

ORDINANCE NO. _____

An ordinance awarding an electric-line franchise to Southern California Edison Company while it is still under the oversight of the Department of Transportation, until the transition occurs to the Board of Public Works.

WHEREAS, in 1982, the City granted a franchise authority, Ordinance No. 157228 to Southern California Edison to (a) erect, install, construct, repair, reconstruct, maintain, retain, operate and use, in streets... and (b) to erect, install, construct, repair, reconstruct, maintain, operate, retain and use as franchise property guys, stubs, platforms, anchors, crossarms, braces, insulators, ducts, conduits, vaults, manholes, transformers, switches, meters, cut-outs, appliances, attachments and other property necessary and appurtenant to such electric lines;

WHEREAS, the franchise authority granted to Southern California Edison in Ordinance No. 157228 was for a 21-year term, set to expire in November 2003;

WHEREAS, two reports that were considered by the Board of Transportation Commissioners in 2005 and 2007 were not subsequently considered in City Council, whereby a new franchise ordinance was not adopted;

WHEREAS, in the course of the last several years, staff of several City Departments, including the Bureau of Street Services, Bureau of Engineering, Department of Transportation, City Attorney, City Administrative Officer, Chief Legislative Analyst and City Council have been negotiating the terms and conditions of a new franchise ordinance to allow Southern California Edison to prepare a bid for said franchise;

WHEREAS, given the impending transfer of the franchise oversight to the Board of Public Works, a reasonable and prudent approach or course of action would be to secure a new franchise based on Ordinance No. 157228 for the term specified in Council File #15- 0387 for a one year term, with a 9-month optional extension, during the transition to the Board of Public Works;

WHEREAS, Southern California Edison continues to operate facilities in the City and the City has an ongoing franchise relationship with Southern California Edison guided by all other provisions in Ordinance No. 157228; and

WHEREAS, while the parties negotiate terms of the agreement, it is necessary to adopt this new ordinance per the June 20, 2016 CF # 15-0387 action directing revisions to the LAAC, etc. to ensure that Southern California Edison continues to operate with a valid franchise in the City under the terms set forth in Ordinance No. 157228, but with the clarified duration authorized in the CF # 15-0387 action;

**NOW, THEREFORE,
THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The City Council hereby grants the following electric-line franchise to install, retain, operate and maintain electric-lines and their adjunct communication lines within the City of Los Angeles to Southern California Edison Company subject to the following terms and conditions:

SECTION 1. DEFINITIONS

Unless it is apparent from the context that it has a different meaning, each of the following words and phrases has the meaning stated below wherever it is used in this franchise:

ADJUNCT COMMUNICATIONS LINE: Any facility such as coaxial cable, optical fiber, wire or other transmission lines or forms of transmission, and associated equipment and devices located in, upon, along, across, under or over the streets of the City, the sole function of which is to monitor or control the operation or safety of the awarded franchise facilities via the distribution of video, audio, voice or data signals. An adjunct communication line shall not include any facility that distributes, through any means, to subscribers or persons other than Grantee, the signal of one or more broadcast television or radio stations or other sources of video, audio, voice or data signals for a length in excess of 1,000 feet.

AIRPORT: An airport which is (a) publicly owned, or (b) designated as having military importance by the United States Department of Defense, or (c) used by a commercial airline operating under a certificate issued by an agency of the United States.

BOARD: The Board of Transportation Commissioners of the City, which has the powers and duties relating to franchises vested in it by the City Charter, Los Angeles Administrative Code and other ordinances of the City.

BOARD OF PUBLIC WORKS: The Board of Public Works, or where context indicates appropriate, another governmental agency or department of the City or of the County or State, to the extent that it may have jurisdiction over the street.

CHARTER: The Los Angeles City Charter in its latest revision.

CITY: The City of Los Angeles of the State of California, in its governmental capacity.

COMMUNICATION LINE: An electric line designed primarily for the purpose of electrical communication and which is to be used for transmitting messages or

signal sin connection with the operation of Grantee's electrical system, but excluding communication conductors on or in power line structures.

COUNCIL: The Los Angeles City Council.

ELECTRIC LINE: A facility consisting of one or more electric conductors together with necessary supporting, containing or protective structures, such as poles, towers, cables, conduits, ducts, vaults or other structures and necessary appurtenances, whether such supporting or containing structures be owned wholly, owned jointly or leased.

FORCE MAJEURE: Natural disasters, including landslides, earthquakes, lighting, fires, hurricanes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, acts of terrorism or of the public enemy, partial or entire failure of utilities, strikes, explosions, lockouts or other industrial disturbances, insurrections, public riots or other similar events, which are not reasonably within the control of Grantee.

FRANCHISE: The rights and privileges granted by the City to Grantee under this ordinance.

