

Recording Requested by and
when recorded, mail to:

CITY OF CHULA VISTA
Attn: Rick Ryals
276 Fourth Avenue
Chula Vista, CA 91910

SPACE ABOVE FOR RECORDER'S USE

APN Nos.: 565-010-12 and 567-011-01

GRANT OF EASEMENT

(E Street Extension)

This EASEMENT (“Easement”) is made and entered into this ____ day of _____, 2019 (“Effective Date”), by and between SAN DIEGO GAS & ELECTRIC COMPANY, a California corporation (“Grantor”), whose address for notice purposes is 8335 Century Park Court, CP1-2A, San Diego, California 92123-1569, and the CITY OF CHULA VISTA (“Grantee”), whose address for notice purposes is 276 Fourth Avenue, Chula Vista, California 91910. Grantor and Grantee are sometimes referred to individually, as a “Party”, and collectively, as “Parties”.

RECITALS

A. Grantor owns that certain real property located in San Diego County, California and identified by Assessor’s Parcel No. 565-010-12 and 567-011-01 (collectively, the “Property”).

B. Grantor, under threat of condemnation by Grantee, is agreeing to convey to Grantee an easement on the Property solely for the Purpose (as defined below), on the terms and conditions set forth in this Easement.

IN CONSIDERATION of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Recitals set forth above and the exhibits attached hereto are hereby incorporated herein by reference as if fully set forth herein.

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2. Subject to the terms and conditions provided in this Easement, Grantor does hereby grant, bargain, sell and convey unto Grantee:

- (i) a non-exclusive easement of approximately 0.46 acres of land to excavate for, erect, construct, install, modify, reconstruct, replace, repair, inspect, patrol, test, maintain, operate, use and remove the following facilities: a paved public roadway and public utilities, conduits, appurtenances (“Grantee’s Facilities”), for street, utility, and related municipal purposes (collectively, the “Purpose”) at the location described on Exhibit A upon the Property and as depicted on Exhibit B (the “Easement Area”).

3. Grantee and its contractors, subcontractors, employees, agents and invitees (collectively, the “Grantee Parties”) shall keep the Easement Area in good condition and repair, excluding ordinary wear and tear and damage by the elements.

4. Grantee’s use of the Easement Area shall not interfere with the effective exercise of Grantor’s continued use of its underlying fee ownership as part of Grantor’s fee-owned utility corridor. Grantor and its contractors, subcontractors, employees, agents, invitees, successors and assigns (collectively, the “Grantor Parties”) shall have continued access to the Easement Area at all times, for all purposes.

5. Grantor hereby reserves unto itself and to Grantor Parties the right and privilege to access and use the subsurface, surface and airspace under, in, upon and over the Easement Area at all times, for all purposes.

6. Grantee understands that Grantor may temporarily interrupt, disturb, interfere with and restrict Grantee’s and Grantee Parties’ access and use of the Easement Area in order to address any issue involving Grantor’s Facilities (as defined below) in the Property, and Grantor shall have no obligation to restore or repair Grantee’s Facilities within the Easement Area, except where the need for such restoration or repair is caused by the sole or active negligence or willful misconduct of Grantor or Grantor Parties. Grantee shall, at all times, bear the cost and responsibility of restoring or repairing Grantee’s Facilities and the Easement Area, whether such damage is caused by Grantor, Grantor Parties, Grantee, Grantee Parties or third parties, except where the need for such restoration or repair is caused by the sole or active negligence or willful misconduct of Grantor or Grantor Parties. Repairs by Grantee to the Easement Area shall be made pursuant to Grantee’s reasonable standards. Grantee shall or shall cause to be repaired and restored, to substantially the same physical condition that existed immediately prior, any damage to the Property and Grantor’s Facilities, to the extent such damage is caused by Grantee or the Grantee Parties.

