

**CITY OF MANHATTAN BEACH  
DEPARTMENT OF COMMUNITY DEVELOPMENT**

**TO:** Parking and Public Improvements Commission

**FROM:** Marisa Lundstedt, Director of Community Development  
Erik Zandvliet, T.E., City Traffic Engineer Planner

**DATE:** January 22, 2015

**SUBJECT:** Consideration of an Encroachment Permit for a Gas Company Communication Pole on 8<sup>th</sup> Street East of Rowell Avenue

**RECOMMENDATION:**

Staff recommends that the Commission approve a motion to recommend approval of an Encroachment Permit for a Southern California Gas Company Communication Pole on the south side of 8<sup>th</sup> Street approximately 200 feet east of Rowell Avenue by the City Council.

**BACKGROUND:**

On January 7, 2015, the Southern California Gas Company submitted an Encroachment Permit Application for the installation of a new utility communication pole on the south side of 8<sup>th</sup> Street approximately 200 feet East of Rowell Avenue. (Exhibit 1) In accordance with City Council policy, all utility pole installations or relocations are to be reviewed by the Parking and Public Improvements Commission (Commission) for a recommendation which is forwarded to the City Council for approval or denial.

On November 5, 2014, the Southern California Gas Company made a presentation to City Council describing their advanced gas meter program and infrastructure needs. (Exhibits 2 and 3) Approximately five new communications poles outfitted with solar-powered antennas will be needed to wirelessly read and transmit hourly gas usage information for use by the Gas Company and its customers. A detailed description of the program is included in the application package and Council presentation.

**DISCUSSION:**

The purpose of this report is to consider the installation of one utility communications pole near the City's water tower on the south side of 8<sup>th</sup> Street approximately 200 feet East of Rowell Avenue. The proposed 26-foot high pole would be located approximately 17 to 20 feet behind the south curb of 8<sup>th</sup> Street and in front of the existing fence surrounding the water tower. A photo simulation is provided in the Encroachment Application package (Exhibit 1).

Chapter 7.36 of Manhattan Beach Municipal Code describes the codes and regulations for private encroachments on the public right-of-way. Pursuant to this chapter, the City must make certain findings pursuant to Section 7.36.065. A summary of required findings and staff's initial

evaluation is attached to this report (Exhibit 5). This evaluation concludes that all the required findings are met for this Encroachment Permit Application, and the proposed encroachment will conform to the general standards identified in Section 7.36.150 of the Municipal Code.

The City Engineer has determined that the proposed pole location will not be in conflict with existing or future foreseeable public infrastructure pursuant to Section 7.36.050.

**Public Notice**

A notice of the Parking and Public Improvement Commission meeting was mailed to all property owners within a 500 feet radius from the subject encroachment property. Staff has received no responses to the notice prior to the agenda posting date.

**CONCLUSION:**

Staff supports the request for the installation of a new utility communication pole on the south side of 8<sup>th</sup> Street approximately 200 feet East of Rowell Avenue, and recommends that the PPIC approve a motion to recommend approval of the Encroachment Permit by the City Council.

- Exhibits:
1. Encroachment Permit Application with Attachments
  2. City Council Report 11/5/2014
  3. City Council Presentation 11/5/2014
  4. Municipal Code Chapter 7.36
  5. Encroachment Permit Required Findings and General Standards

## **Exhibit 1**

### **Encroachment Permit Application with Attachments**



# ENCROACHMENT PERMIT APPLICATION

Chapter 7.36 MBMC

Manhattan Beach City Hall 1400 Highland Avenue Manhattan Beach, CA 90266

Telephone (310) 802-5500

FAX (310) 802-5501

TDD (310) 546-3501

Applicant/Agent-Name/number So Cal Gas Company Date Jan 7, 2015

Owners **MAILING** Address 555 W 5th Street Phone # (213) 244-2297

City: Los Angeles State: Ca Zip: 90013 E-mail vfistes@semprautilities.com

**PROJECT** Address On 8th St; South of 1427 8th St / 467 Feet West of the West Curbside of N Peck Ave / 18 Feet South of the South Curbside of 8th St "

Encroachment Located on 8th / Peck Ave Street, Avenue, etc. (If on more than one street, note **both**)

Name(s) of **LEGAL OWNER(s)** (AS SHOWN ON TITLE)

Proposed Encroachment (Check all that apply and describe)  Deck/Patio  Fence/Wall

Walkway/landings  Steps  Landscaping

Irrigation (Plumbing permit required)  Lighting/Electrical (Electrical Permit Required)  Other (Describe)

So Cal Gas to install (1) 26ft concrete pole in the public right of way for the Advanced Meter Project. Site ID #MH185-C

Owner certifies he/she has read the standard Encroachment Permit Standards, shall comply with said Standards, and shall not commence the construction of any private improvements in the public right of way without proper approval by the Community Development Department. This Encroachment Permit shall be valid for six (6) months after issuance.

Additionally, a right-of-way permit shall be required for all work in the public right-of-way.

Signature (s) Veronica Fistes

Fee Schedule

Permit Application

\$1,495.00

Permit Fee (4502):

Permit Transfer or Minor Revision

\$700.00

Total:

Permit Appeal to PPIC

\$500.00

### For Office Use Only:

Legal Description \_\_\_\_\_

Map Book \_\_\_\_\_ Page (s) \_\_\_\_\_ APN \_\_\_\_\_

Bldg Permit # \_\_\_\_\_ (if applicable) New House: Yes \_\_\_ No \_\_\_

Comments/Notes: Water Main location: \_\_\_\_\_

Sewer Main location: \_\_\_\_\_

Public Works OK: Yes \_\_\_ No \_\_\_

Agreement Submitted: Yes \_\_\_ No \_\_\_ Insurance Submitted: Yes \_\_\_ No \_\_\_

Other: \_\_\_\_\_

Approved / Denied \_\_\_\_\_ Date \_\_\_\_\_

Community Development Department



Southern  
California  
Gas Company

A Semptra Energy unit

# ADVANCEDmeter

COMMUNICATIONS NETWORK INSTALLATION FACT SHEET

## UPGRADING OUR INFRASTRUCTURE

In 2010, the California Public Utilities Commission approved Southern California Gas Company (SoCalGas®) to upgrade its metering system by adding a communications device to natural gas meters. This technology will automatically read and securely transmit your gas usage information to our customer service and billing center.

## ADVANCING THE WAY WE SERVE YOU

With this upgrade, you will have access to more frequent and detailed information about your gas consumption at [socalgas.com](http://socalgas.com), enabling you with better control of your energy usage and the potential to save money.

## LEARN MORE

SoCalGas has been delivering clean, safe and reliable natural gas to customers for more than 140 years. To learn more, visit [socalgas.com](http://socalgas.com) (search "ADVANCED") or call:

### Residential Customers:

English	1-800-427-2200
Español	1-800-342-4545
國語	1-800-427-1429
粵語	1-800-427-1420
한국어	1-800-427-0471
Tiếng Việt	1-800-427-0478
For other languages	1-888-427-1345
Hearing Impaired (TDD)	1-800-252-0259

### Business Customers:

English	1-800-427-2000
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## FIRST PHASE: INSTALLING THE ADVANCED METER COMMUNICATIONS NETWORK

Data collectors have been positioned on poles throughout our service area, enabling the advanced meter communications device to provide information back to SoCalGas.

- ▶ **Working With Your City** – We are collaborating with your city and other entities to find the best location for installation of our data collectors. In some instances, SoCalGas will need to install new poles to attach the data collectors.



\* Pole type may vary

## ABOUT THE NETWORK

- ▶ Approximately 4,000 data collectors will be installed throughout SoCalGas' service territory, which encompasses approximately 20,000 square miles throughout Central and Southern California, from Visalia to the Mexican border.
- ▶ The network equipment will be pole mounted, 24 feet or higher.
- ▶ The data collectors may be A/C or solar powered.

- ▶ **Working Efficiently** – You may see a SoCalGas-approved contractor in your neighborhood performing these installations, which may take between one and three days to complete. We will make every effort to minimize disruption to your neighborhood.
- ▶ **Safety is a Priority** – The safety of our customers, employees and the communities we serve is our top priority. We will mount all data collectors and their antennas to meet state and local requirements for wind and seismic safety. The data collectors comply with all safety standards set by the Federal Communications Commission (FCC), producing radio frequency emissions at levels far below FCC limits.

## SECOND PHASE: ADVANCED METER UPGRADE

SoCalGas is scheduled to install the advanced meter communications device on approximately 6 million natural gas meters through 2017. This technology is the next step in providing new and improved service for current and future customers. The advanced meter device is battery-powered and turns on for only a fraction of a second a day, for a total of less than two minutes a year. Only your gas usage reading will be transmitted through the network. No other personally identifiable information will be transmitted.

## What is Advanced Meter?

Southern California Gas Company (SoCalGas®) is upgrading its system by adding an Advanced Meter communication device (Advanced Meter) to all residential and most business natural gas meters. The Advanced Meter will read and transmit customer natural gas usage to SoCalGas. However, until our communications network is fully operational, SoCalGas will continue to require access to manually read the meter for a few more months.

The Advanced Meter, which will be installed on the existing analog meter, is battery-powered and turns on for only a fraction of a second each day – for a total of less than two minutes per year. Advanced Meters cannot turn customer gas service on or off.

Advanced Meters provide customers with the opportunity to view their gas usage online at [socialgas.com](http://socialgas.com) or with the Ways to Save mobile application. Customers can use this information to manage energy consumption and to potentially reduce monthly costs.

SoCalGas is scheduled to install the Advanced Meter on approximately 6 million natural gas meters through 2017.

## What if I don't want an Advanced Meter?

SoCalGas recognizes that some customers prefer to continue to have their natural gas meter read manually each month. An Advanced Meter Opt-Out Program has been established for residential customers who do not want an Advanced Meter installed.

