



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Neil Miller, Director of Public Works
Bruce Moe, Finance Director
Robert V. Wadden, Jr., City Attorney
Dana Greenwood, City Engineer
Stephanie Katsouleas, Senior Civil Engineer

DATE: August 1, 2006

SUBJECT: Consideration of Utility Underground Assessment District Issues:

- A. Approval of a 22% Reduction in Assessments for District 05-2, and Adoption of a Resolution Determining the Revised Unpaid Assessments for District 05-2 of \$4,545,000 **ADOPT RESOLUTION NO. 6050.**
- B. Presentation of Survey Results for Proposed Utility Underground Districts 7-14
- C. Discussion Regarding Proposed Districts 7-10
- D. Discussion Regarding Proposed Districts 11-14
- E. Discussion Regarding Procedures for Forming New Districts
- F. Discussion Regarding District 4a

RECOMMENDATION:

Staff recommends that City Council:

- A. Adopt Resolution 6050 determining the revised unpaid assessments due to a 22% reduction construction costs for District 05-2.
- B. Receive and file this report regarding the survey results for proposed Districts 7-14.
- C. Discuss and provide direction to staff regarding how to proceed with proposed districts where City funds have already been spent to initiate the districts (Districts 7-10).
- D. Discuss and provide direction to staff regarding how to proceed with proposed districts where City funds have not yet been spent to initiate the districts (Districts 11-14).
- E. Discuss and provide direction to staff regarding procedures for forming new districts.
- F. Discuss and provide direction to staff regarding proposed District 4a.

ITEM A – Adopt Resolution 6050

FISCAL IMPLICATIONS:

There are no fiscal implications in adopting the attached resolution (Attachment A). The reduced assessments are simply financial benefits passed directly to property owners in District 2 and do not affect pending reimbursements to the City for design plans, consultant engineering services and staff time.

DISCUSSION:

At its regular meeting on July 5, 2006, City Council adopted a similar resolution and approved related documents for District 2 authorizing the sale of bonds to finance the undergrounding project. However, on July 14, 2006, the City determined through the open market bids received that the actual cost of the project was approximately 22% less than the assessments approved. This cost reduction necessitated the need to rebate homeowners who paid assessments during the cash collection period and to reduce the amount of unpaid assessments for the remaining homeowners. The attached resolution represents the revised (lower) unpaid assessments for which bonds must be issued to finance the undergrounding project.

CONCLUSION:

Staff recommends that City Council adopt Resolutions No. 6050 determining the revised unpaid assessments for District 05-2.

ITEM B – Receive and file this report regarding survey results for proposed Districts 7-14

FISCAL IMPLICATIONS:

There are no fiscal implications regarding the survey results.

BACKGROUND:

From 2000 to 2005, homeowners in eight residential neighborhoods (Districts 7-14) submitted petitions showing that 60% or greater of the homeowners within defined boundaries were in favor of undergrounding (see Map, Attachment B). At the time these petitions were originally circulated and signed, the estimated cost to underground utilities was believed to be on average \$8,000 - \$10,000 per parcel. While this average is correct for Districts 12 and 14, recent pricing for Districts 2, 4 and 6 revealed that the cost of undergrounding utilities for the remaining districts has increased, and in some cases significantly, since petitions were submitted to the City.¹ The three primary reasons for pricing increases include:

- 1) *The variations of housing density within each district.* Housing density is a significant factor in the assessment amounts presented to homeowners, with all else being equal.
- 2) *The State mandated use of prevailing wages* (living wage) instead of industry standard wages. Labor accounts for about 60% of the total cost of an undergrounding project.
- 3) *The rapid increase of material costs* for concrete, steel and oil based products such as PVC pipe and asphalt. Materials account for about 25% of the total cost. Other costs include staff time, design fees, assessment engineering fees, financing costs, etc.

Following the request of several residents, at its February 7, 2006 regular meeting City Council directed staff to develop and conduct a survey to determine whether support for undergrounding in Districts 7-14 has increased, remains unchanged, or decreased based on new estimated costs. The results of the survey would then be used to help Council determine whether to continue with design plans, pricing and voting procedures.

Following a postcard announcement sent on June 2, 2006, an initial survey (Attachment C) was sent to all homeowners in Districts 7-14 on June 13, 2006 with a specified return deadline of July 5, 2006. A second mailing (Attachment C) was conducted on July 10, 2006 targeting all non-responders of the first mailing. The second and final deadline to respond was July 24, 2006. In all, homeowners were given nearly 6 weeks to respond to the City's survey.

DISCUSSION:

The overall response rate to the survey was fairly high following the six week survey period, with more than 77% of affected homeowners responding during that time. The highest response rate achieved was in District 7 (92%), and the lowest in Districts 13 and 14 (70% each). The survey outcome for each of the Districts 7-14 is presented over the next several pages both graphically and numerically. The PIE charts show the outcome among those who responded to the surveys, and

¹ The delay in moving districts forward in 2000/2001 was largely due to the energy crisis at the time, in which Edison was unable to accept non-critical work requests such as residential undergrounding (Rule 20B projects). However, in 2002/03 district designs were initiated in phases, with Districts 1-3-5 designed first due to their geographical proximity to each other. Other districts have moved forward in groups of 3-4 as the utilities have been able to accept the workload.

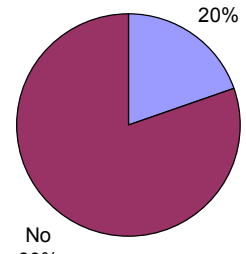
the graphs show via location the voting distribution within each district, with:

- GREEN representing those in favor of moving forward with pricing,
- RED representing those opposed to pricing/undergrounding,
- YELLOW representing split votes
- GRAY representing non voters
- HATCH MARKS representing those identified as signing an undergrounding petition.