7. If Grantee’s Facilities must be relocated, Grantee hereby waives any right to relocation costs and agrees to be responsible for all costs of relocation of Grantee’s Facilities, including identifying and evaluating a new location and accounting for any biological disturbances. In the event Grantor revokes this Easement, Grantee shall not be entitled to any severance damages from Grantor.

8. Grantee acknowledges and agrees that Grantor owns and intends to continue to own utility poles, overhead electric facilities, underground electric facilities, underground gas pipelines, an underground petroleum pipeline, duct banks and other appurtenances (collectively, “Grantor’s Facilities”) within the Easement Area. If Grantee requires removal or relocation of any or all of Grantor’s Facilities, Grantee shall first pay to Grantor the estimated relocation cost (“Relocation Cost Estimate”) for such relocation or removal of Grantor’s Facilities. Upon the completion of the relocation or removal, a final accounting of the total relocation cost (“Final Relocation Cost”) shall be made and if the Final Relocation Cost is less than the Relocation Cost Estimate, then Grantor shall promptly reimburse the difference to Grantee. If the Final Relocation Cost exceeds the Relocation Cost Estimate, then Grantee shall promptly pay to Grantor an amount equal to that portion of the Final Relocation Cost that exceeds the Relocation Cost Estimate. Notwithstanding any of the foregoing, the parties acknowledge and agree that the obligation to make payment or reimbursement for the Relocation Cost Estimate or Final Relocation Cost, or both, are subject to the dispute resolution provisions contained in Section 9 below.

9. If Grantee and Grantor are in dispute over which Party shall pay for the Relocation Cost Estimate, Grantee shall pay to Grantor the Relocation Cost Estimate, Grantor shall perform the relocation or removal work and, upon resolution of the dispute, Grantor shall either keep or reimburse to Grantee the Relocation Cost Estimate paid by Grantee in accordance with the terms of such resolution. The parties acknowledge and agree that payment of the Relocation Cost Estimate or Final Relocation Cost, or both, may be subject to existing or future franchise agreements, or other written agreements, between the parties. Entering into this Easement or making payment of all or a portion of the Relocation Cost Estimate or Final Relocation Cost shall not be construed as a waiver or release by the City of its rights under such franchise agreement or other written agreement. The prevailing Party in a dispute shall also be entitled to its reasonable attorneys’ fees and costs in any judicial or arbitration proceeding where the dispute is brought. The Parties shall also be subject to the final accounting of costs as set forth in Section 8 hereof.

10. Grantee represents and warrants that it is not relying upon any representation by Grantor as to the condition of the Easement Area or its suitability for the Purpose, and that Grantee is relying solely on its own and independent inspections, tests, investigations and observations of the Easement Area in entering into this Easement. Grantee accepts the Easement Area in its current and “as is” condition. Grantee acknowledges and agrees that unless set forth in this Easement, Grantor has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Easement Area at any time either prior to, on or after the date of this Easement. Grantee shall not hold Grantor responsible for any defects in the Easement Area. Grantee, on behalf of itself and Grantee Parties, accepts and assumes all risk of harm to all persons and property arising solely from any defects in the Easement Area or any improvements thereon, except those defects in the Easement Area or any improvements thereon caused by the sole or active negligence or willful misconduct of Grantor or any Grantor Party.

11. Grantee’s Facilities may be placed at such locations and subsurface elevations within the Easement Area only as specifically set forth in Exhibit C. Notwithstanding anything to the contrary set forth in Exhibit C, the Grantee’s Facilities within the subsurface of the Easement Area shall be located at a depth of at least 5-feet below the lowest point of Grantor’s Facilities in the Easement Area, in particular, Grantor’s TL13815 trench package.

