

RESOLUTION NUMBER R- 304436

DATE OF FINAL PASSAGE DEC 02 2008

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN EASEMENT DEED IN FAVOR OF SAN DIEGO GAS & ELECTRIC, CONVEYING AN UNDERGROUND EASEMENT TO SAN DIEGO GAS AND ELECTRIC COMPANY AND A REAL ESTATE PURCHASE AND SALES AGREEMENT TO ANNA AVENUE ASSOCIATES.

WHEREAS, San Diego Gas & Electric Company [SDG&E] is requesting The City of San Diego [City] execute an easement deed for conveyance of a 2,920 square foot underground easement to SDG&E; and

WHEREAS, SDG&E recently installed the Otay-Metro Power Link underground electric transmission line and through inadvertence, a section of the line was installed under a portion of unimproved City land located in the Linda Vista area, adjacent to MTS railway and Anna Avenue; and

WHEREAS, SDG&E requires an easement from the City for future repairs and maintenance; and

WHEREAS, the staff has approved an appraisal by Ted Hendrickson, M.A.I. of \$14,600 for the easement; and

WHEREAS, in conjunction with an application for a street vacation, Anna Avenue Associates, LLC [Anna Avenue] has offered to purchase City property located west of Mid City – MTDB and AMTRAK Railway right of way, north of the San Diego River Levy and east of Pacific Highway; and

WHEREAS, the three parcel site (APN 436-660-09, 10 and 34) consisting of 30,200 square feet (.69 acres) is encumbered with a complex series of intertwined utility easements which will include the above recommended easement if approved. Because of unusual limitations and encumbrances, the property cannot be improved with any buildings or structures. Therefore, the only practical use for the property is for surface vehicle parking; and

WHEREAS, the staff has approved an appraisal by Ted Hendrickson, M.A.I. of \$25,000 for the land; and

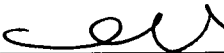
WHEREAS, Anna Avenue proposes to make significant improvements to the property, including upgrading for access; to correct drainage and improvements allowing for fire equipment access and turn around; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or his designee, is authorized to execute a grant of easement, which is attached, for and on behalf of The City of San Diego, conveying to SDG&E an easement for the purpose of a 2,920 square foot underground easement, more particularly described in said Easement on file in the office of the City Clerk as document No. RR- 304436⁻¹.

BE IT FURTHER RESOLVED, that the Mayor, or his designee, is authorized to execute a Real Estate Purchase and Sale Agreement, which is attached; and execute a Grant Deed, which is attached, for conveyance of 30,200 square foot parcel [APN 436-660-09, 10, and 34] in fee title to Anna Avenue, more particularly described in said Grant Deed on file in the office of the City Clerk as Document No. RR- 304436⁻².

BE IT FURTHER RESOLVED, that the City Comptroller is authorized to accept \$14,600 from San Diego Gas & Electric and accept \$25,000 from Anna Avenue Associates, LLC and deposit \$14,600 and \$25,000 into Capital Outlay Fund 302453 for a total of \$39,600.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Todd Franklin Bradley
Deputy City Attorney

TFB:bas
10/16/08
Or.Dept: READ
R-2009-531
MMS #6377

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 18 2008.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 12-2-08
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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: Otay-Metro Powerlink
Project No.: 535626-040
Sketch No. S-3333-445 to 446
APN No: 436-660-09, 10, and 34,

Transfer Tax _____

SAN DIEGO GAS & ELECTRIC COMPANY

RW# 81427

EASEMENT

CITY OF SAN DIEGO, a municipal corporation, as Grantor, for valuable consideration, receipt of which is hereby acknowledged grant(s) to SAN DIEGO GAS & ELECTRIC COMPANY, a corporation, as Grantee, an easement and right of way, in, upon, over, under and across the real property hereinafter described, to excavate for, place, lay, construct, operate, use, patrol, maintain, repair, replace, reconstruct, enlarge, alter, improve, add to, relocate or remove at any time and from time to time, for the transmission and distribution of ELECTRICITY and for all purposes connected therewith, and for telephone, signal and communication purposes underground facilities consisting of conduits, manholes, handholes and junction boxes with wires and cables placed therein and aboveground structures necessary for the operation of said underground facilities and all miscellaneous equipment and material connected therewith, together with the right of ingress thereto and egress therefrom by a practical route or routes in, upon, over and across the hereinafter described real property, together with the right to clear and keep clear said easement and right of way, from explosives, materials, buildings or other structures.

The real property in which said easement and right of way are hereby granted are more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof.

The easement, excepting therefrom any portion not lying within Grantor's land, is more particularly described in Exhibit "B", consisting of five (5) pages, attached hereto and by this reference made a part hereof.

Grantor, shall not dig or drill any well, plant any tree, erect, place or construct any pipeline, irrigation ditch, building, wall, fence or other structure, nor impound or store fluids or materials within the boundaries of the above described easement and right of way.

Grantor shall not increase or decrease the ground surface elevations within the boundaries of the above-described easement and right of way existing at the date of execution of this instrument, nor shall the said ground surface be penetrated to a depth in excess of 18 inches by any tool or implement, without the previous written consent of the Grantee.

