

Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 03-20-07

Approved

Date 3/23/07

INFORMATION

SUBJECT: PROGRESS OF PROJECT DELIVERY WITH PG&E ON UNDERGROUND UTILITY PROGRAM

RECOMMENDATION

Acceptance of this report on the progress of the City's underground utility program. A report on the Rule 20A and Rule 20B (In-Lieu Fee) underground utility program and 2006/2007 – 2011/2012 Workplan will be submitted to City Council on May 1, 2007.

EXECUTIVE SUMMARY

In April 2006, staff presented to Council the annual report on the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Programs, which provided information on the City's utility undergrounding program and projects. A Workplan accompanying the report served as a guide for Public Works staff and utility companies to program funds, assign project priorities, and establish, design and construct overhead-to-underground utility conversion projects.

Based on discussions at utility undergrounding workshops with PG&E, projects in the Workplan were re-prioritized so that utility companies could deliver projects based on their actual budget and resource availability. Staff has continued to work with PG&E staff to develop a strategy that would more aggressively program projects to draw down the accumulated PG&E allocation reserve.

In October 2006, staff presented to the Building Better Transportation Committee a report on the progress of project delivery with PG&E on the underground utility program.

Staff is currently preparing the annual report on the underground utility programs and 2006/2007 – 2011/2012 Workplan that will be submitted to City Council on May 1, 2007.

BACKGROUND

In April 2006, staff submitted to Council a report on the underground utility program and 2005/2006 – 2010/11 Workplan. The approval of the report guided Public Works staff and utility companies to program funds, assign project priorities, and establish, design and construct the proposed overhead-to-underground utility conversion projects.

As directed by the Council, in October 2006, staff presented to Building Better Transportation Committee a report on the progress of project delivery with PG&E on the underground utility program. Its objective was to inform Council of the status of projects and key program issues before the 2006/2007 annual report is presented April 2007. The Committee accepted the report, with additional direction for staff to work with our lobbyist, PG&E and the California Public Utility Commission on tariff rules regarding Rule 20A funding of underground utility cabinets.

Three methods are used to fulfill the General Plan goal of converting overhead utilities to underground systems. They are summarized below and described in greater detail in Attachment A to this report.

- Rule 20A Program – The Rule 20A Program uses PG&E rate-payer money for underground conversion projects. Although the funds for this program are never actually transferred to the City, they are still available for such projects. City staff programs the money toward conversions on arterial and major collector streets. The 2006 calendar year allocation of PG&E funds for the City of San José is approximately \$4.1 million. This allocation and unexpended allocations from previous years have accumulated and will be available until they are expended for undergrounding projects.
- Rule 20B (In-Lieu Fee) Program – Undergrounding may be accomplished through the City's establishment of large aggregated projects rather than requiring developers to perform the undergrounding on a piecemeal basis. This results in more efficient use of engineering staff, construction crews, and utility company resources, resulting in lower unit costs for design and construction.
- Rule 20C – In some instances, developers or other agencies may pursue completing underground conversions. These conversions do not meet the criteria for Rule 20A or 20B, are typically less than 600 feet long, and are coordinated directly with the utility companies.

The Underground Utility Programs are currently administered in accordance with the 2005/06 - 2010/11 Workplan approved by Council on May 2, 2006.

ANALYSIS

In the past two years, staff of Public Works and the City Attorney's Office held several workshops with the attorney and executive staff of PG&E regarding the Rule 20A utility undergrounding program.

The following are outcomes of these workshops:

- The City and PG&E developed and agreed on guidelines entitled "Best Practices" that provide for the establishment of undergrounding utility districts and the placement of utility facilities.
- The City agreed to contact property owners for no-cost easements to place PG&E's aboveground facilities.
- PG&E provided a more-realistic five-year project delivery schedule that it can deliver based on actual budget and resource availability.
- PG&E clarified its rules and tariff regulations related to utility undergrounding.