12. Grantee and Grantee Parties shall have the right of effective ingress and egress to serve the purposes of the Easement, by foot and vehicles to, from, along, and within said Easement Area from the public right of way adjacent thereto (the "Access Area"). In the event Grantee undertakes any excavation, digging, potholing, removal of landscaping or other improvements on the Easement Area in the establishment, operation, or repair or replacement of Grantee's Facilities, or otherwise utilizes the Access Area to access the Easement Area, Grantee shall promptly restore such property to the condition that preceded Grantee's activities undertaken thereon, or as near as practicable to such condition that will permit the Grantee's Facilities to functionally remain.

13. Grantee hereby agrees to indemnify, defend, and hold harmless Grantor and Grantor's parent company, affiliates, directors, officers, shareholders, employees, agents, representatives and invitees (collectively, "Grantor Indemnified Parties") from and against any and all injury, damage, lien, judgment, loss, liability, claim, cause or action, suit, demand, obligation, fee, damage, cost, expense, fine, penalty, or other expenses of any type whatsoever, including but not limited to reasonable in-house and outside attorney's fees, witness fees and consultant fees (collectively, "Liabilities") arising out of, related to or in connection with (i) the Easement, and (ii) Grantee's or any Grantee Parties' use, maintenance, presence on, or occupation of the Easement. Grantee's obligations under this Section 13 do not include an obligation to indemnify, defend, or hold harmless Grantor or Grantor Parties from or against Liabilities if, and only to the extent, arising from or alleged to arise from the sole or active negligence or willful misconduct of Grantor or Grantor Parties. These indemnification obligations shall survive the expiration or earlier termination of this Easement.

14. Insurance requirements are set forth as follows, but shall not in any way limit the amount or scope of liability of Grantee under this Agreement. The following constitutes the minimum insurance and requirements relating thereto:

- a. On or before the effective date of this Agreement, and thereafter during its term, Grantee shall provide Company with current certificates of insurance including applicable endorsements and renewal certificates of insurance thereafter, executed by a duly authorized representative of each insurer, or by the insurance agent or broker authorized to do so, as evidence of all insurance policies required under this Article. No insurance policy may be canceled, materially revised, or subject to non-renewal without at least thirty (30) days prior written notice being given to Company, ten (10) days for non-payment of premium. Insurance shall be maintained without lapse in coverage during the term of this Agreement. Company shall also be given copies of Grantee's policies of insurance, upon request.
- b. The required policies, and any of Grantee's policies providing coverage excess of the required policies, shall provide that the coverage is primary for all purposes and Grantee shall not seek any contribution from any insurance or self-insurance maintained by Company.
- c. All required policies of insurance shall be written by companies having an A.M. Best rating of "A-, VII" or better, or equivalent.
- d. Grantee shall be solely responsible for any deductible or self-insured retention on insurance required hereunder this Agreement.

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- e. Company and its parent company, subsidiaries, affiliates and their respective officers, directors, employees, agents, representatives, successors and assigns shall be named as an additional insured by endorsement or blanket endorsement for all policies listed below in this Article except for Workers Compensation. The Commercial General Liability insurance shall provide a severability of interest or cross-liability clause.
- f. Each policy of insurance maintained by Grantee in this Article shall contain a waiver of subrogation in favor of Company.
- g. At all times during this Agreement, Grantee shall provide and maintain, and cause its contractors and/or subcontractors to maintain, at Grantee's expense, the following types of insurance:
 - i. Grantee shall carry and maintain commercial general liability policy or policies on an occurrence policy form, insuring against liability arising from bodily injury, property damage, personal and advertising injury, independent contractor's liability, products and completed operations and contractual liability covering all operations of Grantee for services performed under this Agreement. Such coverage shall be in an amount of not less than \$4,000,000 (Four Million Dollars) per occurrence. If the policy maintains a policy aggregate, such aggregate shall not be less than twice the per occurrence limit. There shall be no explosion, collapse, wildfire or underground exclusion. Coverage limits may be satisfied by using an umbrella or excess liability policy or policies.
 - ii. In accordance with the laws of the State(s) in which the services shall be performed, Grantee shall maintain in force workers compensation insurance for all of its employees. If applicable, Grantee shall obtain U.S. Longshoremen's and Harbor Workers compensation insurance, separately, or as an endorsement to workers compensation insurance. Grantee shall also maintain employer's liability coverage in an amount of not less than \$1,000,000.00 (One Million Dollars) per accident and per employee for disease. In lieu of such insurance, Grantee may maintain a self-insurance program meeting the requirements of the State(s) in which the Services shall be performed along with the required employer's liability insurance.
 - iii. Grantee shall maintain an automobile liability policy or policies insuring against liability for damages because of bodily injury, death, or damage to property, (including loss of use thereof), and occurring in any way related to the use, loading or unloading of any of Grantee's automobiles (including owned, non-owned, leased, rented and/or hired vehicles). Such coverage shall be in an amount of not less than \$1,000,000 (One Million Dollars) combined single limit. Grantee's automobile liability insurance coverage shall contain appropriate no-fault insurance provisions or other endorsements in accordance with applicable laws. Coverage shall be at least as broad as the Insurance Services Office Business Auto Coverage form covering Automobile Liability, code 1 "any auto". If the Services involve hauling hazardous materials, coverage shall be endorsed to include MCS 90 endorsement.

