

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE BOARD GOVERNED COUNTY SERVICE AREAS
AND RECORD OF ACTION**

February 11, 2020

FROM

LUTHER SNOKE, Interim Director, Special Districts Department

SUBJECT

Contract with Southern California Gas Company for Extension of Natural Gas Lines in CSA 70, Zone CG (Cedar Glen)

RECOMMENDATION(S)

Acting as the governing body of County Service Area 70, Zone CG (Cedar Glen), approve **Contract No. 20-91** with Southern California Gas Company in an amount not to exceed \$11,847.83 for the extension of natural gas distribution lines to supply power to the Cypress Tank Booster Station located on Cypress Road in Cedar Glen.
(Presenter: Luther Snoke, Interim Director, 386-8811)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.
Provide for the Safety, Health and Social Service Needs of County Residents.
Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The cost of this contract with Southern California Gas Company (The Gas Company) will not exceed \$11,847.83. Sufficient appropriation for this contract is available in the 2019-20 Capital Improvement Program (CIP) budget for County Service Area (CSA) 70, Zone CG (Cedar Glen).

BACKGROUND INFORMATION

On September 25, 2018 (Item No. 50), the Board of Supervisors awarded a construction contract (No. 18-373) to Trinity Construction for installation of the Cypress Tank Booster Pump Station and On-Site Piping Project (Project), which is needed to improve the water delivery system in Cedar Glen.

During the Project's bid submittal process, the consultant team for the Special Districts Department coordinated with The Gas Company to provide the necessary service to the Project site. Based upon the expected use, The Gas Company prepared the necessary plans to deliver natural gas to the site. To enable the physical line extension work to be scheduled and performed by The Gas Company, CSA 70 Zone CG is required to enter into a Special Facilities Contract (Contract) and agree to General Conditions applicable to line extensions.

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The Contract and General Conditions for Line Extensions each contain the following non-negotiable nonstandard terms and conditions relating to indemnity:

1. The Applicant, CSA 70 Zone CG, is required to indemnify and hold harmless The Gas Company from and against all liability (excluding Pre-Existing Environmental Liability) arising out of the Contract, except for liability caused by the sole negligence or willful misconduct of The Gas Company.
2. The Applicant, CSA 70 Zone CG, is required to indemnify and hold harmless The Gas Company from liability arising out of or connected with the violation of or compliance with any environmental law or regulation as a result of pre-existing conditions, release or spill of any hazardous material or out of the management and disposal of any pre-existing contaminated soils or groundwater removed from the ground as a result of the work performed under the Contract (“Pre-existing Environmental Liability”).
3. The Gas Company has the right to withhold funds due Applicant as necessary to provide security against loss covered by the foregoing indemnity provisions.

The potential impact of these non-standard provisions is as follows:

1. CSA 70 Zone CG is required to indemnify the Gas Company for general liability arising from the Contract. CSA 70 Zone CG does not typically offer indemnity to non-governmental entities, as it may result in a waiver of sovereign immunity. To illustrate, if a third party suffers damages, it may not be able to sue CSA 70 Zone CG because of applicable immunities. It would be able to sue The Gas Company, a nongovernmental entity, and CSA 70 Zone CG would be obligated to defend The Gas Company unless those damages were caused by The Gas Company’s sole negligence or willful misconduct. The Gas Company will not provide the line extension or gas service unless CSA 70 Zone CG agrees to this indemnity provision.
2. CSA 70 Zone CG is required to indemnify The Gas Company for Pre-existing Environmental liability. As stated in potential impact number 1 above, providing indemnity to a nongovernmental entity may result in a waiver of sovereign immunity. The Gas Company will not provide the line extension or gas services unless CSA 70 Zone CG agrees to this indemnity provision.
3. No funds are due to CSA 70 Zone CG under the Contract, so the withholding provision has minimal impact, if any.

Approval of this contract will allow The Gas Company to proceed with the extension of natural gas distribution line to the Cypress Tank Booster Station.

PROCUREMENT

N/A.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Katherine Hardy, Deputy County Counsel, 387-5455) on December 19, 2019; Finance (Tom Forster, Administrative Analyst, 387-4635) on January 23, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on January 27, 2020.


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Record of Action of the Board of Supervisors
Board Governed County Service Areas

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Josie Gonzales
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: February 11, 2020



cc: SDD/BGCSA- Krause w/agree w/attach
Contractor- C/O SDD/BGCSA w/agree
File- w/agree w/letter
la 02/21/2020