

# City of Berkeley

## UNDERGROUND UTILITIES ASSESSMENT DISTRICTS GUIDELINES FOR PROSPECTIVE NEIGHBORHOODS

The City of Berkeley (City) supports neighborhoods that wish to underground their local overhead utilities. The following guidelines are provided to Berkeley residents with a step-by-step approach to forming the required property-owner funded Undergrounding Utility Assessment District. The formation of the assessment district follows the strict requirement of Proposition 218 (Article XIIC and XIID of the state constitution).

Existing overhead utilities (phone, data and electrical) can be "undergrounded" by replacing them with a system that is under ground. Wires for these utilities are run through conduits in streets and easements, and utility poles and other above ground infrastructure is eliminated.

Undergrounding of existing overhead utilities eliminates/reduces the risks of falling equipment, fire ignition and street blockage, especially during storms, wind and earthquakes. Undergrounding also provides an aesthetic improvement to the local neighborhood, improves views, and system reliability.

The cost of performing undergrounding work is typically borne by property owners that benefit from the work. Although PG&E has a program to help fund such projects (Rule 20A), allocation of additional funding toward the Rule 20A program will be discontinued by end of 2022 per a recent ruling by the California Public Utilities Commission. In addition, the funds apply primarily to arterial roadway sections that deliver traffic from local streets to freeways or expressways. Undergrounding work performed in residential areas are almost always funded by those property owners through an assessment process.

Be warned that it can be a long process, and requires patience, and effective and sustained communication between neighbors, City staff, and the utilities. The cost for underground utilities typically ranges from \$35,000 to \$75,000 per household or higher – a cost that can usually be paid over many years. Costs vary substantially from district to district depending on a number of factors including, but not limited to, benefit of each property, size of district, terrain, distance and depth of trench, the number of overhead lines to be placed underground, labor and material costs, and inflation.

### **STEP 1 – PROJECT INITIATION**

Step 1 includes the activities neighborhood utility undergrounding proponents should take to initiate undergrounding in their neighborhood.

#### **A. Letter of Interest**

The process is initiated by interested property owners (usually a committee) who act as a liaison between the City, utility companies (PG&E, Xfinity, AT&T, etc.), and neighbors. The committee submits a "letter of interest" with attention to the Manager of Engineering, Department of Public Works (DPW) expressing their interest in forming an Underground Utility Assessment District. The following minimum requirements must be satisfied:

- A minimum of five parcels must be included, although typically districts involve 25-150 properties
- 600 linear feet of overhead wire or one block, whichever is less, must be placed underground.

The letter must include the proposed boundaries of the area for undergrounding and must be signed by property owners representing at least 60% of the properties within the proposed district.

**B. Preliminary Cost Estimate by the Utility Companies**

Based upon the interest letter, City staff prepares a boundary map and submits it to the utility companies (typically led by PG&E) who will review and evaluate the map to ensure the boundaries are logical and feasible. Once the district boundaries are accepted by all parties, the utility companies and the City will provide a preliminary cost estimate for the design and construction of the undergrounding project.

**C. Re-confirm with a Letter of Continued Interest**

Based on the preliminary cost estimates from utility companies, associated City costs and accounting for bonded interest costs, the committee will determine preliminary costs per household and evaluate if there is continued support to pursue an assessment district. Should the committee wish to pursue the creation of an assessment district, a “letter of continued interest,” signed by 60% of property owners within the proposed district and clearly showing approximate household costs is required to be submitted to DPW.

## **STEP 2 -- FORMING AN ASSESSMENT DISTRICT**

Step 2 includes the activities to form a Utility Undergrounding Assessment District. The City will assist in its formation by facilitating meetings, coordinating tasks, and hiring and managing consultants.

**A. Initial Funding, Boundary Confirmation and Petitioning**

The City will retain the services of consultants, including a Financial Advisor, Bond Counsel and Assessment Engineer. Unless otherwise decided by the City Council, the City collects funds from the committee to pay these consultants – and these consultant costs can range from \$50,000 to \$100,000. If the assessment district is approved by the property owners these initial costs will be reimbursed by the assessment; otherwise, this initial funding is not recouped by the committee.

Moreover, the committee may also fund the project design which may facilitate a more accurate cost estimate. Similarly, if the assessment district is approved by the property owners these initial costs will be reimbursed by the assessment; otherwise, this initial funding is not recouped by the committee.

Bond Counsel prepares a formal petition to be circulated by the proponent to all affected property owners within the proposed district boundaries. The petition states the approximate assessment on each property should the assessment district be approved by the subsequent property owner balloting. Bond Counsel will work the Financial Advisor and Assessment Engineer to develop these approximate assessments. The individual assessments are required to be a fair approximation of the overall benefits received by each property and are based on the preliminary costs received from the utility companies, city costs and bond financing. In order for the process to continue, at least 60 percent of the property owners must sign the petition document to express interest and this 60 percent who are interested also represent more than 50% of the proposed district weighted by amount of assessment. Note that this petition is a “show of interest” and does not bind the property owner to the district – that would come only after a formal ballot proceeding (described below).