15. Grantee shall be responsible for all taxes which may be levied or assessed upon Grantee's Facilities.

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16. Grantee shall not allow the installation, storage, utilization, generation, or release of Hazardous Substances or otherwise regulated substances in, on, under, or from the Easement Area or the Property at any time. For all purposes of this Easement, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents. If Grantee or any Grantee Parties cause a release of Hazardous Substances in the Easement Area or the Property, Grantee shall, at Grantee's sole cost and expense, remediate same in accordance with all applicable laws, rules, and regulations of the applicable governmental authorities.

17. Grantee agrees to comply with (at its sole expense) federal and state guidelines and regulations with respect to the curation of any paleontological or archaeological resources found within or near the Easement Area during Grantee's or Grantee Parties activities.

18. The right to transfer and assign this Easement in whole or in part to other persons, companies, entities, or to the public is subject to the prior written approval by Grantor at its sole discretion.

19. Grantee is not and shall not be construed as Grantor's agent in contracting for any improvements to the Property, and shall have no authority to pledge, mortgage, hypothecate or otherwise encumber any interest in any property of Grantor. Grantee shall further (i) defend, indemnify and hold harmless Grantor from and against, and (ii) within ninety (90) days of notice from Grantor, remove or cause to be removed, any and all mechanics', materialmens' or other liens or claims (and all reasonable and documented costs and expenses associated therewith) asserted, filed or arising from any work performed by or on behalf of Grantee.

20. This Easement shall be binding upon and inure to the benefit of successors, executors, heirs, administrators and assigns of Grantor and Grantee, subject to the condition of assignment set forth above.

(Signature and Notary on Following Page)

IN WITNESS WHEREOF, Grantor has executed this Easement this ____ day of _____, 20____.

Grantor:

San Diego Gas & Electric Company,
a California corporation

By: _____

Print Name: _____

Title: _____

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

ACKNOWLEDGMENT

On _____, 20__, before me, _____, Notary Public in and for said County and State, personally appeared _____, as _____ of San Diego Gas & Electric Company, a California corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities), and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons 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.

Notary Public for: _____
My commission expires _____

IN WITNESS WHEREOF, Grantee has executed this Easement this ____ day of _____, 20____.

Grantee:

By: _____
Print Name: _____
Title: _____

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

ACKNOWLEDGMENT

On _____, 20__, before me, _____, Notary Public in and for said County and State, personally appeared _____, as _____ of _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities), and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons 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.