The California Public Utilities Commission (CPUC) has mandated the following fee structure for residential customers who participate in the Advanced Meter Opt-Out Program:

### For Non-CARE\* Customers:

Initial Fee: \$75.00  
Ongoing Monthly Charge: \$10.00

### For CARE\* Customers:

Initial Fee: \$10.00  
Ongoing Monthly Charge: \$5.00

Customers who want to participate in the Opt-Out Program should immediately call the SoCalGas Customer Contact Center at, 1-800-427-2200.

### Where Can I Find More Information?

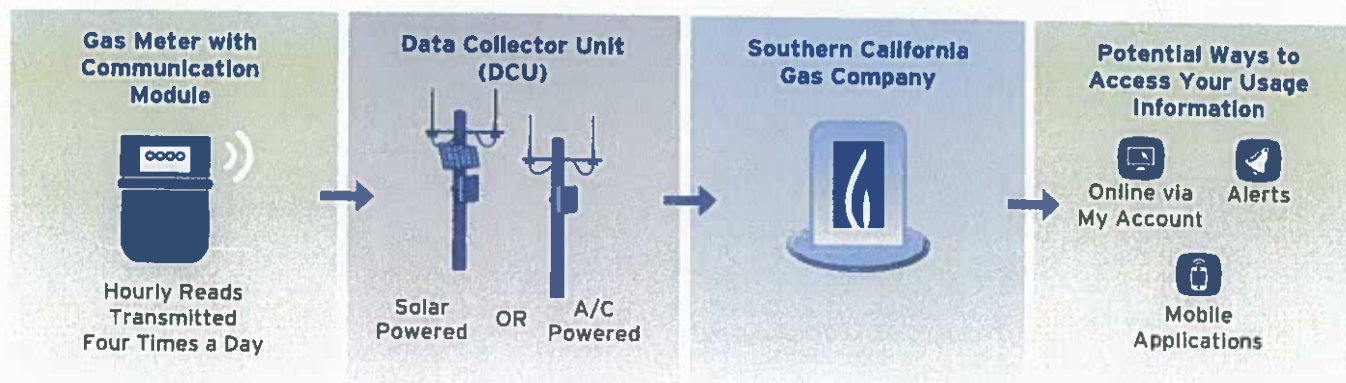
Visit [socialgas.com](http://socialgas.com) (search "ADVANCED") or call:

#### Residential Customers:

English	1-800-427-2200
國語	1-800-427-1429
粵語	1-800-427-1420
한국어	1-800-427-0471
Tiếng Việt	1-800-427-0478
For other languages	1-888-427-1345
Hearing Impaired (TDD)	1-800-252-0259

#### Business Customers:

English 1-800-427-2000



Images are for illustrative purposes only.

\* California Alternate Rate for Energy (CARE) provides a 20% bill discount for income-qualified residential customers as well as for customers participating in public assistance programs.



Southern  
California  
Gas Company



# ADVANCEDmeter

## Construction Notice

Date

Jane Doe  
123 Main Street  
Anywhere, CA 90000

Dear Neighbor:

Southern California Gas Company (SoCalGas®) will be in your neighborhood to install equipment supporting our new communications network. The network is part of our system-wide upgrade to install Advanced Meter communications devices on all residential and most business natural gas meters.

In the coming weeks, SoCalGas-approved contractors will be installing a Data Collection Unit (DCU) mounted on a new pole or existing pole in your neighborhood (permitting weather and other factors). We collaborated with your city and other entities to find the best location for our data collection units, which enable the Advanced Meter communications devices to automatically read and securely send natural gas usage information to SoCalGas' customer service and billing center.

### Project Details

Anticipated Start Date: EXAMPLE: Mid December

Contractor Work Hours: Approximately four to six hours to complete (*permitting weather and other factors*)

DCU Information: EXAMPLE: 29' wood pole or attachment to street light pole located at 123 Turkey Ln

### What to Expect

- SoCalGas and its contractors' trucks and heavy equipment will be in the area
- Minimal traffic disruption in your neighborhood
- No interruption to gas service in the area
- We are committed to maintaining a safe working environment within your community

Once the Advanced Meter network and devices are installed and operational, customers will have next-day access to more detailed information about their natural gas consumption through new online tools at [socalgas.com](http://socalgas.com). Those tools will help customers manage their own energy use by viewing hourly, daily and monthly usage and taking steps to save energy and potentially save money.

Thank you for your cooperation during the construction process. If you have any questions or concerns please call me at **xxx-xxx-xxxx before construction begins in the coming weeks.**

Sincerely,

First Last,  
SoCalGas Public Affairs Manager

## Erik Zandvliet

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**From:** Baptiste, Shaun <SBaptiste@semprautilities.com>  
**Sent:** Tuesday, January 13, 2015 9:44 AM  
**To:** Erik Zandvliet  
**Subject:** Fw: Gas Company Encroachment License Agreement  
**Attachments:** SCG\_AdvancedMeter\_NetworkFactSheetFinalEnglishSpanish\_2013.pdf;  
DCU\_Install\_Letter\_SAMPLE DRAFT.pdf;  
SoCalGasAdvancedMeterOverviewFactSheet\_July\_2014.pdf

Please see below.

Shaun Baptiste  
Network Construction & Site Acquisition  
Project Manager  
Advanced Meter - DCU Deployment  
Southern California Gas Co.

GT03B4

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**From:** Baptiste, Shaun  
**Sent:** Wednesday, January 07, 2015 04:57 PM  
**To:** Erik Zandvliet <ezandvliet@citymb.info>; Joe Parco <jparco@citymb.info>  
**Cc:** Nhung Madrid <nmadrid@citymb.info>  
**Subject:** RE: Gas Company Encroachment License Agreement

Erik,

As you may know, SoCalGas is currently in the process of finalizing sites to install equipment to support or communications network. The network is part of our system-wide upgrade to install Advanced Meters on all residential and most business natural gas meters. The data collection units being proposed enable the Advanced Meter communication devices to automatically read and securely send natural gas usage information to SoCalGas' customer service and billing center. Please see the attached Network Fact Sheet explaining the purpose of SoCalGas' Advanced Meter (AM) project. During Phase 1 of our AM project, we are installing the network infrastructure. This requires the installation of data collector units (see Network Fact Sheet for an overview). Our company is required to provide coverage to all of our customers. In order to do this effectively, we have been mandated by the California Public Utilities Commission (CPUC) to provide network redundancy. This requires approximately 4000 Data Collection Units to be installed throughout our service territory. To date, we have successfully installed over 3000 DCU's. The DCU's are inspected annually.

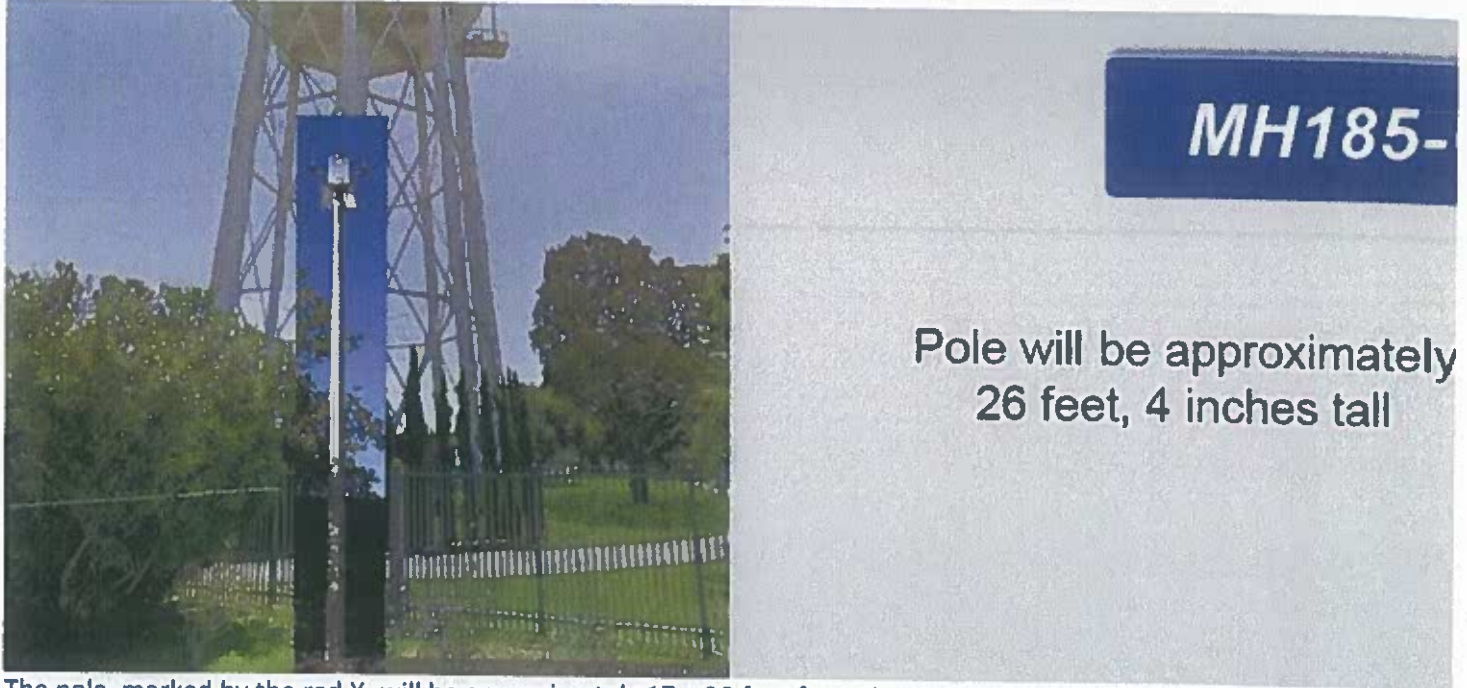
Within the city of Manhattan Beach, there is a network need to install 5 DCU's, one being near the water tower on 8<sup>th</sup> street. Unfortunately, we could not attach to an existing pole because there are no viable existing pole options in the area determined by our network. Existing poles must meet out safety and engineering standards. The location will be on City property and will have minimal visual impact to the homeowners on 8<sup>th</sup> street since the water tower will be in the background as pictured below. At the City's request, the pole can't be placed within the fence line of the water tower property due to security issues.