Please note that there are limitations to the graphical representations of the surveys, namely that the City's GIS system is limited in how the voting results for multi-dwelling units can be displayed. For example, a triplex on a 30 x 90 lot may have three property owners, but the GIS map shows only the vote of the first parcel. The remaining two votes are not displayed. This problem cannot be solved using the current software available.

District 7

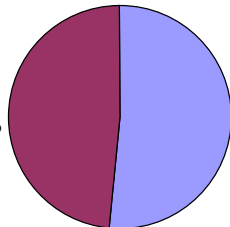
District 7 (located near American Martyrs) is generally described as 19th St., from Ardmore Ave. to Flournoy Rd., and Ardmore Ave., from 19th St. to Flournoy Rd. The estimated cost to underground utilities in this district ranges from \$21,701 - \$37,164. The outcome of District 7 surveys is as follows:

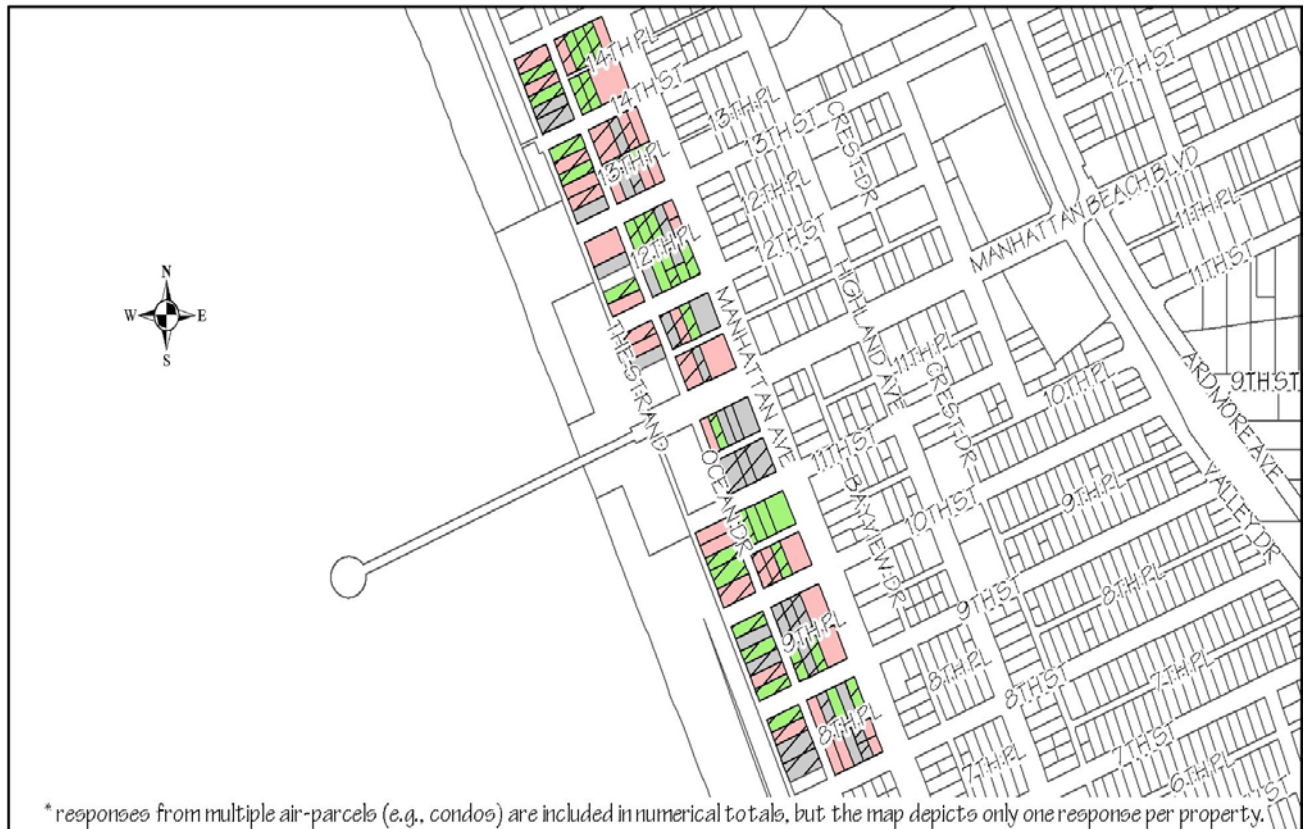
District 7 Survey Outcome		District 7 Survey 
61	Number of Homes in District	The outcome of surveys received
56	Number of Surveys Returned (92% of households)	
11	Number in Favor (18% of households)	
45	Number Opposed (74% of households)	
5	Non-responders (8% of households)	
60.6%	Original Petition Percentage (March 2000)	
\$27,127	Estimated Average Parcel Assessment	
\$30,000	Funds Expended to Date	



District 8

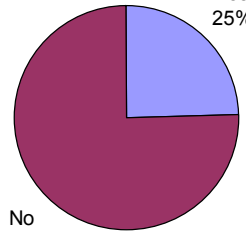
District 8 (located in the sand section) is generally described as The Strand to Manhattan Ave., from 8th St. to 15th St. The estimated cost to underground utilities in this district ranges from \$12,613 – \$20,525. The outcome of District 8 surveys is as follows:

