Council Meeting of
December 8, 2009

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council

SUBJECT: Community Development Department – Appropriation of funding and approval of payment for the utility underground improvements along Jefferson Street between Oak Street and its easterly terminus

Expenditure: $65,018.22

RECOMMENDATION

Recommendation of the Community Development Director that the City Council:

A) Appropriate $65,018.22 (City's portion) for the utility underground improvements along Jefferson Street from the Utility Undergrounding Development Impact Fund, and
B) Approve payment in the amount of $65,018.22 to First American Fund Control, an Escrow Holder

Funding

$65,018.22 Development Impact Fee-Undergrounding

BACKGROUND/ANALYSIS

On September 23, 2008, the City Council approved a Memorandum of Agreement and a Reimbursement Agreement with Standard Pacific Corporation (Attachment A) to pay for the undergrounding of existing overhead utilities along Jefferson Street between Oak Street and its easterly terminus. As outlined in the approved agreement, the City of Torrance is responsible for 36% of the total cost for the improvements while Standard Pacific is responsible for 64%.

Southern California Edison has completed the utility underground improvement design cost and has released an invoice for the work (Attachment B). The total cost as identified on the invoice is $180,606.17.

Staff has received and reviewed the invoice. Per the agreement, the City of Torrance is responsible for $65,018.22 (36%) of the total improvement substantially lower than the original estimate (Attachment C).

Respectfully submitted,

JEFFERY W. GIBSON
Community Development Director

By_____
Ted Semaan, Manager
Transportation Planning,
Development Engineering
& Records Division

CONCUR:

_____
Jeffery W. Gibson
Community Development Director

_____
LeROY J. JACKSON
City Manager

Attachments: A. City Council item 8K of September 23, 2008 and Memorandum of Agreement
B. Invoice from Southern California Edison
C. Cost Apportionment and Break down

ATTACHMENT A

Council Meeting of
September 23, 2008

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Community Development – Approve a Memorandum of Agreement with Standard Pacific Corporation for the construction and payment of underground utility improvements along Jefferson Street

RECOMMENDATION

Recommendation of the Community Development Director that the City Council approve a Memorandum of Agreement with Standard Pacific Corporation for the construction and payment of underground utility improvements along Jefferson Street between Oak Street and the easterly terminus of Jefferson Street.

FUNDING

$165,000 Development Impact Fee-Undergrounding (City's pro rata share)

BACKGROUND

On September 27, 2005, the City Council approved a series of entitlements to allow the construction of an 86-unit condominium and 33-unit townhome development along Jefferson Street. As part of the approval of the two projects, there was a condition requiring that the aboveground utilities along the northerly and southerly sides of Jefferson Street that serviced these properties be undergrounded. The pending above ground utility poles that service the two project sites are located on the south side of Jefferson Street from Oak Street to easterly terminus of Jefferson Street.

On October 23, 2003, the City Council approved a series of entitlements to allow the construction of a 217-unit townhome and 59-unit senior condominium development on properties located on Oak Street and Jefferson Street. An on site water system designed to public standards was required to be constructed to service the residential units. In 2007 due to housing market conditions, the developer voluntarily decided to postpone the construction of 24 units on a portion of the project site currently occupied by the Rolling Hills Prep School gymnasium, thereby also postponing the construction of the proposed waterline underneath this property to connect with the existing waterline main in Oak Street.

ANALYSIS

The above ground utility poles along the north side of Jefferson have already been undergrounded by the developer and replaced with an underground serviced marbelite street light system.

The Memorandum of Agreement outlines the terms by which the undergrounding improvements for the system along the southerly side of Jefferson will be constructed and paid for by the developer and the City. In order to satisfy the utility undergrounding condition, the developer will pay up front Southern California Edison for the estimated expenses they and their contractors are expected to incur to execute the project.. The developer, Standard Pacific Corporation, will be responsible for the project cost for the segment of Jefferson Street between Oak Street and the easterly terminus. The City is partnering with the developer on this project because it will help achieve the on-going effort to underground utility service throughout the City and the cost savings by implementation as a single project rather than independently. Once the agreement is in place and an improvement plan is approved by Southern California Edison and City, a more precise project cost can be determined.