DOCUMENT NO. **RP 304436**
NOV 18 2008
FILED
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

Grantee shall have the right to trim, cut and remove trees, foliage and roots upon and from within the above described easement and right of way whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantor shall not grant or dedicate any other easement on, under or over the above described easement and right of way without first securing Grantee's written approval. The right to transfer and assign this easement and right of way in whole or in part is hereby granted to the Grantee.

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.

The terms, covenants and conditions of this easement and right of way shall be binding upon and inure to the benefit of any heirs, successors, executors, administrators, permittees, licensees, agents or assigns of Grantor and the successors and assigns of Grantee.

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

CITY OF SAN DIEGO, a municipal corporation

By: _____
(signature)

Name: _____

Title: _____

By: _____
(signature)

Name: _____

Title: _____

Drawn	PMcMorris
Checked	
Sketch	S-3333-445 to 446
Date	07/16/07

STATE OF _____)

COUNTY OF _____)SS.

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

- personally known to me
 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.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"

All that certain real property situated in the County of San Diego, State of California, described as follows:

All that portion of the Northwestern Half of the Northeasterly Half of Lot 281 of the Pueblo Lands of San Diego, according to Map thereof made by James Pascoe in 1870, a copy of which said Map was filed in the Office of the County Recorder of San Diego County, November 14, 1921, and is known as Miscellaneous Map No. 36, lying between the Westerly line of the Atchison, Topeka and Santa Fe Railway right of way and the Easterly line of Pacific Highway, formerly "Atlantic Avenue" as same is now established over and across said Lot 281.

Excepting therefrom that portion lying within the Northwestern Half of the Northwestern Half of said Pueblo Lot 281.

Also Excepting therefrom that portion lying within the limits of Anna Avenue.

Also Excepting therefrom that portion lying within the limits of Friars Road as dedicated for public use.

EXHIBIT "B"

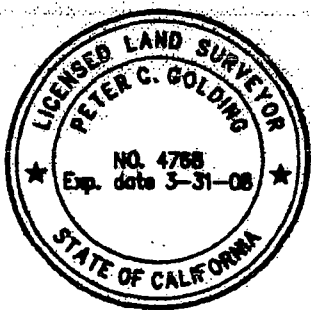
LEGAL DESCRIPTION

THAT PORTION OF PUEBLO LOTS 281 AND 282 OF PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT CERTAIN STRIP OF LAND 30.00 FEET IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND NAIL WITH DISC STAMPED "RCE 8629", ACCEPTED AS MONUMENT IN LIEU OF DISC STAMPED "CITY ENGINEER" AS SHOWN ON RECORD OF SURVEY MAP NO. 11888, FILED IN SAID OFFICE OF THE COUNTY RECORDER, OCTOBER 27, 1988, SAID MONUMENT MARKS THE CENTERLINE INTERSECTION OF ANNA AVENUE AND THE A.T. & S.F. RAILWAY AND BEARS SOUTH 82°55'04" WEST 114.84 FEET (SOUTH 82°32'30" WEST 114.81 FEET RECORD PER SAID RECORD OF SURVEY), FROM A FOUND LEAD AND TACK, ACCEPTED AS MONUMENT IN LIEU OF DISC STAMPED "CITY ENGINEER" AS SHOWN ON SAID RECORD OF SURVEY, SAID MONUMENT MARKS A POINT ON SAID CENTERLINE OF ANNA AVENUE; THENCE SOUTH 83°26'58" EAST 114.14 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE SOUTH 78°40'34" WEST 169.34 FEET TO THE BEGINNING OF A TANGENT 150.00 FOOT RADIUS CURVE CONCAVE TO THE NORTH; THENCE ALONG THE ARC OF SAID CURVE WESTERLY AND NORTHWESTERLY 136.78 FEET THROUGH A CENTRAL ANGLE OF 52°14'50"; THENCE NORTH 49°04'36" WEST 44.92 FEET TO THE BEGINNING OF A TANGENT 65.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE ALONG THE ARC OF SAID CURVE NORTHWESTERLY, WESTERLY AND SOUTHWESTERLY 103.44 FEET THROUGH A CENTRAL ANGLE OF 91°10'40".

SAID BEARINGS ARE IN TERMS OF THE CALIFORNIA COORDINATE SYSTEM ZONE 6, NAD 83.



Peter C. Golding

3-30-07

PETER C. GOLDING

DATE

LS 4768

EXPIRATION DATE 3/31/08

LINE TABLE		
LINE	LENGTH	BEARING
L1*	114.14'	S83°26'58"E
*TIE LINE ONLY		
L2	169.34'	S78°40'34"W
L3	44.92'	N49°04'36"W

CL INTERSECTION OF ANNA AVE AND AT&SF RAILWAY.

