



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Neil Miller, Director of Public Works  
Robert V. Wadden, Jr., City Attorney  
Dana Greenwood, City Engineer  
Stephanie Katsouleas, Senior Civil Engineer

**DATE:** June 20, 2006

**SUBJECT:** Approve Revised Contract and Authorize Payment in the Amount of \$1,707,987.41 to Southern California Edison for the Rosecrans/Gateway Utility Undergrounding Project

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### **RECOMMENDATION:**

Staff recommends approval of a contract agreement with Southern California Edison (SCE) for the Rosecrans Gateway Utility Undergrounding Project and authorization of a payment in the amount of \$1,707,987.41 for construction services.

### **FISCAL IMPLICATION:**

Southern California Edison has designed and submitted plans to the City to underground the remaining overhead utilities (both transmission and distribution lines). Edison has already received \$180,000 for undergrounding the distribution lines as well as \$80,000 for transmission designs. However, the total estimated construction cost for undergrounding transmission lines was still outstanding until last week. Construction cost for the transmission lines is now estimated to be approximately \$1,708,000, bringing the total undergrounding project cost to just under \$2 million. This represents a transmission price increase of approximately \$680,000, which in large part can be attributed to the absence of the circuit breaker cost, a necessary component of the conversion but not originally included in the \$1.02 million estimate provided by Edison last year. The total \$680,000 increase will be covered by two sources: 1) \$420,230 in savings from the distribution line costs<sup>1</sup> and 2) \$300,000 from Metropolitan Transportation Authority (MTA) grant funds from the 2001 Call for Projects (listed below). It is important to note that this is only an estimate and that the actual cost may be higher or lower at the time of construction. The total cost of the project is shared among various stakeholders as follows:

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<sup>1</sup> The City anticipated a distribution line construction cost of \$600,000 which when paid in 2002 was only \$179,770, resulting in a savings of \$420,230.

<b>Source of Funding</b>	<b>Amount</b>	<b>Status</b>
The Disney Corporation	\$500,000	Deposited with City
1800 Rosecrans Partners	\$200,000	Deposited with City
Continental Corp	\$300,000	Pending
County of Los Angeles (Prop C)	\$300,000	Deposited with City
City of Manhattan Beach (Prop C)	\$300,000	Available
Metro Grant Funds <sup>2</sup>	\$400,000	Available
<b>Total Allocated</b>	<b>\$2.0 Million</b>	

Should the open market construction bids exceed the estimate provided, Edison will inform the City of such increases as soon as they are known. At that time, the City will have the option to determine how to proceed, with the option of withdrawing from the project if it so chooses. The City would be responsible for all costs up to the termination date.

**BACKGROUND:**

Most of the utility lines along the Rosecrans Corridor between Sepulveda and Aviation were previously undergrounded. However, the stretch between Market Place and Gateway still has overhead power lines (including high voltage lines). At its January 15, 2002 City Council Meeting, the City Council adopted Resolution No. 5731 recognizing the value and importance of undergrounding utility lines along Rosecrans. The Resolution stated, in part:

1. That such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electric facilities;
2. The street right-of-way is extensively used by the general public and carries a heavy volume of pedestrian and vehicular traffic; and
3. That such undergrounding is necessary for the widening of this portion of Rosecrans Ave.

In September, 2005, staff submitted a staff report to City Council requesting approval of a contract and authorization of \$1.1 million to Edison to initiate this undergrounding project. However, the City Attorney found that the contract language inadequately protected the City’s interests due to the absence of a reverse hold harmless clause and the project was suspended. Over the past eight months, staff has been working with Edison to revise its contract language to include the reverse indemnification, and only recently has Edison agreed to and included the requested language. The revised contract is attached.