### Notification and Outreach



On November 5<sup>th</sup>, 2014, we presented our project to the Manhattan Beach City Council and provided detailed information regarding this site. We answered all the council members' questions and there were no objections to our project or this specific site. In addition to the meeting with the city council, we conducted one-on-one meetings with customers impacted by the poles/and or left information for follow up if they were unable to be reached. After receiving permits, we will mail out site specific DCU Install notification letters to homes within a 300 ft. radius of the pole (500 ft. if required by the city or PPIC). Sample attached.

The pole can be wood, concrete, or steel. Pictured below is a concrete pole. This was our recommendation for this area.



The pole, marked by the red X, will be approximately 17 – 20 feet from the curb and approximately 47 feet from the nearest property line.



When would you anticipate a decision by? Would it be possible to have an outcome by next Wednesday?

Thank you for your time, should you have any questions or concerns please feel free to call me directly.

***Shaun Baptiste***  
**Network Construction & Site Acquisition**  
**Project Manager**  
**Advanced Meter-DCU Deployment**  
**Southern California Gas Co.**  
**Mobile** [REDACTED]  
**GT03B4**

## **Exhibit 2**

**City Council Report 11/5/2014**



## Legislation Details (With Text)

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**File #:** 14-0477      **Version:** 1  
**Type:** Gen. Bus. - Staff Report      **Status:** Agenda Ready  
**In control:** City Council  
**On agenda:** 11/5/2014      **Final action:**  
**Title:** Advanced Gas Meter Installations Update and Presentation (Public Works Director Olmos).  
RECEIVE REPORT

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Gas Company Advanced Meter Presentation

Date	Ver.	Action By	Action	Result
11/5/2014	1	City Council		

**TO:**

Honorable Mayor Powell and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Tony Olmos, Director of Public Works  
Joe Parco, City Engineer

**SUBJECT:**

Advanced Gas Meter Installations Update and Presentation (Public Works Director Olmos).  
**RECEIVE REPORT**

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**RECOMMENDATION:**

Staff recommends that the City Council receive this report regarding advanced gas meter installations.

**FISCAL IMPLICATIONS:**

There will be no cost borne by the City. The Southern California Gas Company (SoCal Gas) will be performing the installations.

**BACKGROUND:**

In 2010, the California Public Utilities Commission (CPUC) authorized \$1.05 billion to upgrade approximately 6 million existing natural gas meters by 2017 with a communication device. The Advanced Gas Meter Installations Project will install new devices on existing gas meters and a limited number of antennas on street light poles that read and transmit hourly gas usage information securely and wirelessly on a daily basis. This will provide more frequent and detailed information to help customers better manage energy use and costs.

**DISCUSSION:**

On April 1, 2014 SoCal Gas staff gave a presentation to City Council describing the Advanced Gas Meter Installations Project. SoCal Gas relayed that gas usage will still be recorded in the traditional manner. However, consumers will now have the ability to access their account information in a variety of different ways such as online, call-in, on mobile devices and traditional paper.

Due to the size and geography of the city, there will be a minimum of 5 Network Points required to provide the necessary coverage for the citywide SoCal Gas system.

SoCal Gas has performed a reconnaissance survey over the entire City to determine the most suitable locations for installation of their data collection units (DCU). The proposed locations of the 5 DCU's is shown in attachment 1. SoCal Gas will be providing a presentation on the Advanced Meter Installation and community outreach that will occur.

**CONCLUSION:**

Staff recommends that the City Council receive this update from staff regarding the SoCal Gas advanced meter installations.

Attachment:

1. Gas Company Advanced Meter Presentation

## **Exhibit 3**

**City Council Presentation 11/5/2014**



# ADVANCEDmeter

**MANHATTAN BEACH  
CITY COUNCIL  
NOVEMBER 4, 2014**

# What is the Advanced Meter Project?

- California Public Utilities Commission (CPUC) decision received in April 2010 authorizing \$1.05 billion to upgrade approximately 6 million existing natural gas meters with a communication device by 2017
- Automatically reads and securely transmits hourly gas usage information on a “next day” basis
- Provides more frequent and detailed information to help customers better manage energy use and costs
- SoCalGas employees will perform installations
- Advanced meter installation began in October 2012 in South East LA County
  - Manhattan Beach scheduled Mid 2015



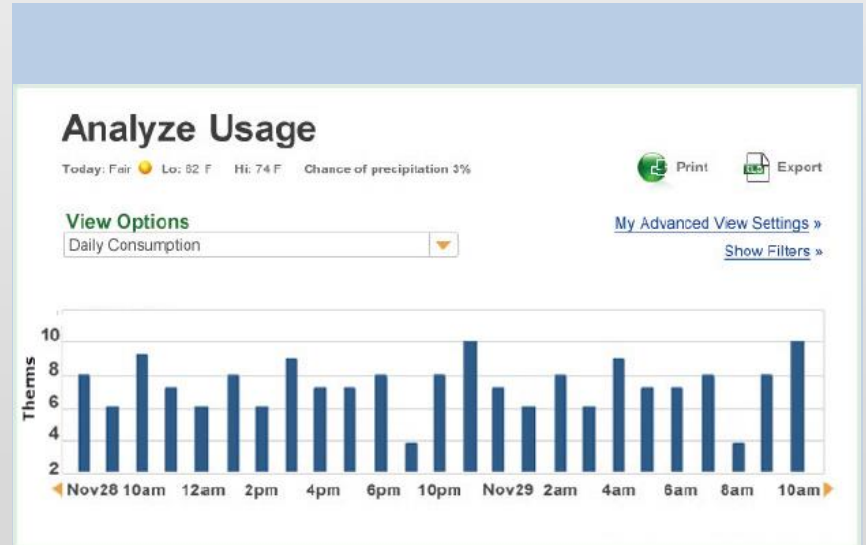
*PHOTOS FOR DISCUSSION PURPOSES ONLY*



# Information: Present - Future



Monthly Bill



Hourly Information

# What are the Benefits?

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**Get  
Information**



**Save  
Money**



**Help the  
Environment**

# How Does it Work?

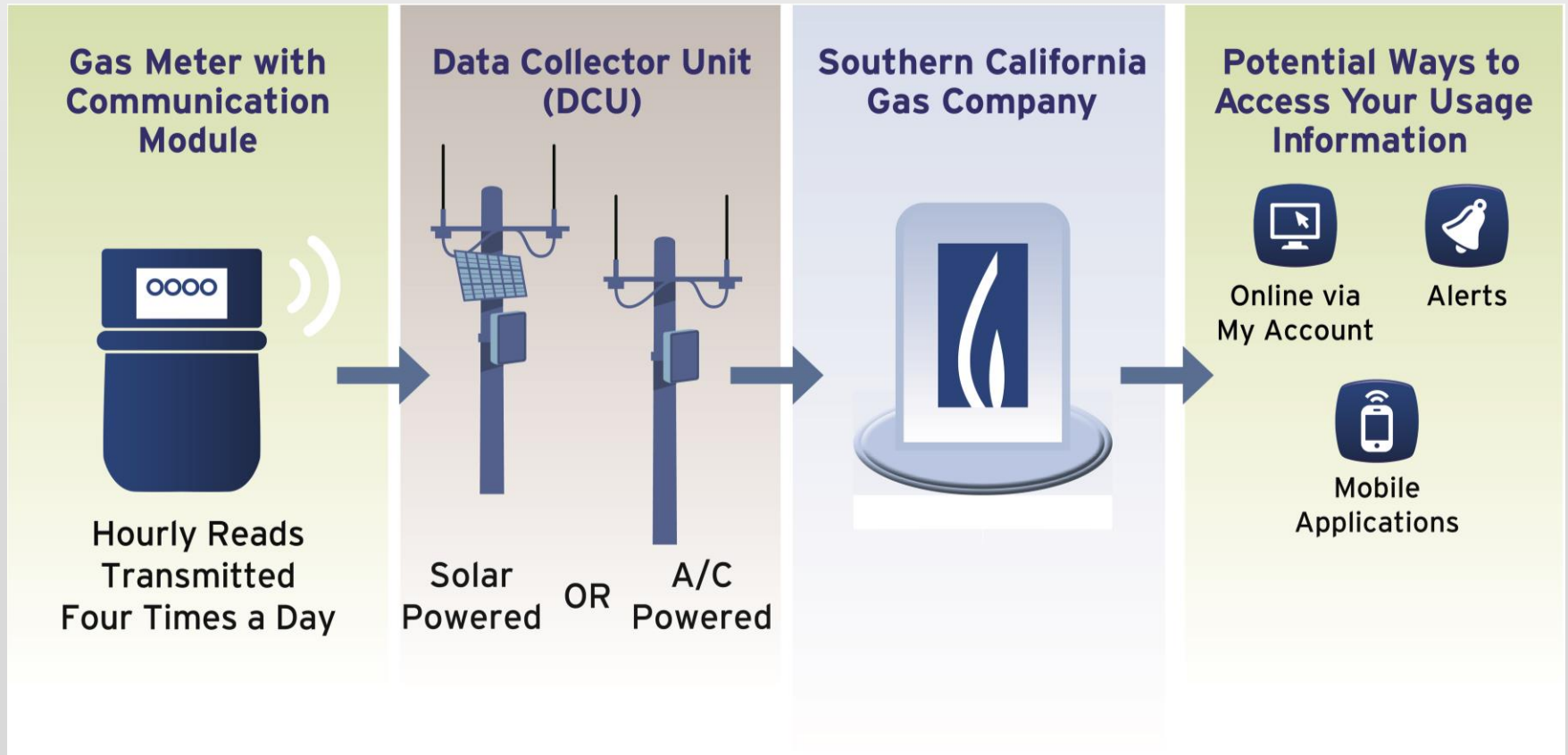
*Gas usage is still recorded in the traditional way, it's a new communication device that transmits the information electronically*