FRANCHISE PROPERTY: All property retained by the Grantee in a street under authority of this franchise.

GRANTEE: The legal person, corporation or entity to whom this franchise is granted by the Council, or any person, corporation or entity to which it may thereafter be lawfully transferred as provided in this franchise and which has filed an acceptance statement with the Council, necessary insurances and bond requirements with the Office of the City Administrative Officer, Risk Management Section, as required in Sections 2, 5 and 6 of this franchise.

LOS ANGELES ADMINISTRATIVE CODE (LAAC): The Los Angeles Administrative Code, in its latest revision.

LOS ANGELES MUNICIPAL CODE (LAMC): The Los Angeles Municipal Code, in its latest revision

POWER LINE: An electric line designed primarily for the purpose of transmitting electrical energy and which is to be used and operated only for providing electric power to (1) consumers outside the City, (2) any department of the City, and (3) railway and other transportation substations, but which line also may be used for intra-company communication purposes and may include communication conductors on or in the same line structures to be used for such communication purposes.

STREET: The surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway, river, other public place, or any other area under control of the City, now or hereafter existing as under the City's control and within the City, except the Harbor District as that District is defined in the Charter.

SECTION 2. FRANCHISE GRANT

Section 2.1. NATURE AND EXTENT OF GRANT

The franchise hereby granted by the City authorizes Grantee, subject to the provisions herein contained:

- (a)** to erect, install, construct repair, reconstruct, maintain, retain, operate and use, in streets (1) the electric lines designated in Section 2.2; (2) such additional electric lines or replacement of existing electric lines as may be approved in accordance with the provisions of Subdivisions (a) and (b) of Section 2.3 and Section 4; and
- (b)** to erect, install, construct, replace, repair, reconstruct, maintain, operate, retain and use as franchise property guys, stubs, platforms, anchors, crossarms, braces, insulators, ducts, conduits, vaults, maintenance-holes, transformers, switches, meters, cut-outs, appliances, attachments and other property necessary and appurtenant to such electric lines.

Section 2.2. DESIGNATION OF FACILITIES

The electric lines authorized by this franchise in addition to those contemplated in Section 2.3 shall be those shown on the records of the Department of Transportation as of the effective date of this franchise.

Section 2.3. AUTHORIZATION OF ADDITIONAL FRANCHISE PROPERTIES

- (a)** Upon application to the Board by the Grantee for approval of the construction or installation of additional electric lines, or of the replacement of existing electric lines, as contemplated in Subdivision (a) (2) of Section 2.1, the Board shall hold a public hearing on the application, and after the hearing, the Board may deny such application or may grant such approval, except that the Board may approve immediately upon the Grantee's application a substitute street route for one to be relinquished or

temporarily rendered inoperative pursuant to any provision of Section 5.3; provided, however, that Board approval be not required for replacement of existing electric lines with facilities of similar type or nature.

Properties constructed, installed or replaced pursuant to any authorization by the Board shall be subject to all of the provisions of this franchise and to any additional conditions relating to construction, specifications protective or sectionalizing facilities, testing or operation that may be prescribed by such authorization.

(b) Electric lines in streets, which are subsequently acquired by the Grantee or which are authorized by the expiring franchise ordinance are authorized by and shall be subject to the provision of this franchise or succeeding franchises granted by the City; provided, however, that the properties referred to herein shall not include any which are authorized by other adequate rights of the Grantee.

Section 2.4 - DURATION OF GRANT

(a) This franchise shall be effective on the 31st day after publication of the enacting ordinance provided Grantee has filed with the Board, within 20 days after publication of this Ordinance, a written instrument addressed to the Council accepting this franchise and agreeing to comply with all its provisions.

(b) This franchise shall expire at midnight one year after the effective date of this ordinance unless terminated sooner by Council, by ordinance. Additionally, prior to the ordinance expiring, this franchise may be extended with one optional nine month extension at the discretion of the Board if there are no material changes to the franchise. The Council, by ordinance, may terminate the franchise in the event (a) the Grantee fails to comply with any provision hereof; (b) any provision hereof becomes unenforceable or is determined by a court of competent jurisdiction to be invalid and the Council expressly finds that such provision constituted a consideration material to the grant of this franchise; or (c) the City purchases the property of the Grantee, as provided in the Charter of the City; provided, however, that the Grantee shall be given ~~thirty (30) days'~~

1 thirty (30) days' written notice of any termination
2 proceedings.

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4 CONSTRUCTION OF FRANCHISE

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6 SECTION 3.1 INTERPRETATION

7 Unless otherwise specifically prescribed herein,
8 the following provisions shall govern the interpretation and
9 construction of this franchise:

10 (a) The singular number includes the plural and
11 the plural number includes the singular.

