted from the Test Tunnel through this Exit Tunnel. Once the boring machine is extracted, a steel security cover will be installed, and the Exit Tunnel will be used only for egress only in the case of an emergency.

The point where the shaft meets the Test Tunnel at Prairie Avenue will become the terminus of the Test Tunnel. The western segment of the tunnel between Hawthorne Boulevard and Prairie Avenue (approximately 2,600 feet) may be completed at a future date. Construction of the Exit Tunnel is estimated to take approximately 3½ weeks, with details provided below. With the current construction of the Test Tunnel shortened by approximately 2,600 feet, the overall construction schedule will be reduced. Construction of the Exit Tunnel will be completed within the original (now shortened) schedule.

Exit Tunnel Construction Phasing

Phase 1: Demolition (2 days)
• Sawcut and removal of asphalt concrete in shaft area with mini excavator
• Debris placed directly into dump trucks and hauled off-site

Phase 2: Shaft Construction (3 weeks)
• Excavation using mini excavator inside shaft
• Construction of shaft using ring beam system
  o Materials to be lowered into shaft using a small crane
  o Soil to be removed from shaft using crane bucket and placed directly into dump trucks
• Installation of a steel security cover using a small crane

Phase 3: TBM Cutterhead Removal (1 day)
• TBM cutterhead removed through shaft and placed on flatbed truck for transfer off-site

Exit Tunnel Operations

The Exit Tunnel will be used to extract the boring machine and thereafter will be used only in case emergency egress is required. A steel security plate will be installed to prevent unintended access.
3. Reasons Why the Project Is Exempt

This proposed project is exempt from further environmental review under the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the following reasons:

a. Exemptions for Zone Amendment, Exit Tunnel, and Minor Modification to Alignment of the Test Tunnel

Class 32. In-Fill Development Projects (CEQA Guidelines 15332). Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

(c) The project site has no value as habitat for endangered, rare or threatened species.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

The Test Tunnel alignment will be modified slightly to accommodate construction of an Exit Tunnel at Prairie Avenue. The Exit Tunnel and Test Tunnel as modified are within the corporate limits of the City of Hawthorne, surrounded by urban uses on all sides and less than five acres in size. The project is consistent with the City's General Plan. The Exit Tunnel and minor modification to the alignment of the Test Tunnel are subterranean within the rights-of-way of 120th Street and contain no natural habitat for sensitive species. All utilities and public services are in place to serve the project as proposed. The project would not result in any significant impact to traffic, noise, air quality, or water quality.

Class 5. Minor Alterations in Land Use Limitations (CEQA Guidelines 15305). Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

The Zoning Text Amendment permits connections to the Test Tunnel via a Test Elevator/Spur where it qualifies for a conditional use permit meeting these requirements: 1) property must abut portion of 120th Street containing the Test Tunnel; 2) Test Elevator/Spur shall breach surface only within fully enclosed garage; 3) Test Elevator/Spur shall not cross any adjacent properties without evidence of prior written approval of property owner. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. Review of Conditional Use
Permit 2018CU05 elsewhere in this Supplement demonstrates that Test Elevator/Spur projects meeting all requirements would have negligible impacts.

The Test Elevator/Spur is treated as an ancillary use within the R-3 zone and no change to land use types or densities would occur.

b. Exemptions for Conditional Use Permit

**Class 1. Existing Facilities. (CEQA Guidelines 15301).** Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

(1) Demolition and removal of individual small structures listed in this subdivision;

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

*The existing garage at 3834 119th Place is a small structure and listed as an accessory structure and as such, qualifies for a Class 1 exemption.*

**Class 3. New Construction or Conversion of Small Structures. (CEQA Guidelines 15303).**

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

*The garage proposed at 3834 119th Place qualifies for a Class 3 exemption as an accessory structure.*

4. Review of Possible Exceptions to the Categorical Exemption

Section 21084 of the California Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

CEQA Guidelines §15300.2 sets forth several exceptions to categorical exemptions. Each exception is listed below followed by an assessment of whether that exception applies to the proposed project.
(a) Location

Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located—a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies.

The project site is within an urbanized area without sensitive natural resources or other hazardous conditions. This exception does not apply.

(b) Cumulative Impacts

All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The Test Elevator/Spur and Exit Tunnel have the potential to add cumulatively to the impacts associated with the Test Tunnel because they will be under construction concurrent with the Test Tunnel. However, the Test Elevator/Spur and Exit Tunnel are negligible additions and as approximately 2,600 feet of the Test Tunnel will not be constructed at the time of constructing the Test Elevator/Spur and Exit Tunnel, potential cumulative construction impacts will be reduced as compared to the original Test Tunnel project. The potential for cumulative impacts is considered below and found not to be of concern.

(c) Significant Effects

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

Traffic

Test Elevator/Spur construction activities would be staged along 120th Street per a City-approved traffic control plan. The excavator, crane, loader and hydraulic power pack would access the site via 120th Street and haul trucks access/exit the I-105 Freeway at the Crenshaw Boulevard on/off ramps. Three to 5 construction workers, not including truck drivers, are expected during the two-week construction period. These workers are expected to park on the property via 119th Place.

After completion of the Test Elevator and Spur, no traffic associated with the testing operation will enter the property via 119th Place. Test vehicles will operate only within the elevator, spur and tunnel without entering or exiting via the property and 119th Place.
Four to five SpaceX employees residing at the house would generate traffic in similar number to that of other single-family residences and the existing single-family residence existing on the site, and no significant impacts would occur on 119th Place and in its surrounding residential community.

Exit Tunnel construction activities would be staged within the property at 4012 120th Street. Construction equipment would access the site via 120th Street and haul trucks access/exit the I-105 Freeway at the Crenshaw Boulevard on/off ramps. Similar to the Test Elevator/Spur, 3 to 5 construction workers, not including truck drivers, are expected during the estimated 3 ½-week construction period. These workers are expected to park on the property via 120th Street.

While construction of the Test Elevator/Spur and Exit Tunnel would occur while boring continues in the Test Tunnel, the potential for significant cumulative impacts is negligible. The amount of additional construction traffic is very limited (6 to 7 haul trucks/day) per site. The access points for the Test Tunnel, Test Elevator/Spur and Exit Tunnel construction are not proximate and all activities are subject to the City’s traffic control plan.

**Noise**

The Test Elevator/Spur site is adjacent to two residences on adjacent parcels, and the excavation of the elevator shaft and tunnel and construction of the garage has the potential to disturb these residents. The Exit Tunnel is adjacent to a single-story apartment building to the west and there are residences across 120th Street to the north. Excavation activities associated with the Exit Tunnel have the potential to disturb these residents.

The Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM) provides reference noise levels at 50 feet for the equipment proposed for this project:

- **Crane:** 85 dBA Lmax
- **Horizontal Boring Hydraulic Jack:** 82 dBA Lmax
- **Boring Jack Power Unit:** 83 dBA Lmax
- **Excavator:** 85 dBA Lmax
- **Backhoe:** 80 dBA Lmax

To minimize impacts to the surrounding residential neighborhoods during construction, all contractors and subcontractors shall limit construction and demolition activity, including equipment maintenance and site preparation to between 9 a.m. and 5 p.m. daily, and there shall be no construction on federal- and state-recognized holidays.
The Federal Transit Administration (FTA) uses 0.2 inches per second (in/sec) peak particle velocity (PPV) as a vibration threshold for potential architectural damage to non-engineered timber and masonry structures. The reference vibration level for a small bulldozer at 25 feet is 0.003 in/sec PPV. Assuming the mini excavators/backhoes would produce similar vibration levels as a small dozer, vibration from construction would be projected to be below the FTA criterion of 0.2 in/sec PPV at a distance of 2 feet or greater. The pipejacking equipment uses hydraulic pressure and produces very low levels of vibration.

There is very limited potential for adjacent residents to be impacted by the combined operational activities of the Test Elevator/Spur, Exit Tunnel and the main tunnel. The boring operation of the Test Tunnel in 120th Street generates little to no noticeable noise or vibration at the surface. For comparison, the noise and vibration study for the LA Metro RCTC project measured vibration levels of up to 0.0551 in/sec PPV at a distance of 33 feet, which is well below the Federal Transit Administration threshold for Category IV buildings (those most susceptible to vibration damage) of 0.12 in/sec PPV.

The Test Elevator/Spur would be approximately 45 feet below ground. Operational use of the Test Elevator and Spur are not expected to result in an observable noise increase at the property line because it would be enclosed and operated by a standard electric motor. The elevator, skates, and vehicles are all-electric and are very quiet. The same is true of operations of the Test Tunnel, so no cumulative noise impact would occur. No noise would emanate from the Exit Tunnel as it would be used only in case of an emergency requiring egress from the tunnel.

**Air Quality**

Construction activities associated with the Test Elevator/Spur and Exit Tunnel would generate air pollution associated with on-sites sources (e.g., off-road construction equipment, soil disturbance, and volatile organic compound off-gassing) and off-site sources (e.g., on-road haul trucks, equipment and material delivery trucks, and worker vehicle trips). Construction emissions vary substantially from day to day, depending on the level of activity; the specific type of construction activity; and, for dust, the prevailing weather conditions. The Test Elevator/Spur and Exit Tunnel projects are limited in scale, involving excavation and export of only 1,000 cubic yards of earth (6 or 7 truck trips/daily) and 1,300 (6 to 8 truck trips/daily), respectively, over two-to-three week construction schedules.

The Test Tunnel calculations for air pollution included worst-case assumptions of construction activities 24 hours a day, which overestimates the number of trucks by approximately 30 percent. The inclusion of limited activities associated with Test Elevator/Spur and Exit Tunnel construction would not involve equipment or activities beyond the Test Tunnel calculations. Construction of the Test Elevator/Spur and Exit
Tunnel would be consistent with what is provided for in the Test Tunnel, including the commitment to use off-road equipment that meets or exceeds EPA Tier 4 standards or equivalent. As a result, air quality impacts from Test Tunnel and Test Elevator/Spur and Exit Tunnel would not be significant and would not exceed cumulatively the emissions calculated for the Test Tunnel project.

Operations within the Test Elevator and Spur, like the Test Tunnel, involve occasional testing of all-electric, zero-emissions transport systems. The Exit Tunnel would function only in case of emergency. As a result, no operational emissions would occur. Since both Test Elevator/Spur and Test Tunnel have zero emissions, there is no potential for significant cumulative impacts.

**Water Quality**

Water quality for the Test Elevator/Spur and Exit Tunnel would be addressed following the same approach as approved for the Test Tunnel. Stormwater runoff during construction would be routed to the existing underground storm drain systems and/or lined channels, thus reducing off-site erosion. Applicable municipal permits and waste discharge requirements would be obtained and followed to manage water quality. Compliance with federal, state, and local laws and regulations would be required for construction activities. The Storm Water Pollution Prevention Plan prepared to manage surface water quality from sedimentation and/or erosion during construction of the Test Tunnel would be amended to include the Test Elevator/Spur and Exit Tunnel. The enclosed elevator would be designed to divert surface drainage away from the structure. In addition, design and construction would use BMPs in accordance with the applicable NPDES consistent with the provisions provided for the Test Tunnel.

Construction and design of the Test Elevator/Spur and Exit Tunnel include necessary seals and impermeable concrete grouting materials to prevent intrusion of groundwater and to reduce contaminant migration to the deeper groundwater basin, reducing potential effects to the groundwater resource. Consistent with the provisions provided for the Test Tunnel, the Test Elevator/Spur and Exit Tunnel includes implementation of established standard industry practices for testing soil and groundwater, including disposal at an authorized disposal facility in the unlikely event contaminated soil is encountered. A dewatering permit from the Los Angeles Regional Water Quality Control Board would potentially need be obtained; as required by that permit, any contaminated groundwater would be properly treated prior to being discharged. Groundwater is not expected to be produced in significant quantities.

The Test Elevator/Spur and Exit Tunnel locations do not contain or exist near any hydrologic or drainage features. The Test Elevator and Spur is not in a 100-year floodplain, as mapped by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.
There are no significant hills, mountains, or washes in the immediate vicinity that could result in mudflows onto or from the Test Elevator/Spur or Exit Tunnel sites.

**(d) Scenic Highways**

A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings or similar resources, within a highway officially designated as a state scenic highway.

There are no designated state scenic highways near the project site.² Project development would not impact scenic resources, and the scenic highways exception would not apply to the proposed project.

**(e) Hazardous Waste Sites**

A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

California Government Code Section 65962.5 requires the compiling of lists of the following types of hazardous materials sites: hazardous waste facilities subject to corrective action; hazardous waste discharges for which the State Water Quality Control Board has issued certain types of orders; public drinking water wells containing detectable levels of organic contaminants; underground storage tanks with reported unauthorized releases; and solid waste disposal facilities from which hazardous waste has migrated.

The project site, including the Test Tunnel, Elevator/Spur and Exit Tunnel, is not listed on the Cortese list, which includes the following:

- **Listed as a hazardous waste and substance site by the Department of Toxic Substances Control (DTSC)³**
- **Listed as a leaking underground storage tank site by the SWRCB⁴**
- **Listed as a hazardous solid waste disposal site by the SWRCB⁵**
- **Currently subject to a Cease and Desist Order or a Cleanup and Abatement Order as issued by the SWRCB⁶**

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• Developed within a hazardous waste facility subject to corrective action by the DTSC\(^7\)

The project site is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. No impact would occur, and the hazardous waste site exception does not apply.

(f) Historical Sites

A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The existing single-family house and unattached garage at the Test Elevator/Spur site are not architecturally or historically significant. No structures would be impacted at the Exit Tunnel site. The historic sites exception does not apply to this project.

5. Conclusion

The minor realignment of the Test Tunnel and construction of the Exit Tunnel and Test Elevator/Spur are all consistent with various categorical exemptions identified above and none of the exclusions in CEQA Guidelines Section 15300.2 apply. Accordingly, the proposed project is exempt from CEQA.

6. Sources


Dudek. May 2017. Supplemental Environmental Information Test Tunnel for Zero Emissions Subterranean Transportation


____. May 2017. Memorandum: Cultural Resources Constraints for the Test Tunnel Project.


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\(^6\) California State Water Resources Control Board. List of Active Cease and Desist Order or a Cleanup and Abatement Order. www.calepa.ca.gov/SiteCleanup/CorteseList/CDOCAOList.xls.

\(^7\) California Department of Toxic Substances Control. Hazardous Facilities Subject to Corrective Action.
MEMORANDUM

To: Steve Davis, Company Director, The Boring Company.
From: Matt Valerio, Sr. Consultant - Dudek
Subject: Test Tunnel for the Zero Emissions Transportation – vehicle elevator included
Date: 4.11.18

This memorandum is intended to provide information regarding the coverage of prior documentation and approvals by the City of Hawthorne (City) for the Test Tunnel for Zero Emissions Transportation (Test Tunnel) as related to the proposed new inclusion of a test vehicle elevator and short tunnel spur (Test Elevator and Spur). The Boring Company was approved to construct The Test Tunnel for research and development (R&D) of a zero-emissions, underground alternative travel option for personal vehicles and pedestrian carriages. The Boring Company is a separate entity that shares ownership with Space Exploration Technologies Inc. (SpaceX). The Test Tunnel was approved to extend from the parking structure opposite the existing SpaceX facility at 1 Rocket Road in the City to the intersection of 120th Street and Hawthorne Boulevard. The City independently reviewed an applicant-prepared Supplemental Environmental Information document that provided environmental information regarding the potential consequences of the project. Since approval of the Test Tunnel by the City, The Boring Company has acquired an additional parcel of land and proposes to include in the Test Tunnel a Test Elevator to further test capabilities of the alternative travel tunnel technology. The information in the attached review of prior supplemental environmental information describes the coverage of potential consequences of both construction and testing of the Test Tunnel and Spur. A review of the environmental due diligence provided by the applicant indicates that the Test Elevator and Spur would not result in impacts beyond those identified in the environmental diligence documentation for the City-approved Test Tunnel.

Sincerely,

Matt Valerio, Sr. Project Manager

Attachments: Review of Prior Supplemental Environmental Information
Vehicle Elevator Site Plan
Review of Prior Supplemental Environmental Information
Test Tunnel for Zero Emissions Subterranean Transportation
Coverage for Inclusion of a Test Elevator and Spur
Submitted by the Applicant

to:

City of Hawthorne
4455 W. 126th Street
Hawthorne, California, 90250

Prepared by:

DUDEK
605 Third Street
Encinitas, California  92024
Contact: Matt Valerio

APRIL 2018
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1 INTRODUCTION

The Boring Company (Applicant) was approved to construct a 2-mile-long subterranean tunnel (Test Tunnel) that for research and development (R&D) of the concept of a zero-emissions, underground alternative travel option for personal vehicles and pedestrian carriages. The Applicant is a separate entity that shares ownership with Space Exploration Technologies Inc. (SpaceX). The Test Tunnel was approved to extend from the parking structure opposite the existing SpaceX facility at 1 Rocket Road in the City of Hawthorne (City) to the intersection of 120th Street and Hawthorne Boulevard. The City independently reviewed, and the City Council voted to approve, the construction of the Test Tunnel based on an applicant-prepared Supplemental Environmental Information document that provided environmental information regarding the potential consequences of the Test Tunnel.

Since approval of the Test Tunnel by the City, the Applicant has acquired an additional parcel of land and proposes to construct a test elevator and short tunnel spur (Test Elevator and Spur or Project) to connect to the Test Tunnel to further test capabilities of the alternative travel tunnel technology. The potential consequences of the construction and operation of the Test Elevator and Spur will be similar to those of the Test Tunnel, which has already been independently reviewed and approved as a Class 32 Categorical Exemption to the California Environmental Quality Act (CEQA) by the City of Hawthorne. The information herein describes the coverage of the potential consequences of both construction and operation of the proposed Test Elevator and Spur.

2 PROJECT DESCRIPTION

Project Title

Test Elevator and Tunnel Spur for Zero Emissions Subterranean Transportation

Project Location

The Test Elevator would be constructed on the rear portion of a property at 3834 W 119th Place adjacent to the Test Tunnel alignment (Property).

Project Description

The Test Elevator and Spur would be comprised of a vertical shaft to a depth of 30-40 feet and a test elevator connected to a short horizontal spur tunnel that connects the Test Elevator to the Test Tunnel beneath 120th Street. A new two-car garage would replace and relocate the existing two car garage, and provide enclosure for the Test Elevator.
The Test Elevator and Spur would provide the opportunity for additional testing of the technology to include the entry and exit of electric skates or electric vehicles into the elevator and a short spur tunnel, as well as out of the Test Tunnel and up the Test Elevator to the surface. This constitutes “operation” of the Test Elevator and Spur and will hereafter be referred to as “Testing.”

Construction

Construction of the Test Elevator and Spur would be consistent with that of the Test Tunnel and is anticipated to take approximately 2 weeks to complete. Daily construction activities would occur during the hours permitted by the City (7 a.m. to 7 p.m. Monday through Friday, and 9 a.m. through 5 p.m. Saturday and Sunday). The existing two car garage on the Property would be demolished and an equivalent sized building would be constructed to serve as the elevator platform enclosure. The Test Elevator and Spur would be constructed via excavation and pipe-jacking with material hauled off site via 120th Street to the I-105 Freeway. All trucks would access/exit the I-105 freeway directly from the Crenshaw Boulevard off/on ramps.

The Test Elevator and Spur would follow the same procedures as those followed with regards to the construction and testing of the Test Tunnel, including:

- A fire prevention plan that identifies regulations and common industry safety practices designed to reduce risk of fire in the tunnel during construction and testing.
- The settlement monitoring plan included in the Test Tunnel permit application, which identifies automated real-time settlement monitoring. If exceedance of settlement thresholds is detected, construction is halted immediately.
- The implementation of established standard industry practices for testing soil and groundwater, including testing and, if contaminated, disposal at an authorized disposal facility in the unlikely event it is encountered required of the Test Tunnel, also apply to the elevator pit and short spur tunnel construction.
- The ventilation plan created by Professional California Engineer and all considerations for worker health and safety, including ventilation and fire procedures as well as encountering gas and the stability of excavation areas, shall be governed by the California Office of Health and Safety (CalOSHA) Division of Tunneling and Mining classifications permit.
- The deployment of established standard practices for the monitoring of unknown cultural resources (archeological, paleontological) as described for the Test Tunnel. If previously unknown cultural resources are discovered the archaeological monitor shall have the authority to stop work, determine if work in other areas can continue, and evaluate the discovery. The archaeological monitor shall ensure appropriate treatment of human remains, if applicable, and coordinate Native American participation as needed. Monitoring will not occur of TBM activities for Test Elevator and Spur.
- The implementation of established standard monitoring by a qualified paleontologist during excavation activities within sensitive geologic sediments (Quaternary alluvium below a depth of 5 feet below the ground surface, Quaternary older alluvium, predicted at
depth). In the unlikely event that previously unknown paleontological resources are discovered, the paleontological monitor will have authority to temporarily divert activities away from exposed fossils to professionally and efficiently recover the fossil specimens and collect associated data. In the event fossils are recovered, recovered fossils shall be prepared to the point of curation, identified by qualified experts, and reposited in a designated paleontological curation facility (such as the Natural History Museum of Los Angeles County). Monitoring will not occur of TBM activities for the short spur tunnel.

