





STAFF REPORT

DATE: OCTOBER 16, 2012
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ROD FOSTER, CITY MANAGER 
PREPARED BY: AMER JAKHER, PUBLIC WORKS DIRECTOR 
SUBJECT: I-215 HIGH OCCUPANCY VEHICLES (HOV) PROJECT - UTILITY
RELOCATION JOINT USE AGREEMENT

RECOMMENDED ACTION

It is recommended that the City Council:

1. Approve a Joint Use Agreement (JUA) between the City of Colton, San Bernardino Associated Governments (SANBAG) and Southern California Gas Company (Gas Company) for the utility easement required for the relocation of a 12" high pressure gas main for the I-215 High Occupancy Vehicles (HOV) Project.
2. Approve Resolution No. R-64-12 amending the Fiscal Year 2012-2013 Budget.

GOAL STATEMENT

The proposed action will support the City's goal to improve traffic circulation and supports inter-agency cooperation.

BACKGROUND

SANBAG is proposing to add HOV lanes on both the north and south bound lanes of the I-215 freeway, between Spruce Street and Orange Show Road, in the counties of Riverside and San Bernardino ("Project"). The Project involves the construction of approximately 7.5 miles of HOV lanes between the 60, 91 and 215 Interchanges in the City of Riverside, and on Orange Show Road in the City of San Bernardino. The environmental document for the Project was approved in April 2011, and right-of-way (ROW) activities are nearing completion.

ISSUES/ANALYSIS

SANBAG is the lead agency for the ROW phase for the I-215 HOV Project and is responsible for the right-of-way acquisitions and utility relocations that are in conflict with the Project. The Project design team has identified an existing 12" high pressure (HP) Gas Company gas main,

which is in conflict with the Project. This 12" HP gas main must be abandoned and replaced with a new 12" HP gas line that will be installed along La Cadena Drive from the Iowa Avenue/La Cadena Drive intersection to De Berry Avenue within the City of Colton right-of-way. Accordingly, an easement from the City of Colton will be needed before the relocation of the 12" HP gas main can take place. The Gas Company owns the existing easement that will be affected by the Project in fee and are asking for the same rights on the new easement. The City acquired La Cadena Drive ROW from the Iowa Avenue/La Cadena Drive intersection to De Berry Avenue in fee. The estimated value of the utility easement to be acquired for the gas line relocation is \$12,000 and the City administrative costs/legal review is \$8,000 for a total cost of \$20,000. Overland, Pacific & Cutler, Inc (OPC), acting as the right-of-way consultant for SANBAG, will prepare the appraisal report and required documentation for the purchase of the new easement along La Cadena Drive.

The recommended action will require a budgetary increase to the Engineering Professional Service Account No. 100-6150-6151-2350 in the amount of \$20,000. These funds are 100% reimbursable and will be collected through Revenue Account No. 100-7820-000

FISCAL IMPACTS

Although a budget adjustment will be required, all cost will be fully reimbursed by SANBAG. There is no fiscal impact to the City as a result of this action.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Exhibit A – Joint Use Agreement No. C13009 between the City of Colton, SANBAG and the Gas Company
2. Resolution No. R-64-12 – Amendment to FY 2012-2013 Budget

Resolution No. R-64-12
FY 12-13 Budget Increase

1 **PASSED, APPROVED AND ADOPTED THIS 16th DAY OF OCTOBER**
2 **2012.**

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4 _____
5 **SARAH S. ZAMORA, MAYOR**

6 **ATTEST:**

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8 **EILEEN GOMEZ, CITY CLERK**
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Exhibit A

**Utility Easement Joint Use Agreement between the City of Colton,
SANBAG and the Gas Company**

Recording Requested by and
when recorded mail to:

Southern California Gas Company
555 W. 5th St., GT 11 A1
Los Angeles, CA 90013-1011
Attn.: Land & Right of Way