12 (b) Time is the essence of this franchise. The
13 grantee shall not be relieved of its obligation to promptly
14 comply with any provision by any failure of the City to
15 enforce prompt compliance with the same or any other
16 provisions.

17 (c) Any right or power conferred, or duly imposed
18 upon, any officer, employee, department or board of the City
19 is subject to transfer by operation of law to any other
20 officer, employee, department or board of the City.

21 (d) This franchise does not relieve the Grantee of
22 any requirements of the City Charter or of any ordinance of
23 the City.

24 (e) The Grantee shall have no recourse whatsoever
25 against the City for any loss, cost, expense or damage
26 arising out of any provision or requirement of this
27 franchise or the enforcement thereof.

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1 SECTION 3.2 LIMITATIONS UPON GRANT

2 (a) No privilege or exemption is granted or
3 conferred by this franchise except those specifically
4 prescribed herein.

5 (b) Any privilege claimed under this franchise by
6 the Grantee in any street shall be subordinate to any prior
7 lawful occupancy of the street.

8 (c) This franchise is a privilege to be held in
9 personal trust by the original Grantee. It cannot in any
10 event be transferred in part, and it is not to be sold,
11 transferred, leased, assigned or disposed of as a whole,
12 either by forced sale, merger, consolidation or otherwise,
13 without prior consent of the City expressed by ordinance and
14 then only under such conditions as may be therein
15 prescribed; provided, however, that no such consent shall be
16 required for any transfer, as a whole, in trust or by way of
17 mortgage or other hypothecation to secure an indebtedness
18 heretofore or hereafter incurred by Grantee.

19 SECTION 3.3. RIGHTS RESERVED TO CITY

20 (a) There is hereby incorporated herein by
21 reference every provision required by the Charter of the
22 City or by the Franchise Procedure Ordinance of the City
23 Ordinance No. 58,200, to be provided for herein, and there
24 is hereby reserved to the City every right and power which
25 is required to be herein reserved or provided by any
26 provision of the Charter of the City or of the Franchise
27 Procedure Ordinance of the City, Ordinance No. 58,200, and
28 the Grantee by its acceptance of this franchise agrees to be

1 bound thereby and to comply with any action or requirement
2 of the City in its exercise of any such right or power.

3 Neither the granting of this franchise nor any
4 provision hereof shall constitute a waiver or bar to the
5 exercise of any governmental right or power of the City.
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7 SECTION 4. INSTALLATIONS AND CHANGES IN
8 VICINITY OF AIRPORTS

9 No franchise property shall be hereafter erected in
10 the City by the Grantee in the vicinity of an airport in
11 such location and at such height as to constitute an
12 obstruction to air navigation as such obstruction is defined
13 by United States Civil Aeronautics Administration Technical
14 Standard Order N18-1 as now or hereafter amended, or by any
15 corresponding rules or regulations of the United States
16 Federal Aviation Agency, or successor Agency, without
17 approval by the Board after a hearing and after referral to
18 the Department of Airports of the City; provided, however,
19 that changes in facilities required by provisions of this
20 franchise may be made if height of structures involved is
21 not increased, or that if change in height is required by
22 lawful authority, the minimum height so required be not
23 exceeded; and provided, further that necessary repairs,
24 alterations and improvements in facilities may be made if no
25 increase in height of such facilities is involved.
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27 STREET WORK
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1 SECTION 5.1. LOCATION OF FRANCHISE PROPERTIES

2 The location of any franchise property in any
3 approved street shall be subject to the approval of the
4 Board of Public Works.

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6 SECTION 5.2. REMOVAL OR ABANDONMENT OF FRANCHISE
7 PROPERTY.

8 (a) In the event the use of any franchise property
9 is permanently discontinued, the Grantee shall promptly
10 remove from the streets all property involved, other than
11 any the Board of Public Works may permit to be abandoned in
12 place.

13 (b) Franchise property may be abandoned in place
14 only as the Board of Public Works shall prescribe. Upon
15 permanent abandonment of any franchise property in place,
16 the Grantee shall submit to the Board an instrument,
17 satisfactory to the City Attorney transferring to the City
18 the ownership of such property.

19 (c) For the purposes of the payment provision in
20 Section 6.1 hereof, franchise property shall exist as such
21 until reports of the Board of Public Works indicate the
22 removal or abandonment in place has been done to its
23 satisfaction.

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25 SECTION 5.3 CHANGES REQUIRED BY PUBLIC IMPROVEMENTS

26 The Grantee shall remove or relocate without
27 expense to the City any facilities installed, used and
28 maintained under this franchise if and when made necessary

1 by any lawful change of grade, alignment or width of any
2 public street, way, alley or place, including the
3 construction of any subway or viaduct, by the City.

