

ORDINANCE NO. 27776

AN ORDINANCE OF THE CITY OF SAN JOSE ESTABLISHING A RULE 20A UNDERGROUND UTILITY DISTRICT ALONG BALBACH STREET FROM ALMADEN BOULEVARD TO SOUTH MARKET STREET, WEST WILLIAM STREET FROM THE WESTERLY END OF THE STREET TO SOUTH MARKET STREET, PIERCE AVENUE AND WEST REED STREET FROM ALMADEN AVENUE TO SOUTH MARKET STREET AND ALMADEN AVENUE FROM VIOLA STREET TO WEST REED STREET

WHEREAS, by Resolution No. 73172, the City Council of San Jose set a Public Hearing on June 13, 2006 at 1:30 P.M., in the Council Chambers of the City of San Jose, City Hall, 200 E. Santa Clara Street, at the corner of Fourth and Santa Clara Streets, San Jose, to ascertain whether an Underground Utility District should be established in the area designated as "MARKET/ALMADEN UNDERGROUND UTILITY DISTRICT" (hereinafter called "District") and more fully described and shown on EXHIBITS A-1 and A-2 hereto; and

WHEREAS, written notice of the Public Hearing has been given pursuant to Section 15.24.050 of the San Jose Municipal Code, such hearing has been duly and regularly held, and all persons interested have been given a reasonable opportunity to be heard; and

WHEREAS, the criteria to form a district as set forth in San Jose Municipal Code Section 15.24.060 include:

- a. Removal of overhead wires and placement underground will eliminate an unusually heavy concentration of poles and overhead wires within the Proposed District; and
- b. Public streets or rights-of-way within the Proposed District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic; and;

- c. Public streets or rights-of-way within the Proposed District adjoin or pass through a civic area or public recreation area or an area of unusual scenic interest to the general public; and

WHEREAS, pursuant to Section 15.24.060 of the San Jose Municipal Code, the City Council hereby finds and determines, based on evidence presented at the Public Hearing including the memorandum from the Director of Public Works dated May 22, 2006, and attached hereto as Exhibit A-3, that the above conditions exist within the proposed district, and public necessity, health, safety, and welfare require and it is in the general public interest that existing poles and overhead wires within the District be removed therefrom and thereafter prohibited and that wires and associated facilities within the District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat, power, telephone, telegraph, communication, television, or other similar or associated service be installed underground; and

WHEREAS, on April 4, 2006, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15302 of the California Environmental Quality Act of 1970, as amended, under File No. PP06-050.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Jose:

SECTION 1. The City Council hereby declares that a certain area of the City of San Jose described and shown on EXHIBITS A-1 and A-2, attached hereto, made a part hereof, and incorporated herein by reference is established as an underground utility district to be designated "MARKET/ALMADEN UNDERGROUND UTILITY DISTRICT" and orders and requires that existing poles and overhead wires within said District be removed therefrom by the operators of the utilities and thereafter prohibited and that wires and associated facilities within said District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat, power, telephone, telegraph, communication, television, or other similar or associated

service be installed underground subject to all of the provisions and exceptions contained in Part 3, Chapter 15.24, of the San Jose Municipal Code.

SECTION 2. Existing poles and overhead wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be removed by the operators of the utilities no later than December 31, 2008.

Wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be installed underground no later than December 31, 2008.

Persons owning any property as shown on the last equalized assessment roll served by overhead service drops which are extended from poles or spans located within the District must be ready to receive light, heat, power, telephone, telegraph, communications, television, or other similar or associated service by means of underground wires and facilities no later than December 31, 2008.

SECTION 3. The City Council does hereby request that the Pacific Gas & Electric Company and AT&T is this provide payment, computed pursuant to Rule 20 and Rule 32 respectively for the installation of no more than one hundred (100) feet (measured from the property line) of trenching, excavation, conduit installation, backfill, and surface restoration of each customer's individual service lateral to each qualifying premise affected by the District.

SECTION 4. The City Council does hereby request that the Pacific Gas & Electric Company pay, from the existing Rule 20A allocation, for the conversion of electric

service panels to accept underground service, up to \$1,500 per service entrance, excluding permit fees.

SECTION 5. Within twenty (20) days of the effective date of this ordinance, the Director of Public Works shall give written notice to all affected Utilities owning, possessing, or controlling any poles or overhead wires in the district and all owners and occupants of property affected by said District as required by Sections 15.24.150 and 15.24.160 of the San Jose Municipal Code.

SECTION 6. In lieu of a notice to the Utility Companies for disconnection of service pursuant to Section 15.24.140 of the San Jose Municipal Code, the Director of Public Works may give an additional notice to any noncompliant property owners or occupants in said District pursuant to Section 15.24.170 of the San Jose Municipal Code.

SECTION 7. The Director of Public Works is hereby empowered to extend the time for any act required under this ordinance for the period of time and for the reasons set forth in Section 15.24.180 of the San Jose Municipal Code.

