



STAFF REPORT

CITY COUNCIL OF THE CITY OF SAUSALITO

AGENDA TITLE

Utility Undergrounding Districts – Termination of City Work Related to Third Street and Bulkley Utility Undergrounding Districts, Consideration of Refund of Deposits

RECOMMENDATION

Adopt a Resolution Terminating City Work on Third Street and Bulkley Utility Undergrounding District Projects and Directing Staff with respect to Funds accepted as deposits

SUMMARY

Initiatives for the formation of several California Public Utilities Commission Tariff Rule 20-A utility undergrounding districts have occurred in Sausalito since 1990. Through these initiatives, deposits were accepted from potential project beneficiaries by the City. These deposits were intended to cover the “up-front” costs of preparing plans and other documents required as part of a preparing for a referendum and the creation of Undergrounding Utility Assessment Districts. In April of 2006 the City Council took formal action to terminate the largest project, called the San Carlos Undergrounding District. However, no action was taken on two smaller projects, the Third Street Undergrounding District and the Bulkley Undergrounding District at that time. Deposits for these projects remain in City accounts.

In October, 2008 the Utility Undergrounding Committee approved a motion recommending that the City Council formally terminate activities related to the Third Street and the Bulkley Undergrounding Districts. The Committee also recommended that the deposits be refunded to their depositors. Beginning in October 2008 staff has attempted to identify depositors but with limited success. Staff reported these finding to the Undergrounding Committee in April of 2010. The Committee approved the concept of going through a formal noticing procedure to allow depositors to make claims on funds.

Staff recommends that the City Council adopt the attached resolution formally terminating efforts on the Bulkley and Third Street Utility Undergrounding Districts and directing Staff regarding amounts remaining on deposit.

BACKGROUND

Pacific Gas and Electric Company is required to allocate a small portion of service fees for the purposes of undergrounding overhead electrical facilities. These resources are allowed to accumulate for the purposes of providing financial support of capital projects to Underground Overhead Electrical facilities within public rights-of-way and public utility easements. The program to use the accumulated resources is called the “Rule 20-A” program which deal with

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larger projects on City arterial streets. The State of California allows these funds to be used in Special Utility Undergrounding Districts. When approved by a majority of the eligible voters in a proposed district, the City can draw on Rule 20-A resources held by PG&E as well as to seek debt financing (bonds) for costs in excess of Rule 20-A resources to finance construction costs.

Over the years there have been cycles of community interest in forming Utility Underground Districts. Between 1990 and 2006 efforts were made to form three districts:

1. San Carlos (approximately 250 properties benefitting)
2. Third Street (Approximately 75 properties benefitting)
3. Bulkley (Approximately 35 properties benefitting)

Engineering work is needed to develop project work scope, plans, costs, and ballot rolls. When authorized, an affected area is given the opportunity to vote for the formation of a utility undergrounding district. If authorized by referendum, the costs to develop this Utility District Engineering can be reimbursed by bond proceeds and property tax assessments.

In the mid 1990's the City hired consultants to prepare Engineering work scope and costs estimates as well as Ballot roll preparation. During this period the three undergrounding work areas were separated then combined then separated in an attempt to get work done for the lowest costs with the highest likelihood of voter approval. Stakeholders changed along the way including primary advocates, City Council members, and staff. During this time the City migrated its financial accounting from one system called "MOMS" to the current system referred to as "Springbrook." Through these changes deposit records were simplified to the point that City records no longer had the information to link deposited funds to depositors.

Similarly, cost records were simplified to the point where Utility Undergrounding Costs no longer could be allocated to each of the districts where work was going on.