ROS 11888
88-549152
10-27-88
ROS 16972



436
66

B/B PER CCS ZONE 6 NAD 83
S82°55'04"W 114.84'(Meas)
S82°32'30"W 114.81'(Rec PER ROS 11888)

ANNA AVENUE
TUGE

PUEBLO LOT 282





PUEBLO LANDS OF SAN DIEGO
MISC. MAP NO. 36

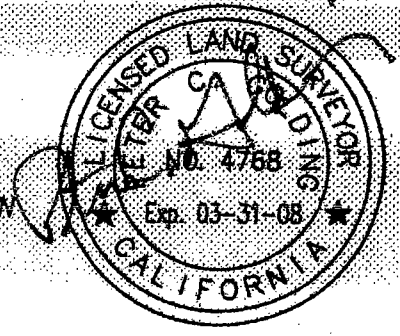
PACIFIC HIGHWAY

PUEBLO LOT 281

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	136.78'	150.00'	52°14'50"
C2	103.44'	65.00'	91°10'40"

LEGEND

-  INDICATES PROPOSED EASEMENT AREA
AREA = 2920 SQ. FT. / 0.067 AC.
-  INDICATES FOUND NAIL W/DISC STAMPED "RCE 8629" IN WOOD RAILROAD TIE, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
-  INDICATES FOUND LEAD AND TACK, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
-  INDICATES FOUND LEAD W/DISC STAMPED "LS 8045" IN CONCRETE PER ROS 16972.



P.D.C. FILE: 3150-40c.DWG
SDG&E JOB: PDC050044-000

TUGE

SEE S-3333-444 & 416 REF: MAP 5718
ROS 11888
ROS 16972

SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA		ORIGINATOR: PIM SURVEYED BY: PDC/DLL DRAWN BY: PDC/SWV DATE: 03-30-07 SCALE: 1"=50'	OK TO INSTALL: R/W OK: DATE: THOS. BROS. 1268-H6	PROJECT NO. CONST. NO. DRAWING NO. S-3333-445
OMPPA BORE PITS - WASHINGTON AVE & ANNA AVE WASHINGTON @ PACIFIC HWY SAN DIEGO, CA				
NO.	SUPPLEMENTS	DATE:	BY	APP'D

LINE TABLE		
LINE	LENGTH	BEARING
L1*	114.14'	S83°26'58"E
*TIE LINE ONLY		
L2	169.34'	S78°40'34"W
L3	44.92'	N49°04'36"W

CL INTERSECTION OF ANNA AVE AND AT&SF RAILWAY.

ROS 11888
88-549152
10-27-88

ROS 16972

B/B PER CCS ZONE 6 NAD 83
S82°55'04"W 114.84'(Meas)
S82°32'30"W 114.81'(Rec PER ROS 11888)

ANNA AVENUE
TUGE

PUEBLO LOT 282

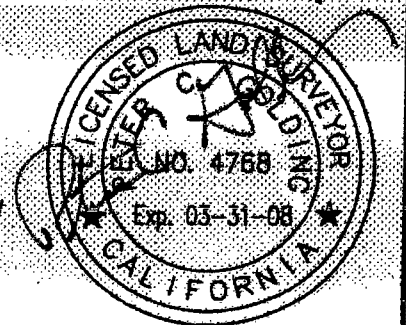
PUEBLO LANDS OF SAN DIEGO
MISC. MAP NO. 36

PUEBLO LOT 281

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	136.78'	150.00'	52°14'50"
C2	103.44'	65.00'	91°10'40"

LEGEND

- INDICATES PROPOSED EASEMENT AREA
AREA = 3015 SQ. FT. / 0.069 AC.
- ▲ INDICATES FOUND NAIL W/DISC STAMPED "RCE 8629" IN WOOD RAILROAD TIE, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
- INDICATES FOUND LEAD AND TACK, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
- INDICATES FOUND LEAD W/DISC STAMPED "LS 6045" IN CONCRETE PER ROS 16972.