Notary Public for: _____
My commission expires _____

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EXHIBIT "A"

LEGAL DESCRIPTION OF EASEMENT AREA

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EXHIBIT "B"

DEPICTION OF EASEMENT AREA

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EXHIBIT "C"

GRANTEE'S FACILITIES

Recording Requested by

and

When recorded, mail to:

City of Chula Vista
Attn: Rick Ryals
276 Fourth Avenue
Chula Vista, CA 91910

SPACE ABOVE FOR RECORDER'S USE

APN: 565-010-12 and 565-010-15

Transfer Tax - NONE
CITY OF CHULA VISTA

TEMPORARY CONSTRUCTION EASEMENT FOR ROAD AND WALL

SAN DIEGO GAS & ELECTRIC COMPANY (“SDG&E” or “Grantor”) grants to CITY OF CHULA VISTA (“Grantee” or “City”) a non-exclusive temporary easement over and across Grantor’s property (“Property”) located in San Diego County, California and identified by Assessor’s Parcel No. 565-010-12 and 565-010-15, said easements as follows:

- (i) a non-exclusive easement for access by over approximately 3,370 square feet of land measuring five (5) feet wide along the westerly boundary of the Property (“Wall Easement”) to perform finish cosmetic work related to a retaining wall being constructed entirely upon the adjacent property, and
- (ii) a non-exclusive easement for ingress and egress over approximately 17,087 square feet of land to install, place, lay, construct, operate, use, patrol, maintain, repair and replace a paved roadway 20.00 feet (narrowing to 13 feet in sections) in width (“Road Easement” and together with the Wall Easement, the “Temporary Easement”; the exact locations of the foregoing (i) and (ii) as described on Exhibit “A” and depicted on Exhibit "B", attached hereto and made a part hereof (collectively, the “Easement Area”).

The term of this Temporary Easement shall be one (1) year from the date recordation of the easement document (“Term”). However, in the event Grantee determines it no longer needs such Temporary Easement prior to the expiration of said Term, this Temporary Easement shall terminate at such earlier time. Upon such termination, Grantee shall quitclaim the Temporary Easement back to Grantor or execute a document to the same effect at Grantor’s direction.

Within the boundaries of the Temporary Easement, City and its agents, contractors and invitees (collectively, “Grantee Parties”), at no cost to Grantor, may at any time, and from time to time during

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such temporary period enter upon the Property for the purposes stated in subsections (i) and (ii) above and for no other purpose (the "Purpose"). Said rights to so construct and use the Temporary Easement are directly conditioned upon Grantee Parties complying with such terms, conditions, and restrictions set forth herein.

Grantor grants City the right to trim, cut and/or remove brush, trees, foliage and roots along, upon, from and within the Easement Area whenever City considers it necessary for the convenient or safe use of the Temporary Easement.

City, at its sole expense, will maintain the Easement Area during the Term as necessary for its use hereunder.

This Temporary Easement is specifically conditioned on the following terms and conditions:

1. Grantee shall be permitted to install a paved asphalt or decomposed granite surface within the Road Easement; provided, (i) the temporary roadway shall always maintain at least ten (10) feet of clearance from Grantor's vault facility lids, (ii) the temporary roadway must follow Fire/HS-20 loading requirements, and (iii) Grantee shall remove any and all paved asphalt in the Road Easement and in the parking lot area currently used by the Living Coast Discovery Center ("Living Center") upon expiration or earlier termination of this Temporary Easement.
2. At Grantee's sole cost and expense, Grantor shall be permitted to install bollards around Grantor's adjacent electrical vault facilities on the Property prior to use of the road by Grantee's invitees. Neither Grantee, nor any Grantee Parties shall have access over Grantor's vault facilities at any time. Grantee shall reimburse Grantor for any other costs necessary to protect Grantor's facilities within the Property from damage up to \$25,000.00.
3. Except as otherwise provided herein, Grantee shall not install any facilities or make any other improvements within Grantor's Property and the Easement Area at any time, including, without limitation, any light posts, benches or similar facilities.
4. Except as otherwise provided herein, Grantee shall NOT use the Temporary Easement to store any construction equipment or heavy equipment of any kind related to construction activities in the area. Only Grantee, Grantee Parties, and their assigns and invitees, Living Center shuttle,s and Living Center and U.S. Fish and Wildlife employee personal vehicle access shall be permitted ingress and egress over the Road Easement during the Term.
5. In connection with the roadway installation, Grantee may add fill as necessary, but shall not scour where the roadway passes near Grantor's electrical vault facilities.
6. Grantee shall reimburse Grantor for any and all costs for a designated qualified electrical worker selected by Grantor, who meets the requirements of a Qualified Electrical Worker as set forth in Rule 3100 of the SDG&E Employee Safety Handbook, to observe Grantee's construction or work activities for and in the Temporary Easement.