Per State Health and Safety Code Section 7050.5, in the event of the discovery of human remains other than in a dedicated cemetery, no further excavation at the site or any nearby area suspected to contain human remains will occur until the County Coroner has been notified to determine if an investigation into the cause of death is required. Pursuant to California Public Resources Code (PRC) Section 5097.98, if the Coroner determines that the remains are Native American, then, within 24 hours, the Coroner must notify the Native American Heritage Commission, which in turn will notify the most likely descendant, who may recommend treatment of the remains and any grave goods. If the Native American Heritage Commission is unable to identify a most likely descendant, or the most likely descendant fails to make a recommendation within 24 hours after notification by the Native American Heritage Commission, or the landowner or his/her authorized agent rejects the recommendation by the most likely descendant and mediation by the Native American Heritage Commission fails to provide a measure acceptable to the landowner, then the landowner or his/her authorized representative will re-bury the human remains and grave goods with appropriate dignity at a location on the Property not subject to further disturbances. Should human remains be encountered, a copy of the resulting County Coroner report noting any written consultation with the Native American Heritage Commission will be submitted as proof of compliance to the City’s Community Development Department. Monitoring will not occur of TBM activities for the Test Elevator and Spur.

Per State Health and Safety Code Section 7050.5, in the event of the discovery of human remains other than in a dedicated cemetery, no further excavation at the site or any nearby area suspected to contain human remains will occur until the County Coroner has been notified to determine if an investigation into the cause of death is required. Pursuant to California Public Resources Code (PRC) Section 5097.98, if the Coroner determines that the remains are Native American, then, within 24 hours, the Coroner must notify the Native American Heritage Commission, which in turn will notify the most likely descendant, who may recommend treatment of the remains and any grave goods. If the Native American Heritage Commission is unable to identify a most likely descendant, or the most likely descendant fails to make a recommendation within 24 hours after notification by the Native American Heritage Commission, or the landowner or his/her authorized agent rejects the recommendation by the most likely descendant and mediation by the Native American Heritage Commission fails to provide a measure acceptable to the landowner, then the
landowner or his/her authorized representative will re-bury the human remains and grave goods with appropriate dignity at a location on the Property not subject to further disturbances. Should human remains be encountered, a copy of the resulting County Coroner report noting any written consultation with the Native American Heritage Commission will be submitted as proof of compliance to the City’s Community Development Department. Monitoring will not occur of TBM activities for the Test Elevator and Spur.

Completion of the Project would include total excavation of approximately 1,000 cubic yards of earth material would involve an estimated total of 67 trucks, or approximately 4-5 trucks per day. Approximately two weeks of excavation and construction at the Property would occur to complete the Test Elevator and Spur and two-car garage replacement, as well as demolition of the existing two-car garage.

**Testing**

The operation of the Test Elevator and Spur, hereinafter referred to as Testing, would involve engineers repeatedly testing personal, all-electric vehicles suitable for placement on the skates; refinement of the design and technology; and general data collection on performance, durability, and application. No public use of the Test Elevator or Spur would occur, and the skates would be moved back and forth within the Test Elevator and Spur.

All access for skates loading and testing would be from the SpaceX parking lot end of the tunnel; as such, the only cars entering and exiting the Property will be those belonging to the residents living onsite. Only all-electric vehicles would be tested in the Test Elevator and Spur. No more than 3-4 workers would be needed for testing the electric skates, and the existing residential structure (i.e. the house) would be left intact. Testing of the Test Elevator and Spur would occur an anticipated 3 to 4 times per month.

Testing of the Test Elevator and Spur would be subject to the same procedures as those implemented during construction of the Project, including:

- A fire prevention plan that identifies regulations and common industry safety practices designed to reduce risk of fire in the tunnel during construction and testing.
- The ventilation plan created by Professional California Engineer and all considerations for worker health and safety, including ventilation and fire procedures as well as encountering gas and the stability of excavation areas, shall be governed by the California Office of Health and Safety (CalOSHA) Division of Tunneling and Mining classifications permit.
3 INFORMATION

Land Use

The entry point for the TBM in Hawthorne is zoned M-2 General Industrial. The exit point is within private surface parking in an area zoned as C-3 General Commercial, in the City of Hawthorne. The Property is a residential property zoned R-2 Residential, medium density residential. The vehicle elevator is a test facility, to serve vehicles consistent with private vehicles the elevator structure would be consistent with a residential two-car garage, in fact replaces the existing garage structure, and would meet the City requirements for accessory buildings including the 12-foot height maximum, 5-foot rear setback, and be within the 50% lot coverage. Furthermore, the existing residential unit would be left intact and would be available for occupation throughout construction and testing. No changes in existing or future land uses would result from construction or testing.

Transportation and Traffic

Construction

Construction of the Test Elevator and Spur would be consistent with that of the Test Tunnel and is anticipated to take approximately 2 weeks to complete. Daily construction activities would occur during the hours permitted by the City (7 a.m. to 7 p.m. Monday through Friday, and 9 a.m. through 5 p.m. Saturday and Sunday). The Test Elevator and Spur would be constructed via excavation and pipe-jacking with material hauled off site via 120th Street to the I-105 Freeway. All trucks would access/exit the I-105 freeway directly from the Crenshaw Boulevard off/on ramps.

The excavation at the Test Elevator shaft and Spur would include some contractor traffic for both workers and equipment, though these would be estimated to be consisting of only 8 workers and the necessary construction equipment, including an excavator, crane, loader, and hydraulic power pack (for tunneling). Access to the vehicle elevator construction site would be from 120th Street, and as described for the Test Tunnel construction activities, would require coordination with the City of Hawthorne to ensure that the equipment emerges and is taken away under a traffic control plan to ensure no conflicts with vehicular or pedestrian traffic.

The Test Elevator and Spur would be used for testing purposes only. As with the Test Tunnel, no additional traffic would likely to occur. The Project would not alter the current transportation network.
**Review of Supplemental Environmental Information**

*Testing*

No more than 3-4 workers, no more than several times per month, would be needed for testing the electric skates in the Test Elevator and Spur. As such, no impact to traffic is expected.

*Noise*

*Construction*

There would be construction noise associated with the Test Elevator and Spur, as well as with the construction of the two-car garage. The nearest sensitive receptors are residences located either side of the vehicle elevator site. The construction would be required to within the permitted construction hours by the City (7 a.m. to 7 p.m. Monday through Friday, and 9 a.m. through 5 p.m. Saturday and Sunday).

Potential noise from equipment such as excavators that can generate noise levels of up to 90 A-weighted decibels (dBA); however, the use of excavators would be limited to the 1-2 weeks of construction time needed for the Test Elevator and Spur. The City limits the hours of construction for activities within areas zoned for residential, and the vehicle elevator site is zoned residential. As such, the hours of construction would be restricted by the City (7 a.m. to 7 p.m. Monday through Friday, and 9 a.m. through 5 p.m. Saturday and Sunday). No impact to noise is expected during construction.

*Testing*

Testing the electric skates and elevator during operation of the Test Elevator and Spur would involve only the use of all-electric equipment, which operate very quietly. Additionally, all testing would take place inside of the two-car garage, the walls of which would absorb any additional noise. No impact to noise is expected.

*Air Quality*

Construction of the Test Elevator and Spur would result in the temporary addition of pollutants to the local airshed caused by on-site sources (i.e., off-road construction equipment, soil disturbance, and volatile organic compound off-gassing) and off-site sources (i.e., on-road haul trucks, vendor trucks, and worker vehicle trips) consistent with that provided for the Test Tunnel. Construction emissions can vary substantially from day to day, depending on the level of activity; the specific type of construction activity; and, for dust, the prevailing weather conditions.

*Construction*

Because test tunnel calculations included worst-case assumptions of construction activities 24-hours a day, which overestimated the number of trucks by approximately 30 percent, the inclusion of activities associated with elevator construction would not involve equipment or activities beyond that calculated. Construction of the Test Elevator and Spur would occur consistent with that
provided for in the Test Tunnel including the commitment to use off-road equipment that meets or exceeds EPA Tier 4 standards or equivalent.

Testing

Because the test tunnel including the Test Elevator would provide testing of zero-emissions-transport, no operational emissions would be generated.

Water Quality

Treatment of water during both construction and testing of the Test Elevator and Spur would be consistent with the provisions provided for the Test Tunnel, the Test Elevator and Spur would handle runoff during construction by routing runoff to the existing underground storm drain systems and/or lined channels, thus reducing off-site erosion. In addition, applicable municipal permits and waste discharge requirements would be obtained and adhered to in order to manage water quality. Compliance with federal, state, and local laws and regulations would be required for construction activities. The Storm Water Pollution Prevention Plan (SWPPP) prepared to manage surface water quality from sedimentation and/or erosion during construction would be amended to include the Vehicle Elevator and Spur. The enclose vehicle elevator would be designed to divert surface drainage away. In addition, design and construction would use BMPs in accordance with the applicable NPDES consistent with the provisions provided for the Test Tunnel.

Consistent with the provisions provided for the Test Tunnel, in the event that groundwater is encountered, the construction and design of the Test Elevator and Spur includes necessary seals and impermeable concrete grouting materials to prevent intrusion of groundwater and to reduce contaminant migration to the deeper groundwater basin, reducing potential effects to the groundwater resource. Consistent with the provisions provided for the Test Tunnel, the Test Elevator and Spur includes implementation of established standard industry practices for testing soil and groundwater, including testing and, if contaminated, disposal at an authorized disposal facility in the unlikely event it is encountered. A dewatering permit from the Los Angeles Regional Water Quality Control Board would potentially need be obtained, and as required by that permit, any contaminated groundwater would be properly treated prior to being discharged. Groundwater is not expected to be produced in significant quantities.

The Test Elevator and Spur location do not contain or exist near any hydrologic or drainage features.
Review of Supplemental Environmental Information

The Test Elevator and Spur are not located within a 100-year floodplain, as mapped by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.\(^1\)

As described for the Test Tunnel, the Test Elevator and Spur are not subject to tsunami due to its distance from the ocean. None of Hawthorne is located within an area identified on a Tsunami Inundation Map. There are no significant hills, mountains, or washes in the immediate vicinity that could result in mudflows onto or from the test tunnel site.

Aesthetics

During construction there would be the presence of construction vehicles and equipment at the Property, which is not in an area of high scenic value or containing identified scenic resources. The end result at this location would be a relocated two-car garage of size and scale consistent with that existing. The majority of construction and all of testing would take place underground, and would not be visible or alter the aesthetic environment.

The Property is not adjacent to a designated state scenic highway or eligible state scenic highway, as identified on the California Scenic Highway Mapping System.\(^2\) The Hawthorne General Plan does not identify any scenic resources within the City.\(^3\)

Biological Resources

Consistent with the provisions provided for the Test Tunnel, the Test Elevator and Spur are within the reviewed area, which is entirely urbanized and provides little opportunity for biological resources. The Test Elevator would be constructed within an existing disturbed private property and the Spur would be constructed approximately 30-40 feet underground, and thus would not have the potential to affect migration routes, fish passage, or wildlife corridors, nor would the test tunnel result in habitat fragmentation. There is no riparian habitat, wetlands, native resident or migratory fish or wildlife species on or near the location. A search of the California Natural Diversity Database (CNDDB) yielded no results of biological resources in the locations, or immediate vicinity, including the Property.

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\(^1\) FEMA Flood Insurance Rate Map. Los Angeles County, California. Map Number 06037C1790F. [http://map1.msc.fema.gov/idms/IntraView.cgi?ROT=0&O_X=7204&O_Y=5179&O_ZM=0.077234&O_SX=1112&O_SY=799&O_DPF=400&O_TH=6383953&O_EN=6429031&O_PG=1&O_MP=1&CT=0&DI=0&WD=14408&HT=10358&JX=1912&JY=942&MPT=0&MPS=0&ACT=1&KEY=6383699&ITEM=1&PICK_VIEW_CENTER.x=1005&PICK_VIE W_CENTER.y=627&R1=VIN.  
\(^2\) [http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html](http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html)  
\(^3\) [http://www.cityofhawthorne.org/general-plan/](http://www.cityofhawthorne.org/general-plan/)
Review of Supplemental Environmental Information

The Test Tunnel alignment including the Property is not within the planning area of any Habitat Conservation Plan \(^4\) or a Natural Community Conservation Plan area,\(^5\) or other approved local, regional, or state habitat conservation plan.

**Cultural Resources**

Dudek completed a records search of the test tunnel alignment and surrounding 0.25-mile search buffer at the South Central Coastal Information Center (SCCIC), California State University Fullerton, which included the Property. No cultural resources have been previously recorded within the vicinity of the test tunnel alignment or elsewhere in the City.

Established standard practices for monitoring and treatment of unanticipated discoveries of archaeological resources and state requirements for human remains (Section 7050.5 of the California Health and Safety Code; California Public Resources Code, Section 5097.98) will be implemented as part of the vehicle elevator excavations as described for test tunnel excavation activities. Monitoring will not occur of TBM activities for the short spur tunnel.

A paleontological records search was requested from the Natural History Museum of Los Angeles County (LACM). The LACM reported no vertebrate fossil localities within the proposed alignment or within the approximately 1-mile buffer. Nearby localities were reported from the same deposits that occur along the test tunnel alignment (McLeod 2017),\(^6\) although at different depths. The younger Quaternary alluvium is generally too young to contain significant fossil vertebrates, especially in the surficial layers; however, McLeod (2017) stated that older Quaternary deposits likely underlie the younger Quaternary alluvium at a relatively shallow depth in the northern project area, where the younger Quaternary alluvium is mapped on the surface.

The LACM recommends paleontological monitoring of substantial excavations (6 feet deep or greater) into younger Quaternary alluvium, which is mapped on the surface at the Property. Where monitoring is not feasible, it is recommended that sediment samples be collected and processed for microvertebrate sampling. Established standard practices for treatment of unanticipated discoveries of archaeological resources shall be followed as part of the vehicle elevator construction consistent with that described for the test tunnel implementation. In the event, any fossils are collected during the paleontological monitoring, those fossils should be accessioned into an accredited and permanent scientific repository\(^9\). Monitoring will not occur of tunneling activities for the Spur.


Consistent with the provisions provided for the Test Tunnel, during construction of the Test Elevator and Spur, if human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities must stop in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to California Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, the coroner will notify the Native American Heritage Commission, which will then notify the most likely descendent. Further provisions of PRC 5097.98 are to be followed as applicable.

Geology and Soils

The Test Tunnel alignment including the Test Elevator and Spur, is located in seismically active Southern California, the alignment is not located within an Alquist-Priolo Earthquake Fault Zone.\(^7\) The alignment including the Spur would not cross any known active faults according to the Department of Conservation’s Fault Activity Map of California.\(^8\)

Seismic analysis was completed as part of structural calculations and the results of that analysis have been used to design the test tunnel components. According to the Seismic Hazard Evaluation of the Inglewood quadrangle, the Test Tunnel and the rest of the City are not located in a liquefaction hazard zone.\(^8\) Due to the underground nature and because there is no slope on which landslides could occur, landslides are not a concern. According to the Seismic Hazard Evaluation of the Inglewood quadrangle,\(^10\) the Property is not located in an Earthquake-Induced Landslide Zone. Consistent with the provisions provided for the test tunnel, the Test Elevator and Spur sidewall and banking stability will be conducted in accordance with the Los Angeles County Metropolitan Transportation Authority (LACMTA) design methods to ensure stability of excavated areas.

Topsoil is used to cover surface areas for the establishment and maintenance of vegetation due to its high concentrations of organic matter and microorganisms. Little, if any, native topsoil is likely to occur within the Property, since the area is covered with developed property, including paving, structures, and landscaping. Consistent with the provisions provided for the test tunnel, erosion as a result of construction activities for the vehicle elevator would be minimized through soil stabilization measures required by SCAQMD Rule 403 (Fugitive Dust), such as daily watering, and through the City’s standard erosion control practices required pursuant to the National Pollution Discharge Elimination System (NPDES), such as silt fencing or sandbags.


The Test Tunnel site is located on two quaternary geologic deposits: Alluvium, lake playa, and terrace deposits; and older alluvium, lake playa, and terrace deposits. Expansive soils are those that expand when exposed to water and contract when water is not present. Due to the absence of any natural channel within or near the Test Tunnel alignment including the Test Elevator and Spur, the potential for lateral spread occurring would be unlikely. Soil conditions at the Property would be identified and considered as part of the design process. A settlement monitoring plan included in the permit application, which identifies automated real-time settlement monitoring and if exceedance of thresholds is detected, construction is halted immediately would be applicable to the Test Elevator and Spur construction. Neither construction nor testing of the Test Elevator and Spur would not require use of septic tanks.

**Greenhouse Gas Emissions**

**Construction Emissions:** As stated under the Air Quality heading, the calculations provided for the test tunnel conservatively overestimated the emissions associated with construction such that the activities for the construction of the vehicle elevator and short spur tunnel are captured previously.

**Testing Emissions:** The Test Elevator and skates within the tunnel would be zero emissions and electric powered, which would avoid emissions associated with the testing.

**Hazards and Hazardous Materials**

The current and former use of the Property as a residence limits the likelihood for soil or groundwater contamination at the Property. The depth (approximately 30-40 feet) of the Tunnel Spur enables avoidance of contaminated surface soils, underground storage tanks, and subterranean pipelines for fuel and gas. The Test Tunnel alignment, including the Property, is not within a “Methane Zone” identified by Los Angeles as emanating from certain ground conditions. A permit from CalOSHA is required that includes requirements to handle accidental release of construction-related hazardous materials, including encountering subsurface gases such as methane. Consistent with the provisions provided for the test tunnel, the construction contractor for the Test Elevator and Spur would be required to implement BMPs for handling hazardous materials in compliance with existing regulations.

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The closest operational school is York School, located approximately 0.25 mile northwest of the proposed Property. The activities would not include the use, transportation, or disposal of hazardous materials or waste as part of construction or testing within 0.5 mile of this school.

The Test Tunnel alignment, including the Property, does not contain sites, nor is it adjacent to any sites, listed on the state Cortese List, a compilation of various sites throughout the state that have been compromised due to soil or groundwater contamination from past uses.  

Based on review of the Cortese List, along or adjacent to the alignment of the Test Tunnel, including the Test Elevator and Spur is not:

- Listed as a hazardous waste and substance site by the Department of Toxic Substances Control (DTSC)\(^{12}\)
- Listed as a leaking underground storage tank site by the SWRCB\(^{13}\)
- Listed as a hazardous solid waste disposal site by the SWRCB\(^{14}\)
- Currently subject to a Cease and Desist Order or a Cleanup and Abatement Order as issued by the SWRCB\(^{15}\)
- Developed within a hazardous waste facility subject to corrective action by the DTSC\(^{16}\)

The Test Tunnel would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Hawthorne Municipal Airport is south-adjacent to, and within two miles of the Test Tunnel alignment and Property. Consistent with the provisions provided for the test tunnel, the Test Elevator and Spur would not result in a safety hazard for people residing or working in the area.

The Test Tunnel, including the Test Elevator and Spur, would not change existing conditions with regard to transportation routes or evacuation plans. No public or private streets would be closed during or following construction of the test tunnel, and no changes to emergency access/evacuation would result.

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1. California Environmental Protection Agency Cortese List. www.calepa.ca.gov/SiteCleanup/CorteseList/.
5. California State Water Resources Control Board. List of Active Cease and Desist Order or a Cleanup and Abatement Order. www.calepa.ca.gov/SiteCleanup/CorteseList/CDOCAOLList.xls.
6. California Department of Toxic Substances Control. Hazardous Facilities Subject to Corrective Action.
Public Services

No new fire stations or other capital improvements would need to be built as a result of the construction or testing of the Test Elevator and Spur, and no new fire personnel would need to be hired in order to maintain existing service ratios and response times, as the Test Tunnel would not increase population or the need to service them, nor would the Test Elevator and Spur. Consistent with the Fire Prevention and Control Plan provisions provided for the Test Tunnel, the Test Elevator and Spur would implement a fire suppression system to address on-site fire protection.

The Test Tunnel including the Test Elevator and Spur would not increase residential population or employment numbers, and would not require law enforcement or public safety services from the Hawthorne Police Department or demand for local schools, libraries, or parks. No new police stations, parks, libraries, or other capital improvements would be required, and no new personnel would need to be hired in order to maintain existing service ratios and emergency response times, as the proposed would not increase the population or the need to service them.