P.D.C. FILE: 3150-40b.DWG
SDG&E JOB: PDC050044-000

TUGE

SEE: S3333-445 & 446

REF: MAP 5718
ROS 11888
ROS 16972

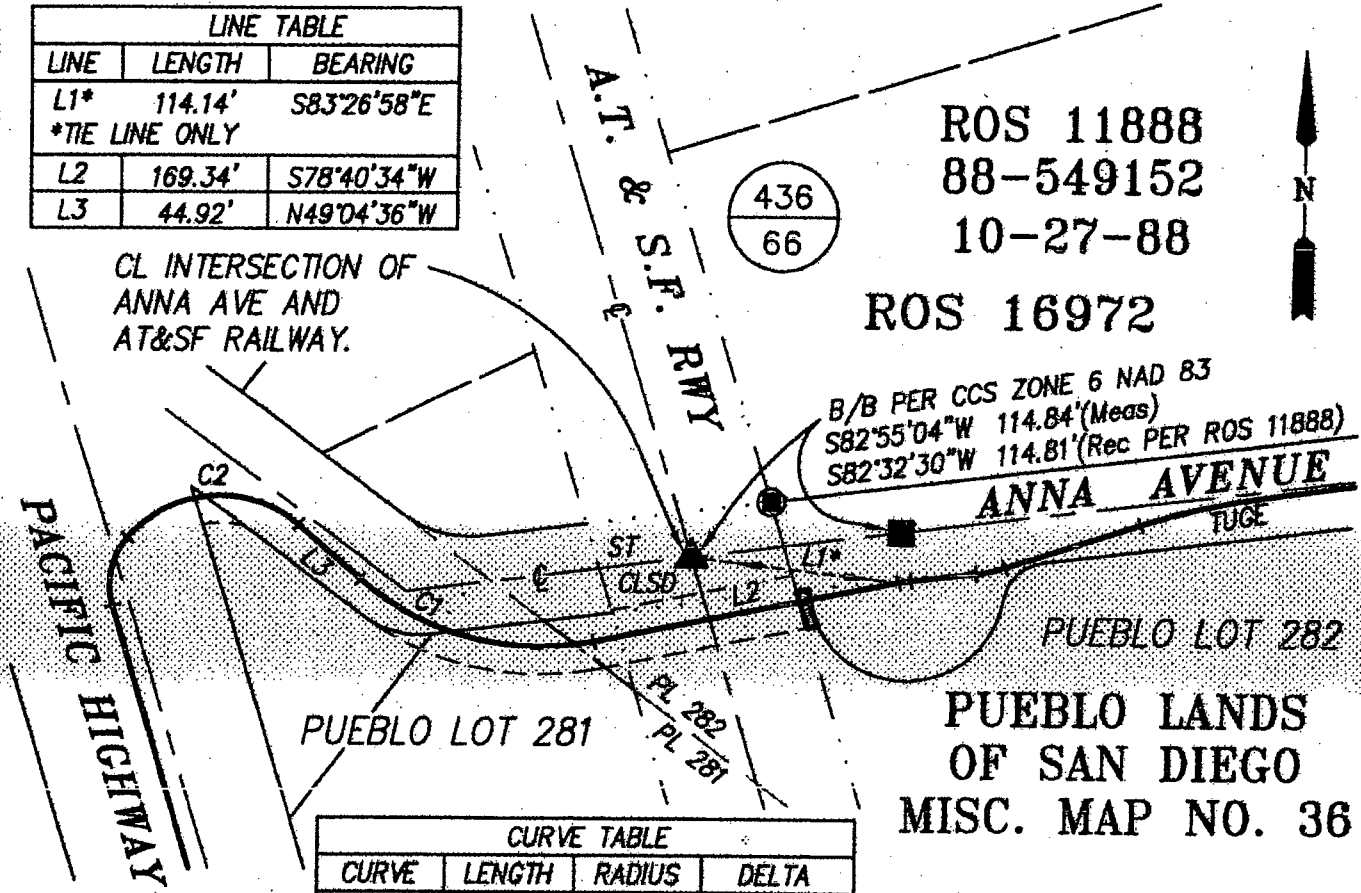
SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA		ORIGINATOR: PIM	OK TO INSTALL:	PROJECT NO.
		SURVEYED BY: PDC/DLL	R/W OK:	
OMPPA BORE PITS - WASHINGTON AVE & ANNA AVE WASHINGTON @ PACIFIC HWY SAN DIEGO, CA		DRAWN BY: PDC/SWV	DATE:	CONST. NO.
		DATE: 03-30-07	THOS. BROS. 1268-H6	DRAWING NO. S-3333-444
		SCALE: 1"=50'		
NO.	SUPPLEMENTS	DATE:	BY	APP'D

LINE TABLE		
LINE	LENGTH	BEARING
L1*	114.14'	S83°26'58"E
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CL INTERSECTION OF ANNA AVE AND AT&SF RAILWAY.

ROS 11888
88-549152
10-27-88
ROS 16972

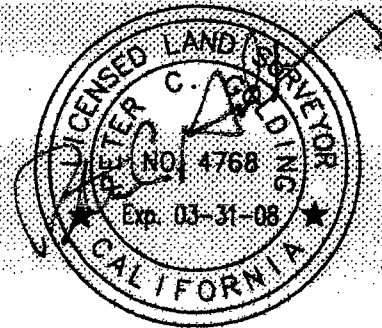
B/B PER CCS ZONE 6 NAD 83
S82°55'04"W 114.84'(Meas)
S82°32'30"W 114.81'(Rec PER ROS 11888)



CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	136.78'	150.00'	52°14'50"
C2	103.44'	65.00'	91°10'40"

LEGEND

- INDICATES PROPOSED EASEMENT AREA
AREA = 119 SQ. FT. / 0.003 AC.
- ▲ INDICATES FOUND NAIL W/DISC STAMPED "RCE 8629" IN WOOD RAILROAD TIE, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
- INDICATES FOUND LEAD AND TACK, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
- INDICATES FOUND LEAD W/DISC STAMPED "LS 6045" IN CONCRETE PER ROS 16972.



P.D.C. FILE: 3150-40a.DWG
SDG&E JOB: PDC050044-000

TUGE

SEE-S-3333-444 & 445 REF: MAP 5718
ROS 11888
ROS 16972

SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA OMPPA BORE PITS - WASHINGTON AVE & ANNA AVE WASHINGTON @ PACIFIC HWY SAN DIEGO, CA	ORIGINATOR:	OK TO INSTALL:	PROJECT NO.
	SURVEYED BY:	R/W OK:	CONST. NO.
	DRAWN BY:	DATE:	DRAWING NO.
	DATE:	THOS. BROS.	S-3333-446
	SCALE:	1"=50'	
NO.	SUPPLEMENTS	DATE:	BY
			APP'D

LINE TABLE		
LINE	LENGTH	BEARING
L1*	114.14'	S83°26'58"E
*TIE LINE ONLY		
L2	169.34'	S78°40'34"W
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CL INTERSECTION OF ANNA AVE AND AT&SF RAILWAY.

