

ITEM 10.D.

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Hugh R. Riley, Assistant City Manager

BY: Ky Spangler, Special Projects Consultant 

DATE: December 14, 2011 (CC Meeting of 1/4/12)

SUBJECT: Consider Granting an Easement to Pacific Bell Telephone Company (dba AT&T California) for Existing Communication Facilities within a Portion of Lot C of APN 512-0-171-235 (612 Spring Road, Ruben Castro Human Services Center)

BACKGROUND & DISCUSSION

The City of Moorpark ("City") owns the property located at 612 Spring Road which includes APNs 512-0-171-235 and 512-0-171-245 ("Property"). The Property is the site of the Ruben Castro Human Services Center, currently under construction. During trenching for the footing of the north boundary wall, a buried vault and fiber optic conduit containing active facilities owned by Pacific Bell Telephone Company, dba AT&T California ("AT&T") were discovered. The existing AT&T vault and conduit are situated directly below the location of the boundary wall and its footing. Research of Property records by both staff and the AT&T Right of Way Manager found that an easement for these facilities was not previously recorded.

AT&T representatives have visited the site, and based on the type of facilities in the ground and the status of site construction, moving the vault and fiber optic lines off of the Property is infeasible without significant delay to the project. AT&T will, at their cost, trench over their facilities, install a second conduit for possible future maintenance needs, and raise the vault to finished grade. This will allow the wall to be constructed with no changes to its planned location, design or appearance.

In order to allow these activities to commence and resume construction on the wall prior to the granting and recordation of the easement, AT&T agreed to move forward under a letter of permission. AT&T will need access to the Property to perform maintenance activities in the future. The easement language provides that AT&T shall bear all costs

Honorable City Council
January 4, 2012
Page 2

associated with any potential reconstruction or repair of the Property necessitated by AT&T's future maintenance activities.

In light of this, it is appropriate for the City to convey an easement across the northwesterly boundary of the Property as depicted on Attachment A of the Grant of Easement document for ingress and egress to construct, reconstruct and maintain the existing vault and fiber optic facilities in this location.

FISCAL IMPACT

There will be no fiscal impact as this is a grant deed of easement for no fee. AT&T will bear all costs associated with addressing the current site condition and shall be responsible for any future costs associated with maintenance of their existing facilities.

STAFF RECOMMENDATION

Authorize the City Manager to execute the Grant of Easement for the Property and have staff return the same to Pacific Bell Telephone Company, dba AT&T California, for recordation with the County of Ventura.

Attachment 1: Grant of Easement
Attachment 2: Letter of Permission

ATTACHMENT 1

RECORD AT THE REQUEST OF:

PACIFIC BELL TELEPHONE COMPANY

WHEN RECORDED RETURN TO:

Pacific Bell Telephone Company
100 N. Stoneman Avenue
Room 265
Alhambra, CA 91801
ATTN: RIGHT OF WAY DEPT.

DOCUMENT CHECKED EW

APPROVED, MGR. R/W

NO DOCUMENTARY TRANSFER TAX DUE. BY C. W. J. J.
PACIFIC BELL TELEPHONE COMPANY AGENT
CONSIDERATION AND VALUE LESS THAN \$100

MOORPARK EXCHANGE
KD-11 PROJECT # 8553981

LOT "C", TRACK NUMBER 1266-1
CO., MOORPARK
APN's 512-0-171-235

GRANT OF EASEMENT

The undersigned "Grantor(s)" hereby grant(s) to PACIFIC BELL TELEPHONE COMPANY, a Corporation, doing business as AT&T California, its successors, assigns, lessees and agents, hereinafter referred to as "Grantee(s)", an easement to construct, reconstruct and maintain (place, operate, inspect, repair, replace and remove) such underground facilities as Grantee(s) may from time to time require (including ingress thereto and egress therefrom) consisting of wires, cables, conduits, manholes, handholes, and above-ground markers, pedestals, terminals, terminal equipment cabinets, associated electrical conductors, necessary fixtures and appurtenances in, over, under and upon that certain real property in the County of Ventura, State of California, described as follows:

PARCEL C OF PARCEL MAP 5426 IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN BOOK 62 PAGES 35 AND 36 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THE ABOVE DESCRIBED EASEMENT SHALL BE LOCATED WITHIN THE NORTHERLY 6 FEET OF THE WESTERLY 75 FEET OF LOT C.

THIS LEGAL DESCRIPTION PREPARED BY PACIFIC BELL TELEPHONE COMPANY
PURSUANT TO SECTION 8730(c) OF THE BUSINESS AND PROFESSIONS CODE

Grantor(s) also grant(s) to Grantee(s) the right to trim such tree foliage and to cut such limbs and roots on said property as may be necessary for the protection of said facilities.

