



City Council Staff Report

Date: June 15, 2011 CONSENT CALENDAR

Subject: APPROVAL OF A JOINT USE AGREEMENT WITH SOUTHERN CALIFORNIA GAS COMPANY

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

The City and Riverside County are coordinating construction of the Gene Autry Trail/I-10 Interchange Project. Approval of a Joint Use Agreement with Southern California Gas Company is required to facilitate relocation of an existing gas main as part of the project.

RECOMMENDATION:

- 1) Approve Agreement No. _____, a Joint Use Agreement between the Southern California Gas Company and the City of Palm Springs, subject to final review and approval by the City Attorney; and
- 2) Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

Construction of the Gene Autry Trail/I-10 Interchange Project has been underway since last summer. As part of the project, an existing 36" gas main that extends under Gene Autry Trail must be relocated. The gas main extends across the right-of-way of Gene Autry Trail through easements previously acquired by the Gas Company. The relocated alignment of this gas main extends into new rights-of-way acquired for the project, however, the Gas Company's prior rights require the City to enter into a Joint Use Agreement to ensure their prior rights are maintained where the relocated gas line extends under the City's new rights-of-way.

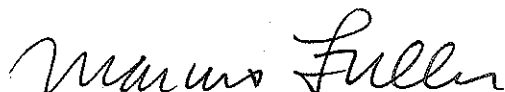
A draft Joint Use Agreement has been prepared and is being reviewed by the City Attorney's office. It is recommended that the City Council approve the Agreement, subject to final review and approval by the City Attorney.

FISCAL IMPACT:

None.

SUBMITTED:

Prepared by:



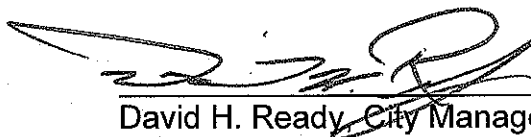
Marcus L. Fuller
Assistant Director of Public Works

Recommended by:



David J. Barakian
Director of Public Works/City Engineer

Approved by:



David H. Ready, City Manager

Attachments:

1. Agreement

Recording Requested by and
when recorded mail to:

Southern California Gas Company
555 W. 5th St., ML GT 26C2
Los Angeles, CA 90013-1011
Attn.: Land & Right of Way

City of Palm Springs
Public Works Department
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

Atlas #:	_____	DOCUMENTARY TRANSFER TAX \$	_____
APN:	<u>N/A</u>	_____	Computed on full value of property conveyed
		_____	Computed on full value less liens and encumbrances remaining at time of sale
R.W. Number	_____	_____	Southern California Gas Company

JOINT USE AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2011, by and between SOUTHERN CALIFORNIA GAS COMPANY, a California corporation hereinafter called "Owner", and the CITY OF PALM SPRINGS, hereinafter called "City".

WITNESSETH

Whereas, Owner is in possession of certain easements, hereinafter referred to as "Owner's easement", and described as follows:

Bureau of Land Management Easement, Serial Number R-1091, dated June 27, 1969
Easement dated November 9, 1990, instrument number 453379

all hereinafter referred to as "Owner's easement", and/or the "Old Location;", to which owner enjoys superior rights except where said easement cross City rights of way acquired prior to owner's easements; and

Whereas City owns rights of way on Gene Autry Trail, and the old alignment of Micro Place and Salvia Road, acquired on April 13, 1966 per right of way document R243, instrument no. 38814, to which City enjoys superior property rights; and

WHEREAS, City has entered into a cooperative agreement with the County of Riverside, hereinafter "County", for the construction of improvements to the Interstate 10 and Gene Autry Trail interchange, hereinafter referred to as "City and County Project", which agreement provides for the acquisition by County of certain rights of way on Micro Place and Salvia Road as required for the City and County Project, which rights of way have been acquired in the name of the City, and to which owner enjoys superior property rights, as shown on the print attached hereto, marked Exhibit A and hereby made a part hereof; and

WHEREAS, County and Owner are parties to that certain Utility Agreements numbered 21204 and 21434 each dated June 30, 2009, hereinafter the "Utility Agreements," pursuant to which Owner will relocate Owner's facilities to accommodate the City and County Project at County's cost within right of way where City enjoys superior property rights and at County's cost where Owner enjoys superior property rights; and

WHEREAS, Owner's facilities on said public right of way as acquired for City and County Project will interfere with or obstruct the construction, reconstruction, maintenance or use of said public right of way, and City desires to eliminate such interference or obstruction.