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7. To the extent it deems necessary, in Grantor's sole discretion, Grantor may regulate use and access of the Easement Area under the following terms: a) Grantor may stop Grantee Parties and any third parties from utilizing the Temporary Easement conveyed herein in the event Grantor needs to access its improvements and facilities in the subject Property; b) Grantee shall be solely responsible for repairing, restoring and rebuilding any and all of its roadway improvements or landscaping disturbed by such work; c) Grantor shall provide ten (10) business days' notice of any such interruption in the use of this easement, to the extent reasonably practical; d) in the event Grantor deems an emergency, in its sole discretion, it may cease Grantee's use of this Temporary Easement immediately using the Temporary Easement as set forth above; and (e) Grantee shall be responsible to clear any dumping in the Easement Area and areas immediately adjacent.
8. In the event Grantor determines that it needs to cease Grantee's use of the Temporary Easement, Grantor shall work with Grantee in good faith to identify a suitable relocation route for such access set forth above, all at Grantee's sole expense, if such relocation route is feasible. If a feasible relocation route can be identified, Grantee shall be responsible for evaluating its use of the new location and for any biological displacement for the relocation route.
9. Grantee shall have every contractor, sub-contractor, and/or invitee who will in any way be involved in the use, construction, operation or maintenance of the Road Easement, execute an acknowledgment to be bounded by these terms and a full release of liability and indemnification at Grantor's direction. Grantor to provide said forms. It is acceptable to have the contractor and subcontractor business entities and Living Coast Discovery Center execute the forms to be provided.
10. Grantee shall comply to comply with all applicable governmental laws, ordinances, rules, and regulations while using the Temporary Easement.
11. Grantor hereby reserves unto itself, its successors and assigns, the right and privilege to use the subsurface, surface and airspace under, in, upon and over the Temporary Easement for all purposes. While this Temporary Easement is being granted under threat of condemnation, Grantee acknowledges and agrees that Grantor's utility use of the Property is a higher priority than Grantee's use of the Temporary Easement. Therefore, in the event the future use of the Temporary Easement by Grantor shall at any time necessitate a rearrangement, relocation or reconstruction of Grantee's improvements to the Temporary Easement, such work shall be performed at the sole cost and expense of Grantee, Grantee shall not claim nor be entitled to any relocation or similar benefits and Grantee shall be responsible to repair and restore Grantee's improvements in the Easement Area at Grantee's sole cost and expense. Further, Grantee understands that Grantor may interrupt, disturb, interfere with and restrict Grantee's and Grantee Parties access and use of the Temporary Easement in order to address any issue involving Grantor's utility facilities in the Property.
12. Work by Grantee pursuant to the rights granted herein shall be undertaken so as not to prevent or interfere with Grantor's rights. Grantee shall not restrict nor impair Grantor's

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access and use of the Easement Area by vehicle or by foot twenty-four (24) hours a day, seven (7) days a week.

