



DATE: March 14, 2011
TO: Honorable Mayor and City Councilmembers
FROM: Property Management
SUBJECT: **GRANT OF EASEMENT TO SDG&E FOR UNDERGROUND GAS PIPELINE AT OAK STREET**

SYNOPSIS

Staff recommends that the City Council approve the grant of an easement to San Diego Gas and Electric Company for an underground gas pipeline at Oak Street related to the Tyson/Wisconsin Parking Lot Project; and authorize the Mayor to execute the deed.

BACKGROUND

During trenching for a storm drain system for the Tyson/Wisconsin Parking Lot (a/k/a Parking Lot 26 Expansion) Project, an unidentified and active natural gas pipeline was discovered traversing the project site from Oak Street northeasterly to a San Diego Gas and Electric Company ("SDG&E") facility at Cleveland Street and Minnesota Avenue. The location of the gas main conflicts with the storm drain and requires a modification of the pipeline to relocate and bury it under the planned storm drain facility.

This gas main did not appear in the title report used in producing a survey and mapping of the project area to identify public and private improvements on the design process, nor was it marked out through DigAlert prior to commencing construction. After being notified of the accidental discovery, SDG&E determined that it does not have an easement or other "prior right" for the gas main that was installed on private property, *i.e.*, the former AT&SF Railway Right-of-Way, at some unknown time and asked to secure an easement after the fact.

SDG&E policy is that it has an easement or other right before commencing work to construct (or in this case relocate) any of its facilities on private property.

However, relocation of the subject gas main and completion of the storm drain system is time sensitive in the City's current construction process. The preparation and processing of the easement document on both SDG&E and the City's side prior to relocating the gas main to accommodate the storm drain improvements would unnecessarily delay construction by 60 days, or more, even though it's evident SDG&E holds no prior rights for the existing gas main in the City's property.

To avert an unnecessary delay in the project, City staff, by letter to SDG&E, stated its support of granting the requested easement and would expedite its efforts in seeking City Council approval, execution and delivery of the deed, and in return asked SDG&E to accelerate the relocation of the gas main to facilitate the storm drain system.

ANALYSIS

Granting the request easement to SDG&E for the existing underground gas pipeline will not adversely affect the City's planned use of the property as a parking lot, nor should it for any future aboveground use. The easement will also provide future notice of the existence of the gas pipeline should alterations of the parking lot or other improvement on the site take place.

Therefore, staff recommends that the City Council ratify staff's assurance to SDG&E by approving the grant of the requested underground gas pipeline easement and the execution and delivery of the deed to SDG&E.

FISCAL IMPACT

Granting the requested easement to SDG&E will assure the continuation of the project without undue delay caused by reason of the discovery of the gas main during construction of the storm drain and potential costs associated with such a delay.

The granting of the easement itself has no fiscal impact.

CITY ATTORNEY'S ANALYSIS

The referenced document has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve the grant of an easement to San Diego Gas and Electric Company for an underground gas pipeline at Oak Street related to Tyson/Wisconsin Parking Lot Project; and authorize the Mayor to execute the deed.

PREPARED BY:


William F. Marquis
Senior Property Agent

SUBMITTED BY:


Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Douglas E. Eddow, Real Property Manager




Recording Requested by
San Diego Gas & Electric Company

When recorded, mail to:

San Diego Gas & Electric Company
8335 Century Park Court, Suite 100
San Diego, CA 92123-1569
Attn: Real Estate Records - CP11D

SPACE ABOVE FOR RECORDER'S USE

Project No. 250599-040
Const. No. 1737620
A.P.N. 150-263-23
Sketch: OS-14904

Transfer Tax None
SAN DIEGO GAS & ELECTRIC COMPANY

EASEMENT

CITY OF OCEANSIDE, A CALIFORNIA CHARTER CITY CREATED BY ITS CHARTER AND CALIFORNIA STATUTE (Grantor), grants to SAN DIEGO GAS & ELECTRIC COMPANY, a corporation (Grantee), an easement and right of way in, upon, over, under and across the lands hereinafter described, to erect, construct, change the size of, improve, reconstruct, relocate, repair, maintain and use facilities consisting of:

1. Pipelines and appurtenances for any and all purposes.
2. Communications facilities, and appurtenances.

The above facilities will be installed at such locations and elevations upon, along, over and under the hereinafter described easement as Grantee may now or hereafter deem convenient or necessary. Grantee also has the right of ingress and egress, to, from and along this easement in, upon, over and across the hereinafter described lands. Grantee further has the right, but not the duty to clear and keep this easement clear from explosives, buildings, structures and materials.

