

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2005 JAN 27 PM 6:21

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Public Works Agency  
DATE: February 8, 2005

RE: **A STATUS REPORT ON THE POLICY AND PROCEDURE FOR THE  
ESTABLISHMENT AND IMPLEMENTATION OF UNDERGROUND  
UTILITY DISTRICTS**

---

**SUMMARY**

The purpose of the report is to provide information on the history, policy and procedure pertaining to the formation and implementation of underground utility districts, and to highlight issues that need to be addressed to further the City's Undergrounding Program.

The City of Oakland has completed numerous underground utility districts since 1968 when the California Public Utilities Commission (CPUC) facilitated the conversion of electric and telecommunications facilities in the public right-of-way with Rule 20A funds.

Because the City of Oakland actively pursues an Underground Utility Program, coupled with citizens' better awareness of the advantages of utility undergrounding, the demand for it now is much greater than ever before. However, due to the existing constraints on use of Rule 20A funds, many of the proposed areas for undergrounding may not qualify for that funding. Interest in the undergrounding program is evidenced by the frequent inquiry calls the City receives every month as well as the expanded list of proposed underground districts awaiting evaluation to determine their eligibility for undergrounding with Rule 20A funds.

**FISCAL IMPACTS**

Since this report is informational only, no fiscal impacts are included.

**BACKGROUND**

On December 1, 1967, the State of California sponsored a conference on utility undergrounding in Los Angeles. Representatives from the League of California Cities, the utility companies, the State of California, counties and local governments attended the conference. The objective of the conference was to formulate a funding mechanism and criteria to provide funds for the municipalities to pay for the replacement of their utilities' overhead facilities in the right-of-way with an underground system. The conference was very successful.

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

The final communiqué of the conference mandated the State of California to immediately authorize the CPUC to embark upon the development of the process and the establishment of the criteria for eligibility. Additionally, the CPUC was to require the electric companies (PG&E) and the telephone companies (SBC) to set aside funds annually for the municipalities to expend on underground conversion based on a formula depending on the number of electric meters in each municipality. The source of these funds is a fractional increase for the California electric and telephone ratepayers.

*CPUC Rule 20A*

In 1968, the CPUC passed Rule 20A which requires annual allocation of funds to municipalities by the State's utility companies to finance conversion of their existing pole lines to underground distribution systems. The street or streets eligible for the conversion must meet at least one of the Rule 20A criteria established by the CPUC and stated as follows:

PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-ways satisfactory to PG&E have been obtained by PG&E, provided that:

1. The governing body of the city or county in which such electric facilities are and will be located has:
  - a. Determined, after consultation with PG&E and after holding public hearings on the subject, that such undergrounding is in the general public interest for one or more of the following reasons:
    - 1) Such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electric facilities;
    - 2) The street or road or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;
    - 3) The street or road or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public; and
    - 4) The street or road or right-of-way is considered an arterial street or major collector as defined in the Governor's Office of Planning and Research General Plan Guidelines.

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

*(The full text of PG&E's Rule 20 can be accessed from the Public Works Agency website, <http://www.oaklandpw.com/undergrounding/index.htm>.)*

The utilities and the City interpret and apply the criteria to determine whether a street qualifies. Parties that participate in the conversion, namely PG&E, SBC and the City, must have a consensus as to the eligibility of a particular street, using the Rule 20A criteria as the guideline. In the case of the City of Oakland, the parties are PG&E, SBC and the City. Comcast, though a participant, does not have to agree. The CPUC ruling does not obligate cable television companies to participate in the conversion because they are not categorized as utility companies. However, Comcast is bound by its franchise with the City to convert its overhead facilities to underground systems wherever PG&E is a participant. Likewise, SBC is obligated to underground when PG&E does. This makes PG&E Rule 20A funding the controlling funding source.

The funds allocated by PG&E and SBC as mandated by the CPUC are kept and managed by the utility company respectively; they must be used solely for undergrounding or undergrounding related work. The CPUC Rule 20A requires that a street or streets qualifying for undergrounding with Rule 20A funds must be in an Underground Utility District established by the City Council by Resolution before any undergrounding work is begun. City Council must hold a public hearing prior to the establishment of the district.

