

CITY OF SAN DIEGO

LICENSE AGREEMENT

(Mt. Soledad Parking Lot - SDG&E)

This LICENSE AGREEMENT (this "Agreement") is entered into by and between The SAN DIEGO GAS & ELECTRIC COMPANY, a California corporation ("Licensee"), and THE CITY OF SAN DIEGO, a California municipal corporation ("City"), as of the date this Agreement is approved as to form by the San Diego City Attorney as shown on the signature page to this Agreement ("Effective Date").

IN CONSIDERATION OF THE RESPECTIVE PROMISES OF LICENSEE AND CITY SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE ACKNOWLEDGED, LICENSEE AND CITY AGREE AS FOLLOWS:

1. **PURPOSE.** City owns certain real property commonly known as the Mount Soledad Natural Park in the City of San Diego and specifically defined in Section 41 of **EXHIBIT A** attached to this Agreement as the "Property." Licensee and City desire to enter into this Agreement to provide Licensee certain limited rights to undertake the Permitted Use (defined in Section 36 of **EXHIBIT A** attached to this Agreement) on the License Area (defined in Section 23 of **EXHIBIT A** attached to this Agreement).

2. **DEFINITIONS.** All defined terms or words indicated by initial capitalization in this Agreement and not specifically defined in the main body of this Agreement are defined in **EXHIBIT A** attached to this Agreement.

3. **LICENSE.**

3.1 License Area. Subject to the terms, conditions, and agreements of this Agreement, as of the Effective Date, City licenses, permits, and authorizes Licensee to use the License Area on a non-exclusive basis solely for the Permitted Use.

3.2 Personal Rights; Restriction on Transfers. The licenses, permits and authorizations provided by this Agreement are personal to Licensee. Licensee shall not have any right to make or allow any Transfer without the prior written consent of City, which may be given or withheld in the City's sole and absolute discretion. Licensee acknowledges and agrees that, under the circumstances that this Agreement is entered into by City and Licensee and the public nature of the Property, the restrictions in this Agreement on Transfers are reasonable.

3.3 Property's Primary Use. The primary use of the Property is as a City open space park ("Primary Use"). The Primary Use is superior to any rights provided under this Agreement. The Permitted Use may not interfere with the Primary Use, except on the Lot Closure Days. Throughout the Term, subject to the terms and conditions of this Agreement, the License Area shall have the secondary purpose of accommodating the Permitted Use to the extent the Permitted Use does not interfere with the Primary Use, including any disruption of safe access to City facilities or adverse impact on the cost of maintaining City facilities. If City determines that the Permitted Use interferes with the Primary Use, City shall Notify Licensee and Licensee shall have forty-eight (48) hours to eliminate the interference with the Primary Use.

3.4 No Limitation on Other City Use. Nothing contained in this Agreement is intended to limit, restrict, or prohibit City from entering into future agreements with other Persons regarding use of the Property, as long as such other uses do not materially interfere with the Permitted Use on the License Area.

3.5 No Property Estate or Interest Conveyed. Notwithstanding any provision of this Agreement to the contrary, City and Licensee do not intend to convey any estate, easement, or irrevocable interest in real or personal property between them under this Agreement. Nothing in this Agreement shall be construed or interpreted as a conveyance of any estate, easement, or irrevocable interest in any real or personal property. If this Agreement or any provision of this Agreement is finally (after all appeals) construed or interpreted by a court of competent jurisdiction as conveying an estate, easement, or irrevocable interest in real or personal property between City and Licensee, then the provision(s) of this Agreement interpreted as conveying any estate, easement, or irrevocable interest in real or personal property between City and Licensee shall automatically be null and void, without further action by or Notice to City or Licensee.

3.6 Noise. Licensee shall not use or permit the use of the License Area in any manner that creates or maintains any noise or sound violating San Diego Municipal Code ("SDMC") Chapter 5, Article 9.5.

3.7 Nuisance. Licensee shall not create or allow a nuisance, as defined in State Civil Code section 3479, or a violation of Law on the License Area.

3.8 **ACCEPTANCE OF PROPERTY IN AS-IS CONDITION.** LICENSEE ACCEPTS ALL PHYSICAL CONDITIONS OF THE PROPERTY, AS OF THE EFFECTIVE DATE, AND RELEASES CITY FROM ALL LIABILITY WHATSOEVER FOR ALL KNOWN OR UNKNOWN CONDITIONS OF THE PROPERTY. LICENSEE SHALL ENTER THE PROPERTY FOR THE PERMITTED USE UNDER THIS AGREEMENT, IN THE PROPERTY'S "AS IS," "WHERE IS" AND "SUBJECT TO ALL FAULTS" CONDITION, AS OF THE EFFECTIVE DATE. LICENSEE ACKNOWLEDGES AND AGREES THAT IT IS RELYING SOLELY UPON ITS OWN KNOWLEDGE OR INVESTIGATION OF THE PROPERTY, AS IT DEEMS APPROPRIATE. LICENSEE IS NOT RELYING ON ANY STATEMENT OR REPRESENTATION BY ANY CITY PARTY RELATING TO THE CONDITION OF THE PROPERTY. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS SECTION 3.8, CITY MAKES NO REPRESENTATION OR WARRANTY AS TO THE PHYSICAL CONDITION OF THE PROPERTY OR WHETHER THE PROPERTY PRESENTLY COMPLIES WITH ANY LAW. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS SECTION 3.8, LICENSEE, ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS, WAIVES AND RELEASES CITY AND ITS SUCCESSORS AND ASSIGNS FROM ALL COSTS OR EXPENSES WHATSOEVER (INCLUDING LEGAL COSTS), WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, ARISING FROM OR RELATING TO THE PHYSICAL CONDITION OF THE PROPERTY OR COMPLIANCE OF THE PROPERTY WITH ANY LAW APPLICABLE TO THE PROPERTY. LICENSEE EXPRESSLY WAIVES ALL RIGHTS OR BENEFITS AVAILABLE TO IT WITH RESPECT TO THE RELEASES CONTAINED IN THIS SECTION 3.8 UNDER ANY PROVISION OF APPLICABLE LAW PROVIDING THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR

RELEASED PARTY, INCLUDING STATE CIVIL CODE SECTION 1542. THE PROVISIONS OF THIS SECTION 3.8 SHALL SURVIVE THE TERMINATION DATE.

4. **TERM.**

4.1 The "Term" of this Agreement starts on June 26, 2024, and ends at 11:59 p.m. on the date of the earliest to occur of the following events ("Termination Date"):

4.1.1 *Licensee Notice.* The seventh (7th) day after the date Licensee both gives City Notice of termination of this Agreement for any reason or no reason and performs all Licensee's obligations under Section 15;

4.1.2 *City Notice.* The seventh (7th) day after the date City gives Licensee Notice of termination of this Agreement for any reason or no reason;

4.1.3 *Expiration.* 11:59 p.m. Pacific Time on June 28, 2024;

4.1.4 *Eminent Domain.* Termination of this Agreement under Section 23;

4.1.5 *Event of Default.* Following the occurrence of an Event of Default, City giving Licensee Notice of termination of this Agreement;

4.1.6 *Casualty.* Termination of this Agreement under Section 10; or

4.1.7 *Breach of Warranty.* City termination of this Agreement under Section 31.

4.2 If the Term begins before the Effective Date, then this Agreement shall be void and of no effect.

5. **LICENSE FEE.** Licensee shall pay City \$1,050.00 (the "License Fee") in lawful money of the United States of America at the earlier of June 25, 2024 or within five (5) days after the Effective Date at the City's Department of Real Estate and Airport Management at Civic Center Plaza, 1200 Third Avenue, Suite 1700, San Diego, CA 92101. Checks should be made payable to the City Treasurer. Checks only constitute payment when collected.

6. **PERMITTED USE.**

6.1 Approvals. Licensee shall not undertake the Permitted Use on the License Area without first obtaining all necessary Approvals for the Permitted Use. In obtaining each necessary Approval for the Permitted Use on the License Area, Licensee shall inform the applicable Government in writing that the Property is City-owned. Licensee shall promptly deliver to City documentary evidence of all Approvals obtained by Licensee regarding the Permitted Use.

6.2 Protection Against Claims or Liens. IF A CLAIM OR LIEN IS RECORDED OR ASSERTED AGAINST THE PROPERTY OR THE CITY FOR MATERIAL OR EQUIPMENT SUPPLIED TO OR LABOR OR SERVICES PERFORMED, DIRECTLY OR INDIRECTLY, FOR LICENSEE OR A CONTRACTOR OF LICENSEE RELATING TO WORK ON THE PROPERTY, LICENSEE SHALL SATISFY AND DISCHARGE SUCH CLAIM OR LIEN, AT THE SOLE COST AND EXPENSE OF LICENSEE, WITHIN TEN (10) DAYS FOLLOWING NOTICE OF THE EXISTENCE OR ASSERTION OF SUCH CLAIM OR LIEN. CITY SHALL NOT BE LIABLE FOR ANY SERVICES, LABOR, MATERIAL, OR EQUIPMENT

FURNISHED OR TO BE FURNISHED TO LICENSEE OR LICENSEE'S CONTRACTOR(S) UPON CREDIT AND NO MECHANIC'S OR OTHER LIEN FOR ANY SERVICES, LABOR, MATERIAL, OR EQUIPMENT SHALL ATTACH TO OR AFFECT THE PROPERTY. NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR CONSTRUED IN ANY WAY TO CONSTITUTE CITY'S CONSENT OR REQUEST, EXPRESS OR IMPLIED, BY INFERENCE OR OTHERWISE, TO ANY CONTRACTOR, SUBCONTRACTOR, PROFESSIONAL, LABORER, EQUIPMENT, OR MATERIAL SUPPLIER FOR THE PERFORMANCE OF ANY SERVICE OR LABOR OR THE FURNISHING OF ANY MATERIAL OR EQUIPMENT FOR THE BENEFIT OF CITY OR THE PROPERTY, NOR AS GIVING LICENSEE ANY RIGHT, POWER OR AUTHORITY TO CONTRACT FOR, OR PERMIT THE RENDERING OF, ANY SERVICES OR LABOR, OR THE FURNISHING OF ANY MATERIAL OR EQUIPMENT THAT WOULD GIVE RISE TO THE FILING OF ANY CLAIM OR LIEN AGAINST CITY OR THE PROPERTY.

6.3 No Liens Against Public Property. LICENSEE ACKNOWLEDGES AND AGREES THAT ON THE EFFECTIVE DATE THE PROPERTY IS OWNED BY CITY, WHICH IS A PUBLIC ENTITY, AND THE PROPERTY IS NOT SUBJECT TO THE IMPOSITION OF MECHANIC'S LIENS OR ANY OTHER LIENS IN FAVOR OF PROVIDERS OF SERVICES, LABOR, MATERIAL, OR EQUIPMENT ON OR TO THE PROPERTY. LICENSEE FURTHER AGREES TO INFORM EACH PROVIDER OF SERVICES, LABOR, MATERIAL, OR EQUIPMENT ON OR TO THE PROPERTY HIRED BY OR FOR THE BENEFIT OF ONE OR MORE LICENSEE PARTIES OF SUCH FACT AND THAT CITY AND THE PROPERTY ARE NOT RESPONSIBLE FOR PAYMENT OF ANY CLAIMS BY ANY SUCH PROVIDERS OF SERVICES, LABOR, MATERIAL, OR EQUIPMENT.

6.4 Signs. Licensee shall not place any banner, pennant, flag, poster, sign, decoration, marquee, awning, or similar device or advertising (each, a "Sign") on the License Area without City's prior written consent, in each instance, which consent may be given or withheld in City's sole and absolute discretion. All Signs on the License Area will be maintained by Licensee in good, clean, and operating condition during the Term. Licensee will remove all Signs placed by Licensee from the License Area on or before the Termination Date and repair all damage caused by placement, installation, or removal of Signs, all at Licensee's sole cost and expense. Licensee shall comply with all Laws requiring the posting of Signs on the License Area. If any unauthorized Sign is found on the License Area, Licensee shall remove the Sign at Licensee's sole cost and expense within twenty-four (24) hours after Notice from City requesting the removal. If Licensee does not remove an unauthorized Sign within twenty-four (24) hours after Notice from City requesting the removal, City may enter the License Area and remove the Sign at Licensee's sole cost and expense. If City performs work required of Licensee under this Section 6.4, Licensee shall reimburse City for all costs and expenses reasonably incurred by City in performing such work (including the costs of City's staff time, administrative overhead, and Legal Costs), within thirty (30) days after Notice to Licensee of such costs. All amounts reimbursable to City by Licensee under this Section 6.4 that are not paid within thirty (30) days after Notice to Licensee of the amount shall accrue Default Interest until paid.

6.5 Deliveries to City. If requested by City, Licensee shall provide City with a copy of all reports, analyses, findings, and conclusions resulting from the Permitted Use, which may be reasonably redacted for confidentiality purposes.

6.6 Costs. Licensee shall pay all costs and expenses related to the Permitted Use.

6.7 Security and Safety. Licensee shall be solely responsible for the security and safety of the License Area. Licensee shall be responsible for the cleanup and securing of the License Area disturbed by Licensee, as appropriate, immediately following each day's work to ensure the daily security and safety of the License Area. In conducting the Permitted Use, Licensee shall comply with all Laws, at Licensee's sole cost and expense, with respect to maintaining the License Area in a safe and secure manner during the Term.

6.8 City Work. City reserves the right to perform work on the License Area at any time. If City intends to perform work on the License Area, City shall give Licensee at least forty-eight (48) hours' Notice prior to commencing the work (except in the event of an emergency, in which case, no prior Notice is required). Licensee shall comply with all safety instructions issued by City to ensure the safety of City personnel or contractors performing work on the License Area.