Since then, Public Works staff has met monthly with utility company staff to review project schedules and address any outstanding issues. It has become apparent that utility companies continue to experience resource issues and reprioritization of corporation-wide activities that result in an inconsistent commitment to our underground program. Recently, PG&E informed the City that it can only commit to projects on a calendar year basis due to funding issues related to uncertainty in our years as funding and resources could be diverted toward restoring power during storm outages or heat waves.

Aside from the challenges presented above, the Workplan (Attachment B) was designed to draw down the accrued and future Rule 20A allocations in an effort to maximize the number of undergrounding projects delivered. The status of projects listed in the current 5-year Workplan that are currently under design is provided in Attachment C. A detail report on the 5-year Workplan will be submitted to the Council in May 2007.

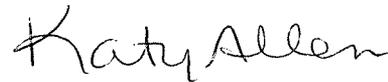
Staff has also followed PG&E's interaction with the California Public Utilities Commission with regard to its efforts to develop an Underground Planning Guide for Local Governments and will continue to work with PG&E on its commitment to pursue a tariff change to allow Rule 20A funding of underground utility cabinets.

COORDINATION

The Workplan and the schedule have been coordinated with PG&E.

CONCLUSION

Due to PG&E's past bankruptcy, insufficient resources, and the aboveground cabinet and no-cost easement issues, project delivery has been challenging. Executive staff of Public Works continues to meet with their counterparts at PG&E and has been able to successfully resolve aboveground cabinet issues. Public Works project staff continues to meet with utility companies monthly to discuss project issues and schedule. These meetings have been successful, as staff can monitor project schedules closely and resolve issues immediately whenever possible.



KATY ALLEN
Director, Public Works Department

MO:CM:SK:hla/jb
g: Council Committees/TE

Attachments A, B, C, D & E

DESCRIPTION OF UTILITY UNDERGROUNDING PROGRAMS

RULE 20A PROGRAM – In 1968, the California Public Utilities Commission (CPUC) and utility companies established a program to underground utilities across the State. Under Rule 20A, Pacific Gas and Electric Company (“PG&E”) allocates funds, on a calendar year basis, to convert existing overhead electrical facilities to underground electrical facilities within the communities it serves. PG&E considers Rule 20A allocations as a tool to allow cities and counties to evaluate and prioritize undergrounding projects within their respective jurisdictions. These allocations accumulate until they are expended for undergrounding projects. PG&E uses its own funds to design and construct Rule 20A projects, and once the projects are completed, the cost is recovered through incremental utility rate increases.

The 2006 calendar year allocation of PG&E funds for the City of San José is \$4.1 million. Other CPUC rules, tariffs and legislation require AT&T to convert its facilities in a similar manner. Pursuant to federal law and its franchise agreement with the City, Comcast is required to budget its own funds for the conversion of its facilities within the districts legislated for Rule 20A funding.

RULE 20B (IN-LIEU FEE) PROGRAM – Undergrounding may be accomplished through the City's establishment of large aggregated projects rather than a requirement placed on developers to perform the undergrounding on a project-by-project basis. This results in more efficient use of engineering staff, construction crews, and utility company resources, thus lowering unit costs for design and construction.

In 1989, the City established the In-Lieu Utility Undergrounding Fee Program, also known as the Rule 20B Program, to establish a program that requires the undergrounding of existing overhead utilities in areas where developer In-Lieu fees have been collected.

The San José Municipal Code requires that developers pay a fee, per foot of frontage, in-lieu of performing the overhead-to-underground conversions along the street frontage where their development is occurring. Only those projects that develop adjacent to designated streets as defined in the Municipal Code are subject to the undergrounding in-lieu fee conditions.

The current In-Lieu fee for utility undergrounding is \$224 per linear foot per frontage foot. Fees are collected from developments on both sides of the street regardless of the side which has the actual overhead facility. This is based on an average City cost of \$448 per linear foot to complete larger undergrounding conversion projects. In-Lieu fees are programmed to be expended in these areas in the In-Lieu Fee Undergrounding Master Plan. As long as these fees are committed to projects in the approved Master Plan, they are considered non-refundable.

UNDERGROUND UTILITY PROGRAM ACTIVITY - Since 1968, the City has legislated 126 Underground Utility Districts (UUDs), of which 120 projects have been completed and six are under design.