**DISCUSSION:**

To move this project forward, City staff has 1) worked to secure the funds necessary to pay for the project and 2) resolved contract language issues with Edison such that a contract may be executed and the project may proceed. Edison must also secure one additional easement from affected property owners before any actual construction takes place. All other easements have been

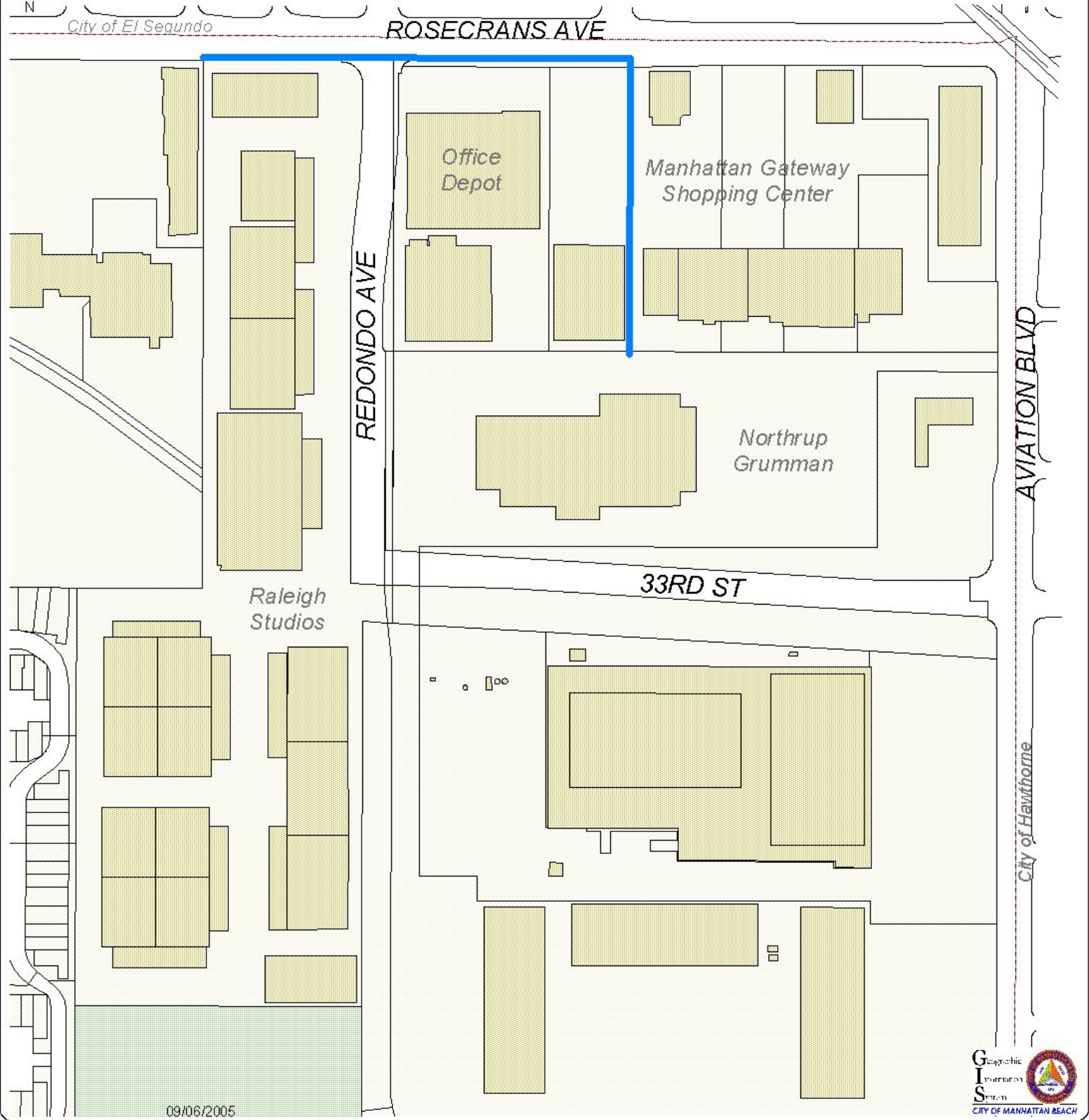
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<sup>2</sup> The City submitted a grant application to the MTA and was awarded \$1,745,000 from the 2001 Call for Projects for Rosecrans Ave. traffic and street improvements. However, recent commitments by local developers to fund street improvements on Rosecrans have freed up some of the grant funds which are now being used to cover the cost increase of this project.

obtained. It is estimated that construction will commence in the fall, once Edison has released a bid package and awarded a contract to the low bidder. Although the construction portion may be completed by next spring, total completion of the project will depend on the arrival and placement of a custom steel riser pole needed to link the new underground system to the existing overhead system near the back of the Gateway property. This pole takes approximately one year to receive once ordered, and will not be ordered until funds are deposited. Staff is therefore recommending that the City Council approve the contract agreement and authorize a payment in the amount of \$1,707,987.41 to Southern California Edison to initiate the project.