The City's pro rata share will be $165,000 or 36% of the total project cost, roughly estimated to be $464,800, for the undergrounding of utility improvements. The final project cost will be determined when the improvement plans are approved by Southern California Edison and the City. The City will be utilizing Development Impact Fees (DIF) designated for the Undergrounding of Utilities to fund the project.

Respectfully submitted,

JEFFERY W. GIBSON
Community Development Director

By _____
Ted Semaan, Division Manager
Redevelopment & General Plan Division

CONCUR:

_____
Jeffery W. Gibson
Community Development Director

CONCUR:

_____
LeRoy J. Jackson
City Manager

Attachments:
A. Memorandum of Agreement
B. Preliminary Cost Estimate

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (this ***"Agreement"***) is entered into this ____ day of September, 2008, by and between Standard Pacific Corp., a Delaware corporation (***"Developer"***), and The City of Torrance, a municipal corporation (***"City"***).

RECITALS

A. Developer is the owner of that certain real property located in the City of Torrance, County of Los Angeles, State of California, as more particularly described on Exhibit "A" attached hereto and made a part hereof (the ***"Developer's Property"***).

B. In connection with the development of Developer's Property, Developer has prepared and processed Tract Map No. 61850 with the City (the ***"Tract Map"***).

C. As a condition to the development of Developer's Property, Developer and the City will pay, as outlined in this document, Southern California Edison (***"SCE"***) to construct certain undergrounding electric lines and equipment in Jefferson Street as set forth on the plan attached hereto as Exhibit "B" (the ***"Undergrounding Improvements"***).

D. The parties desire to execute this Agreement to set forth the terms and conditions for the construction of the Undergrounding Improvements, and the payment of certain costs incurred in such construction.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. Construction of Undergrounding Improvements.

(a) Developer will prepare, at Developer's sole cost and expense, certain plans and specifications for the construction of the Undergrounding Improvements (the ***"Improvement Plans"***). The Improvement Plans will be subject to the prior approval of City and SCE. Developer will contract with SCE to construct the Undergrounding Improvements in accordance with the Improvement Plans. City hereby acknowledges and agrees that the construction of the Undergrounding Improvements will in no way impact or delay the development of Developer's Property, including the approval and recordation the Tract Map, and that pending the completion of the Undergrounding Improvements, and that the existing utility facilities serving such development will be adequate and sufficient to fully energize, obtain meters and certificates of occupancy for such development.

(b) City acknowledges that the Tract Map was approved by the City Council on August 26, 2008.

2. Costs.

(a) Allocation of Costs. Attached hereto as Exhibit "C" is the budget (the ***"Budget"***) for the construction of the Undergrounding Improvements, which Budget includes the total amount expected to be incurred for the construction of the Undergrounding Improvements (the ***"Improvements Costs"***). The Improvement Costs shall be allocated between City and Developer as set forth in the Budget.

(b) Increase in Improvements Costs. The parties acknowledge and agree that the Improvement Costs set forth in the Budget are only an estimate and may be subject to increase pursuant to the terms of the contract with SCE. In the event the Improvement Costs actually incurred by Developer pursuant to the contract with SCE exceed the Budget, Developer shall provide City with notice thereof, and the Budget shall be automatically adjusted to reflect such increase (individually and in the aggregate, the ***"Increased Improvement Costs"***). The Increased Improvements Costs shall be allocated on a pro rata basis between City and Developer based on their pro rata share of the costs set forth in the Budget. The parties shall execute an amendment to this Agreement to reflect any and all Increased Improvement Costs.

3. Escrow; Reimbursement.

(a) Escrow. Concurrently herewith, the parties have opened an interest bearing escrow account (the ***"Escrow"***) with Fidelity Title Insurance Company (***"Escrow Holder"***).