- Does not change the functionality of the gas meter; No remote connect / disconnect capabilities
- Device is **off** most of the time
- Securely transmits 12 hours of data 4 times per day to a Data Collector Unit (total “on” time is less than 2 minutes per year)
- **Battery-powered**
- Does not communicate with other meters
- Does not communicate with appliances in the home

**ADVANCEDmeter**

# How is the information transmitted?



# About the Communication Network – Data Collection Units (DCUs)

- Installing approximately 4,000 DCUs throughout SoCalGas' service territory
- Mostly pole mounted
- Antennas mounted 28 feet or higher (licensed 450 MHz frequency)
- Typically, Data Collector box is placed at top of pole with solar panel and antennas
- A/C\* or Solar Powered
- 21.5" H x 13.6" W x 8.25" D
- Maximum DCU weight is 55 lbs
- Built-in Redundancy: advanced meters communicate with two to three DCUs

# Data Collection Units (DCUs)



- Installed in areas where least impactful to the community
- Options of pole types to match existing infrastructure (wood, cement, steel)
- If viable assets exist in city (Edison poles, city poles, etc) can look into potential attachments if meets network need and passes engineering requirements

# Community Outreach Efforts

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- **Phase 1: Network Construction Customer Notification**

*SoCalGas will notify impacted customers of network construction activity. Notification letter will be distributed to customers 2 weeks prior to network construction.*

- **Phase 2: Advanced Meter Installation Outreach**

*SoCalGas will implement local community outreach and customer communication to prepare customers for advanced meter installation*

# Local Communication & Community Outreach

## 90 to 60 Days Prior to Installation:

Briefings with Local Elected Officials, Community Leaders, Chambers, etc.

## 60 to 30 Days Prior to Installation:

Local Community Involvement & Events

## 30 Days Prior to Installation:

Customer receives notification letter  
*(geographically distributed)*

## Installation Day:

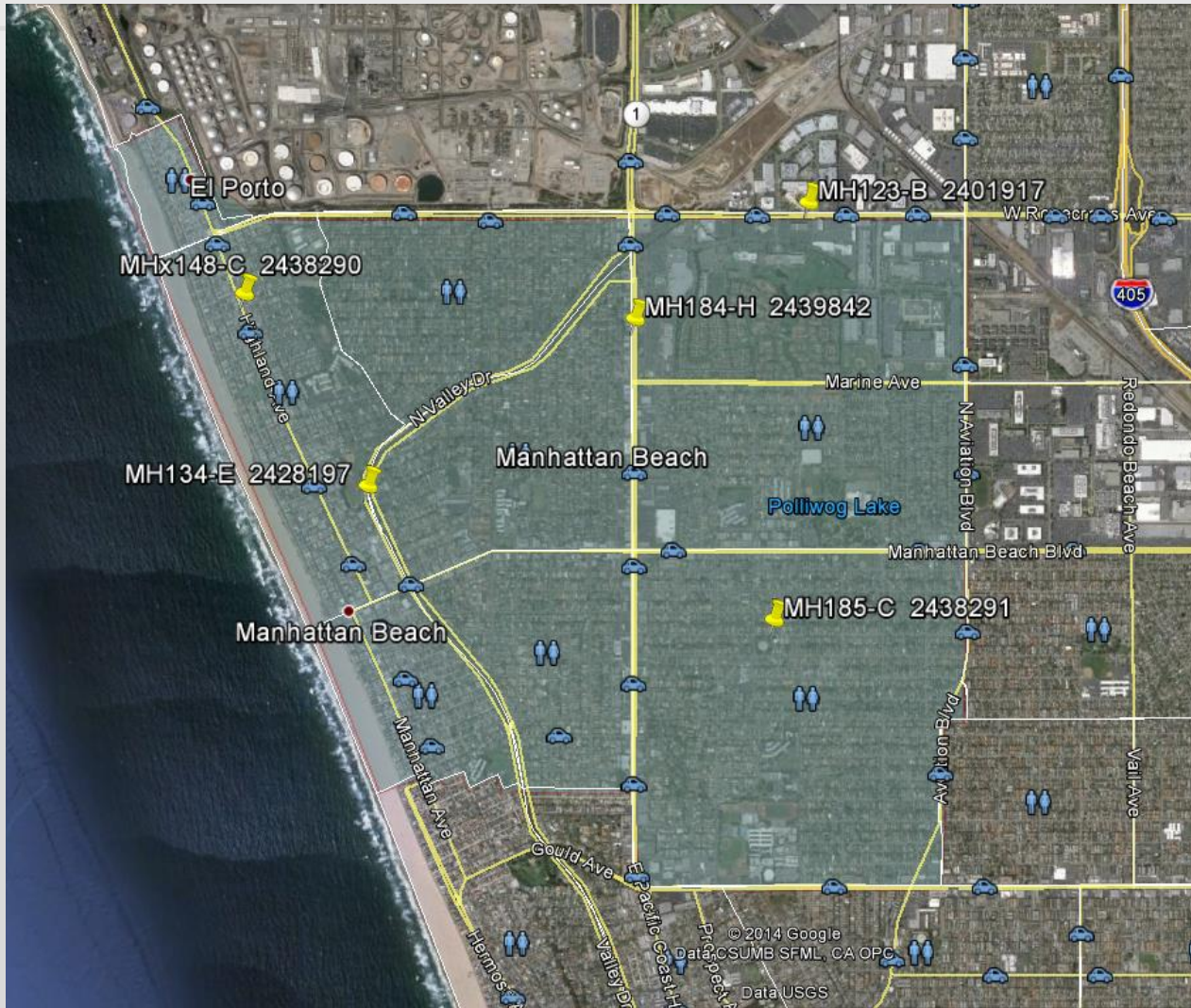
Customer receives door hanger confirming installation has occurred

## Post Installation:

Obtain feedback on installation experience



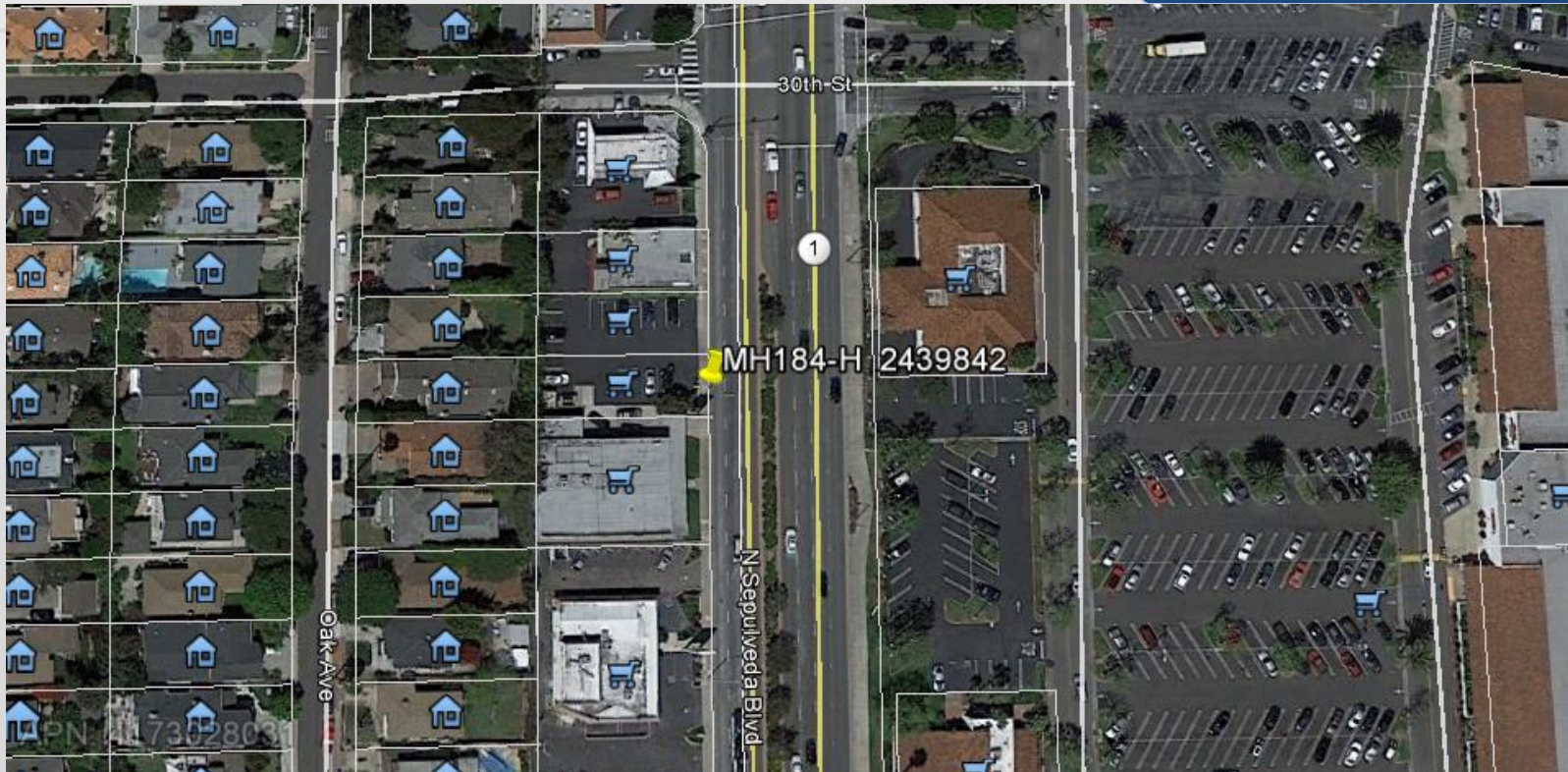
# Final Site Selections - 5 Data Collector Units



# DCU Search Ring Locations

Site	Address	Latitude	Longitude
MH184-H	On N. Sepulveda Blvd.; East of 2809 N. Sepulveda Blvd.	33.89668	-118.39616
MH134-E	On N Valley Dr; North of 1601 N Valley Dr	33.88948	-118.41008
MH123-B	On Rosecrans Ave; North of 1500 Rosecrans Ave	33.90174	-118.38713
<i>MHx148-C</i>	<i>On Highland Ave; East of 3111 Highland Ave</i>	<i>33.89779</i>	<i>-118.41652</i>
MH185-C	On 8th St; South of 1427 8th St	33.88371	-118.38893

**MH184-H**



**On N. Sepulveda Blvd.; East of 2809 N. Sepulveda Blvd.**

**Notes**

196 ft. South of the South curbface of 30th St.  
2 ft. West of the West curbface of N. Sepulveda Blvd.

