



## Legislation Text

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**File #:** 2018-0572, **Version:** 1

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**DATE:** February 12, 2019

**SUBJECT:**

**ORDINANCE GRANTING AN APPROXIMATE TWENTY-TWO (22) YEAR UTILITY EASEMENT TO SAN DIEGO GAS & ELECTRIC COMPANY FOR SUBSURFACE UTILITY EQUIPMENT TO PROVIDE ELECTRICAL AND GAS SERVICE TO NATIONAL CITY AQUATIC CENTER AND DISTRICT INFRASTRUCTURE**

**EXECUTIVE SUMMARY:**

The National City Aquatic Center (Center) is located adjacent to Pepper Park in National City (Attachment A - Location Map). The Center opened in 2016 and provides recreational and facility services to the community.

This long-term easement with San Diego Gas & Electric Company (SDG&E) provides utility services to the Center and the District's vessel pump-out equipment and security cameras located in Pepper Park. This easement replaces a short-term permit that formerly covered these utility services. The easement (Attachment B) covers approximately 15,174 square feet of tideland area located adjacent to Pepper Park in National City. The term of the easement is for approximately twenty-two (22) years commencing March 15, 2019 and terminating December 31, 2040.

**RECOMMENDATION:**

Adopt an Ordinance granting an approximate twenty-two (22) year utility easement to San Diego Gas & Electric Company for subsurface utility equipment to provide electrical and gas service to National City Aquatic Center and nearby District infrastructure.

**FISCAL IMPACT:**

This agenda item has no fiscal impact and is not subject to Board Policy No. 106 - Cost Recovery User Fee as the utilities directly service District facilities and support recreational and educational programs and facility services to the community and visitors of Tidelands.

**COMPASS STRATEGIC GOALS:**

The proposed SDG&E easement provides utility services to the National City Aquatic Center and District infrastructure, which provide recreational, educational, and facility services to the community and supports public access to National City's waterfront area.

This agenda item supports the following Strategic Goal(s).

- A vibrant waterfront destination where residents and visitors converge.
- A Port that is a safe place to visit, work and play.

### **DISCUSSION:**

The permanent Center facility was constructed to replace two temporary trailers formerly used to house the aquatic center. The Center is located in Pepper Park adjacent to the Sweetwater Channel in National City and contains office and reception rooms, locker rooms, watercraft storage, restrooms for center users, indoor/outdoor classrooms, janitorial area, and mechanical/electrical room. The Center primarily focuses on public recreational and educational events and programs.

This long-term easement with SDG&E provides utility connections to the Center and the District's vessel pump-out equipment and security cameras located at Pepper Park. This easement replaces a short-term permit that formerly covered these utility services.

The easement (Attachment B) covers approximately 15,174 square feet of tideland area located adjacent to Pepper Park in National City. The term of the easement is for approximately twenty-two (22) years commencing March 15, 2019 and terminating December 31, 2040. The easement is summarized on the attached Proposed Easement Information Summary (Attachment C).

### **General Counsel's Comments:**

The Office of the General Counsel has reviewed the easement with San Diego Gas & Electric Company for subsurface utility equipment to provide electrical and gas service to National City Aquatic Center and approves as to form and legality.

### **Environmental Review:**

The proposed Board action, including without limitation, an ordinance granting an easement for subsurface utility infrastructure to serve the National City Aquatic Center was adequately covered in the Mitigated Negative Declaration (MND) for the National City Aquatic Center and Port Master Plan Amendment, prepared and adopted/certified by the District on October 10, 2006 (Resolution No. 2006-161). The proposed project is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the MND, the District finds and recommends that the approval of the ordinance granting a utility easement does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the MND due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the Project will have one or more significant effects not discussed in the MND, (b) identifies significant impacts would not be more severe than those analyzed in the MND, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and (d) no changes to mitigation measures or alternatives have been

identified or are required. Because none of these factors have been triggered the District has the discretion to require no further analysis or environmental documentation (CEQA Guidelines §15162 (b)). Pursuant to CEQA Guidelines §15162(b), the District finds and recommends that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

In addition, the proposed Board action complies with Section 87 of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action are consistent with the Public Trust Doctrine.

Finally, the project was covered in the Coastal Development Permit (CDP) for the National City Aquatic Center (CDP-2011-01) approved by the District on July 12, 2011. The proposed Board action is consistent with the project in that CDP. No additional action under the California Coastal Act is required at this time.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:**

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**Attachment(s):**

Attachment A:	Location Map
Attachment B:	Easement for Utility Purposes
Attachment C:	Proposed Easement Information Summary