NOW, THEREFORE, Owner and City hereby mutually agree as follows:

1. The location of Owner's natural gas line so far as it now lies within said public right of way, to which Owner enjoys superior property rights, shall be, and it hereby is changed to, the strip of land within said public right of way hereinafter referred to as "New Location", described on EXHIBIT A attached hereto and incorporated herein and depicted on EXHIBIT B attached hereto and incorporated herein.
2. Owner will rearrange, relocate or reconstruct within said New Location any of its facilities now installed pursuant to Owner's easement within said public right of way and Owner does hereby surrender and relinquish to the City all of Owner's right, title and interest under and by virtue of Owner's easement in the old location within said public right of way and not included in said New Location (the "Abandoned Easement") which is more particularly described and depicted in Exhibits C and D, attached hereto and hereby made a part hereof. Owner hereby consents to the construction, reconstruction, maintenance of use by City of a public street over, along and upon Owner's easement both in the old location and in the New Location within said public right of way upon and subject to the terms and conditions herein contained and provided that Owner's use is not adversely impacted.
3. The City hereby grants to Owner a non-exclusive easement in the New Location, compatible with and in common with the City's and the public's use of the New Location for the Project, for the excavation, construction, patrol, installation, operation, maintenance, repair, replacement and removal of Owner's facilities, including pipelines, appurtenances, and meters for the transportation of gas and other substances ("Utility Facilities"), and the excavation, construction, patrol, installation, operation, maintenance repair and replacement of additional Utility Facilities in the future, without need for any further permit or permission from City. Owner, its agents and employees, as well as persons working with Owner under contract, shall at all times have the right of ingress and egress to and from the New Location for the aforesaid purposes, but Owner will in connection therewith use such roads as are now or may hereafter be on the New Location, whenever same can be reasonably be done. Except in such emergencies, Owner shall give reasonable notice to City before performing any work or installing any new Utility Facilities in the New Location, where such work will be performed in, on or over the traveled way or improved shoulders of roadways or where such work will obstruct traffic. In all cases, Owner shall make adequate provisions for the protection of the traveling public and comply with all applicable General Orders and other regulations of the California Public Utilities Commission.
4. In the event that the future use of said public right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Utility facilities then existing in said New Location the City shall notify Owner in writing of such necessity and agree to reimburse Owner on demand for its costs incurred in complying with such notice. Owner will provide City with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by City, Owner will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Owner shall make adequate provisions for the protection of the traveling public. No further permit or permission from City for such rearrangement shall be required and City will (1) enter into a Joint Use Agreement covering the New Location of Utility Facilities with highway right of way, or (2) provide executed documents(s) granting to Owner a good and sufficient easement outside of the highway right of way if necessary to replace Owner's easement or any part thereof, and (3) reimburse Owner for any costs which it may be required to expend to acquire such replacement easement, provided it is mutually agreed in writing that Owner shall acquire such easement.
5. City and Owner shall use the New Location in such a manner as to not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Owner or City may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities

by either City or Owner in such a manner as to cause an unreasonable interference with the use of said New Location by the other party.

6. This Agreement shall not apply to the Gene Autry Trail right of way to which City has superior property rights, and which Owner's pipeline will cross in its new location.
7. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by the respective officials thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

OWNER: SOUTHERN CALIFORNIA GAS COMPANY

City Attorney
City of Palm Springs

Andrew I. Thompson
Land & Right of Way Supervisor

CITY OF PALM SPRINGS

By _____

ALL-PURPOSE ACKNOWLEDGMENT

CITY OF CALIFORNIA }
 } ss
COUNTY OF _____ }

On _____, 2011 before me, _____, a 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 City of California that the foregoing paragraph is true and correct.