13. Grantee shall repair and restore, to substantially the same physical condition that existed immediately prior, any damage to the Property and Grantor's Facilities, to the extent such damage is caused by Grantee or the Grantee Parties. Grantee shall keep the Easement Area in good condition and repair. Repairs by Grantee to the Easement Area shall be made pursuant to Grantor's reasonable standards.
14. Grantee hereby agrees to indemnify, defend, and hold harmless Grantor and Grantor's parent company, affiliates, directors, officers, shareholders, employees, agents, representatives and invitees (collectively, "Grantor Parties") from and against any and all injury, damage, lien, judgment, loss, liability, claim, cause or action, suit, demand, obligation, fee, damage, cost, expense, fine, penalty, or other expenses of any type whatsoever, direct or indirect, including but not limited to reasonable in-house and outside attorney's fees, witness fees and consultant fees (collectively, "Liabilities") arising out of, related to or in connection with (i) this Temporary Easement, and (ii) Grantee's or any Grantee Parties' use, maintenance, presence on, or occupation of the Temporary Easement. Grantee's obligations under this Section 14 do not include an obligation to indemnify, defend or hold harmless Grantor or Grantor Parties from or against Liabilities if, and only to the extent, arising from or alleged to arise from the sole or active negligence or willful misconduct of Grantor or Grantor Parties. These indemnification obligations shall survive the expiration or earlier termination of this Temporary Easement.
15. Insurance requirements are set forth as follows, but shall not in any way limit the amount or scope of liability of Grantee under this Agreement. The following constitutes the minimum insurance and requirements relating thereto:
 - a. On or before the effective date of this Agreement, and thereafter during its term, Grantee shall provide Company with current certificates of insurance including applicable endorsements and renewal certificates of insurance thereafter, executed by a duly authorized representative of each insurer, or by the insurance agent or broker authorized to do so, as evidence of all insurance policies required under this Article. No insurance policy may be canceled, materially revised, or subject to non-renewal without at least thirty (30) days prior written notice being given to Company, ten (10) days for non-payment of premium. Insurance shall be maintained without lapse in coverage during the term of this Agreement. Company shall also be given copies of Grantee's policies of insurance, upon request.
 - b. The required policies, and any of Grantee's policies providing coverage excess of the required policies, shall provide that the coverage is primary for all purposes and Grantee shall not seek any contribution from any insurance or self-insurance maintained by Company.
 - c. All required policies of insurance shall be written by companies having an A.M. Best rating of "A-, VII" or better, or equivalent.
 - d. Grantee shall be solely responsible for any deductible or self-insured retention on insurance required hereunder this Agreement.

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- e. Company and its parent company, subsidiaries, affiliates and their respective officers, directors, employees, agents, representatives, successors and assigns shall be named as an additional insured by endorsement or blanket endorsement for all policies listed below in this Article except for Workers Compensation. The Commercial General Liability insurance shall provide a severability of interest or cross-liability clause.
- f. Each policy of insurance maintained by Grantee in this Article shall contain a waiver of subrogation in favor of Company.
- g. At all times during this Agreement, Grantee shall provide and maintain, and cause its contractors and/or subcontractors to maintain, at Grantee's expense, the following types of insurance:
 - i. Grantee shall carry and maintain commercial general liability policy or policies on an occurrence policy form, insuring against liability arising from bodily injury, property damage, personal and advertising injury, independent contractor's liability, products and completed operations and contractual liability covering all operations of Grantee for services performed under this Agreement. Such coverage shall be in an amount of not less than \$4,000,000 (Four Million Dollars) per occurrence. If the policy maintains a policy aggregate, such aggregate shall not be less than twice the per occurrence limit. There shall be no explosion, collapse, wildfire or underground exclusion. Coverage limits may be satisfied by using an umbrella or excess liability policy or policies.
 - ii. In accordance with the laws of the State(s) in which the services shall be performed, Grantee shall maintain in force workers compensation insurance for all of its employees. If applicable, Grantee shall obtain U.S. Longshoremen's and Harbor Workers compensation insurance, separately, or as an endorsement to workers compensation insurance. Grantee shall also maintain employer's liability coverage in an amount of not less than \$1,000,000.00 (One Million Dollars) per accident and per employee for disease. In lieu of such insurance, Grantee may maintain a self-insurance program meeting the requirements of the State(s) in which the Services shall be performed along with the required employer's liability insurance.
 - iii. Grantee shall maintain an automobile liability policy or policies insuring against liability for damages because of bodily injury, death, or damage to property, (including loss of use thereof), and occurring in any way related to the use, loading or unloading of any of Grantee's automobiles (including owned, non-owned, leased, rented and/or hired vehicles). Such coverage shall be in an amount of not less than \$1,000,000 (One Million Dollars) combined single limit. Grantee's automobile liability insurance coverage shall contain appropriate no-fault insurance provisions or other endorsements in accordance with applicable laws. Coverage shall be at least as broad as the Insurance Services Office Business Auto Coverage form covering Automobile Liability, code 1 "any auto". If the Services involve hauling hazardous materials, coverage shall be endorsed to include MCS 90 endorsement.