6.9 Inspection. City may, at any time, for any reason or no reason, without any obligation to do so, enter the License Area for the purposes of inspecting the License Area and the Permitted Use conducted on the License Area for compliance with this Agreement. Licensee shall make a Licensee representative available to be present at any City inspection under this Section 6.9 on, at least, 48 hours' advance Notice from City; provided, however, the presence of a Licensee representative is not required for City to exercise its inspection rights under this Section 6.9.

6.10 Utilities. Licensee shall order, obtain, install, and pay for all utilities, including installation and service charges, required or desired for the Permitted Use. Utilities shall be temporary and constructed and located in accordance with plans approved by City, in City's sole and absolute discretion, before any utility construction or installation commences.

6.11 Superior Interests. This Agreement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases, licenses, permits, easements, or rights-of-way pertaining to the Property existing as of the Effective Date, whether or not of record. Licensee shall obtain all licenses, permits, or agreements required from Third Persons holding a superior interest to allow the Permitted Use on the License Area in compliance with all such superior interests. If the Permitted Use is or becomes inconsistent or incompatible with a preexisting, superior interest, Licensee shall take all action and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.

6.12 Vehicular Traffic. All vehicular traffic shall be confined to concrete, asphalt or decomposed aggregate surfaces unless otherwise approved in writing by City, in City's sole and absolute discretion, prior to the commencement of the Permitted Use.

6.13 Limitation on Construction. Licensee shall not perform any construction on or related to the License Area that is not restoration, repair, or maintenance required to be performed by Licensee under this Agreement.

6.14 Contractors. Licensee shall provide City with a list of all contractors and subcontractors that will perform any part of the Permitted Use, including name, address, email, fax, and phone number. All work requiring a licensed contractor under the State Contractors' State License Law (State Business & Professions Code sections 7000-7191) shall be done by contractors licensed by the State.

6.15 Unauthorized Use Charge. Licensee shall pay City one hundred (100%) of the Gross Revenue, without any deduction, credit, or set-off, from any use of the License Area that is

not a Permitted Use within thirty (30) days after Licensee receives such revenue. Nothing in this Section 6.15 or City's acceptance of any payment under this Section 6.15 is intended to authorize any use of the License Area that is not a Permitted Use, waive Licensee's Default for conducting or allowing such use, or waive any City right or remedy under this Agreement.

7. MAINTENANCE:

7.1 Obligation to Maintain. Licensee shall keep and maintain the License Area in good order, condition, and repair, in accordance with the Maintenance Standard, subject to reasonable wear and tear and any other condition this Agreement expressly does not require Licensee to repair or restore. Licensee's obligation to maintain the License Area includes an obligation to make all repairs that the License Area may require under applicable Law. City has no obligation to maintain or repair the License Area.

7.2 Maintenance Standard. Licensee's obligation to maintain the License Area under Section 7.1 includes maintenance, repair, reconstruction, and replacement of all asphalt, concrete, landscaping, utility systems, irrigation systems, drainage facilities or systems, grading, subsidence, retaining walls or similar support structures, foundations, signage, ornamentation, and all other improvements on or to the License Area, now existing or made in the future, as necessary to maintain the appearance, character and level of quality of the License Area. Licensee's obligation to maintain the License Area described in the immediately preceding sentence shall include: (a) maintaining the surfaces of the License Area in an evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability; (b) removing all papers, mud, sand, debris, filth, and refuse and thoroughly sweeping areas to the extent reasonably necessary to keep such areas in a clean and orderly condition; (c) removing or covering graffiti in accordance with Section 7.4; (d) placing, keeping in repair and replacing all necessary and appropriate directional signs, markers, and lines; (e) operating, keeping in repair, and replacing where necessary, such artificial lighting facilities as shall be reasonably required; (f) providing security services and taking all reasonably appropriate measures to ensure the safety of Persons using the License Area; and (g) maintaining, mowing, weeding, trimming, and watering all landscaped areas and making such replacements of plants and other landscaping material as necessary to maintain the appearance, character and level of quality of the landscaping, all at the sole cost and expense of Licensee. Licensee's obligation to maintain the License Area described in the two immediately preceding sentences is, collectively, referred to in this Agreement as the "**Maintenance Standard.**"

7.3 Maintenance Default. If an adverse condition occurs on the License Area in contravention of the Maintenance Standard (each such occurrence being a "**Maintenance Deficiency**"), then City may Notify Licensee of the Maintenance Deficiency. If Licensee fails to cure or commence and diligently pursue to cure the Maintenance Deficiency within thirty (30) days following Licensee's receipt of Notice of the Maintenance Deficiency, City shall have the right (but no obligation) to enter the License Area following five (5) days advance Notice and perform all acts necessary to cure the Maintenance Deficiency or to take any other action at law or in equity that may then be available to City to accomplish the abatement of the Maintenance Deficiency. Any amount of money expended by City for the cure or abatement of a Maintenance Deficiency under this Section 7.3 shall be reimbursed to City by Licensee within thirty (30) days after Notice to Licensee of the amount. Any amount of money expended by City for the cure or abatement of a Maintenance Deficiency under this Section 7.3 that is not reimbursed to City by Licensee within thirty (30) days after Notice to Licensee of such amount shall accrue Default Interest until paid in full.

7.4 **Graffiti.** Graffiti, as defined in Government Code section 38772, applied to any exterior surface on the License Area and visible from outside the License Area shall be removed by Licensee by either painting over the evidence of such vandalism with a paint color-matched to the surface on which the paint is applied or removed with solvents, detergents, or water, as appropriate. Notwithstanding Section 7.3, if any such graffiti is not removed within seventy-two (72) hours after the time Licensee discovers or receives Notice of the graffiti or, in the case of graffiti that cannot reasonably be removed within seventy-two (72) hours after the time Licensee discovers or receives Notice of the graffiti, whichever is earlier, if Licensee does not duly commence and diligently complete such cure within a reasonable time under the circumstances, then after Notice to Licensee, City shall have the right (but no obligation) to enter the License Area and remove the graffiti. Any amount of money expended by City for removal of graffiti from the License Area under this Section 7.4 shall be reimbursed to City by Licensee, within thirty (30) days after Notice to Licensee of such amount. Any amount of money expended by City for removal of graffiti under this Section 7.4 not reimbursed to City by Licensee within thirty (30) days after Notice to Licensee of such amount shall accrue Default Interest until paid in full.

8. **PREVAILING WAGE LAWS.** On the Effective Date, no public funds are provided by City or any other Person to Licensee relating to Licensee's use of the License Area. If Licensee obtains any public funds after the Effective Date from City or another Person relating to Licensee's use of the License Area, Licensee shall comply with Prevailing Wage Laws in performing all restoration, repair, or maintenance required to be performed by Licensee under this Agreement.

9. **LICENSEE INSURANCE.** Licensee shall maintain, to protect the City Parties against all insurable Claims arising from or relating to this Agreement, the License Area, or the Permitted Use, at the sole cost and expense of Licensee, all the insurance coverage required in **EXHIBIT C** attached to this Agreement.

10. **WASTE OR DAMAGE.** Licensee shall immediately Notify City of any waste, casualty, or damage to the License Area or other areas of the Property of which Licensee becomes aware. Licensee shall not commit, or allow to be committed, any waste, casualty, or damage to property or injury to person on or around the License Area or other parts of the Property. If waste, casualty, or damage to the Property arises from the Permitted Use, action by a Licensee Party, or failure to act by a Licensee Party that had a duty to act, at City's election, in City's sole and absolute discretion, Licensee shall make, or cause to be made, full repair of the waste, casualty, or damage and restore the Property to its condition existing immediately prior to the waste, casualty, or damage. Licensee shall commence preliminary steps toward restoration of the Property as soon as practicable, but no later than thirty (30) days after the date the waste, casualty, or damage occurs. Licensee shall complete all required repairs or restoration within ninety (90) days after the date the waste, casualty, or damage occurs. Licensee must obtain all Approvals required for repair or restoration of all waste, casualty, or damage to the Property. Following the occurrence of any casualty that materially restricts use of the License Area or access to the License Area for the Permitted Use for more than thirty (30) days, City or Licensee may terminate this Agreement by seven (7) days' Notice to the other Party. This Section 10 shall survive the Termination Date.

11. **ENVIRONMENTAL CONDITIONS.** Licensee shall not cause or permit any Environmental Condition. If Licensee discovers or becomes aware of an Environmental Condition, Licensee shall Notify City of such Environmental Condition as soon as possible, but in all cases within twenty-four (24) hours following the Licensee becoming aware of such Environmental Condition.

11.1 Remediation. If an Environmental Condition occurs, Licensee shall remediate the Environmental Condition in accordance with Law to allow all uses of the Property permitted by Law immediately before the Environmental Condition is discovered, at Licensee's sole cost and expense. If Licensee knows or has reasonable cause to believe that an Environmental Condition is an imminent danger to public health and safety, Licensee shall take all actions necessary to alleviate the imminent danger, at Licensee's sole cost and expense.

11.2 Removal. If a Licensee Party stores, utilizes, generates, or otherwise brings Hazardous Substances onto the Property in accordance with Law, Licensee shall remove all such Hazardous Substances from the Property prior to the Termination Date and provide City with documentation demonstrating the legal removal and disposal of the Hazardous Substances. Licensee shall be responsible for all costs incurred by City to remove or dispose of any Hazardous Substances not removed from the Property by Licensee in accordance with this Section 8.2.

11.3 Reports. Licensee shall deliver a written report describing the circumstances of each Environmental Condition in reasonable detail to City within three (3) days after Notifying City of the Environmental Condition. Licensee shall also submit all required reports relating to the Environmental Condition to other Governments as required by Law.

11.4 Environmental Assessment. Upon reasonable cause to believe that an Environmental Condition has occurred, City may cause an environmental assessment of the Property to be performed by a professional environmental consultant registered with the State as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be performed at Licensee's sole cost and expense. Licensee shall reimburse City for all costs and expenses reasonably incurred by City in performing the environmental assessment within fifteen (15) days after Notice to Licensee of the amount of such costs and expenses. Any amount reimbursable to City by Licensee under this Section 11.4 that is not paid within fifteen (15) days after Notice to Licensee of such amount, shall accrue Default Interest until paid.

12. COMPLIANCE WITH LAW.

12.1 General. The Permitted Use shall comply with all Laws, at Licensee's sole cost and expense. Licensee shall comply with all notices, orders, directives, or the like issued by City or any other Government under the authority of current or future Law.

12.2 Compliance with City Standard Contract Provisions. In entering the License Area or performing the Permitted Use under this Agreement, Licensee shall comply with all City standard contract provisions set forth in **EXHIBIT D** attached to this Agreement.

13. INDEMNIFICATION.

13.1 Licensee Indemnity Obligations. In addition to Licensee's obligations to Indemnify the City Parties under other provisions of this Agreement, Licensee shall Indemnify the City Parties against all Claims arising from: (a) Licensee's use of the License Area; (b) this Agreement; (c) personal injury (including death) or property damage (to property of Licensee or any other Person) occurring on the License Area or adjoining real property; (d) personal injury (including death) or property damage resulting from Licensee's use of the License Area; (e) a wrongful intentional act or negligence of one or more of the Licensee Parties; (f) strict liability relating to Licensee's use of the License Area; (g) all applications for Approvals made by or on behalf of one

or more Licensee Parties; (h) all agreements that one or more Licensee Parties makes with a Third Person regarding this Agreement or the License Area; (i) services, labor, material, or equipment supplied to, for, on behalf of, or at the request of one or more Licensee Parties; (j) a workers' compensation claim by one or more employees or contractors of one or more Licensee Parties; (k) all Prevailing Wage Determinations, except to the extent prohibited by Law, including State Labor Code sections 1773.3 or 1781; or (l) an Environmental Condition occurring on or after the Effective Date. Notwithstanding anything to the contrary in this Agreement, Licensee's obligations to Indemnify the City Parties excludes Claims arising solely from the established active negligence or willful misconduct of a City Party.

13.2 Independence of Insurance and Indemnity Obligations. Licensee's obligations to Indemnify the City Parties under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Licensee's insurance or other obligations under this Agreement. Licensee's obligations to Indemnify the City Parties under this Agreement are independent of Licensee's insurance and other obligations under this Agreement. Licensee's compliance with its insurance obligations and other obligations under this Agreement shall not in any way restrict, limit, or modify Licensee's obligations to Indemnify the City Parties under this Agreement and are independent of Licensee's obligations to Indemnify the City Parties and other obligations under this Agreement.

13.3 Survival of Indemnification Obligations. Licensee's obligations to Indemnify the City Parties under this Agreement shall survive the Termination Date, until all actual or prospective Claims subject to Licensee's obligations to Indemnify the City Parties under this Agreement are fully, finally, absolutely, and completely barred by applicable statutes of limitations.

13.4 Indemnification Procedures. Wherever this Agreement requires Licensee to Indemnify the City Parties:

13.4.1 *Notice.* The affected City Parties shall Notify Licensee of the Claim within a reasonable time.

13.4.2 *Selection of Counsel.* Licensee shall select counsel reasonably acceptable to City's City Council. Even though Licensee shall defend the Claim, the affected City Parties may, at their respective options, engage separate legal counsel, at Licensee's expense, to advise them regarding the Claim and their defense. The affected City Parties' separate legal counsel(s) may attend all proceedings and meetings. Licensee's legal counsel shall actively consult with the City Parties' separate legal counsel, subject to applicable conflict of interest and privileged communication limitations.