PASSED FOR PUBLICATION of title this 13th day of June, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS; GONZALES

NOES: NONE

ABSENT: YEAGER

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

Attachments:

- Exhibit A-1, Map
- Exhibit A-2, Description
- Exhibit A-3, Staff Memorandum

EXHIBIT A-1

DESCRIPTION OF PROPOSED BOUNDARY OF AN UNDERGROUND UTILITY DISTRICT ALONG BALBACH STREET FROM ALMADEN BOULEVARD TO SOUTH MARKET STREET, WEST WILLIAM STREET FROM THE WESTERLY END OF THE STREET TO SOUTH MARKET STREET, PIERCE AVENUE AND WEST REED STREET FROM ALMADEN AVENUE TO SOUTH MARKET STREET AND ALMADEN AVENUE FROM VIOLA STREET TO WEST REED STREET

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

BEGINNING at a true point at the intersection of the northerly right-of-way line of Balbach Street and the centerline of Almaden Boulevard;

THENCE proceeding in a northeasterly direction $300\pm'$ along the northerly right-of-way line of Balbach Street to a point of intersection with the westerly right-of-way line of Almaden Avenue;

THENCE proceeding in a northwesterly direction $270\pm'$ along the westerly right-of-way line of Almaden Avenue to a point of intersection with the southerly right-of-way extension line of Viola Street;

THENCE proceeding in a northeasterly direction $70\pm'$ perpendicular to the centerline of Almaden Avenue to a point of intersection with the easterly right-of-way line of Almaden Avenue;

THENCE proceeding in a southeasterly direction $260\pm'$ along the easterly right-of-way line of Almaden Avenue to a point of intersection with the northerly right-of-way line of Balbach Street;

THENCE proceeding in a northeasterly direction $850\pm'$ along the northerly right-of-way line of Balbach Street to a point of intersection with the westerly right-of-way line of Market Street;

THENCE proceeding in a southeasterly direction $50\pm'$ parallel to the centerline of Market Street to a point of intersection with the southerly right-of-way line of Balbach Street;

THENCE proceeding in a southwesterly direction $860\pm'$ along the southerly right-of-way line of Balbach Street to a point of intersection with the easterly right-of-way line of Almaden Avenue;

THENCE proceeding in a southeasterly direction $370\pm'$ along the easterly right-of-way

line of Almaden Avenue to a point of intersection with the northerly right-of-way line of Pierce Avenue;

THENCE proceeding in a northeasterly direction 390±' along the northerly right-of-way line of Pierce Avenue to a point of intersection with the westerly right-of-way line of Colton Place;

THENCE proceeding in a northwesterly direction 180±' along the westerly right-of-way line of Colton Place to a point of intersection with the southerly right-of-way line of West William Street;

THENCE proceeding in a southwesterly direction 130±' along the southerly right-of-way line of West William Street to a point of intersection with the westerly right-of-way line of West William Street;

THENCE proceeding in a northwesterly direction 30±' along the westerly right-of-way line of West William Street to a point of intersection with the northerly right-of-way line of West William Street;

THENCE proceeding in a northeasterly direction 125±' along the northerly right-of-way line of West William Street to a point of intersection with the westerly right-of-way extension line of Colton Place;

THENCE proceeding in a northwesterly direction 15±' parallel to the westerly right-of-way line of Colton Place to a point of intersection with the northerly right-of-way line of West William Street;

THENCE proceeding in a northeasterly direction 530±' along the northerly right-of-way line of West William Street to a point of intersection with the westerly right-of-way line of Market Street;

THENCE proceeding in a southeasterly direction 40±' parallel to the centerline of Market Street to a point of intersection with the southerly right-of-way line of West William Street;

THENCE proceeding in a southwesterly direction 500±' along the southerly right-of-way line of West William Street to a point of intersection with the easterly right-of-way line of Colton Place;

THENCE proceeding in a southeasterly direction 190±' along the easterly right-of-way line of Colton Place to a point of intersection with the northerly right-of-way line of Pierce Avenue;

THENCE proceeding in a northeasterly direction 560±' along the northerly right-of-way line of Pierce Avenue to a point of intersection with the westerly right-of-way line of South First Street;

THENCE proceeding in a southeasterly direction 60±' parallel with the centerline of South First Street to a point of intersection with the southerly right-of-way line of Pierce Avenue;

THENCE proceeding in a southwesterly direction 980±' along the southerly right-of-way line of Pierce Avenue to a point of intersection with the easterly right-of-way line of Almaden Avenue;

THENCE proceeding in a southeasterly direction 320±' along the easterly right-of-way line of Almaden Avenue to a point of intersection with the northerly right-of-way line of West Reed Street;

THENCE proceeding in a northeasterly direction 1,050±' along the northerly right-of-way line of West Reed Street to a point of intersection with the westerly right-of-way line of South First Street;

THENCE proceeding in a southeasterly direction 60±' perpendicular to the centerline of West Reed Street to a point of intersection with the southerly right-of-way line of West Reed Street;

THENCE proceeding in a southwesterly direction 1,120±' along the southerly right-of-way-line of West Reed Street to a point of intersection with the westerly right-of-way line of Almaden Avenue;

THENCE proceeding in northwesterly direction 790±' along the westerly right-of-way line of Almaden Avenue to a point of intersection with the southerly right-of-way line of Balbach Street;

THENCE proceeding in a southwesterly direction 300±' along the southerly right-of-way of Balbach Street to a point of intersection with the centerline of Almaden Boulevard;

THENCE proceeding in a northwesterly direction 50±' along the centerline of Almaden Boulevard to the true point of beginning.