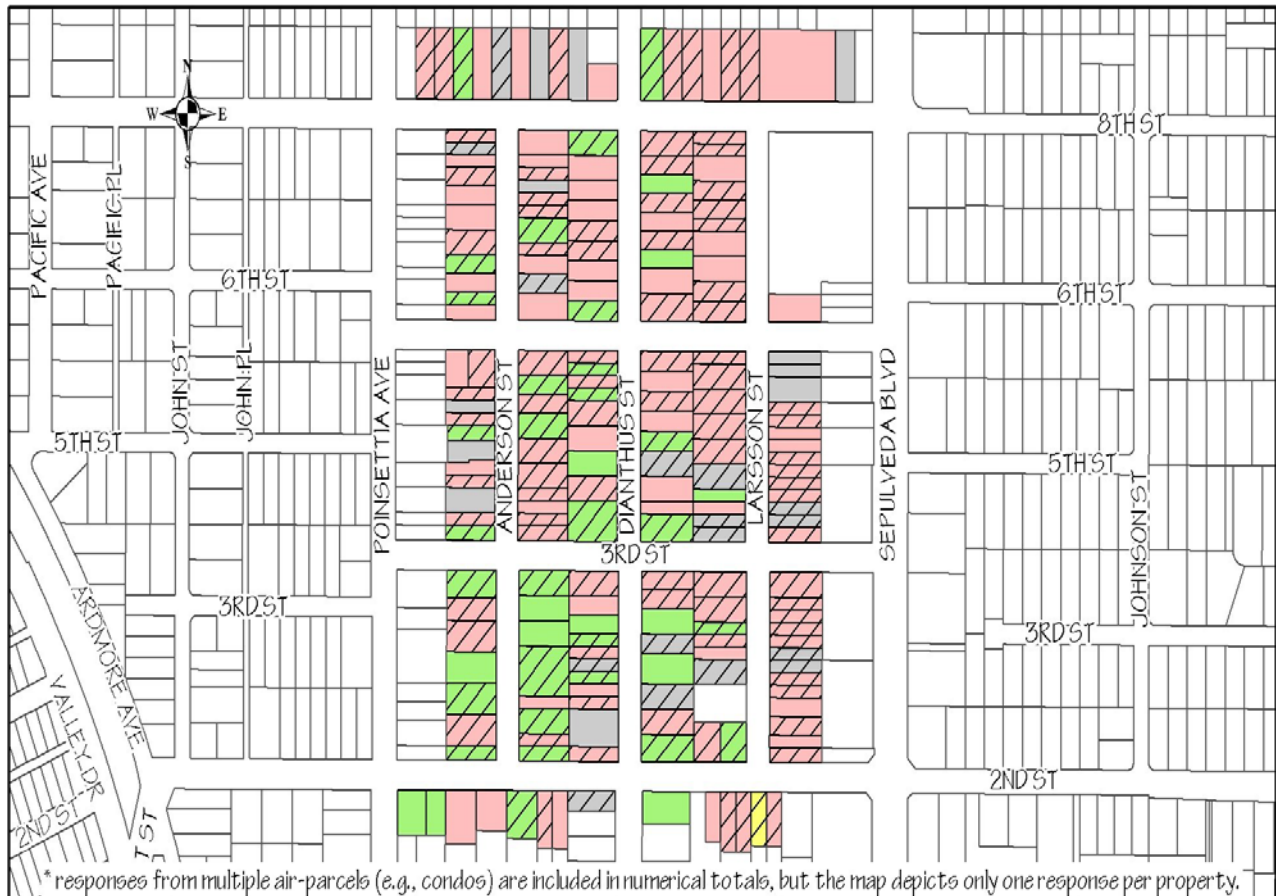
District 8 Survey Outcome		District 8 Survey  The outcome of surveys received
136	Number of Homes in District	
99	Number of Surveys Returned (73% of households)	
51	Number in Favor (38% of households)	
48	Number Opposed (35% of households)	
37	Non-responders (27% of households)	
61%	Original Petition Percentage (April 2000)	
\$15,204	Estimated Average Parcel Assessment	
\$40,000	Funds Expended to Date	



District 9

District 9 (located in the hill section) is generally described as Anderson St. to Larsson St., from 2nd St. to 8th St. The estimated cost to underground utilities in this district ranges from \$18,464 - \$31,158. The outcome of District 9 surveys is as follows:

District 9 Survey Outcome		District 9 Survey  The outcome of surveys received
205	Number of Homes in District	
178	Number of Surveys Returned (87% of households)	
44	Number in Favor (21.5% of households)	
1	Split Vote (0.5%)	
133	Number Opposed (65% of households)	
27	Non-responders (13% of households)	
65.8%	Original Petition Percentage (April 2000)	
\$23,080	Estimated Average Parcel Assessment	
\$40,000	Funds Expended to Date	



District 10

District 10 (located in the hill section) is generally described as Ardmore Ave. to Poinsettia Ave., from 9th St. to Manhattan Beach Blvd. The estimated cost to underground utilities in this district ranges from \$23,705 – \$40,595. The outcome of District 10 surveys is as follows:

District 10 Survey Outcome	
259	Number of Homes in District
210	Number of Surveys Returned (81% of households)
51	Number in Favor (20% of households)
159	Number Opposed (61% of households)
49	Non-responders (19% of households)
65.8%	Original Petition Percentage (October 2000)
\$29,632	Estimated Average Parcel Assessment
\$100,000	Funds Expended to Date

