

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**

**Prepared on:** November 19, 2004

**Department:** General Services

**Budget Unit:**

**Agenda Date:** December 7, 2004

**Placement:** Administrative

**Estimate Time:**

**Continued Item:** NO

**If Yes, date from:**

---

**TO:** Board of Supervisors

**FROM:** Ron Cortez, Director  
General Services Department

**STAFF CONTACT:** Don Grady  
Real Estate Services (568-3065)

**SUBJECT:** Waller Park Private Storm Drain Easement Grant (Folio 3434)  
Fifth Supervisorial District

---

**Recommendation:**

That the Board of Supervisors approve and execute the Easement Deed and Agreement granting Parke Orcutt, LLC, a private developer, the permanent right to use a portion of Waller Park for the purpose of maintaining an underground storm water runoff pipeline connecting the developer's private development to an existing drainage system that runs through a portion of the adjacent County-owned Waller Park.

**Alignment with Board Strategic Plan:**

The recommendation(s) are primarily aligned with actions required by law or by routine business necessity.

**Executive Summary and Discussion:**

Parke Orcutt, LLC applied to the County for permits to construct residential units on property that is immediately adjacent to the County-owned Waller Park in Santa Maria. On August 14, 2002, the Planning Commission unanimously voted to approve the Final Development Plan (Case No. 01DVP-00000-00053, application filed October 12, 2001), subject to certain conditions. One such condition required Parke Orcutt to facilitate the conveyance of storm water to an existing storm drain located on Waller Park.

Subject: Waller Park Private Storm Drain (Folio 3434)  
Fifth Supervisorial District  
Agenda Date: December 7, 2004  
Page: 2

To transport the storm water from the private development to the existing storm drain, the developers were required to construct a storm water runoff pipeline that runs from the private development to the existing storm drain. The construction of the pipeline was completed pursuant to a Temporary Entry Permit granted by your Board on September 23, 2003. The location of the pipeline that is located on the County's Waller Park property is identified on Exhibit A of the Easement Deed and Agreement.

This permanent non-exclusive underground easement will enable the developer to operate and maintain the pipeline on Waller Park. The easement will not have any impact on Park operations. The Grantee, Parke Orcutt, LLC, will regularly inspect and keep the pipeline in good condition and repair at all times, and will indemnify the County for any and all claims arising from their use of the easement area.

**Mandates and Service Levels:**

No change in programs or service levels.

**Fiscal and Facilities Impacts:**

No impacts associated with this item.

**Special Instructions:**

After Board action, please instruct Clerk to distribute as follows:

- |                                       |                                      |
|---------------------------------------|--------------------------------------|
| 1. Certified Copy of Document         | Board Official File                  |
| 2. Original document and Minute Order | Facilities Services, Attn: Don Grady |

NOTE: Facilities Services will deliver the original document to the Recorder's Office for recordation and will retain a conformed copy for their files. Once recorded, the original documents will be forwarded to the Grantee.

**Concurrence:**

Parks Department

Recording requested by  
and to be returned to:  
COUNTY OF SANTA BARBARA  
Department of General Services  
Facilities Services Division  
Will Call

**COUNTY OF SANTA BARBARA**  
**OFFICIAL BUSINESS**  
No fee pursuant to Government Code 6103  
No Tax Due

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE  
APN: 111-010-015 (Portion)

**EASEMENT DEED & AGREEMENT**  
Storm Drain Purposes

The COUNTY OF SANTA BARBARA, a political subdivision of the State of California, the fee owner of all that real property in the unincorporated area of the County of Santa Barbara, State of California, known as Assessor Parcel Number 111-010-015 ("Property"), as "GRANTOR" herein,

FOR A VALUABLE CONSIDERATION, DOES HEREBY GRANT TO

PARKE ORCUTT, LLC, a California Limited Liability Company, its successors or assigns, as "GRANTEE" herein; a permanent nonexclusive underground easement to construct, install, maintain, operate, repair and replace an underground storm water pipeline and appurtenances, together with the right of ingress and egress to and from the "Easement Area" herein described, for purposes incidental thereto, including the future repair and maintenance thereof, under and through that certain land situated in the County of Santa Barbara, State of California, more particularly described and shown on Exhibit "A" attached hereto and made a part hereof, subject to the terms and conditions contained herein.

This Easement shall be appurtenant to the property owned by GRANTEE, known as Santa Barbara County Assessor Parcel Number 111-010-012.

GRANTOR and its successors and assigns retain the right to use the Easement Area except that no permanent structures of any kind which directly or indirectly interfere with, or endanger GRANTEE'S exercise of its rights herein, other than roads, pipelines and other similar appurtenances, shall be built upon the Easement Area by GRANTOR.

GRANTEE shall perform all work on the Property in a quality manner and in accordance with legal and governmental standards for such work. If so required, GRANTEE shall obtain permits to proceed with any construction on the Property from the appropriate governmental agencies,

and shall provide copies of said permits and work plans to the County Architect prior to the commencement of work on the Property.

GRANTEE shall comply with all applicable laws, regulations, rules, and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signing, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request of GRANTOR. Should any discharge, leakage, spillage, emission, or pollution of any type occur upon the Easement Area or Property due to GRANTEE'S use and occupancy, GRANTEE shall clean all property affected to the satisfaction of GRANTOR and any governmental body having jurisdiction therefor.