13.4.3 *Cooperation.* The affected City Parties shall reasonably cooperate with Licensee's defense of the City Parties.

13.4.4 *Settlement.* Licensee may only settle a Claim with the prior written consent of the affected City Parties, in their respective sole and absolute discretion.

13.5 Immediate Duty to Defend. The duty to defend that is within Licensee's obligations to Indemnify the City Parties under this Agreement includes Claims for which the City Parties may be liable without fault or strictly liable and applies regardless of whether the issues of negligence, liability, fault, default, or other obligation on the part of Licensee or the City Parties have been

determined. The duty to defend applies immediately, regardless of whether the City Parties have paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any Claims. It is the express intention of the Parties that the City Parties be entitled to obtain summary adjudication or summary judgment regarding Licensee's duty to defend the City Parties at any stage of a Claim within the scope of Licensee's obligations to Indemnify the City Parties under this Agreement.

13.6 Savings Provision. Notwithstanding anything in this Agreement to the contrary, if the extent of Licensee's obligation to Indemnify the City Parties under this Agreement exceeds the indemnity obligation allowed by applicable Law, Licensee's obligation to Indemnify the City Parties shall be reduced to the extent required to comply with applicable Law.

14. **TAXES; POSSESSORY INTEREST TAX.** Licensee shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Licensee, this Agreement, the Permitted Use, or the License Area. Licensee acknowledges and agrees that this Agreement may create a possessory interest in the Property subject to property taxation and that Licensee may be subject to payment of property taxes levied on such interest. Any such possessory interest tax imposed shall be solely a tax liability of Licensee and shall be paid before delinquency by Licensee. In addition, Licensee shall pay before delinquency all personal property taxes becoming due for equipment, fixtures, inventory, or other personal property of Licensee or any other Licensee Party installed, maintained, or present at or on the License Area. Licensee acknowledges and agrees that it shall bear all responsibility, liability, costs, and expenses connected in any way with any tax consequences experienced by Licensee related to this Agreement or the Permitted Use.

15. **END OF TERM.** Before the Termination Date, Licensee shall remove or cause the removal of all the personal property of the Licensee Parties from the License Area and place the License Area in a condition as close as possible to the condition of the License Area on the day before the Effective Date, reasonable wear and tear excepted. Without limiting the obligation of Licensee to remove all the personal property of the Licensee Parties from the License Area before the Termination Date, Licensee agrees that City may dispose of all personal property on the License Area after the Termination Date, at Licensee's sole cost and expense.

16. **HOLDOVER.** Any continued use of the License Area by Licensee or receipt or acceptance of License Fee payment(s) by City after the Termination Date shall not renew or extend the Term or this Agreement and all terms and conditions of this Agreement shall apply to such use except: (1) City may terminate this Agreement for any reason or no reason on seven (7) days' Notice to Licensee; and (2) the License Fee shall be the fair market value of such use of the License Area, as determined by City.

17. **CITY CURE RIGHT.** If Licensee fails to take any action this Agreement requires of Licensee, without waiving or releasing Licensee from any obligation, Default, or Event of Default and without waiving City's right to take such action as this Agreement may permit as a result of a Default or Event of Default, City may (but need not) take such action. Licensee shall reimburse City for all reasonable costs and expenses (including the costs of City staff time, administrative overhead, and Legal Costs) incurred by City in exercising its cure rights under this Section 17 within thirty (30) days after Notice to Licensee of such costs. All amounts reimbursable to City by Licensee under this Section 17 that are not paid within thirty (30) days after Notice to Licensee of the amount shall accrue Default Interest until paid. Nothing in this Section 17 is intended to modify or restrict any other right or remedy available to City under this Agreement or Law.

18. **REMEDIES.** After the occurrence of an Event of Default by the other Party, the non-defaulting Party shall be entitled to take any or all action authorized by this Agreement after the occurrence of an Event of Default by the other Party, including legal proceedings to enforce any or all contractual rights or remedies, or pursue any or all other remedies or damages relating to such Event of Default available to the non-defaulting Party at law or in equity.

19. **LEGAL ACTIONS.** Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages.

20. **CUMULATIVE RIGHTS AND REMEDIES.** The rights and remedies of the Parties under this Agreement are cumulative with all other rights or remedies of the Parties under this Agreement, at law, or in equity. The exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or a different time, of any other right or remedy for the same Default or Event of Default by the other Party or the same right or remedy for any other Default or Event of Default by the other Party.

21. **LEGAL CHALLENGE OR CHANGE IN LAW.** If a lawsuit is filed against City or Licensee to prevent or prohibit Licensee's Operations on the License Area, or a subsequent change in Law prohibits Licensee's Operations on the License Area, either Party shall have the right to terminate this Agreement, in its respective sole and absolute discretion, on thirty (30) days' Notice to the other Party.

22. **CITY'S RESERVATION OF RIGHTS.**

22.1 Government Action. By entering into this Agreement, neither City nor the City Council is obligating itself or any other Government regarding any discretionary action relating to the development, occupancy, use, or maintenance of the License Area, including re-zonings, variances, environmental clearances, or any Approval required to conduct the Permitted Use.

22.2 Resources. City reserves all right, title, and interest in all natural resources relating to the Property, including subsurface natural gas, oil, minerals, and water, on or within the Property.

23. **EMINENT DOMAIN.** If all or part of the License Area or any other part of the Property is taken through eminent domain proceedings or under threat of the exercise of the power of eminent domain by any Government or utility with the power of eminent domain, City may terminate this Agreement immediately by Notice to Licensee. City may transfer its title or interest in the Property in lieu of condemnation to any Person entitled to exercise the power of eminent domain over the Property. City's exercise of any right or power under this Agreement shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon City for inverse condemnation.

24. **NO DISCRIMINATION OR SEGREGATION.** Licensee covenants by and for itself, himself or herself, its, his or her heirs, executors, administrators, and assigns, and all Persons claiming under or through it, him or her, that neither Licensee nor any Person claiming under or through Licensee shall establish or allow any discrimination against or segregation of any Person or group of Persons on account of race, color, religion, gender, gender expression, gender identity,

disability, sexual orientation, marital status, national origin, ancestry, familial status, or source of income in the use of the License Area.

25. **NOTICES.** All Notices submitted by a Party to the other Party under or as required by this Agreement shall be sent by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) delivery service (i.e., United Parcel Service, Federal Express, etc.); or registered or certified first-class mail, postage prepaid, return receipt requested through the United States Postal Service, to the address of the recipient Party designated below in this Section 23. Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice in accordance with this Section 23. Notice shall be considered received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day the Notice is sent by messenger for immediate personal delivery, one (1) Business Day after delivery to a nationally recognized overnight delivery service, or three (3) days after the Notice is deposited with the United States Postal Service in accordance with this Section 23. Any attorney representing a Party may give any Notice on behalf of such Party. The Notice addresses for the Parties, as of the Effective Date, are as follows:

To City: The City of San Diego
 Attention: Director, Real Estate
 1200 Third Avenue, Suite 1700 (MS 51A)
 San Diego, CA 92101
 (619) 236-6020

To Licensee: San Diego Gas & Electric Company
 Attention: John Davis, Land Manager
 8690 Balboa Avenue, CPA01
 San Diego, CA 92123
 (619) 455-1648
 jdavis12@sdge.com

26. **TIME PERIOD CALCULATION.** Unless otherwise specified, all references to time periods in this Agreement measured in days shall be to consecutive calendar days, all references to time periods in this Agreement measured in months shall be to consecutive calendar months, and all references to time periods in this Agreement measured in years shall be to consecutive calendar years. Any reference to Business Days in this Agreement shall mean consecutive Business Days.

27. **INTERPRETATION PRINCIPLES.** No inference in favor of or against any Party shall be drawn from the fact that such Party drafted any part of this Agreement. The Parties participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term, or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to a document, including this Agreement, refers to such document, as modified from time to time (excepting any modification violating this Agreement), and includes all exhibits,

schedules, addenda, and riders to such document. The word "or" in this Agreement includes the word "and," except where the context clearly requires otherwise. Every reference to a law, statute, regulation, order, form, or similar Government requirement refers to each such requirement as amended, modified, renumbered, superseded, or succeeded, from time to time.

28. **GOVERNING LAW.** The procedural and substantive laws of the State shall govern the interpretation and enforcement of this Agreement, without application of conflicts of laws principles or statutes. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

29. **PRIOR AGREEMENT TERMINATION.** As of the Effective Date, all leases, right-of-entry permits, use and occupancy permits, or other agreements between City and Licensee concerning the Permitted Use on the Property, other than this Agreement, are terminated, except as to any rents, fees, rights, or remedies accrued to either Party under those agreements prior to the Effective Date.

30. **RELATIONSHIP OF PARTIES.** The Parties each intend and agree that City and Licensee are independent contracting entities and do not intend by this Agreement to create any partnership, joint venture, or similar business arrangement, relationship, or association between them.

31. **WARRANTY AGAINST PAYMENT OF CONSIDERATION FOR AGREEMENT.** Licensee represents and warrants to City that: (a) Licensee has not employed or retained any Person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Licensee; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Licensee or any of Licensee's agents, employees, or representatives to any elected or appointed official or employee of City in an attempt to secure this Agreement or favorable terms or conditions for this Agreement. Breach of the representations or warranties in this Section 31 shall entitle City to terminate this Agreement immediately. Upon any termination of this Agreement under this Section 31, Licensee shall immediately repay to City all payments made to or on behalf of Licensee by City (if any) under this Agreement prior to the Termination Date.

32. **UNAVOIDABLE DELAY; EXTENSION OF TIME FOR PERFORMANCE.** Performance by either Party under this Agreement shall not be considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within twenty (20) days after such Party knows of the Unavoidable Delay; and (b) within twenty (20) days after the Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time. Notwithstanding anything to the contrary in this Agreement, no obligation of Licensee for payment of money under this Agreement may be delayed by the occurrence of an Unavoidable Delay, unless the delay in payment of money is due to an Unavoidable Delay that prevents or materially limits the ability to transfer funds by or between Federal or State chartered financial institutions.

33. **NO OTHER REPRESENTATIONS OR WARRANTIES.** Except as expressly set forth in this Agreement, no Party makes any representation or warranty material to this Agreement to the other Party.

34. **NO THIRD-PARTY BENEFICIARIES.** Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns (if any), nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

35. **TIME OF THE ESSENCE.** As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence of this Agreement.

36. **WAIVERS AND AMENDMENTS.** Each waiver of a term, provision, covenant, condition, restriction, or agreement contained in this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. Failure to insist on strict compliance with a term, provision, covenant, condition, restriction, or agreement contained in this Agreement at any time or times shall not constitute a waiver of such term, provision, covenant, condition, restriction, or agreement at any other time, nor shall any waiver or relinquishment of any right or power under this Agreement at any time or times constitute a waiver or relinquishment of such right or power at any other time. Each amendment to this Agreement must be in writing and signed by the authorized representative(s) of both City and Licensee.

37. **ACCESSIBILITY ASSESSMENT.** City discloses to Licensee that the Property has not been inspected by a Certified Access Specialist (CASP). City further states:

A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

38. **SURVIVAL OF AGREEMENT.** All the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or after the Termination Date, until any such dispute is finally and completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment, or expiration of all applicable statutory limitations periods, and all terms and conditions of this Agreement relating to dispute resolution and remedies shall survive the Termination Date.

39. **INTEGRATION.** This Agreement includes seventeen (17) pages and five (5) exhibits (the exhibits are incorporated into this Agreement by reference) constituting the entire understanding and agreement of the Parties regarding the subject matter of this Agreement and supersedes all

previous negotiations or agreements between the Parties relating to the subject matter of this Agreement.

40. **TITLES AND HEADINGS FOR REFERENCE ONLY.** The titles and headings of the articles, paragraphs, or sections of this Agreement are for convenience of reference only, are not to be considered a part of this Agreement, and shall not in any way interpret, modify, or restrict the meaning of any term, provision, covenant, condition, restriction, reservation, or agreement in this Agreement.

41. **SEVERABILITY.** If a term, provision, covenant, condition, restriction, or agreement contained in this Agreement or its application to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Agreement, or the application of such a term, provision, covenant, condition, restriction, or agreement to Persons or circumstances other than those as to which the term or provision is invalid or unenforceable, shall not be affected by such invalidity. All remaining terms, provisions, covenants, conditions, restrictions, or agreements contained in this Agreement shall be valid and enforced to the fullest extent Law allows.

42. **COUNTERPARTS.** This Agreement may be signed in multiple counterpart originals, each of which shall be considered an original, and all of which shall constitute one and the same agreement.

[Remainder of page intentionally blank. Agreement continues on immediately following page.]

43. **ELECTRONIC SIGNATURES.** The Parties agree: (a) to deliver and accept signatures on or under this Agreement by e-mail or electronic means (including digital signatures); and (b) that signatures delivered by e-mail or electronic means (including digital signatures) shall be binding as originals upon the Party so signing and delivering.

44. **EXHIBITS.** All the exhibits attached to this Agreement are described as follows:

EXHIBIT A	Definitions
EXHIBIT B	Property and License Area Description
EXHIBIT C	Insurance Requirements
EXHIBIT D	City Standard Contract Provisions
EXHIBIT E	Prevailing Wage Requirements

[Remainder of page intentionally blank. Signatures appear on immediately following page.]