Attachments: Southern California Edison Agreement  
GIS Map

# Rosecrans Gateway Utility Undergrounding Project



09/06/2005

AGREEMENT FOR REPLACEMENT OF OVERHEAD  
WITH UNDERGROUND ELECTRICAL FACILITIES

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, hereinafter called "SCE" and City of Manhattan Beach, a \_\_\_\_\_ hereinafter referred to as "City."

WITNESSETH:

WHEREAS, City has requested EDISON to replace SCE's existing overhead 66 kV transmission and telecommunication line(s) (SCE's distribution facilities are addressed under a separate agreement.) and appurtenant facilities (hereinafter referred to as Electrical Facilities) with underground facilities to accommodate the development of Rosecrans Blvd; said facilities to be placed underground along Rosecrans Blvd., and adjacent private property in the City of Manhattan Beach, County of Los Angeles and made a part hereof; hereinafter referred to as Project Area (see attached plans); and

**WHEREAS, SCE is the holder of certain easement(s) for a portion of its existing line(s) and appurtenant facilities; and]**

WHEREAS, City has requested SCE to furnish and install the pads and vaults for transformers and associated equipment, conduits, ducts, boxes, (and electrolier bases) and to perform other work related to structures and substructures including breaking pavement, trenching, backfilling, and repaving required in connection with installation of the underground system; and

WHEREAS, City has agreed to pay SCE the sum hereinafter set forth to relocate, underground, all transmission/telecommunication facilities within the Project Area; said costs having been determined by SCE'S standard accounting practices and in accordance with CPUC Rule 20B;

NOW, THEREFORE, it is mutually agreed by and between SCE and City as follows, viz.:

1. RELOCATION OF ELECTRICAL FACILITIES.

SCE shall relocate and underground said Electrical Facilities within the Project Area in accordance with the schedule herein.

2. WORK TO BE PERFORMED BY EDISON.

- a) SCE shall procure and install all materials, ducts and substructures, and provide all engineering and work related to the relocation of said Electrical Facilities.
- b) SCE shall remove its overhead Electrical Facilities after the underground facilities replacing said overhead facilities have been installed, energized, and placed into permanent service.
- c) SCE shall prepare the Easement(s) and all other documents for replacement rights and clearance of encumbrance matters which could prevent or interfere with SCE'S use of the easement area to be granted.

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- d) Said underground Electrical Facilities will be and will remain the property of SCE, who will be responsible for all further modifications and/or maintenance.
  - e) EDISON shall obtain, if required, California Public Utility Commission Permits.
  - f) SCE shall secure necessary State Highway Crossing Agreements.

3. WORK TO BE PERFORMED BY CITY

- a) City, at no cost to SCE, but with SCE'S cooperation, shall provide SCE with any required street improvement or site plans reflecting the location of all existing and proposed underground structures and/or facilities.
- b) City, at no cost to SCE, but with SCE'S cooperation, shall comply with the requirements of the California Environmental Quality Act (CEQA) and shall prepare any and all Environmental Impact Reports which may be required by any Agency having jurisdiction by Law.
- c) City shall assume all costs for preparation of documents as defined in item 2c, above.
- d) City, at no cost to SCE, shall grant/secure all replacement rights and other documents required by SCE and in a form acceptable to SCE to effect the relocation of its facilities and to clear all encumbrance matters.
- f) City to pay for cost and installation by SCE of one specially designed steel pole at the southerly termination(s) of the 66 kV transmission underground systems.]

4. COST OF DESIGN, ENGINEERING AND TOTAL COST ESTIMATES.

SCE hereby acknowledges receipt of a \$80,000.00 engineering advance, which shall be credited to those costs SCE has incurred and will incur in the future for the work of design, engineering, cost estimates and material for the relocation of Electrical Facilities and the cost of construction, which includes the amount set forth in Item 5 on Page No. 2 of this Agreement.

