

MEMORANDUM OF LAW

DATE: August 1, 1986

TO: Paul Crawford, Property Department
FROM: City Attorney
SUBJECT: Presidio Park - SDG&E Easement - Proposed
Relocation and Undergrounding of Existing
Overhead Line

By memorandum dated May 13, 1986, the Property Director indicated that SDG&E wishes to remove an existing overhead line affecting a portion of Presidio Park which was officially dedicated to park use in 1982. By memorandum dated June 26, 1986, Jim Spotts clarified the facts by indicating that the existing SDG&E line is located in a portion of property relinquished by CalTrans to the City in 1972 "for use as a City street."

While the property was dedicated to park purposes in 1982, no street vacation has occurred. The park dedication was, therefore, subject to the existing public street dedication. Therefore, the parcel is still a dedicated public street. The SDG&E franchise agreement allows its use of the street right-of-way for its facilities. If the street is no longer needed for public street purposes it will be appropriate to process a proposed street vacation.

Since SDG&E has a legal right to maintain its overhead line within the street right-of-way, it is legally feasible to "exchange" a new, smaller underground easement across adjacent park property for SDG&E's existing rights.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug
Deputy City Attorney

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ML-86-88