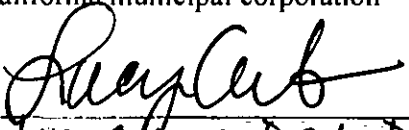
**SIGNATURE PAGE
TO
LICENSE AGREEMENT
(Mt. Soledad Parking Lot - SDG&E)**

Licensee and City sign and enter into this Agreement by and through the signatures of their respective authorized representatives, as follow:

CITY:

The City of San Diego,
a California municipal corporation

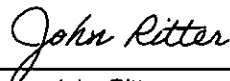
By: _____


Lucy Calhneras, Deputy Director
Economic Development

LICENSEE:

The San Diego Gas & Electric Company, a
California corporation

By: _____

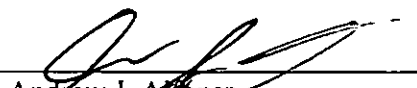

Name: John Ritter
Title: Land Service Manager

Approved as to form on

May 21, 2024

MARA W. ELLIOTT
City Attorney.

By: _____


Andrew J. Alfonso
Deputy City Attorney

**EXHIBIT A
TO
LICENSE AGREEMENT
(Mt. Soledad Parking Lot - SDG&E)**

DEFINITIONS

1. Approval. Excluding this Agreement, all licenses, permits (including building, grading, demolition, alteration, use and special permits), approvals, consents, certificates, rulings, variances, authorizations, conditional use permits, or amendments to any of the foregoing, necessary or appropriate under any Law to commence, perform, or complete the Permitted Use on the License Area.
2. Business Day. Any weekday on which City is open to conduct regular City functions with City personnel.
3. City. Defined in the first paragraph of this Agreement.
4. City Parties. Collectively, City, the City Council, and all City elected officials, employees, agents, and attorneys.
5. City Party. Individually, City, the City Council, and each City elected official, employee, agent, or attorney.
6. Claim. Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity, or otherwise, or foreseeable or unforeseeable), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses, investigation costs of whatever kind or nature, and Legal Costs) and any judgment.
7. County. The County of San Diego, California.
8. Default. Any Monetary Default or Non-Monetary Default.
9. Default Interest. The lesser of eight percent (8%) annually or the maximum rate allowed by Law.
10. Effective Date. Defined in the first paragraph of this Agreement.
11. Environmental Condition. Any of the following events relating to the Property and arising from the Permitted Use, any action by a Licensee Party, or any failure to act by a Licensee Party that had a duty to act: (a) an actual or alleged violation of any Environmental Law; or (b) a Hazardous Substance Discharge.
12. Environmental Law. All Federal, State, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any Government, now in effect or enacted after the Effective Date, regulating, relating to, or imposing liability or standards of conduct concerning: (a) any Hazardous Substance; (b) occupational health or industrial hygiene (only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate

to Hazardous Substances on, under or about the Property or relating to the Permitted Use); (c) occupational or environmental conditions on, under or about the Property or relating to the Permitted Use; (d) or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

13. Equity Interest. Any equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership or equity nature) in a Person.

14. Event of Default. The occurrence of any one or more of the following:

14.1 *Monetary Default*. A Monetary Default continuing for seven (7) days after Notice from the non-defaulting Party, specifying in reasonable detail the amount of money not paid, including the nature and calculation of each such amount, or the evidence of insurance not delivered;

14.2 *Sign Removal*. Licensee's failure to remove an unauthorized Sign in accordance with Section 6.4;

14.3 *Licensee Transfer*. The occurrence of a Transfer, whether voluntarily or involuntarily or by operation of Law, in violation of Section 3.2 in the main body of this Agreement;

14.4 *Non-Monetary Default*. Any Non-Monetary Default, other than those specifically addressed in Sections 14.2 or 14.3, that is not cured within thirty (30) days after Notice to the Party in Default describing the Non-Monetary Default in reasonable detail. In the case of a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) days after the date of Notice of the Non-Monetary Default to the Party in Default, the Party in Default shall not be in Default if it does all the following: (a) within thirty (30) days after the date of Notice of such Non-Monetary Default, Notify the other Party of the intention of the Party in Default to take all reasonable steps to cure such Non-Monetary Default; (b) within thirty (30) days after the date of Notice of such Non-Monetary Default, commence curing the Non-Monetary Default; and (c) complete the cure of the Non-Monetary Default within a reasonable time.

15. Federal. Relating to or under the authority of the federal government of the United States of America.

16. Government. Every governmental agency, authority, bureau, department, quasi-governmental body, utility, utility service provider, or other entity or instrumentality having or claiming jurisdiction over the Property or the Permitted Use, including the Federal, State, County, City (in City's governmental capacity) governments and their subdivisions and municipalities, including City, any planning commission, board of standards and appeals, building department, zoning board of appeals, design review board or committee, the California Coastal Commission, and all other applicable governmental agencies, authorities, and subdivisions having or claiming jurisdiction over the Property or any activities on or at the Property.

17. Gross Revenue. The sum of all the following: (a) the gross amount of cash paid, or to be paid; (b) the fair market value of all other estates, interests, or rights transferred or to be transferred; (c) the outstanding amount of Licensee liabilities assumed or to be assumed; (d) the value of any

liability forgiveness provided or to be provided to Licensee; or (e) in the case of a Transfer without any of the previously described forms of consideration, the fair market value of the estate, interest, or right in the property transferred. Any fair market value determination shall be as of the date of the subject Transfer.

18. Hazardous Substance. Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to the State to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical waste, toxic substance or related material, petroleum, petroleum product or any "hazardous" or "toxic" material, substance, or waste defined by those or similar terms or regulated as such under any Law, any matter, waste, or substance subject to any Law regulating, relating to, or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property, or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor, or any form of energy, from whatever source.

19. Hazardous Substance Discharge. Any deposit, discharge, generation, release, or spill of a Hazardous Substance occurring at, on, under, into, or from the Property, or during transportation of any Hazardous Substance to or from the Property, or arising at any time from activities conducted at, on, under, or from the Property, whether or not caused by a Party.

20. Indemnify. Indemnify, defend, and hold harmless the specified Person(s) from and against the Claim (alleged or otherwise), including Legal Costs and other costs incurred in enforcing the Party's indemnity obligation(s) relating to the Claim.

21. Law. Every law, ordinance, requirement, order, proclamation, directive, rule, or regulation of any Government applicable to a Party, the Property, or the Permitted Use, or otherwise relating to a Party, this Agreement, the Permitted Use, or any Party's rights, obligations, or remedies under this Agreement, whether in force on the Effective Date or passed, enacted, modified, amended, or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

22. Legal Costs. In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs and expenses, and reasonable consultant and expert witness fees and expenses.

23. License Area. That part of the Property depicted as the "License Area" in **EXHIBIT B** attached to this Agreement, and generally described as the parking lot in the Mount Soledad Natural Park near the intersection of Via Capri and Soledad Park Road in the City of San Diego, being approximately 0.56 acres of Assessor's Parcel Number 353-010-15,

24. Licensee. Defined in the first paragraph of this Agreement.

25. License Fee. Define in Section 5.
26. Licensee Parties. Collectively, Licensee, its directors, officers, members, partners, employees, agents, contractors, attorneys, and all other Persons whom Licensee authorizes or allows to enter the License Area.
27. Licensee Party. Individually, Licensee, its directors, officers, members, partners, employees, agents, attorneys, or other Person whom Licensee authorizes or allows to enter the License Area.
28. Lot Closure Days. The three-day period of June 26, 27, and 28, 2024.
29. Mayor. The Mayor of City or his or her designee or successor in function.
30. Monetary Default. Any failure by a Party to pay, deposit, or provide, when and as this Agreement requires, any amount of money or evidence of insurance coverage, whether to or with a Party or a Third Person.
31. Non-Monetary Default. The occurrence of any of the following events, except to the extent constituting a Monetary Default: (a) the failure of a Party to perform one of its obligations under this Agreement; (b) the failure of a Party to comply with a material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, would constitute a breach of this Agreement.
32. Notice. Any consent, demand, designation, election, notice, or request relating to this Agreement. All Notices must be in writing.
33. Notify. To give a Notice.
34. Parties. Collectively, City and Licensee.
35. Party. Individually, either City or Licensee, as applicable.
36. Permitted Use. On the Lot Closure Days only, Licensee may: (1) exclude the public from the License Area; (2) store, stage, and assemble materials and equipment to be used to make repairs to the overhead electrical facility that is the subject of the permit in Document Number 757061 filed with the City Clerk of the City of San Diego on October 20, 1976; and (3) use the License Area as a landing and staging zone for a helicopter.
37. Person. Any association, corporation, Government, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind.
38. Prevailing Wage Law. Defined in 1, Section 1.
39. Prevailing Wage Determination. Any of the following: (a) any determination by the State or Federal Government that prevailing wage rates should have been paid, but were not; (b) any determination by the State or Federal Government that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising from any failure to comply with any Prevailing Wage Law, including the obligation to maintain certified

payroll records under California Labor Code section 1776; or (d) any administrative or legal action or proceeding to recover wage amounts or impose penalties or sanctions, at law or in equity, including under California Labor Code section 1781 or 1782.

40. Primary Use. Defined in Section 3.3.

41. Property. That certain real property owned by City generally described as the Mount Soledad Natural Park in the City of San Diego, Assessor's Parcel Numbers 353-010-15, 353-020-30, and 353-070-05, and depicted on **EXHIBIT B** attached to this Agreement.

42. SDMC. Defined in Section 3.6.

43. Sign. Defined in Section 6.4.

44. State. The State of California.

45. Term. Defined in Section 4.

46. Termination Date. Defined in Section 4.

47. Third Person. Any Person that is not a City Party, a Licensee Party, or an affiliate of a Party.

48. Transfer. Any of the following events, whether occurring by operation of law, voluntarily or involuntarily, or directly or indirectly: (a) any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, license, or other transfer, whether direct or indirect, of all or any part of Licensee's legal, beneficial, or equitable interest in this Agreement; (b) any conversion, exchange, issuance, modification, reallocation, sale, or other transfer of any direct or indirect Equity Interest(s) in Licensee by the owner(s) of such Equity Interest(s); (c) any transaction described in clause "(b)" affecting any Equity Interest(s) or any owner of Equity Interests (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the transactions described in clauses "(a)" through "(c)" of this Section 48. A transaction affecting Equity Interests, as referred to in clauses "(b)" through "(d)" of this Section 48 shall be deemed a Transfer by Licensee even though Licensee is not technically the transferor. A "Transfer" shall not, however, include any transaction (provided that the other Party receives Notice of such transaction at least fifteen (15) days before the transaction is final) relating to any Equity Interest: (a) that constitutes a mere change in form of ownership with no material change in beneficial ownership and constitutes a tax-free transaction under federal income tax law and the State real estate transfer tax; or (b) to any Person that, as of the Effective Date, holds an Equity Interest in, or is under common control with, the Person whose Equity Interest is being transferred.

49. Unavoidable Delay. A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strike, labor trouble or other union activity, casualty, war, act of terrorism, riot, litigation, Government action, regional natural disaster, pandemic, or inability to obtain materials. Unavoidable Delay shall not include delay caused by a Party's financial condition, illiquidity, or insolvency.

**EXHIBIT B
TO
LICENSE AGREEMENT
(Mt. Soledad Parking Lot - SDG&E)**

PROPERTY AND LICENSE AREA DESCRIPTION

THE PROPERTY, SHADED IN GREEN BELOW:



The License Area, outlined in yellow below:



EXHIBIT C
TO
LICENSE AGREEMENT
(Mt. Soledad Parking Lot - SDG&E)

INSURANCE REQUIREMENTS

1. Required Insurance Coverage.

- 1.1. *Automobile Liability Insurance.* Insurance coverage against claims of personal injury (including bodily injury and death), and property damage covering all owned, leased, hired, and non-owned vehicles used by Licensee, with minimum limits for bodily injury and property damage of Two Million Dollars (\$2,000,000). Such insurance shall be provided by a business or commercial vehicle policy and may be provided through a combination of primary and excess or umbrella policies.
- 1.2. *Liability Insurance.* Commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in or about the Property or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and Four Million Dollars (\$4,000,000) aggregate. Commercial general liability insurance coverage may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the License Area.
- 1.3. *Property Insurance.* Insurance providing coverage for the Property and all improvements on or to the License Area against loss, damage; or destruction by fire or other hazards encompassed under all risk Property insurance coverage then customarily used for like properties in the County, in an amount equal to one hundred percent (100%) of the replacement value (without deduction for depreciation) of all improvements (excluding excavations and foundations), and in any event sufficient to avoid co-insurance and with no co-insurance penalty provision, with "ordinance or law" coverage. To the extent customary for like properties in the County at the time, such insurance shall include coverage for explosion of steam and pressure boilers and similar apparatus located in or associated with the Property, an "increased cost of construction" endorsement and an endorsement covering demolition and cost of debris removal.
- 1.4. *Workers Compensation Insurance.* Workers compensation insurance complying with the provisions of State law and an employer's liability insurance policy, with a minimum liability limit of One Million Dollars (\$1,000,000) per accident for bodily injury, or disease, covering all employees of Licensee.
- 1.5. *Pollution Liability Insurance.* If the Permitted Use includes sampling, testing, geotechnical boring, construction, or installation activities below the surface of the Property (collectively, "Subsurface Work"), Excess Liability Insurance Policy

including Pollution insurance against claims arising from pollution conditions or site environmental conditions, including ongoing operations performed by Licensee or on Licensee's behalf, Licensee's products, Licensee's work (including Licensee's completed operations performed by Licensee or on Licensee's behalf), or premises owned, leased, controlled, or used by Licensee, with minimum liability limits of Two Million Dollars (\$2,000,000) for any one claim or occurrence and Four Million Dollars (\$4,000,000) aggregate per policy period of one year. All costs of defense covered by the Excess Liability Insurance including Pollution shall be outside the policy's liability limits. The deductible for Contractors Pollution Liability Insurance may not exceed Twenty-Five Thousand Dollars (\$25,000) per claim unless and until Licensee obtains City's separate written approval of a higher deductible amount. With City's separate prior written approval, Licensee may satisfy its obligation to maintain Contractors Pollution Liability Insurance through its subcontractor that will perform the Subsurface Work maintaining Contractors Pollution Liability Insurance as required under these Insurance Requirements (defined below). When Licensee requests City's approval to use its subcontractor's Contractors Pollution Liability Insurance, Licensee shall certify to City that all Subsurface Work requiring Contractors Pollution Liability Insurance under these Insurance Requirements will be performed exclusively by the subcontractor that will maintain the Contractors Pollution Liability Insurance and provide City with a copy of its subcontractor's Contractors Pollution Liability Insurance policy. Policies issued on a claims made basis must be issued before any work commences, be maintained for the duration of all work and include a 36-month extended claims discovery period applicable to all work or the policy or policies must be maintained for at least 36 months after completion of all the work without advancing the retroactive date.

