

TOWN OF LOS ALTOS HILLS

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Policy & Procedures for the Formation of Utility Undergrounding Districts

Adopted by City Council: May 20, 2010

Town Policy

The Town of Los Altos Hills strongly supports the undergrounding of overhead utility wires and removal of poles. These Policies and Procedures (these "Policies") were approved by the City Council on May 20, 2010.

The Town finds that undergrounding of overhead utilities will achieve the following goals: improving public safety by removing the threat of downed power lines due to fire, earthquake or high wind conditions; improving driver safety by removing roadside utility poles; improving reliability of utility services by moving them from overhead lines to underground conduits; reducing utility company costs for tree trimming to maintain overhead lines and equipment; and enhancing views and visual appeal.

General Overview

These Policies describe the basic considerations and actions required to relocate, and to finance the relocation of, overhead utility lines to underground conduits within specific neighborhoods. These policies are provided to guide property owners in achieving undergrounding of utilities in their neighborhoods and to help the City Council, Town staff and Town consultants in assisting in such efforts.

The district formation procedures, events and steps described below are governed by California law. The utility undergrounding projects will be public works projects carried out by the Town, under agreements with private contractors, in compliance with applicable public contracting codes. In addition, certain aspects of utility undergrounding projects are governed by rules and guidelines issued by the California Public Utilities Commission (which regulates Pacific Gas & Electric Company (PG&E) and other utility companies).

The main aspects of these Policies are as follows:

- Each utility undergrounding project will be carried out through the formation of a special tax district under California law.

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- The costs of each utility undergrounding project will be financed through the issuance of municipal bonds secured by the special taxes levied on each parcel within the district.
 - The district formation process may take at least one to two years, and will involve the following steps: the submission by property owners of petitions of interest and an informal boundary map of the proposed district; preliminary engineering studies and cost estimates; deposits by interested property owners to defray up-front costs; a public hearing on the question of forming the district; an election by property owners on the questions of levying the special taxes and issuing special tax bonds to finance the project; and the issuance of special tax bonds by the Town.
 - The special taxes will be levied on each parcel within the district, and will be secured by a lien on each parcel, will be collected on each property owner's County property tax bill, and will "run with the land" to successive property owners.
 - Each property owner will be responsible for the costs and construction of individual service connections from the newly undergrounded utility lines to the property owner's residence.

Project Costs and Project Financing Through Special Tax Districts

To allow property owners to finance the cost of the utility undergrounding projects, the Town will form one or more special tax districts under State law, specifically, the Mello-Roos Community Facilities Act of 1982 (being Chapter 2.5, Part 1, Division 2, Title 5 of the California Government Code), and issue special tax bonds to finance the cost of the utility undergrounding improvements. Debt service on the special tax bonds will be paid from special taxes levied on the parcels within each special tax district.

The Town will obtain cost estimates for each utility undergrounding project before special tax district formation proceedings are carried out. The costs of obtaining these estimates will be borne by property owners deposits (which are described further below). Estimated costs for each project will vary depending on the size and location of the proposed district, the specific configuration of the homes, streets and existing poles and utility lines in the proposed district, economic conditions (such as the environment for contractor bidding and prevailing municipal bond interest rates) at the time a particular undergrounding project is undertaken, and other factors. Therefore, it is possible that the per-parcel cost of utility undergrounding for similar properties will vary from one special tax district to the next.

If available, funds from PG&E, other utilities or other sources (which may include the Town) will be applied to help reduce the project costs. However, there is no assurance that any such funds will be available, and property owners should expect that the cost of each undergrounding project will be borne by the property owners in each special tax district.

Procedural Events & Steps for Special Tax District Formation

This section outlines the process of forming a Mello-Roos district for utility undergrounding in specific neighborhoods within the Town.

The entire process for district formation and completing the utility undergrounding project may take at least 24 to 48 months; however, the process can be delayed by factors such as legal challenges, regulatory changes affecting the undergrounding project, market conditions for the issuance of special tax bonds, utility company financial conditions and staffing priorities, and other factors that may or may not be within the Town's control.

