



## Legislation Text

---

**File #:** 2022-0308, **Version:** 1

---

**DATE:** October 11, 2022

**SUBJECT:**

**RESOLUTION CONSENTING TO A TEN-YEAR EASEMENT BETWEEN MARINE GROUP BOAT WORKS, LLC AND SAN DIEGO GAS AND ELECTRIC COMPANY, AS REQUIRED BY THE POWER YOUR DRIVE FOR FLEETS MAKE-READY INFRASTRUCTURE PROGRAM, FOR ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AT 997 G STREET IN THE CITY OF CHULA VISTA, CALIFORNIA**

**EXECUTIVE SUMMARY:**

Marine Group Boat Works, LLC (MGBW) operates a full-service boat and super-yacht facility, that specializes in the repair and fabrication of personal, commercial, and government vessels located at 997 G Street in Chula Vista, California. MGBW has enrolled in Power Your Drive for Fleets Make-Ready Infrastructure Program (Program), a San Diego Gas and Electric (SDG&E) program that installs electric vehicle (EV) charging infrastructure at businesses in San Diego County. The Program would supply and install five EV charging stations for MGBW's use at their leasehold, with the intention of servicing seven electric forklifts. The terms of the Program require that an easement be executed between SDG&E and MGBW. Pursuant to Board of Port Commissioners (Board) Policy No. 355 (BPC 355), Board consent is required for such an agreement. Staff has reviewed the easement and finds it to be consistent with the terms of MGBW's existing lease and BPC 355, and staff recommends the Board grant its consent.

**RECOMMENDATION:**

Adopt a Resolution Consenting to a Ten-Year Easement Between Marine Group Boat Works, LLC and San Diego Gas and Electric Company, as required by the Power Your Drive for Fleets Make-Ready Infrastructure Program, for Electric Vehicle Charging Infrastructure at 997 G Street in Chula Vista, California.

**FISCAL IMPACT:**

This agenda item has no fiscal impact. MGBW and SDG&E would be responsible for all fees related to the installation, maintenance, and operation of the electric vehicle charging infrastructure, including ongoing utility fees and bills.

This item is subject to Board Policy No. 106 - Cost recovery User Fee Policy.

**COMPASS STRATEGIC GOALS:**

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

- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.

**DISCUSSION:**

Power Your Drive for Fleets Make-Ready Infrastructure Program is an EV charging station program administered by SDG&E. The purpose of the Program is to provide make-ready charging infrastructure for medium and heavy-duty electric vehicles, with SDG&E working with fleet operators from the initial planning stage through to design, construction, and ongoing maintenance of the charging infrastructure. The goal of the Program is to serve a minimum of 3,000 medium and heavy-duty on-road and off-road vehicles at 300 sites throughout San Diego County. SDG&E intends to supply and install five EV charging stations for MGBW's use at their leasehold located at 997 G Street in Chula Vista, California (Attachment A - Location Map). Per the terms of the Program, MGBW would be responsible for all applicable fees related to the installation, maintenance, and operation of the EV charging infrastructure, including ongoing utility fees and bills.

The EV infrastructure would provide the necessary equipment to allow MGBW to utilize electric fleet vehicles, including seven electric forklifts that MGBW intends to acquire, thereby replacing gas-powered fleet equipment. This would contribute to the District's Climate Action Plan (CAP) goal of reducing greenhouse gas emissions by 25% by 2035 by facilitating the use of alternate fueled, electric, and hybrid vehicles on District tidelands. MGBW's advancement of a zero emissions fleet is also in alignment with emissions reductions goals identified in the Maritime Clean Air Strategy (MCAS). The addition of the EV charging infrastructure not only supports the CAP and MCAS, but also the state of California's goal to facilitate 100% adoption of zero emission vehicles by 2035.

The Program participation agreement between SDG&E and MGBW requires that a ten-year easement be executed, commensurate to the term of the participation agreement. MGBW has an existing Amended, Restated, and Combined lease (Lease) with the District, on file in the Office of the District Clerk as Document No. 54509. The initial term of the Lease is 45 years, from February 1, 1985 to January 31, 2030, with one, eleven-year option that would extend the term to January 31, 2041, if fully exercised. Staff, with the assistance of the Office of the General Counsel, is treating the proposed easement (Easement) (Attachment B) as a sublease between MGBW and SDG&E given that the District will not be a party to the Easement and the Easement will be subordinate in all respects to the Lease. Per BPC 355, Board consent is required since the proposed easement is over five years. The Easement expressly provides that it is subject to and subordinate, in all respects, to the Lease, and MGBW and SDG&E each jointly and severally release and agree to indemnify, defend, and hold harmless the District from all loss or damage arising out of the Easement, except to the extent resulting from the District's negligence or intentional misconduct. The Easement would terminate upon the expiration of the term of the Easement or upon the expiration or the earlier termination of the Lease, whichever occurs first. In addition, the Easement would require SDG&E to remove any improvements from the Easement area within a reasonable period of time upon termination. The Easement is entirely within the MGBW leasehold and would not impact the Chula Vista Bayfront Master Plan.

Staff has reviewed the Easement and finds it to be consistent with the Lease and BPC 355, and staff

recommends the Board grant its consent.

**General Counsel's Comments:**

The Office of the General Counsel has reviewed this agenda and the attachments as presented to it and approves the same as to form and legality.

**Environmental Review:**

The proposed Board action, including without limitation, a resolution consenting to a ten-year easement between Marine Group Boat Works, LLC and San Diego Gas and Electric Company for electric vehicle charging infrastructure, is Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities); 15303 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land) and Sections 3.a. (7), 3.c (2), 3.c. (3), 3.d. (7) of the District's Guidelines for Compliance with CEQA because the project would consist of an easement agreement and the installation, operation, and maintenance of electrical vehicle charging infrastructure that would involve would involve no expansion of use beyond that previously existing, would consist of the installation of small new equipment, and would result in no permanent effects on the environment nor the removal of mature, scenic trees. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

The proposed Board action complies with Sections 21, 35, and 87 of the Port Act which allow the Board to pass resolutions; to do all acts necessary and convenient for the exercise of its powers; and allow for the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

The proposed Board action is considered excluded development pursuant to Section 8.a. (2) (Existing Facilities), 8.c. (2) (New Construction or Conversion of Small Structures), and 8.d. (6) (Minor Alterations to Land) of the District's Coastal Development Permit Regulations because the project would consist of an easement agreement and installation, operation, and maintenance of electrical vehicle charging infrastructure that would involve negligible expansion of use beyond that previously existing, would consist of the installation of small new equipment, and would result in no permanent effects on the environment nor the removal of mature, scenic trees. If the Board approves this action, District staff would notify California Coastal Commission (CCC) staff in accordance with Coastal Act Section 30717. The approval would become effective after the 10th working day after notification to CCC staff unless an appeal is filed with the CCC within that time frame.

**Diversity, Equity, and Inclusion Program:**

This agenda sheet has no direct impact on District workforce or contract reporting at this time.

**PREPARED BY:**

Cameron McLeod  
Assistant Asset Manager, Real Estate

Attachment(s):

Attachment A:      Location Map

Attachment B:      Easement