5. TERMS AND METHOD OF PAYMENT.

The estimated cost is \$1,787,987.41 City shall pay to SCE the estimated sum less the engineering for a total of \$1,707,989.41 upon execution of this Agreement, which sum shall be credited to those costs and expenses SCE has incurred and will incur in the future for the design, engineering and construction required to relocate and underground its Electrical Facilities. Upon completion of all relocation work by SCE, City shall be presented with final accounting as determined by SCE 'S standard accounting practices and in accordance with CPUC Rule 20B procedures. Should the sum of SCE 'S costs and expenses exceed the estimated sum paid by City as provided by herein, City shall pay to SCE the difference between said sums. Should the estimated sum paid by City to SCE, as provided herein, exceed the sum of SCE 'S costs and expenses, SCE shall refund to City the difference between said sums.

6. ADDITIONAL WORK.

If SCE is required to relocate any facilities other than the work to be performed as set forth in Section 2, such additional work shall be performed on a completed cost basis at City sole expense.

7. REPLACEMENT RIGHT OF WAY.

City agrees to furnish or cause to be furnished all necessary replacement rights comparable to SCE 'S existing rights at no cost to SCE and all necessary access for SCE 'S permanently relocated Electrical Facilities. SCE will not begin construction until all required replacement rights have been executed and/or committed to, in writing, and presented to SCE.

#### 8. PARKING.

Parking within the easement area shall not be permitted except in those locations and under such conditions as determined by SCE. Under no circumstances shall parking be permitted by SCE to allow City to meet the requirement of any parking or zoning ordinance.

#### 9. SCHEDULE OF WORK.

EDISON proposes to have the relocated Electrical Facilities in operation by City contingent upon mutually acceptable schedules, the timely obtaining of permits, licenses and other documents, outages or other key items and not being delayed by those uncontrollable forces described in Item 12 herein.

#### 10. FACILITIES TO REMAIN PROPERTY OF EDISON.

All Electrical Facilities and appurtenances thereto installed by SCE under this Agreement shall at all times be and remain the property of SCE

#### 11. INDEMNIFICATION CLAUSE.

City agrees, for itself, and for its and their agents, contractors and employees, to save harmless and indemnify SCE, its officers, agents and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability (collectively, "Claims") arising from or growing out of loss or damage to property, including SCE's own personal property, or injury to or death of persons, including employees of SCE resulting in any manner whatsoever, directly or indirectly, by reason of this agreement for replacement of overhead with underground Electrical Facilities or the use of or occupancy of said Project Area by City, its agents, and employees, invitees, successors and assigns, except to the extent that such Claims arise as a result of SCE's negligence or willful misconduct.

SCE agrees, for itself, and for its and their agents, contractors and employees, to save harmless and indemnify City, its officers, agents and employees, from and against all Claims, including City's own personal property, or injury to or death of persons, including employees of City resulting in any manner whatsoever, directly or indirectly, by reason of SCE's negligence or willful misconduct with regard to this agreement for replacement of overhead with underground Electrical Facilities or the use of or occupancy of said Project Area by SCE, its agents, and employees, invitees, successors and assigns.

#### 12. DELAY DUE TO UNCONTROLLABLE FORCES.

SCE shall not be responsible for any delay in their performance hereunder, including, but not limited to, SCE 'S relocation of Electrical Facilities and related work under this Agreement resulting from shortage of labor or materials, delivery delays, major equipment breakdown, load management, strikes, labor disturbances, war, riot, insurrection, civil disturbance, weather conditions, epidemic, quarantine restriction, sabotage, act of public enemy, earthquake, governmental rule, regulation or order, including orders or judgments of any court or commission, requirement of additional or separate Environmental Impact Reports requested by the California Public Utilities Commission (CPUC), delay in receiving a Certificate of Public Convenience and Necessity from the CPUC, delay in obtaining necessary rights of way, act of God or any cause or conditions beyond the control of SCE or City.

#### 13. PERMITS, CODES AND STATUTES.

SCE 'S relocation of Electrical Facilities shall comply with the various applicable statutes, codes, regulations and ordinances and specifically in accordance with CPUC Rule 20B.

14. JURISDICTION OF PUBLIC UTILITIES COMMISSION.

This Agreement shall at all times be subject to such changes or modifications as the California Public Utilities Commission may, from time to time, direct in the exercise of its jurisdiction pursuant to the authority conferred upon it by Law.