1. Preliminary Meetings

Interested property owners meet with Town staff to discuss the process and procedures, and to have questions answered and concerns addressed.

The project proponents are also encouraged to hold one or more neighborhood meetings to discuss the proposed project, solicit input, answer questions, and generate interest in and support for the undergrounding project. These are some of the most important steps in generating the property owner support needed to successfully create an undergrounding district. These Policies should be distributed to all property owners whose participation and support are to be solicited.

Undergrounding proponents should also arrange a site walk with Town staff and the Town's consulting engineer to refine the scope of the undergrounding project and develop estimates of the project costs and the preliminary costs associated with creating the special tax district.

2. Petition of Interest

Proponents of the proposed undergrounding district must then circulate petitions of interest among all property owners within the prospective district. The form of petition is available from the Town.

3. Informal Boundary Map

As part of the petition process, the project proponents must prepare an informal boundary map showing the area proposed to be included in the undergrounding district, based upon the results of the circulated petition and the feedback from the Town and the Town's consulting engineer. The Town and the Town's consulting engineer will review this map and may suggest changes, as required to satisfy engineering requirements, utility company requirements, and requests of other, adjacent property owners who may wish to be included in the undergrounding district (to the extent feasible from an engineering standpoint). The final boundaries of any undergrounding district will need to comply with utility company and engineering requirements, and may not be identical to the boundaries proposed by the project proponents. Each undergrounding district need not be contiguous and can include multiple non-contiguous areas.

Project proponents may wish to distribute the informal boundary map to the property owners within the proposed undergrounding district to solicit feedback. Project proponents may also request a 'boundary walk' with the affected utility companies to better refine the project boundary and ensure that the proposed district satisfies their requirements. It should be noted that the utility companies (particularly PG&E) may require a deposit before they will attend a boundary walk.

4. Deposits

When obtaining Petitions, district proponents should also raise deposit funds for preliminary, non-contingent costs associated with the undergrounding district formation process. These costs generally include design engineering, construction cost estimates (including cost estimates from PG&E and the telephone cable utility companies), the Town's administrative fee, and election costs.

The total deposit necessary to form an undergrounding district will be determined by Town staff on a case-by-case basis and will vary depending on the circumstances specific to each proposed utility undergrounding project. If the special tax district is successfully formed and the Town successfully issues bonds for the special tax district, all deposits will be refunded to the property owners who originally paid those deposits. If for any reason the special tax district is not formed (whether because the district failed to generate the necessary two-thirds voter approval, or any other reason), or if the Town is for any reason unable to issue the special tax bonds for the district and the undergrounding project is abandoned, any remaining property owner deposits that remain unspent will be refunded on a pro rata basis.

5. Filing the Petition of Interest, Deposit and Boundary Map

The proponents of the proposed undergrounding district must then submit a written petition to the Town showing the support by at least 75% of the registered voters and property owners residing in the proposed undergrounding district (including both property owners and renters); provided, however, that the required showing of support for each proposed district shall be determined by the Town on a case-by-case basis.

The petition must be accompanied by the required deposit for district formation costs and the informal boundary map showing the parcels proposed to be included in the proposed district. Upon receipt of a satisfactory petition, deposit and informal boundary map, the Town will begin the process of district formation.

6. Council Actions, Public Hearings and Submission to Voters

Project Cost Estimates and Special Tax Formula. Prior to the first Council action, the Town, working with its outside consultants (who are further described below), will prepare an estimate

of project costs and the special tax formula under which the special taxes will be allocated to the parcels within the proposed district.

First Council Actions. At the first Council meeting, the Council adopts two Resolutions of Intention, one stating the Town's intention to establish the Mello-Roos district, and the other its intention to issue special tax bonds for the Mello-Roos district. These resolutions will call public hearings on a date at least 30 but not more than 60 days later.