#### *CPUC Rule 20B*

Any street that does not qualify for 20A funding qualifies for 20B. Under CPUC Rule 20B, owners of properties in the street are responsible for the cost of undergrounding. The average cost for 20B undergrounding ranges from \$25,000 to \$ 60,000 per property depending on what needs to be done on a particular property. Most communities are keenly interested in the 20A program because the out-of-pocket expense is much lower in comparison to the 20B program. Funding can be accomplished by the formation of an assessment district or through other funding sources.

#### UTILITY UNDERGROUNDING POLICY AND PROCEDURE

Ordinance No. 7769 C.M.S. establishes the requirements and policy for utility undergrounding. To a large degree, it states the role and responsibilities of staff, City Council, the utilities and owners of properties within the established underground utility districts in order to facilitate their implementation.

The City of Oakland pursues undergrounding because undergrounding enhances public safety and economic development, a goal that staff relentlessly promotes to the utilities.

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

As general practice, action on requests or petitions for undergrounding is taken on first-come, first-served basis unless otherwise directed by Council. Council moved up undergrounding on MacArthur in order to coordinate it with the streetscape project for MacArthur Boulevard to save the City money by trenching the street and sidewalk once. It was the first time Council moved a utility undergrounding project out of sequence.

Initiating an undergrounding project starts with a petition or a letter signed by a few property owners in a community, a merchants' association, or owners of properties on a particular street. The petition states the boundary of the street to benefit from undergrounding. Staff responds by telephone and in writing to acknowledge receipt of the petition and to inform the petitioner of the CPUC rules and the requirements of Ordinance No. 7769 C.M.S. that govern undergrounding with Rule 20A funds. The petitions received by the City are arranged in chronological order and placed on the waiting list (see Exhibit A).

The City, Comcast and the utilities thoroughly walk the petitioned street together at a later date and examine it by interpreting and applying the rules. The outcome of the evaluation is by consensus; but where there is some disagreement, debate and persuasion come into play until an agreement is reached. During the walk-through, the City always tries to get the optimum undergrounding possible by having the utilities look a little beyond the original boundary of the petitioned area. Sometimes the configuration of overhead lines on a street requires that the original boundary be extended to make engineering sense and to facilitate engineering design. Staff then formally informs the petitioners the outcome of the evaluation of their respective streets. If the area fails to qualify for Rule 20A funds, the petitioners are advised and given the option of undergrounding under Rule 20B and using an assessment district to fund it.

Staff works with the next street or area to qualify for Rule 20A funds and its residents and owners of properties on the street to begin the process of establishing and constructing an underground utility district. Every property owner within the official boundary is notified of the status of their proposed project, given a rough timeline when the City will meet with them to discuss their project, when property owners should expect the "YES in favor/NO against" vote card, and when the project will be presented to the City Council for public hearing before the establishment of the Underground Utility District. Because every property owner is required to participate in the conversion and incur certain predetermined out-of-pocket expenses (see Exhibit B), it makes sense that the property owner participates in the vote, or at least is sent the vote card with all pertinent information, including the approximate expense to be incurred by each property owner if the project moves forward.

Once an official boundary of the district is established, all impacted property owners informed, a community meeting held, and the vote returns are comfortably favorable (60%+), staff prepares City Council agenda items for a public hearing and for the establishment of the Underground Utility District. If an assessment district is necessary to pay for the new streetlights and the

underground streetlight system, then a special vote for assessment first takes place. If the assessment passes, Council holds a public hearing and establishes the district after the public hearing. Costs for this work are paid for from Capital Improvement Program funds. The amount is reimbursed from the assessment district and then used for the next approved underground utility district. Upon the establishment of the district, staff and the utilities establish the schedule for completion of engineering design, start and completion of construction and staff stays on top of the schedule to ensure that it is met. A pre-construction community meeting is held shortly before construction starts to address the community and individual concerns during the construction. A PG&E crew or an outside contractor usually does the construction of the project for SBC or for the City. It is a long and protracted project as it involves PG&E, SBC, Comcast, the City and owners of properties in the district, each performing their respective tasks at various phases of the project. The removal of all overhead wires and wood poles in the district marks the completion of the project.

