

WATER AGENCIES' STANDARDS

Design Guidelines for Water and Sewer Facilities

SECTION 1.5 EASEMENTS AND ENCROACHMENTS

1.5.1 PURPOSE

This section addresses the different types of easements and encroachments for water, sewer, and recycled water systems. This section is intended for use with Capital Improvement Projects (CIP) and private development projects and provides guidelines to "standardize" easement acquisition and encroachment permits. The District Engineer has final decision over any project on a case-by-case basis.

The Agencies maintain and operate pipelines and appurtenant structures necessary to produce, transport and distribute water, recycled water, and to transport and store sewage waste. In connection therewith, each Agency owns interest in real property, including easements and interests in fee. From time to time, various public utilities, governmental agencies and private property owners/developers request to jointly use the Agency's interest in real property.

Every attempt has been made to cover all the needs associated with the development and upgrades of properties; but also realize there will be special circumstances that fall outside of these guidelines and will be looked at on an individual basis by the Agency.

1.5.2 STANDARD TERMS AND DEFINITIONS

The following technical terms and definitions as found in this section shall have the following meanings, which may vary slightly from the Standard Terms and Definitions.

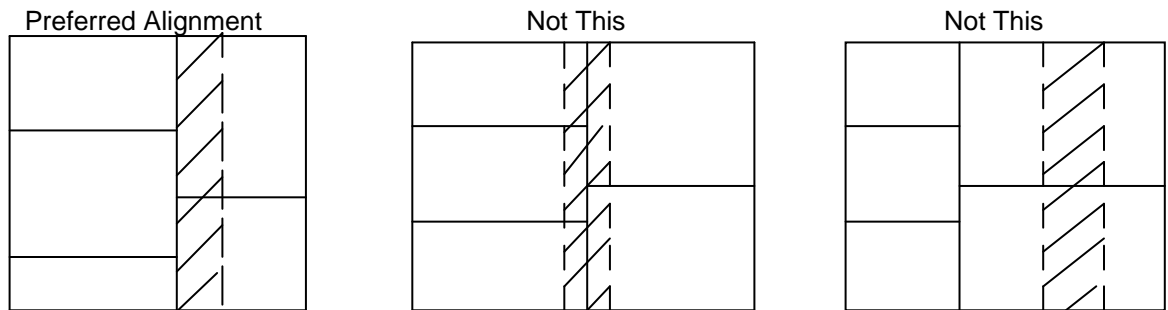
- A. Agency Interests: recorded legal rights owned by the Agency in Agency's real property.
- B. Boundary or Jurisdiction: Area included within the boundaries of an Agency as established (and from time to time amended) by the Board of Directors (and LAFCO) and all property served by the Agency.
- C. Easement: a non-possessory interest in real property that permits the easement holder to do specific actions (i.e. construct, install, operate and maintain a pipeline). Fee title interest to the property remains with the party from whom the easement is acquired. Easements are usually granted in perpetuity, may restrict future use within the easement, and prevent the current or any future owner from granting other use of the easement without written consent of the Agency. (Note: A temporary easement, such as a temporary construction easement, is an easement that is acquired for such necessities as access, storage space for materials and having a limited term, is not perpetual.)
- D. An Encroachment Permit / Encroachment Agreement: a document that conveys conditional permission to work or to place improvements within the Agency's right-of-way, easement or fee property.
- E. Person: Individual, association, private or public entity given legal status by the laws of the State of California.
- F. Fees: Payment of fees for processing and filing of documents may be charged. Obtain further information from the Agency of jurisdiction.

1.5.3 WATER, RECYCLED WATER, & SEWER EASEMENTS

- A. **EASEMENT LOCATION:** Where the Engineer has the choice of locating the water, recycled water, and/or sewer mains in a public dedicated street or in an easement, the main(s) shall be located in the street. The Engineer must satisfactorily demonstrate that no other reasonable alternate alignment exists prior to requesting permission to locate a water or sewer main within an easement.

Easements shall be located entirely along one lot or parcel and, where possible, adjacent to the property line so that the pipeline alignment does not straddle between two properties, as shown in Figure 1 below, unless the easement lies within the boundaries of a private road easement. Easements should impact the fewest parcels as possible.

Figure 1
Easement Location



- B. **EASEMENT WIDTHS:** A minimum twenty-foot (20') wide easement (or width of private road or drive lanes) shall be required for mains less than thirty-six inches (36") in diameter and a minimum twenty-five foot (25') wide easement for thirty-six inch (36") diameter and larger mains.

