

LEGISLATIVE DIGEST

[Public Works, Administrative Codes - Mission Rock Utilities, Inc. - Master Encroachment Permit for Privately-Owned District Utility System]

Ordinance granting a revocable master encroachment permit to Mission Rock Utilities, Inc., a Delaware corporation, to maintain encroachments on and beneath the public right-of-way on portions of Terry A. Francois Boulevard, Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, Third Street, and Long Bridge Street within and adjacent to the Mission Rock Special Use District, which encroachments include but are not limited to non-potable water systems, gravity and force main sewer systems, heating and chilled water systems, and conduits for fiber optic cable for purposes of communications for these systems; authorizing Public Works to receive annual payments from permittee to cover potential costs the City may incur in the event that the encroachments are abandoned; adopting environmental findings under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

According to Public Works Code Section 786(b), the Board of Supervisors may approve “master encroachment permits” for multi-phase or large-scale development projects, such as projects with a City-approved development agreement. Section 786(b) enables the Board to allow the contiguous and non-contiguous annexation of new areas of the project site into the master permit and assignments of obligations from the original permittee to the permittee’s agent or assignee. Also, Section 786(b) authorizes the Board to delegate to the Director of Public Works the ability to divide the master permit into separate master permits or individual street encroachment permits. If the Director determines in writing that a delegated action specified in this subsection Section 786(b) would involve “entirely new or significantly modified encroachments that were not included” as part of the Board’s approval of the multi-phase or large-scale development project or the initial master encroachment permit, then the Board may approve, conditionally approve, or deny such encroachments as part of a new or modified master street encroachment permit.

Amendments to Current Law

- *Environmental and Land Use Findings.* This Ordinance would make certain findings including findings pursuant to the California Environmental Quality Act and findings that the actions contemplated in the Ordinance are consistent with the General Plan, and the priority policy findings of the Planning Code Section 101.1.
- *Approval of Master Encroachment Permit.* This Ordinance would grant a revocable, personal, non-exclusive, and non-possessory permission to Mission Rock Utilities, Inc., a Delaware corporation (“Permittee”) to maintain certain privately-owned improvements

that comprise a district system as private encroachments on and beneath the public right-of-way on portions of Terry A. Francois Boulevard, Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, Third Street, and Long Bridge Street within and adjacent to the Mission Rock Special Use District at the full buildout of the Mission Rock project (“Project”), as specified in the Master Encroachment Permit (“Permit”). These encroachments include but are not limited to non-potable water systems, gravity and force main sewer systems, heating and chilled water systems, and conduits for fiber optic cable for purposes of communication for these systems (collectively, the “MRU Encroachments”) that have been installed by the master developer of Phase 1A of the Project and for such MRU Encroachments that will be installed in future phases.

- *MRU Encroachments for Phase 1A of the Project.* As part of Phase 1A of the Project, Permittee seeks to annex into the Permit certain privately-owned improvements on and beneath portions of Terry A. Francois Boulevard, Bridgeview Way, Dr. Maya Angelou Lane, Toni Stone Crossing, and Third Street. Following the Board’s approval of this Ordinance, the Director will separately approve the annexation of the MRU Encroachments for Phase 1A of the Project into the Permit according to the terms of this Ordinance and the Permit, after the completion of specified Permit prerequisites including the recordation of a Notice of Special Restrictions to provide record notice to owners within the Mission Rock Special Use District that the district system has been installed to serve multiple parcels within the Project, and that the Permittee is the owner and operator of such District Wide Facilities.
- *Establishment of Removal, Restoration, and Abandonment Account.* This Ordinance would authorize the Department to require Permittee to contribute funds annually toward a “Removal, Restoration, and Abandonment Account” that would be established to cover potential costs the City may incur in the event that the MRU Encroachments are abandoned. The account would be held, managed, and controlled by the City.
- *Membership in a Regional Notification Center; Support and Work Around Requirements.* This Ordinance would require Permittee to obtain and maintain membership in a regional notification center (e.g., Underground Service Alert - Northern California). Moreover, to help minimize potential conflicts between the MRU Encroachments and City projects, the Permit requires that whenever the City determines the MRU Encroachments are in conflict with any City project, including but not limited to water and sewer pipe installation and building construction, Permittee shall: (1) prepare utility support and work-around plans (each a “SWAP”), estimates, and specifications such that Permittee’s SWAP can be incorporated into any City contract, as further specified in the Permit; and (2) work directly with any City contractor to pay said contractor for all costs incurred as the result of the MRU Encroachments within a City project limit, as further set specified in the Permit.

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