(b) Deposit. Concurrently with the mutual execution of this Agreement, City and Developer shall deposit in Escrow an amount equal to each party's share of the estimated Improvement Costs as set forth on the Budget. In the event that the Budget is increased pursuant to Section 2(b) above, then concurrently with the mutual execution of an amendment to this Agreement, each party shall deposit in Escrow such party's pro rata share of such increased costs. For purposes of this Agreement, any and all funds held in Escrow shall be referred to herein as the ***"Deposit Funds."*** The Deposit Funds shall be applied toward the Improvement Costs actually incurred by Developer in connection with the Undergrounding Improvements as provided in this Agreement.

(c) Release of Deposit Funds.

(I) Developer may withdraw funds from the Escrow to pay any and all Improvement Costs incurred by SCE in connection with the Undergrounding Improvements. Developer shall provide City with reasonable evidence of any costs before withdrawing any payment amounts, which shall include any invoices provided by SCE. City shall instruct Escrow Holder to release such funds upon City's review and reasonable approval of such supporting documentation.

(II) Upon the occurrence of a ***"Release Event"*** as defined below, Escrow Holder shall immediately disburse the balance of the Deposit Funds to Developer and City in accordance with their prorata share as set forth in the Budget, and this Agreement shall be terminated and neither party shall have any further rights or obligations hereunder. For purposes

of this Agreement, a ***"Release Event"*** shall mean the date that is three (3) months after the completion of the Undergrounding Improvements, that shall be deemed to have occurred at such time as the Undergrounding Improvements have been energized.

(III) City and Developer agree that each party will, within three (3) business days from written request by the other, and upon a determination hereunder as to which party is entitled to the Deposit Funds, execute and deliver to the other party and to Escrow Holder a written instruction authorizing the appropriate release of the Deposit Funds to the party entitled thereto. City and Developer shall split the costs of any escrow fees or expenses charged by Escrow Holder in connection with the administration of the Deposit Funds.

(d) Reconciliation. In the event that at any time after the Deposit Funds are released to the parties pursuant to Section 3(c) above, SCE demands that Developer pay for any additional unpaid Improvement Costs, then City shall reimburse Developer for its prorata share of such Improvement Costs within thirty (30) days after receipt of written notice from Developer.

4. Miscellaneous.

(a) Third-Party Beneficiary. There are no third-party beneficiaries to this Agreement. The provisions of this Agreement are for the exclusive benefit of City and Developer and their respective successors and assigns, subject to the provisions hereof, and not for the benefit of nor give rise to any claim or cause of action by any other person and this Agreement shall not be deemed to have conferred any rights upon any person except City and Developer.

(b) Successors and Assigns; Assignment. The provisions of this Agreement shall inure to the parties and their respective successors and assigns. This Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

(c) Amendments. This Agreement may only be amended by a writing signed by the parties hereto (or their respective successors and assigns).

(d) Waiver; Remedies. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party hereto of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other of further exercise thereof or the exercise of any other right, power or privilege hereunder.

(e) Governing Law. This Agreement shall be governed by and construed under the laws of the State of California.

(f) Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void, or against

public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

(g) Term. The term of this Agreement shall continue in full force and effect until terminated pursuant to the terms hereof.

(h) Notices. All notices or other communications among the parties required or permitted hereunder shall be in writing and personally delivered or sent by certified mail, return receipt requested and postage prepaid, sent by reputable overnight courier (such as Federal Express, UPS or DHL), or transmitted by electronic facsimile transmission (with electronic confirmation of receipt), to the following addresses:

If to Developer:
Sean J. Doyle
Standard Pacific Corp.
15326 Alton Parkway
Irvine, CA 92619-2338
(949) 789-1709 fax

with a copy to:
Michael L. Tidus
Jackson DeMarco Tidus Peckenpaugh
2030 Main Street, 12th Floor
Irvine, CA 92164
(949) 752-0597

If to City:
City Clerk
3031 Torrance Blvd
Torrance, CA 90503
(310) 618-2931 FAX

with a copy to:
Jeffery W. Gibson
Community Development Director
3031 Torrance Blvd
Torrance, CA 90503

A notice shall be effective on the date of personal delivery if personally delivered before 5:00 p.m. or otherwise on the day following personal delivery, or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt), or two (2) business days following the date the notice is postmarked, if mailed, or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