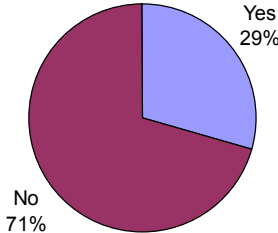
District 10 Survey

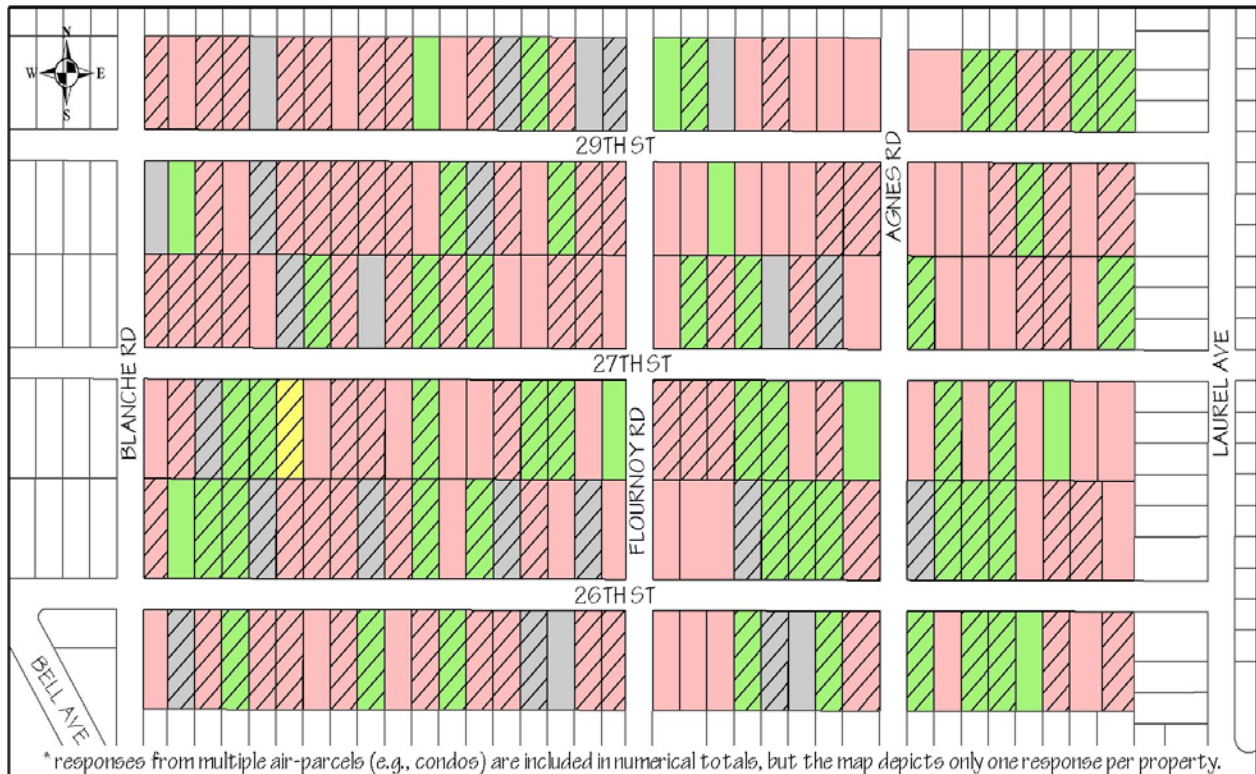
The outcome of surveys received



District 11

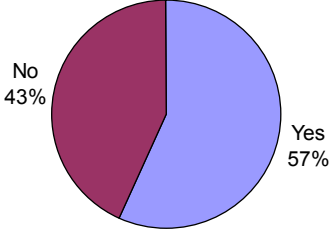
District 11 (located in the tree section) is generally described as Blanche Rd. to Laurel Ave., from 26th St. to 29th St. The estimated cost to underground utilities in this district ranges from \$15,397 - \$25,597. The outcome of District 11 surveys is as follows:

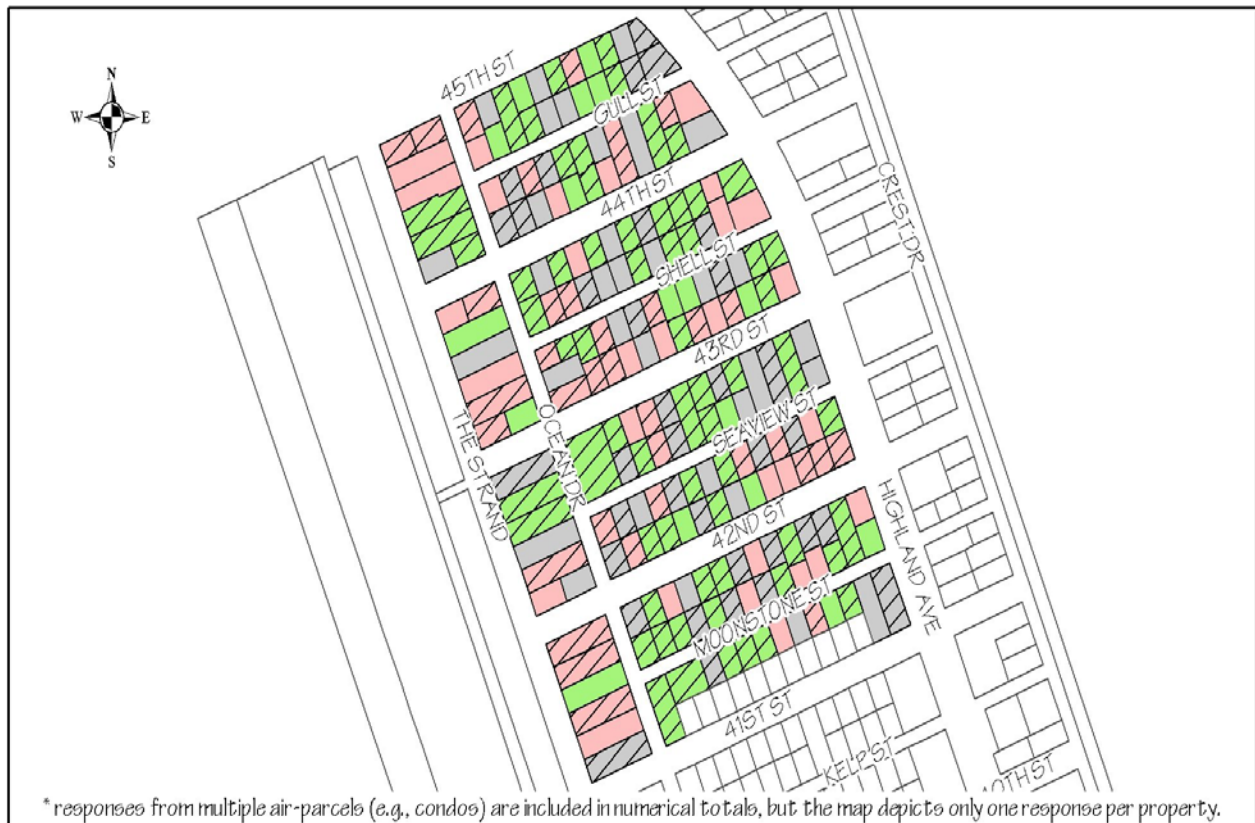
District 11 Survey Outcome		District 11 Survey  The outcome of surveys received
202	Number of Homes in District	
179	Number of Surveys Returned (89% of households)	
52	Number in Favor (26% of households)	
1	Split Vote (0.5%)	
126	Number Opposed (62.5% of households)	
23	Non-responders (11% of households)	
63.4%	Original Petition Percentage (October 2002)	
\$19,246	Estimated Average Parcel Assessment	
\$0	Funds Expended to Date	



District 12

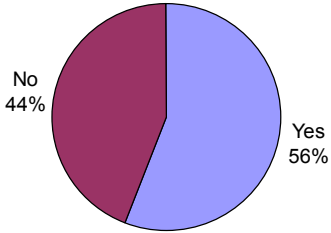
District 12 (north El Porto) is generally described as The Strand to Highland Ave., from Moonstone St. to 45th St. The estimated cost to underground utilities in this district ranges from \$6,196 – \$10,300, somewhat less than the \$8,000 - \$10,000 range originally expected. The outcome of District 12 surveys is as follows:

District 12 Survey Outcome		District 12 Survey
228	Number of Homes in District	
158	Number of Surveys Returned (69% of households)	 District 12 Survey No 43% Yes 57%
90	Number in Favor (39% of households)	
68	Number Opposed (30% of households)	
70	Non-responders (31% of households)	
61.8%	Original Petition Percentage (July 2004)	The outcome of surveys received
\$7,745	Estimated Average Parcel Assessment	
\$0	Funds Expended to Date	



District 13

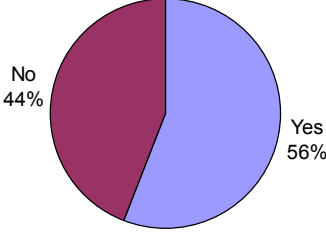
District 13 (located in the sand section) is generally described as Highland Ave. to Alma Ave., from Rosecrans Ave. to Marine Ave. The estimated cost to underground utilities in this district ranges from \$11,288 – \$18,767. The outcome of District 13 surveys is as follows:

District 13 Survey Outcome		District 13 Survey  The outcome of surveys received
277	Number of Homes in District	
193	Number of Surveys Returned (69.5% of households)	
108	Number in Favor (39% of households)	
85	Number Opposed (30.5% of households)	
84	Non-responders (30.5% of households)	
73.3%	Original Petition Percentage (August 2005)	
\$14,111	Estimated Average Parcel Assessment	
\$0	Funds Expended to Date	



District 14

District 14 (south El Porto) is generally described as The Strand to Highland Ave., from Moonstone St. to 45th St. The estimated cost to underground utilities in this district ranges from \$7,697 – \$12,795, within the ballpark of costs originally expected. The outcome of District 14 surveys is as follows:

District 14 Survey Outcome		District 14 Survey  The outcome of surveys received
240	Number of Homes in District	
169	Number of Surveys Returned (70% of households)	
94	Number in Favor (39% of households)	
75	Number Opposed (315% of households)	
71	Non-responders (30% of households)	
60.8%	Original Petition Percentage (September 2005)	
\$9,621	Estimated Average Parcel Assessment	
\$0	Funds Expended to Date	



ITEM C - Discuss and provide direction to staff regarding how to proceed with proposed districts where City funds have already been spent to initiate the districts (Districts 7-10)

FISCAL IMPLICATIONS:

The funds expended to date on Districts 7-10 are as follows:

District No.	Funds Expended to Date for Edison Designs	Estimated Future Expenditures for Verizon and Adelphia Designs	District Totals
District 7	\$30,000	\$55,000	\$85,000
District 8	\$40,000	\$80,000	\$120,000
District 9	\$80,000	\$125,000	\$205,000
District 10	\$100,000	\$150,000	\$250,000
TOTAL	\$250,000 paid to Edison	\$410,000 Pending	\$660,000