Public Hearings. At the public hearings, any members of the public may submit oral or written protests against the establishment of the Mello-Roos district, the extent of the Mello-Roos district or the proposed undergrounding project to be financed by the Mello-Roos district. If 50% or more of the registered voters residing in the Mello-Roos district, or 6 registered voters residing in the Mello-Roos district, whichever is greater, or the owners of 50% or more of the land in the Mello-Roos district, file written protests against establishment of the Mello-Roos district, the proceedings must stop for at least one year (after which the Town may notice a new public hearing and recommence the district formation process).

The City Council may continue the formation hearing, but it generally must be completed within 30 days. It may be further continued for no more than 6 months if the City Council finds that the complexity of the proposed Mello-Roos district or need for public participation requires additional time.

Second Council Actions. Following the public hearing, if no majority protest is received, the City Council will decide whether or not to proceed with the district formation process. If the City Council decides to proceed, it will adopt three resolutions: a Resolution of Formation that forms the Mello-Roos district, establishes the scope of the underground utilities to be built and adopts the special tax formula; a Resolution of Necessity to Incur Bonded Indebtedness, which establishes the maximum bonded debt for the Mello-Roos district; and a Resolution Calling Special Election, which calls for the required registered-voter election on the questions of the levy of the special taxes within the Mello-Roos district, the issuance of bonds (in a stated maximum amount) for the Mello-Roos district, and establishing an appropriations limit for the Mello-Roos district.

Voter Election. The voter election is held on a date between 90 and 180 days after the Resolution of Formation for the Mello-Roos district is adopted. The election will be held at a regular or special election to be conducted by the County registrar of voters. This election may be held by mailed ballot, or may be consolidated with another State election on a regular election date. The eligible voters in this election are all of the registered voters residing within the Mello-Roos district (which includes renters).

The special tax propositions must be approved by a two-thirds (or 66%) majority of the qualified electors in order for the Town to move forward with the special tax levy and the bond issuance process. If less than 12 registered voters reside in the District, the vote is by landowners, who receive one vote per acre or portion of acre owned. If 12 or more registered

voters reside within the Mello-Roos district, the vote is by registered voters, with one vote per voter.

7. Issuance of Special Tax Bonds

If the election is successful and the special tax levy is approved by the registered voters within the proposed district, the Council will adopt a resolution declaring the results of the election.

The parcel owners will be given the opportunity to prepay their respective special taxes for a period of approximately 30 days following the election and before the special tax bonds are issued.

After the close of the cash payment period, the Town will proceed with the bond issuance process, which will generally take four to eight weeks.

Levy and Collection of Special Taxes

Special taxes will be collected on each parcel owner's semi-annual property tax bill, together with ad valorem property taxes and other fees and charges collected by the County tax collector. The special taxes will be levied and collected for as long as necessary to pay debt service on the special tax bonds, generally 25 to 40 years depending on the terms of the bonds and the prevailing market conditions for the bonds at the time they are issued.

The obligation to pay special taxes is not a personal obligation of the property owners, but rather an obligation secured by a lien on their respective parcels, and (unless prepaid) runs with land to any subsequent buyer of the property like other property taxes.

Consultants

In order to assist in process of forming each undergrounding district and issuing special tax bonds, the Town will appoint four outside consultants: the Consulting Engineer, the Special Tax Consultant, Bond Counsel, and the Underwriter.

1. Consulting Engineer.

The Town's consulting engineer will prepare complete technical plans and drawings for review by the utilities, and establish cost estimates of each undergrounding project. Project cost estimates will then be used to establish the special tax levels needed to support debt service and other requirements for the undergrounding district.

2. Special Tax Consultant.

The Special Tax Consultant prepares the Rate and Method of Apportionment of Special Tax, which is the document that contains the special tax formula and method for determining the

amount of the special tax each year. The special tax formula will generally provide for a standard or “assigned” annual special tax rate that is estimated to be sufficient to pay principal and interest on the bonds and administrative costs of the district, and also a backup or maximum special tax rate.

3. Underwriter.

The Underwriter assists the Town in structuring each bond financing, is responsible for pricing the bonds, and will purchase all of the bonds on the closing date (for resale to the bond market) in order to ensure a successful bond sale and financing. The Underwriter is paid only from the bond issue and only if bonds are issued.