ROS 11888
88-549152
10-27-88

ROS 16972

B/B PER CCS ZONE 6 NAD 83
S82°55'04"W 114.84'(Meas)
S82°32'30"W 114.81'(Rec PER ROS 11888)

ANNA AVENUE
TUGE

PUEBLO LOT 282

PUEBLO LANDS OF SAN DIEGO
MISC. MAP NO. 36

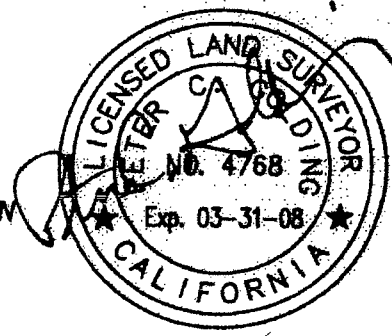
PACIFIC HIGHWAY

PUEBLO LOT 281

CURVE TABLE			
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LEGEND

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AREA = 2920 SQ. FT. / 0.067 AC.
- ▲ INDICATES FOUND NAIL W/DISC STAMPED "RCE 8629" IN WOOD RAILROAD TIE, ACCEPTED AS MONUMENT SHOWN ON ROS 11888 IN LIEU OF DISC STAMPED "CITY ENGINEER".
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P.D.C. FILE: 3150-40c.DWG
SDG&E JOB: PDC050044-000

TUGE

SEE S-3333-444 & 446

REF: MAP 5718
ROS 11888
ROS 16972

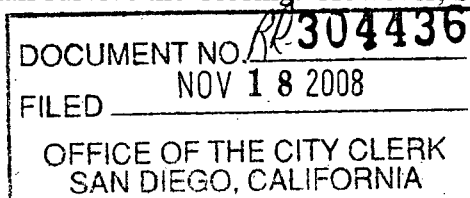
SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA		ORIGINATOR: PIM	OK TO INSTALL:	PROJECT NO.
		SURVEYED BY: PDC/DLL	R/W OK:	CONST. NO.
OMPPA BORE PITS - WASHINGTON AVE & ANNA AVE WASHINGTON @ PACIFIC HWY SAN DIEGO, CA		DRAWN BY: PDC/SWV	DATE:	DRAWING NO.
		DATE: 03-30-07	THOS. BROS. 1268-H6	S-3333-445
		SCALE: 1"=50'		
NO.	SUPPLEMENTS	DATE:	BY	APP'D

REAL ESTATE PURCHASE AND SALE AGREEMENT

[Unimproved land APN 436-660-09, 10 & 34]

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("SELLER"), and ANNA AVENUE ASSOCIATES, LLC, (PURCHASER"), to be effective upon execution of the parties, final passage of a resolution by the San Diego City Council authorizing this Agreement, and approval by the San Diego City Attorney ("Effective Date"), as follows:

1. **Purchase and Sale; Property.** Under the terms and conditions of this Agreement, SELLER shall sell and convey to PURCHASER, and PURCHASER shall purchase from SELLER the real property ("Property") consisting of approximately 30,200 square feet, located west of Mid City-MTDB and AMTRAK railroad right of way, north of the San Diego River Levy and east of Pacific Highway in the City of San Diego, County of San Diego, State of California, described as APN 436-660-09, 10, 34, together with all rights and appurtenances pertaining to the land, and as more particularly described in Exhibit A, attached hereto. **Escrow:** SELLER shall open escrow with Chicago Title (the "Title Company") within three (3) business days after the Effective Date.
2. **Purchase Price.** The purchase price of the Property ("Purchase Price") shall be the appraised value of the fee simple interest in the Property, which is Twenty-Five Thousand Dollars (\$25,000), payable at the closing of the transaction contemplated by this Agreement (the "Closing").
3. **Closing.** The Closing shall be held at the offices of the Title Company on or before a date (the "Closing Date") that is mutually satisfactory to both the PURCHASER and the SELLER, but in no event later than ninety (90) calendar days after the Effective Date.
 - a. At the Closing, PURCHASER shall execute (where applicable) and deliver to the Title Company for delivery to SELLER, or procure the delivery to SELLER the Purchase Price and any other instruments and documents reasonably required by SELLER or the Title Company to evidence the authority of the PURCHASER and to consummate the transactions contemplated by this Agreement. The Purchase Price shall be immediately paid to SELLER.
 - b. All ad valorem taxes and special taxes or assessments levied or assessed against the Property for the year of the Closing, if any, shall be prorated at the Closing effective as of the Closing Date. If the Closing occurs before the tax rate or the assessed valuation is fixed for the then-current year, the prorating of ad valorem taxes shall use the tax rate and the assessed valuation for the preceding tax year. The prorating of ad valorem taxes shall be subject to later adjustment once the actual tax statements for the year of Closing have been received, which agreement to re-prorate taxes shall survive the Closing. However, SELLER shall



not be responsible for any increase in ad valorem taxes resulting from improvements to the Property made by PURCHASER after the Closing Date.

