

CITY OF COMMERCE

SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF COMMERCE AND SOUTHERN CALIFORNIA GAS COMPANY

This Side Letter of Agreement (“Side Letter”) is entered into this ____ day of _____ 2020, by and between the City of Commerce, a municipal corporation organized under the laws of the State of California (“City”), and Southern California Gas Company, a California corporation (“SoCalGas”).

RECITALS.

WHEREAS, the City of Commerce desires to protect the City’s investment in its Capital Improvement Program and prevent harm to City streets; and

WHEREAS, it is City’s responsibility to ensure that the public’s interest with respect to the integrity, appearance, ride-ability, and structural integrity of all newly paved surfaces, as well as slurry sealed streets, stay intact; and

WHEREAS, indicators of street degradation point to streets with multiple cuts caused by uncoordinated construction, shorten the life of the streets and therefore causing increased taxpayer costs; and

WHEREAS, the City’s Public Works Department has concluded that street cuts and excavations, including utility cuts, significantly alter and degrade pavement surfaces impacting the structural integrity of the street; and

WHEREAS, on May 5, 2020, in order to protect the public’s interest in the integrity and appearance of its streets, the City Council will consider the adoption of Ordinance No. _____, amending Title 12 of the City of Commerce Municipal Code by adding Chapter 12.05, entitled “Establishing Regulations of Street Cuts on Newly Paved Streets” (the “Ordinance”). The Ordinance prohibits a street cut or opening for five years of paved, constructed, reconstructed or resurfaced street; and

WHEREAS, SoCalGas is a “gas utility” as defined in the Public Utilities Code of the State of California; and

WHEREAS, on July 18, 1960, City granted SoCalGas a franchise to lay and use pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, across or upon the public streets, ways, alleys and places (the “Franchise Agreement”); and

WHEREAS, SoCalGas believes the application of the Ordinance’s prohibitions of street cuts on newly paved streets violates its rights under the Franchise Agreement; and

WHEREAS, the Ordinance contains exceptions to the prohibition of street cuts on newly paved streets, including for any public utility possessing a franchise from the City and acting in accordance with the said franchise; and

WHEREAS, the City and SoCalGas have met in good faith and desire to exempt SoCalGas from the prohibition of street cuts on newly paved streets as set forth in this Side Letter; and

WHEREAS, this Side Letter shall be valid as soon as the Ordinance becomes effective and shall terminate after a term of six (6) months following the effective date, unless mutually agreed upon by City and SoCalGas to extend for an additional term of six (6) months; and

WHEREAS, this Side Letter may be extended by mutual agreement of City and SoCalGas for an unlimited amount of terms of six (6) months or a portion thereof.

NOW THEREFORE, in consideration of the promises and mutual undertakings set forth below, City and SoCalGas agree as follows:

TERMS.

In conjunction with the Ordinance amending Title 12 of the City of Commerce Municipal Code by adding Chapter 12.05, the Southern California Gas Company is hereby granted an exemption from Section 12.05.010, subsection (2), and from any of the conditions in subsection (3), by the Director of Public Works, in consultation with the City Engineer and City Council, as a public utility possessing a franchise from the City and acting in accordance with its franchise, including in connection with street repairs. The requirements set forth therein shall not be enforced against the Southern California Gas Company for the duration of this Side Letter. The Southern California Gas Company will continue to work with the City to repair the streets in a manner consistent with what it has done in past decades, and will stand by its repair commitments as reflected in its franchise agreement with the City.”

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Side Letter as of the dates written below.

CITY

CITY OF COMMERCE

By: _____
Edgar P. Cisneros, City Manager Date

SOCALGAS

SOUTHERN CALIFORNIA GAS COMPANY

By: _____
[NAME], [TITLE] Date