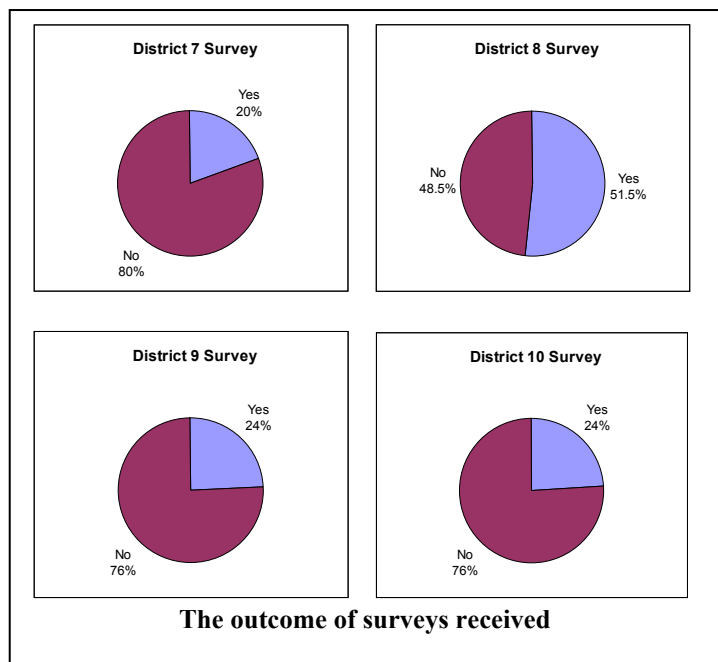
It is unknown what portion, if any, of the funds paid to Edison could be rebated to the City if design plans are halted.

DISCUSSION:

The survey results of Districts 7, 8, 9, and 10 are presented to the right. The graphs highlight the positions of homeowners regarding support for and opposition to undergrounding. Options for addressing these districts include:

- 1) Considering petition signatures of those homeowners who did not respond to the District 8 survey campaign in determining whether to move it forward to pricing and voting.
- 2) Given that the City has already expended funds on all four of these districts, weighing the financial risks and benefits of moving each district forward to a vote, and consider:

- a. Dissolving those districts where there is clear opposition to undergrounding
 - b. Moving districts forward which show majority support for undergrounding
- 3) Allowing homeowners to form new districts based on defined areas of majority support using



survey results as guidance. Any new districts created would adhere to the policies and procedures in place at that time.

CONCLUSION:

The likelihood of Districts 7, 9 and 10 forming if voting were to commence seems low based on the survey responses received. Moving these districts forward to an actual vote would cost the City an additional \$330,000, with little assurance those funds would be reimbursed. However, the outcome of District 8 is not as clear. Moving District 8 forward to an actual vote would cost the City an additional \$80,000, with the outcome likely dependent on the positions of the 37 homeowners who did not respond to the survey. Of those 37, 20 signed the petition in 2000.

RECOMMENDATION:

Based on this information, staff recommends that City Council determine whether to proceed with design plans and pricing for each of the Districts 7-10.

ITEM D - Discuss and provide direction to staff regarding how to proceed with proposed districts where City funds have not yet been spent to initiate the districts (Districts 11-14)

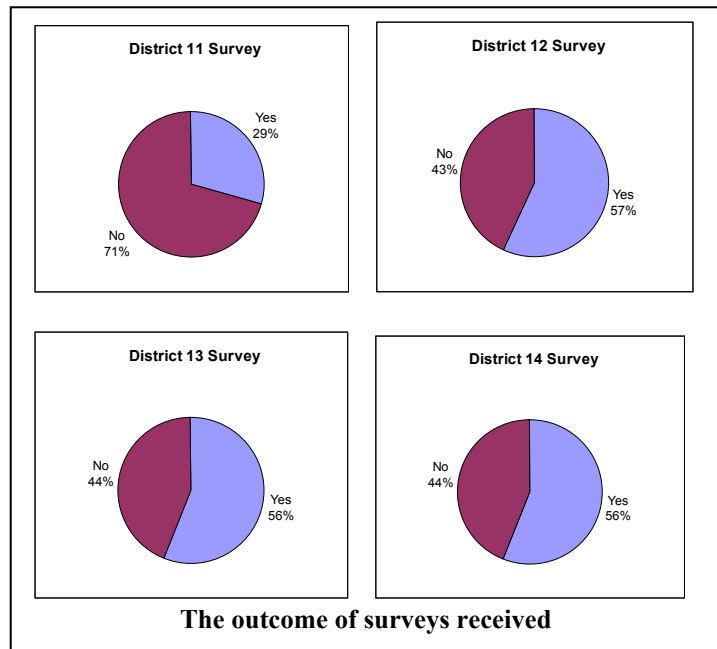
FISCAL IMPLICATIONS:

No funds have been expended to date on design plans for Districts 11-14 although some staff time can be attributed to these districts. The City would be reimbursed associated staff costs only for the proposed districts ultimately formed. The anticipated fiscal implications for Districts 11-14 are unknown at this time, but would depend on the cost for each utility's design plans. Presumably, complete design plans would cost in the range of \$100,000 - \$150,000 for each district based on size.

DISCUSSION:

The survey results for Districts 11, 12, 13 and 14 are presented to the right. The graphs highlight the positions of homeowners regarding support for and opposition to undergrounding. Options for addressing these districts include:

- 4) In determining whether to move these districts forward to pricing and voting, consider petition signatures of those homeowners who did not respond to the survey campaign in Districts 12, 13 and 14.
- 5) Weighing the financial risks and benefits of moving each district forward, and consider:
 - a. Dissolving those districts where there is clear opposition to undergrounding.
 - b. Moving districts forward which show majority support for undergrounding.
- 6) Allowing homeowners to form new districts based on defined areas of majority support using survey results as guidance. Any new districts created would adhere to the policies and procedures in place at that time.