(i) Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

(j) Attorneys' Fees. In the event of any legal action or other proceeding between the parties regarding this Agreement (an ***"Action"***), the prevailing party shall be entitled to the payment by the losing party of its reasonable attorneys' fees, court costs and litigation expenses, as determined by the court. The provisions of this Section 2(j) shall be distinct and severable from the other rights of the parties under this Agreement, shall survive the entry of judgment in an Action and shall not be merged into such judgment.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

STANDARD PACIFIC CORP., a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

THE CITY OF TORRANCE, a municipal corporation

By: _____
Name: Frank Scotto
Title: Mayor

ATTEST:

_____

Sue Herbers, City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III

City Attorney

By: _____

Heather K. Whitham

Deputy City Attorney

EXHIBIT "A"

Legal Description of Developer's Property

All that certain real property located in the City of Torrence, County of Los Angeles, State of California, described as follows:

Tract No. 61463 in the City of Torrance, County of Los Angeles, State of California, as shown on map filed in Book 1338, pages 75 through 77, inclusive, of Maps in the office of the County Recorder of said County.

Tract No. 61850 in the City of Torrance, County of Los Angeles, State of California, as shown on map filed in Book xxxx, pages xx through xx, inclusive, of Maps in the office of the County Recorder of said County.

EXHIBIT "B"

Undergrounding Improvements

EXHIBIT "C"

Budget

Attachment B

STANDARD PACIFIC

JEFFERSON STREET CONVERSION

Tract #s 61463 and 61850

Updated: August 11, 2008

Segment	SCE Charges	Contractor Charges[1]	Communication Conversion[2]	Taxes[3]	Overhead Removal Costs	Total Charges[4]	Responsible Party	City Total	SPOC Total
A	$ 41,300	$ 73,600	$ 58,750	$ 9,086	$ 6,500	$ 217,621	SPOC	$ -	$ 217,621
B	$ 6,000	$ 2,000	$ -	$ 1,320	$ -	$ 10,718	City	$ 10,718	$ -
C	$ 6,000	$ 8,250	$ 1,500	$ 1,320	$ -	$ 19,631	City	$ 19,631	$ -
D	$ 9,000	$ 13,100	$ 1,500	$ 1,980	$ -	$ 29,417	City	$ 29,417	$ -
E	$ 12,500	$ 3,450	$ -	$ 2,750	$ 2,000	$ 23,805	City	$ 23,805	$ -
F[5]	$ -	$ -	$ -	$ -	$ -	$ -	TBD	$ -	$ -
G	$ 38,200	$ 48,600	$ 41,250	$ 8,404	$ 5,000	$ 162,672	50/50 Split	$ 81,336	$ 81,336
	$ 113,000	$ 149,000	$ 103,000	$ 24,860	$ 13,500	**$ 463,864**		**$ 164,907**	**$ 298,957**

Notes:

1 Includes both AT&T and Time Warner Communications costs.
2 ITCC Taxes have been reduced from 35% to 22%.
3 Structure costs are incorporated into the ***Contractor Charges*** column.
4 Includes 15% overhead charges for SCE implementation of the under-grounding work.
5 No longer part of the proposed project.

COUNCIL MEETING OF
September 23, 2008

SUPPLEMENTAL #1 TO ITEM 8K

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Supplemental #1 to Council Item 8K - Approve Memorandum of Agreement for the construction and payment of underground utility improvements along Jefferson Street.

Attached please find "Exhibit B" and "Exhibit C" which were part of the original Memorandum of Agreement (Attachment A) but were inadvertently omitted at the time of distribution.