Tribal Cultural Resources

No known tribal cultural resources have been identified within the City. Consistent with the provisions provided for the Test Tunnel, in the unlikely event that Native American cultural resources (i.e., prehistoric or ethnohistoric-period artifacts, food remains, or features associated with Native Americans) are exposed during the Test Elevator and Spur related ground disturbance, the Gabrielino/Tongva San Gabriel Band of Mission Indians and the Tongva Ancestral Territorial Tribal Nation should be contacted. These groups would be asked to provide the services of a trained Native American consultant, agreeable to both groups, to monitor ground-disturbing work in the area containing the Native American cultural resources. This monitoring would occur on an as-needed basis, and would be intended to ensure that Native American concerns are taken into account during the construction process.

Utilities and Service Systems

The Test Tunnel and Spur would be designed to be approximately 30-40 feet underground to avoid existing infrastructure, including utility lines (gas, power, water, sewer), and roadway foundations (pilings), thus it would prevent conflicts with subterranean utilities drainage, and surface resources during construction and testing. The Test Tunnel and Test Elevator would test zero-emissions transport and would require electrical service for skates charging and for general lighting purposes, which would be high-efficiency LED lighting. No new or additionally expanded facilities would be needed to service energy demands of the Test Tunnel. Due to the size and nature of the Test Tunnel including the Test Elevator, neither construction nor testing would not result in a substantial increase in demand for water, wastewater, or solid waste.
removal services. The Test Tunnel including the Test Elevator would test a zero-emissions transport alternative for pedestrian carriages and personal vehicles, and would not increase the number of residents.

4 SUMMARY

The Test Tunnel including the Test Elevator and Spur would allow for testing for the development of a subterranean tunnel that would provide a zero-emissions, underground alternative travel option for personal vehicles and pedestrian carriages. The project would result in less than significant cumulative impacts because, based on the information above, effects would be from short term temporary construction activities, for which no additional related activities are foreseen to overlap in geography or timing. Moreover, cumulative impacts caused by the project linking to the Test Tunnel would not be significant because the system would be for R&D purposes exclusively and would not be used for transit.

The Test Tunnel including the construction and testing of the Test Elevator and Spur would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

Based on the information above, there is no indication that the construction of the Test Elevator and Spur would result in substantial adverse effects on human beings. The project is an underground facility with proposed facilities consistent with the City’s General Plan and applicable zoning designations and regulations. The Property is entirely within the City’s limits with site disturbance of less than five acres entirely surrounded by urban uses. The Property has no value as habitat for endangered, rare, or threatened species. The Property is adequately served by all required utilities and public services. The Property is not designated or mapped to contain an environmental resource of hazardous or critical concern. The Property is not within a designated scenic highway, on a hazardous waste site, nor any historic resources. The information provided herein and attached identify that no significant impacts would result from construction or testing of the Test Elevator and Spur, including to traffic, air quality, noise, or water quality.
NEW FLOOR PLAN

1. CONTRACTOR SHALL VERIFY ALL NOTES, DIMENSIONS & CONDITIONS PRIOR TO CONSTRUCTION.
2. WINDOWS & DOORS ARE SHOWN & NOTED AS NOMINAL SIZES.
3. DEEP FOUNDATION PER SITE CONDITIONS.
4. 3-3/4"C.F. ARMS FOR DEWALT PROCESSOR SHALL BE 1"X1" X 5.5" STEEL.

NOTES:

1. ALL GLAZING FOR WINDOW & DOOR SCHEDULES & NOTES
2. ALL GLAZING TO BE TRIPLE PANE U-FACtor AND SHGC RATINGs APPLY TO ALL GLAZING.
3. OPTI:MBLE FIRE SENSORS SHALL BE INSTALL:.ED PER SCHEDULE.

DOOR SCHEDULE

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SCHEDULES & NOTES

1. HARDWIRED LEVEL 1 RATED ELECTRIC VEHICLE CHARGER.
2. ALL WINDOW & DOOR SCHEDULES & NOTES
3. CONTRACTOR SHALL VERIFY ALL NOTES, DIMENSIONS & CONDITIONS PRIOR TO CONSTRUCTION.

NOTES:

1. HARDWIRED LEVEL 1 RATED ELECTRIC VEHICLE CHARGER.
2. CONTRACTOR SHALL VERIFY ALL NOTES, DIMENSIONS & CONDITIONS PRIOR TO CONSTRUCTION.
3. WINDOWS & DOORS ARE SHOWN & NOTED AS NOMINAL SIZES.
4. DEEP FOUNDATION PER SITE CONDITIONS.
5. WOOD & CONCRETE ARE EXPRESSED IN "7" PITCH CORNERS & WINDOW ROUGH OPENINGS ALONG MANUFACTURERS SPECICS.
ELEVATION NOTES:
1. VERIFY SHEAR WALL NAILING & HOLDOWNS PER PLAN & SCHEDULE PRIOR TO INSTALLING SIDING.
2. MASONRY & WOOD FRAME CHIMNEYS ARE TO BE CONSTRUCTED PER I.R.C. CHAPTER 10
3. CAULK ALL EXTERIOR JOINTS & PENETRATIONS.
4. PROVIDE APPROVED CORROSION RESISTANT FLASHING AT EXTERIOR WALL PENETRATIONS PER I.R.C. R703.8
5. PROVIDE FLASHING AT ROOF PENETRATIONS PER I.R.C. R903.2 & R903.2.1
6. PROVIDE WEATHER STRIPPING AT ALL EXTERIOR & GARAGE INTERIOR DOORS.
7. PROVIDE CONTINUOUS GUTTERS & DOWNSPOUTS @ ALL EAVES, TYP.
ATTACHMENT 7

ORDINANCE 2164

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE ADOPTING A CATEGORICAL EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING ZONE TEXT AMENDMENT 2018ZA06 AMENDING TITLE 17 OF THE HAWTHORNE MUNICIPAL CODE TO ADD CHAPTER 17.100, TEST ELEVATOR AND SPUR, AND AMENDING SECTION 17.18.020, PERMITTED USES, TO ESTABLISH A PROCESS FOR ALLOWING A TEST ELEVATOR/SPUR CONNECTING THE EXISTING TEST TUNNEL UNDER 120TH STREET TO AN ENCLOSED GARAGE OF A PRIVATE RESIDENCE FOR THE PURPOSE OF EXAMINING THE CAPABILITIES OF A ZERO-EMISSIONS, UNDERGROUND TRAVEL OPTION FOR PERSONAL VEHICLES WITH APPROVAL OF A CONDITIONAL USE PERMIT IN THE HIGH-DENSITY RESIDENTIAL ZONE (R-3) AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, on May 2, 2018, The Boring Company Corporation (“Applicant”) filed a complete application requesting to amend Chapter 17.18 (R-3 High-Density Residential) and to add Chapter 17.100, Test Elevator and Spur, to Title 17 (Zoning) of the Hawthorne Municipal Code (“HMC”) to establish a process in which a Test Elevator/Spur connecting the existing Test Tunnel under 120th Street to the enclosed garage of a private residence for the purpose of examining the capabilities of a zero-emissions, underground travel option for personal vehicles may be permitted with approval of a Conditional Use Permit in the R-3 Zone and concurrently filed a complete application for a Conditional Use Permit (2018CU05) to establish a Test Elevator/Spur on a property located at 3834 119th Place (“Project”); and

WHEREAS, the Applicant was previously approved to construct a two-mile long tunnel for the research and development of a zero-emission, underground travel option for personal vehicles extending from the property located at 12200 Crenshaw Boulevard (portion of parcel 4056-031-007), under 120th Street, to the intersection of 120th Street and Hawthorne Boulevard (“Test Tunnel”); and

WHEREAS, the Test Tunnel accommodates a "skate" system that would be tested to prove the viability for transporting pedestrians or personal vehicles. The concept is that a vehicle would be driven onto the skate, the engine would be turned off and the vehicle and its passenger would be transported from one end of the Test Tunnel to the other; and

WHEREAS, the Test Tunnel project involves engineers testing and experimenting with personal vehicle types suitable for placement on the skates; refinement of the design and technology; and general data collection on performance, durability, and application; and
WHEREAS, the Applicant has acquired a residentially zoned property located at 3834 W. 119th Place, APN # 4048-011-032, (“Property”) with the desire to connect the Test Tunnel with the Property via an underground shaft (spur) that provides vehicular access to the surface into an enclosed garage via an elevator for the purpose of further examining the capabilities of the Test Tunnel (“Test Elevator/Spur”); and

WHEREAS, The HMC does not address or permit the proposed Project; and

WHEREAS, Government Code Section 65853 and Section 17.06.010 of the HMC allow for the amendment of the HMC with approval of the City Council; and

WHEREAS, similar to the Test Tunnel project, the Test Elevator/Spur would involve engineers testing and experimenting with the elevator system, underground skate system connections; refinement of the design and technology; and general data collection on performance, durability, and application; and

WHEREAS, the Test Elevator/Spur would not be used for public transportation purposes and no public use of the Test Tunnel and Test Elevator/Spur would occur. However, the Test Tunnel and Test Elevator/Spur would be used to develop a system of transportation that is planned to someday provide for public transportation in other areas of the region, state, country and the world, and thus providing an area for its testing and development would be helpful in finding new technologies for efficient, zero emissions forms of transportation that are needed for local, regional, state, national and international economic development; and

WHEREAS, the Test Elevator/Spur would include the same design features as the Test Tunnel including components that provide for: (i) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency's Tier 4 Final emission standards or equivalent; (ii) the preparation and use of a fire prevention plan; (iii) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; (iv) standard testing for soil, gas and water and proper disposal of contaminated soil; (v) compliance with excavation requirements imposed by the California Office of Health and Safety (CalOSHA); (vi) appropriate haul routes to haul away soil to a suitable facility; and (vii) a pre-condition survey of the adjacent residences and process to repair any damages caused by construction; and

WHEREAS, prior to the issuance of any permits, the Applicant will be required to coordinate with all known utility companies and entities that have some improvements in, along or across the portions of the Test Elevator/Spur route and Property to make sure the Test Elevator/Spur is designed to avoid and not impact any of their utilities and to address their concerns and issues, and no permits will be issued by the City until the City Engineer has determined that the construction will not conflict with or impair those utilities; and

WHEREAS, City staff and the City's environmental consultant have evaluated the Project.
and determined that it qualifies for exemption from California Environmental Quality Act (CEQA) review. Zone Text Amendment 2018ZA06 and accompanying modification to the Test Tunnel alignment and Exit Tunnel at 4012 120th Street qualify for the Minor Alterations in Land Use Limitations exemption (Section 15305 Class 5) and Infill Development exemption (Section 15332 Class 32) because the project satisfies the criteria for use of that exemption as more fully described in the environmental documentation prepared in connection with review of the project, which information is included as attachments to the staff report that accompanies this Ordinance; and

WHEREAS, on July 11 and 12, 2018, the Applicant held neighborhood meetings to introduce and discuss the proposed Project with residents near the Property; and

WHEREAS, on August 22, 2018, the Planning Commission held a duly noticed public hearing on Zone Text Amendment 2018ZA06 and, following the close of the public hearing, recommended approval of said Ordinance to the City Council; and

WHEREAS, also on August 22, 2018, the Planning Commission held a duly noticed public hearing and, following the close of the public hearing, approved Conditional Use Permit application 2018CU05 for the construction and operation of a Test Elevator/Spur at the Property contingent upon approval of this Ordinance by the City Council; and

WHEREAS, the City provided published notice of a public hearing on August 30, 2018, and the City Council introduced and held a duly noticed public hearing on the proposed Ordinance on September 11, 2018; and

WHEREAS, evidence was heard and presented from all persons in favor of the application, from all persons opposed to the application, and from members of the City staff; and that the City Council having heard and received all of said evidence, testimony and statements and being fully informed of the application, hereby rendered a decision; and

WHEREAS, the City Council of the City of Hawthorne hereby approves this Ordinance establishing a process in which a Test Elevator/Spur connecting the Test Tunnel under 120th Street to the enclosed garage of a private residence may be permitted in the R-3 Zone with a conditional use permit.

NOW, THEREFORE, THE CITY COUNCIL THE CITY OF HAWTHORNE DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council, after consideration of the Staff’s and Applicant’s presentations, discussions, oral testimony, and written evidence presented to the City Council, hereby finds that the above recitals are true and correct and incorporate them herein.
SECTION 2. All necessary public meetings and opportunities for public testimony and comment have been conducted in compliance with State law and the HMC and two additional community meetings with the surrounding neighbors were conducted by the Applicant on July 11 and 12, 2018.

SECTION 3. Based Upon independent review and consideration of the information contained in the Staff Report and the Notice of Exemption for the Project, the City Council has determined that the proposed Project is exempt from the requirements of preparing an Environmental Impact Report (EIR) or Negative Declaration because the project meets the criteria for the following Categorical Exemptions:

1. The Infill Development exemption (Section 15332 Class 32) is applicable because the Exit Tunnel and slightly modified alignment of the Test Tunnel are: 1) located within city limits; 2) less than five acres in size; 3) devoid of natural habitat for sensitive species; 4) surrounded by urban development, 5) served by all required public services and utilities. The Test Tunnel alignment will be modified slightly to accommodate construction of an Exit Tunnel at Prairie Avenue. The Exit Tunnel and Test Tunnel as modified are within the corporate limits of the City of Hawthorne, surrounded by urban uses on all sides, less than five acres in size, and consistent with the General Plan. The Exit Tunnel and minor modification to the alignment of the Test Tunnel are subterranean within the rights-of-way of 120th Street and contain no natural habitat for sensitive species. All utilities and public services are in place to serve the project as proposed. The project would not result in any significant impact to traffic, noise, air quality, or water quality.

2. The Minor Alterations in Land Use Limitations exemption (Section 15305 Class 5) is applicable because the Project would occur in an area with an average slope of less than 20% and would not result in any changes in land use or density. The Zoning Text Amendment would permit the Test Elevator/Spur as an ancillary use in the R-3 Zone where it qualifies for a conditional use permit meeting these requirements: 1) property must abut portion of 120th Street containing the Test Tunnel; 2) Test Elevator/Spur shall breach surface only within fully enclosed garage; 3) Test Elevator/Spur shall not cross any adjacent properties without evidence of prior written approval of property owner. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. The Test Elevator/Spur at 3834 119th Place addressed in Conditional Use Permit 2018CU05 meets all these requirements and is treated as an ancillary use within the R-3 zone where no change to land use types or densities would occur.
SECTION 4. Zone Text Amendment 2018ZA06 is consistent with the City’s General Plan, specifically the following policies of the Land Use Element: Policy 2.1 “The design of future development shall consider the constraints and opportunities that are provided by adjacent existing development,” Policy 3.1 “The promotion of businesses that generate positive economic benefits to the community, including generating tax revenue, job creation and enhancing the quality of life for residents and visitors shall be encouraged and assisted,” and POLICY 3.6 “Land use regulations shall be regularly evaluated and updated to facilitate the attraction of high technology industries which will enhance the local economy and support Hawthorne's image as a aerospace research and development hub.” The Project updates the City’s land use regulations to assist a subsidiary (The Boring Company) of a major employer (SpaceX) in the City that is exploring transportation alternatives aimed at enhancing the quality of life in the region and would support the City’s growing high-tech industry. The Project is designed to minimize impacts to the adjacent residential neighborhood, including impacts related to noise, odors, vibration, visitation, traffic, and parking. The Project is designed so it will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed to be operated such that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur and the Property will appear and function as a private residence.

SECTION 5. The City Council hereby amends Section 17.18.020 (Permitted and conditionally permitted uses and bulk requirements) of Chapter 17.18 (R-3 High Density Residential Classification) of Title 17 (Zoning) of the Hawthorne Municipal Code to read as follows:

“17.18.020 Permitted and conditionally permitted uses and bulk requirements.

“C. Test Elevator/Spur with approval of a conditional use permit as specified in Chapter 17.100.”

SECTION 6. The City Council hereby amends Title 17 (Zoning) of the Hawthorne Municipal Code to add Chapter 17.100 (Test elevator and spur) to read as follows:

“Chapter 17.100 Test elevator and spur.

17.100.010 Purpose.

The purpose of this Chapter is to establish the process in which a Test Elevator/Spur connecting the existing Test Tunnel, as defined below, to a fully enclosed garage of a private residence for the purpose of examining the capabilities of a zero-emissions, underground travel option for personal vehicles may be conditionally permitted as an ancillary use.
17.100.020 Definitions.

For the purposes of this Chapter, the following terms are defined:

"Test Elevator/Spur" means all components of a private underground shaft (spur) that connects from the Test Tunnel to an elevator shaft that provides access to the surface into the enclosed garage of a private residence for the purpose of further examining the capabilities of a zero-emission, underground travel option for personal vehicles.

"Test Tunnel" means the approved tunnel that extends from the property located at 12200 Crenshaw Boulevard (portion of parcel 4056-031-007), under 120th Street, to the intersection of 120th Street and Hawthorne Boulevard for the purposes of testing a zero-emission, underground travel option for personal vehicles.

17.100.030 Locational Criteria.

A Test Elevator/Spur shall only be conditionally permitted on a property that complies with all of the following:

A. The property where the proposed Test Elevator/Spur would breach the surface shall immediately abut that portion of 120th Street containing the approved Test Tunnel.

B. The Test Elevator/Spur shall breach the surface only within a fully enclosed and fully functioning garage.

C. The Test Elevator/Spur shall not cross the property lines of any adjacent properties without evidence of prior written approval from the property owner.

17.100.040 Operational Requirements.

A Test Elevator/Spur shall only be conditionally permitted as an ancillary use when it complies with all of the following:

A. The property containing the Test Elevator/Spur shall be owned, operated, and maintained by the entity that owns and operates the Test Elevator/Spur at all times.

B. The operation, testing, and maintenance of the Test Elevator/Spur shall not negatively impact the character of the surrounding neighborhood in terms of safety, health, odors, noise, vibration, traffic, lights, parking, events, and increased activity.

C. There shall be no obvious signs of the presence of the Test Elevator/Spur in terms of activity, visitation, noise, odors, lighting, traffic, events, and parking demand and from outward appearances, the property shall appear and function as a private residence.
D. The Test Elevator/Spur shall not be visible from the public right-of-way or adjacent properties.

E. The property shall contain a dwelling unit, as defined herein, that at all times shall operate as a living quarters with fully functioning cooking, bathing, and sleeping facilities and outdoor yards.

F. All required on-site parking and vehicular access shown on the approved plans shall remain open, unencumbered, and available for parking and access at all times.

G. There shall be no outdoor storage of equipment, vehicles, testing materials, and construction materials associated with the Test Elevator/Spur. The yards of the property shall appear and function as the yards of a typical private residence as determined by the Planning Director.

H. The structures, yards, and landscaping of the property containing the Test Elevator/Spur shall be clean and well-maintained at all times. This means that the yards shall not be used for storage; landscaping shall be healthy, weed-free, and litter-free; and the exterior building elements and materials/paint shall be maintained in an as-new manner.

I. At the property containing the Test Elevator/Spur, there shall be no special events, promotional activities, amplified sounds, advertising, or signage, or illumination beyond that found at a typical residence as determined by the Planning Director.

J. Vehicles shall only enter and exit the Test Tunnel from the property located at 12200 Crenshaw Boulevard (portion of parcel 4056-031-007) that contains the entry for the Test Tunnel and vehicles shall not enter or exit the Test Elevator/Spur from/onto a public street from the property containing the Test Elevator/Spur.

K. Residents of the property containing the Test Elevator/Spur and on-site workers associated with the Test Elevator/Spur shall park on-site at all times.

L. The rear two-thirds of the property containing the Test Elevator/Spur shall be improved with block walls (minimum six to a maximum of ten feet tall), vehicular access gate, and enclosed garage; landscaping shall be updated to comply with Chapter 17.89; and the exterior of the dwelling unit shall be upgraded as shown on the approved plans.

M. The Test Elevator/Spur shall not be used for public transportation purposes and the public use of the Test Elevator/Spur shall not occur.

N. It shall be the responsibility of the owner and operator of the Test Elevator/Spur to cease operations and correct negative impacts to the surrounding residential neighborhood.
that have been verified by city staff, including but not limited to increased public visitation, parking demand, odors, smoke, discharges, settlement, and noise and vibration impacts.

O. The Test Elevator/Spur shall be completely filled-in and capped to the satisfaction of the City Engineer prior to the discontinued use of the Test Tunnel, discontinued use of the Test Elevator/Spur, or sale of the property except as provided in Section 17.100.080.

17.100.050 Submittal Requirements.

In addition to the plans and materials required to accompany an application for a conditional use permit, as detailed in Chapter 17.40, an application for a Test Elevator/Spur shall include the following:

A. Operational plan describing how the Test Elevator/Spur and property containing the Test Elevator/Spur will be operated and maintained to comply with the provisions of this Chapter. The operational plan shall describe the maximum number of employees on site, maximum number of residents living at the site, the test vehicle access/exit point, and fully address the operational requirements contained in Section 17.100.040.