CONCLUSION:

The likelihood of District 11 forming if voting were to commence seems low based on the survey responses received. Moving this district forward to an actual vote would cost the city up to \$150,000 with little assurance that those funds would be reimbursed. The likelihood of Districts 12, 13 and 14 forming seems greater based on both the surveys and petitions submitted. In Districts 13 and 14, more than half of the survey non-responders signed the petitions circulated last year, while in District 12, slightly less than half did so.

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RECOMMENDATION:

Based on this information, staff recommends that City Council determine whether to proceed with design plans and pricing for each of the Districts 11-14.

ITEM E – Discuss and Provide Direction to staff regarding procedures for forming new districts

FISCAL IMPLICATIONS:

There are no fiscal implications regarding addressing the procedures for forming a new district.

DISCUSSION:

In forming new districts several issues were highlighted in need of improvement, including how residents are notified during the petition phase, time allowance for a petition drive, district boundaries proposed and/or modified, and appropriate sizing of districts. As an example, past procedures relied on the petitioners to notify 100% of homeowners during the petition drive rather than the City. This resulted in some homeowners not being notified and then “blindsided” by proposed assessments during balloting procedures. In order to mitigate future problems associated with developing districts, staff has identified several procedural issues which should be addressed. These include:

- 1) Whether the petition signature requirements should be modified from the current threshold of 60%
- 2) Whether setting a timeframe for a petition drive is needed
- 3) How to allow for boundary modifications during a petition drive for a new district or reformation of a failed district
- 4) Whether to limit the sizing of a district
- 5) Whether or not to create a future Opt-Out policy for districts once formed and initiated
- 6) Determining how long before proceedings may be reinitiated for districts that fail

1. Petition Requirements

The petition requirements set by the City to initiate a district is based on policy rather than state or local legislation. The current 60% signature threshold was established by Council in 1998 and is based on the likelihood of getting reimbursed for funds the City expends to bring a proposed underground utility district to a vote. By setting the petition signature requirement at 60%, the City takes a “comfortable” risk that undergrounding is supported by a majority of residents and that it will likely be reimbursed for its expenditures. However, due to the high cost of undergrounding in some districts, City Council may wish to reevaluate its current policy on the signature threshold requirement. Issues to consider include:

- a) Whether the current 60% signature threshold is adequate to assure reimbursement to the City for funds expended on design plans. The six districts that have met the 60% threshold and voted were all approved by a weighted majority, although District 4 was extremely close (50.1% to 49.9%) and thus not approved.
- b) Whether the average cost of undergrounding should be considered in setting the signature threshold, e.g., should cheaper districts have a lower threshold, and more expensive districts a higher threshold, or is the cost itself self-limiting in determining which neighborhoods can achieve the current 60% threshold? The cost to individual homeowners to underground utilities varies greatly within the City. High density areas (the sand section) generally observe lower per-parcel costs, while low density areas (the hill section) generally observe higher per-parcel costs. Survey results suggest that districts with higher estimated

- assessments will have a more difficult time reaching the 60% threshold currently required.
- c) Should the City consider issues other than its own financial liability in setting a signature threshold?

Regardless of whether the signature threshold is modified, the new procedures implemented by City staff to notify residents of estimated costs (in current dollars) at the beginning of a petition drive will help inform homeowners of the total cost of undergrounding, and thus influence their decision of whether to support undergrounding via the petition drive. Assuming the 60% threshold can be met under those conditions, the chances that the City will be reimbursed for fronting design funds are likely good.

2. The Petition Drive

The City currently has no policy on how long a petition drive may last. However, it is possible that a petition drive could last a significant amount of time before the 60% signature threshold was achieved, and in turn could negate the prices originally presented to homeowners when petition were signed. It may be advantageous to establish a time frame for collecting signatures within a proposed district such that the information presented is applicable/accurate.

3. Boundary Modifications

How to allow for flexibility in setting a district's boundaries is an issue that has been raised by several district leaders who have started petition drives within the past year. The premise is that district proponents may encounter: 1) additional support for undergrounding among homeowners just outside the boundaries who wish to be included, or 2) lack of support for undergrounding in some areas as defined inside or along the proposed boundaries. Currently, the City has no policy for allowing or disallowing boundary modifications once boundaries are proposed and a petition drive commences. Such flexibility does impact the City's new commitment to inform residents of proposed boundaries and costs at the onset of a petition drive. While the estimated cost may not change with the inclusion or exclusion of certain streets/homes, the information presented to homeowners about its boundaries does. However, staff feels that the issue is easily resolvable by keeping residents informed of proposed changes as they occur, and allowing residents to remove or add their names to the petition once a district's boundaries have been finalized and petitions submitted. Allowing district boundaries to "morph" during the petition drive based on areas of known support and opposition seems a reasonable approach to ensure that the boundaries ultimately represent those most in favor of undergrounding and excludes those most opposed.

4. Limiting the Size of a District

Currently, the City has no formal policy on how large or small a district may be. The sizes of the City's 14 current districts range from about 150 to 300 homes, with the exception of District 7, which has 61 homes participating. This sizing seems a reasonable balance between maximizing economies of scale for homeowners while limiting the City's funding liability for plan designs. Additionally, Southern California Edison does have a minimum size allowance for Rule 20B undergrounding districts such as these, which is 600 ft. trenching distance or one block. Issues to consider in whether to set a size limit include:

- a) Is setting a maximum or minimum size of a district necessary or desirable, or should it be dependent on known areas of support?