- 1.6. *Aviation Liability Insurance.* Aviation Liability insurance against claims arising on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal injury arising from the operation of aircraft, transportation of construction equipment and materials, and any other aviation-related activities in, above, or about the Property, with minimum liability limits of Five Million Dollars (\$5,000,000) for any one claim or occurrence and Ten Million Dollars (\$10,000,000) aggregate per policy period of one year. When Licensee requests City's approval to use its subcontractor's Aviation Liability Insurance, Licensee shall certify to City that all work requiring Aviation Liability Insurance under these Insurance Requirements will be performed exclusively by the subcontractor that will maintain the Contractors Aviation Liability Insurance and provide City with a copy of its subcontractor's Contractor Aviation Liability Insurance policy. Policies issued on a claims made basis must be issued before any work commences, be maintained for the duration of all work and include a 12-month extended claims discovery period applicable to all work or the policy or policies must be maintained for at least 12 months after completion of all the work without advancing the retroactive date.

2. **Nature of Insurance.** The contents of this **EXHIBIT C** are sometimes referred to as the "**Insurance Requirements.**" All Liability Insurance, Automobile Liability Insurance, Property Insurance, and Workers Compensation Insurance policies required by these

Insurance Requirements shall be issued by carriers that: (a) are listed in the then current "Best's Key Rating Guide—Property/Casualty—United States & Canada" publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of "A-" and a minimum financial size category of "VII" (exception may be made for the State Compensation Insurance Fund when not specifically rated); and (b) are authorized to do business in the State by the State Department of Insurance. Licensee may provide any insurance under a "blanket" or "umbrella" insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the License Area, which amount(s) shall equal or exceed the amount(s) required by these Insurance Requirements; and (ii) such policy otherwise complies with the requirements of these Insurance Requirements.

3. **Policy Requirements and Endorsements.** All insurance policies required by these Insurance Requirements shall contain (by endorsement or otherwise) the following provisions:

- 3.1. *Insured.* Liability Insurance policies shall name the City Parties as "additional insured." The coverage afforded to the City Parties shall be at least as broad as that afforded to Licensee regarding the License Area and may not contain any terms, conditions, exclusions, or limitations applicable to the City Parties that do not apply to Licensee.
- 3.2. *Primary Coverage.* Any insurance or self-insurance maintained by the City Parties shall be excess of all insurance required to be maintained by Licensee under these Insurance Requirements and shall not contribute with any insurance required to be maintained by Licensee under these Insurance Requirements.
- 3.3. *Contractual Liability.* Liability Insurance policies shall contain contractual liability coverage for Licensee's Indemnity obligations under this Agreement. Licensee's obtaining or failing to obtain such contractual liability coverage shall not relieve Licensee from nor satisfy any Indemnity obligation of Licensee under this Agreement.
- 3.4. *Deliveries to City.* Evidence of Licensee's maintenance of all insurance policies required by these Insurance Requirements shall be delivered to City before the Effective Date. No later than ten (10) days before any insurance required by these Insurance Requirements expires, is cancelled or its liability limits are reduced or exhausted, Licensee shall deliver to City evidence of Licensee's maintenance of all insurance required by these Insurance Requirements. Each insurance policy required by these Insurance Requirements shall be endorsed to state that coverage shall not be cancelled, suspended, voided, reduced in coverage or in limits, except after thirty (30) days' advance Notice of such action to City. Phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of any certificates or policies of insurance applicable to the City Parties under these Insurance Requirements.

- 3.5. *Waiver of Certain Claims.* Licensee shall cause each insurance carrier providing any Liability Insurance, Worker's Compensation Insurance, or Automobile Liability Insurance coverage under these Insurance Requirements to endorse their applicable policy(ies) with a Waiver of Subrogation (defined below) with respect to the City Parties, if not originally in the policy. To the extent Licensee obtains an insurance policy covering both the Licensee Parties and the City Parties and containing a Waiver of Subrogation, the Parties release each other from any Claims for damage to any Person or property to the extent such Claims are paid by the insurance carrier under such insurance policy. "**Waiver of Subrogation**" means and refers to a provision in, or endorsement to, any insurance policy, under which the carrier agrees to waive rights of recovery by way of subrogation against the City Parties for any loss such insurance policy covers.
- 3.6. *No Representation.* No Party makes any representation that the limits, scope, or forms of insurance coverage required by these Insurance Requirements are adequate or sufficient.
- 3.7. *No Claims Made Coverage.* None of the insurance coverage required by these Insurance Requirements may be written on a claims-made basis.
- 3.8. *Fully Paid and Non-Assessable.* All insurance obtained and maintained by Licensee in satisfaction of these Insurance Requirements shall be fully paid for and non-assessable.
- 3.9. *Separation of Insured.* All Liability Insurance and Automobile Liability Insurance shall provide for separation of insured for Licensee and the City Parties. Insurance policies obtained in satisfaction of these Insurance Requirements may provide a cross-suits exclusion for suits between named insured Persons but shall not exclude suits between named insured Persons and additional insured Persons.
- 3.10. *Deductibles and Self-Insured Retentions.* All deductibles or self-insured retentions under insurance policies required by these Insurance Requirements shall be declared to and approved by City. Licensee shall pay all such deductibles or self-insured retentions regarding the City Parties. Each insurance policy issued in satisfaction of these Insurance Requirements shall provide that, to the extent Licensee fails to pay all or any portion of a self-insured retention under such policy in reference to an otherwise insured loss, City may pay the unpaid portion of such self-insured retention, in City's sole and absolute discretion. All amounts paid by City toward self-insured retentions regarding insurance policies covering the City Parties under these Insurance Requirements shall be reimbursed to City by Licensee in the same manner that insurance costs are reimbursable to City from Licensee under Section 5 of these Insurance Requirements.
- 3.11. *Self-Insurance.* Licensee shall have the right to self-insure any or all obligations under this agreement and such self-insurance shall be deemed to have satisfied any/all of the requirements under this agreement. Licensee shall provide a letter of self-insurance to the City evidencing any self-insurance limits.

3.12. *No Separate Insurance.* Licensee shall not carry separate or additional insurance coverage concurrent in form or contributing in the event of loss with insurance coverage required by these Insurance Requirements unless the City Parties are made additional insured under such insurance coverage.

4. **Insurance Independent of Indemnification.** These Insurance Requirements are independent of the Parties' Indemnification and other obligations under this Agreement and shall not be construed or interpreted in any way to satisfy, restrict, limit or modify the Parties' Indemnification or other obligations or to limit the Parties' liability under this Agreement, whether within, outside or in excess of such coverage, and regardless of solvency or insolvency of the insurer issuing the coverage, nor shall the provision of such insurance preclude City from taking such other actions as are available to City under any other provision of this Agreement or otherwise at law or in equity.

5. **City Option to Obtain Coverage.** During the continuance of an Event of Default arising from the failure of Licensee to carry any insurance coverage required by these Insurance Requirements, City may, in City's sole and absolute discretion, purchase such required insurance coverage. City shall be entitled to immediate payment from Licensee of all premiums and associated reasonable costs paid by City to obtain such insurance coverage. Each amount becoming due and payable to City under this Section 5 that is not paid within fifteen (15) days after Notice from City with an explanation of the amounts owed, will accrue Default Interest from the date incurred until paid. Election by City to purchase or not to purchase insurance coverage otherwise required by these Insurance Requirements to be carried by Licensee shall not relieve Licensee of any Default or Event of Default or Licensee's obligation to obtain and maintain any insurance coverage required by these Insurance Requirements.

**EXHIBIT D
TO
LICENSE AGREEMENT
(Mt. Soledad Parking Lot - SDG&E)**

CITY STANDARD CONTRACT PROVISIONS

1. **Licensee Certifications of Compliance.** By signing this Agreement, Licensee agrees and certifies that Licensee is aware of, and will comply with, all the following requirements in performance of this Agreement:

1.1. Certification for Americans with Disabilities Act ("ADA") and Related Laws. Licensee shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations ("Title 24"). When a conflict exists between the ADA and Title 24, Licensee shall comply with the most restrictive requirement (i.e., that which provides the most access). Licensee also shall comply with the ADA Compliance/City Contractors requirements set forth in Council Policy 100-04, which is incorporated into this Agreement by reference. Licensee warrants and certifies compliance with all applicable federal and state access laws and regulations and further certifies that all subcontracts relating to this Agreement, the Site, or the Proposed Development, will contain the subcontractor's agreement to abide by the provisions of Council Policy 100-04 and all applicable federal and California access laws and regulations.

1.2. Compliance with City's Equal Employment Opportunity Program. Licensee shall comply with City's Equal Employment Opportunity Program, set forth in SDMC sections 22.2701 – 22.2708. Licensee shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Licensee shall provide equal opportunity in all employment practices. Licensee shall ensure that its subcontractors comply with this program. Nothing in this Section 1.2 shall be interpreted to hold Licensee liable for any discriminatory practice of its subcontractors.

1.3. Equal Benefits Ordinance Certification. Unless an exception applies, Licensee shall comply with the "Equal Benefits Ordinance" codified in SDMC section 22.4308.

1.4. Equal Pay Ordinance. Unless an exception applies, Licensee shall comply with the "Equal Pay Ordinance" codified in SDMC sections 22.4801 through 22.4809. Licensee shall certify in writing that it will comply with the requirements of the Equal Pay Ordinance. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of Licensee to the same extent as it would apply to Licensee. Licensee shall require all its subcontractors to certify compliance with the Equal Pay Ordinance in written subcontracts.

1.5. Product Endorsement. Licensee shall comply with Council Policy 000-41 concerning product endorsement, requiring that any advertisement referring to City as a user of a good or service must have the prior written approval of the Mayor.

1.6. Business Tax Certificate. Unless City's City Treasurer determines in writing that Licensee is exempt from the payment of business tax, Licensee is required to obtain a City business

tax certificate and provide a copy of such certificate to City before commencing any activities under this Agreement.

1.7. Employment of City Staff. Under City Council Policy 300-11, if Licensee employs an individual, who, within 12 months immediately preceding such employment, did, in the individual's capacity as a City officer or employee, participate in, negotiate with, or otherwise have an influence on the recommendation made to the Council in connection with the entry into this Agreement, City, in its sole and absolute discretion, shall have the right to unilaterally and immediately terminate this Agreement by notice to Licensee.

EXHIBIT E
TO
LICENSE AGREEMENT
(Mt. Soledad Parking Lot - SDG&E)

PREVAILING WAGE REQUIREMENTS

1. **PREVAILING WAGES.** Under San Diego Municipal Code section 22.3019, construction work performed or funded under this Agreement cumulatively exceeding \$25,000 and alteration, demolition, repair and maintenance work performed, or funded under this Agreement cumulatively exceeding \$15,000 is subject to the State prevailing wage law set forth in State Labor Code sections 1720 through 1862, and in undertaking any and all such work, Licensee and Licensee's contractors and subcontractors shall comply with State Labor Code sections 1720 through 1862 and the requirements set forth in this 1 (collectively, "**Prevailing Wage Law**"). This requirement to comply with Prevailing Wage Law is in addition to any requirement to pay "living wage" under San Diego Municipal Code sections 22.4201 through 22.4245 ("**LWO**"). If both Prevailing Wage Law and the LWO are applicable to particular work, Licensee and Licensee's contractors and subcontractors must determine which per diem rate is highest for each classification of work between the applicable prevailing wage rate and living wage rate and pay the higher of the two rates to their employees. The LWO may apply to work that is not subject to Prevailing Wage Law.

1.1 **Compliance with Prevailing Wage Requirements.** Under Prevailing Wage Law, Licensee and Licensee's contractors and subcontractors shall all ensure that all workers who perform work that is subject to Prevailing Wage Law are paid not less than the prevailing rate of per diem wages, as determined by the Director of the California Department of Industrial Relations ("**DIR**"), including work performed during the design and preconstruction phases of construction, which encompasses, without limitation, inspection and land surveying work.

1.1.1 Copies of the prevailing rate of per diem wages are on file with City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Licensee and Licensee's contractors and subcontractors shall all post a copy of the prevailing rate of per diem wages determination at each job site and shall make this information available to all interested Persons upon request. Licensee and Licensee's contractors and subcontractors shall all deliver evidence of the required job site posting to City, within five (5) days after such posting.

1.1.2 The wage rates determined by DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the Term. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with DIR, such predetermined wage rate shall become effective on the date following the expiration date of the previous wage rate and shall apply to this Agreement in the same manner as if it had been published. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the Term, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of

such predetermined wage rates expire during the Term, such wage rate shall apply to the balance of the Term.