Respectfully submitted,

JEFFERY W. GIBSON
Community Development Director

By _____
Ted Semaan, Manager
Transportation Planning, Development
Engineering and Records Division

CONCUR:

_____
Jeffery W. Gibson
Community Development Director

NOTED:

_____
LeRoy J. Jackson
City Manager

Attachment: A. Exhibit "B" and Exhibit "C"

8K

EXHIBIT B

ATTACHMENT "A"

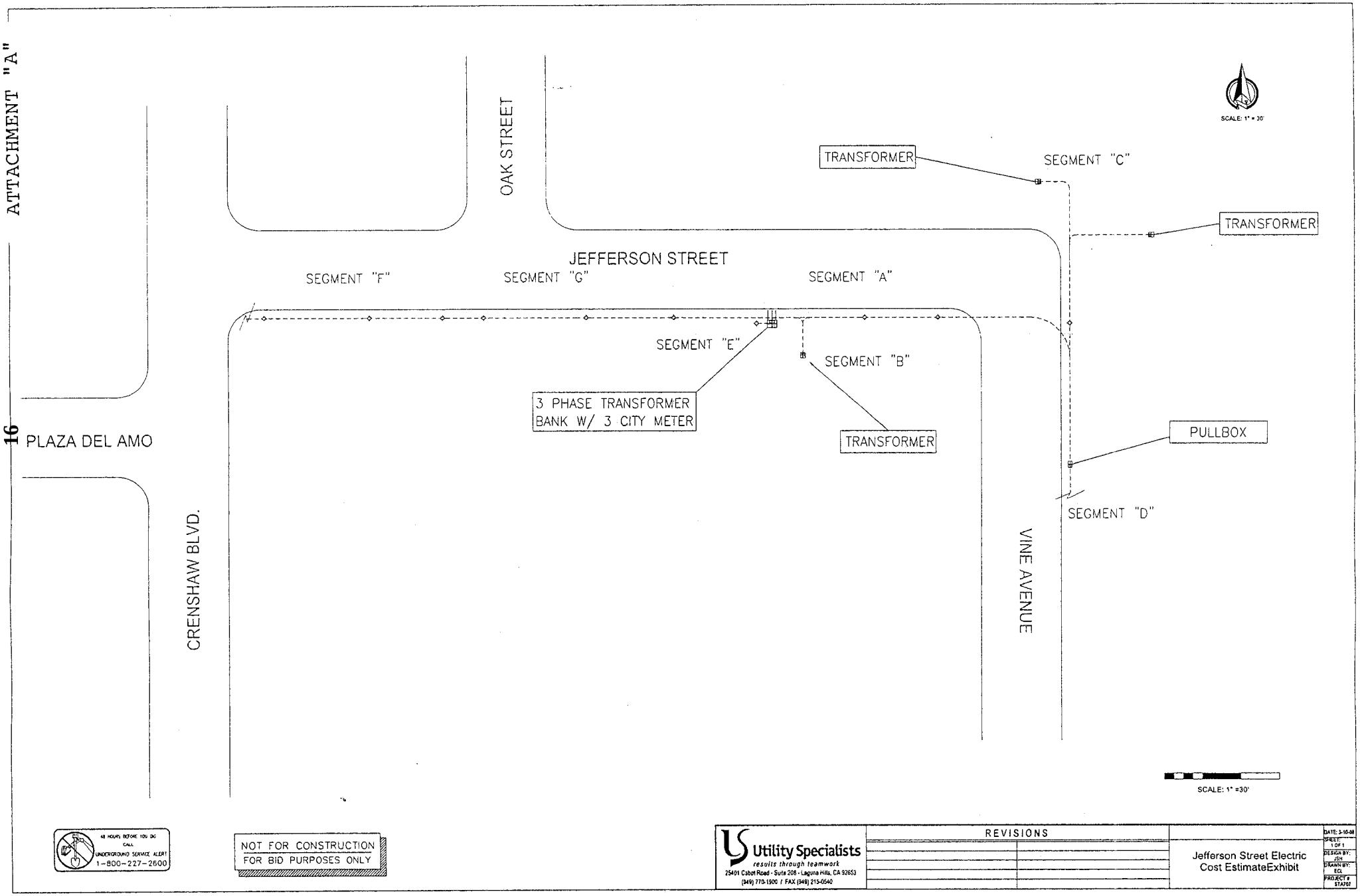

EXHIBIT C

STANDARD PACIFIC

JEFFERSON STREET CONVERSION

Tract #s 61463 and 61850

Updated: August 11, 2008

Segment	SCE Charges	Contractor Charges[1]	Communication Conversion[2]	Taxes[3]	Overhead Removal Costs	Total Charges[4]	Responsible Party	City Total	SPOC Total
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D	$ 9,000	$ 13,100	$ 1,500	$ 1,980	$ -	$ 29,417	City	$ 29,417	$ -
E	$ 12,500	$ 3,450	$ -	$ 2,750	$ 2,000	$ 23,805	City	$ 23,805	$ -
F[5]	$ -	$ -	$ -	$ -	$ -	$ -	TBD	$ -	$ -
G	$ 38,200	$ 48,600	$ 41,250	$ 8,404	$ 5,000	$ 162,672	50/50 Split	$ 81,336	$ 81,336
	$ 113,000	$ 149,000	$ 103,000	$ 24,860	$ 13,500	**$ 463,864**		**$ 164,907**	**$ 298,957**

Notes:

1 Includes both AT&T and Time Warner Communications costs.
2 ITCC Taxes have been reduced from 35% to 22%.
3 Structure costs are incorporated into the ***Contractor Charges*** column.
4 Includes 15% overhead charges for SCE implementation of the under-grounding work.
5 No longer part of the proposed project.

ATTACHMENT B

SOUTHERN CALIFORNIA EDISON
An EDISON INTERNATIONAL Company

Southern California Edison Company
505 MAPLE AVENUE
TORRANCE CA 90503

STANDARD PACIFIC
26 TECHNOLOGY
IRVINE CA 92618

Invoice #	71625
Invoice Date:	11/20/2009
SCE Contact:	Brian Cory Small
Telephone:	-()--5427
Install - Billing Option:	

Description	Amount
Service Request Number: 1145386 RULE 20C AT JEFFERSON/OAK, TORRANCE	
Project Address: JEFFERSON ST & OAK ST XSTRT TORRANCE CA 90501	
Item # 75426 97104 230724	$180,606.17
395111 - RULE 20B - UG INSTALL	
Previous Payment	$0