15. CHANGES.

Any changes to this Agreement shall be made by supplement thereto and shall be executed on behalf of SCE by the Manager of Right of Way, Southern Region or his designee, and on behalf of City by the Mayor

16. NOTICES.

Any notices provided in this Agreement to be given by either party hereto to the other shall be deemed to have been duly given when made in writing and deposited in the United States mail, registered or certified and postage prepaid, addressed as follows:

To: EDISON

Real Estate Operations  
Corporate Real Estate  
Southern California Edison Company

14799 Chestnut Street  
Westminster Ca. 92683

To: The City Manhattan Beach

1400 Highland Avenue  
Manhattan Beach, Ca. 90266

Attention: Dana Greenwood

17. TERMINATION.

City shall have the right to terminate this Agreement on sixty (60) days prior written notice to SCE for whatever reason.

Except as otherwise provided, in the event of termination of this Agreement by City, SCE shall be entitled to payment for all costs and expenses for material, services, labor, overhead, etc., incurred by SCE to and including the date the notice of termination is received by SCE and all costs and expenses required to effect the termination of this Agreement, including, but not limited to, all costs and expenses pertaining to the restoration or removal of SCE 'S Electrical Facilities, equipment and/or materials as well as cancellation of contracts, purchase orders, etc., between SCE and all parties furnishing labor, materials and services made prior to the termination of this Agreement.

At the option of SCE, all materials paid for by City and procured by SCE to effect said relocation may, upon termination of this Agreement, either be used by SCE for other projects or be sold by SCE as salvage. The net proceeds from the transfer of the materials to other SCE projects or sale of the materials as salvage shall be deducted from the costs and expenses to be paid by City after deducting SCE 'S applicable administrative costs, material, transportation and conversion costs, taxes and other outlays or charges, associated with such a transfer or sale. Should the sum of SCE 'S costs and expenses exceed the sum of the amounts paid by City as provided by items four and five herein, City shall pay to SCE the difference between said sums upon submission of a final invoice. Should the sum of the amounts paid by City to SCE as provided by items four and five \_ exceed the sum of EDISON'S costs and expense, SCE shall refund to City the difference between said sums upon submission of a final invoice.



If City is in default of any of the terms, provisions, conditions, limitations and covenants of this Agreement, SCE may give City written notice of default. If within thirty (30) days of receipt of such notice City does not cure such default, SCE has the right, if it so desires, to terminate this Agreement upon thirty (30) days prior written notice to City. Except as otherwise provided, should such right of termination by SCE be exercised, SCE shall be entitled to payment for all costs and expenses for materials, services, labor, overhead, etc., incurred by SCE to and including the date of termination and all costs and expenses required to effect the termination of this Agreement, including but not limited to all costs and expenses pertaining to the restoration or removal of SCE 'S Electrical Facilities, equipment and/or materials as well as cancellation of contracts, purchase orders, etc., between SCE and all parties furnishing materials and services, made prior to the termination of this Agreement.

18. PREVIOUS COMMUNICATIONS.

This Agreement contains the entire agreement and understanding between SCE and City as to the subject matter of this Agreement and merges and supersedes all prior agreements, commitments, representations, and discussions between SCE and City. Any agreement between persons employed by SCE and City which is not incorporated into this Agreement by an amendment shall not be a contractual provision of this Agreement.

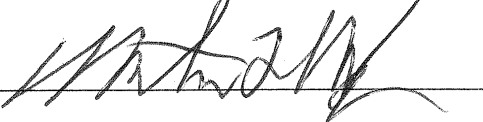
19. GOVERNING LAW.

This Agreement shall be subject to and constructed according to the law of the State of California.

In the event the Internal Revenue Service (IRS) state, city, and/or local governmental taxing authority determines that this project is taxable, the (customer's name) will reimburse the Southern California Edison Company for the full amount of the tax liability determined by the IRS, state, city, and/or local governmental authority, plus interest, penalties, fees, and related costs. Such amounts will be paid to Edison within 60 days after notification of such event by Edison to (customers name).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

SOUTHERN CALIFORNIA EDISON COMPANY

By 

MARTIN L. MAUCH  
SR. RIGHT OF WAY AGENT

CITY OF MANHATTAN BEACH

By \_\_\_\_\_  
\_\_\_\_\_  
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