

CITY OF SOLANA BEACH	Policy No. 13
COUNCIL POLICY	Adopted: 08/19/2003 Resolution 2003-110 Revised: 04/26/2006 Resolution 2006-066 Revised: 10/27/2010 Resolution 2010-152 Effective: 12/10/2010
GENERAL SUBJECT: Utility Undergrounding Policy	
SPECIFIC SUBJECT: Utility Undergrounding Policy for Municipality-Initiated Assessment Districts, Rule 20B	

PURPOSE: To establish a policy to underground the existing overhead lines in residential neighborhoods, to promote the benefit of undergrounding and encourage the formation of undergrounding districts at the neighborhood level.

BACKGROUND: From time to time residents in the City request information from staff about the process for undergrounding utilities in their neighborhood. Due to California Public Utilities Commission (CPUC) 20A guidelines on what constitutes a 20A conversion district, many times these residential neighborhoods don't qualify for Rule 20A funding. CPUC Rule 20A funds are the set-aside funds from a portion of SDG&E revenues, received from the City of Solana Beach, for undergrounding electric utilities. In general, Rule 20A requires that the funds be used for projects in high traffic or public use areas (see Rule 20A packet). The City's Rule 20A funds are used to underground utility lines on Major Arterials and commercial Collector Streets. Rule 20B projects are resident-initiated utility undergrounding assessment districts. Rule 20A funds may be used to "seed" or "front" preliminary engineering costs for Rule 20B projects, but the funds must be reimbursed to the Rule 20A account upon successful completion of a Rule 20B district.

POLICY:

The City Council establishes the following policy for the formation of 20B utility underground districts.

1. General Provisions

It is the desire of the City Council to be responsive to residents who agree to be assessed for utility undergrounding, as well as to respect those who do not wish to pay for utility undergrounding.

Therefore;

- a) The City will respond to the requests of those desiring undergrounding, rather than initiating utility undergrounding districts.
- b) Initially, the City Council will require a 70% showing of support of property owners benefiting from the assessment district before any “seed” or “front” money will be appropriated.
- c) A majority vote of the property owners, by assessment, is necessary before the City may form a utility district.
- d) All utility undergrounding districts shall comply with all applicable laws, including, but not limited to the California Constitution and applicable state codes.

2. Funding shall be as follows:

- a. Proposed underground conversion area will be a 20B assessment district. One hundred percent (100%) of the cost will be assessed to property owners.
- b. Assessment payments may be made in cash or spread out up to 20 years.
- c. Assessment payments will be billed on the County Tax Bill.
- d. Property owner is responsible for the connections from the property line to the private service panel.
- e. Any “seed” or “front” money in formation of the district that come from Rule 20A funds shall be reimbursed to the City by the property owners within the conversion boundary in the event of formation of the assessment district.
- f. Maximum amount to be allocated as “seed” of “front” money from CPUC Rule 20A funds shall be ten thousand dollars (\$10,000).

3. Implementation Procedures

- a. Generally the neighborhood that initiates the process of utility undergrounding assigns a Neighborhood Coordinator and circulates the City-approved petition among property owners. The City Council approved petition is attached to this policy. The Neighborhood Coordinator will prepare the boundary map of the properties proposed to be in the district per the results of the circulated petition.
- b. 70% of the property owners included in the proposed district must sign the approved petition in order to begin the process for forming the assessment district.
- c. If 70% of the property owners in the proposed district approve formation of the assessment district, the Neighborhood Coordinator may submit the petitions to the City Engineering Department for verification.

- d. A representative from City Staff will notify SDG&E of the proposed assessment district and will provide SDG&E with a map showing the boundaries of the assessment district. SDG&E will then provide the City with a “ballpark” cost estimate to convert the overhead electric lines to underground. Based on the existing layout of the electrical infrastructure, the proposed assessment boundaries may be modified by SDG&E.
- e. After signatures are verified by the Engineering Department, the City Council shall be requested to approve “seed” money to pay for the preparation of preliminary plans and preliminary cost estimate by SDG&E. This preliminary cost estimate will be more accurate than the earlier “ballpark” estimate.
- f. With the new preliminary costs (from SDG&E), the Neighborhood Coordinator will circulate a second petition within the proposed district for a further count of signatures based on the preliminary cost estimate for each property owner. A petition of the property owners in the proposed district must indicate that at least 70% wish to go forward with the formation process. Proposed boundaries of the district are submitted with the petition.
- g. If 70% of the property owners in the proposed district sign the petition in step (f), Staff will require a deposit to retain an assessment engineer. The deposit amount will be calculated by multiplying the total number of properties in the proposed district by \$500, with a minimum amount of \$20,000. The City will refund the excess deposit amounts after the final bond counsel and assessment engineer costs are determined. Expenditures are controlled by the City. A reimbursement agreement between the City and district proponents shall govern the deposited funds.
- h. Using the above (g) information, Bond Counsel prepares the petition and drafts the reimbursement agreement between the City and proponents of the project. Residents within the proposed boundaries of the assessment district then submit the required deposit utilizing the formula listed above (g).
- i. To formally initiate the assessment district, the Bond Counsel reviews the petition and prepares a resolution initiating proceedings to consider formation of the district for City Council approval.
- j. Next, the City Council approves the reimbursement agreement, accepts the petition, approves the boundary map and declares its intention to form the district and orders the preparation of an Engineer’s Report.
- k. The Assessment Engineer’s Report will include a map of the district boundary, a description of the improvements, an estimate of the total

costs of the improvements, the methodology by which the special benefit is determined and the assessments are to be spread, as well as the amount to be assessed upon each parcel.