**RULE 20A and RULE 20B (IN-LIEU FEE)
UNDERGROUND UTILITY PROGRAM
2005/06 - 2010/2011 WORKPLAN**

PROPOSED PROJECT	TYPE OF PROJECT	COUNCIL DISTRICT	LEGISLATION ADOPTION DATE	CONSTRUCTION START	IN-LIEU FEE PROGRAM EXPENDITURES (Estimated)	RULE 20A PROGRAM EXPENDITURES (Estimated)
FY 2005/2006						
BEGINNING FUND BALANCE/RULE 20A ALLOCATION					\$2,903,147	\$30,687,128
RESERVE FOR ENCUMBRANCE					\$38,716	
2005/2006 REVENUE(ANTICIPATED)/RULE 20A ALLOCATION					\$1,350,000	\$4,084,099
4TH/5TH/6TH/7TH STREET (PHASE II), bounded by Santa Clara and St. John St (Completed construction in Nov 2005)	20A	3	05/07/2002	Completed		(\$3,000,000)
GUADALUPE GARDENS - Hedding/Taylor/Coleman (In Design)	20A	3	01/14/2003	Jun-06		(\$3,000,000)
Design - Saratoga Ave & Jackson Taylor Rule 20B Projects					(\$150,000)	
TOT NON-CONSTRUCTION INCL. PROGRAM ADMINISTRATION (In-Lieu Fee-Rule 20B)					(\$90,000)	
PROGRAM ADMINISTRATION (Rule 20A)					(\$221,000)	
SUBTOTAL					\$461,000	\$6,000,000
ENDING FUND BALANCE					\$3,830,863	\$28,771,227
FY 2006/2007						
BEGINNING FUND BALANCE/RULE 20A ALLOCATION					\$3,830,863	\$28,771,227
2006/2007 REVENUE(ANTICIPATED)/RULE 20A ALLOCATION					\$1,420,000	\$4,100,000
SARATOGA AVENUE - Route 280 to Kiely (In Design)	20B	1	06/09/1998	Sep-06	(\$950,000)	
STEVENS CREEK BLVD - Stearns to Calert (In Design)	20A	1	2/10/2004	Oct-06		(\$450,000)
CAMDEN AVENUE, Bascom to Leigh (In Design)	20A	9	08/17/1993	Jan-07		(\$2,000,000)
JACKSON/TAYLOR - 4th to 9th (In Design)	20A & B	3	11/18/2005	Apr-07	(\$810,000)	(\$2,000,000)
TOT NON-CONSTRUCTION INCL. PROGRAM ADMINISTRATION (In-Lieu Fee-Rule 20B)					(\$110,000)	
PROGRAM ADMINISTRATION (Rule 20A)					(\$231,000)	
SUBTOTAL					\$2,101,000	\$4,450,000
ENDING FUND BALANCE					\$3,149,863	\$28,421,227
FY 2007/2008						
BEGINNING FUND BALANCE/RULE 20A ALLOCATION					\$3,149,863	\$28,421,227
2007/2008 REVENUE(ANTICIPATED)/RULE 20A ALLOCATION					\$1,500,000	\$4,200,000
PARK/NAGLEE - Park, Naglee to Shasta & Naglee, Park to Bascom	20A	6	Mar-06	Aug-07		(\$1,700,000)
EVERGREEN PARK - Yerba Buena Rd & San Felipe Rd (In design)	20A	8	06/21/1998	Aug-07		(\$900,000)
MARKET/ALMADEN AVE - Reed Pierce William, Balbach, Viola	20A	3	Jun-06	Nov-07		(\$2,500,000)
VASONA LRT: FRUITDALE AVENUE - Southwest to Meridian	20B	6	06/21/1994	Jan-08	(\$600,000)	
VASONA LRT: Stokes @ Southwest Expressway	20B	6	Dec-06	Apr-08	(\$600,000)	
TOT NON-CONSTRUCTION INCL. PROGRAM ADMINISTRATION (In-Lieu Fee-Rule 20B)					(\$120,000)	
PROGRAM ADMINISTRATION (Rule 20A)					(\$241,000)	
SUBTOTAL					\$1,581,000	\$5,100,000
ENDING FUND BALANCE					\$3,088,863	\$27,521,227
FY 2008/2009						
BEGINNING FUND BALANCE/RULE 20A ALLOCATION					\$3,088,863	\$27,521,227
2008/2009 REVENUE(ANTICIPATED)/RULE 20A ALLOCATION					\$1,575,000	\$4,300,000
VASONA LRT: DELMAS/SAN FERNANDO 87, Cahill, Auzerais, S Clara MONTGOMERY ST - Santa Clara to Park PARK AVE. - Rte 87 to Bird	20A & B	3	Sep-06	Jul-08	(\$800,000)	(\$3,500,000)
MONTEREY RD - Willow to Curtner inc Cadwaller Plaza	20A	3, 7	06/20/1989	Jul-08		(\$1,500,000)
WHITE ROAD at Alum Rock Avenue (Alum Rock Library)	20A	5	Apr-07	Aug-08		(\$1,000,000)
McABEE ROAD - Juli-Lynn to Peralta	20B	10	Feb-07	Dec-08	(\$700,000)	
MERIDIAN AVENUE - Park to Auzerais	20B	6	Jun-07	Jan-09	(\$800,000)	
TOT NON-CONSTRUCTION INCL. PROGRAM ADMINISTRATION (In-Lieu Fee-Rule 20B)					(\$130,000)	
PROGRAM ADMINISTRATION (Rule 20A)					(\$251,000)	
SUBTOTAL					\$2,681,000	\$6,000,000
ENDING FUND BALANCE					\$1,982,863	\$25,821,227