* All prices are valid until 12-31-09 due to the Income Tax Component of Contribution (ITCC) rate change from 22% to 35% effective 1-1-10. Invoices not paid in full on or before 12-31-09 will be re-priced using current labor, material, and tax rates. * Please return all applications and/or contracts fully completed. * Easement documents will be mailed directly to you from our Right of Way department. Please complete and return them as soon as possible, as we will not be able to proceed with the project without clearance * An Edison Inspector must approve all underground systems. Please call your designated inspector 48 hours prior to construction to schedule an inspection. * Call the Edison company at 1-800-655-4555 to make application for electrical service. * Enclosed are 2 copies of our invoice. Please return 1 copy of the invoice with your payment	
Invoice Total	$180,606.17

Please detach and return payment stub with payment

Payment Stub

Invoice #: 71625

STANDARD PACIFIC
26 TECHNOLOGY
IRVINE CA 92618

Please pay total amount now due: $180,606.17

Thank you for paying promptly

Make check payable to Southern California Edison
505 MAPLE AVENUE
TORRANCE CA 90503

STANDARD PACIFIC

JEFFERSON STREET CONVERSION

Tract #s 61463 and 61850

Updated: August 11, 2008

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D	$ 9,000	$ 13,100	$ 1,500	$ 1,980	$ -	$ 29,417	City	$ 29,417	$ -
E	$ 12,500	$ 3,450	$ -	$ 2,750	$ 2,000	$ 23,805	City	$ 23,805	$ -
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G	$ 38,200	$ 48,600	$ 41,250	$ 8,404	$ 5,000	$ 162,672	50/50 Split	$ 81,336	$ 81,336
	$ 113,000	$ 149,000	$ 103,000	$ 24,860	$ 13,500	**$ 463,864**		**$ 164,907**	**$ 298,957**

36% $65,018.22

64% $115,588.14

Notes:

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2 ITCC Taxes have been reduced from 35% to 22%.
3 Structure costs are incorporated into the ***Contractor Charges*** column.
4 Includes 15% overhead charges for SCE implementation of the under-grounding work.
5 No longer part of the proposed project.

ATTACHMENT C