

**SETTLEMENT  
PROPOSAL  
WITH  
HL&P and RMP  
FOR  
CONDITIONAL USE  
PERMIT**

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**TRANSMISSION LINE  
&  
RELATED LITIGATION**



# HISTORY

LAST MEETING I WAS GIVEN THE TASK OF MAKING SEVERAL EDITS TO THE PROPOSED SETTLEMENT AGREEMENT WITH HL&P AND RMP.

ALL OF THE EDITS REQUESTED IN THAT MEETING HAVE BEEN ADDED AND ACCEPTED BY RMP AND HL&P.

COUNCIL HAS RECEIVED THE PROPOSED DOCUMENT WITH THE INCLUDED EDITS.



# SUBSTANTIVE REQUESTS

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Parties have agreed neither HL&P nor RMP will use the 500 South Corridor for a second circuit.

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HL&P has agreed it will give notice 18 months before a proposed alteration to the 970 South Line for a period of 25 years from the date of settlement.

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Language has been added to assure Midway City receives adequate information at the time of notice to be able to estimate costs to bury for purposes of bonding.



# ONE MINOR EDIT

2.a.ii:

Restriction on Additional Transmission Line CUP. HL&P agrees it will not submit a conditional use permit to Midway City for either an additional transmission line along the same route as the Single Circuit Transmission Line or along the existing 500 South HL&P transmission line corridor within the Midway City limits as existing as of the date of this Agreement, or a conditional use permit that would increase the diameter, height or number of power poles on the Single Circuit Transmission Line for a period of 10 years after execution of this agreement. For 25 years after execution of this Agreement, HL&P also agrees that it will give Midway City written notice (with preliminary **drawings sufficient to enable Midway to seek its own cost estimate**, and a good faith estimate to build the line above ground and also to bury) of its intent to file a conditional use permit to alter, upgrade or add to the existing Single Circuit Transmission Line 18 months in advance of formal application, so that Midway City will have the time and opportunity to pass a bond to potentially bury the line.

# ONE MINOR EDIT

2.b.iv:

Notice Prior to Application for Future CUP. For 25 years after execution of this Agreement, RMP also agrees that it will give Midway City written notice (with preliminary **drawings sufficient to enable Midway to seek its own cost estimate**, and a good faith estimate to build the line above ground and also to bury it) of its intent to file a future application for a conditional use permit to alter, upgrade, or add to the existing Single Circuit Transmission Line to be built under this agreement at least 18 months in advance of formal application, so that Midway City will have the time and opportunity to pass a bond to potentially bury the line. This requirement shall only be waived if a conditional use permit is necessary to meet an urgent and immediate need as provided in the North American Electric Reliability Corporation or other applicable industry standard, and in such a case, RMP will provide notice to Midway City as soon as possible in the process.

# Possible Findings

- **POSSIBLE FINDINGS:**

- The proposed amendment is discretionary and should only be approved if it reduces the impact of the Transmission Line on Midway City and its residents.
- The proposal reduces the size and number of poles initially approved in the Conditional Use Permit, thus reducing the impact of the transmission line on both the neighborhood it runs through and Midway City citizens generally.
- The distribution lines will be buried to help declutter the current transmission line situation, and reduce the weight being carried by the poles, thus reducing poles in the area.
- The proposal will create a second point of power access that will benefit the residents of the valley.
- The proposal will allow more power to enter the valley that will benefit the entire community by meeting community needs.
- The proposal provides Midway City with sufficient notice to possibly bond to bury a future line if one is ever proposed.
- Midway City Council chose not to put a bond up for election in 2020 and presently has no capacity to pay to bury the dual circuit line approved under the terms of the original CUP.
- The proposed amendment is a reasonable way to resolve pending litigation regarding the CUP and saves the City from additional attorney's fees defending the appeal currently pending before the Appellate Court.

# MOTIONS

- I move that we accept the terms of the settlement agreement proposed with RMP & HL&P as drafted subject to the edits set forth in the presentation made by staff to paragraphs 2.a.ii and 2.b.iv. and direct the Mayor to sign the Agreement once the Settlement Agreement has been accepted by all other parties involved.
  
- I move that we amend the Conditional Use Permit granted to HL&P and RMP on December 17, 2019, as follows:
  - a) The terms of the Conditional Use Permit shall be as set forth in Paragraph 2, 3, 4, and 5 of the Settlement Agreement entered into between Midway City, HL&P and RMP.
  - b) The intent is to replace all of the language in the original Conditional Use Permit with the paragraphs stated above.
  - c) In making this motion I also move to adopt the findings and conclusions of staff.
  - d) The amendment of the Conditional Use Permit is subject to all parties entering into the Settlement Agreement approved previously by the City Council.