



CITY OF CARSON

Legislation Text

File #: 2019-858, Version: 1

Report to Mayor and City Council

Tuesday, December 03, 2019

Discussion

SUBJECT:

PERMIT ISSUED TO SOUTHERN CALIFORNIA GAS (SCG) TO INSPECT AND REPAIR ITS LINES LOCATED IN WILMINGTON AVENUE SUBJECT TO THE PERMIT CONDITIONS ATTACHED AS EXHIBIT A ("PERMIT") (CITY COUNCIL)

I. SUMMARY

City has issued a permit to Southern California Gas (SCG) to inspect and repair its lines located in Wilmington Avenue subject to the permit conditions attached as Exhibit A ("Permit").

II. RECOMMENDATION

None. The purpose of this Staff Report is to advise the Council of the reasons the Permit was issued without the additional requirements suggested by the Council at its meeting on November 19, 2019.

III. ALTERNATIVES

1. Not applicable.

IV. BACKGROUND

At the Council meeting on Tuesday November 19, 2019, the Council reviewed the proposed permit conditions ("**Original Permit Conditions**") and requested that SCG agree to additional conditions ("**Additional Conditions**"):

1. If the work is not completed by December 31, 2019, SCG would pay \$5,000 per day as liquidated damages to the City.

2. SCG would reimburse the City for its attorney fees up to a maximum of \$1,500.
3. SCG will reimburse City for all its costs.

The revised permit conditions were presented to SCG's legal counsel the following day who rejected the Additional Conditions in a detailed response prepared by SCG's outside legal counsel which asserted:

1. SCG has a right to perform the work under the Franchise Agreement and existing law.
2. The Original Permit Conditions already included costs and obligations in excess of their rights under the Franchise Agreement.
3. The Additional Conditions imposed additional costs exceeding their obligations under the Franchise Agreement and existing California law and would set an unacceptable precedent for all other governmental agencies with which they have to work.
4. If the permit was delayed resulting in fines being imposed on SCG, SCG would seek to recover same from the City together with its attorney fees.

The City Attorney determined that based on the legal constraints applicable to the City under existing franchise law and the Franchise Agreement and to avoid unnecessary litigation with potential liability to the City, the Additional Conditions should not be included in the permit. The Permit was issued on Thursday November 21, 2019.

V. FISCAL IMPACT

None.

VI. EXHIBITS

Permit 77532 issued to Southern California Gas.

Prepared by: City Attorney's Office