The property in which this easement and right of way is hereby granted is situated in the County of San Diego, State of California, described as follows:

That portion of that certain 200 foot wide right-of-way of the Atchison, Topeka, and Santa Fe Railway Company as acquired by the California Southern Railroad Company under the provisions of the Act of Congress of March 3, 1875 (18 STAT. 482), and shown on a Map filed in the Office of the Secretary of Interior, March 14, 1881 and approved May 12, 1881, in said County of San Diego, being a portion of Section 26, Township 11 South, Range 5 West, San Bernardino Meridian, lying adjacent to Block 7 of Tyson's Addition to Oceanside, according to Map thereof No. 218, filed in the Office of the County Recorder of said County of San Diego and more particularly described in a Certificate of Compliance recorded August 3, 1990 at Document No. 90-426043 of Official Records of said County of San Diego.

The easement in the aforesaid property shall be a strip of land, including all of the area lying between the exterior sidelines, which sidelines shall be three (3) feet, measured at right angles, on each exterior side of each and every utility facility, the approximate location being shown and delineated as "UTILITY FACILITIES" on the Exhibit "A", attached hereto and made a part hereof.

Grantor shall not erect, place or construct, nor permit to be erected, placed or constructed, any building or other structure, plant any tree, drill or dig any well, within this easement. Provided however, certain improvements such as walls, fences, curbs, etc., will be acceptable as required for public safety, with prior written consent of Grantee, which consent shall not unreasonably be withheld.

Grantor shall not increase or decrease the ground surface elevations within this easement after installation of Grantee's facilities, without prior written consent of Grantee, which consent shall not unreasonably be withheld.

Grantor further grants to Grantee the right to assign any or all of the rights granted in this easement in whole or in part to other companies providing utility or communication facilities/services.

Grantee shall have the right but not the duty, to trim or remove trees and brush along or adjacent to this easement and remove roots from within this easement whenever Grantee deems it necessary. Said right shall not relieve Grantor of the duty as owner to trim or remove trees and brush to prevent danger or hazard to property or persons.

PIPELINES MAY CARRY VOLATILE MATERIALS, therefore Grantor shall not make or allow any excavation or fill to be made within this easement WITHOUT FIRST NOTIFYING SAN DIEGO GAS & ELECTRIC COMPANY BY CALLING 619-696-2000, and OBTAINING PERMISSION.

The legal description for this easement was prepared by San Diego Gas & Electric Company pursuant to Section 8730 of the Business and Professions Code, State of California.

This easement shall be binding upon and inure to the benefit of successors, heirs, executors, administrators, permittees, licensees, agents or assigns of Grantor and Grantee.

*

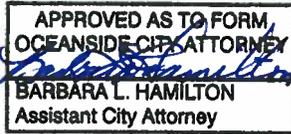
IN WITNESS WHEREOF, Grantor executed this instrument this _____ day of _____, 20_____.

CITY OF OCEANSIDE, A CALIFORNIA CHARTER CITY
CREATED BY ITS CHARTER AND CALIFORNIA
STATUTE

BY: _____

NAME: _____

TITLE: _____



BY: _____

NAME: _____

TITLE: _____

Drawn: C. Echeverria
Checked: SS
Date: 02/02/12

STATE OF CALIFORNIA

COUNTY OF _____)SS.

On _____, before me _____
_____ (name, title of officer), 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.