Easement widths other than the minimum described above shall be determined based on specifics to the project on a case-by-case basis by the Agency for which the easement is intended to serve. Projects specifics may include but are not limited to the following:

1. Questionable alignments as determined by the Agency.
2. Depth of pipe in excess of the requirements indicated in Section 5.1 and/or 6.1.
3. A minimum of five feet (5') of additional easement width (beyond that described above) will be required for water and/or sewer mains that are located in areas such as canyons, "open space" areas, and other hard to access areas. Sewer mains deeper than twelve feet (12') will also require an additional five feet (5') easement width. Additional width easements will also be required when more than one main is installed within the easement.
4. Additional 10 feet width for slopes in excess of 10%.

The above requirements are minimum requirements. Wider easements may be required based on the specifics to the project and the determination of the Agency.

1.5.4 MULTIPLE USE / JOINT USE EASEMENTS

The Agencies agree that when possible it is in the best interests of the Agencies and other public utility providers to share easements in order to lessen the impacts to private property. The Agency will determine on a case by case bases whether an individual easement can support other public utilities and retain right of approval for other utilities to use its easement space. The entity requesting the use of the Agency easement must still acquire approval from the fee title owner and recordation of its own easement subject to the approval and prior rights of the Agency. The above-described process only applies to an initial non-exclusive easement grant. If the original easement grant were “exclusive”, joint use of the area by the other Agency would not be allowed. Also refer to Easement Encroachments in this Section.

Note: Unless the fee owner of the property allows or permits grantee to be able to grant easement rights to other Agencies through a recorded document, an Agency never grants easements to another Agency. Only the fee owner of the property can grant multiple easements. However, it may be required to obtain approval from existing easements owners prior to granting additional overlapping easements on the same land. In situations where an Agency is taken over by another Agency, easement rights are transferrable to the remaining entity.

1.5.5 ACCESS EASEMENTS

- A. Access easements must be provided to all water, recycled water, and sewer facilities (reservoirs, pump stations, etc.) including main appurtenances (blow-offs, air valves, system valves, manholes, water meters, water meter readers and fire protection equipment etc.). Access easements shall be a minimum of twenty feet (20') wide.
- B. Easements secured by private fencing shall have a locked vehicular access gate(s) a minimum of twelve feet (12') in width. Provisions must be made for either an Agency lock or a Knox Lock type system. The Agency will not accept private locks and keys.

1.5.6 POP-OUT EASEMENTS

Those facilities, such as fire hydrants, air valves, meters and vaults that cannot be located within the right of way and require additional area adjacent to the right of way. Required fire hydrant retaining walls, bollards, etc. associated with the fire hydrant shall be included within the easement.

Location and access to fire hydrants shall be approved by the Fire Department in accordance with Section 5.4.

Contact the Agency of Jurisdiction to obtain information and requirements regarding easement areas required for these facilities.

1.5.7 ACQUISITION OF EASEMENTS/RIGHTS-OF-WAY

Right-of-Way requirements will be determined by the Agency for CIP and private development projects. Developer shall provide the Agency with a legal description and an eight and one half inch by eleven inch (8½" x 11") plat showing the necessary right-of-way to be acquired together with a title report three (3) months current for each affected parcel, and a closure tape of easement.

The Agency will review and approve the right-of-way documents and transmit the documents to the Engineer and/or Developer for signature. All right-of-way requirements shall be met prior to construction including recording of easement documents.

1.5.8 PLAT DEDICATION

Developer/Engineers need to contact the Agency of jurisdiction to determine which dedication process is being used. Easements may be granted on Parcel or Subdivision Maps, or by separate grant deed.

- A. Developer projects using a dedication on a map to grant easements to the WASDG Agency will reference the document number of the Official Records of the Recorder of San Diego County. A statement within the body of the easement dedication on a map requires that the property owner(s) agrees to be bound by the covenants and restrictions, and agrees that said covenants and restrictions shall be binding upon the successors and assigns of the Owner. The Agency shall be contacted during the preparation of the map and obtain the required easement conditions to be included on the offer of the easement dedication on the map.
- B. Depending on the policies and procedures of the Agency, the Developer provides a dedication to grant easements directly on the map and, if the Agency so desires, a separately recorded Grant of Easement is recorded. See Table 1 below for indication of Agency preference.