4. **Title.** At the Closing, SELLER shall convey good and indefeasible fee simple title to the Property to PURCHASER or PURCHASER'S nominee by a "Grant Deed" in the form attached hereto as EXHIBIT B (the "Grant Deed"), subject to zoning and building laws and ordinances, and acts done or suffered by PURCHASER, or claims made by, through, or under PURCHASER.
5. **Escrow Costs.** PURCHASER shall pay all costs of escrow, including without limitation title insurance policy costs, recording fees, escrow fees, and any other fees associated with the escrow.
6. **Title Insurance.** PURCHASER shall pay the standard premium for SELLER'S title insurance.
7. **No Leasing by SELLER.** SELLER represents and warrants that as of the Effective Date, there are no leases of all or any portion of the Property. SELLER shall not enter into any new leases with respect to the Property after the Effective Date.
8. **Loss or Damages to Property or Improvements.** Loss or damage to the Property occurring prior to the Closing shall be at SELLER'S risk. In the event of loss or damage to the Property prior to the Closing, SELLER shall take all actions necessary to prevent or eliminate a condition of danger or nuisance. Use of insurance proceeds for this purpose is at the discretion of SELLER. However, SELLER has no obligation to provide any insurance coverage for the Property after the Closing.
6. **Acceptance of Environmental Conditions.**
 - a. PURCHASER acknowledges that it is purchasing the Property on an "as-is" basis with no representations or warranties of any kind, expressed or implied, either oral or written, made by SELLER or any agent or representative of SELLER with respect to any structural or physical condition of the Property, or with respect to the existence or absence of toxic or hazardous materials, substances or wastes in, on, under or affecting the Property. SELLER has made and makes no warranty or representation regarding the fitness of the Property, or any portion of the Property, as to any particular use, quality or merchantability. To the best of its actual knowledge, without any duty of inquiry or investigation, SELLER shall disclose to PURCHASER any findings of the Property and its operations. SELLER shall not be liable or bound in any manner by any warranties, either expressed or implied, guarantees, promises, statements, representations or information pertaining to the Property made or furnished by any real estate agent, broker, employee, servant or other person representing or purporting to represent SELLER.

- b. PURCHASER shall comply with any and all laws, regulations, and/or orders in effect or which may be promulgated with respect to the discharge and/or removal of any Hazardous Substances, to pay or cause other parties to pay immediately when due the costs of the removal of, or any other action required by law with respect to, any Hazardous Substances. If any Hazardous Substances exist in quantities greater than allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then PURCHASER shall cause the remediation and/or removal of the Hazardous Substances to be completed to achieve compliance with law. PURCHASER shall be solely responsible for all remediation and removal expenses.
- c. PURCHASER shall not knowingly use the Property or allow the Property to be used for any activities involving, directly or indirectly, the use, generation, treatment, storage, release or disposal of any Hazardous Substances, except in accordance with law.
- d. PURCHASER shall pay all costs of compliance with all applicable governmental requirements in the removal of any asbestos and lead-based paint, to the extent that these costs are not paid by the Federal Government.

7. Warranties, Representations and Covenants of SELLER. SELLER hereby represents and warrants to PURCHASER that:

- a. To the best of SELLER'S knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law or in equity before any court or governmental agency, domestic or foreign;
- b. Prior to the Closing, SELLER will not alter the physical condition of the Property, and shall maintain the Property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Property;
- c. Prior to the Closing, SELLER shall not do anything to impair title to any of the Property; except for the additional utility easement to SDG&E.
- d. To the best of SELLER'S knowledge, all utilities, including gas, electricity, water, sewage and telephone, are available to the Property and all such items are in good working order;
- e. To the best of SELLER'S knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with or breach any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which the Property may be bound; and

- f. Prior to the Closing, SELLER shall, upon learning of any fact or condition which would cause any of the warranties and representations in this section to not be true as of the Closing, immediately notify PURCHASER of such fact or condition.

- 8. **Existing Structures and Encroachments.** SELLER and PURCHASER acknowledge that there are structures on the Property (“Existing Structures”), as well as buildings and structures that encroach on the Property from adjacent parcels (“Encroachments”), that will need to be removed prior to PURCHASER’S redevelopment of the Property. Prior to the Closing, SELLER shall take all steps necessary to inform the owners of the Encroachments that their encroachment is not accepted by SELLER and that the Encroachments must be removed within the next three (3) years following the Effective Date. PURCHASER agrees that the Encroachments do not need to be removed prior to the Closing. PURCHASER shall cause the demolition and removal of the Existing Structures and the Encroachments at the time the Property is redeveloped, which is expected to occur within three (3) years after the Closing. PURCHASER shall pay all costs incurred to effect the demolition and removal of the Existing Structures and the Encroachments.

- 9. **Release.** With the exception of any claims that may arise associated with sections 10 (No Leasing by SELLER), 11 (Loss or Damages to Property or Improvements), 13 (Warranties, Representations and Covenants of SELLER), and 14 (Existing Encroachments) of this Agreement, and claims arising from SELLER’S fraud or intentional misrepresentation, effective from and after the Closing, PURCHASER, for itself, its successors, assignees, representatives, employees, officers, and agents, releases and forever discharges SELLER, its elected officials, officers, representatives, agents, employees, successors in interest and assigns, of and from any and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, losses of service, expenses and compensation of any nature whatsoever, whether based on tort, contract, violation of statutory duties, or other theory of recovery, and whether for compensation or punitive damages, injunctive relief or mandamus, or other equitable remedies which PURCHASER now has, or which may later accrue or be acquired, on account of, or in any way growing out of, or which are the subject of this Agreement, the Property, or the condition of the Property, including without limitation, any and all known or unknown claims resulting from the alleged acts or omissions of SELLER, its elected officials, officers, representatives, agents or employees.