In 2005 a major attempt was made to reconcile past actions. The District construction costs were updated, a scientific public opinion survey was commissioned to determine the likelihood of a ballot measure passing. The results were presented to the City Council in April of 2006. In response to the information presented, the Council adopted a motion terminating work on the San Carlos Undergrounding District. The City expended approximately \$240,000 from the General Fund for the Utility Engineering work. Private funds deposited with the City were also used to pay consultants in addition to the City's General Fund contributions. With the Termination motion efforts to form Utility Districts were halted and plans shelved. With motion to terminate the Council also directed that no more City fund be spent to advance outstanding Districts (Third and Bulkley).

Since April of 2006 no work has been done to advance the Third and Bulkely Undergrounding Districts. Advocates along Third Street have attempted to rally support for the efforts without success. Advocates along Bulkley have not interacted with staff between April 2006 and now with regard to advancing a public project. An advocate along Third Street re-scoped the work

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and is in the process of undergrounding utilities, privately, between Richardson and North. No City costs have been incurred since the end of Fiscal year 2005/2006. City records show small amounts in the funds created for the Third Street and Bulkley Undergrounding Districts.

Utility Undergrounding Committee Members, expressed concern with the dormancy of work on these tentative undergrounding districts. In October of 2008 the Committee took action to recommend the City Council formally terminate the Bulkley and Third Street Undergrounding Districts and refund the deposits to depositors.

Since 2008 City Staff has attempted to reconcile Undergrounding District fund balances to Depositors with limited success. In April of 2010 Staff reported their efforts to the Undergrounding Committee. The Undergrounding Committee approved a plan for the City to go through notification process to allow depositors to submit claims for outstanding deposited amounts.

The Undergrounding Committee is also recommending that if no claims are made for outstanding funds, that any Third Street fund balances be offered to the current group or individual paying for private Utility Undergrounding on Third Street.

The Committee has made these recommendations as it seen the health of past advocates residing in the City deteriorate. Some advocates have also moved away. The Committee believes it is most equitable to allow past advocates and supporters to be given an opportunity to request a refund of their deposits.

FISCAL ISSUES

As of now, the fund balance of the Third Street Utility Undergrounding Assessment District is approximately \$2,000. As of now, the fund balance of the Bulkley Avenue Utility Undergrounding Assessment District is approximately \$8,500.

A number of options for distributing these fund balances have been identified and evaluated. In order of action they are as follows:

Formal notice to potential claimants for outstanding amounts is recommended along with a process by which a claimant is given the opportunity to satisfactorily demonstrate her or his right to a refund. Such demonstration could include copies of cancelled checks, a receipt from the City, or other documentary evidence sufficient to satisfy the City Manager or his designee(s) of the validity of a claim to the funds. Staff recommends that the claims process be allowed to run for a sufficient time to give any potential claimant adequate time to gather evidence and otherwise support her or his claim. A close out date of June 30, 2011 is proposed.

Once the claims process has run, Staff recommends that the Finance Director transfer outstanding amounts to the General Fund to offset City expenses for the two subject districts not formed.

Alternatively, the City could establish a program and once the claims process has run, use the remaining funds for grants or loans to residents undergrounding their overhead utility services. The funds available following the claims process may not be sufficient to warrant such a program. Finally, other option(s) may be worth considering.

STAFF RECOMMENDATIONS

Staff recommends that the City Council adopt the attached resolution terminating City work on the Third Street and Bulkley Utility Undergrounding Districts and authorizing Staff to notice, accept and adjudicate claims for funds accepted as deposits with unclaimed funds as of June 30, 2011 being transferred to the General Fund.