1.2 Penalties for Violations. Licensee and Licensee's contractors and subcontractors shall all comply with State Labor Code section 1775, in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. Compliance with State Labor Code section 1775 shall be in addition to all other applicable penalties allowed under State Labor Code sections 1720-1861.

1.3 Payroll Records. Licensee and Licensee's contractors and subcontractors shall all comply with State Labor Code section 1776, which generally requires keeping accurate payroll records, verifying, and certifying payroll records, and making them available for inspection. Licensee and Licensee's contractors and subcontractors shall all comply with State Labor Code section 1776, including having provisions requiring such compliance in all contracts with subcontractors. Any requirement to submit certified payroll records to DIR shall include submitting certified payroll records to DIR through its online system for submission of certified payroll records, as required by DIR. Further, Licensee and Licensee's contractors and subcontractors shall all furnish the records specified in State Labor Code section 1776 directly to the State Labor Commissioner in the manner required in State Labor Code section 1771.4. Licensee is responsible for ensuring that Licensee's contractors and subcontractors submit certified payroll records to City, the State Labor Commissioner, and DIR.

1.4 Apprentices. Licensee and Licensee's contractors and subcontractors shall all comply with State Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Licensee shall be held responsible for its compliance and the compliance of Licensee's contractors and subcontractors with State Labor Code sections 1777.5, 1777.6, and 1777.7.

1.5 Working Hours. Licensee and Licensee's contractors and subcontractors shall all comply with State Labor Code sections 1810 through 1815, including: (i) restricting working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specifying penalties to be imposed on design professionals, contractors, and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of State Labor Code sections 1810 through 1815.

1.6 Required Provisions for Subcontracts. Licensee shall include, at a minimum, a copy of the following provisions in any contract it enters into with a contractor or subcontractor: State Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860, and 1861.

1.7 Labor Code Section 1861 Certification. In accordance with State Labor Code section 3700, Licensee and Licensee's contractors and subcontractors are all required to secure the payment of compensation of their respective employees and by signing this Agreement or any contract or subcontract, respectively, Licensee and Licensee's contractors and subcontractors all certify that "I am aware of the provisions of section 3700 of the State Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-

insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract." Licensee shall include this certification in all contracts with each contractor or subcontractor.

1.8 Registration Requirements. All work is subject to compliance monitoring and enforcement by DIR. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal subject to the requirements of State Public Contract Code section 4104 or engage in the performance of any contract for public work, as defined in Prevailing Wage Law, unless currently registered and qualified to perform the work under State Labor Code section 1725.5. In accordance with State Labor Code section 1771.1(a), "[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by section 7029.1 of the State Business and Professions Code or by section 10164 or 2103.5 of the State Public Contract Code, provided the contractor is registered to perform public work under section 1725.5 at the time the contract is awarded."

1.8.1 A contractor's inadvertent error in listing a subcontractor who is not registered under State Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive, provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in State Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor under State Public Contract Code section 4107.

1.8.2 A contract entered into with any contractor or subcontractor in violation of State Labor Code section 1771.1(a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of State Labor Code section 1725.5.

1.8.3 By entering into this Agreement, Licensee is certifying that it has verified or will verify that all contractors and subcontractors used on work subject to Prevailing Wage Law are registered with DIR in compliance with State Labor Code sections 1771.1 and 1725.5 and shall provide proof of such registration to City.

1.9 Filing of Form PWC-100. Licensee shall timely file a PWC-100 Form (or other form required by DIR) with DIR, as and when required by Prevailing Wage Law, and concurrently deliver a copy of such filed form to City.

1.10 Filing of Notice of Completion. Licensee shall record a notice of completion in accordance with State Civil Code section 8182, et seq., with the Recorder for the County of San Diego, California, and concurrently deliver a copy of such recorded notice of completion to City.



Date of Notice: February 14, 2024

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

CITY PLANNING DEPARTMENT

PROJECT NAME/NUMBER: License Agreement between the City of San Diego and SDG&E

COMMUNITY PLAN AREA: La Jolla

COUNCIL DISTRICT: 1

LOCATION: Mt. Soledad Parking Lot along Mt. Soledad Park Road, San Diego, CA 92037

PROJECT DESCRIPTION: On the Lot Closure Days only, Licensee may: (1) exclude the public from the License Area; (2) store, stage, and assemble materials and equipment to be used to make repairs to the overhead electrical facility that is the subject of the permit in Document Number 757061 filed with the City Clerk of the City of San Diego on October 20, 1976; and (3) use the License Area as a landing and staging zone for a helicopter.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities)

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Mayor-Appointed Designee.

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:

The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment pursuant to State CEQA Guidelines Section 15301 (Existing Facilities) which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The exceptions listed in CEQA Guidelines Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effects on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action; and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

CITY CONTACT: Mary Carlson

MAILING ADDRESS: 1200 Third Ave, Suite 1700, San Diego, CA 92101

PHONE NUMBER/E-MAIL: 619-236-6079/mmcarlson@sandiego.gov

On February 14, 2024, the City of San Diego made the above-referenced environmental determination pursuant to CEQA. This determination is appealable to the City Council. If you have any questions about this determination, contact the City Contact listed above.

Applications to appeal the CEQA determination to the City Council must be filed with the Office of the Clerk within 10 business days from the date of the posting of this Notice (**February 29, 2024**). Appeals to the City Clerk must be filed via e-mail or in-person as follows:

1. Appeals filed via Email: The Environmental Determination Appeal Application Form [DS-3031](#) can be obtained at <https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031.pdf>. Send the completed appeal form (including grounds for appeal and supporting documentation in pdf format) by email to Hearings1@sandiego.gov by 5:00p.m. on the last day of the appeal period; your email appeal will be acknowledged within 24 business hours. You must separately mail the appeal fee by check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. The appeal filing fee must be United States Postal Service (USPS) postmarked before or on the final date of the appeal.
2. Appeals filed In-Person: The Environmental Determination Appeal Application Form [DS-3031](#) can be obtained at: <https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031.pdf>. Bring the fully completed appeal application [DS-3031](#) (including grounds for appeal and supporting documentation) to the City Administration Building— Public Information Counter (Open 8:00am to 5:00pm Monday through Friday excluding City approved holidays), 1st Floor Lobby, located at 202 C Street, San Diego, CA 92101, by 5:00pm on the last day of the appeal period. The completed appeal form shall include the required appeal fee, with a check payable to: City Treasurer.

The appeal application can also be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

POSTED ON THE CITY'S CEQA WEBSITE

POSTED: February 14, 2024

REMOVED: February 29, 2024

POSTED: Z. Marquez

03/01/2024

Attachment B

Environmental Determination (NORA)	
Environmental Planner	Zaira Marquez (zmarquez@saniego.gov)
Project Name	License Agreement between the City of San Diego and SDG&E
Environmental Determination	This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities)
Date NORA Posted	02/14/2024
Date NORA Removed	02/29/2024



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/15/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** is **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA LLC 111 S.W. COLUMBIA FIFTH FLOOR PORTLAND, OR 97201 Attn: Seattle.Certrequest@marsh.com / Fax: 212-948-0507 CN101763283-STND-GAWUP-23	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: N/A INSURER B: Associated Electric & Gas Ins Services Ltd INSURER C: N/A INSURER D: N/A INSURER E: INSURER F:
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COVERAGES **CERTIFICATE NUMBER:** SEA-004016462-02 **REVISION NUMBER:** 8

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	UMBRELLA LIAB ☐ OCCUR ☒ EXCESS LIAB ☒ CLAIMS-MADE DED RETENTIONS			XL5112512P	06/26/2023	06/26/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 3,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Pollution Liability - - Sudden and Accidental only			XL5112512P \$1M SIR	06/26/2023	06/26/2024	Per Claim and Aggregate 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
With respect to Excess Liability, the City of San Diego, the City Council, and all City elected officials, employees, agents, and attorneys are included as Additional Insured but only to such extent and for such limits of Liability (subject always to the Terms and Limits of the policy) as the INSURED has agreed to provide insurance for the Certificate Holder under the following contract and/or operations: City of San Diego License Agreement for Mt. Soledad Parking Lot. Excess Liability policy wordings include blanket additional insured. Coverage is primary and cross liability applies as respect to Excess Liability.

CERTIFICATE HOLDER The City of San Diego Attention: Director, Real Estate 1200 Third Avenue, Suite 1700 (MS 51A) San Diego, CA 92101	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Marsh USA LLC</i>
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ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED

Endorsement No. 19Effective date of Endorsement June 26, 2023Attached to and forming part of POLICY No. XL5112512PNAMED INSURED: Sempre

It is understood and agreed that this POLICY is hereby amended as indicated. All other terms and conditions of this POLICY remain unchanged.

**ADDITIONAL INSURED - BLANKET BASIS
(CERTIFICATE HOLDERS)**

Any person or organization to whom a Certificate of Insurance has been issued with respect to this POLICY is included as an additional INSURED under the POLICY, but only if and to the extent the NAMED INSURED has agreed in writing prior to an OCCURRENCE to provide insurance to such person or organization. The coverage afforded the additional INSURED is subject to the terms, exclusions and conditions of this POLICY, including the Limits of Liability, and is further limited to the amount required by the prior written agreement with the NAMED INSURED.

Notwithstanding the foregoing, the following shall not be an additional INSURED under this POLICY:

- (a) any organization acquired or formed by the NAMED INSURED after the inception of the POLICY PERIOD;
- (b) where such other person or organization has assumed the liability of any other INSURED under contract; or
- (c) where such other person or organization is engaged in a JOINT VENTURE with the NAMED INSURED in which the NAMED INSURED is not the operator or managing partner.



Signature of Authorized Representative

ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED

Endorsement No. 32Effective date of Endorsement June 26, 2023Attached to and forming part of POLICY No. XL5112512PNAMED INSURED: Sempre

It is understood and agreed that this POLICY is hereby amended as indicated. All other terms and conditions of this POLICY remain unchanged.

CONDITION (H) OTHER INSURANCE
(Primary and Non-Contributory with Prior Writing or Law)

Condition (H) *Other Insurance* is replaced by the following:

(H) *Other Insurance*

- (1) If other valid and collectible insurance with any other insurer, whether such insurance is issued before, concurrently with, or after the inception of this POLICY, is available to the INSURED covering a CLAIM also covered by this POLICY, other than insurance that is issued specifically as insurance in excess of the insurance afforded by this POLICY, then the COMPANY shall only be liable in excess of and shall not contribute with such other insurance.
- (2) If, however, a NAMED INSURED
 - a) has agreed in writing (a Writing) prior to an OCCURRENCE to provide insurance to any person or organization (and such person or organization otherwise qualifies as an INSURED under Definition (L)(2)) and the Writing requires the insurance afforded by this POLICY to be primary as respects any other insurance available to such person or organization; or
 - b) is subject to any ordinance, rule, or law (a Law) under which the NAMED INSURED performs work that requires the NAMED INSURED to provide insurance to any person or organization, then such person or organization is an INSURED under this POLICY to such extent and for such limits of liability (subject always to the terms and Limits of Liability of this POLICY) as required by such Law, and such Law requires the insurance afforded by this POLICY to be primary as respects any other insurance available to such person or organization,

then the insurance afforded by this POLICY is primary as respects any other insurance available to such INSURED up to (a) the amount required by such Writing or Law, but not in excess of the Limits of Liability set forth in Section I (B) of this POLICY, or (b) \$1,000,000 if an amount is not specified in the Writing or Law.

- (3) If a Writing or Law requires the insurance afforded by this POLICY to be non-contributory with other insurance issued by any other insurer to any INSURED as defined in paragraph (2) of this Endorsement, then the COMPANY shall not seek contribution from such other insurer.
- (4) Nothing in this Endorsement makes this POLICY subject to the terms of any other insurance, reduces or negates the Underlying Limits, or reinstates, increases, or in any way expands the COMPANY'S Limits of Liability as set forth in this POLICY.



Signature of Authorized Representative

(G) Bankruptcy or Insolvency

Bankruptcy or insolvency of the INSURED shall not relieve the COMPANY of any of its obligations hereunder.

(H) Other Insurance

If other valid and collectible insurance with any other insurer, whether such insurance is issued before, concurrently with, or after the inception of this POLICY, is available to the INSURED covering a CLAIM also covered by this POLICY, other than insurance that is issued specifically as insurance in excess of the insurance afforded by this POLICY, then the COMPANY shall only be liable in excess of and shall not contribute with such other insurance. Nothing herein makes this POLICY subject to the terms of such other insurance.

(I) Inspection and Audit

The COMPANY shall be permitted but not obligated to inspect the NAMED INSURED'S property and operations at any time. Neither the COMPANY'S right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the NAMED INSURED or others to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The COMPANY may examine and audit the NAMED INSURED'S books and records at any time during the POLICY PERIOD and extensions thereof and within three years after the final termination of this POLICY, as far as such books and records relate to the subject matter of this insurance.

(J) Subrogation

- (1) The COMPANY shall have no right of recovery against any person or organization with respect to any OCCURRENCE to the extent that the INSURED has agreed with such person or organization before the OCCURRENCE to:

- (a) waive its right of recovery against such person or organization; or
- (b) reimburse such person or organization for the cost attributable to such person's or organization's liability for any OCCURRENCE caused in whole or in part by such person or organization.