Concurrently with the Bond Counsel preparing the petition, the Assessment Engineer prepares a report identifying the benefits to the properties and works with the Financial Advisor to determine the precise

assessment amount on each property as a lump sum and/or bond-financed installment amount.

**B. City Council Action, Property Owner Balloting and Assessment District Formation**

Next, the City staff prepares a staff report to the City Council for the Council's approval to initiate the formation of the Utility Undergrounding Assessment District. With City Council approval of a resolution of initiation, the Assessment Engineer is directed to prepare the required, Proposition 218-compliant Engineer's Report identifying the special benefits the undergrounding project confers to the properties.

This Engineer's Report also determines the precise assessment amount on each property based upon the specific special benefit conferred to each parcel based upon the budget of administration, design and construction costs provided by the utility companies as well as financing costs and allowances for cost overruns, etc.

City Staff next submits the Preliminary Engineer's Report to the City Council for consideration, and if approved by resolution, facilitates the mailing of the ballots to all affected property owners.

All property owners who are subject to proposed assessments are mailed a Notice of Public Hearing with an assessment ballot as required by Proposition 218. The mailed ballots allow all affected property owners to express their support for or opposition to the proposed assessment. Property owners have 45 days to return the ballots which are opened and tabulated at the required Public Hearing.

If a majority (50% + 1) of the returned assessment ballots are in favor of the project, as weighted by each assessment amount, the City Council will approve a resolution forming of the assessment district. If a majority of the ballots cast are in opposition to the project, then the assessment district is not formed.

**C. Calculating and Paying the Assessments**

If the assessment district is approved by the balloting, all of the property owners in the assessment district will have two options to pay for the assessment.

- 30-Day Cash Payment Period: Thirty (30) days after the close of the public hearing, the property owners have the option to pay the full or a portion of the assessment amount. Bonds will be sold for any unpaid portion of the assessment and a lien will be placed on the property until the bond is paid in full.
- Bond: If the property owner elects to not pay during the 30-Day Cash Payment Period, the unpaid Assessment will be financed through the issuance of bonds with the Assessments payable in annual installments corresponding in number and proportionate amount to the number of installments and principal amounts of bonds maturing in each year. Bonds are typically amortized over a 15-20 year period but can be amortized over as many as 30 years. The annual installments along with administrative expenses will be collected on the regular property tax bill. During that time, a lien will be placed on the property until the bond amount is paid in full. Bonds incur a substantial finance charge.

**D. Managing Unforeseen and/or Excessive Costs**

Note that the total cost reported in the Engineer's Report is primarily based on the construction cost estimate provided by the utility companies and City along with other costs. In the unlikely but possible event that the actual costs for the undergrounding project work exceeds the total costs reported in the

Engineer's Report and approved by the balloting, the property owners will have to decide if there is continued support of the project or to disband the district. Continuing the project would require one of two options:

- The property owners can fund the costs exceeding the total amount reported in the Engineer's Report, or
- The Engineer's Report will have to be revised, taking the revised assessment amounts through the process again beginning from Step 2.B.

### **STEP 3 -- DESIGN AND CONSTRUCTION**

Step 3 includes the activities to design and construct the utility undergrounding work, once the assessment district has been formed and funding is collected and/or bonds sold.

#### **A. Design**

The design will be conducted by the utility companies and/or a consultant. The detailed design involves the following steps:

- Base mapping
- PG&E underground conduit and structures and electrical design
- Telephone company design
- Data company design
- Cost estimate

In areas outside of public right-of-way where no dedicated utility easement exists, each homeowner may be required to deed an easement to the utilities for the underground lines and structures. Legal costs related to the deeding and recording of these easements may be included in the PG&E cost for the construction. Design may take 12 to 24 months.

#### **B. Construction**

Construction will be conducted by the utility companies and/or by a contractor. Construction may take 24 to 36 months. When construction of the underground infrastructure is completed, all property owners are notified that it is time to connect to the newly undergrounded utilities – known as the “private conversions.” Private conversions require property owners to hire a licensed electrical contractor to connect the property's existing overhead connection to the underground infrastructure (typical at a box near the property line) and remove the above ground lines. The cost of the private conversion is not covered in the assessment amount and typical costs range from \$3,500 to \$7,500. It is the property owner's responsibility to perform the conversion within the designated timeframe. Delays caused by one property owner's private conversion may cause delays to the whole district.

### **STEP 4 – SCHEDULE**

Step 4 describes the overall project schedule.

#### **A. Schedule**

The duration for each step will vary depending on the number of other undergrounding districts in the queue, the size of the proposed district, and the complexity of the design. For planning purposes, we suggest that the time frame from initial planning to the end of construction is in the range of 3 to 7 years. The following is a general timeline.

Activity	Duration, months	Time from start, years							
		1	2	3	4	5	6	7	
<b>Project initiation</b> A. Letter for interest B. Prelim cost estimate C. Re-confirm interest	1 – 2 2 – 4 1 – 2	■							
<b>Forming an assessment district</b> A. Boundary confirmation and petitioning B. City Council action C. Payment for assessment	4 – 6 4 - 6		■						
<b>Design and construction</b> A. Design B. Construction and private conversions	18 – 24 24 - 36			■			■		