



Agenda Item No. 14.

Staff Report

Date: November 14, 2019

To: Mayor Brekhus and Council Members

From: Joe Chinn, Town Manager
Rich Simonitch, Public Works Director

Subject: Addendum to Agenda Item No. 14

Technical amendments to redline policy

The attached three pages have technical changes in blue line to the Underground Utility District Formation Policies and Procedures.

Attachment

1. Blue line changes to pages 5, 7, and 11 of Underground Utility District Formation Policies and Procedures document

require their design costs to be paid in advance by the Property Owners or a subset of Property Owners to prepare construction plans and specifications.

It should be understood by all Property Owners in the district that these pre-assessment formation costs are estimates only, and actual costs will depend on the size of the district, complexity of the project and the market costs for the preliminary services required to form the district.

2.14

2.14 Deposit and Release Agreement Required from Property Owners (or a Subset) for Engineering and Legal Services Costs - The Property Owners must raise funds for the assessment engineering, legal advisory services, Town non-staff costs, utility company design costs and any preliminary and incidental costs determined by the Town to be necessary and appropriate ("Contributors"). The Contributors making any such deposits may be all of the Property Owners or a subset of the Property Owners. The full amount for these services must be deposited by the Contributors with the Town prior to Town staff bringing the project to the Town Council for consideration. (Please note that these costs may be significant and could be in the hundreds-of-thousands of dollars.) Upon receipt of a satisfactory petition, deposit and informal boundary map, the Town will begin the process of preparing the necessary reports and documents to present to Council for consideration of the Resolution of Intention. Should the deposited funds from the Contributors not cover the necessary costs during the course of the assessment formation, the Town will notify the Contributors of the need to supplement the deposit. Once supplemented, the Town will continue processing the formation of the proposed assessment district. Please note that if for any reason the district is not formed and/or fails to issue the bonds, the Contributors will receive back only the amount of their contributions that have not been spent, if any, as calculated by in proportion to the full Deposit for the Proposed District, as determined by the Town in its sole discretion. If the district is formed, these costs can be credited against the Contributor's assessment, or refunded to the Contributors and added to the total assessment costs. Every Contributor must also execute the Underground Assessment District Deposit and Release Agreement protecting the Town for the costs of these services in a form attached as Attachment B to this policy. Additionally, the Town expects the Contributors to indemnify the Town should there be any lawsuit challenging the formation of the Proposed District.

~~Deposit and Indemnity Agreement Required from Property Owners (or a Subset) for Engineering and Legal Services Costs - The Property Owners must raise funds for the assessment engineering, legal advisory services, Town non-staff costs, utility company design costs and any preliminary and incidental costs determined by the Town to be necessary and appropriate. These funds may be paid for by all Property Owners or by a subset of the Property Owners. The full amount for these services must be deposited with the Town prior to Town staff bringing the project to the Town Council for consideration. (Please note that these costs may be significant and could be in the hundreds-of-thousands of dollars.) Upon receipt of~~

assessment district is not approved, the Town's staff costs will not be recovered; but Property Owners or a subset of Property Owners must cover all legal services and consultant fees related to the proposed district.

Also, at the first Council meeting, the Council shall consider adopting the Resolution of Intention to make acquisitions and improvements, which formally begins the assessment process.

With the Resolution of Intention, the Town will ~~appoint~~ enter into professional consulting contracts with a Bond Counsel and ~~the~~ Engineer-of-Work. Bond Counsel directs all legal proceedings to establish the district, including Council resolutions, notices, forms of documents and instructions, including the levy of the assessments and issuance of bonds. Except for advisory services to Property Owners, Bond Counsel is paid only if the bonds are actually issued except for any preliminary work done, which the Property Owners or a subset of Property Owners must cover.

IV. Assessment District Formation and Formal Votes (Weighted & Parcel) Phase

The Town will seek to fund utility undergrounding on residential streets by establishing a traditional assessment district, as provided by state law in the Municipal Improvement Act of 1913, which provides for assessments to raise money for public improvements, subject to the requirement of Proposition 218 that such an assessment will not be imposed if a majority (50% of the total amount assessed to all parcels returning ballots, plus \$1.00 or a different threshold as established by the Town) of those returning ballots oppose the assessment or it fails to pass the Town Policy voting threshold stated later in this document. At the Property Owners' or a subset of Property Owners cost, the Town will be responsible for contracting with the appropriate professionals and contractors to ~~ensure that the undergrounding is competently conducted~~ provide services from initial assessment formation through final construction. ~~The Neighborhood Committee must also execute an indemnity agreement to protect the Town.~~

The procedures, events and steps described ~~below~~ are governed by state law and guidelines of the CPUC (regulating PG&E and other utilities) about the physical and financial requirements for utility undergrounding projects. The Town must comply with these laws and regulations then in effect, while taking appropriate actions to coordinate the project from its inception to its completion.

Assessment districts help residents pay off finance the cost of this work on an annual basis through their property tax bill, typically over a 20 to 30-year period. This process requires the Town to manage the design and construction of the utility undergrounding with some or all of these costs eligible for repayment to the Town through the annual assessment. The Town is also obligated to administer the district and levy the property assessment on an annual basis. These costs are eligible for repayment to the Town through the annual assessment.

Following Town Council action, the Town's Finance Director and Underwriter will price the bond issue, and the Town will execute the Bond Purchase Agreement (sells bonds) and Preliminary Official Statement (describes bonds for market). Approximately two weeks later, the bonds are delivered to the Underwriter in exchange for the purchase price under the Bond Purchase Agreement. This provides the funds to pay for the underground project and its related costs.

V. Construction Phase

Construction Begins - The Neighborhood Committee will organize a meeting with the Town Engineer and the Contractor to discuss construction details and timelines. In addition, information will be provided to Property Owners regarding hooking-up to the underground system ("laterals") once construction is complete.

Every effort will be made to minimize the disruption caused by the construction. However, there will be times when heavy equipment will be on neighborhood streets, there may be delays in accessing streets, there will be construction noise and dust, and vegetation may be damaged or destroyed. In order to get the wires underground, trenches will be dug so the utility conduits can be placed. The Town Engineer will be available to answer questions and concerns throughout the construction phase of the project.

Official Notice to Connect to the Underground System - Once construction of undergrounding the utilities in the right-of-way is complete, an official notice from the Town will be mailed to Property Owners explaining that they are now required to hook-up to the underground system (install "laterals").

The costs of individual service connections to the underground facilities are borne by each Property Owner and are not included in the assessment.

Property Owners Hook-up to the System – The Property Owners shall comply with the procedures set forth in Ross Municipal Code section 15.28.090 to ~~affect the connection~~ of connect their house utility service lines to the new underground system. The most cost-effective approach to providing underground lines on private property and reconnecting utility services is for Property Owners to use the services of one contractor, which may be the same contractor(s) as the ones installing the new underground lines in the streets. The Town will help facilitate this effort, which will require Property Owners to provide written consent for contractors to enter their private property to make the necessary connections and underground facilities.

Utilities remove poles, wires, and work completed - After 100% of the properties within the district have connected to the underground system, the utility companies will switch the system from overhead to underground and then remove the poles and wires from the area.

From the bond proceeds, the Town will pay the final bills and costs, including any remaining legal and administrative costs incurred by the Town for the project. If there is any surplus