- (2) Inasmuch as this POLICY is excess insurance, the INSURED'S right of recovery against any person or organization cannot be exclusively subrogated to the COMPANY. It is, therefore, understood and agreed that in case of any payment hereunder, the COMPANY will act in concert with all other interests concerned, (including the INSURED'S) in the exercise of such rights of recovery. The apportioning of any amount which may be so recovered shall follow the principle that any interest (including the INSURED'S) which has paid an amount over and above any payment hereunder, shall first be reimbursed up to the amount paid by it; the COMPANY is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interests (including the INSURED'S) of which this coverage is in excess are entitled to claim the residue, if any. Expenses necessary to the recovery of any such amounts shall be apportioned between the interests concerned (including the INSURED'S), in the proportion of their respective recoveries as finally settled.

(K) Changes and Assignment

The terms of this POLICY shall not be waived or changed, nor shall an assignment of interest under this POLICY be binding, except by an Endorsement to this POLICY issued by the COMPANY.



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
05/16/2024

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY MARSH USA, LLC. Four Embarcadero Center, Suite 1100 San Francisco, CA 94111 Attn: SanFrancisco.Certs@marsh.com; Fax: 212-948-0507		PHONE (A/C, No, Ext):	COMPANY See Additional Page for Carriers	
CN101763283-SERML-Prop-24-25				
FAX (A/C, No):	E-MAIL ADDRESS:			
CODE:	SUB CODE:			
AGENCY CUSTOMER ID #:				
INSURED San Diego Gas & Electric Company c/o Sempra Insurance & Risk Advisory 488 8th Ave, HQ06N1 San Diego, CA 92101		LOAN NUMBER	POLICY NUMBER See Additional Page for Carrier	
		EFFECTIVE DATE 02/20/2024	EXPIRATION DATE 02/20/2025	☐ CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION Evidence of property insurance for the City of San Diego License Agreement for Mt. Soledad Parking Lot.
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION		PERILS INSURED	BASIC	BROAD	SPECIAL	X		
COVERAGE / PERILS / FORMS							AMOUNT OF INSURANCE	DEDUCTIBLE
All Risks of Direct Physical Loss or Damage occurring during the policy period, including Business Interruption, Extra Expense, Boiler & Machinery, Flood, and Earthquake – all as more fully described in the policy.							10,000,000	Per Policy Form
Terrorism							10,000,000	Per Policy Form
Other sublimits and deductibles may apply, please refer to policy for full terms and conditions.								

REMARKS (Including Special Conditions)

--

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST SEA-004016719-01													
NAME AND ADDRESS The City of San Diego Attn: Director, Real Estate 1200 Third Avenue, Suite 1700 (MS 51A) San Diego, CA 92101	<table border="1"><tr><td>ADDITIONAL INSURED</td><td>LENDER'S LOSS PAYABLE</td><td>LOSS PAYEE</td></tr><tr><td>MORTGAGEE</td><td></td><td></td></tr><tr><td colspan="3">LOAN #</td></tr><tr><td colspan="3">AUTHORIZED REPRESENTATIVE Marsh Risk & Insurance Services</td></tr></table>	ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	LOSS PAYEE	MORTGAGEE			LOAN #			AUTHORIZED REPRESENTATIVE Marsh Risk & Insurance Services		
ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	LOSS PAYEE											
MORTGAGEE													
LOAN #													
AUTHORIZED REPRESENTATIVE Marsh Risk & Insurance Services													



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY MARSH USA, LLC.		NAMED INSURED San Diego Gas & Electric Company c/o Sempra Insurance & Risk Advisory 488 8th Ave, HQ06N1 San Diego, CA 92101
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 27 FORM TITLE: Evidence of Property Insurance

Company/Syndicate	Participation (%)	POLICY Number
5000 TRV Lloyd's Syndicate	7.00%	ENGB02450060
Scor UK Company Limited	12.50%	ENGB02450060
2121 ARG Lloyd's Syndicate	6.00%	ENGB02450060
2001 AML Lloyd's Syndicate	2.00%	ENGB02450060
0382 HDU Lloyd's Syndicate	1.00%	ENGB02450060
3010 LRE Lloyd's Syndicate	3.00%	ENGB02450060
Arch Insurance (UK) Limited	1.50%	ENGB02450060
2003 AXL Lloyd's Syndicate	4.50%	ENGB02450060
Endurance Worldwide Insurance Limited	5.50%	ENGB02450328
1967 WRB Lloyd's Syndicate	1.50%	ENGB02450332
1225 AES Lloyd's Syndicate	1.00%	ENGB02450352
Swiss Re International SE	5.00%	ENGB02450334
Convex Insurance UK Limited	5.50%	ENGB02450330
Helvetia Schweizerische Versicherungsgesellschaft AG	3.00%	23-7681
QBE UK Limited	6.00%	ENGB02450324
Starr Surplus Lines Insurance Company	10.00%	24SSLDOLD317991
HDI Global Insurance Company	5.00%	CPD1274910
Associated Electric & Gas Insurance Services Limited	20.00%	PO5666809P

TERRORISM COVERAGE

Company/Syndicate	Participation (%)	Policy Number
Liberty Surplus Insurance Corporation	28%	5LABFRN8008
1183 TAL Lloyd's Syndicate	9.60%	BOWTN2450063
2001 AML Lloyd's Syndicate	9.60%	BOWTN2450063
1274 AUL Lloyd's Syndicate	14.40%	BOWTN2450063
2987 BRT Lloyd's Syndicate	9.60%	BOWTN2450063
Endurance Worldwide Insurance Limited	14.40%	BOWTN2450063
2003 XLC Lloyd's Syndicate	4.80%	BOWTN2450063
1609 MOS Lloyd's Syndicate	9.60%	BOWTN2450063

The policies evidenced above contain various sublimits and are subject to deductibles specific to certain coverages. If you would like additional information regarding these sublimits or deductibles, please contact the insured.

**XL Insurance**

Brookfield Place
200 Liberty Street, 25th Floor
New York, New York 10281
P: 212-915-7000 F: 212-945-0829

CERTIFICATE OF INSURANCE

This Is To Certify To: The City of San Diego
Attention: Director, Real Estate
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, CA 92101

That The Following Policy(ies) Of Insurance Have Been Issued To: Sempra
488 8th Ave. HQ06N1
San Diego, CA 92101

Policy Number: UA00014487AV23A

Policy Period: From: 06/26/2020 To: 06/26/2021

Insurance Company: XL Specialty Insurance Company

Registration No., Make and Model, Year	Deductibles			Limits of Liability	
	Insured Value	Not In-Motion	In-Motion	Each Passenger	Each Occurrence
Any unmanned aircraft, owned by, leased or rented or under written agreement to the named insured. Subject to a maximum of fifty (50) unmanned aircraft being operated by the named insured at any one time.	As Per Policy	As Per Policy	As Per Policy	XXX	\$ 10,000,000

Other Coverages/Conditions/Remarks:

The certificate holder(s) is/are included as additional insured under liability coverages, but only with respect to operations of the named insured.
This certificate is effective on the date of issue and effective until the end of the policy period stated above.

Certificate No. 1
Date of Issue 05/16/2024

Authorized Representative

Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject all terms, exclusions and conditions of such policies. This certificate does not amend, extend or otherwise alter the coverages afforded by the policies described herein. Limits may have been reduced by paid claims.



May 15, 2024

The City of San Diego
Attention: Director, Real Estate
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, CA 92101

Re: City of San Diego License Agreement for Mt. Soledad Parking Lot

To Whom It May Concern:

Please accept this letter as compliance with your request for evidence of self-insurance in accordance with the terms of the above-referenced agreement, as dictated under the terms of the agreement, between San Diego Gas & Electric Company ("SDG&E") and requestor. SDG&E hereby acknowledges that it is permissibly self-insured by the State of California and that the following program(s) are in full force and effect:

Type of Insurance	Type of Policy	Policy Period	Limit
Commercial General Liability including • Pollution Liability	Self-Insured	Continuous	\$1,000,000
Automobile Liability	Self-Insured	Continuous	\$1,000,000
Workers' Compensation	Self-Insured	Continuous	Statutory

Any claims resulting from our operations may be referred to:

San Diego Gas & Electric Company
Attention: Jennifer Fernandez, Claims Manager
8315 Century Park Court
San Diego, CA 92123

Should you have any questions or require additional coverage information, please feel free to contact me.

By its duly authorized representative,

Melissa C. Schoening

Melissa C. Schoening
Sr. Insurance & Risk Advisory Analyst

cc: John Davis



Department of Real Estate
and Airport Management

Document Routing Form

SDG&E License – Mt Soledad Parking Lot

Title of document to be signed

Mary Carlson

Your Name/Property Agent's Name


Program Manager/Supervisor Signature

May 20, 2024

Date

Print name of City Attorney: **Andrew Alfonso**

NORA: ☒ Yes Date: 2/14/24

☐ No, see explanation below

Appeal: ☐ Yes ☒ No ☐ N/A

Explanation/Notes: Provide context and enough information so the signer knows what they are signing. Please attach relevant resolutions, etc.

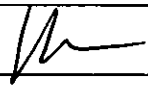
In 1976, the City and SDG&E entered into a Permit for construction and maintenance of overhead power poles on City-owned property, known as Mt Soledad.

In January 2020, SDG&E discovered a "level 2" infraction which requires the power poles to be replaced within 3 years. SDG&E initially requested an easement, however, there was confusion about what existing rights SDG&E had because the exhibit to the existing permit provided by SDG&E was incorrect and it took a long time to verify the correct permit area.

After consultation with the City Attorney, the City determined to *not* grant SDG&E an easement. The language in section 2 of the 1976 Permit implies that SDG&E has both the right and duty to maintain and repair the lines and that it seems reasonable that replacing the poles for the overhead lines is within the scope of the permit (see 10/4/23 email from Andrew Alfonso).

To facilitate replacement of the power poles, SDG&E is requesting permission to block off of a portion of Soledad Park Road which leads to Soledad Natural Park and use the parking lot for several days as SDG&E needs to use a helicopter to transport the new power poles and stage equipment. Parks and Rec is in agreement with this temporary use. SDG&E also making arrangements with Mt Soledad Memorial Association as this will impact access to their property (the cross).

Environmental Determination Notes (if applicable):

Assistant
Deputy Signature: 

Date: 5/20/24

Attachments: 1976 Permit, City Attorney emails, NORA

Carlson, Mary

From: Alfonso, Andrew
Sent: Wednesday, October 4, 2023 10:17 AM
To: Carlson, Mary
Subject: RE: SDG&E Mt. Soledad Easement [2022-39214]
Attachments: RE: SDG&E Easement Mt Soledad

CONFIDENTIAL

Hi Mary,

I believe so, yes. Based on the permit you forwarded to Delmar in the attached email, SDG&E has the right have the overhead lines and the language in section 2 of the permit implies that SDG&E has both the right and duty to maintain and repair the lines. Is any City department objecting to SDG&E doing the work they're proposing? If not, and given the language in section 2 of the permit about "construction, maintenance, use, state of repair or presence" of the lines, it seems reasonable to me to tell SDG&E that replacing the poles for the overhead lines is within the scope of the permit.

Best,
Andrew

Andrew Alfonso

Deputy City Attorney | San Diego City Attorney's Office
1200 3rd Avenue, Suite 1620
San Diego, CA 92101
(619) 533-5916

PLEASE NOTE: This email is for the sole use of the intended recipient(s) and may contain information protected by the ATTORNEY-CLIENT PRIVILEGE and/or by the ATTORNEY WORK PRODUCT DOCTRINE. The contents of this email may include confidential and/or inside information and may be legally privileged or protected and should not be communicated to or relied upon by any person without express consent of the sender. If you are not the intended recipient of this communication, you are hereby notified that any unauthorized review, use, dissemination, distribution, downloading, or copying of this communication is strictly prohibited and may be unlawful. If you have received this email in error, please immediately notify the sender by reply email, delete the original communication, and destroy all copies.

From: Carlson, Mary <MMCarlson@sandiego.gov>
Sent: Tuesday, October 3, 2023 6:08 PM
To: Alfonso, Andrew <AAlfonso@sandiego.gov>
Subject: RE: SDG&E Mt. Soledad Easement [2022-39214]

Andrew – following up on our conversation a couple weeks ago where you and I discussed that I should tell SDG&E to make repairs under the existing permit. SDG&E requested that I send them something in writing because the pole replacement project is an expensive undertaking and they are concerned that they'd start the work and then we'd tell them to stop.

Is it ok for me to send an email to SDG&E advising them that "the City agrees that the existing permit allows them to change out the poles"?

Mary Carlson

Assistant Deputy Director of Real Estate
Department of Real Estate and Airport Management
City of San Diego

Carlson, Mary

From: Palle, Steve
Sent: Wednesday, January 3, 2024 3:43 PM
To: Carlson, Mary; Ferreira, Erika; Williams, Delmar; Field, Andy
Cc: Dennison, Karen; Tomlinson, Tom; Alfonso, Andrew; Berninger, Mark; Kilburg, Paul; Goldstein, Carey
Subject: RE: SDG&E Easement Mt Soledad

Hi Mary,

Sorry for the delay but we are fine with the request. We do ask that that notices are placed well in advance, informing the public of the impacts to access during these time frames. Thank you.

Steve Palle
Deputy Director
Community Parks I Division
619-235-1155

The City of
SAN DIEGO
Parks and Recreation Department

www.sandiego.gov/park-and-recreation

*-A world-class city for all-
City of San Diego Strategic Plan Vision*

From: Carlson, Mary <MMCarlson@sandiego.gov>
Sent: Tuesday, December 26, 2023 4:33 PM
To: Palle, Steve <SPalle@sandiego.gov>; Ferreira, Erika <EFerreira@sandiego.gov>; Williams, Delmar <DGWilliams@sandiego.gov>; Field, Andy <AField@sandiego.gov>
Cc: Dennison, Karen <KDennison@sandiego.gov>; Tomlinson, Tom <TomlinsonT@sandiego.gov>; Alfonso, Andrew <AAlfonso@sandiego.gov>; Berninger, Mark <MBerninger@sandiego.gov>; Kilburg, Paul <PKilburg@sandiego.gov>; Goldstein, Carey <CGoldstein@sandiego.gov>
Subject: RE: SDG&E Easement Mt Soledad

Hi Steve,
SDG&E is now thinking February works better to change out the poles (see attached email). Is Parks and Rec ok with this request and either of the potential timeframes below?