**RULE 20A and RULE 20B (IN-LIEU FEE)
UNDERGROUND UTILITY PROGRAM
2005/06 - 2010/2011 WORKPLAN**

PROPOSED PROJECT	TYPE OF PROJECT	COUNCIL DISTRICT	LEGISLATION ADOPTION DATE	CONST-RUCTION START	IN-LIEU FEE PROGRAM EXPENDITURES (Estimated)	RULE 20A PROGRAM EXPENDITURES (Estimated)
FY 2009/2010						
BEGINNING FUND BALANCE/RULE 20A ALLOCATION					\$1,982,863	\$25,821,227
2009/2010 REVENUE(ANTICIPATED)/RULE 20A ALLOCATION					\$1,650,000	\$4,400,000
ABORN ROAD - Renfield Wy to Thompson Creek (Evergreen Library)	20A	8	Sep-07	Jul-09		(\$1,500,000)
Coleman Avenue - Hedding St to Basset	20A	3	Feb-08	Feb-10		(\$2,000,000)
TULLY ROAD, Kenoga Dr to Senter Rd	20A	7	Jun-08	Feb-10		(\$1,500,000)
KIRK PARK, Foxworthy - Yucca to Briarwood	20A	9	Jul-08	Apr-10		(\$1,000,000)
LOS GATOS/ALMADEN ROAD - Union to Warwick	20B	9	Aug-08	Jul-10	(\$800,000)	
PEARL/HILLSDALE - Capitol to Hillsdale to Summer Creek	20B	6	Dec-08	Oct-10	(\$800,000)	
TOT NON-CONSTRUCTION INCL PROGRAM ADMINISTRATION (In-Lieu Fee-Rule 20B)					(\$140,000)	
PROGRAM ADMINISTRATION (Rule 20A)					(\$261,000)	
SUBTOTAL					\$2,001,000	\$6,000,000
ENDING FUND BALANCE					\$1,631,863	\$24,221,227