**Attachment – SCE Street Light**

DCU will be located at approximately  
26 feet above ground level

**MH184-H**



On N. Sepulveda Blvd.; East of 2809 N. Sepulveda Blvd.

**Notes**

196 ft. South of the South curbface of 30th St.  
2 ft. West of the West curbface of N. Sepulveda Blvd.

**Attachment – SCE Street Light**

**MH134-E**



**On N. Valley Dr.; North of 1601 N. Valley Drive**

**Notes**

505 Feet North of the North Curbside of 15th St.  
2 Feet West of the West Curbside of N Valley Dr.

**Attachment – SCE Street Light**

DCU will be located at approximately  
26 feet above ground level

**MH134-E**



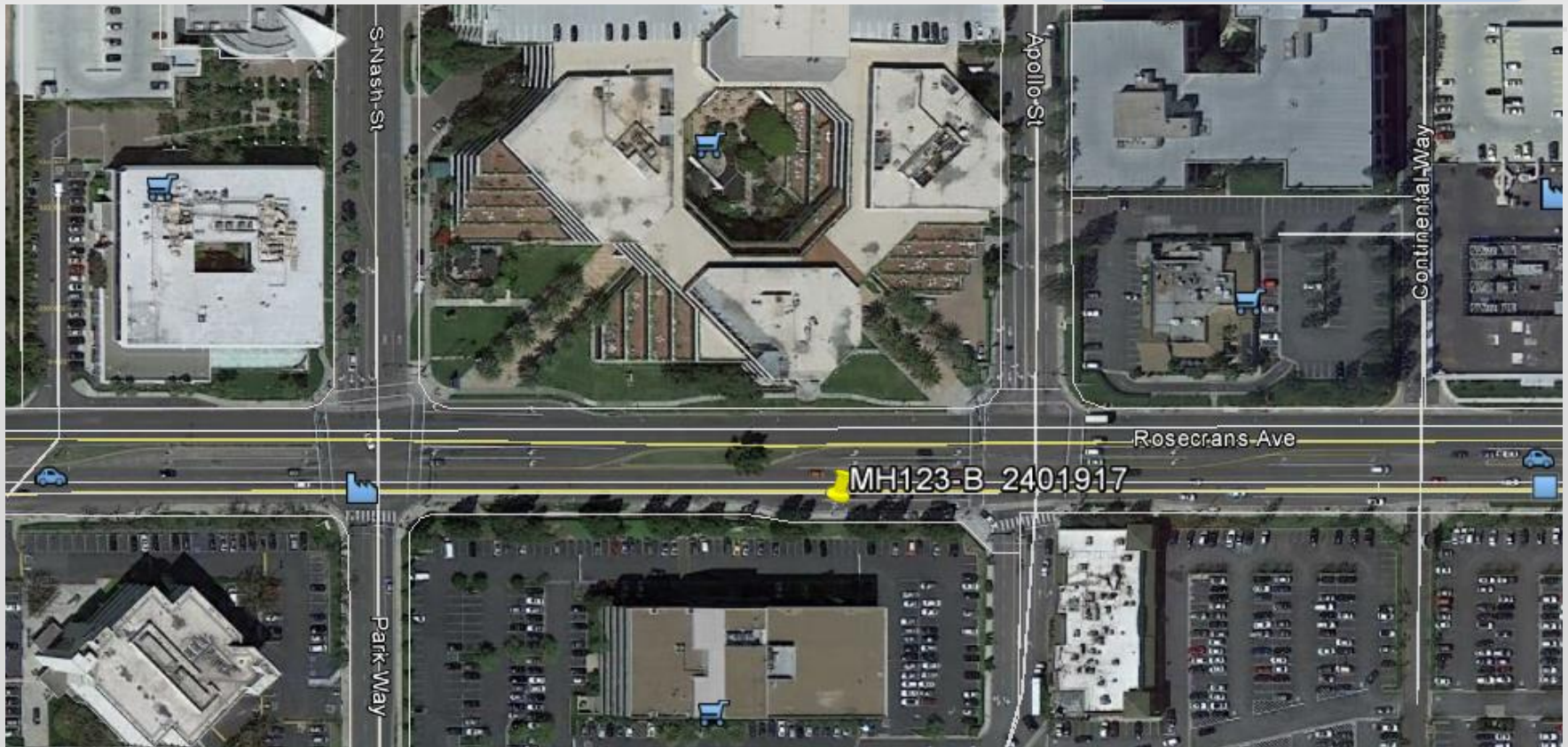
**On N. Valley Dr.; North of 1601 N. Valley Drive**

**Notes**

505 Feet North of the North Curbside of 15th St.  
2 Feet West of the West Curbside of N Valley Dr.

**Attachment – SCE Street Light**

**MH123-B**



**On Rosecrans Ave.; North of 1500 Rosecrans Ave.**

**Notes**

154ft. West of the West curb face of Market Place  
2ft. South of the South curb face of Rosecrans Ave.

**Attachment – SCE Street Light**

DCU will be located at approximately  
26 feet above ground level

**MH123-B**



**On Rosecrans Ave.; North of 1500 Rosecrans Ave.**

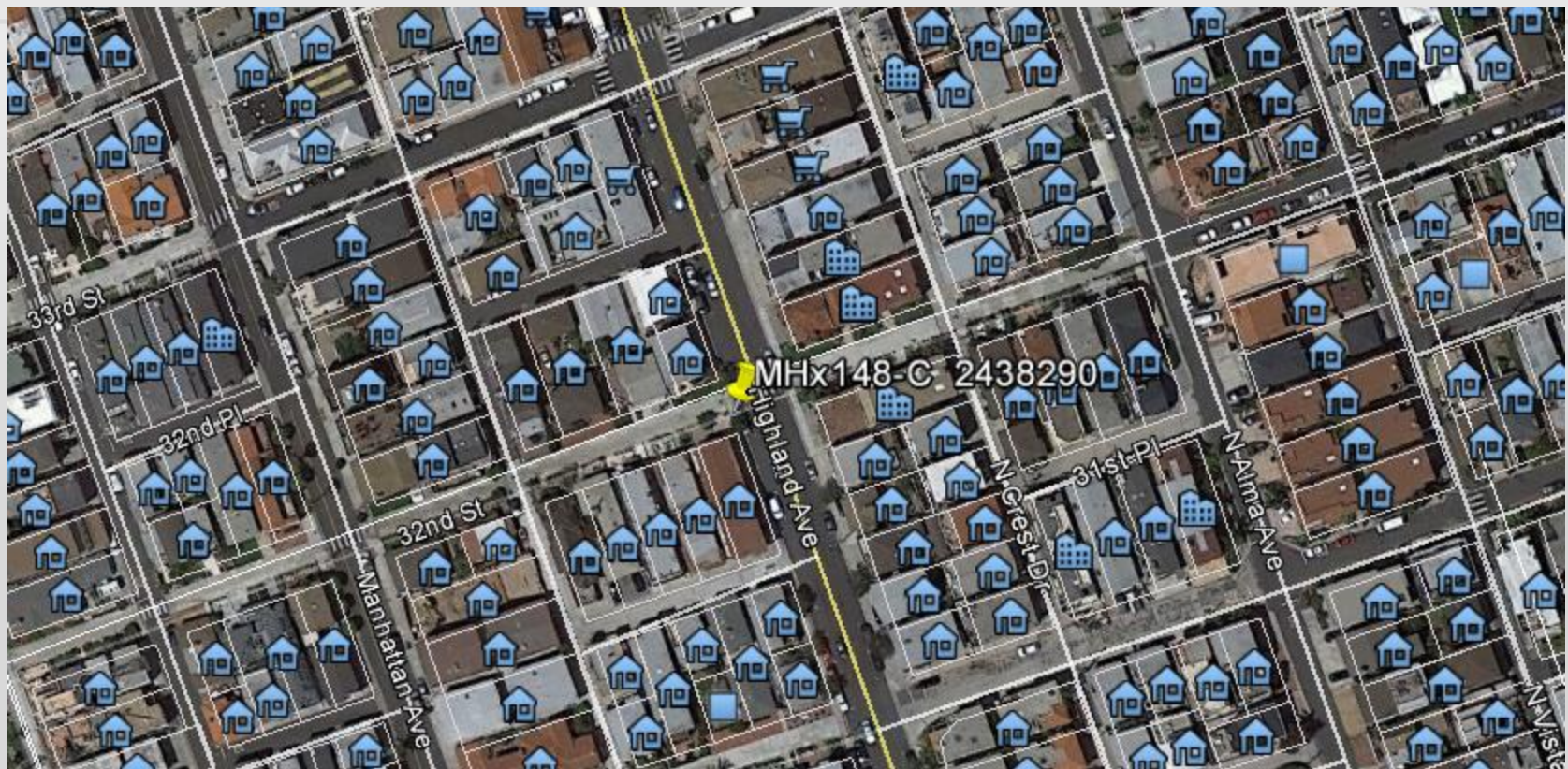
**Notes**

154ft. West of the West curb face of Market Place  
2ft. South of the South curb face of Rosecrans Ave.