Mon-Wed Feb 5th-7th
Mon-Wed Feb 26th-28th

Mary Carlson
Assistant Deputy Director of Real Estate

ORIG. To
WES C. ON 10-27-76

COPY

DOCUMENT NO. 757061

FILED OCT 20 1976

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

(OVERHEAD)
PERMIT

THIS PERMIT is executed this 6 day of October, 1976,
by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter
called "CITY", and the SAN DIEGO GAS & ELECTRIC COMPANY, a corporation, here-
inafter called "COMPANY". The CITY hereby grants permission to COMPANY and
COMPANY accepts permission from CITY for the purpose of installing an overhead
electrical facility within those certain strips of land as shown outlined in red
on 'EXHIBIT A' (Company Drawing S-3333-97), and described in 'EXHIBIT B', both
exhibits attached hereto and by this reference made part hereof, subject to the
following terms and conditions:

1. TERM OF PERMIT

The term of this permit shall be six years, commencing on the date of
execution hereof by the CITY. At the expiration of each six year term, unless
otherwise terminated, this permit shall be automatically renewed for an additional
six year term so long as the City facility requires the electrical service.

2. HOLD HARMLESS - GENERAL

COMPANY shall at all times indemnify and save CITY harmless against and
pay in full any and all loss, damage or expense that CITY may sustain, incur or
become liable for, resulting in any manner from the construction, maintenance,
use, state of repair or presence of COMPANY'S facilities installed hereunder and
all fixtures and equipment used in connection therewith, including any such loss,
damage or expense arising out of (a) loss of or damage to property, and (b) injury

to or death of persons, excepting any loss, damage or expense and claims for loss, damage or expense resulting from the negligent act or acts of the CITY, its contractors, officers, agents or employees.

3. CITY PERMITTED TO USE SURFACE, SUBSURFACE AND AIRSPACE - RELOCATION AT NO EXPENSE TO CITY

CITY reserves the right to use and to permit the use of the surface, subsurface and airspace over, under and about said real property for the installation of such improvements as it shall now or in the future deem necessary. CITY shall notify COMPANY in writing at least thirty (30) days prior to the date when said rights are to be exercised, and in the event that COMPANY shall object to CITY'S proposed use of said real property, CITY and COMPANY shall endeavor, in good faith, to settle, adjust and compromise such objection. In the event that CITY and COMPANY are unable to settle, adjust and compromise COMPANY'S objection within a reasonable time, COMPANY shall relocate any facilities located within said real property at no expense to CITY.

4. COMPANY PERMITTED TO KEEP PERMIT AREA CLEAR

COMPANY, its successors or assigns, shall have the following rights when necessary for the operation of said permit area: (a) trim or top and keep trimmed or topped, or remove, upon notice to CITY any and all trees situated within said permit area, (b) clear and keep clear all brush and other material situated within said permit area, and (c) cut such roots within said permit area as necessary for the protection of any improvements located therein by COMPANY. Provided, however, that COMPANY shall not by its activities hereunder cause any damage to adjacent property.

5. PERMIT TO REVERT FOR NON-USE

In the event said permit is no longer required for service or if said permit is not used by COMPANY for a period of six (6) months, whichever is sooner,

rights herein granted shall revert to CITY, its successors or assigns, automatically and without the necessity of reentry or notice and COMPANY shall remove, at its own expense, all facilities installed by COMPANY; provided, however, that COMPANY may abandon all underground lines and structures in place. COMPANY shall furnish CITY on demand a good and sufficient Quitclaim Deed of all its rights, title and interest in the above described real property.

6. TEMPORARY PERMIT

This temporary permit is granted for a limited period and may be terminated by CITY, its successors and assigns, upon ninety (90) days' notice at any time. Upon receipt by COMPANY, its successors or assigns, of such notice of termination of the permit, said COMPANY, its successors or assigns, agree to vacate the premises and to remove, within a reasonable time thereafter, any and all installations made by it pursuant to this permit, and to restore the premises to the same or as good condition as that which existed prior to granting herein, such removal and restoration to be effected to satisfaction of the City Manager at no expense to CITY.

THE CITY OF SAN DIEGO

Date OCT 6 1976

By


Assistant to the City Manager

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED
THIS 30th DAY OF April, 1976



SAN DIEGO GAS & ELECTRIC COMPANY

J. R. Belt
Senior Vice President

216929

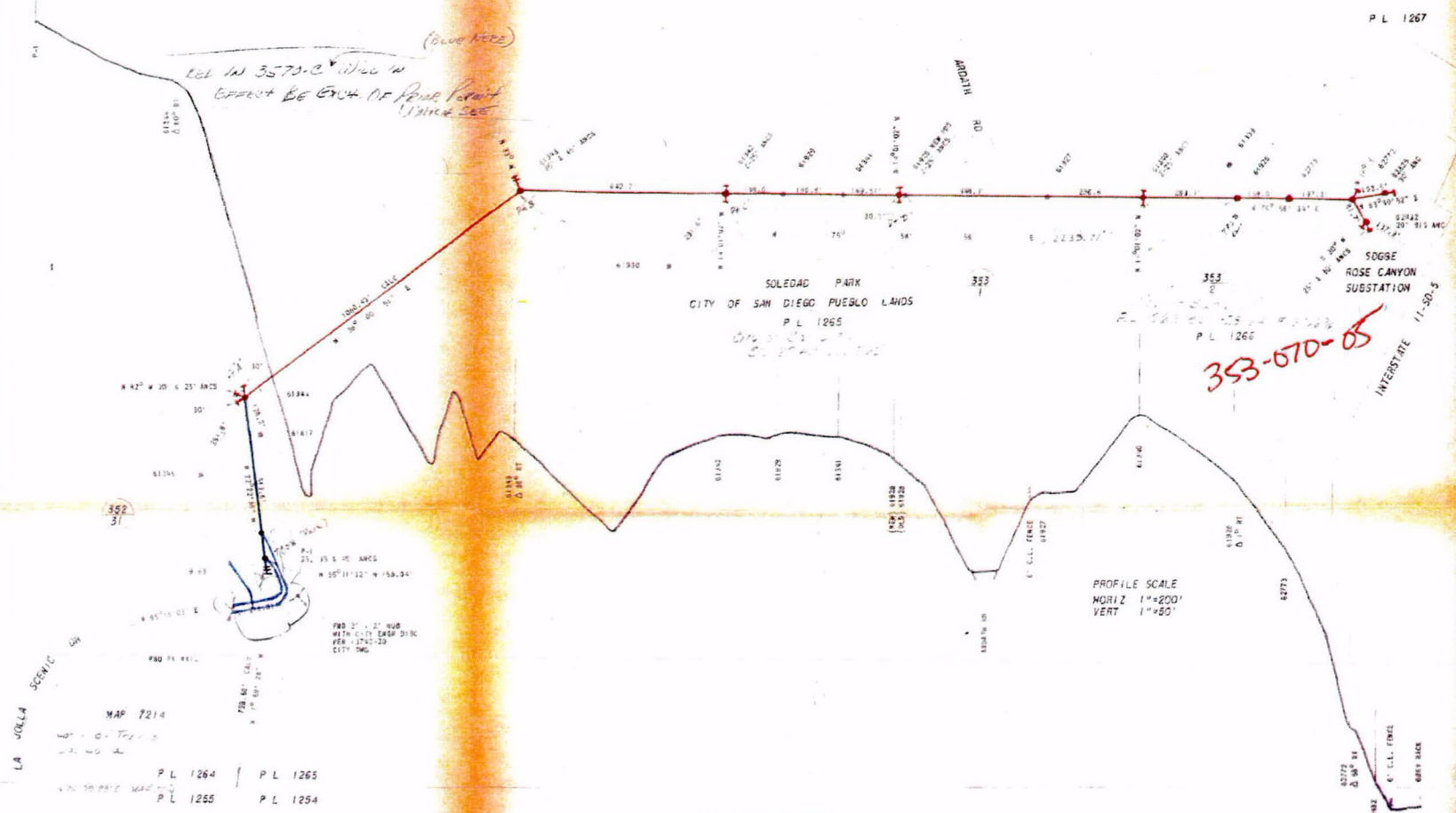
WRP:mi J-12350
MOPAC 94725

SKETCH NO. 5-7
DATE 8-22-76
MOPAC NO. N

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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100' Dist. by Permit
 Survey: ROBERT PERMIT
 C.N.
 PURPOSE: UP GRADING CEMENT
 SYSTEMS

TREE TRIMMING INSTRUCTIONS
 FOR TRIM
 USE TOOL: LIGHT, HEAVY
 REMOVE TREE
 APPROVED BY
 SPECIAL NOTED
 TREE LAND DATE



MAP 7214
 LOT - C-TRIP
 - 2-NG-2
 P L 1264 | P L 1265
 P L 1265 | P L 1254

REF: MISC 254, MAP 6642
 SURV 3-3222, L-1418
 SURV 0-85, T-452-1
 MAP 7214, R/3 5055
 SURV 8-859-A, G-598

MDPC 94725-02

NO.	REVISIONS	DATE	BY	CHKD
1	1	11-15-73	THOS. BRO. LABRACS	
2	2	11-15-73	THOS. BRO. LABRACS	
3	3	11-15-73	THOS. BRO. LABRACS	
4	4	11-15-73	THOS. BRO. LABRACS	
5	5	11-15-73	THOS. BRO. LABRACS	
6	6	11-15-73	THOS. BRO. LABRACS	
7	7	11-15-73	THOS. BRO. LABRACS	
8	8	11-15-73	THOS. BRO. LABRACS	
9	9	11-15-73	THOS. BRO. LABRACS	
10	10	11-15-73	THOS. BRO. LABRACS	

(O.H.) FILE COPY J-12350

DEPOSIT REQUEST FORM

PLEASE DO NOT LEAVE ANY SECTION BLANK - N/A IF NOT APPLICABLE

Requesting Agent: <i>Mary Carlson</i>		Date: <i>3/21/24</i>
Internal Order (Job No.): <i>931192</i>		Sr. Act Clerk ONLY (New Security Deposits): New SAP BP#: _____ New SAP CA#: _____
Depositor (Name on check): <i>SDGE</i>		
Address: <i>P O Box 129007 San Diego CA 92112-9007</i>		
Lessee Name:	Lease:	Sublessee:
<i>SDGE</i>	<i>(the lease hasn't been finalized yet)</i>	
Project Name & Descriptive Location: <i>Mt Soledad Park Overhead Powerline pole replacement staging area</i>		
Description of Payment: E.G., Earnest Money Deposit, Processing Fee (ROE permit, new lease, etc.), Security Deposit, Interest, Refund from Escrow, Trust Fund, etc... <i>Processing Fee</i>		
Security Deposits ONLY: Scheduled Termination Date: _____		
OFFICIAL RECEIPT NO.:		CHECK NO.: <i>1540437</i>
BANK CHECK DRAWN: <i>Wells Fargo</i>		DATED: <i>3/13/24</i>

FILL IN CORRECT ACCOUNTING DATA:

FUND	GL ACCOUNT	COST OBJECT- as needed			AMOUNT
		COST CENTER	INTERNAL ORDER	WBS ELEMENT	
<i>100000</i>	<i>A22069</i>	<i>161300001</i>			<i>1050.00</i>

READ Trust - Security Deposit ONLY: COST CENTER Not needed FUND 820062 GL ACT 110998

Processing Fees ONLY: All-General Fund 1613000001 100000
 Water Dept. 2000000001 700011
 MWWD 2012150001 700000
 Airport (Brwn Fld) 2111000011 700033
 (MYF) 2111000012

422069



A Sempra Energy utility

P.O. Box 129007, San Diego, CA 92112-9007

ACCOUNTS PAYABLE

Wells Fargo
Minneapolis, MN 55479

N9301-0

VENDOR NO	CHECK NO	DATE	AMOUNT
59085	1540437	03/13/24	*****\$1,050.00

PAY: ONE THOUSAND FIFTY USD

TO THE
ORDER OF: CITY OF SAN DIEGO
REAL ESTATE ASSETS DEPARTMENT
1200 THIRD AVE STE 1700
SAN DIEGO CA 92101-4199

Valerie D. Bille

VOID AFTER SIX MONTHS

⑈01540437⑈ ⑆06120975612079900416477⑈



A Sempra Energy utility

P.O. Box 129007, San Diego, CA 92112-9007

FOR QUESTIONS REGARDING THESE PAYMENTS,
PLEASE CALL (858) 503-5480

PLEASE RETAIN THIS STATEMENT FOR YOUR RECORDS

ACCOUNTS PAYABLE

NAME	Vendor No	Check No	Date	Amount
CITY OF SAN DIEGO	59085	1540437	03/13/24	*****\$1,050.00

YOUR REFERENCE	DATE	PO	ITEM	VOUCHER	GROSS	DISCOUNT	AMOUNT PAID
CMP TL638 Z61343	02/13/24			1900471468	1,050.00	0.00	1,050.00

*Hi Mary
This looks like a processing fee
for you. If so, can you please
fill out the deposit form.*

*Thanks
Shelley*