ATTACHMENTS

1. A Resolution of the City Council of the City of Sausalito Terminating City Efforts on the Third Street and Bulkley Utility Undergrounding Districts and Directing Staff with Respect to Funds Accepted as Deposits
2. Map of Bulkley and Third Street Utility Undergrounding Districts

PREPARED BY:



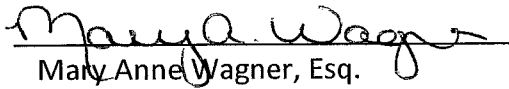
Todd Teachout
City Engineer

REVIEWED BY:



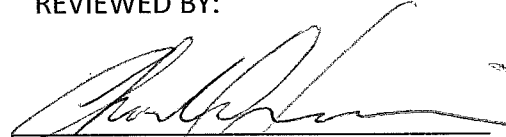
Jonathon Goldman
Director of Public Works

REVIEWED BY:



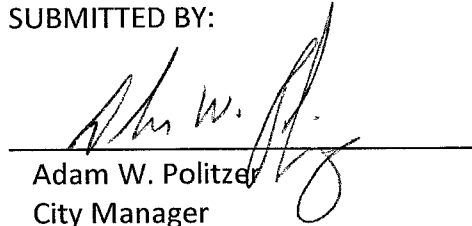
Mary Anne Wagner, Esq.
City Attorney

REVIEWED BY:



Charlie Francis
Administrative Services Director

SUBMITTED BY:



Adam W. Politzer
City Manager

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
TERMINATING CITY EFFORTS ON THE THIRD STREET AND BULKLEY UTILITY
UNDERGROUNDING DISTRICTS AND DIRECTING STAFF WITH RESPECT TO
FUNDS ACCEPTED AS DEPOSITS**

WHEREAS, persons interested in developing projects to underground overhead utilities persuaded the City to initiate work to develop plans and other documents to affect consideration of forming utility undergrounding districts along San Carlos, Third Street and Bulkley Avenue; and

WHEREAS, persons submitted deposits to assist in the preparation of plans for these undergrounding districts formation efforts; and

WHEREAS, work was done to prepare plans and documents for a referendum; and

WHEREAS, before plans could be completed support for utility undergrounding districts waned; and

WHEREAS, in April of 2006 the City Council of the City of Sausalito formally terminated work related to the San Carlos Utility Undergrounding District and directed that no work proceed unless fully funded by utility undergrounding project advocates; and

WHEREAS, the work on the Third Street Utility Undergrounding District was informally halted due to insufficient financial support; and

WHEREAS, private deposits submitted to prepare plans and other documents for the Third Street Utility Undergrounding District remain in City Accounts though the names of the depositors can no longer be established based on available information; and

WHEREAS, the work on the Bulkley Avenue Utility Undergrounding District was informally halted due to insufficient financial support and neighborhood interest; and

WHEREAS, private deposits submitted to prepare plans and other documents for the Bulkley Avenue Utility Undergrounding District remain in City Accounts though the names of the depositors can no longer be established based on available information; and

WHEREAS, the Utility Undergrounding Committee has recommended that the City Council formally terminate the Third Street Utility Underground District and the Bulkley Avenue Utility Undergrounding District and direct that a notice inviting claims on outstanding Deposits be issued.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sausalito:

1. Terminates the City's Third Street Utility Undergrounding District efforts.
2. Terminates the City's Bulkley Avenue Utility Undergrounding District efforts.
3. Directs Staff to notice potential claimants of the necessity to submit satisfactory evidence to the City Manager or his designee(s) to support issuance of a refund of deposited funds on or before June 30, 2011 at which time all unclaimed funds will be transferred to the General Fund to offset City expenses for the two said Utility Undergrounding Districts not formed.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the 27th day of July, 2010 by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:
ABSENT: Councilmembers:

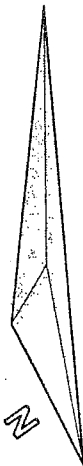
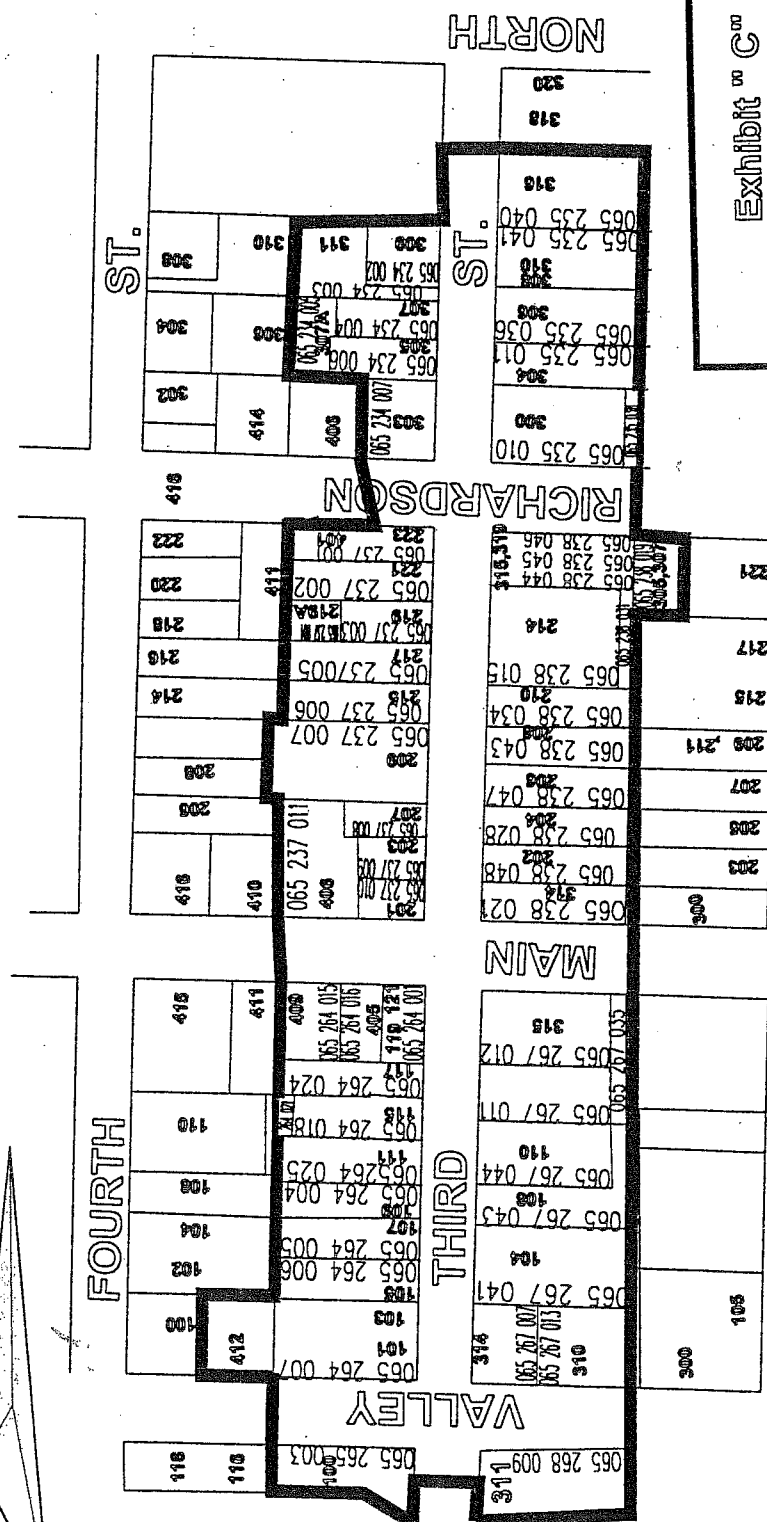
MAYOR OF THE CITY OF SAUSALITO

ATTEST:

CITY CLERK

Exhibit "C"
 Utility Underground District
 Third Street Sub Area
 Boundary Map

Revised 01/31/00



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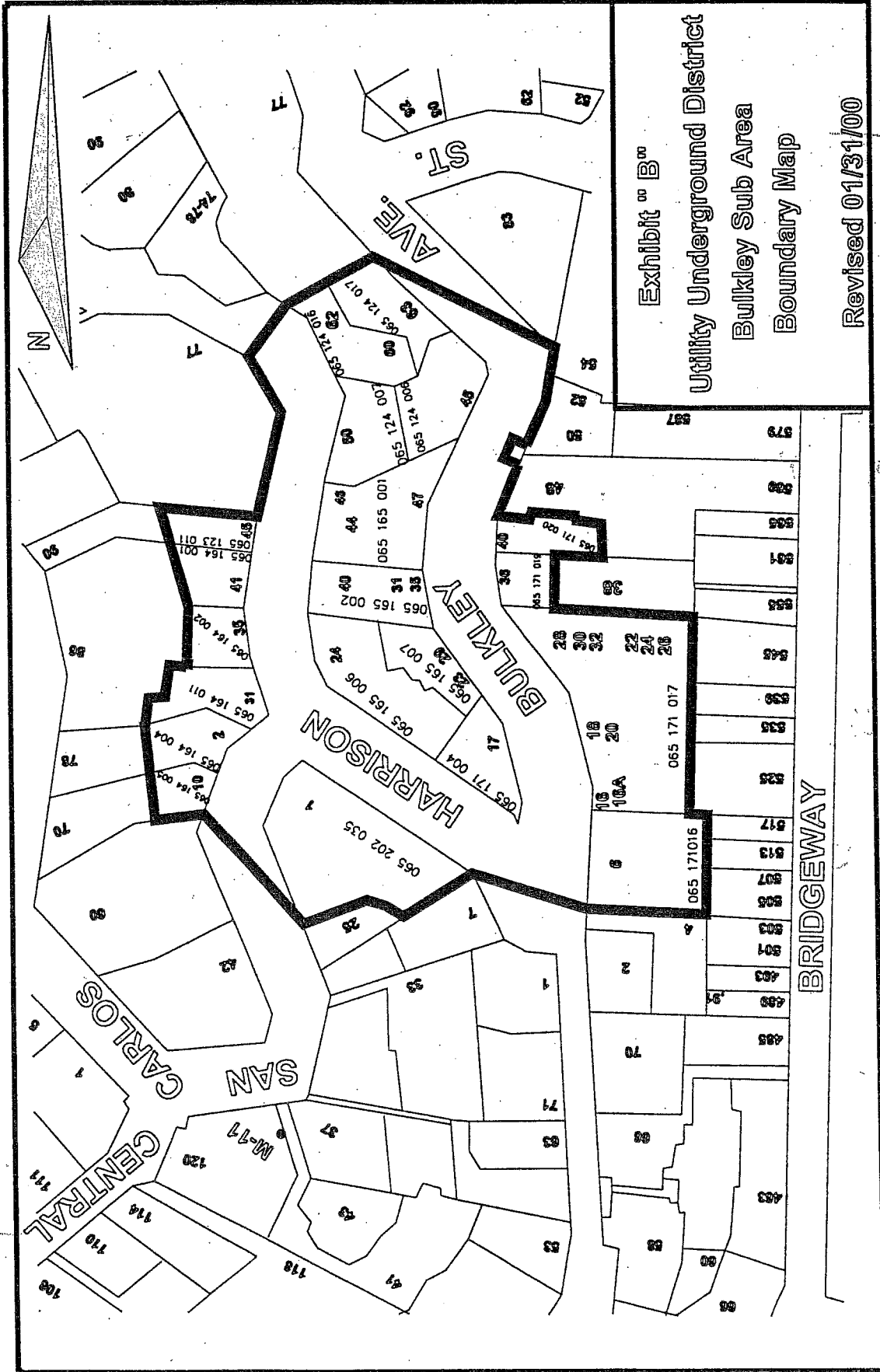


Exhibit "B"
 Utility Underground District
 Bulkley Sub Area
 Boundary Map
 Revised 01/31/00

BRIDGEWAY

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