**Attachment – SCE Street Light**



**MHx148-C**



**On Highland Ave.; East of 3111 Highland Ave.**

**Notes**

4 Feet South of the South Edge of Pavement of 32nd St.  
2 Feet West of the West Curbside of Highland Ave.

**Attachment – SCE Street Light**

DCU will be located at approximately  
26 feet above ground level

**MHx148-C**



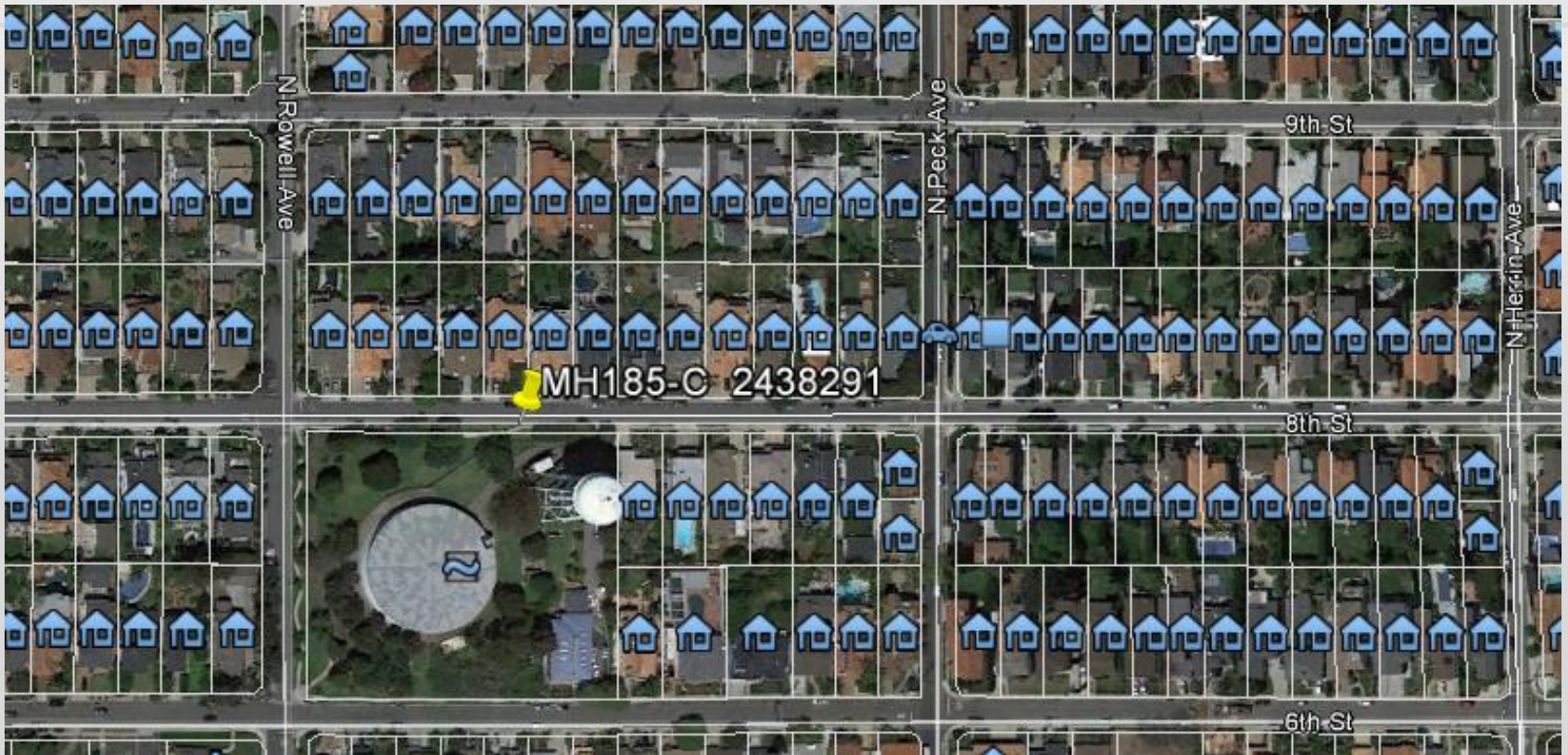
**On Highland Ave.; East of 3111 Highland Ave.**

**Notes**

4 Feet South of the South Edge of Pavement of 32nd St.  
2 Feet West of the West Curbside of Highland Ave.

**Attachment – SCE Street Light**

**MH185-C**



**On 8th Street; South of 1427 8th Street**

**Notes**

467 Feet West of the West Curbside of N Peck Ave.  
3 Feet South of the South Curbside of 8th St.

**New Installation – 26' Concrete Pole**

# MH185-C

Pole will be approximately  
26 feet, 4 inches tall



On 8th Street; South of 1427 8th Street

## Notes

467 Feet West of the West Curbside of N Peck Ave.  
3 Feet South of the South Curbside of 8th St.

**New Installation – 26' Concrete Pole**

# Contact Information

- To learn more about the project, visit:

[socialgas.com/advanced](http://socialgas.com/advanced)

Or Contact:

- Site Acquisition Manager
  - Shaun Baptiste
  - 310-755-8792
  - [SBaptiste@semprautilities.com](mailto:SBaptiste@semprautilities.com)
- Public Affairs Manager
  - Marcella Low
  - (310) 605-4194 Office
  - (310) 613-8875 Cell
  - [MLow@semprautilities.com](mailto:MLow@semprautilities.com)



## **Exhibit 4**

### **Municipal Code Chapter 7.36**

## **Chapter 7.36 - PRIVATE USE OF THE PUBLIC RIGHT OF WAY**

### **7.36.010 - Scope and intent.**

The provisions of this chapter shall govern use of the public right of way by private parties. The intent of these standards is to allow private use and development of the public right of way with improvements that are functional, attractive and non-obtrusive to the public, consistent with building safety and public works standards, and compatible with public facilities and surrounding developments.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.020 - Definitions.**

"Adjoining property" means the private property located immediately adjacent to the section of public right of way to be encroached upon.

"Applicant" means any person, firm, partnership, association, corporation, company, entity or organization of any kind who proposes to encroach upon a public place, right of way, sidewalk or street and who has applied for a permit for the proposed encroachment, pursuant to the provisions of this chapter.

"Director of Community Development" means the Director of Community Development of the City of Manhattan Beach or his or her designee.

"Director of Public Works" means the Director of Public Works of the City of Manhattan Beach or his or her designee.

"El Porto Strand Property" means a property located on the Strand between 39th Street and 45th Street.

"Encroachment area" means the section of public right of way located between the property line and the edge of the walkway or roadway.

"Encroachment" means and includes any paving, obstruction, fence, stand, building, entry monument, or any structure or object of any kind or character which is placed on, in, along, under, over or across a public place, right of way, sidewalk or street by or for the use of the adjoining property.

"Encroachment work" means the work of constructing, placing or installing an encroachment.

"Engineer" means the Manhattan Beach City Engineer or his or her designee.

"Excavation" means any opening in the surface of a public place, right of way, sidewalk or street made in any manner whatsoever. The term shall also include any excavation on private property which removes or imperils the lateral support of a public place, right of way, sidewalk or street.

"Landscaping" means an area devoted to or developed and maintained with lawn, gardens, trees, shrubs and other plant materials and excluding decorative outdoor landscape elements such as water features, paved surfaces, potted plants and sculptural elements.

"Natural grade" means a straight line from the edge of the improved public walkway/roadway grade to the existing front property line grade.

"Nonconforming" means a previously permitted and constructed improvement which is not consistent with the standards of this chapter.

"Occupy" means owning or operating any facilities that are located in rights of way.

"Open design fence" means a fence where the primary fence material is transparent and colorless, or the open spaces between the solid segments are equal to or exceed the size of the solid segments.

"Overhead structures" means any improvement extending over a public place, right of way or street.

"Person" means any living individual, any corporation, joint venture, partnership, or other business entity.

"Public walkway" means the portion of the public right of way improved and designated by the City for pedestrian travel.

"Right of way" means the surface and space in, on, above, through and below any real property in which the City of Manhattan Beach has a legal or equitable interest whether held in fee or any other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, curb, parkway, river, tunnel, viaduct, bridge, public easement, or dedicated easement.

"Usable surface" means a relatively level surface intended for active recreation, passive occupation, or pedestrian access including but not limited to lawns, patios and decks, but excluding a walkway not exceeding forty-four inches (44") in width that provides access from the public walkway to private property.

"Walk street" means a dedicated public street improved with a public walkway that is closed to vehicular traffic.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.030 - Permit required.**

It shall be a violation of this chapter for any person to construct, create, occupy or use an encroachment in the public right of way without an encroachment permit. To the extent permitted by law the issuance of such a permit shall be discretionary and may be denied or revoked without cause. Application of this chapter shall include, but not be limited to, private improvements, long-term commercial use and commercial sidewalk dining, temporary access for installation of private street improvements and all other intrusions into the public right of way whether temporary or permanent. The City Council may, from time to time, by resolution set fees for issuance of encroachment permits authorized by this chapter.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.040 - Initiation.**

The Director of Community Development shall have the authority to issue an encroachment permit consistent with the standard set forth in this chapter provided that where fixtures or structures located within public walkways or roadways, other than temporary moveable structures, are to be placed in the public right of way, or street alterations are to be performed, detailed plans for any such work shall be submitted to the Director of Public Works whose approval shall be required.



Applications shall be submitted to the Community Development Department with the required forms, fees, plans, and related material. Applications shall be reviewed for compliance with the requirements of this chapter, and the public's priority for use of City right of way as determined to be appropriate by the Director of Public Works.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

#### **7.36.050 - Director of Public Works Authority.**

The Director of Public Works shall have the authority to prohibit or limit the placement of new or additional facilities within the right of way if there is insufficient space to accommodate the requests of applicants to occupy and use the right of way. In reaching such decisions, the Director of Public Works shall be guided primarily by: considerations of the public interest; the age and condition of the affected portions of the rights of way; the time of year and the protection of existing facilities in the right of way; and future City plans for public improvements and development projects that have been determined to be in the public interest

*(§ 1, Ord. 2039, eff. February 18, 2003)*

#### **7.36.060 - Permit conditions.**

A. **Discretionary Conditions.** The Director of Community Development shall have the authority to condition or restrict the permit in any way which shall protect the public health and welfare. The Director of Community Development reserves the right to require phasing of construction projects or limit the hours of construction to reduce the adverse impacts on the public health, safety and welfare. The Director of Public Works has the authority to approve or reject a method of excavation or other construction methodology.