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10. **Section 1542 Waiver.** PURCHASER acknowledges and agrees that the release of liability provision set forth above is a general release, and with the exception of any claims that may arise associated with Section 10 (No Leasing by SELLER), Section 11 (Loss or Damages to Property or Improvements), Section 13 (Warranties, Representations and Covenants of SELLER), and Section 14 (Existing Encroachments) of this Agreement, and matters arising from SELLER'S fraud or intentional misrepresentation, further expressly waives and assumes the risk of any and all claims against SELLER arising from this Agreement, the Property, or the condition of the Property and which exist as of the Effective Date but of which PURCHASER does not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect PURCHASER'S decision to enter into this Agreement. PURCHASER expressly waives, as demonstrated by the signature set forth immediately below, the benefits and provisions of Section 1542 of the California Civil Code, and any similar law of any state or territory of the United States or other jurisdiction. Section 1542 of the California Civil Code provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

WAIVED BY: ANNA AVENUE ASSOCIATES, LLC

BY: _____
Name: _____
Title: _____

11. **No Real Estate Commission.** PURCHASER and SELLER represent, warrant and agree that no real estate commission, finder's fee or broker's fee has been or will be incurred in connection with the sale of the Property. The rights and obligations of PURCHASER and SELLER pursuant to this section shall survive the Closing or termination of this Agreement.

12. **Default and Remedies.**

a. **SELLER'S Default; PURCHASER'S Remedies.** If SELLER defaults on its obligations under this Agreement prior to the Closing, PURCHASER may, at its sole option and as its exclusive remedy for such default either (i) terminate this Agreement by written notice to SELLER and the Title Company, or (ii) if SELLER'S default results from its failure to transfer possession and title to the Property to PURCHASER at the Closing, seek and enforce specific performance of this Agreement. If SELLER defaults on its obligations under this Agreement after the

Closing, PURCHASER may seek and enforce any remedy available therefore at law or in equity

- b. **PURCHASER'S Default; SELLER'S Remedies.** If PURCHASER defaults on its obligations under this Agreement, SELLER may terminate this Agreement by written notice delivered to PURCHASER and the Title Company, and/or seek and enforce any other remedy available therefore at law or in equity.
13. **Limited Liability.** SELLER'S liability for damages resulting from or under this Agreement shall be limited to either the Property or to the Purchase Price received by SELLER, and without resort to any other assets of SELLER.
14. **Time of Essence.** Time is of the essence to the performance of each obligation under this Agreement
15. **Interpretation.** This Agreement shall be governed by the laws of the State of California. The section headings are for convenience only and are in no way intended to interpret, define or limit the scope or content of this Agreement. If any party is made up of more than one person or entity, then all are identified in the singular in this Agreement. If any right of approval or consent by a party is provided for in this Agreement, the party shall exercise the right promptly, in good faith and reasonably, unless this Agreement expressly gives such party the right to use its sole discretion. The term "business day" shall mean Monday through Friday, excluding holidays recognized by the State of California.
16. **Amendments.** The terms and provisions of this Agreement shall only be amended pursuant to a written instrument signed by both the SELLER and the PURCHASER.
17. **Successors and Assigns.** The provisions of this Agreement shall inure to and bind the successors and assigns of the parties, except for a bona fide purchaser, not affiliated in any way with PURCHASER.
18. **Assignment.** This Agreement may not be assigned in whole or in part by PURCHASER without SELLER'S prior written consent.
19. **Attorney Fees.** In any action or proceeding to enforce a right or obligation of this Agreement, or of any disputes, breaches, defaults, or misrepresentations in connection with any provision of this Agreement, or in any way arising from this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its reasonable costs and expenses, including without limitation reasonable attorney fees and costs paid or incurred in good faith. The "prevailing party" for the purposes of this Agreement, shall be that party who obtains substantially the result sought, whether by settlement, dismissal, or judgment.
20. **Notices.** Each notice, waiver, demand, request or other communication required or permitted by this Agreement shall be in writing and deemed to have been properly

given, served and received: (a) if delivered by messenger, when delivered; (b) if mailed, on the third (3rd) business day after deposit in the United States mail, certified or registered, postage prepaid, return receipt requested; (c) telexed, telegraphed or telecopied, six (6) hours after being dispatched if such sixth hour falls on a business day within the hours of 8:00 a.m. through 6:00 p.m. of the time in effect at the place of receipt, or at 8:00 a.m. on the next business day thereafter if such sixth hour is later than 6:00 p.m.; or (d) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier, in every case addressed to the parties to be notified as follows:

SELLER: Director, Real Estate Assets Department
THE CITY OF SAN DIEGO
202 C Street, Ninth Floor
San Diego, CA 92101

With a copy to:

Office of the City Attorney
THE CITY OF SAN DIEGO
1200 Third Avenue, Suite 1100, MS 59
San Diego, CA 92101

PURCHASER: John Smith, Manager
ANNA AVENUE ASSOCIATES, LLC
5216 Anna Avenue00
San Diego, CA 92110

21. **Authority to Contract.** Each individual executing this Agreement on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Agreement on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Agreement is binding upon such person or entity in accordance with its terms. Each person executing this Agreement on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to the Mayor or designee, that such authority is valid.