B. Physical plan clearly dimensioning and describing the below-ground Test Elevator/Spur, elevator features, tunnel construction, and above-ground improvements such as the elevator landing, garage, perimeter walls, landscaping, and alternations to the dwelling unit to fully address the physical requirements contained in Section 17.100.040.

C. Draft security plan describing how the test elevator will be secured, how the property will be secured, how access will be controlled, how visitors will be controlled, and to address the operational requirements contained in Section 17.100.040.

17.100.060 Additional Requirements.

The following shall be approved prior to issuance of a building permit:

A. The City Engineer shall approve a construction safety plan identifying hours of construction, appropriate haul routes to haul away soil to a suitable facility, and compliance with excavation requirements imposed by the California Office of Health and Safety (CaIOSHA); a fire prevention plan; a settlement monitoring plan that provides for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; the testing results for soil, gas and water and proper disposal of contaminated soil; a pre-condition survey of the adjacent residences and process to repair any damages caused by construction; and the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency's Tier 4 Final emission standards or equivalent.
B. All necessary subsurface easements and encroachment permits shall be secured through the City Engineer.

C. A home occupation permit for the property containing the Test Elevator/Spur stipulating to the conditions of approval shall be approved by the Finance Department.

D. The property owner shall record a covenant on the property containing the Test Elevator/Spur describing the applicable requirements, the conditions of approval, and requirements to restore the site. The covenant shall bind all successors of the property to the requirements of the conditional use permit. The property owner shall prepare and the City Attorney shall review and approve the covenant prior to recordation. A copy of the recorded document shall be provided to the Department of Planning and Community Development prior to issuance of building permits.

E. The security plan described in Section 17.100.050 shall be approved by the Police Department.

17.100.070 Findings for Approval.

Prior to granting approval of a conditional use permit for a Test Elevator/Spur, the Planning Commission shall make the following findings:

A. The location, size, design, and characteristics of the proposed project will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing in or adjacent to the proposed project.

B. The overall design will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood.

C. The application complies with all the operational and locational requirements contained in Section 17.100.040.

17.100.080 Subsequent Review.

Upon such time that the Test Tunnel is proposed to be used by the public and/or become part of an operational and regional underground travel option for personal vehicles, the requirements of this Chapter shall be revisited for applicability and amended or deleted as appropriate.”

SECTION 7. The City Council hereby makes the following determinations and findings with respect to the approval of this Ordinance:
A. The Ordinance shall serve as a means for the expanded testing of an alternative transportation option. It will serve both the private interest of the Applicant in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities that will enhance the economy of the city and the region.

B. Based on requirements of the Ordinance and the protections in place as proposed by the Applicant and imposed by the Planning Commission through Resolution 2018-08, which approved Conditional Use Permit 2018CU05, the Project will serve the public interest in allowing for the development and testing of a potentially important transportation technology while protecting the City, the community, the nearby property owners, and the public at large. The Project is designed so the Test Elevator/Spur will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed and structured to be operated such that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur, there will be no public use of the Test Elevator/Spur, and the Property will appear and function as a private residence. The existing residential structure at the Property will be enhanced with block walls, landscaping, and façade upgrades, and will be maintained as a functioning residence and the existing garage will be demolished and replaced with a 975 square foot garage that will completely enclose and contain the Test Elevator/Spur such that it will not be visible from the adjacent properties or the public right-of-way. Vehicles will not be permitted to enter the Test Elevator/Spur or exit the Test Elevator/Spur via the Property and from 119th Place and all residents and visitors to the Property will park on-site.

C. Based on the location of the Test Elevator/Spur route and the proposed above ground improvements, the Test Elevator/Spur and the associated underground boring and construction methods will not impair street access to private properties; will maintain lateral and subsurface ground support of properties, improvements and structures located adjacent to the Test Elevator/Spur route. A surface monitoring program will be operated to detect and stop additional boring if surface subsidence is detected.

D. The Project is designed to minimize impacts to the adjacent residential neighborhood, including impacts related to noise, odors, vibration, visitation, traffic, and parking. The Project is designed so the Test Elevator/Spur will not be visible, will enhance the existing residential structure, and will maintain the residential character of the neighborhood. The Project is designed and structured to be operated such that, once it is constructed, there will be no obvious signs of the existence of the Test Elevator/Spur, there will be no public use of the Test Elevator/Spur, and the Property will appear and function as a private residence. The existing residential structure at the Property will be enhanced with block walls, landscaping,
and façade upgrades, and will be maintained as a functioning residence and the existing garage will be demolished and replaced with a 975 square foot garage that will completely enclose and contain the Test Elevator/Spur such that it will not be visible from the adjacent properties or the public right-of-way. Vehicles will not be permitted to enter the Test Elevator/Spur or exit the Test Elevator/Spur via the Property and from 119th Place and all residents and visitors to the Property will park on-site. The Test Elevator/Spur will include the same design features as the Test Tunnel including components that provide for: (i) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency's Tier 4 Final emission standards or equivalent; (ii) the preparation and use of a fire prevention plan; (iii) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; (iv) standard testing for soil, gas and water and proper disposal of contaminated soil; (v) compliance with excavation requirements imposed by the California Office of Health and Safety (CalOSHA); (vi) appropriate haul routes to haul away soil to a suitable facility; and (vii) a pre-condition survey of the adjacent residences and process to repair any damages caused by construction.

SECTION 8. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause a summary of the same to be published once in an adjudicated newspaper in the City of Hawthorne and post a certified copy of the proposed ordinance in the City Clerk’s office at least five days before the City Council meeting at which the ordinance is to be adopted. Within 15 days after adoption of the ordinance, a summary of the ordinance must be published with the names of the council members voting for and against the ordinance.

SECTION 9. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provision of this Ordinance are declared to be severable.

PASSED, APPROVED, and ADOPTED this 25th day of September, 2018.

______________________________
ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:
MONICA DICRISCI, Acting City Clerk  
City of Hawthorne, California

APPROVED AS TO FORM

RUSSELL I. MIYAHIRA, City Attorney  
City of Hawthorne, California
Resolution No. 8025, A Resolution of the City Council of the City of Hawthorne, California, Approving a Subsurface Easement Agreement to Allow The Boring Company to Construct and Operate a 150’ Long Test Tunnel Spur (“Exit Shaft”) from an Existing Test Tunnel Under Portions of 120th Street in the City of Hawthorne to Property at 4012 120th Street and Making a Determination of Exemption under the California Environmental Quality Act.

RECOMMENDATION

Approve Resolution No. 8025 (Attachment 1), authorize the Mayor to execute the Subsurface Easement Agreement (Exhibit “C” to Resolution No. 8025).

EXECUTIVE SUMMARY

On August 22, 2017, the City Council of the City of Hawthorne granted The Boring Company Corporation (“TBC”), in conjunction with its parent company, Space Exploration Technologies, Inc. (“SpaceX”), a Subsurface Easement for a test tunnel under City right-of-way (“Test Tunnel”), which was recorded on January 10, 2018 as Document No. 20180029763 in the Official Records of Los Angeles County (“Test Tunnel Easement.”). TBC desires to construct an approximately 150 foot long test tunnel Easement to property located at 4012 120th Street in the City of Hawthorne, California, under portions of 120th Street (“Street”) in the City of Hawthorne, California below the area described on Exhibit “A” of Resolution No. 8025 in an area that has a circular diameter of not more than fifteen (15) feet and is approximately thirty-six (36) feet deep (the “Easement Area”). The improvements are set forth in Exhibit “A” (“Improvements”) and a narrative designation of the Improvements and their specific purposes is attached as Exhibit “B” of Resolution No. 8025.
The purpose of the Exit Shaft is to provide a physical means to remove the tunnel boring machine cutterhead that exists in the Test Tunnel Easement through the Exit Shaft at a termination point at 4012 West 120th Street (Project).

The City has found and determined that this Exit Shaft subsurface easement is connected to Test Tunnel Easement so as to serve as a means for the testing of the transportation of vehicles and pedestrians, that it will serve the private interests of TBC in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities, and that by being located in the right-of-way underneath portions of 120th Street, will not endanger or interfere with abutting property owners.

City staff and consultants have evaluated the project and determined that the grant of the Exit Shaft Easement and issuance of an Encroachment Permit are exempt from review from the California Environmental Quality Act (CEQA) pursuant to Class 32 Categorical Exemption for “In-Fill Development Projects” as provided in Section 15332 of the State CEQA Guidelines (Title 14 of the California Code of Regulations) because the project satisfies the criteria for use of that exemption as more fully described in the Determination of Exemption document that was prepared in connection with the project.

APPROVALS FROM THE CITY

City staff and City consultants have determined that permission to use these subterranean areas requires two initial approvals from the City: (1) the grant of a subsurface easement through approval of a subsurface easement agreement; and (2) the issuance of an Encroachment Permit. The subsurface easement is required to allow for the permanent occupancy of defined portions of the public right of way under the surface, described more particularly in Exhibit A of Resolution No. 8025. The Subsurface Easement Agreement (“Exit Shaft”) has been submitted by City staff to the City Council for approval. The Encroachment Permit is required to allow for construction within the public right of way and is a ministerial permit approved by City Staff upon approval of the Subsurface Easement Agreement by the City Council.

A. Subsurface Easement Agreement

The proposed Subsurface Easement Agreement (“Subsurface Easement” or “Easement”) is attached as Exhibit “C” to Resolution No 8025.

The Subsurface Easement Agreement allows for the construction and use of the Test Elevator/Spur in the defined Easement Area. The construction improvements are described in Exhibit B Resolution No. 8025.

The Easement memorializes TBC’s commitment to monitor for potential subsidence caused by the boring process and to inform the City on a daily basis of the results of the monitoring process. In the event there is any subsidence of ½ inch or greater, TBC will stop the boring work until the subsidence is stopped and corrected. TBC will be responsible for the cost of any repair work required to address the impact of the boring process on public and private utilities and on the City’s street and property.
TBC is required to reimburse the City for all reasonable and documented costs and expenses incurred by the City in preparing and processing the Subsurface Easement Agreement, the City’s expert consultants, environmental review, and other related costs. In addition, TBC is to obtain a Letter of Credit from a City-approved institution providing funds that the City may draw upon for authorized costs that are not paid for by TBC (See Section 6 (b)). TBC is required to maintain specified types and levels of insurance and to indemnify the City for any and all type of claims, lawsuits and liabilities arising not only for the grant of the Subsurface Easement Agreement and Encroachment Permit but also for the damage and injuries resulting from the use or operation of the Test Tunnel.

Finally, TBC is required to compensate the City for the fair market value of the Subsurface Easement. The City has previously obtained an appraisal of the fair market value of the Subsurface Easement in the amount of $730.50.

ENVIRONMENTAL REVIEW

The Test Tunnel Easement Agreement has been environmentally reviewed pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et seq.) and the environmental regulations of the City. The Project qualifies for a Class 32 Categorical Exemption (Section 15332 In-Fill Development Projects) because the Exit Spur is: 1) located within City limits; 2) on land less than five acres in size; 3) in an area devoid of natural habitat for sensitive species; 4) on property surrounded by urban development; and 5) served by all required public services and utilities. The project is consistent with applicable general plan and zoning designations and would create no significant traffic, noise, air quality or water quality impacts.

PUBLIC HEARING NOTICE

Public notice of tonight’s public hearing on this item was published in the Hawthorne Press Tribune on August 30, 2018. A copy of the published notice is attached as to this Report.

NEXT STEPS/CONCLUSION

The City Council should open the public hearing, hear the staff presentation, take public testimony, close the public hearing, and adopt Resolution 8025 approving the Subsurface Easement Agreement (“Exit Shaft”) and authorizing additional actions in connection with the approval of the Test Tunnel pursuant to Resolution 8025 and the Subsurface Easement Agreement.

2. CEQA Environmental Determination (with Appendix A)  
3. Notice of Public Hearing
RESOLUTION NO. 8025

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE APPROVING A SUBSURFACE EASEMENT AGREEMENT TO ALLOW THE BORING COMPANY TO CONSTRUCT AND OPERATE A 150' LONG TEST TUNNEL SPUR ("EXIT SHAFT") FROM AN EXISTING TEST TUNNEL UNDER PORTIONS OF 120TH STREET IN THE CITY OF HAWTHORNE TO PROPERTY AT 4012 120TH STREET AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on August 22, 2017, the City Council of the City of Hawthorne granted The Boring Company Corporation ("TBC"), in conjunction with its parent company, Space Exploration Technologies, Inc. ("SpaceX"), a Subsurface Easement for a test tunnel under City right-of-way ("Tes: Tunnel"), which was recorded on January 10, 2018 as Document No. 20180029763 in the Official Records of Los Angeles County ("Test Tunnel Easement.") and

WHEREAS, TBC desires to construct an approximately 150 foot long test tunnel spur ("Exit Shaft") from the Test Tunnel Easement to property located at 4012 120th Street in the City of Hawthorne, County of Los Angeles, State of California, below the area described on Exhibit "A" in an area that has a circular diameter of not more than fifteen (15) feet and is approximately thirty-six (36) feet deep (the "Easement Area"). The improvements are set forth in Exhibit "A" ("Improvements") and a narrative designation of the Improvements and their specific purposes is attached as Exhibit "B"; and

WHEREAS, the purpose of the Exit Shaft is to provide a physical means to remove the tunnel boring machine cutterhead that exists in the Test Tunnel Easement through the Exit Shaft at a termination point at 4012 West 120th Street (Project); and

WHEREAS, the Exit Shaft does not include or allow excavations from the ground surface along Crenshaw Boulevard, the Hawthorne Municipal Airport or 120th Street.; and

WHEREAS, the City has found and determined that this Exit Shaft subsurface easement is connected to Test Tunnel Easement so as to serve as a means for the testing of the transportation of vehicles and pedestrians, that it will serve the private interests of TBC in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities, and that by being located in the right-of-way underneath portions of 120th Street, will not endanger or interfere with abutting property owners; and
WHEREAS, City staff and consultants have evaluated the project and determined that the grant of the Exit Shaft Easement and issuance of an Encroachment Permit are exempt from review from the California Environmental Quality Act (CEQA) pursuant to the Class 32 Categorical Exemption for “In-Fill Development Projects” as provided in Sections 15332 of the State CEQA Guidelines (Title 14 of the California Code of Regulations) because the project satisfies the criteria for use of that exemption as more fully described in the Determination of Exemption document that was prepared in connection with the project; and

WHEREAS, notice of a public hearing on this item was published in the Hawthorne Press Tribune on August 30, 2018; and

WHEREAS, on September 11, 2018, the City Council held the public hearing on the determination of exemption from CEQA in connection with the grant of the proposed Subsurface Easement Agreement (“Exit Shaft”), and following the receipt of all testimony, closed the hearing.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hawthorne, California as follows:

Section 1. The City Council, after consideration of the Staff’s and TBC’s presentations, discussions, oral testimony, and written evidence presented to the City Council, hereby finds that the above recitals are true and correct and incorporate them herein.

Section 2. The City Council hereby makes the following determinations and findings with respect to the approval of the Subsurface Easement Agreement:

A. The Exit Shaft Subsurface Easement Agreement shall serve as a means for the testing of the transportation of vehicles and pedestrians. It will serve both the private interest of TBC or SpaceX in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities that will enhance the economy of the city and region.

B. The Exit Shaft Easement will be located on a portion of land on the southern portion of West 120th Street, beginning at a point 16.03’ South of the Northeast corner of Lot 308 of the Second Addition to the Town of Hawthorne, in the City of Hawthorne, County of Los Angeles, State of California, as per Map recorded in Book 9, Page 160 of Maps, in the Office of the County Recorder of said County, otherwise described as 4012 West 120th Street. Construction of the Exit Shaft will not block, impair or otherwise affect the surface vehicular traffic on Crenshaw Boulevard or 120th Street because the Exit Shaft excavation will not occur in the public right of way.

C. Based on the location of the Exit Shaft, the construction of the Exit Shaft Tunnel will not impair street access to private properties. In addition, the tunnel boring and construction process is designed to maintain lateral and
subsurface ground support of properties, improvements and structures located adjacent to the public right of way along the Test Tunnel route. A surface monitoring program will be operated to detect and stop additional boring if surface subsidence is detected.

D. The existing Test Tunnel Easement includes design features and project components that provides for: (i) construction during City permitted hours of construction; (ii) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency's Tier 4 Final emission standards or equivalent; (iii) the preparation and use of a fire prevention plan; (iv) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; (v) standard testing for soil, gas and water and proper disposal of contaminated soil; (vi) compliance with excavation requirements imposed by the California Office of Health and Safety (CalOSHA); and (vii) appropriate haul routes to haul away soil to a suitable facility.

E. Based on the elements of the Exit Shaft Subsurface Easement Agreement and the protections in place as proposed by TBC, the project will serve the public interest in allowing for the development and testing of a potentially important transportation technology while protecting the City, the community, the Hawthorne Municipal Airport, nearby property owners and the public at large.

Section 3. The City Council hereby makes the following determinations and findings with respect to compliance with CEQA:

A. The Exit Shaft Test Tunnel project has been environmentally reviewed pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the environmental regulations of the City.

B. The Project qualifies for a Class 32 Categorical Exemption (§15332 In-Fill Development Projects) because the Exit Spur is: 1) located within city limits; 2) less than five acres in size; 3) devoid of natural habitat for sensitive species; 4) surrounded by urban development, 5) served by all required public services and utilities. The project is consistent with applicable general plan and zoning designations and would create no significant traffic, noise, air quality or water quality impacts.

Section 4. Based on the findings contained herein, the City Council of the City of Hawthorne does hereby approve the Exit Shaft Subsurface Easement Agreement, attached hereto as Exhibit C to this Resolution.
**Section 5.** The Mayor is authorized to execute the Exit Shaft Subsurface Easement Agreement in the form attached hereto. The City Manager and City Attorney are authorized to make minor non-substantive corrections and revisions to the Exit Shaft Subsurface Easement Agreement prior to execution as they deem appropriate.

**Section 6.** The City Manager and City Staff are authorized to take implementing actions to carry out the approval of the Exit Shaft Subsurface Easement Agreement.

**Section 7.** The City Manager is directed to file a Notice of Exemption from CEQA in connection with the approval of the Exit Shaft Subsurface Easement Agreement with the Los Angeles County Clerk.

PASSED, APPROVED AND ADOPTED this 11th day of September, 2018.

ATTEST:

ALEX VARGAS Mayor
City of Hawthorne, California

MONICA DICRISCI, Deputy City Clerk
City of Hawthorne, California

APPROVED AS TO FORM:

RUSSELL MIYAHIRA,
City Attorney
City of Hawthorne, California
EXHIBIT A (Easement Area)
EXHIBIT “A”

DESCRIPTION OF EASEMENT AREA
AND DRAWING OF IMPROVEMENTS

A portion of land located on the southern portion of West 120th Street, beginning at a point 16.03’ South of the Northeast corner of Lot 308 of the Second Addition to the Town of Hawthorne, in the City of Hawthorne, County of Los Angeles, State of California, as per Map recorded in Book 9, Page 160 of Maps, in the Office of the County Recorder of said County.

From the above described Point of Beginning, located at Latitude N33° 55’ 24.72”, Longitude W118° 20’ 38.57”; beginning a curve turning to the right through 09° 44’ 55.9”, having a radius of 807.82 feet, and whose long chord bears N 74° 37’ 32” E for a distance of 137.28 feet to a point of intersection with a non-tangential line.

Thence, N 90° 00’ 00” E for a distance of 145.56 feet to the beginning of a non-tangential curve,

Said curve turning to the left through 20° 01’ 57.6”, having a radius of 793.33 feet, and whose long chord bears S 79° 52’ 52” W for a distance of 275.97 feet to the beginning of a non-tangential curve.

Said curve turning to the right through an angle of 00° 16’ 14.4”, having a radius of 1421.04 feet, and whose long chord bears S 70° 00’ 00” W for a distance of 6.71 feet to a point of intersection with a non-tangential line.

Thence, N 00° 11’ 28” E for a distance of 14.38 feet to the Point of Beginning.

Perimeter: 581.49’ Area: 2527.59 Sq. Ft.

See attached plat.
EXHIBIT B (IMPROVEMENTS)
EXHIBIT "B"

NARRATIVE DESCRIPTION OF IMPROVEMENTS AND THEIR PURPOSE

The Boring Company proposes to modify the current Test Tunnel alignment to curve into an exit shaft located on a property owned by The Boring Company (4012 120th Street) for the purpose of removing the tunnel boring machine cutterhead from the exit shaft (Project).

Figure 1: A dimensioned drawing of the Project
EXHIBIT C (SUBSURFACE EASEMENT AGREEMENT – “EXIT SHAFT”)
RECORDING REQUEST BY,
AND WHEN RECORDED RETURN TO:

The Boring Company Corp.
1155 F Street NW, Suite 475
Washington, DC 20004
Attn: Steve Davis

With a copy to:

City of Hawthorne
4455 126th Street
Hawthorne, CA 90250
Attn: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

Free Recording Requested per Government Code 27383.