B. **Mandatory Conditions.** In granting an encroachment permit under the provisions of this chapter, the following conditions, in addition to any other conditions deemed necessary or advisable, shall be imposed:

1. That the encroachment shall be removed or relocated by the permittee at no cost to the City upon thirty (30) days' written notice to the permittee from the City, and should any cost be incurred by the City in the removal of such encroachment, such cost shall be a lien upon the permittee's adjacent real property;
2. That the encroachment and permit restrictions, conditions or limitations serving the adjoining property shall be recorded as a covenant, and shall be binding upon all heirs, successors, assigns, executors, or administrators in interest. The covenant shall be disclosed whenever title is transferred;
3. That a certificate of insurance in amounts and form satisfactory to the City Risk Manager shall be filed with the City upon the granting of the encroachment and shall be maintained in good standing at all times so long as the encroachment exists, releasing the City from any and all liability whatsoever in the granting of such encroachment.
4. That the applicant shall expressly agree to each of the conditions imposed, including any which may be in addition to the foregoing, as a prerequisite to the granting of the encroachment by the City.
5. That encroachments involving commercial uses shall pay an established annual or monthly fee to be set by resolution of the City Council and to be based upon the market value of the property being occupied.
6. That in cases where an encroachment is adjacent to a private property common area governed by a Homeowners Association (as in the case of an airspace condominium) the Homeowners Association shall be the applicant and subject to all permit requirements. The permit requirements shall be included as conditions of the project subdivision map and included in the covenants, conditions and restrictions (C, C and R's) recorded for the project.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.065 - Required findings.**

The Director of Community Development, in granting approval of an encroachment permit application, shall make the following findings:

- A. The granting of the encroachment permit will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to property and improvements in the same vicinity and zone in which the property is located;
- B. The granting of the encroachment permit will be in conformity with the policies and goals of the General Plan;
- C. The proposed encroachment will comply with the provisions of this chapter, including any specific condition required;
- D. The proposed encroachment will not encroach into the area of the right of way occupied by an improved paved sidewalk or pedestrian or vehicular accessway or stairway, except as expressly provided in this chapter;
- E. The proposed encroachment will not reduce or adversely impact public pedestrian access along the paved and improved portion of the sidewalk, walk street, alley or stairway and does not reduce or adversely impact the vehicular access along the improved alley.
- F. For properties that are located in the coastal zone, the proposed encroachment will be consistent with the public access and recreation policies of [Chapter 3](#) of the California Coastal Act of 1976, as follows:
  1. The proposed encroachment will not impact public access to the shoreline, adequate public access is provided and shall be maintained in the public right of way adjacent to the subject property (Section 30212 (a)(2)).
  2. The present end foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area (Section 30221).

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.070 - Issuance.**

The Director of Community Development shall issue a written decision regarding each encroachment permit application. This decision shall recite the findings upon which the decision is based as provided in [Section 7.36.065](#) of this chapter. If the decision grants the encroachment, it shall set forth the conditions to be imposed. The conditions set forth in [Section 7.36.060](#)(b) of this chapter shall be attached to every permit approval. The decision of the Director of Community Development shall be final ten (10) calendar days after mailing a copy of the decision to the applicant.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.080 - Appeals.**

Applications which are inconsistent with the "Encroachment Standards" set forth in [Section 7.36.150](#), including right of way frontage improvements required as a condition of approval by the Director of Public Works, must be appealed to and approved by the City Council with a recommendation from the Parking and Public Improvements Commission. A notice shall be sent to the property owners whose lots' front property

lines are within three hundred feet (300') of the subject encroachment area site at least ten (10) calendar days prior to each body's consideration of the exception request. The notice will describe the proposed encroachment, make the plans available for review, and set a deadline for registering objections. Upon consideration of such an appeal application, the City Council may approve, modify, or disapprove the application for encroachment. The action of the City Council shall be final.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

#### **7.36.090 - Time limit.**

Any encroachment granted pursuant to the provisions of this chapter shall be developed and utilized within a period not to exceed twelve (12) months from and after the date of the granting of such encroachment, and, if not so developed and utilized, such encroachment automatically shall become null and void at the expiration of such twelve (12) month period.

The permittee may apply in writing for one extension of time, not to exceed six (6) months, within which to develop and use such encroachment. The Director of Community Development, in his or her sole discretion after due consideration, shall either grant or deny the extension of time for such development and use.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

#### **7.36.100 - Inspection.**

The Director of Community Development shall require that inspections be completed before commencement, and after completion of encroachment work. Inspections while encroachment work is in progress shall be completed as determined to be appropriate by the Director of Community Development or Director of Public Works.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

#### **7.36.105 - Restoration of public right of way.**

Upon completion of the encroachment work authorized by a permit, the permittee shall restore the right of way or street by replacing, repairing or rebuilding it in accordance with the specifications or any special requirement included in the permit, but not less than to its original condition before the encroachment work was commenced and in all cases in good usable quality. The permittee shall remove all obstructions, materials and debris upon the right of way and street, and shall do any other work necessary to restore the right of way and street to a safe and usable condition, as directed by the Director of Public Works. Where excavation occurs within areas already paved, the Director of Public Works may require temporary paving to be installed within four hours after the excavation area is backfilled. In the event that the permittee fails to act promptly to restore the right of way and/or street as provided in this section, or should the nature of any damage to the right of way or street require restoration before the permittee can be notified or can respond to notification, the Director of Public Works may, at his or her option, make the necessary restoration and the permittee shall reimburse the City for the full cost of such work, and such cost shall be a lien upon the permittee's adjacent real property.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

#### **7.36.110 - Revocation.**

The Director of Community Development or the City Council may revoke any encroachment permit for noncompliance with the conditions set forth in granting such encroachment, including but not limited to provision of liability insurance coverage to the City or if it is determined that such permit is not in the public interest. A written notice shall be mailed to the permittee of such revocation. Within ten (10) working days of mailing of such notice of revocation to the permittee, a written appeal of such action may be filed. Any such appeal shall be made to the Parking and Public Improvements Commission whose recommendation will be reviewed by the City Council and the Council's determination of the matter shall be final.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.120 - Enforcement.**

Violation of this chapter shall be punishable as a misdemeanor as set forth in [Section 1.04.010\(A\)](#) of this Code. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a separate violation of such provision. In addition to any other remedies provided in this section, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies: a temporary and/or permanent injunction; assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection; costs incurred in removing, correcting, or terminating the adverse effects resulting from violation; compensatory damages; and attorney fees.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.140 - Other permits.**

Nothing in this chapter shall preclude a requirement for a Coastal Development Permit, Business License, Conditional Use Permit, or other City, State or County permit if otherwise required for the encroaching activity. See Chapter A.96 of the Manhattan Beach Local Coastal Program Implementation Program for applicable Coastal Development Permit requirements.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

### **7.36.150 - Encroachment standards.**

A.

#### **General Standards:**

1. Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.
2. Landscaping is permitted without an encroachment permit in accordance with an approved landscape plan pursuant to [Section 7.32.080\(E\)](#) of the Municipal Code. Artificial landscape materials, except artificial turf grass approved by the Director of Community Development, are prohibited.
3. Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works.
4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be

prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an encroachment permit.

5. All encroachments shall be in conformance with [Title 5, Chapter 5.84](#) of the Municipal Code pertaining to storm water pollution control.

6. Obstructions to neighboring resident's scenic views shall be avoided.

7. Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.

**Exception.** One (1) set of steps comprised of three (3) consecutive risers is permitted provided a condition does not result that requires installation of a guardrail or handrail.

8. Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.

9. Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.

B.

#### **Walk Street Standards:**

1. Fences and railings, including required safety handrails and guardrails, are permitted provided an open design is utilized. The maximum allowable height is forty-two inches (42") above the adjacent public walkway. To ensure pedestrian to vehicle visibility at corners, a thirty-six inch (36") maximum height (measured from adjacent curb level) is required within a distance of five feet (5') from the street corner.

2. Retaining walls (not including walkway risers), free-standing walls and closed design fences are permitted provided the maximum allowable height is thirty-two inches (32") above the adjacent public walkway. Conditions requiring guardrails that exceed the height permitted in subsection (B)(1) above shall not be permitted.

**Exception.** Retaining walls and related required safety railing that exceed the thirty-two inch (32") limit may be constructed at the side boundaries of an encroachment area if necessary to retain a neighbor's existing grade, provided all other encroachment improvements comply with applicable encroachment standards. If subsequently such over-height walls and/or safety rails are no longer necessary due to modification of the adjoining encroachment area, the property owner shall lower the over-height wall/safety rail to conform with applicable standards. This requirement shall be included as a permit condition in the encroachment permit agreement.

3. Landscaping is permitted subject to approval of a landscape plan pursuant to [Section 7.32.080\(E\)](#) and shall be submitted with an encroachment permit. Landscaping shall cover a minimum of one-third of the encroachment area and shall not project over or onto the public walkway. To promote visual openness and conserve scenic vistas, the height of landscape plantings shall not exceed forty-two inches (42") as measured from the adjacent public walkway.

Landscape plantings shall be maintained in substantial conformance with the approved plan. If it is determined that a resident view is impaired, the Director of Community Development shall direct the owner of the property adjacent to the encroachment landscaping to trim the over-height landscaping to forty-two inches (42") maximum. Should the property owner fail to act, the Director of Community Development may cause the landscaping to be trimmed, with the expense borne by the property owner. The owner of the property who receives such notice to trim may appeal the decision of the Director of Community Development pursuant to [Section 7.36.070](#) of this chapter.