4. Bond Counsel.

Bond Counsel assists in preparing all legal proceedings to establish the Mello-Roos district (including Council resolutions, notices and ballots), and all legal and disclosure documents needed to issue the bonds.

Bond Counsel represents the Town, and only the Town, as its counsel in connection with district formation and the issuance of special tax bonds to finance each undergrounding project. Although the Town may direct Bond Counsel to be available to answer questions from district residents and members of the public, whether at public meetings or otherwise, Bond Counsel does not represent, or provide any legal advice to, any parcel owners within any particular district.

Construction of the Undergrounding Project

Following the bond pricing and closing, the Town will execute the construction contract with the selected bidder. Construction work would typically commence within a few weeks of contract execution. Town staff may make progress payments to the contractor as with any public works contract. The time required for the primary construction work will depend on the size and complexity of the project, but typically is anticipated to last approximately 2 to 12 months.

When the primary construction work is complete, the Town will coordinate with the utility companies to connect all properties within the district to the new underground utility system. At this stage, each individual property owner must also install underground lateral lines within his or her lot from the curb to the home’s electrical meter. This process must be coordinated with the utility companies, and may take several weeks or more depending on the scheduling requirements of the property owner’s contractor and each utility company.

After all connections are completed, the utility companies will remove the overhead lines, wires and poles, and switch all utility services over to the undergrounded lines. The undergrounding project cannot be completed, and the utility services cannot be switched to the underground

lines, until all properties within the undergrounding district complete their individual service laterals.

Private Service Connections

Each property owner is responsible for engaging a contractor to connect his or her property to the newly undergrounded utility lines, and for completing the individual service connection work to allow the overall project to be completed. *Individual property owners may not “opt out” of connecting to the undergrounded utility system or elect to retain their overhead wires.* While the Town’s contractor may offer service connection work to property owners, such work would be performed under a separate contract with the property owner and not be part of the Town’s public works project.

The costs of individual service connections from private residences to the undergrounded utility lines will be borne by each property owner and are typically not included in the costs that the Mello-Roos district may finance. However, a small percentage of bond funds may be available to help individual property owners finance connections, on a first come-first served basis; the actual amount will depend on the size of the project and the estimated amount of bond financing available and will vary with each project.

If utility lines have already been undergrounded on any private parcel within a district, it is possible that the property owner might not incur any costs for individual service connections to the newly undergrounded utility lines, depending on the configuration of the new lines in relation to the property owner’s existing underground service connection.

Accounting of District Bond Proceeds

After the undergrounding project is completed and all bond funds have been spent, the Finance Director will provide an accounting of the expenditure of bond proceeds, including construction costs, incidental expenses, financing costs and contingencies. This report will be available to any interested member of the public upon request.

Disposition of Surplus Funds

After the undergrounding project is completed and all bond funds have been spent, if the accounting of bond proceeds prepared by the Finance Director shows a surplus of unneeded bond proceeds in the improvement fund, the City Council will be asked to decide among two options for disposing of surplus funds in excess of \$1,000: (a) use the surplus to redeem special tax bonds, which will result in a reduction in special tax rates for the remaining life of the bonds, or (b) apply the surplus as a full or partial credit against the annual special taxes for one or more tax cycles (after which the special taxes will resume their original levels as needed to pay debt services on the bonds), without redeeming bonds.

Shortfalls in Available Funds

There is no assurance that the proceeds of the special tax bonds, and other available amounts, will be sufficient to complete a particular utility undergrounding project. Shortfalls could occur due to factors such as the discovery of unanticipated physical conditions causing project costs to exceed estimates, delays due to natural disasters, regulatory restrictions or legal challenges, or other unanticipated events. Property owners within the district will be responsible for making up any construction cost shortfalls should any occur, either through (a) cash contributions or (b) voting on change proceedings to increase the special taxes and authorize the issuance of an additional series of bonds to finance the shortfall.