22. Entire Agreement. This Agreement represents the entire agreement between the parties for the purchase and sale of the Property, and supersedes all prior negotiations, representations or agreements, either oral or written.

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

SELLER:

Date: _____

THE CITY OF SAN DIEGO, a California
municipal corporation

BY: _____

Name: _____

Title: _____

PURCHASER:

Date: _____

ANNA AVENUE ASSOCIATES, LLC

BY: _____

Name: _____

Title: _____

SAN DIEGO CITY COUNCIL AUTHORIZING RESOLUTION NO. R- _____

DATE OF FINAL PASSAGE: _____

APPROVED AS TO FORM AND LEGALITY:

Effective Date: _____

MICHAEL J. AGUIRRE, City Attorney

BY: _____

_____, Deputy City Attorney

EXHIBIT A: LEGAL DESCRIPTION AND PARCEL MAP OF PROPERTY

EXHIBIT B: FORM OF GRANT DEED

Recording Requested by:
City Clerk, The City of San Diego

After recording mail to:

**City Clerk
City of San Diego
Mail Station 2A**

436	660	09	All
436	660	10	All
436	660	34	All

SPACE ABOVE THIS LINE FOR RECORDER'S USE
NO DOCUMENTARY TAX DUE - R&T 11922 (amended)
Presented for record by the CITY OF SAN DIEGO

GRANT DEED

THE CITY OF SAN DIEGO, a municipal corporation, in the County of San Diego, State of California ("Grantor"), for a valuable consideration, DOES HEREBY GRANT to THE SAN DIEGO COMMUNITY COLLEGE DISTRICT ("GRANTEE"), a public community college district organized and existing under the laws of the State of California, the real property described as follows:

See Exhibit "A" attached hereto and Exhibit "B" attached hereto for illustration purposes.

IN WITNESS WHEREOF, the City of San Diego has caused this deed to be executed by its Mayor, pursuant to the resolution of the Council authorizing such execution, this ____ day of September, 2008.

The City of San Diego

By: _____
Jim Barwick



A Sempra Energy utility

RECEIVED
CITY OF SAN DIEGO

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REAL ESTATE ASSETS DEPT.

Peter McMorris, SRWA
Right of Way Agent

San Diego Gas & Electric Company
Land Services
8335 Century Park Ct., CP 11D
San Diego, CA 92123-1582

Tel: 858.637.7987
Fax: 619.819.4496
pmmorris@semprautilities.com

July 16, 2007

B. Lane MacKenzie, Supervising Property Agent
City of San Diego, Real Estate Assets
120 3rd Avenue, Suite 1700
San Diego, AA 92101

SUBJECT: SDG&E UNDERGROUND ELECTRIC TRANSMISSION EASEMENT – ANNA AVE.
APNS 436-660-09, 10, AND 34,

Greetings Lane:

As you may be aware, SDG&E recently installed the Otoy-Metro Power Link underground electric transmission line. Through inadvertence, a section of the line was installed under a portion of unimproved City land located in the Linda Vista area, adjacent to MTS railway and Anna Avenue (see aerial photo attached). At this location, SDG&E's design engineers intended the undercrossing to be wholly contained within street franchise. However, a subsequent as-built revealed the slight encroachment within the City's property.

SDG&E will require an easement from the City for the future maintenance and repair, etc. of the line. In exchange for the easement, the City is entitled to fair-market value for the encumbrance. Based upon an independent appraisal performed by Rob Caringella, MAI, the City will be compensated in the offered amount of **\$14,600**. The City's parcel is heavily sloped and, according to the appraiser, the "usable" portion of the larger parcel was deemed to be unbuildable due to the extent of existing utility encumbrances. However, it does have the potential for surface uses such as parking and/or outside storage yard.

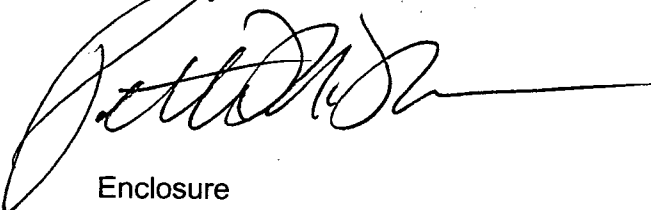
A summary of the data the appraiser considered in his valuation is attached for your review. I understand that Mr. Caringella is on the City's approved-appraiser list; and, if necessary, he has agreed to meet with you or your delegate to more fully discuss his appraisal.

If this offer is acceptable, please arrange for the City's execution of SDG&E's attached standard form underground electric easement, and return it to me at the address above. Within three weeks of receipt of the easement, payment will be issued to the City.

Please do not hesitate to contact me if you have any questions or comments. In any event, a response by July 27, 2007 is appreciated.

As always, thank you for your continuing cooperation.

Sincerely,



Enclosure