4. Usable surfaces (as defined herein). The intent of this standard is to ensure that the elevation of encroaching outdoor living areas located nearest the public walkway be consistent with the public walkway. Usable surfaces are permitted as follows:

- a. Within the front half of the encroachment area (adjacent to the public walkway), limited to a maximum height of twelve inches (12") as measured above or below the adjacent public walkway.
- b. Within the rear half of the encroachment area (adjacent to private property), limited to a maximum height of either: thirty-six inches (36") as measured above or below the adjacent public walkway, or twelve inches (12") as measured above or below the natural grade, as defined herein.

5. The total combined height of fences, railings, retaining walls (including walkway risers) shall not exceed a height of forty-two inches (42") as measured from lowest adjacent finished grade.

6. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards except as permitted by the Director of Public Works.

C. **El Porto Strand Standards:** In addition to the encroachments permitted in subsection B above, the following encroachments are permitted within the Strand right of way north of Rosecrans Avenue due to unusual slope and underground utility location and to provide an adequate buffer between the Strand walkway and adjoining private properties.

1. Usable surfaces are permitted within the rear half of the encroachment area at a maximum height of seventy-two inches (72") measured from the adjacent public walkway, provided they are accompanied by terraced landscape planters with evenly spaced retaining walls with a maximum height of thirty inches (30") each.

2. Fences and walls are permitted to be a maximum height of forty-two inches (42") above the adjacent public walkway except that planter walls required in subsection (C)(1) above may have a maximum height of seventy-two inches (72").

3. Corner properties bordering a parking lot entrance or exit are allowed to have walls and fences on the vehicular street side to a maximum height of six feet (6') above adjacent curb level except that a maximum height of three feet (3') shall be permitted adjacent to driveway/roadway intersections.

4. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular alley or street via a non-erosive device pursuant to Public Works Department construction standards.

5. Landscaping is permitted subject to approval of a landscape plan pursuant to [Section 7.32.080\(E\)](#) and shall be submitted with an encroachment permit.

#### D. Vehicular Street Standards:

1. Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking pads and paving may be required by the Public Works Department for the purpose of maintaining or improving conditions related to drainage, visibility, access, maneuverability or public parking, and, if required, shall be constructed in compliance with City standards.

2. Fences and walls are permitted as follows:

a. Location. Compliance is required with Public Works Department standards established in MBMC [9.72.015](#). A minimum set back of two feet (2') is required behind existing or required street improvements.

b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.

3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.
4. Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC [3.40.010](#) (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.
5. Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.
8. Landscaping is permitted subject to approval of a landscape plan pursuant to [Chapter 7.32.080 E](#) and shall be submitted with an encroachment permit.

*(§ 1, Ord. 2039, eff. February 18, 2003, as amended by § 3, Ord. 2146, eff. August 4, 2011)*

### **7.36.160 - Sidewalk dining encroachment permits.**

Sidewalk dining adjacent to existing restaurants may be permitted on public sidewalks within vehicular street right of ways with a sidewalk dining encroachment permit issued pursuant to this section. The purpose of the sidewalk dining permit program is to promote restaurant and pedestrian oriented activity within the City's business areas, while safeguarding public safety and minimizing impacts to nearby residential properties. Permits may be modified or revoked by the City Council if the applicant repeatedly fails to comply with any of the above requirements, or if the public's priority for use of City right of way causes the previously approved sidewalk dining use to be found to be inappropriate.

Each permit issued for sidewalk dining shall comply with the following minimum standards:

- A. All permits are subject to temporary modification or suspension at any time based on the public's priority for use of City right of way as determined to be appropriate by the Chief of Police or Director of Public Works.
- B. Title 24 of the California Government Code regarding persons with disabilities requirements for unobstructed sidewalk width (minimum forty-eight inches (48")) must be maintained at all times.
- C. Applicants and their customers may not place any objects in the right of way other than tables and chairs (no umbrellas, heaters, or bikes/dogs tied to parking meters, etc.)
- D. Exterior lighting equipment that may present a tripping hazard is not permitted.
- E. Temporary electrical connections, such as extension cords, are not permitted.
- F. Alcoholic beverages may not be served or consumed in the sidewalk dining area.
- G. Dancing is prohibited.
- H. Amplified music is prohibited.
- I. Dining activities must conclude by 10:00 p.m. Tables and chairs must be removed from the sidewalk by 10:30 p.m.
- J. All exits and means of egress from establishments and businesses must be maintained and not obstructed in any manner.
- K. Sidewalk dining activities must comply with all Use Permit and zoning requirements (parking, occupancy, etc.).
- L. Only existing tables used inside the restaurant may be used for sidewalk dining unless additional parking and zoning approval is provided in accordance with the Municipal Code.

- M. The portion of sidewalks used for dining must be cleaned regularly and consistently kept free of litter by the applicant.
- N. The applicant must provide an insurance endorsement and complete a Hold Harmless agreement, to the satisfaction of the City Risk Manager.
- O. The applicant must submit an application for a permit and pay an established permit fee as set forth by resolution of the City Council.
- P. Permits are issued to business owners rather than property owners and are not considered an entitlement to the adjacent private property. New business owners must apply for a new permit.

*(§ 1, Ord. 2039, eff. February 18, 2003)*

**7.36.170 - Long-term commercial use encroachment permits.**

- A. Commercial use of the public right of way requires City Council approval.  
Exceptions. The Director of Community Development may approve the following:
  - a. Sidewalk dining permits applicable to vehicular streets in conformance with [Section 7.36.110](#) of this chapter.
  - b. Building projections such as eaves, awnings, signs or elements that benefit the public and comply with applicable codes.
  - c. Roof access or other elements for existing buildings that are required by applicable codes, when alternative on-site locations are not feasible.
- B. Commercial use of a walk street is prohibited. Existing long-term uses conducted on a walk street under the authority of an Encroachment Permit approved prior to January 21, 2003 may continue to operate provided the use is not expanded or intensified. Expansion of intensification includes but is not necessarily limited to: increase of floor area or expansion of hours of operation, or addition of alcohol beverage service.

*(§ 1, Ord. 2039, eff. February 18, 2003)*



**Exhibit 5**  
**PRIVATE ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY**  
**REQUIRED FINDINGS AND GENERAL STANDARDS**  
**Proposed Gas Company Pole on 8<sup>th</sup> Street East of Rowell Avenue**

<b>REQUIRED FINDINGS PER SECTION 7.36.065</b>	<b>COMMENTS</b>	<b>MEETS FINDING?</b>
Not materially detrimental to the public health, safety, convenience and welfare or injurious to property and improvements in the same vicinity and zone in which the property is located.	Similar to other utility poles in vicinity.	YES
In conformity with the policies and goals of the General Plan.		YES
Complies with the provisions of this chapter, including any specific condition required.	Applicant will comply with any code conditions.	YES
Will not encroach into the area of the right of way occupied by an improved paved sidewalk or pedestrian or vehicular accessway or stairway, except as expressly provided in this chapter.	Proposed pole is outside public right-of-way	YES
Will not reduce or adversely impact public pedestrian access along the paved and improved portion of the sidewalk, walk street, alley or stairway and does not reduce or adversely impact the vehicular access along the improved alley.	Proposed pole is behind existing or future sidewalk area.	YES
For properties that are located in the coastal zone, the proposed encroachment will be consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976.	Proposed location is not in coastal zone.	N/A
<b>GENERAL STANDARDS</b>		
Structures as defined by the City's Building Code or other encroachments are prohibited from encroaching within the public right of way unless in compliance with these standards or approved by the City Council.	Proposed pole is outside public right-of-way and conforms to standards	YES
Artificial landscape materials, except artificial turf grass approved by the Director of Community Development, are prohibited.	No artificial landscaping is proposed.	N/A
Utility obstructions shall be avoided so as to maintain access to underground utilities. A minimum of thirty inches (30") of clearance is required on each side of all water and sewer mains, unless otherwise approved by the Director of Public Works	Proposed location not in conflict with existing or future foreseeable utilities.	YES
Drainage from a private collection system that discharges a concentrated flow shall be directed to a vehicular street or alley pursuant to Public Works Department construction standards and shall be prohibited from flowing onto a public pedestrian walkway or sidewalk. A drainage plan shall be provided with an application for an encroachment permit.	No private collection system is proposed.	N/A
All encroachments shall be in conformance with Title 5, Chapter 5.84 of the Municipal Code pertaining to storm water pollution control.	All work will conform to store water pollution control.	YES
Obstructions to neighboring resident's scenic views shall be avoided.	Proposed pole located near a taller water tower and will be installed near existing trees to shield view of pole.	YES
Steps and Stairs, other than risers between four and seven inches (4" to 7") in height and spaced a minimum of three feet (3') apart, are not permitted in the public right of way.	No stairs are proposed.	N/A

Existing improvements which do not conform to current standards must be removed or brought into conformance if the related structure on the adjoining property is significantly remodeled or reconstructed or if any new significant construction is proposed in the public right of way. Existing permitted improvements that have been made non-conforming by changes to these standards may otherwise remain provided any nonconforming element is not increased or expanded. The intent is to cause nonconforming encroachments to be brought into conformity concurrent with major alterations or entirely new structures constructed on adjoining private property.	No existing improvements	N/A
Routine maintenance and repair may be performed on a nonconforming encroachment structure or improvement and replacement with a comparable improvement is permitted upon demonstration that the encroachment is deteriorated and creating an unsafe condition.	No existing private encroachment.	N/A
Fences and walls are permitted as follows: a. Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of two feet (2') is required behind existing or required street improvements. b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.	No fences are proposed.	N/A
Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.	No ground cover is proposed.	N/A
Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions	Pole location not located near any street corner.	YES
Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.	No alteration of grade is proposed.	YES
Loose gravel and similar material as determined by the Public Works Department is not permitted.	No gravel or other ground cover proposed.	YES
Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.	No private collection system is proposed.	N/A
Landscaping is permitted subject to approval of a landscape plan pursuant to Chapter 7.32.080 E and shall be submitted with an encroachment permit.	No landscaping is proposed.	N/A