#### UPDATE OF EXISTING PROJECTS

The City recently completed La Salle/Liggett and Harbord/Estates underground utility projects. Staff has since been working on the MacArthur Boulevard project which extends from 73<sup>rd</sup> Avenue to the San Leandro city line. The contract for this project is being reviewed by the City Attorney for indemnification issues. Once the issues are resolved, the contract will be sent to the City Council with recommendation to award and construction will begin a few weeks thereafter. The project will take three years to complete. When the MacArthur project is fully underway, staff will start working on the first and second phases of the next project which are the arterial streets in the Piedmont Pines area, and continue working on and managing the San Leandro Street project.

The streets of the proposed projects are subject to future evaluation by the utilities and the City to determine if they qualify for funding under CPUC Rule 20A Based on the availability of funds, and if all the proposed projects qualified under CPUC Rule 20A, staff believes it will take 20 to 30 years to complete undergrounding on those streets. Non-qualifying areas can still benefit from undergrounding under CPUC Rule 20B through a funding mechanism resulting from an assessment district or through other funding sources.

Staff is currently engineering a Rule 20B undergrounding project on San Leandro Street from 66<sup>th</sup> Avenue to 73<sup>rd</sup> Avenue, and on 73<sup>rd</sup> Avenue between San Leandro Street and the Oakland Inter-City Rail Station. This area is across the street from the Coliseum BART station. The Community and Economic Development Agency (CEDA) requested staff to start this underground project in conjunction with the Coliseum Streetscape Project to minimize disruption, and to save the City money by trenching the street and sidewalk only once. However, PG&E was not able to initiate the project on a timely basis and provide the estimated costs. This has adversely impacted the Coliseum Streetscape Project as well as the Oakland Coliseum

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

InterCity Rail Station Project. CEDA has committed and will provide the funds for this Rule 20B project. We anticipate construction to begin before the end of this year. The legislation establishing this Rule 20B Underground Utility District will be presented to Council for consideration in the foreseeable future shortly after staff receives the information needed from PG&E and CEDA.

The process of establishing an assessment district includes, but is not limited to, the following steps:

- Determine the proposed underground district boundary which is the assessment district.
- Prepare cost estimates based on the desired type of streetlights to be installed and how many, the number of properties to be impacted, including labor, other materials, Engineer's Report and outside assessment consultant (attorney).
- Meet with property owners to be impacted by the assessment/undergrounding and inform them about the project, the approximate assessment cost to each property owner and any possible additional expense to the property owner for underground conversion to their house as well as a rough timeline for the assessment and the undergrounding.
- Prepare Engineer's report (in house or consultant).
- City's Finance Agency, Treasury Division/Consultant to produce required maps, Assessor's Parcel Number for each parcel in the district.
- Treasury Division to send out assessment information/vote form and Notice of Hearing to every parcel owner. Assessment information includes the exact assessment amount, the manner in which it shall be paid and the hearing dates.
- First Hearing
- Second Hearing and establishment of the assessment district if vote/hearing is favorable
- Treasury Division records assessment district with the county.
- Treasury Division sends out letter to affected parcel owners, giving deadline lump sum payments and timeline for first installment amount to appear on the property tax statement.
- Public Hearing and establishment of the Underground Utility District

#### **KEY ISSUES AND IMPACTS:**

Considering the large number of proposed projects and the time it will take to implement them, receiving new petitions for undergrounding will extend the list and the time period for implementation too far into the future (more than 30 years).

The majority of the petitions for undergrounding come from the hill area of the City of Oakland. Staff feels that the residents in other parts of Oakland are less interested in undergrounding because of the out-of-pocket expenses that property owners must incur to convert overhead facilities to an underground system. The most recent amount assessed is approximately \$5,000

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

per property. The assessment amount pays for underground streetlight system plus the cost of ornamental electroliers instead of the City's standard steel poles. A fairer distribution of underground districts in Oakland would require a review and revision of the process of initiating or applying for undergrounding as well as additional funding in lieu of an assessment.

The following is a summary of issues that need to be addressed:

- Undergrounding emergency evacuation routes.
- *Undergrounding areas susceptible to wild fires caused by downed or arcing lines.*
- Continuous action to get Rule 20A restrictive wording modified so the funds can be used for the above.
- Coordination with streetscape projects.
- Undergrounding in low income areas.
- Should areas not currently qualifying for Rule 20A funds stay on the list with the hope that Rule 20A will be modified?
- *Should staff continue to accept new requests or petitions for undergrounding?*
- Master Plan for undergrounding with emphasis on major thoroughfares and commercial areas and equitable distribution of undergrounding within the City of Oakland.