Table 1
AGENCY PREFERENCE

AGENCY OF JURISDICTION	
Padre Dam Municipal Water District	Map Dedication with reference to previously recorded document that contains general easement terms and conditions Record # 1998-0085698
Helix Water District	Map Dedication or separately recorded easement document for each project
Ramona Municipal Water District	Map Dedication or separately recorded easement document for each project
Otay Water District	Map Dedication or separately recorded easement document for each project
Riverview Water District	
Sweetwater Authority	Map Dedication and separately recorded easement document for each project
Lakeside Water District	Map Dedication and separately recorded easement document for each project

Obtain examples of easement and dedication language from the Agency in which the work is being performed.

1.5.9 EASEMENT ENCROACHMENTS

Encroachment Permits are written approvals for use of easement by the fee title-holder for uses other than those typically allowed such as lawn or asphalt.

Each Agency currently has its own encroachment process and policy as well as authorized signatory levels. Contact the Agency of jurisdiction to obtain that Agency's encroachment policy and sample of form.

An encroachment permit may either be requested by the fee title owner or, upon discovery that an encroachment exists, required by the Agency. Removal will be required of any encroachment found to be a danger to the access, use or stability of Agency facilities.

Encroachment Permits only apply to the types of encroachments listed on the permit document and/or shown in an exhibit attached to the permit.

Determination as to the extent, type, nature and requirements of the permit shall be based on applicable ordinances, policies and standards of the individual Agency. All applicable fees shall be paid prior to issuing the encroachment permit or agreement. The encroachment permit will also set forth any special terms that must be complied with in order to keep/maintain the permit (i.e. an access gate must be provided for a fence encroachment, area must be kept free of debris, etc.)

Applications for Encroachment Permits/Agreements shall be made in accordance with the individual Agency's policies and procedures and accompanied by detailed plans, specifications, schedules and estimates as may be required to determine the nature and extent of the encroachment and applicable fees. Plans shall show, at a minimum, boundaries of the proposed development, lot lines, public and private right of way lines, Agency facilities, and an indication of the intended use of the property. The extent and nature of the encroachment shall be clearly shown.

Permanent structures within an easement are rarely allowed and must be approved in writing by the Engineer or appropriate authority according to the individual Agency's policies and procedures. Conditions and restrictions for such a permit may include (but are not limited to) relocating existing mains to acceptable locations, placing the main in casing acceptable to the Agency with proper load calculations to prove that the casing will withstand all transmitted loads, hold harmless provisions in the agreement in the event of damage or destruction to the structure, or prevent structures from being located on a manhole or other appurtenance.

An Agency may terminate unauthorized encroachments by all appropriate legal means. Encroachment Permit or Agreement may be cancelled under the following situations:

- A. Upon request of the Permit tee.
- B. When the site conditions or operative facts were not accurately presented in the application.
- C. When the encroachment creates a hazard to public health, safety or general welfare.
- D. When permit violates Agency policy or provisions of federal, state or local law.
- E. When the Agency's repair or installation of public improvements requires cancellation.

Within ten (10) days after receipt of a decision to deny, suspend, cancel, revoke or terminate the encroachment permit, the Permit tee may file a written request for reconsideration. After ten (10) days, reconsideration will not be granted (unless specific language of the permit states differently).

1.5.10 WAIVER/SEVERABILITY

The following or similar clauses should appear in the easement and encroachment documents.

- A. The failure on any one or more occasions by the Agency to strictly enforce any one or more terms of this permit shall not constitute a waiver of the Agency's right to enforce such terms in the future.
- B. If any section or part of this permit/agreement is found by a court of competent jurisdiction to be unenforceable or invalid, that section or part shall be stricken from this permit and the remainder may be enforced according to its terms.

1.5.11 QUITCLAIM OF EASEMENTS

Quitclaim of easements shall be accomplished in accordance with the Agencies requirements.

1.5.12 REFERENCE

- A. Should the reader have any suggestions or questions concerning the material in this section, contact one of the member agencies listed.
- B. The publications listed below form a part of this section to the extent referenced and are referred to in the text by the basic designation only. Reference shall be made to the latest edition of said publications unless otherwise called for. The following list of publications, as directly referenced within the body of this document, has been provided for the user's convenience. It is the responsibility of the user of these documents to make reference to and/or utilize industry standards not otherwise directly referenced within this document.
 - 1. Water Agencies' Standards (WAS):
 - a. Design Guideline:
 - 1. Standard Terms and Definitions
 - 2. Section 5.1, Pressure Pipeline Design
 - 3. Section 5.4, Fire Hydrants, Fire Services and Backflow Prevention
 - 4. Section 6.1, Gravity Sewer Pipeline Design

END OF SECTION