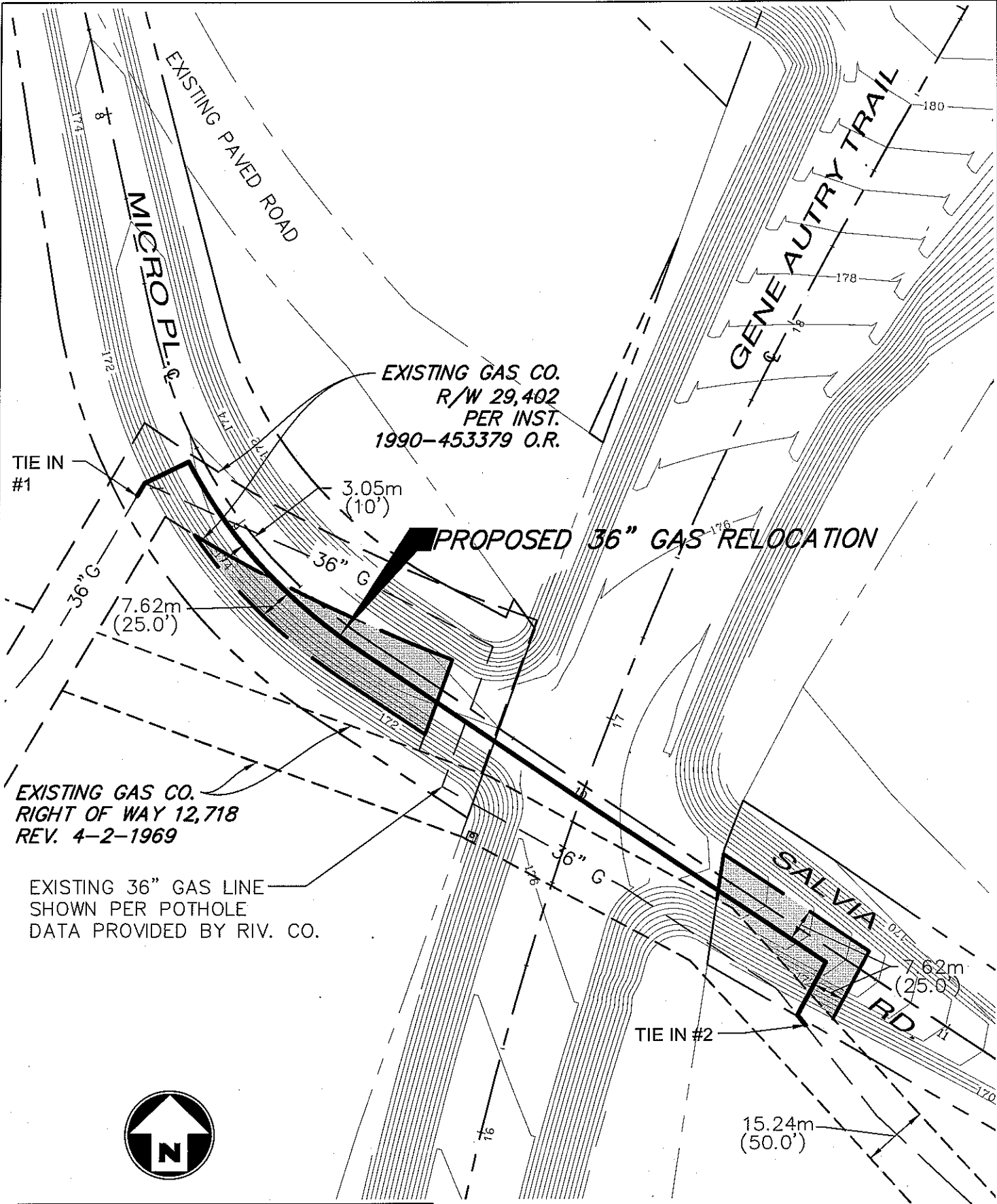
WITNESS my hand and official seal.

(Seal)

Signature _____

Commission #: _____

Commission Expiration: _____



EXISTING GAS CO.
R/W 29,402
PER INST.
1990-453379 O.R.

PROPOSED 36" GAS RELOCATION

TIE IN #1

EXISTING GAS CO.
RIGHT OF WAY 12,718
REV. 4-2-1969

EXISTING 36" GAS LINE
SHOWN PER POTHOLE
DATA PROVIDED BY RIV. CO.

TIE IN #2



SOUTHERN CALIFORNIA GAS COMPANY
LINE 2051 RELOCATION
JOINT USER AGREEMENT EXHIBIT
NO SCALE



JOINT USER
AGREEMENT AREA