SUBSURFACE EASEMENT
(Test Tunnel Spur for Exit Shaft; 150 Feet)

THIS SUBSURFACE EASEMENT (Test Tunnel Spur for Exit Shaft; 150 Feet) ("Agreement") is dated as of September 11, 2018 and is entered into by and between the CITY OF HAWTHORNE, a California municipal corporation and general law city ("City"), and THE BORING COMPANY CORP., a Delaware corporation ("TBC"). City and TBC are sometimes hereinafter referred to individually as "Party" and collectively as the "Parties."

RECITALS

A. City previously granted TBC a Subsurface Easement dated August 22, 2017 for a test tunnel under City right of way ("Test Tunnel"), which was recorded on January 10, 2018 as Document No. 20180029763 in the Official Records of Los Angeles County ("Test Tunnel Easement").

B. TBC desires to construct an approximately 150 foot long test tunnel spur adjacent to the Test Tunnel beneath certain real property in the City of Hawthorne, County of Los Angeles, State of California, under portions of 120th Street ("Street") in the City of Hawthorne, California below the area described on Exhibit "A" in an area that has a circular diameter of not more than fifteen (15) feet and is approximately thirty-six (36) feet deep (the "Easement Area"). The improvements are set forth in Exhibit "A" ("Improvements") and a narrative designation of the Improvements and their specific purposes is attached as Exhibit "B".

C. City believes it owns or has right of way or easement rights in the Easement Area but makes no representations or warranties in that regard, express or implied, it being understood that TBC may obtain title insurance at its cost.
D. City agrees to provide to TBC an easement within the Easement Area for the subsurface installation, maintenance and operation of the Improvements subject to the terms and conditions hereinafter set forth. The easement granted herein does not include access to the Easement Area from the surface of the ground above the Easement Area.

E. The City’s public purposes in entering into this Agreement include facilitating the development of transportation technology that may benefit the public, providing employment opportunities resulting from the work to be performed by TBC, and obtaining compensation for the easement interest granted herein equal to its fair market value (and such compensation shall become part of the general funds of the City and in turn used for a public purposes).

F. The City has found and determined that this subsurface easement shall serve as a means for the testing of the transportation of vehicles and pedestrians, that it will serve the private interest of TBC in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities, and that by being located in the right-of-way underneath portions of 120th Street, will not endanger or interfere with abutting property owners.

AGREEMENT

1. **Conditions Precedent.** The effectiveness of this Agreement is conditioned upon the issuance by the City of an encroachment permit and the payment by TBC of all permit fees related thereto. TBC shall comply with all applicable requirements of Chapter 12.16 (Encroachments in Public Places) of the Hawthorne Municipal Code in connection with this Agreement.

2. **Grant of Easement.** City hereby grants to TBC a perpetual easement in and through the Easement Area for the purpose of installing, maintaining and operating the Improvements in accordance with Exhibits “A” and “B”, but with no right of access except through the Easement Area (it being understood that Grantee has obtained legal rights to access one or both ends of the Easement Area from other properties), subject to the limitations set forth herein and TBC’s fulfillment and ongoing compliance with the terms and conditions set forth herein. The easement granted herein does not include access to the Easement Area from the surface of the ground above the Easement Area. The installation, maintenance, and any operation of the Improvements shall be subordinate to any use and operations which City and other utility, franchise and easement holders may conduct on an adjacent property owned or controlled by City, including the operation, repair and replacement of storm drains, sewer, water, gas, electrical, telephone, cable television and other public and private utility lines and facilities. Except as expressly authorized by this Agreement, TBC shall not cause any material delay or interference with City’s or any public or private utility access to such adjacent property, and TBC shall not interfere with the operations of City or of any public or private utility located above, below, or adjacent to the Easement Area.

3. **AS-IS.** TBC accepts the Easement Area in its current “AS-IS” condition, without representation or warranty, express or implied, and subject to all matters of record and all matters that would be revealed by a diligent inspection of the Easement Area and adjacent property (including, without limitation, Phase I and Phase II environmental reports). TBC also
acknowledges that City makes no representations, express or implied, as to the physical condition of or title to the Easement Area or adjacent property. This Agreement does not constitute, nor grant permission to use or occupy property not belonging to, or under the control of City, and permission to use or occupy such property must be obtained from the owner or controller of such property, separate from and in addition to this Agreement.

4. **Authorized Improvements.** The rights of TBC to install, maintain, and operate the Improvements are subject to all applicable laws and permitting requirements and conditions (and the City does not waive any of its rights or powers in its governmental capacity in that regard), and are also subject to the following contractual limitations, and conditioned upon TBC implementing the following protective measures and physical construction standards in connection with the Improvements:

   a. Detailed design drawings prepared by a registered engineer depicting the Improvements shall be provided to, reviewed by, and approved by City prior to construction. The design drawings shall include an accurate depiction of the horizontal and vertical position of the Improvements. The detailed design drawings shall also depict the current and proposed location of all public and private utilities located within the Street, including the location and depth of all storm drains, sewer, water, gas, electrical, cable television, and public and private utility lines and facilities. The design of the Improvements must allow for immediate access to and under Street for purposes of inspecting, cleaning, maintaining, repairing, and replacing City’s existing improvements located on, in or under Street and/or installing additional improvements and appurtenances.

   b. The grant of the Easement does not include access to the Easement Area from the surface of the ground above the Easement Area. If, however, repair for potential subsidence of the ground surface or repair of damage to public or private property is required due to the construction or use of the Improvements, and such repair work will require the temporary or permanent closure of any portions of the surface of the Street, trenching of any portion of the Street, or the stockpiling of any soil to be excavated as part of the project, the drawings shall depict the specific areas affected, and shall include traffic control plans to address the traffic impacts of the closures or construction activity. A separate Encroachment Permit shall be required for such work. In addition, if the soil is to be transported to a stockpile area and then to an off-site location, detailed plans shall be provided describing and depicting the location of, and requirements for, the stockpiling and transport, including haul routes, for the transport of the soil.

   c. TBC shall inform all public and private utility entities having facilities within the Street of the Improvements and develop plans for the avoidance or relocation of all such utility lines or facilities. No permits for construction of the Improvements will be issued by City unless and until the City Engineer is satisfied that: (i) each affected utility entity has been informed of the location of the Improvements and had an adequate opportunity to provide information to TBC and the City as to any steps required for avoidance or relocation of their utility, and (ii) the City Engineer has determined that no relocation is required.

   d. City reserves the right, and TBC hereby acknowledges, that City may reject without liability the design drawings for any proposed Improvements and/or require any changes thereto if City determines, in its sole and absolute discretion, that such action is necessary to ensure
City can adequately inspect, clean, maintain, repair, and replace City’s existing improvements located within the Street and/or installing additional improvements and appurtenances within the Street.

e. Upon City’s approval of the final design drawings for the Improvements, in its proprietary capacity under this Agreement and separately in its governmental capacity, TBC shall install and maintain the Improvements in strict compliance with the applicable permits, and approved final design drawings, and no material changes or deviations therefrom shall be permitted without TBC first obtaining the prior written consent of City, which may be granted or denied in the City’s sole and absolute discretion. For purposes of clarification and example, a material change or deviation shall include, but not be limited to, a modification to the Improvements that, in the opinion on of the City Engineer, negatively affects the structural stability or integrity of the Improvements or utilities or structures above the Easement Area or alters the location of the Improvements in a manner that causes the Improvements to extend beyond the Easement Area.

f. TBC shall provide City with “as-built” drawings of the Improvements within thirty (30) days after completion of the Improvements.

g. TBC shall reimburse City for any and all reasonable and documented costs and expenses incurred by City for work to support or protect the Street and utilities, or to cure any failure of TBC to comply with the last sentence of Section 10 below. Such reimbursements or payments shall be made within thirty (30) business days after delivery by City of written demand and a statement from City detailing such costs. In the event TBC fails to perform work to support or protect the Street and utilities, or to cure any failure of TBC to comply with Section 10 below within thirty (30) business days after receiving written notice from City of such failure, or if City must immediately perform such work in the event of an emergency or to perform legally mandated duties, City may proceed with such work at the expense of TBC, and TBC shall reimburse City within thirty (30) business days after delivery by City of a written demand and a statement from City detailing the costs incurred by City. The obligations under the subsection shall survive the termination of this Agreement.

h. TBC shall be required to obtain all required licenses, permits and authorizations from City and from any other governmental agency with jurisdiction over the Improvements and to pay all fees and charges associated therewith prior to commencing any work on the Improvements.

i. TBC shall obtain and provide copies to City of its construction contract for the Improvements and payment and performance bonds for such contract/contractor.

j. The City acknowledges that the Improvements are designed to be constructed with construction activities (including transportation of soils) related to the Improvements that occur outside of the Easement Area, in compliance with Hawthorne Municipal Code Sections 15.14.010 (Erection of temporary fencing around construction sites) and 15.14.020 (Restrictions on hours of construction), to the extent applicable. Such project design features shall be maintained and complied with by TBC throughout the construction period of the Improvements.
k. TBC shall, on a daily basis during construction: (i) diligently and reasonably inspect the extent of any subsidence of the surface of the Street above the construction; (ii) within one (1) business day after inspection, deliver to City a reasonable written report describing the results of the inspection(s) for the previous day; and (iii) immediately halt all construction if subsidence exceeds one half of one inch at any point on the Street or abutting property. If any subsidence is detected that exceeds one-half inch, TBC shall undertake work, as reviewed and approved by the City, to correct the subsidence.

5. **Repair of Damage.** TBC shall obtain complete contact information for all owners of utilities ("Utility Owners") prior to the start of the work. Any damage caused directly or indirectly by TBC to the Street, City’s improvements therein, utilities or other property shall be declared by the TBC through sending proper notifications to the applicable Utility Owner and City as early as possible. If repair work needs to be conducted by the Utility Owner, it shall be paid or reimbursed in full by TBC without any delay; however, if damage is only to the Street pavement, then repair work will be conducted by the City at TBC’s sole cost and expense, or if authorized by City may be repaired by TBC at its sole cost and expense. If City elects to perform the repair work itself, TBC shall reimburse City for the full costs of the repair work within thirty (30) days after receiving written demand and a statement from City detailing such costs.

6. **Backfilling Upon Abandonment and Termination of Easement.** Upon written request of the City Engineer, TBC shall diligently backfill the tunnel portion of the Improvements with cement slurry or clean imported soil to 90% compaction in the event the tunnel is abandoned by TBC, ceases to be used for testing or other authorized purposes for a continuous period of two years, or in the event that TBC or its successor in interest declares bankruptcy and is required to liquidate its assets. The backfilling work shall be completed within one year of the occurrence of any of the events specified in this Section. Upon completion of the backfilling work, as verified by the City Engineer, the Easement granted by this Agreement shall automatically terminate and be of no further force and effect, except that certain provisions contained herein shall survive the termination as specified herein.

7. **Deposit: Reimbursement of City Costs.**

   a. TBC shall reimburse the City for the City’s actual out-of-pocket costs and expenses incurred by City: (i) in preparing this Agreement (including legal fees and costs); (ii) obtaining the appraisal used to determine the compensation described in Section 20 below; and (iii) complying with CEQA, and other consultant costs and expenses incurred by the City in processing the request for City approval of the Improvements (collectively, the “Reimbursable Costs”). City acknowledges that TBC has deposited with the City the sum of Fifteen Thousand and No/100 Dollars ($15,000.00) (the "Reimbursement Funds"). The Reimbursement Funds may be used and applied from time to time by the City to pay or reimburse itself for Reimbursable Costs not otherwise paid or reimbursed by TBC. Any Reimbursement Funds not applied shall be delivered to TBC (along with a final accounting of the City’s application of the Reimbursement Funds) within thirty (30) business days after the date of this Agreement.

   b. In addition to the Reimbursement Funds, and in order to ensure payment to City for Reimbursable Costs not paid by the Reimbursement Funds, monetary obligations of TBC under this Agreement, and damages incurred by City as a result of any failures by TBC to comply
with the terms of this Agreement, TBC agrees that City may draw on the letter of credit delivered
to City by TBC under the Subsurface Easement dated August 22, 2017 for such Reimbursable
Costs, monetary obligations and damages, and if requested by the City Manager, TBC shall
promptly obtain and deliver to City an amendment to such letter of credit confirming that such
draws may be made.

8. **Waiver and Release.** TBC, in perpetuity, expressly waives, releases and
relinquishes any and all claims, causes of action, rights and remedies TBC may now or hereafter
have against City, and its officials, officers, employees, consultants, attorneys and agents
(collectively, “City Entities”), whether known or unknown, with respect to liability for any damage
to or loss, upon, above, beneath, or across the Easement Area, or Street or adjacent property unless
such damage or loss is caused by the sole active negligence or willful misconduct of City Entities.
As a material part of City’s decision to approve this Agreement, TBC hereby assumes all risk of
damage to the Improvements arising from any cause attributable to City’s exercising its rights
hereunder or in, under to the Street, and TBC hereby waives all claims in respect thereto against
City, except if caused by the sole active negligence or willful misconduct of City Entities.

TBC HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE
PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 (“SECTION 1542”), WHICH
IS SET FORTH BELOW:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING
THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
THE DEBTOR.”

BY INITIALING BELOW, TBC HEREBY WAIVES THE PROVISIONS OF SECTION 1542
SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE
FOREGOING WAIVERS AND RELEASES:

TBC’s Initials

The waivers and releases by TBC contained herein shall survive the expiration or earlier
termination of this Agreement and shall be binding upon the assignees, transferees, and successors-
in-interest of TBC.

9. **Access, Restricted Use, and Temporary Removal of Improvements.**

a. TBC acknowledges that the Street contains certain City-owned public
facilities collectively and hereinafter referred to as “Public Improvements.” In order for City to
exercise its rights with respect to the Public Improvements, City shall exercise good faith efforts
to notify TBC either in writing or by telephone, of the need to gain access to, temporarily restrict
the use of the Improvements, except in emergency situations when no advance notice by City shall
be required. TBC hereby agrees that upon written or telephonic notice from City, TBC shall at its
own cost and expense do one or more of the following as requested by City in the notice: (1) within twenty-four (24) hours after receiving notice, provide City access to the Improvements (or the appropriate portion thereof); and (2) within twenty-four (24) hours after delivery of written notice by City, temporarily restrict use of the Improvements for the reasonable period requested by City as may be necessary to allow City continuous access to the Improvements and unrestricted use of the Street. In the case of an emergency, City shall have immediate access to the Improvements (or the appropriate portion thereof) without written or telephonic notice to TBC or reimbursement to TBC. City shall provide notice of the emergency to TBC as soon as possible, and upon delivery of such notice TBC shall immediately cease all further use of the Improvements until the emergency has been mitigated. The term “emergency” shall be considered as an unforeseen circumstance that calls for immediate action, as determined by the City Manager.

b. TBC acknowledges that the Easement Area is beneath the Street and certain publicly and privately owned utilities, including storm drains, water, sewer, gas, electrical, cable television, fiber optics and other public and privately owned utilities and facilities. TBC shall develop plans, to the satisfaction of City, for required notice by TBC to the public or private utility entities when TBC’S access to the Easement Area or operation of its Improvements may have an impact to the other entity’s facilities.

10. **Recovery of Costs and Attorneys’ Fees for Enforcement of Easement Terms.** The terms of this Agreement may be enforced by City or its successors or assigns or successors-in-interest. In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys’ fees and costs.

11. **Damage to Public Improvements.** In additional to its obligations under Section 3g. above, TBC shall pay to City, within thirty (30) days after written notice from City and a statement detailing such costs and expenses, all reasonable costs and expenses which result from any damage to Public Improvements, where such damage is caused by the location, construction, maintenance, reconstruction, repair, use, or removal of the Improvements. In the event payment is not made within said sixty (60) day period, said payment shall include interest at a rate of ten percent (10%) per annum from the end of said sixty (60) day period until paid.

12. **Default; Termination.** City may terminate this Agreement in its sole and absolute discretion, if TBC fails to comply with this Agreement and then fails to cure the default with thirty (30) days after written notice from City; provided, however, that if the default is curable and the nature of the default is such that more than thirty (30) days is reasonably required to cure the default, City may not terminate this Agreement if TBC commences to cure the default during the thirty (30) day period after written notice of default and thereafter diligently prosecutes the cure to completion. Upon any such termination, the City Engineer shall determine in good faith what measures, if any, need to be taken to make the Improvements (and tunnel) safe and to comply with the then-"best practices" with respect to tunnels and tunnel improvements, and TBC shall then diligently comply with the City Engineer’s requirements at TBC’S cost and obtain and provide evidence of reasonable insurance for such activities.
13. **Hazardous Materials.**

a. TBC covenants that it will not handle or transport Hazardous Materials in the Easement Area except for removal, transportation and disposal in compliance with laws regarding excavated soils that are or may be contaminated with Hazardous Materials. As used in this Agreement, the term "Hazardous Materials" means: (a) any substance, products, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code Section 9601 et seq.; the Resources Conservation and Recovery Act, 42 United States Code Section 6901 et seq.; the Hazardous Materials Transportation Conservation and Recovery Act, 42 United States Code Section 1801 et seq.; the Clean Water Act, 33 United States Code Section 1251 et seq.; the Toxic Substances Control Act, 15 United States Code Section 2601 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 et seq.; the Hazardous Substance Account Act, Health and Safety Code Section 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 et seq.; California Health and Safety Code Section 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Section 25170.1 et seq.; California Health and Safety Code Section 25501 et seq. (Hazardous Materials Release Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., all as amended (the above cited California state statutes are hereinafter collectively referred to as "the State Toxic Substances Law"); or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, now or at any time hereinafter in effect; (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (c) petroleum or crude oil, other than petroleum and petroleum products which are contained within regularly operated motor vehicles; and (d) asbestos.

TBC further agrees that at City's request it will furnish City with proof, satisfactory to City, that TBC is in compliance with all such laws, rules, regulations, orders, decisions and ordinances regarding Hazardous Materials.

b. Notwithstanding anything else contained in this Agreement and to the fullest extent permitted by law, TBC agrees to indemnify, defend and hold harmless City from and against any and all claims, liabilities, losses, damages, costs and expenses arising from or relating to injuries to any person, including wrongful death, or damage to property, including without limitation, property of City and TBC, or otherwise (including without limitation reasonable attorneys' fees, investigators' fees, litigation expenses, and mitigation costs resulting in whole or in part from TBC's failure to comply with any Hazardous Materials Standards issued by any governmental authority concerning Hazardous Materials), provided, however, that the foregoing shall not apply to the extent of City Entities' active negligence or willful misconduct. TBC agrees to reimburse City for all reasonable costs of any kind incurred as a result of the TBC's failure to comply with this Section, including, but not limited to, judicial or administrative fines, penalties, clean-up and disposal costs, and legal costs incurred as a result of TBC's handling, transporting,
or disposing of Hazardous Materials on, over, or across the Improvements and or Street or adjacent property.

14. Standards; City Cure Rights. TBC shall comply with all statutes, ordinances, rules, regulations, orders and decisions (hereinafter referred to as “Standards”) issued by any federal, state or local governmental body or agency established thereby relating to TBC’s use of the Improvements and Easement Area hereunder. In its use of the Improvements and Easement Area, TBC shall at all times be in full compliance with all Standards, present or future, including, but not limited to, Standards concerning air quality, water quality, noise, and Hazardous Materials. In the event TBC fails to be in full compliance with Standards, City may, but shall not be obligated to, after giving notice of the failure to TBC, and if TBC, within fifteen (15) days of such notice, fails to correct such non-compliance, take whatever action it determines in its sole discretion to be necessary to protect the Public Improvements, Street, and adjacent property. TBC shall reimburse City for all reasonable documented and out of pocket costs (including but not limited to, consulting, engineering, clean-up and disposal, and reasonable legal costs) incurred by City as a result of TBC’s failure to comply with such Standards, and also such reasonable costs incurred by City in abating a violation of such Standards, protecting against a threatened violation of such Standards, defending any claim of violation of such Standards in any proceeding before any agency or court, and paying any fines or penalties imposed for such violations. TBC shall, to the extent permitted by law, assume liability for and shall save and hold harmless City from any claim of a violation of the Standards regardless of the nature thereof or the agency or person asserting such claim, which results from TBC’s use of the Improvements and Easement Area; provided, however, that the foregoing shall not apply to the extent of City Entities’ active negligence or willful misconduct. TBC, at its cost, shall assume the defense of all such claims.

15. Tests and Inspections. City shall have the right at any time to inspect the Improvements, Street, and Public Improvements so as to monitor compliance with this Agreement. If, in City’s sole judgment, any installation, use, or condition of the Improvements may have an adverse effect on the Public Improvements, the Street, or City’s operations, City shall be permitted to, at its sole cost and expense, conduct any tests or assessments, including but not limited to environmental assessments as it determines to be necessary or useful to evaluate the condition of the Street or Public Improvements. TBC shall cooperate with City in any tests or inspections deemed necessary by City. TBC shall pay or reimburse City, as applicable, for all reasonable documented out-of-pocket costs and expenses incurred due to any necessary corrective work and inspections thereafter within thirty (30) days after a written request for payment and a statement detailing such costs and expenses.