#### FUNDING FOR THE IMPLEMENTATION OF UNDERGROUND UTILITY DISTRICTS

In accordance with CPUC Rule 20A, PG&E currently allocates approximately \$3.3 million per year to the City of Oakland that is expended solely on undergrounding. SBC is required under its CPUC tariff to participate at its cost wherever PG&E is participating, and likewise, Comcast has to participate at its cost as required by the franchise agreement with the City. Our rough estimation is that every one mile of undergrounding costs approximately \$2 million of PG&E's allocation to the City, \$800,000 for SBC, and \$400,000 for Comcast. These costs could be much higher if the roadway is congested with pre-existing substructures, such as MacArthur Boulevard, the next project to be underway.

Until 1995, the City fully paid for the cost of streetlight underground systems in underground utility districts. But due to the City's serious budget constraints, it was decided that communities interested in undergrounding pay for the labor and materials required to replace and convert wood pole streetlights to underground systems with metal poles. The risk with this policy is that in the event that the assessment district is voted down by the property owners to be assessed, the project will be on hold indefinitely or even scrapped.

Currently, the City's allocated CPUC Rule 20A fund balance with PG&E is \$14.6 million. This amount does not include PG&E's cost of the MacArthur Undergrounding Project (from 73<sup>rd</sup> Avenue to the San Leandro city line), estimated to be \$12 million, and it does not include the closing cost adjustments for the last two underground utility projects (La Salle/Liggett and

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

Harbord/Estates), estimated to be about \$600,000. The City's 2005 allocation of approximately \$3.3 million will take place in the first or second quarter of 2005, making the total 20A funds available to the City approximately \$18 million. SBC and Comcast do not divulge their budgeted amounts for undergrounding and they do not state their total final costs of underground projects. The City's primary interest is CPUC Rule 20A allocation by PG&E, the driving force behind undergrounding. The other parties are compelled to participate once PG&E takes on a project.

The City is responsible for the purchase of steel poles to be installed in underground utility districts. The estimated cost for installing a streetlight pole in an underground utility district is \$6,000 each. In addition to the cost of the standard steel pole, which is about \$3,000, the installation involves trenching, foundation, installation of the foundation, pulling cable and connection. Property owners pay these costs through an assessment district. A City electrical crew is utilized whenever it is deemed necessary. The City does the engineering design of the new streetlight system and the composite engineering when the City is a lead agent; the utilities and Comcast reimburse the City for the reasonable cost of the composite engineering and for any pertinent work. In general, the role of lead agent has been between PG&E and SBC. However, SBC has informed the City that it has stopped being the lead agent for underground utility projects. When the City is the lead agency, the City bids out the construction work for all the utilities and for the City. The City is responsible for administering the contract and costs even though PG&E, SBC and Comcast pay for their share of the work. Currently, PG&E cannot accomplish undergrounding in Oakland at a pace consistent with Oakland's allocation of Rule 20A funds. This means that the City must be lead agent for more projects in the future.

The City is responsible for communicating the process of the project and the expenses to be incurred by the property owner to the community and the impacted individual property owners. It organizes and holds community meetings, and prepares the legislation for establishing an Underground Utility District as required.

On average, the City spends about \$600,000 for street lighting work for every \$3 million of Rule 20A funds. However, the City's cost is reimbursed by owners of properties benefiting from the undergrounding through assessments.

#### **ACTION REQUESTED OF THE CITY COUNCIL**

No action is requested of the City Council at this time. Staff will proceed with the following action plan to further improve the Undergrounding Program of the City of Oakland:

1. Perform preliminary evaluations of future petitioned areas and existing petitioned streets (with the utilities' participation) to determine those areas that qualify for Rule 20A


Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005



undergrounding as early as possible, and inform the petitioners shortly thereafter instead of placing the areas on the list pending future evaluations several years later.

2. Coordinate undergrounding with streetscape projects where the street is in a pre-existing proposed or approved underground district and move the street or project in question ahead of the rest, if necessary.