FY 2010/2011						
BEGINNING FUND BALANCE/RULE 20A ALLOCATION					\$1,631,863	\$24,221,227
2010/2011 REVENUE(ANTICIPATED)/RULE 20A ALLOCATION					\$1,732,000.00	\$4,500,000
McABEE ROAD - Peralta to Camden	20A	10	Aug-08	Jul-10		(\$1,000,000)
LINCOLN AVENUE - San Carlos to Coe	20A	6	Dec-08	Dec-10		(\$1,500,000)
De ANZA BLVD - Rainbow to Prospect	20A	1	Jan-09	Apr-11		(\$1,500,000)
MUNICIPAL GOLF COURSE - Lundy/Old Oakland Rd /Murphy	20A	4	Apr-09	Jun-11		(\$1,000,000)
CANOAS GARDEN, Almaden to Masonic	20B	6	Oct-08	Sep-10	(\$800,000)	
McKEE ROAD - Jackson to Jose Figueres	20B	5	Dec-08	Oct-10	(\$600,000)	
LUNDY AVE - Murphy to Old Hostetter	20B	4	Jan-09	Mar-11	(\$600,000)	
JULIAN STREET, The Alameda to Cinnabar	20B	6	Mar-09	Jun-11	(\$650,000)	
RESERVE FOR FUTURE SJRA PRIORITY PROJECTS	20A					(\$7,000,000)
RESERVE FOR FUTURE PARKS PROJECTS	20A					(\$8,000,000)
RESERVED FOR FUTURE RULE 20A PROJECTS	20A					(\$8,700,000)
TOT NON-CONSTRUCTION INCL PROGRAM ADMINISTRATION (In-Lieu Fee-Rule 20B)					(\$150,000)	
PROGRAM ADMINISTRATION (Rule 20A)					(\$271,000)	
SUBTOTAL					\$3,071,000	\$28,700,000
ENDING FUND BALANCE					\$292,863	\$21,227

FUTURE PRIORITY PROJECTS						
PROPOSED PROJECT	TYPE OF PROJECT	COUNCIL DISTRICT	LEGISLATION ADOPTION DATE	CONST-RUCTION START	IN-LIEU FEE PROGRAM EXPENDITURES (Estimated)	RULE 20A PROGRAM EXPENDITURES (Estimated)
GROSBECK PARK, Klien Rd - Hill to Norwood	20A	8	2010	2012		(\$1,000,000)
HAMANN PARK, Westfield - Central to Daniel	20A	6	2010	2012		(\$1,000,000)
PROSPECT ROAD - Saratoga to De Anza	20A	1	2011	2013		(\$1,500,000)
MINNESOTA AVE - Lincoln to Iris	20A	6	2011	2013		(\$1,000,000)
BLOSSOM HILL, SNELL AVE - Judith to Snell, Giuffrida to Cheyenne	20A	2	2011	2013		(\$2,000,000)
						\$6,500,000

Note: Construction of Rule 20A Undergrounding projects are funded by utility companies
Rule 20A Program administration cost is borne by the City.

PROJECT STATUS – UNDERGROUND UTILITY PROGRAM

Guadalupe Gardens Rule 20A UUD: This project was legislated in January 2003. It was initially delayed due to ongoing negotiations with PG&E with regard to aboveground cabinets and easement issues. In the current Workplan, this project was scheduled to start construction in June 2006.

The City applied guidelines that were established in the workshops to obtain no-cost easements. Issues related to aboveground cabinets and easements on or adjacent to City and Airport-owned land have been resolved. Those on private properties have not. The City contacted seven private property owners to request no-cost easements; all owners denied the City's request. Staff provided this information to PG&E and is awaiting a response.

City and PG&E staffs continue to resolve issues related to easements and special facilities on privately-owned properties. So as to avoid further delays in the overall delivery of the Guadalupe Gardens UUD, PG&E decided to construct this project in two phases. Phase I, the area bounded by Hedding Street, Coleman Avenue, Interstate 880 and Guadalupe River, started construction in January 2007. Construction in the balance of this UUD will commence in July 2007 as the issues get resolved.

Jackson/Taylor Rule 20A and Rule 20B UUD: This project, which was legislated in November 2005, was used as a pilot project to apply guidelines established in the workshop. The City was successful in applying the guidelines and provided the information to PG&E in October 2005. Executive staff of Public Works and PG&E met several times on this project and was able to successfully resolve the aboveground cabinet issue. PG&E agreed to use Rule 20A allocations to place the majority of its facilities in subsurface vaults. Two cabinets within the project will be placed aboveground in no-cost easements on private properties as agreed to by the property owners.