4 SECTION 5.4 FAILURE TO PERFORM STREET WORK

5 Upon any failure of the Grantee to commence, pursue
6 or complete any work required of it by law or by the
7 provision of this franchise to be done in any street, the
8 Board of Public Works, at its option and according to law,
9 may cause such work to be done, and the Grantee shall pay to
10 the City the cost hereof in the itemized amounts presented
11 by the Board of Public Works to the Grantee, within thirty
12 (30) days after receipt of such itemized report.

14 COMPENSATION AND GUARANTEE TO CITY

16 SECTION 6.1 ANNUAL PAYMENTS TO THE CITY.

18 Annually, on April 15, the Grantee, shall pay to
19 the City in lawful money of the United States, a sum which
20 shall be equivalent to two percent (2%) of the gross annual
21 receipts of Grantee arising from the use, operation or
22 possession of this franchise for the previous calendar year.

24 The formula used to derive the amount due is as
25 follows:

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$$R \times \frac{C_p}{C_t} \times \frac{M_f}{M_t} \times .02 = \text{AMOUNT DUE}$$

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Where R = Gross revenue from sale of electricity in all service areas
Cp = Original cost of transmission and distribution plant
Ct = Original cost of total electric plant
Mf = Miles of transmission and distribution plant under franchise
Mt = Total miles of transmission and distribution plant.

Each payment shall be accompanied by a statement, in duplicate, verified by the Grantee or by the general officer or other duly authorized representative of the Grantee, showing in such form and detail as the Board may require from time to time, the facts material to a determination of the amount due.

SECTION 6.2 FAITHFUL PERFORMANCE BOND

The Grantee shall within five (5) days after the award of this franchise, file with the Board, and at all times thereafter maintain in full force and effect, an acceptable corporate surety bond, in duplicate, effective for the entire term of this franchise, and conditioned that in the event the Grantee shall fail to comply with any one or more of the provisions of this franchise, then there shall be recoverable jointly and severally from the principal and surety of such bond, any damages suffered by

✓
2 times
times

1 the City as a result thereof, including the full amount of
2 any compensation, indemnification, or cost of removal or
3 abandonment of property as prescribed by Section 6.1, 6.3 or
4 5.3 hereof which may be in default, up to the full amount of
5 the bond; said condition to be a continuing obligation for
6 the duration of this franchise and thereafter until the
7 Grantee has liquidated all of its obligations with the City
8 that may have arisen from the acceptance of this franchise
9 by the Grantee or from its exercise of any privilege herein
10 granted. The bond initially filed in accordance with the
11 requirements of this Section 6.2 shall be in the amount of
12 Two Hundred Thousand Dollars (\$200,000.00). In the event of
13 substantial change in the volume of street space occupied by
14 franchise properties pursuant to provisions of Section 2.3
15 or 5.3 hereof, the Board may require or may permit a
16 corresponding change in the amount of the bond.

17 Neither the provisions of this Section 6.2 , any
18 bond accepted by the City pursuant thereto, nor any damages
19 recovered by the City thereunder shall be construed to
20 excuse faithful performance by the Grantee or to limit the
21 liability of the Grantee under this franchise for damages,
22 either to the full amount of the bond or otherwise.

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24 SECTION 6.3 INDEMNIFICATION TO CITY

25 The Grantee shall indemnify the City against all
26 claims, demands, actions, suits and proceedings by others
27 and against all liability to others, and against any loss,
28 cost and expense resulting therefrom, arising out of the

1 exercise or enjoyment of this franchise.

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3 SECTION 6.4 INSPECTION OF PROPERTY AND RECORDS

4 At all reasonable times, the Grantee shall permit
5 any duly authorized representative of the Board to examine
6 all franchise property, together with any appurtenant
7 property of the Grantee, situated within or without the
8 City, and to examine and transcribe any and all maps and
9 other records kept or maintained by the Grantee or under its
10 control which treat the operations, affairs, transactions or
11 property of the Grantee with respect thereto. If any of
12 such maps or records are not kept in the City, or upon
13 reasonable request made available in the City, and if the
14 Board shall determine that an examination thereof is
15 necessary or appropriate to the performance of any of its
16 duties, then all travel and maintenance expenses necessarily
17 incurred in making such examination shall be paid by the
18 Grantee.

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20 The Grantee shall prepare and furnish to the Board,
21 at the times and in the form prescribed by the Board, such
22 reports, with respect to its operations, affairs,
23 transactions or property, which may be reasonably, necessary
24 or appropriate to the performance of any of the duties of
25 the Board in connection with this franchise.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
MICHAEL D. NAGLE
Deputy City Attorney

Date 4/27/2017

File No. _____