Respectfully submitted,

*for*   
\_\_\_\_\_  
Raul Godinez, II, P.E.  
Director, Public Works Agency

Reviewed by:  
Bruce Saunders, Assistant Director  
Infrastructure and Operations

Prepared by:  
Vernon Chang  
Interim Electrical Services Manager  
Electrical Services Division

Exhibit A: Approved/Proposed Underground Utility Projects

Exhibit B: Estimated Rule 20A Undergrounding Costs Incurred by Property Owner

APPROVED AND FORWARDED TO THE  
PUBLIC WORKS COMMITTEE:

  
\_\_\_\_\_  
OFFICE OF THE CITY ADMINISTRATOR

Item: \_\_\_\_\_  
Public Works Committee  
February 8, 2005

**CITY OF OAKLAND  
UNDERGROUND UTILITY PROJECTS  
January 2005**

**EXHIBIT A**

PROJECT	YEAR PETITIONED	RESOLUTION NO. & YEAR	START OF CONSTRUCTION	CONSTRUCTION STATUS	APPROXIMATE LENGTH OF PROJECT IN MILES
<b>APPROVED:</b>					
MACARTHUR BLVD. FROM 73RD TO SAN LEANDRO LINE	1993	76731    9/25/01	1ST QUARTER 2005	2008	2.5
PIEDMONT PINES AREA - RULE 20A	1987	75652    5/02/00	Not yet determined	N/A	6.5
<b>PROPOSED:</b>					
LAKESHORE PHASE V		N/A	TBD	N/A	3.5
OAKMORE AREA	1987	N/A	TBD	N/A	3.5
MOUNTAIN BLVD./ THORNHILL DR.	1989	N/A	TBD	N/A	1.3
SEQUOYAH RD.	1991	N/A	TBD	N/A	1.2
HIGH VOLTAGE TRANSMISSION LINES PLUG	1994	N/A	TBD	N/A	2.0
SHEFFIELD AVE.	1995	N/A	TBD	N/A	N/A
FRUITVALE AVENUE	1996	N/A	TBD	N/A	N/A
PANORAMIC HILL AREA	1996	N/A	TBD	N/A	N/A
CABOT DRIVE	1996	N/A	TBD	N/A	N/A
CHABOT RD. & PRESLEY WAY	1998	N/A	TBD	N/A	N/A
ASHMOUNT AVENUE	1998	N/A	TBD	N/A	N/A
FAIRVIEW PARK AREA (HILLEGASS)	1998	N/A	TBD	N/A	N/A
WAWONA AVENUE	1998	N/A	TBD	N/A	N/A
JACOBUS AVENUE	1998	N/A	TBD	N/A	N/A
CLARENDON CRESCENT	1998	N/A	TBD	N/A	N/A
CRANE WAY	1998	N/A	TBD	N/A	N/A
ROCKRIDGE BLVD. NORTH, ROCKRIDGE BLVD. SOUTH, ROCKRIDGE PLACE	2000	N/A	TBD	N/A	NA
COLTON BLVD.	2000	N/A	TBD	N/A	N/A
ROCKRIDGE VISTA NEIGHBORHOOD	2001	N/A	TBD	N/A	N/A
BRUNS COURT	2001	N/A	TBD	N/A	N/A
TBD = TO BE DETERMINED WHEN STREET IS EVALUATED TO DETERMINE ELIGIBILITY FOR FUNDING UNDER CPUC RULE 20A					

**EXHIBIT B**

**CITY OF OAKLAND**  
**ESTIMATED RULE 20A UNDERGROUNDING COSTS INCURRED BY PROPERTY OWNER**  
**January 2005**  
(Estimate in 2005 Dollars)

Under existing City policies, property owners bear the following costs for Rule 20A projects:

	<u>Cost Range in 2005\$</u>		
	<u>Low Estimate</u>	<u>Average</u>	<u>High Estimate</u>
Streetlighting	\$ 5,000	\$ 6,000	\$ 8,000
Service Lateral and Panel Conversion	\$ 3,000	\$ 5,000	\$ 7,000
<b>TOTAL AMOUNT PER PROPERTY</b>	<b>\$ 8,000</b>	<b>\$ 11,000</b>	<b>\$ 15,000</b>