Atlas #:	<u>COL 61 & SBD 26</u>	DOCUMENTARY TRANSFER TAX \$	_____
APN:	<u>N/A</u>	_____	Computed on full value of property conveyed
		_____	Computed on full value less liens and encumbrances remaining at time of sale
R.W. Number	<u>259,281</u>	_____	Southern California Gas Company

**JOINT USE AGREEMENT
C13009**

THIS JOINT USE AGREEMENT ("Agreement") is entered into this ___ day of _____, 2012, between SOUTHERN CALIFORNIA GAS COMPANY, a California corporation hereinafter called "Owner", the CITY OF COLTON, a municipal corporation of the State of California, hereinafter called "City" and SAN BERNARDINO ASSOCIATED GOVERNMENTS, hereinafter called "SANBAG", collectively hereinafter called "Parties",

WITNESSETH

WHEREAS, Owner is in possession of certain rights of way and easements, hereinafter referred to as "Owner's easement", and described as follows:

Right of Way recorded November 9, 1948 in Book 2318 at Page 390, Official Records in San Bernardino County, California; Right of Way recorded October 9, 1948 in Book 2304 at Page 284, Official Records in San Bernardino County, California; Right of Way recorded March 27, 1958 in Book 4470 at Page 299, Official Records in San Bernardino County, California; Right of Way recorded January 21, 1952 in Book 2884 at Page 377, Official Records in San Bernardino County, California; and Right of Way recorded April 4, 1958 in Book 4476 at Page 498, Official Records in San Bernardino County, California and Deed recorded May 1, 1973 in Book 8173 at Page 1495, Official Records in San Bernardino County, California; and

WHEREAS, City has acquired certain lands for public street purposes within the City of Colton, County of San Bernardino, commonly known as S La Cadena Avenue, also known as Colton Avenue and De Berry Street as shown and depicted by Tract Map No. 190, Alfred Acres, as recorded in Book 27 at Page 35 in the Official Records of San Bernardino County, California, and Rosedale Tract as recorded in Book 12 at Page 41 in in the Official Records of San Bernardino County, California, hereinafter referred to as "public right of way", which public right of way is subject to Owner's easement; and

WHEREAS, Owner's facilities within the private right of way will interfere with or obstruct the construction, reconstruction, maintenance or use of the highway and City desires to eliminate such interference or obstruction.

NOW, THEREFORE, the Parties agree as follows:

1. The location of Owner's natural gas line as it now lies within the private right of way is hereby changed to the strip of land within the public right of way that is hereinafter referred to as the "new location", which location is depicted on EXHIBIT A attached hereto and incorporated herein.
2. Owner shall rearrange, relocate or reconstruct within the new location all of its facilities now installed pursuant to Owner's easement within the public right of way and Owner does hereby surrender and quitclaim to the underlying property owner all of Owner's right, title and interest under and by virtue of Owner's easement in the old location within the private right of way, which location being quitclaimed is more fully described and depicted in Exhibit B attached hereto and incorporated herein, and not included in the new location. Owner hereby consents to the construction, reconstruction, maintenance of use by City of a public street over, along and upon Owner's easement in the new location within the public right of way subject to the terms and conditions herein contained.
3. City acknowledges Owner's easement in the old location and that Owner's interest in the new location shall be prior in time and superior to those of City except as otherwise provided by this Agreement. Owner has and reserves the right and non-exclusive easement to use, in common with the public's use of the public right-of-way the new location for all of the purposes for which Owner's easement was acquired, without need for any further permit or permission from City except with respect to any work in the public right-of-way. Except in emergencies, Owner shall apply for a no-fee permit from the City before performing any work on Owner's facilities in the new location where such work will be performed in, on or over the traveled way or improved shoulders of the public street or will obstruct traffic. In all cases, Owner shall make adequate provision for the protection of the traveling public and any existing City facilities.
4. In the event that the future use of the public right of way at any time necessitates a rearrangement, relocation, reconstruction or removal of any of Owner's facilities then existing in the new location, the City shall notify Owner in writing of such necessity and agrees to reimburse Owner for its reasonable costs incurred in complying with such notice. Owner shall provide City with plans of its proposed rearrangement and an estimate of the cost thereof and, upon approval of such plans by City, Owner shall promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Owner agrees to make adequate provisions for the protection of the traveling public and existing City facilities when performing such work. No further permit or permission from City for such rearrangement shall be required except as required herein and City shall (1) enter into a Joint Use Agreement on the same terms and conditions as are herein set forth covering any such subsequent relocation of Owners' facilities within the public right of way, (2) provide executed document(s) granting to Owner good and sufficient easement to any City property outside of the public right of way if necessary and available to replace Owner's easement or any part thereof, and (3) reimburse Owner for any reasonable costs which it may be required to expend to acquire such easement, provided it is mutually agreed in writing that Owner shall acquire such easement. Owner shall use its reasonable good faith efforts to minimize the need for new easement(s), either through design or other non-monetary means.
5. Except as expressly set forth herein, this Agreement does not in any way alter, modify or terminate any provision of Owner's easement. Both City and Owner shall use the new location in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Owner or City may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either City or Owner in such a manner as to cause an unreasonable interference with the use of the new location by the other party.
6. SANBAG agrees to compensate the City the value of the easement in the new location to be conveyed to Owner based upon a fair market valuation study. Further, SANBAG agrees to reimburse the City for their administrative costs to process the conveyance and coordinate the relocation of the Owner's facilities within the public right-of-way. The total amount of SANBAG's contribution which includes the easement in the new location and administrative costs shall not

exceed twenty thousand dollars (\$20,000) without the prior written approval from SANBAG. Other than the payment of compensation and costs outlined in this paragraph, SANBAG shall have no other obligations by virtue of this agreement.

7. Owner shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, suits, causes of action, costs, expenses, judgments, decrees, awards, liability, loss, damage or injury of any kind, including all third party claims, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Owner, its directors, officials, officers, employees, volunteers and agents in connection with or due to the Owner's rearrangement, relocation, reconstruction, construction, use, maintenance, installation or operation of the existing Owner's facilities in, over, under, across, along, and upon the new location, except as otherwise provided herein or caused by City's own fault or negligence.
8. City shall defend, indemnify and hold the Owner, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, suits, causes of action, costs, expenses, judgments, decrees, awards, liability, loss, damage or injury of any kind, including all third party claims, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of City, its directors, officials, officers, employees, volunteers and agents in connection with or due to the City's rearrangement, relocation, reconstruction, construction, use, maintenance, installation or operation of any City facilities in, over, under, across, along, and upon the new location, except as otherwise provided herein or caused by Owner's own fault or negligence.
9. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

Signatures on following page

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in triplicate by the respective officials thereunto duly authorized.

CITY OF Colton:
a California Municipal Corporation

OWNER: Southern California Gas Company

By _____
Sarah S. Zamora, Mayor

Andrew I. Thompson
Land & Right of Way Supervisor
Southern California Gas Company

APPROVED AS TO FORM:

City Attorney
City of Colton

SAN BERNARDINO ASSOCIATED
GOVERNMENTS (SANBAG):

APPROVED

By _____
Janice Rutherford
President, SANBAG Board of Directors

Date: _____

APPROVED AS TO FORM

By: _____
Eileen Monaghan Teichert
General Counsel

Date: _____

CONCURRENCE

By: _____
Jeffery Hill
Contract Administrator

Date: _____

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA }
 } ss
COUNTY OF _____ }

On _____, 2012 before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Seal)

Signature _____
Commission #: _____
Commission Expiration: _____

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA }
 } ss
COUNTY OF _____ }

On _____, 2012 before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

(Seal)

Signature _____
Commission #: _____
Commission Expiration: _____

EXHIBIT "A"