GRANTEE specifically acknowledges that GRANTOR is selling and GRANTEE is purchasing this Easement on an "**as is with all faults**" basis and that GRANTEE is not relying on any representations or warranties of any kind whatsoever, express or implied, from GRANTOR, its employees, agents, or contractors as to any matters concerning the Property, the Easement Area or rights granted herein.

GRANTEE shall regularly inspect and keep the pipeline in good condition and repair at all times. Except in case of emergency, GRANTEE shall give GRANTOR no less than five (5) business days written notice prior to the commencement of any work in, on, or about the Property. GRANTOR has the right to reasonably refuse and reasonably reschedule the date(s) of construction in the event such date(s) interfere with scheduled events on the Property. All maintenance, repair, replacement and installation shall be at the sole cost and expense of the GRANTEE. This Agreement shall be binding upon the heirs, executors, successors and/or assigns of the GRANTEE, who shall be jointly and severally liable for such costs. Should GRANTEE fail to complete needed inspection, repair, maintenance or replacement, GRANTOR, at GRANTOR'S option, may complete such needed work at the sole cost of and to be recovered from GRANTEE.

GRANTEE, it's authorized agents, employees and contractors shall exercise reasonable precautions necessary to prevent damage to and protect the Property and all structures thereon during GRANTEE'S entry. During any construction on the Property, GRANTEE shall keep the Property and GRANTEE'S improvements thereon free and clear of liens for labor and material and shall hold GRANTOR harmless with respect to any such improvements. Upon the completion of construction or any maintenance, GRANTEE shall remove all of GRANTEE'S equipment, materials and supplies from the Property and shall restore the Property to the same or better condition as of the date of GRANTOR'S execution hereof unless otherwise agreed to in writing by GRANTOR.

GRANTEE, its successors, assigns, contractors and employees, shall have the right to trim or cut vegetation and tree roots which may endanger or interfere with its pipeline(s) and related facilities; provided however, that in performing such work within the Easement Area, GRANTEE shall cause the least injury and damage to the surface of the ground and vegetation around such excavation as is reasonably practical. If any improvement(s) and/or vegetation are damaged or removed by GRANTEE, its authorized agents, employees or contractors; said improvements and/or vegetation shall be restored or replaced by GRANTEE to as near the original condition and location as is reasonably practicable.

If GRANTEE'S pipeline(s) or related facilities become incompatible with GRANTOR'S activities, then at GRANTOR'S direction GRANTEE shall, at its own expense and in a timely fashion, either remove or relocate such pipeline(s) or related facilities. In the event of relocation, the pipeline(s) or related facilities shall be moved to a location designated by GRANTOR. In the event of relocation caused by GRANTOR, the replacement pipeline location shall be subject to the approval of GRANTEE, which approval shall not be unreasonably withheld. If no mutually acceptable replacement location can be identified, this Agreement shall terminate and GRANTEE shall remove or abandon any existing improvements, and shall secure any necessary permits related to such removal or abandonment. In the event of such termination, GRANTEE shall execute whatever documents are reasonably requested by COUNTY to facilitate, acknowledge and evidence the release of all of GRANTEE'S right, title and interest in the Easement Area and Property.

GRANTEE shall indemnify, save and hold harmless GRANTOR, its agents, employees, officers, tenants, successors and assigns from any and all claims, liabilities, demands, costs (including reasonable attorney fees), and causes of action of all kinds arising out of the GRANTEE'S access, installation, construction, reconstruction, operation, maintenance, enlargement, replacement or repair of its pipeline(s) and/or related facilities in the Easement Area, including but not limited to contamination by harmful, hazardous and/or toxic materials, if any.

In the event the indemnity hereunder exceeds that permitted by applicable law, such indemnity shall be construed as the maximum permitted by law. This indemnity shall not apply to any contamination which may occur on the Property and/or the Easement Area as a result of the operations of GRANTOR either before or subsequent to the effective date of this Agreement.

///  
///  
///

**IN WITNESS WHEREOF**, GRANTOR and GRANTEE have executed this Easement Deed and Agreement by their respective authorized officers as set forth below, to be effective as of the date of recordation.

"GRANTOR"  
COUNTY OF SANTA BARBARA

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Chair, Board of Supervisors

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
COUNTY COUNSEL

"GRANTEE"  
PARKE ORCUTT, LLC  
a California Limited Liability Company  
By: Meyer Asset Management, Inc.

By: \_\_\_\_\_  
Deputy

By: \_\_\_\_\_  
Richard J. Meyer, President

APPROVED AS TO FORM:  
ROBERT W. GEIS, CPA  
COUNTY AUDITOR-CONTROLLER

By: \_\_\_\_\_

APPROVED:

APPROVED AS TO INSURANCE FORM:

By: \_\_\_\_\_  
Ronn Carlentine, SR/WA  
County Real Property Manager

By: \_\_\_\_\_  
Stephen D. Underwood  
Chief Assistant County Counsel

**ACKNOWLEDGMENT OF GRANTOR SIGNATURE**

C.C. 1189

State of California )  
 )  
County of Santa Barbara )

On \_\_\_\_\_, 2004, before me, \_\_\_\_\_, personally

appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

on this \_\_\_\_ day of \_\_\_\_\_, 2004

**MICHAEL F. BROWN  
CLERK OF THE BOARD**

By: \_\_\_\_\_  
Deputy Clerk