Grantor(s) shall not erect or construct any building or drill or operate any well within said easement.

Grantee(s) shall be responsible for damage caused intentionally or by any negligent act or omission of Grantee(s), its agents or employees while exercising the rights granted herein.

Grantee acknowledges and agrees that as consideration for Grantor's agreement to grant the easement to construct, reconstruct and maintain Grantee's facilities on the above-referenced real property, Grantee shall bear all costs associated with the reconstruction or repair of Grantor's real property or any improvements on the real property to the extent such reconstruction or repair is necessitated in whole or in substantial part by Grantee's exercise of its rights pursuant to this easement.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto.

Executed this _____ day of _____ 20 _____

Grantor:

CITY OF MOORPARK

By: _____
PRINT
Title: _____
PRINT

STATE OF CALIFORNIA)
)ss.
COUNTY OF _____)

On _____, before me _____ Notary Public

personally appeared _____

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

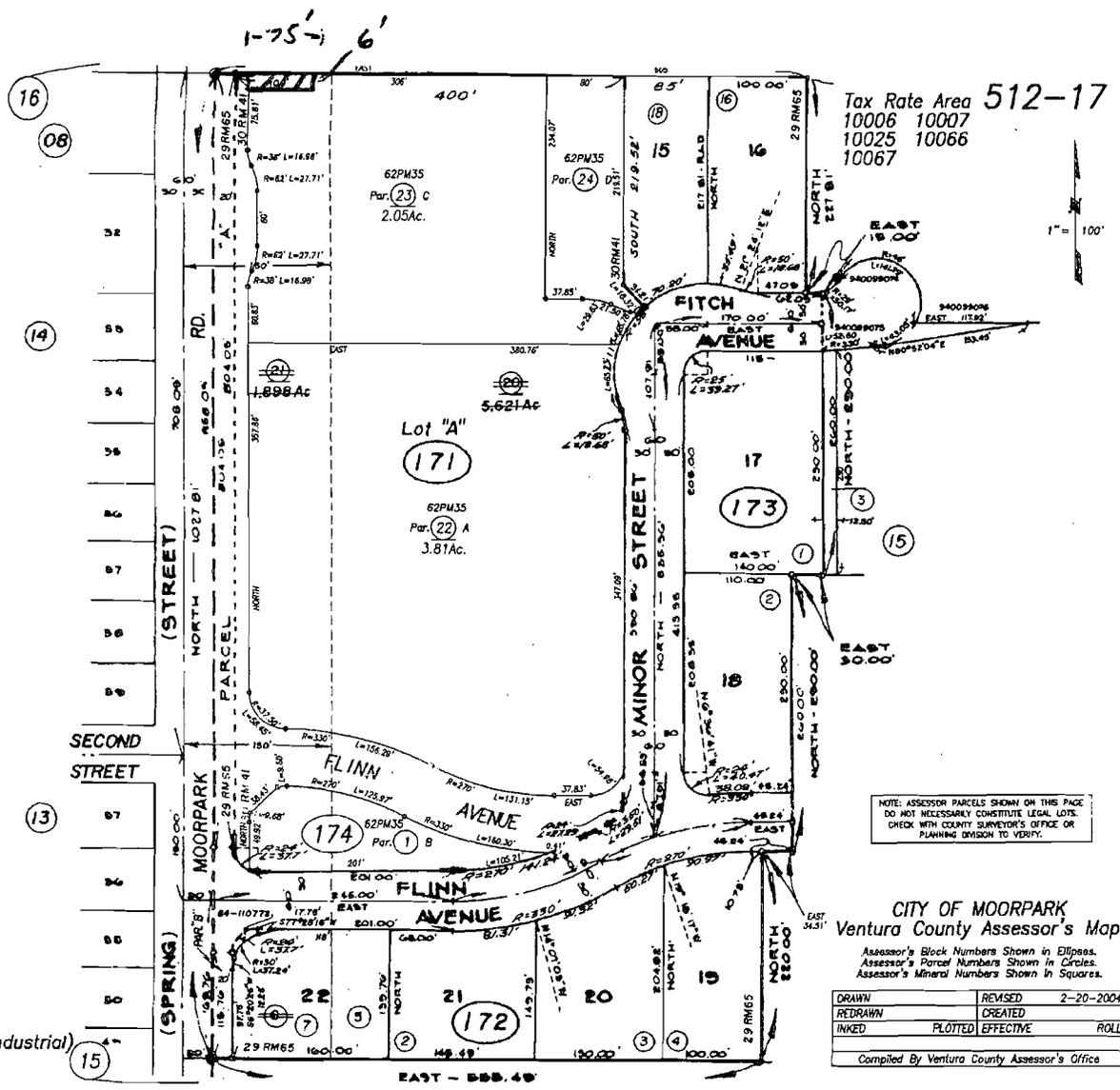
Witness my hand and official seal.