16. Insurance

a. Type. TBC shall obtain, and shall require any subcontractor to obtain insurance in the amounts described below unless specifically altered or waived by the City ("Required Insurance").

1. Commercial General Liability Insurance – TBC shall provide and maintain Commercial General Liability Insurance. Such insurance shall be written on an occurrence form and provide coverage not less than $3,000,000.00 per occurrence and an aggregate limit of not less than $5,000,000.00 applying separately to this License. Umbrella or
Excess Liability coverage, on a following-form basis, may be used to supplement primary coverage to meet the required limits. The Commercial General Liability Policy must include coverage for the following:

(A) Bodily Injury and Property Damage
(B) Personal Injury/Advertising Injury
(C) Premises/Operations Liability
(D) Products/Completed Operations Liability. Coverage for Products and Completed Operations Liability shall not have a sub-limit or a reduction in the coverage or reporting periods.

(E) Explosion, Collapse and Underground (UCX) exclusion
(deleted)

(F) Contractual Liability with respect to this Agreement
(G) Broad Form Property Damage
(H) Independent Contractor Coverage

2. **Commercial Automobile Liability Insurance** – TBC shall provide and maintain Commercial Automobile Liability Insurance which shall include coverage for liability arising out of the use of owned, non-owned and hired vehicles for performance of the work described in this License. The Commercial Automobile Liability Insurance shall not have limits not less than $1,000,000.00, combined single limit per occurrence, shall be written on an occurrence form, and shall apply to all activities and operations of the TBC pursuant to this License.

3. **Workers’ Compensation Insurance** – TBC shall provide and maintain Workers’ Compensation Insurance covering all of the TBC’s employees in accordance with the laws of the State of California and including Employer’s Liability Insurance. The limit for Employer’s Liability Insurance shall be not less than $1,000,000.00 each accident and shall be a separate policy if not included with Workers’ Compensation coverage. Such insurance shall include a Waiver of Subrogation in favor of the City. Workers’ Compensation coverage may be self-insured by TBC, provided that the City is furnished with a copy of a currently-dated and manually-signed Certifications of Self-Insurance issued by the State of California authorizing the TBC to self-insure. TBC shall notify the City by “return receipt delivery” as soon as possible of the State withdrawing the authority to self-insure.

4. **Pollution Liability Insurance** – Unless the City Council determines that the letter of credit guaranty or bond under Section 7b is sufficient to be provided in lieu thereof, TBC shall provide and maintain Pollution Liability Insurance covering the TBC’s liability arising from Pollution or Environmental Damage or Liability caused during the execution of work performed pursuant to this Agreement. The Pollution Liability Insurance policy shall provide coverage for the total limits actually arranged by the TBC, but not less than $5,000,000.00
combined single limit and in the annual aggregate. Such policy/coverage shall be maintained for not less than one (1) year after the date of final acceptance and completion of the work performed pursuant to this Agreement. TBC may elect to carry such coverage as a sublimit on its Commercial General Liability Insurance.

5. **Umbrella Or Excess Liability Coverage** – TBC may use Umbrella or Excess Liability coverage to meet the coverage limits specified above. TBC shall require the carrier(s) for Umbrella or Excess Liability to properly schedule and identify the policies referenced herein, including Commercial General Liability, Commercial Automobile Liability and Pollution Liability.

b. **General Provisions.** The Commercial General Liability; Commercial Automobile Liability; Pollution Liability; and Umbrella or Excess Liability policies shall (1) name City, its officials, officers, employees and agents as additional insureds; (2) be endorsed to waive subrogation against City, its officials, officers, employees and agents as additional insureds; and (3) be primary and non-contributory. All Required Insurance herein shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of protection provided to City, its officials, officers, employees and agents.

c. **Certificates; Insurer Rating; Cancellation Notice.** Prior to conducting any work in the Easement Area, TBC shall furnish to City properly executed Certificates of Insurance which evidences all Required Insurance. TBC shall also furnish to City properly executed Additional Insurance Endorsements in favor of the City, its officials, officers, employees and agents for the insurance policies referenced in Paragraph 15b. Additional Insured endorsement forms CG 20 12 05 09; CG 2010 04 13; and CG 2037 04 13 or such other form agreed upon in writing by the City shall be used.

TBC shall maintain the Required Insurance at all time while this Agreement is in effect, and shall replace any certificate, policy, or endorsement which will expire prior to that date. Each time TBC changes insurers or coverage periods and, in any event, fifteen (15) days prior to the expiration of such Required Insurance policy, TBC shall furnish City Certificates of Insurance evidencing the changes or renewals of such Required Insurance for the following renewal term. Unless approved in writing by City, TBC shall place the Required Insurance with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least A-:VII.

d. **Waiver of Subrogation.** TBC releases City, its officials, officers, employees and agents from any claims for damage or harm to any person, the Easement Area, the Street, adjacent property, or the Improvements, caused by, or which result from, risks insured under any insurance policy carried by TBC at the time of such damage or harm. TBC shall cause each insurance policy required herein to provide a waiver of subrogation in favor of City, its officials, officers, employees and agents.

17. **Indemnity.** TBC hereby agrees to defend, indemnify and hold City and its officials, officers, agents, employees and contractors free and harmless from and against any and all claims, demands, causes of action, costs, liabilities, expenses, losses, damages or injuries of any kind in law or equity, to persons or property, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of TBC, its partners, affiliates,
agents officials, officers, employees or contractors in performance of this Agreement, use of the Easement Area or the construction, use, or operation of the Improvements or the failure to pay (or failure of its contractors to pay) prevailing wages if required by California Labor Code Section 1720 et seq., including any claims under Labor Code Section 1781. TBC shall further defend, indemnify and hold harmless the City and its officials, officers, agents and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (brought against the City or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this Agreement or TBC’s use of the Easement Area (based on noncompliance with the California Environmental Quality Act or otherwise). TBC shall defend, with counsel of City’s choosing and at TBC’s sole expense, any and all aforesaid suits, actions or proceedings, legal or affirmative, that may be brought or instituted against City, its officials, officers, agents, employees or contractors. TBC shall pay and satisfy any judgment, award or decree that may be rendered against City, its officials, officers, agents, employees or contractors. TBC shall reimburse such parties for any and all legal expenses and costs incurred by one or all of them in connection with this Agreement or the indemnity herein provided. TBC’s obligations hereunder shall survive termination or expiration of this Agreement, and shall not be restricted to insurance proceeds, if any, received by City or its officials, officers, agents or, employees or contractors.

18. **Covenant Running With Land.** This Agreement shall be deemed a covenant running with the land with respect to the Easement Area. All of the covenants, obligations, and provisions of this Agreement shall be binding upon and inure to the benefit of successors, legal representatives, assigns and successors-in-interest to the Parties. Every person who now or hereafter owns or acquires any right, title, or interest in and to any portion of the Easement Area shall be conclusively deemed to have notice of this Agreement, whether or not reference to this Agreement is contained in the instrument by which such person acquires an interest in the Easement Area. Therefore, each and every contract, deed or other instrument hereinafter executed, covering or conveying the Easement Area or any portion thereof or interest therein shall conclusively be deemed to have been executed, delivered and accepted subject to this Agreement.

19. **Miscellaneous.**

a. **Notices.** All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

    **TBC:** The Boring Company Corp.
    1155 F Street NW, Suite 475
    Washington, DC 20004
    Attn: Steve Davis

    **City:**
    City of Hawthorne
    4455 126th Street
    Hawthorne, CA 90250
    Attn: Arnold Shadbehr, Interim City Manager & Director of Public Works/City Engineer
Such notice shall be deemed made when delivered by certified mail, return receipt requested, first class postage prepaid, or by reputable overnight messenger delivery service, and addressed to the party at its applicable address and shall be deemed delivered on the date of delivery or refusal to accept or inability to delivery shown on the return receipt, or one (1) business day after delivery to the messenger service for overnight delivery, as applicable.

b. **Entire Understanding.** This Agreement constitutes the entire understanding between the Parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein.

c. **Invalidity.** If any provision of this Agreement is invalid or unenforceable with respect to any Party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

d. **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the successors of the respective parties. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

e. **Consent to Jurisdiction and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties’ activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Los Angeles, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, TBC expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

f. **Exhibits.** All exhibits attached hereto form material parts of this Agreement.

g. **Time of Essence.** Time is of the essence of every provision hereof in which time is a factor.

h. **Survival.** All defense, indemnity and payment obligations of TBC that arise or relate to events occurring prior to the expiration or earlier termination of this Agreement shall survive such expiration or earlier termination.

20. **Compensation for Easement.** As a condition to the effectiveness of this Agreement, TBC shall pay to City the sum of $730.50 as compensation for the easement and rights described herein (in addition to any applicable encroachment permit fees).
21. **Possessory Interest.** In accordance with Revenue and Taxation Code Section 107.6, this Agreement may create a possessory interest subject to personal property taxation for which TBC shall be responsible.

**CITY:**

CITY OF HAWTHORNE  
a California municipal corporation and general law city

______________________________
By: Alex Vargas, Mayor

**ATTEST:**

______________________________  
NORB HUBER, City Clerk  
City of Hawthorne, California

**APPROVED AS TO FORM:**

______________________________  
RUSSELL MIYAHIRA,  
City Attorney  
City of Hawthorne, California

**TBC:**

THE BORING COMPANY CORP.,  
a Delaware corporation

By: ____________________________  
Print Name: _____________________  
President
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Los Angeles  

On ______________________, before me, ____________________________ (insert name and title of the officer)  
Notary Public, personally appeared ______________________________, 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.

Signature__________________________________________ (Seal)
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Los Angeles  

On ______________________, before me, ______________________, (insert name and title of the officer), Notary Public, personally appeared ______________________, 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.

Signature______________________________  (Seal)
EXHIBIT “A”

DESCRIPTION OF EASEMENT AREA
AND DRAWING OF IMPROVEMENTS

A portion of land located on the southern portion of West 120th Street, beginning at a point 16.03’ South of the Northeast corner of Lot 308 of the Second Addition to the Town of Hawthorne, in the City of Hawthorne, County of Los Angeles, State of California, as per Map recorded in Book 9, Page 160 of Maps, in the Office of the County Recorder of said County.

From the above described Point of Beginning, located at Latitude N33° 55’ 24.72”, Longitude W118° 20’ 38.57”; beginning a curve turning to the right through 09° 44’ 55.9”, having a radius of 807.82 feet, and whose long chord bears N 74° 37’ 32” E for a distance of 137.28 feet to a point of intersection with a non-tangential line.

Thence, N 90° 00’ 00” E for a distance of 145.56 feet to the beginning of a non-tangential curve,

Said curve turning to the left through 20° 01’ 57.6”, having a radius of 793.33 feet, and whose long chord bears S 79° 52’ 52” W for a distance of 275.97 feet to the beginning of a non-tangential curve.

Said curve turning to the right through an angle of 00° 16’ 14.4”, having a radius of 1421.04 feet, and whose long chord bears S 70° 00’ 00” W for a distance of 6.71 feet to a point of intersection with a non-tangential line.

Thence, N 00° 11’ 28” E for a distance of 14.38 feet to the Point of Beginning.

Perimeter: 581.49’ Area: 2527.59 Sq. Ft.

See attached plat.
EXHIBIT "B"

NARRATIVE DESCRIPTION OF IMPROVEMENTS AND THEIR PURPOSE

The Boring Company proposes to modify the current Test Tunnel alignment to curve into an exit shaft located on a property owned by The Boring Company (4012 120th Street) for the purpose of removing the tunnel boring machine cutterhead from the exit shaft (Project).

Figure 1: A dimensioned drawing of the Project
CITY OF HAWTHORNE  
CITY COUNCIL  
AGENDA BILL  
For the meeting of September 11, 2018  
Originating Departments: City Attorney/City Manager  

City Manager: Arnold Shadbehr  
City Attorney: Russ Miyahira

SUBJECT

Resolution No. 8026, A Resolution of the City Council of the City of Hawthorne, California, Approving a Subsurface Easement Agreement to Allow The Boring Company to Construct and Operate a 50’ Long Test Tunnel Spur (“Test Elevator/Spur”) Adjacent to the Test Tunnel Under Portions of 120th Street in the City of Hawthorne and Making a Determination of Exemption under the California Environmental Quality Act.

RECOMMENDATION

Approve Resolution No. 8026 (Attachment 1), authorize the Mayor to execute the Subsurface Easement Agreement (Attachment 2).

EXECUTIVE SUMMARY

On August 22, 2017, the City Council of the City of Hawthorne granted The Boring Company Corporation (“TBC”), in conjunction with its parent company, Space Exploration Technologies, Inc. (“SpaceX”), a Subsurface Easement for a test tunnel under City right-of-way (“Test Tunnel”), which was recorded on January 10, 2018 as Document No. 20180029763 in the Official Records of Los Angeles County (“Test Tunnel Easement.”). TBC desires to construct an approximately 50 foot long test tunnel spur adjacent to the Test Tunnel (“Test Elevator/Spur”) beneath certain real property in the City of Hawthorne, County of Los Angeles, State of California, under portions of 120th Street (“Street”) in the City of Hawthorne, California below the area described on Exhibit “A” of Resolution No. 8026 in an area that has a circular diameter of not more than fifteen (15) feet and is approximately thirty-six (36) feet deep (the “Easement Area”). The improvements are set forth in Exhibit “A” (“Improvements”) and a narrative designation of the Improvements and their specific purposes is attached as Exhibit “B” of Resolution No. 8026.
TBC proposes to construct a Test Elevator/Spur onto a property owned by TBC (3834 West 119th Place) for the purpose of further examining the capabilities of the Test Tunnel Project. The Subsurface Easement Agreement does not include or allow excavations from the ground surface along Crenshaw Boulevard, the Hawthorne Municipal Airport or 120th Street down to the Test Tunnel or the Subsurface Easement.

The City has found and determined that this subsurface easement shall serve as a means for the testing of the transportation of vehicles and pedestrians, that it will serve the private interests of TBC in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities, and that by being located in the right-of-way underneath portions of 120th Street, will not endanger or interfere with abutting property owners.

City staff and consultants have evaluated the project and determined that the grant of the Easement and issuance of an Encroachment Permit are exempt from review from the California Environmental Quality Act (CEQA) pursuant to the Class 5 (Minor Alterations in Land Use Limitations – CEQA Guidelines Section 15305), Class 1 (Existing Facilities – CEQA Guidelines Section 15301) and Class 3 (New Construction or Conversion of Small Structures – CEQA Guidelines 15303).

APPROVALS FROM THE CITY

City staff and City consultants have determined that permission to use these subterranean areas requires two initial approvals from the City: (1) the grant of a subsurface easement through approval of a subsurface easement agreement; and (2) the issuance of an Encroachment Permit. The subsurface easement is required to allow for the permanent occupancy of defined portions of the public right of way under the surface, described more particularly in Exhibit A of Resolution No. 8026. The Subsurface Easement Agreement (“Test Elevator/Spur”) has been submitted by City staff to the City Council for approval. The Encroachment Permit is required to allow for construction within the public right of way and is a ministerial permit approved by City Staff upon approval of the Subsurface Easement Agreement by the City Council.

A. Subsurface Easement Agreement

The proposed Subsurface Easement Agreement (“Subsurface Easement” or “Easement”) is attached as Exhibit “C” to Resolution No 8026.

The Subsurface Easement Agreement allows for the construction and use of the Test Elevator/Spur in the defined Easement Area. The construction improvements are described in Exhibit B Resolution No. 8026.

The Easement memorializes TBC’s commitment to monitor for potential subsidence caused by the boring process and to inform the City on a daily basis of the results of the monitoring process. In the event there is any subsidence of ½ inch or greater, TBC will stop the boring work until the subsidence is stopped and corrected. TBC will be responsible for the cost of any repair work required to address the impact of the boring process on public and private utilities and on the City’s street and property.
TBC is required to reimburse the City for all reasonable and documented costs and expenses incurred by the City in preparing and processing the Subsurface Easement Agreement, the City’s expert consultants, environmental review, and other related costs. In addition, TBC is to obtain a Letter of Credit from a City-approved institution providing funds that the City may draw upon for authorized costs that are not paid for by TBC (See Section 6 (b)). TBC is required to maintain specified types and levels of insurance and to indemnify the City for any and all type of claims, lawsuits and liabilities arising not only for the grant of the Subsurface Easement Agreement and Encroachment Permit but also for the damage and injuries resulting from the use or operation of the Test Tunnel.

Finally, TBC is required to compensate the City for the fair market value of the Subsurface Easement. The City has previously obtained an appraisal of the fair market value of the Subsurface Easement in the amount of $243.50.

**B. City Council Determinations under the Hawthorne Municipal Code**

Section 3.32.10 of the Hawthorne Municipal Code requires the City Council to make certain findings in connection with the sale of real property. Specifically, Subsection (F) of that Section requires the City Council to find that the property is being sold upon condition that it be used, maintained or developed in a specified manner for its fair market value or less, when the City Council, by not less than a three-fifths vote of all members thereof, determines that the public good and interest would be served by such sale or lease and adopts a resolution ordering the same. The Easement Agreement will convey an easement interest in specified property under the ownership or control of the City that will allow for the construction of the Test Elevator/Spur. The specific structure and uses that may be placed and used in the Test Tunnel are specified in the Easement. In addition, the Easement Agreement requires payment to the City for the fair market value of the grant of the Easement as determined by a prior appraisal. Finally, a resolution is presented with this agenda item by which the City Council will approve the Easement and make findings that the public good and interest would be served by the conveyance of the Easement to TBC.

**C. Encroachment Permit**

Upon the City Council’s grant of the Subsurface Easement Agreement, City staff will continue to work with TBC to finalize the engineering drawings for construction, and after satisfaction that all construction issues have been addressed, the City Engineer will process and issue an Encroachment Permit allowing construction of the Test Tunnel in the Easement Area.

**ENVIRONMENTAL REVIEW**

City staff and consultants have evaluated the project and determined that the approval of the Subsurface Easement Agreement and issuance of an Encroachment Permit are exempt from review from the California Environmental Quality Act (CEQA) and makes the following determinations and findings with respect to compliance with CEQA:

**A. The Test Tunnel Elevator/Spur Project has been environmentally reviewed pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et**
seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the environmental regulations of the City.

B. The Test Tunnel Elevator/Spur Project is exempt from CEQA on the following bases:

1. Class 5. Minor Alterations in Land Use Limitations (CEQA Guidelines Section 15305). Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The Zoning Text Amendment permits connections to the Test Tunnel via a Test Elevator/Spur where it qualifies for a conditional use permit meeting these requirements: 1) property must abut portion of 120th Street containing the Test Tunnel; 2) Test Elevator/Spur shall breach surface only within fully enclosed garage; 3) Test Elevator/Spur shall not cross any adjacent properties without evidence of prior written approval of property owner. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. Review of Conditional Use Permit 2018CU05 separate action demonstrates that Test Elevator/Spur projects meeting all requirements would have negligible impacts. The Test Elevator/Spur is treated as an ancillary use within the R-3 zone and no change to land use types or densities would occur.

2. Class 1. Existing Facilities. (CEQA Guidelines Section 15301). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to: (1) Demolition and removal of individual small structures listed in this subdivision; (4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The existing garage at 3834 119th Place is a small structure and listed as an accessory structure and as such, qualifies for a Class 1 exemption. In addition, the construction of a replacement garage is also a small structure and listed as an accessory structure and as such, qualifies for a Class 1 exemption. In addition, the construction of the Test Elevator/Spur constitutes a minor alternation of an existing test tunnel because it is a small 50-foot extension to the previously approved test tunnel in the Test Tunnel Easement and is only for test purposes without any general public use.

3. Class 3. New Construction or Conversion of Small Structures. (CEQA Guidelines 15303). Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of
small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The replacement garage proposed at 3834 119th Place qualifies for a Class 3 exemption as an accessory structure.

PUBLIC HEARING NOTICE

Public notice of tonight’s public hearing on this item was published in the Hawthorne Press Tribune on August 30, 2018. A copy of the published notice is attached as to this Report.

NEXT STEPS/CONCLUSION

The City Council should open the public hearing, hear the staff presentation, take public testimony, close the public hearing, and adopt Resolution 8026 approving the Subsurface Easement Agreement ("Test Elevator/Spur") and authorizing additional actions in connection with the approval of the Test Tunnel. Pursuant to Resolution 8026 and the Subsurface Easement Agreement.