16. Grantee shall pay all taxes which may be levied or assessed upon Grantee's improvements in the Temporary Easement.

17. Grantee shall not allow the installation, storage, utilization, generation, or release of Hazardous Substances or otherwise regulated substances in, on, under, or from the Temporary Easement or the Property at any time. For all purposes of this Temporary Easement, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents. If Grantee or any Grantee Parties cause a release of Hazardous Substances in the Easement Area or the Property, Grantee shall, at Grantee's sole cost and expense, remediate same in accordance with all applicable laws, rules, and regulations of the applicable governmental authorities.
18. Grantee shall not assign this Temporary Easement in whole or in part or any or all of the rights granted by this Temporary Easement without the prior written consent of Grantor, to be given in its reasonable discretion, except to an affiliate, subsidiary or parent company, in which case no consent is required. Grantee shall be permitted to partially assign this Temporary Easement to The Port of San Diego ("Port"); provided, that no assignment, in whole or in part, of any of the obligations, duties and liabilities under this Temporary Easement shall relieve Grantee of any of its obligations, duties and liabilities under or in connection with this Temporary Easement.
19. Grantee is not and shall not be construed as Grantor's agent in contracting for any improvements to the Property, and shall have no authority to pledge, mortgage, hypothecate or otherwise encumber any interest in any property of Grantor. Grantee shall further (i) defend, indemnify and hold harmless Grantor from and against, and (ii) within ninety (90) days of notice from Grantor, remove or cause to be removed, any and all mechanics', materialmens' or other liens or claims (and all reasonable and documented costs and expenses associated therewith) asserted, filed or arising from any work performed by or on behalf of Grantee.
20. Grantee shall put in place security measures so that the easement roadway is only used by those specified herein and during the hours of 7:00 am and 6:00 pm and is otherwise secured against use of the Easement Area by the general public
21. Grantee expressly assumes all risks of Grantee and Grantee Parties entry onto and use of the Temporary Easement, except to the extent such risks are caused or alleged to be caused by the sole or active negligence or willful misconduct of Grantor or Grantor Parties. Grantee's assumption of risks and obligation to indemnify, save and hold harmless and defend under this Temporary Easement shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Grantee under any statutory scheme, including, without limitation, under any Worker's Compensation Acts, Disability Benefits Acts or other Employee Benefit Acts.

IN WITNESS WHEREOF, the parties hereto have executed this Temporary Easement this _____ day of _____, 2019.

DRAFT

SAN DIEGO GAS & ELECTRIC COMPANY

CITY OF CHULA VISTA

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 _____) 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 _____

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 _____) SS.

On _____, before me _____
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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 _____

DRAFT

EXHIBIT "A"

LEGAL DESCRIPTION

DRAFT

EXHIBIT "B"

DEPICTION OF EASEMENT AREA