Signature of Notary

RANCHO SIMI

Attachment "A"

Tract 1266-1 Resub, M.R. Bk.30, Pg.41
 Tract 1266-1, M.R. Bk.29, Pg.65 (Moorpark Industrial)



Tax Rate Area 512-17
 10006 10007
 10025 10066
 10067

NOTE: ASSESSOR PARCELS SHOWN ON THIS PAGE DO NOT NECESSARILY CONSTITUTE LEGAL LOTS. CHECK WITH COUNTY SURVEYOR'S OFFICE OR PLANNING DIVISION TO VERIFY.

CITY OF MOORPARK
 Ventura County Assessor's Map.
 Assessor's Block Numbers Shown in Ellipses.
 Assessor's Parcel Numbers Shown in Circles.
 Assessor's Mineral Numbers Shown in Squares.

DRAWN	REVISED	2-20-2004
REDRAWN	CREATED	
INKED	PLOTTED	EFFECTIVE
		ROLL

Compiled By Ventura County Assessor's Office

Roll-Year	DATE	EXPLANATION	VOID	REVISION LOG
04-05 <td>12/29/04 <td>02 Pg. 35 <td>AP.N.(9) 512-0-171-245</td> <td>NEW AP.N.(9) 512-0-171-245</td> </td></td>	12/29/04 <td>02 Pg. 35 <td>AP.N.(9) 512-0-171-245</td> <td>NEW AP.N.(9) 512-0-171-245</td> </td>	02 Pg. 35 <td>AP.N.(9) 512-0-171-245</td> <td>NEW AP.N.(9) 512-0-171-245</td>	AP.N.(9) 512-0-171-245	NEW AP.N.(9) 512-0-171-245
			AP.N.(5) 512-0-171-245	
			AP.N.(6) 512-0-171-245	
			AP.N.(7) 512-0-171-245	
			AP.N.(8) 512-0-171-245	
			AP.N.(9) 512-0-171-245	



ATTACHMENT 2

December 13, 2011

AT&T California
100 N. Stoneman Ave.
Room 265
Alhambra, CA 91801-3251

City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Attn: Ky Spangler

Re: Request for an AT&T Easement for communication facilities within the Northwesterly 6 feet by 75 feet of City of Moorpark property, Lot C of APN 512-0-171-235.

Project No. 8553981

Ms. Spangler,

The intent of this letter is to expedite the path forward required for the construction project at the Ruben Castro site visited on 12/6/2011. The following was discussed at a meeting on site between your self, Jeff Hammond, Rick Klajic (AT&T Engineer), and Eugene Winfield (AT&T Manager Right of Way).

AT&T has been requested to relocate an existing 3'X5'X4' splice box currently located on the northwesterly corner of the subject property located in the City of Moorpark. The facilities in question were installed between 2001 - 2003. After researching our records along with those of the County of Ventura's I can find no easement on record for the existing facilities.

To expedite the process of moving the splice box and conduit required to complete construction of the wall, AT&T will move its facilities and the full cost of this relocation will be the responsibility of AT&T based on the execution of this letter of permission. The property site wall alignment and construction means and materials will be unaffected, and the existing conduit and fiber will remain in their present location.

To address the need for potential future maintenance of the existing facilities, AT&T requests that the City of Moorpark grant to Pacific Bell Telephone Company, a Corporation, doing business as AT&T California, a non-exclusive underground easement for the existing conduit, splice box, and fiber. The cost for any impact to City facilities including the block wall resulting from potential future installations and AT&T facility maintenance shall be paid by AT&T. AT&T will prepare the easement document and bear the cost of creation of a legal description and/or depiction of the location of the facilities to be covered by the easement along with costs related to the granting of said easement.

It is understood that due to the Holidays the Moorpark City Council will not meet in time to approve the required easement. In order to move forward please sign and date this letter giving AT&T permission to complete the required work on your property pending the grant of the official easement.

Sincerely,

Eugene Winfield
AT&T Right of Way
100 N. Stoneman Avenue, Rm. 265
Alhambra, CA 91801-3521

Steven Kueny
City Manager
799 Moorpark Avenue
Moorpark, CA 93021