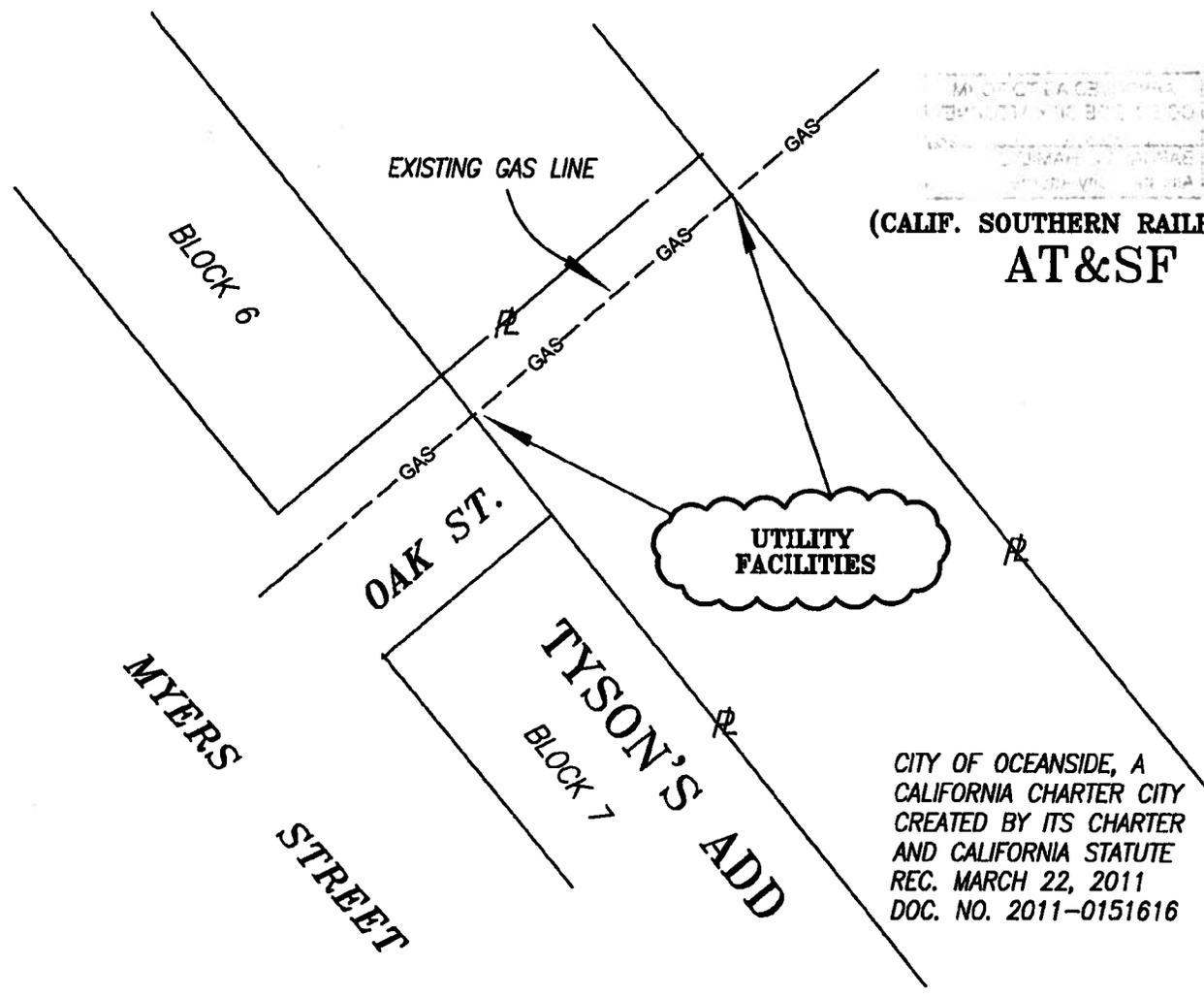
WITNESS my hand and official seal.

Signature _____

SEC 26
T11S R5W
S.B.M.

150
26

SHT 1 OF 3



IMPROVED PLANS
RECORDED IN BOOK 11500
PAGE 127
JAN 10 1912

(CALIF. SOUTHERN RAILROAD)
AT&SF

CITY OF OCEANSIDE, A
CALIFORNIA CHARTER CITY
CREATED BY ITS CHARTER
AND CALIFORNIA STATUTE
REC. MARCH 22, 2011
DOC. NO. 2011-0151616

GAS EXHIBIT "A"

SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA		ORIGINATOR: MCabral	OK TO INSTALL:	PROJECT NO. 250599-040		
		SURVEYED BY: NONE	R/W OK:	CONST. NO. 1737620		
Parking Lot Imp. Plan Oak E/Myers Oceanside		DRAWN BY: Echeverria	DATE:	DRAWING NO. OS-14904		
		DATE: 02/01/12	THOS. BROS. 1105-J1			
		SCALE: NONE				
NO.	SUPPLEMENTS			DATE:	BY	APP'D