Attachments: 1. Resolution 8026
2. Subsurface Easement Agreement (with Exhibits A and B)
3. Map Depicting Route of Test Tunnel
4. CEQA Environmental Determination (with Appendix A)
5. Notice of Public Hearing
RESOLUTION NO. 8026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE APPROVING A SUBSURFACE EASEMENT AGREEMENT TO ALLOW THE BORING COMPANY TO CONSTRUCT AND OPERATE A 50' LONG TEST TUNNEL SPUR ("TEST ELEVATOR/SPUR") FROM AN EXISTING TEST TUNNEL UNDER PORTIONS OF 120TH STREET IN THE CITY OF HAWTHORNE TO PROPERTY AT 3834 119TH PLACE AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on August 22, 2017, the City Council of the City of Hawthorne granted The Boring Company Corporation ("TBC"), in conjunction with its parent company, Space Exploration Technologies, Inc. ("SpaceX"), a Subsurface Easement for a test tunnel under City right-of-way ("Test Tunnel"), which was recorded on January 10, 2018 as Document No. 20180029763 in the Official Records of Los Angeles County ("Test Tunnel Easement."); and

WHEREAS, TBC desires to construct an approximately 50 foot long test tunnel spur ("Test Tunnel Elevator/Spur") from the Test Tunnel Easement to property located at 3834 119th Place in the City of Hawthorne, California below the area described on Exhibit "A" in an area that has a circular diameter of not more than fifteen (15) feet and is approximately thirty-six (36) feet deep (the "Easement Area"). The improvements are set forth in Exhibit "A" ("Improvements") and a narrative designation of the Improvements and their specific purposes is attached as Exhibit "B"; and

WHEREAS, TBC proposes to construct a Test Elevator/Spur onto a property owned by TBC at 3834 West 119th Place for the purpose of further examining the capabilities of the Test Tunnel Project; and

WHEREAS, the Test Tunnel Elevator/Spur does not include or allow excavations from the ground surface along Crenshaw Boulevard, the Hawthorne Municipal Airport or 120th Street.; and

WHEREAS, the City has found and determined that this subsurface easement shall serve as a means for the testing of the transportation of vehicles and pedestrians, that it will serve the private interests of TBC in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities, and that by being located in the right-of-way underneath portions of 120th Street, will not endanger or interfere with abutting property owners; and

WHEREAS, City staff and consultants have evaluated the project and determined that the grant of the Test Tunnel Elevator/Spur and issuance of an Encroachment Permit are exempt from review from the California Environmental
Quality Act (CEQA) pursuant to: (1) the Class 5 Categorical Exemption for minor alterations in land use limitations contained in State CEQA Guidelines Section 15305 (Title 14 of the California Code of Regulations); (2) the Class 1 Categorical Exemption for existing facilities contained in State CEQA Guidelines Section 15301; and (3) the Class 3. Categorical Exemption for new construction or conversion of small structures contained in State CEQA Guidelines Section 15303. The documents to support these determinations are found in the staff report, the Supplement to the Notice of Exemption and in the public hearing held in connection with the Project; and

WHEREAS, notice of a public hearing on this item was published in the Hawthorne Press Tribune on August 30, 2018; and

WHEREAS, on September 11, 2018, the City Council held the public hearing on the determination of exemption from CEQA in connection with the grant of the proposed Subsurface Easement Agreement ("Test Elevator/Spur"), and following the receipt of all testimony, closed the hearing.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hawthorne, California as follows:

Section 1. The City Council, after consideration of the Staff’s and TBC’s presentations, discussions, oral testimony, and written evidence presented to the City Council, hereby finds that the above recitals are true and correct and incorporate them herein.

Section 2. The City Council hereby makes the following determinations and findings with respect to the approval of the Subsurface Easement Agreement:

A. The Test Tunnel Elevator/Spur Subsurface Easement Agreement shall serve as a means for the testing of the transportation of vehicles and pedestrians. It will serve both the private interest of TBC or SpaceX in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities that will enhance the economy of the city and region. The Boring Company will construct a Test Elevator/Spur onto a property owned by TBC (3834 119th Place) for the purpose of further examining the capabilities of the Test Tunnel (Project); and

B. Construction of the Test Elevator/Spur will not block, impair or otherwise affect the surface vehicular traffic on Crenshaw Boulevard or 120th Street because the Test Elevator/Spur excavation will not occur in the public right of way; and

C. Based on the location of the Test Elevator/Spur, the construction will not impair street access to private properties. In addition, the tunnel boring and construction process is designed to maintain lateral and subsurface ground support of properties, improvements and structures located adjacent to the public
right of way along the Test Tunnel route. A surface monitoring program will be operated to detect and stop additional boring if surface subsidence is detected.

D. The existing Test Tunnel Easement includes design features and project components that provides for: (i) construction during City permitted hours of construction; (ii) the use of off-road construction equipment that meets or exceeds the Environmental Protection Agency’s Tier 4 Final emission standards or equivalent; (iii) the preparation and use of a fire prevention plan; (iv) the operation of a settlement monitoring plan which will provide for automated, real-time settlement monitoring and if thresholds of one-half inch are exceeded, then construction will stop and subsidence corrected; (v) standard testing for soil, gas and water and proper disposal of contaminated soil; (vi) compliance with excavation requirements imposed by the California Office of Health and Safety (CalOSHA); and (vii) appropriate haul routes to haul away soil to a suitable facility.

E. Based on the elements of the Subsurface Easement Agreement and the protections in place as proposed by TBC, the project will serve the public interest in allowing for the development and testing of a potentially important transportation technology while protecting the City, the community, the Hawthorne Municipal Airport, nearby property owners and the public at large.

Section 3. The City Council hereby makes the following determinations and findings with respect to compliance with CEQA:

A. The Test Tunnel Elevator/Spur Project has been environmentally reviewed pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the environmental regulations of the City.

B. The Test Tunnel Elevator/Spur Project is exempt from CEQA on the following bases:

1. Class 5. Minor Alterations in Land Use Limitations (CEQA Guidelines Section 15305). Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. The Zoning Text Amendment permits connections to the Test Tunnel via a Test Elevator/Spur where it qualifies for a conditional use permit meeting these requirements: 1) property must abut portion of 120th Street containing the Test Tunnel; 2) Test Elevator/Spur shall shall be located only within a fully enclosed garage; 3) Test Elevator/Spur shall not cross any adjacent properties without evidence of prior written approval of property owner. Any specific project seeking approval of a conditional use permit must demonstrate it will not change the residential character of the property on which it is located or any adjacent residential properties. Review of Conditional Use Permit 2018CU05 separate action
demonstrates that Test Elevator/Spur projects meeting all requirements would have negligible impacts. The Test Elevator/Spur is treated as an ancillary use within the R-3 zone and no change to land use types or densities would occur.

2. Class 1. Existing Facilities. (CEQA Guidelines Section 15301). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to: (l) Demolition and removal of individual small structures listed in this subdivision;(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The existing garage at 3834 119th Place is a small structure and listed as an accessory structure and as such, qualifies for a Class 1 exemption. In addition, the construction of a replacement garage is also a small structure and listed as an accessory structure and as such, qualifies for a Class 1 exemption. In addition, the construction of the Test Elevator/Spur constitutes a minor alteration of an existing test tunnel because it is a small 50-foot extension to the previously approved test tunnel in the Test Tunnel Easement and is only for test purposes without any general public use.

3. Class 3. New Construction or Conversion of Small Structures. (CEQA Guidelines 15303). Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The replacement garage proposed at 3834 119th Place qualifies for a Class 3 exemption as an accessory structure.

Section 4. Based on the findings contained herein, the City Council of the City of Hawthorne does hereby approve the Test Tunnel Elevator/Spur Subsurface Easement Agreement, attached hereto as Exhibit C to this Resolution.

Section 5. The Mayor is authorized to execute the Test Tunnel Elevator/Spur Subsurface Easement Agreement in the form attached hereto. The
City Manager and City Attorney are authorized to make minor non-substantive corrections and revisions to the Test Tunnel Elevator/Spur Subsurface Easement Agreement prior to execution as they deem appropriate.

Section 6. The City Manager and City Staff are authorized to take implementing actions to carry out the approval of the Test Tunnel Elevator/Spur Subsurface Easement Agreement.

Section 7. The City Manager is directed to file a Notice of Exemption from CEQA in connection with the approval of the Test Tunnel Elevator/Spur Subsurface Easement Agreement with the Los Angeles County Clerk.

PASSED, APPROVED AND ADOPTED this 11th day of September, 2018.

ATTEST:

ALEX VARGAS Mayor
City of Hawthorne, California

MONICA DICRISCI, Deputy City Clerk
City of Hawthorne, California

APPROVED AS TO FORM:

RUSSELL MIYAHIRA,
City Attorney
City of Hawthorne, California
EXHIBIT A (Easement Area)
EXHIBIT “A”

DESCRIPTION OF EASEMENT AREA
AND DRAWING OF IMPROVEMENTS

A portion of land located on the southern portion of West 120th Street, beginning at a point 31.74’ East of the southwest corner of Lot 822 in Tract 2603, in the City of Hawthorne, County of Los Angeles, State of California, as per Map recorded in Book 26, Page 64 of Maps, in the Office of the County Recorder of said County.

From the above described Point of Beginning, located at Latitude N33° 55’ 25.56” Longitude W118° 20’ 26.55”; Thence, S 89° 55’ 25” E a distance of 20.99 feet to a point on a line.

Thence, S 49° 53’ 48” E for a distance of 50.71 feet to a point on a line.

Thence, N 89° 53’ 48” W for a distance of 21.00 feet to a point on a line.

Thence, N 49° 53’ 48” W for a distance of 50.69 feet to the Point of Beginning.

Perimeter: 143.40’  Area: 684.47 Sq. Ft.

See attached plat.
EXHIBIT B (IMPROVEMENTS)
EXHIBIT "B"
NARRATIVE DESCRIPTION OF IMPROVEMENTS AND THEIR PURPOSE

The Boring Company proposes to construct a test elevator and short tunnel spur onto a property owned by The Boring Company (3834 119th Place) for the purpose of further examining the capabilities of the Test Tunnel (Project).

Figure 1: A dimensioned drawing of the Project
EXHIBIT C (SUBSURFACE EASEMENT AGREEMENT – "TEST ELEVATOR/SPUR")
RECORDING REQUEST BY,
AND WHEN RECORDED RETURN TO:

The Boring Company Corp.
1155 F Street NW, Suite 475
Washington, DC 20004

With a copy to:

City of Hawthorne
4455 126th Street
Hawthorne, CA 90250
Attn: City Clerk

SUBSURFACE EASEMENT
(Test Tunnel Spur for Test Elevator; 50 Feet)

THIS SUBSURFACE EASEMENT (Test Tunnel Spur for Test Elevator; 50 Feet) ("Agreement") is dated as of September 11, 2018 and is entered into by and between the CITY OF HAWTHORNE, a California municipal corporation and general law city ("City"), and THE BORING COMPANY CORP., a Delaware corporation ("TBC"). City and TBC are sometimes hereinafter referred to individually as "Party" and collectively as the "Parties."

RECATALS

A. City previously granted TBC a Subsurface Easement dated August 22, 2017 for a test tunnel under City right of way ("Test Tunnel"), which was recorded on January 10, 2018 as Document No. 20180029763 in the Official Records of Los Angeles County ("Test Tunnel Easement").

B. TBC desires to construct an approximately 50 foot long test tunnel spur adjacent to the Test Tunnel beneath certain real property in the City of Hawthorne, County of Los Angeles, State of California, under portions of 120th Street ("Street") in the City of Hawthorne, California below the area described on Exhibit "A" in an area that has a circular diameter of not more than fifteen (15) feet and is approximately thirty-six (36) feet deep (the "Easement Area"). The improvements are set forth in Exhibit "A" ("Improvements") and a narrative description of the Improvements and their specific purposes is attached as Exhibit "B".

C. City believes it owns or has right of way or easement rights in the Easement Area but makes no representations or warranties in that regard, express or implied, it being understood that TBC may obtain title insurance at its cost.

D. City agrees to provide to TBC an easement within the Easement Area for the subsurface installation, maintenance and operation of the Improvements subject to the terms and
conditions hereinafter set forth. The easement granted herein does not include access to the Easement Area from the surface of the ground above the Easement Area.

E. The City’s public purposes in entering into this Agreement include facilitating the development of transportation technology that may benefit the public, providing employment opportunities resulting from the work to be performed by TBC, and obtaining compensation for the easement interest granted herein equal to its fair market value (and such compensation shall become part of the general funds of the City and in turn used for a public purposes).

F. The City has found and determined that this subsurface easement shall serve as a means for the testing of the transportation of vehicles and pedestrians, that it will serve the private interest of TBC in the testing of a new transportation technology and the public interest in the development of a new transportation system that may speed future public transportation opportunities, and that by being located in the right-of-way underneath portions of 120th Street, will not endanger or interfere with abutting property owners.

AGREEMENT

1. Conditions Precedent. The effectiveness of this Agreement is conditioned upon the issuance by the City of an encroachment permit and the payment by TBC of all permit fees related thereto. TBC shall comply with all applicable requirements of Chapter 12.16 (Encroachments in Public Places) of the Hawthorne Municipal Code in connection with this Agreement.

2. Grant of Easement. City hereby grants to TBC a perpetual easement in and through the Easement Area for the purpose of installing, maintaining and operating the Improvements in accordance with Exhibits “A” and “B”, but with no right of access except through the Easement Area (it being understood that Grantee has obtained legal rights to access one or both ends of the Easement Area from other properties), subject to the limitations set forth herein and TBC’s fulfillment and ongoing compliance with the terms and conditions set forth herein. The easement granted herein does not include access to the Easement Area from the surface of the ground above the Easement Area. The installation, maintenance, and any operation of the Improvements shall be subordinate to any use and operations which City and other utility, franchise and easement holders may conduct on an adjacent property owned or controlled by City, including the operation, repair and replacement of storm drains, sewer, water, gas, electrical, telephone, cable television and other public and private utility lines and facilities. Except as expressly authorized by this Agreement, TBC shall not cause any material delay or interference with City’s or any public or private utility access to such adjacent property, and TBC shall not interfere with the operations of City or of any public or private utility located above, below, or adjacent to the Easement Area.

3. AS-IS. TBC accepts the Easement Area in its current “AS-IS” condition, without representation or warranty, express or implied, and subject to all matters of record and all matters that would be revealed by a diligent inspection of the Easement Area and adjacent property (including, without limitation, Phase I and Phase II environmental reports). TBC also acknowledges that City makes no representations, express or implied, as to the physical condition of or title to the Easement Area or adjacent property. This Agreement does not constitute, nor
grant permission to use or occupy property not belonging to, or under the control of City, and permission to use or occupy such property must be obtained from the owner or controller of such property, separate from and in addition to this Agreement.

4. Authorized Improvements. The rights of TBC to install, maintain, and operate the Improvements are subject to all applicable laws and permitting requirements and conditions (and the City does not waive any of its rights or powers in its governmental capacity in that regard), and are also subject to the following contractual limitations, and conditioned upon TBC implementing the following protective measures and physical construction standards in connection with the Improvements:

a. Detailed design drawings prepared by a registered engineer depicting the Improvements shall be provided to, reviewed by, and approved by City prior to construction. The design drawings shall include an accurate depiction of the horizontal and vertical position of the Improvements. The detailed design drawings shall also depict the current and proposed location of all public and private utilities located within the Street, including the location and depth of all storm drains, sewer, water, gas, electrical, cable television, and public and private utility lines and facilities. The design of the Improvements must allow for immediate access to and under Street for purposes of inspecting, cleaning, maintaining, repairing, and replacing City’s existing improvements located on, in or under Street and/or installing additional improvements and appurtenances.

b. The grant of the Easement does not include access to the Easement Area from the surface of the ground above the Easement Area. If, however, repair for potential subsidence of the ground surface or repair of damage to public or private property is required due to the construction or use of the Improvements, and such repair work will require the temporary or permanent closure of any portions of the surface of the Street, trenching of any portion of the Street, or the stockpiling of any soil to be excavated as part of the project, the drawings shall depict the specific areas affected, and shall include traffic control plans to address the traffic impacts of the closures or construction activity. A separate Encroachment Permit shall be required for such work. In addition, if the soil is to be transported to a stockpile area and then to an off-site location, detailed plans shall be provided describing and depicting the location of, and requirements for, the stockpiling and transport, including haul routes, for the transport of the soil.

c. TBC shall inform all public and private utility entities having facilities within the Street of the Improvements and develop plans for the avoidance or relocation of all such utility lines or facilities. No permits for construction of the Improvements will be issued by City unless and until the City Engineer is satisfied that: (i) each affected utility entity has been informed of the location of the Improvements and had an adequate opportunity to provide information to TBC and the City as to any steps required for avoidance or relocation of their utility, and (ii) the City Engineer has determined that no relocation is required.

d. City reserves the right, and TBC hereby acknowledges, that City may reject without liability the design drawings for any proposed Improvements and/or require any changes thereto if City determines, in its sole and absolute discretion, that such action is necessary to ensure City can adequately inspect, clean, maintain, repair, and replace City’s existing improvements
located within the Street and/or installing additional improvements and appurtenances within the Street.

e. Upon City’s approval of the final design drawings for the Improvements, in its proprietary capacity under this Agreement and separately in its governmental capacity, TBC shall install and maintain the Improvements in strict compliance with the applicable permits, and approved final design drawings, and no material changes or deviations therefrom shall be permitted without TBC first obtaining the prior written consent of City, which may be granted or denied in the City’s sole and absolute discretion. For purposes of clarification and example, a material change or deviation shall include, but not be limited to, a modification to the Improvements that, in the opinion of the City Engineer, negatively affects the structural stability or integrity of the Improvements or utilities or structures above the Easement Area or alters the location of the Improvements in a manner that causes the Improvements to extend beyond the Easement Area.

f. TBC shall provide City with “as-built” drawings of the Improvements within thirty (30) days after completion of the Improvements.

g. TBC shall reimburse City for any and all reasonable and documented costs and expenses incurred by City for work to support or protect the Street and utilities, or to cure any failure of TBC to comply with the last sentence of Section 10 below. Such reimbursements or payments shall be made within thirty (30) business days after delivery by City of written demand and a statement from City detailing such costs. In the event TBC fails to perform work to support or protect the Street and utilities, or to cure any failure of TBC to comply with Section 10 below within thirty (30) business days after receiving written notice from City of such failure, or if City must immediately perform such work in the event of an emergency or to perform legally mandated duties, City may proceed with such work at the expense of TBC, and TBC shall reimburse City within thirty (30) business days after delivery by City of a written demand and a statement from City detailing the costs incurred by City. The obligations under the subsection shall survive the termination of this Agreement.

h. TBC shall be required to obtain all required licenses, permits and authorizations from City and from any other governmental agency with jurisdiction over the Improvements and to pay all fees and charges associated therewith prior to commencing any work on the Improvements.

i. TBC shall obtain and provide copies to City of its construction contract for the Improvements and payment and performance bonds for such contract/contractor.

j. The City acknowledges that the Improvements are designed to be constructed with construction activities (including transportation of soils) related to the Improvements that occur outside of the Easement Area, in compliance with Hawthorne Municipal Code Sections 15.14.010 (Erection of temporary fencing around construction sites) and 15.14.020 (Restrictions on hours of construction), to the extent applicable. Such project design features shall be maintained and complied with by TBC throughout the construction period of the Improvements.
k. TBC shall, on a daily basis during construction: (i) diligently and reasonably inspect the extent of any subsidence of the surface of the Street above the construction; (ii) within one (1) business day after inspection, deliver to City a reasonable written report describing the results of the inspection(s) for the previous day; and (iii) immediately halt all construction if subsidence exceeds one half of one inch at any point on the Street or abutting property. If any subsidence is detected that exceeds one-half inch, TBC shall undertake work, as reviewed and approved by the City, to correct the subsidence.

5. Repair of Damage. TBC shall obtain complete contact information for all owners of utilities (“Utility Owners”) prior to the start of the work. Any damage caused directly or indirectly by TBC to the Street, City’s improvements therein, utilities or other property shall be declared by the TBC through sending proper notifications to the applicable Utility Owner and City as early as possible. If repair work needs to be conducted by the Utility Owner, it shall be paid or reimbursed in full by TBC without any delay; however, if damage is only to the Street pavement, then repair work will be conducted by the City at TBC’s sole cost and expense, or if authorized by City may be repaired by TBC at its sole cost and expense. If City elects to perform the repair work itself, TBC shall reimburse City for the full costs of the repair work within thirty (30) days after receiving written demand and a statement from City detailing such costs.

6. Backfilling Upon Abandonment and Termination of Easement. Upon written request of the City Engineer, TBC shall diligently backfill the tunnel portion of the Improvements with cement slurry or clean imported soil to 90% compaction in the event the tunnel is abandoned by TBC, ceases to be used for testing or other authorized purposes for a continuous period of two years, or in the event that TBC or its successor in interest declares bankruptcy and is required to liquidate its assets. The backfilling work shall be completed within one year of the occurrence of any of the events specified in this Section. Upon completion of the backfilling work, as verified by the City Engineer, the Easement granted by this Agreement shall automatically terminate and be of no further force and effect, except that certain provisions contained herein shall survive the termination as specified herein.