In the current Workplan, this project is scheduled to start construction in April 2007. However, PG&E has informed the City that construction will begin in January 2008. Staff believes the delay is due to PG&E's resources and funding issues. Another contributing factor was PG&E's internal delay in resolving the special facilities issues, despite the City's due diligence in providing PG&E with easement request documents in October 2005.

Saratoga Ave Rule 20B UUD: This is a City-designed and construction managed project. The project started one month behind schedule due to a delay in PG&E's design of its system. This project started construction in January 2007 and substructure installation is scheduled to be completed by April 2007. Once the city's contractor completes installation of substructure, utility companies will begin pulling wires and installing equipment in the substructure.

Park/Naglee Rule 20A UUD: This project was legislated in March 2006. Previously, PG&E reported project was on schedule to start construction in August 2007. However, PG&E has informed the City that construction will begin in September 2008. Staff believes the delay is due to PG&E's resources and funding issues.

Guidelines set forth in the workshop were applied to request no-cost easements of private property owners in May 2006. All but two denied the request. PG&E was provided this information in June 2006 and revisited the project site in July 2006. Reasoning that properties with smaller front yards cannot be burdened with aboveground cabinets, PG&E agreed to place these facilities subsurface in the public right-of-way at no cost to the City.

PG&E has requested that the City contact the property manager of Hoover Elementary School, located at the southwest corner of Park and Naglee Avenues, to renegotiate an easement request. Initial contact was made in May 2006 to request easements for fifteen (15) aboveground cabinets, but the property manager denied the City's request, citing safety concerns and the designation of the Hoover School building as an historic site. However, the property manager stated he was willing to grant easements for subsurface structures (vaults). This information was provided to PG&E and PG&E is re-evaluating the need for above-ground cabinets to reduce the number.

Market/Almaden Rule 20A UUD: The project was legislated in June 2006. In the current Workplan, this project is scheduled to start construction in November 2007. However, PG&E has informed the City that construction will begin in September 2008. Staff believes the delay is due to PG&E's resources and funding issues.

BEFORE AND AFTER PICTURE OF A UNDERGROUND UTILITY PROJECT

South 7th Street, between Santa Clara and San Fernando Street.

Before Picture.....

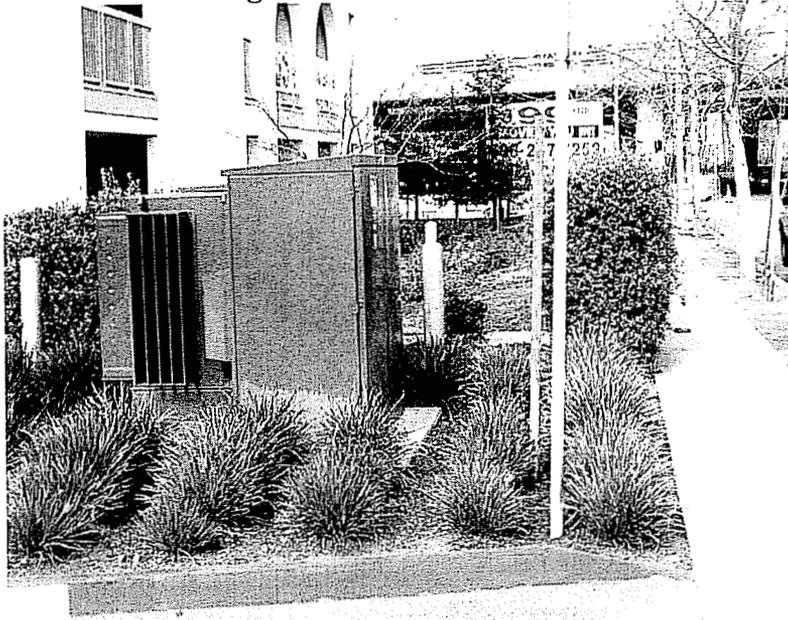


After Picture.....



EXAMPLES OF PG&E STRUCTURES

Aboveground PG&E Transformer



PG&E Underground Vaults