- l. City Council approves by resolution the Engineer's Report and sets the time, date and location of the Public Hearing.
- m. Public Hearing and Assessment ballots are mailed. The notice will contain the estimated total assessment amount chargeable to the district, the amount chargeable to the record owner's parcel, the basis for assessment, information regarding the Public Hearing, and summary of the procedures for the completion, return, and tabulations of the assessment ballots.
- n. The City Council conducts a Public Hearing at which the City Council considers objections, if any, to the proposed assessment. Following closure of the Public Hearing, the City Clerk tabulates ballots and reports to the City Council. Assessment ballots are weighted on the basis of the dollar amount assessed to each parcel for which the ballot is submitted. If a majority (50% plus 1) of the weighted assessment or more than 40% of the total parcels ballots returned opposes the proposed assessment, the City Council may not levy the assessment. If a majority of the weighted assessment and 60% of the total parcels ballots returned are in favor, the City Council, in its discretion, may adopt a resolution declaring the amounts of the tabulation of assessment ballots, approve the Engineer's Report, authorize the proposed improvement described in the report, confirm the assessment and direct the City Clerk to file an assessment diagram and notice of assessment with the County Recorder's Office.
- o. The City Clerk records a Notice of Assessment with the County Recorder's office. The Finance Director then mails a statement of assessment to each property to be assessed.
- p. Property Owners have the option to pay all or portion of the assessment during the cash collection period – 30 days.
- q. Following closure of the cash collection period, all uncollected assessment will be levied against the properties over a number of years and collected on the tax roll.
- r. City Council will authorize the issuance of bonds.
- s. The City shall provide at least 15 days written notice prior to construction stating that at their own cost, every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property

necessary to connect to the UUD facilities. Such work may be done by the contractor, or the public utility, public agency or city performing the conversion work, and the cost thereof included in the assessment to be levied upon such lot or parcel provided, that the owner shall execute a written request therefor and file the same with the City. Any such request shall expressly authorize the contractor, public utility, public agency or city, and their respective officers, agents and employees to enter upon such lot or parcel for such purpose and shall waive any right of protest or objection in respect of the doing of such work and the inclusion of the cost thereof in said assessment.

- t. Any written request executed pursuant to section 2(s) shall be filed with the City not later than the date fixed for commencement of construction of the conversion. A written request executed after such date shall not be accepted for filing by the City unless it shall contain the written approval of the contractor, public utility, public agency or city which is authorized to perform such work or improvement.
- u. In the event any person does not comply with subsections 2(s) and 2(t), the city engineer shall provide written notice to the property, via posting and U.S. mail, that power to that property shall be disconnected and all overhead services wires and associated facilities will be removed. Such notice shall be provided at least five days prior to disconnection and removal.
- v. After provision of the notice in subsection 2(u), the if there is still no compliance with subsections 2(s) and 2(t), the city engineer shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities providing utility to that property. Any costs of future reconnection to the property shall be at the cost of the owner, operator, lessee, occupier or renter of that property.
- w. Utility companies will prepare the project design plans and complete construction.
- x. If a property owner sells the property or passes away during the assessment process, the Neighborhood Coordinator(s) must notify the City immediately, so that the City can properly notify the new owner or estate representative of the ongoing UUD process.

- Attachments:
- 1. Petition
 - 2. Resolution of Policy Approval

Attachment 2

RESOLUTION 2010-152

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ADOPTING THE REVISED COUNCIL POLICY 13 - UTILITY UNDERGROUNDING POLICY

WHEREAS, in August 2003, City Council adopted Council Policy No. 13 (Utility Undergrounding Policy) establishing the process for the proper formation of Utility Undergrounding Districts (UUD) in compliance with the California Public Utilities Commission (CPUC) 20A guidelines; and

WHEREAS, three UUDs have been completed in the City utilizing Council Policy No. 13, and Staff has identified certain elements that require revisions to solidify the UUD process, and provide additional fiscal protections of City funds; and

WHEREAS, on September 22, 2010, Staff brought the proposed revisions to City Council for consideration and direction; and

WHEREAS, the City Council provided direction and the revisions are included in the revised Council Policy 13 – Utility Undergrounding Policy; and

WHEREAS, the revised Council Policy 13 implements and specifies the general requirements outlined under Chapter 11.32 of the Solana Beach Municipal Code, and includes policies encompassing CPUC 20A and 20B guidelines and complies with all applicable laws including, but not limited to, the California Constitution and applicable state codes.

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NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

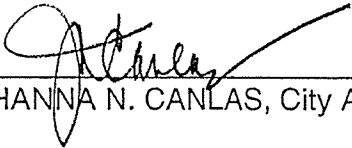
- 1. That the above citations are true and correct.
- 2. That the City Council adopts the revised Council Policy 13 – Utility Undergrounding Policy.

PASSED AND ADOPTED this 27th day of October, 2010, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

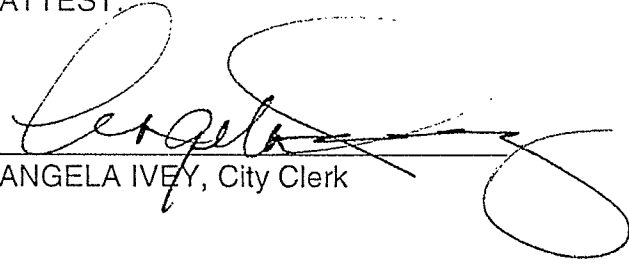
AYES: Councilmembers – Campbell, Kellejian, Roberts, Nichols
 NOES: Councilmembers – None
 ABSENT: Councilmembers – Heebner
 ABSTAIN: Councilmembers – None


 THOMAS M. CAMPBELL, Mayor

APPROVED AS TO FORM:


 JOHANNA N. CANLAS, City Attorney

ATTEST:


 ANGELA IVEY, City Clerk