7. Deposit; Reimbursement of City Costs.

a. TBC shall reimburse the City for the City’s actual out-of-pocket costs and expenses incurred by City: (i) in preparing this Agreement (including legal fees and costs); (ii) obtaining the appraisal used to determine the compensation described in Section 20 below; and (iii) complying with CEQA, and other consultant costs and expenses incurred by the City in processing the request for City approval of the Improvements (collectively, the “Reimbursable Costs”). City acknowledges that TBC has deposited with the City the sum of Fifteen Thousand Dollars ($15,000.00) (the “Reimbursement Funds”). The Reimbursement Funds may be used and applied from time to time by the City to pay or reimburse itself for Reimbursable Costs not otherwise paid or reimbursed by TBC. Any Reimbursement Funds not applied shall be delivered to TBC (along with a final accounting of the City’s application of the Reimbursement Funds) within thirty (30) business days after the date of this Agreement.

b. In addition to the Reimbursement Funds, and in order to ensure payment to City for Reimbursable Costs not paid by the Reimbursement Funds, monetary obligations of TBC under this Agreement, and damages incurred by City as a result of any failures by TBC to comply
with the terms of this Agreement, TBC agrees that City may draw on the letter of credit delivered to City by TBC under the Subsurface Easement dated August 22, 2017 for such Reimbursable Costs, monetary obligations and damages, and if requested by the City Manager, TBC shall promptly obtain and deliver to City an amendment to such letter of credit confirming that such draws may be made.

8. Waiver and Release. TBC, in perpetuity, expressly waives, releases and relinquishes any and all claims, causes of action, rights and remedies TBC may now or hereafter have against City, and its officials, officers, employees, consultants, attorneys and agents (collectively, “City Entities”), whether known or unknown, with respect to liability for any damage to or loss, upon, above, beneath, or across the Easement Area, or Street or adjacent property unless such damage or loss is caused by the sole active negligence or willful misconduct of City Entities. As a material part of City’s decision to approve this Agreement, TBC hereby assumes all risk of damage to the Improvements arising from any cause attributable to City’s exercising its rights hereunder or in, under to the Street, and TBC hereby waives all claims in respect thereto against City, except if caused by the sole active negligence or willful misconduct of City Entities.

TBC HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 (“SECTION 1542”), WHICH IS SET FORTH BELOW:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

BY INITIALING BELOW, TBC HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

_________________________
TBC’s Initials

The waivers and releases by TBC contained herein shall survive the expiration or earlier termination of this Agreement and shall be binding upon the assignees, transferees, and successors-in-interest of TBC.


a. TBC acknowledges that the Street contains certain City-owned public facilities collectively and hereinafter referred to as “Public Improvements.” In order for City to exercise its rights with respect to the Public Improvements, City shall exercise good faith efforts to notify TBC either in writing or by telephone, of the need to gain access to, temporarily restrict the use of the Improvements, except in emergency situations when no advance notice by City shall be required. TBC hereby agrees that upon written or telephonic notice from City, TBC shall at its own cost and expense do one or more of the following as requested by City in the notice: (1)
within twenty-four (24) hours after receiving notice, provide City access to the Improvements (or the appropriate portion thereof); and (2) within twenty-four (24) hours after delivery of written notice by City, temporarily restrict use of the Improvements for the reasonable period requested by City as may be necessary to allow City continuous access to the Improvements and unrestricted use of the Street. In the case of an emergency, City shall have immediate access to the Improvements (or the appropriate portion thereof) without written or telephonic notice to TBC or reimbursement to TBC. City shall provide notice of the emergency to TBC as soon as possible, and upon delivery of such notice TBC shall immediately cease all further use of the Improvements until the emergency has been mitigated. The term “emergency” shall be considered as an unforeseen circumstance that calls for immediate action, as determined by the City Manager.

b. TBC acknowledges that the Easement Area is beneath the Street and certain publicly and privately owned utilities, including storm drains, water, sewer, gas, electrical, cable television, fiber optics and other public and privately owned utilities and facilities. TBC shall develop plans, to the satisfaction of City, for required notice by TBC to the public or private utility entities when TBC’S access to the Easement Area or operation of its Improvements may have an impact to the other entity’s facilities.

10. Recovery of Costs and Attorneys’ Fees for Enforcement of Easement Terms. The terms of this Agreement may be enforced by City or its successors or assigns or successors-in-interest. In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys’ fees and costs.

11. Damage to Public Improvements. In additional to its obligations under Section 3g. above, TBC shall pay to City, within thirty (30) days after written notice from City and a statement detailing such costs and expenses, all reasonable costs and expenses which result from any damage to Public Improvements, where such damage is caused by the location, construction, maintenance, reconstruction, repair, use, or removal of the Improvements. In the event payment is not made within said sixty (60) day period, said payment shall include interest at a rate of ten percent (10%) per annum from the end of said sixty (60) day period until paid.

12. Default; Termination. City may terminate this Agreement in its sole and absolute discretion, if TBC fails to comply with this Agreement and then fails to cure the default with thirty (30) days after written notice from City; provided, however, that if the default is curable and the nature of the default is such that more than thirty (30) days is reasonably required to cure the default, City may not terminate this Agreement if TBC commences to cure the default during the thirty (30) day period after written notice of default and thereafter diligently prosecutes the cure to completion. Upon any such termination, the City Engineer shall determine in good faith what measures, if any, need to be taken to make the Improvements (and tunnel) safe and to comply with the then-“best practices” with respect to tunnels and tunnel improvements, and TBC shall then diligently comply with the City Engineer’s requirements at TBC’s cost and obtain and provide evidence of reasonable insurance for such activities.

a. TBC covenants that it will not handle or transport Hazardous Materials in the Easement Area except for removal, transportation and disposal in compliance with laws regarding excavated soils that are or may be contaminated with Hazardous Materials. As used in this Agreement, the term “Hazardous Materials” means: (a) any substance, products, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code Section 9601 et seq.; the Resources Conservation and Recovery Act, 42 United States Code Section 6901 et seq.; the Hazardous Materials Transportation Conservation and Recovery Act, 42 United States Code Section 1801 et seq.; the Clean Water Act, 33 United States Code Section 1251 et seq.; the Toxic Substances Control Act, 15 United States Code Section 2601 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 et seq.; the Hazardous Substance Account Act, Health and Safety Code Section 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 et seq.; California Health and Safety Code Section 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Section 25170.1 et seq.; California Health and Safety Code Section 25501 et seq. (Hazardous Materials Release Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., all as amended (the above cited California state statutes are hereinafter collectively referred to as “the State Toxic Substances Law”); or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, now or at any time hereinafter in effect; (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (c) petroleum or crude oil, other than petroleum and petroleum products which are contained within regularly operated motor vehicles; and (d) asbestos.

TBC further agrees that at City's request it will furnish City with proof, satisfactory to City, that TBC is in compliance with all such laws, rules, regulations, orders, decisions and ordinances regarding Hazardous Materials.

b. Notwithstanding anything else contained in this Agreement and to the fullest extent permitted by law, TBC agrees to indemnify, defend and hold harmless City from and against any and all claims, liabilities, losses, damages, costs and expenses arising from or relating to injuries to any person, including wrongful death, or damage to property, including without limitation, property of City and TBC, or otherwise (including without limitation reasonable attorneys’ fees, investigators’ fees, litigation expenses, and mitigation costs resulting in whole or in part from TBC's failure to comply with any Hazardous Materials Standards issued by any governmental authority concerning Hazardous Materials), provided, however, that the foregoing shall not apply to the extent of City Entities’ active negligence or willful misconduct. TBC agrees to reimburse City for all reasonable costs of any kind incurred as a result of the TBC’s failure to comply with this Section, including, but not limited to, judicial or administrative fines, penalties, clean-up and disposal costs, and legal costs incurred as a result of TBC’s handling, transporting,
or disposing of Hazardous Materials on, over, or across the Improvements and or Street or adjacent property.

14. Standards; City Cure Rights. TBC shall comply with all statutes, ordinances, rules, regulations, orders and decisions (hereinafter referred to as “Standards”) issued by any federal, state or local governmental body or agency established thereby relating to TBC’s use of the Improvements and Easement Area hereunder. In its use of the Improvements and Easement Area, TBC shall at all times be in full compliance with all Standards, present or future, including, but not limited to, Standards concerning air quality, water quality, noise, and Hazardous Materials. In the event TBC fails to be in full compliance with Standards, City may, but shall not be obligated to, after giving notice of the failure to TBC, and if TBC, within fifteen (15) days of such notice, fails to correct such non-compliance, take whatever action it determines in its sole discretion to be necessary to protect the Public Improvements, Street, and adjacent property. TBC shall reimburse City for all reasonable documented and out of pocket costs (including but not limited to, consulting, engineering, clean-up and disposal, and reasonable legal costs) incurred by City as a result of TBC’s failure to comply with such Standards, and also such reasonable costs incurred by City in abating a violation of such Standards, protecting against a threatened violation of such Standards, defending any claim of violation of such Standards in any proceeding before any agency or court, and paying any fines or penalties imposed for such violations. TBC shall, to the extent permitted by law, assume liability for and shall save and hold harmless City from any claim of a violation of the Standards regardless of the nature thereof or the agency or person asserting such claim, which results from TBC’s use of the Improvements and Easement Area; provided, however, that the foregoing shall not apply to the extent of City Entities’ active negligence or willful misconduct. TBC, at its cost, shall assume the defense of all such claims.

15. Tests and Inspections. City shall have the right at any time to inspect the Improvements, Street, and Public Improvements so as to monitor compliance with this Agreement. If, in City’s sole judgment, any installation, use, or condition of the Improvements may have an adverse effect on the Public Improvements, the Street, or City’s operations, City shall be permitted to, at its sole cost and expense, conduct any tests or assessments, including but not limited to environmental assessments as it determines to be necessary or useful to evaluate the condition of the Street or Public Improvements. TBC shall cooperate with City in any tests or inspections deemed necessary by City. TBC shall pay or reimburse City, as applicable, for all reasonable documented out-of-pocket costs and expenses incurred due to any necessary corrective work and inspections thereafter within thirty (30) days after a written request for payment and a statement detailing such costs and expenses.

16. Insurance.

a. Type. TBC shall obtain, and shall require any subcontractor to obtain insurance in the amounts described below unless specifically altered or waived by the City (“Required Insurance”).

1. Commercial General Liability Insurance – TBC shall provide and maintain Commercial General Liability Insurance. Such insurance shall be written on an occurrence form and provide coverage not less than $3,000,000.00 per occurrence and an aggregate limit of not less than $5,000,000.00 applying separately to this License. Umbrella or
Excess Liability coverage, on a following-form basis, may be used to supplement primary coverage to meet the required limits. The Commercial General Liability Policy must include coverage for the following:

(A) Bodily Injury and Property Damage
(B) Personal Injury/Advertising Injury
(C) Premises/Operations Liability
(D) Products/Completed Operations Liability. Coverage for Products and Completed Operations Liability shall not have a sub-limit or a reduction in the coverage or reporting periods.

(E) Explosion, Collapse and Underground (UCX) exclusion
(F) Contractual Liability with respect to this Agreement
(G) Broad Form Property Damage
(H) Independent Contractor Coverage

2. **Commercial Automobile Liability Insurance** – TBC shall provide and maintain Commercial Automobile Liability Insurance which shall include coverage for liability arising out of the use of owned, non-owned and hired vehicles for performance of the work described in this License. The Commercial Automobile Liability Insurance shall not have limits not less than $1,000,000.00, combined single limit per occurrence, shall be written on an occurrence form, and shall apply to all activities and operations of the TBC pursuant to this License.

3. **Workers’ Compensation Insurance** – TBC shall provide and maintain Workers’ Compensation Insurance covering all of the TBC’s employees in accordance with the laws of the State of California and including Employer’s Liability Insurance. The limit for Employer’s Liability Insurance shall be not less than $1,000,000.00 each accident and shall be a separate policy if not included with Workers’ Compensation coverage. Such insurance shall include a Waiver of Subrogation in favor of the City. Workers’ Compensation coverage may be self-insured by TBC, provided that the City is furnished with a copy of a currently-dated and manually-signed Certifications of Self-Insurance issued by the State of California authorizing the TBC to self-insure. TBC shall notify the City by “return receipt delivery” as soon as possible of the State withdrawing the authority to self-insure.

4. **Pollution Liability Insurance** – Unless the City Council determines that the letter of credit guaranty or bond under Section 7b is sufficient to be provided in lieu thereof, TBC shall provide and maintain Pollution Liability Insurance covering the TBC’s liability arising from Pollution or Environmental Damage or Liability caused during the execution of work performed pursuant to this Agreement. The Pollution Liability Insurance policy shall provide coverage for the total limits actually arranged by the TBC, but not less than $5,000,000.00
combined single limit and in the annual aggregate. Such policy/coverage shall be maintained for not less than one (1) year after the date of final acceptance and completion of the work performed pursuant to this Agreement. TBC may elect to carry such coverage as a sublimit on its Commercial General Liability Insurance.

5. **Umbrella Or Excess Liability Coverage** – TBC may use Umbrella or Excess Liability coverage to meet the coverage limits specified above. TBC shall require the carrier(s) for Umbrella or Excess Liability to properly schedule and identify the policies referenced herein, including Commercial General Liability, Commercial Automobile Liability and Pollution Liability.

b. **General Provisions.** The Commercial General Liability; Commercial Automobile Liability; Pollution Liability; and Umbrella or Excess Liability policies shall (1) name City, its officials, officers, employees and agents as additional insureds; (2) be endorsed to waive subrogation against City, its officials, officers, employees and agents as additional insureds; and (3) be primary and non-contributory. All Required Insurance herein shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of protection provided to City, its officials, officers, employees and agents.

c. **Certificates; Insurer Rating; Cancellation Notice.** Prior to conducting any work in the Easement Area, TBC shall furnish to City properly executed Certificates of Insurance which evidences all Required Insurance. TBC shall also furnish to City properly executed Additional Insurance Endorsements in favor of the City, its officials, officers, employees and agents for the insurance policies referenced in Paragraph 15b. Additional Insured endorsement forms CG 20 12 05 09; CG 2010 04 13; and CG 2037 04 13 or such other form agreed upon in writing by the City shall be used.

TBC shall maintain the Required Insurance at all time while this Agreement is in effect, and shall replace any certificate, policy, or endorsement which will expire prior to that date. Each time TBC changes insurers or coverage periods and, in any event, fifteen (15) days prior to the expiration of such Required Insurance policy, TBC shall furnish City Certificates of Insurance evidencing the changes or renewals of such Required Insurance for the following renewal term. Unless approved in writing by City, TBC shall place the Required Insurance with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least A-:VII.

d. **Waiver of Subrogation.** TBC releases City, its officials, officers, employees and agents from any claims for damage or harm to any person, the Easement Area, the Street, adjacent property, or the Improvements, caused by, or which result from, risks insured under any insurance policy carried by TBC at the time of such damage or harm. TBC shall cause each insurance policy required herein to provide a waiver of subrogation in favor of City, its officials, officers, employees and agents.

17. **Indemnity.** TBC hereby agrees to defend, indemnify and hold City and its officials, officers, agents, employees and contractors free and harmless from and against any and all claims, demands, causes of action, costs, liabilities, expenses, losses, damages or injuries of any kind in law or equity, to persons or property, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of TBC, its partners, affiliates,
agents officials, officers, employees or contractors in performance of this Agreement, use of the Easement Area or the construction, use, or operation of the Improvements or the failure to pay (or failure of its contractors to pay) prevailing wages if required by California Labor Code Section 1720 et seq., including any claims under Labor Code Section 1781. TBC shall further defend, indemnify and hold harmless the City and its officials, officers, agents and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (brought against the City or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this Agreement or TBC's use of the Easement Area (based on noncompliance with the California Environmental Quality Act or otherwise). TBC shall defend, with counsel of City's choosing and at TBC's sole expense, any and all aforesaid suits, actions or proceedings, legal or affirmative, that may be brought or instituted against City, its officials, officers, agents, employees or contractors. TBC shall pay and satisfy any judgment, award or decree that may be rendered against City, its officials, officers, agents, employees or contractors. TBC shall reimburse such parties for any and all legal expenses and costs incurred by one or all of them in connection with this Agreement or the indemnity herein provided. TBC's obligations hereunder shall survive termination or expiration of this Agreement, and shall not be restricted to insurance proceeds, if any, received by City or its officials, officers, agents or, employees or contractors.

18. Covenant Running With Land. This Agreement shall be deemed a covenant running with the land with respect to the Easement Area. All of the covenants, obligations, and provisions of this Agreement shall be binding upon and inure to the benefit of successors, legal representatives, assigns and successors-in-interest to the Parties. Every person who now or hereafter owns or acquires any right, title, or interest in and to any portion of the Easement Area shall be conclusively deemed to have notice of this Agreement, whether or not reference to this Agreement is contained in the instrument by which such person acquires an interest in the Easement Area. Therefore, each and every contract, deed or other instrument hereinafter executed, covering or conveying the Easement Area or any portion thereof or interest therein shall conclusively be deemed to have been executed, delivered and accepted subject to this Agreement.

19. Miscellaneous.

a. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

TBC:  The Boring Company Corp.
       1155 F Street NW, Suite 475
       Washington, DC  20004
       Attn: Steve Davis

City:  City of Hawthorne
       4455 126th Street
       Hawthorne, CA 90250
       Attn: Arnold Shadbeh, Interim City Manager &
       director of Public Works/City Engineer

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Such notice shall be deemed made when delivered by certified mail, return receipt requested, first class postage prepaid, or by reputable overnight messenger delivery service, and addressed to the party at its applicable address and shall be deemed delivered on the date of delivery or refusal to accept or inability to delivery shown on the return receipt, or one (1) business day after delivery to the messenger service for overnight delivery, as applicable.

b. **Entire Understanding.** This Agreement constitutes the entire understanding between the Parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein.

c. **Invalidity.** If any provision of this Agreement is invalid or unenforceable with respect to any Party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

d. **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the successors of the respective parties. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

e. **Consent to Jurisdiction and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties’ activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Los Angeles, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, TBC expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

f. **Exhibits.** All exhibits attached hereto form material parts of this Agreement.

g. **Time of Essence.** Time is of the essence of every provision hereof in which time is a factor.

h. **Survival.** All defense, indemnity and payment obligations of TBC that arise or relate to events occurring prior to the expiration or earlier termination of this Agreement shall survive such expiration or earlier termination.

**20. Compensation for Easement.** As a condition to the effectiveness of this Agreement, TBC shall pay to City the sum of $243.50 as compensation for the easement and rights described herein (in addition to any applicable encroachment permit fees).
21. **Possessory Interest.** In accordance with Revenue and Taxation Code Section 107.6, this Agreement may create a possessory interest subject to personal property taxation for which TBC shall be responsible.

**CITY**

CITY OF HAWTHORNE,  
a California municipal corporation and general law city

By: __________________________  
Alex Vargas, Mayor

**ATTEST:**

NORB HUBER, City Clerk  
City of Hawthorne, California

**APPROVED AS TO FORM:**

RUSSELL MIYAHIRA,  
City Attorney  
City of Hawthorne, California

**TBC:**

THE BORING COMPANY CORP.,  
a Delaware corporation

By: __________________________  
Print Name: ____________________  
Title: President
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On ________________ before me, ____________________________, Notary Public, personally appeared ____________________________, 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) 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.

______________________________
Signature of Notary Public

Place Notary Seal Above
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On ___________ before me, ____________________________________________ Notary Public, personally appeared ____________________________________________, 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_________________________________________  Place Notary Seal Above

Signature of Notary Public
EXHIBIT "A"

DESCRIPTION OF EASEMENT AREA
AND DRAWING OF IMPROVEMENTS

A portion of land located on the southern portion of West 120th Street, beginning at a point 31.74' East of the southwest corner of Lot 822 in Tract 2603, in the City of Hawthorne, County of Los Angeles, State of California, as per Map recorded in Book 26, Page 64 of Maps, in the Office of the County Recorder of said County.

From the above described Point of Beginning, located at Latitude N33° 55' 25.56" Longitude W118° 20' 26.55"; Thence, S 89° 55' 25" E a distance of 20.99 feet to a point on a line.

Thence, S 49° 53' 48" E for a distance of 50.71 feet to a point on a line.

Thence, N 89° 53' 48" W for a distance of 21.00 feet to a point on a line.

Thence, N 49° 53' 48" W for a distance of 50.69 feet to the Point of Beginning.

Perimeter: 143.40' Area: 684.47 Sq. Ft.

See attached plat.
EXHIBIT “B”
NARRATIVE DESCRIPTION OF IMPROVEMENTS AND THEIR PURPOSE

The Boring Company proposes to construct a test elevator and short tunnel spur onto a property owned by The Boring Company (3834 119th Place) for the purpose of further examining the capabilities of the Test Tunnel (Project).

Figure 1: A dimensioned drawing of the Project