- b) Would allowing smaller districts to form help achieve undergrounding only where there is clear majority support without affecting those “caught in the middle” of a proposed district?
- c) Does allowing smaller districts create a piecemeal look, and is that acceptable or unacceptable from an aesthetics viewpoint?
- d) Does allowing smaller districts create pocket areas that would then not qualify for undergrounding in the future?
- e) Will encouraging larger districts save residents additional money due to perceived economies of scale?

5. Creating an Opt Out Policy for Future Districts²

At the February 7, 2006 City Council meeting, staff presented to Council the complex issues associated with establishing an opt-out policy. In lieu of adopting any opt-out policy that evening, Council directed staff to initiate a survey campaign to determine the current level of support for undergrounding (results presented herein).

However, staff believes that creating an opt-out policy may not be necessary at this time. The results of the survey campaign can be used to guide City Council in determining how best to proceed with the current Districts 7-14 (i.e., whether to completely dissolve them or allow them to move forward). Secondly, future actions taken by City staff should negate the need for an opt-out policy. Future actions would include:

- 1) Noticing all residents that a petition drive is underway at the time it begins, and including on that notice an estimated cost range. This will allow all residents to voice their opinions and lobby their position among potentially affected homeowners at the time of the petition drive.
- 2) Confirming that the petition signatures submitted represent the entire district, and are not “lop-sided” within its boundaries.
- 3) Reconfirming with residents the final boundaries of the proposed district once petitions have been submitted, and allowing residents to add or remove their names before the petition confirmation is final.
- 4) Initiating plan designs within a reasonable amount of time from the date the petitions are submitted and verified (e.g., 3-6 months).

For the reasons listed above and in the February 7, 2006 staff report, staff maintains its position that implementing an opt-out policy would prove difficult if not impossible to administer, in particular once plan designs have been initiated. It would be significantly easier to implement procedures that eliminate the need to consider opting out once a district has been initiated.

² For the purposes of this report, opting-out is defined as allowing a portion of a proposed district to be removed while allowing the remaining area of the district to proceed with designs, pricing and voting. Opting-out is not considered the same as dissolving an entire district.

6. Reinitiating Failed Districts

The City's current policy for allowing failed districts to reinitiate requires that the district wait one year before new proceedings³ begin unless overridden by Council action. A reinitiated district is conceivably required to obtain a new 60% showing of support for undergrounding before the City will undertake new proceedings, although this is not explicitly stated. City Council may wish to reevaluate this policy, and consider the following in doing so:

- a) Is the current waiting period of one year adequate before initiating new procedures, or should it be modified?
- b) Should the same threshold requirements used for new districts apply to failed districts, or should a different set of criteria apply?
- c) Would setting a longer waiting period adversely affect homeowners financially if there was adequate showing of support within one year?
- d) Should the City establish guidelines on when a new petition drive may commence? Currently there are none.
- e) Should a failed district be allowed to form into a smaller district based on known areas of support, or should the new boundaries allowed be addressed on a case-by-case basis?

RECOMMENDATION:

Staff has presented a host of issues to consider in refining its policies and procedures regarding residential undergrounding. Staff recommends the following:

- 1. Confirm the petition signature threshold that must be met to form a district, and determine whether the requirements should be City-wide or vary based on location of the district being formed.
- 2. Set guidelines for an acceptable time to initiate and complete a petition drive.
- 3. Establish procedures for how to allow boundary modifications for newly forming districts as well as failed districts that wish to reform.
- 4. Determine whether the City should limit the size of a district, and if so, what that limit should be.
- 5. Do not create an opt-out policy for undergrounding, but instead confirm the implementation of procedures at the onset of district formation that negate the need for an opt-out policy.
- 6. Set criteria based on the issues raised in #6(a-f) above for how a failed district may reinitiate at some future time.

³ Proceedings include producing a new Assessment Engineering report and initiating balloting procedures, but do not include the petition drive itself. If district boundaries are modified, the proceedings would also include obtaining redesigned plans from the utilities.

ITEM F - Discussion of District 4a

FISCAL IMPLICATIONS:

The fiscal implications for the reformation of District 4a are unknown at this time, but would include at a minimum the cost to: 1) redesign existing plans to accommodate the new boundaries, 2) develop a new Assessment Engineers report, 3) commence mailing and balloting procedures and 4) cover staff time. The total anticipated costs for these activities would be approximately \$25,000 - \$40,000. Additionally, approximately \$130,000 has already been spent on the original District 4 for similar expenses.

BACKGROUND:

On November 21, 2005, District 4 homeowners voted on proposed assessments ranging from approximately \$38,000 to \$67,000. While passing by weighted return (50.1% in favor), a straw count of homeowners showed that a majority of homeowners were opposed to undergrounding. Ultimately, the district was not approved by City Council. However, due to the closeness of the vote, at its December 6, 2005 regular meeting, City Council voted to allow District 4 to reform based on known areas of support while excluding areas of known opposition. No time limit or additional criteria were imposed at that time.

DISCUSSION:

In June, 2006, district leaders for District 4 proposed new undergrounding boundaries based on known areas of support via the voting outcome from the November 2005 ballot count. As a subset of former district 4, the new district was labeled 4a. At the time City staff provided a current property owner database, a notice was also sent to all property owners notifying them of the: 1) commencement of the petition drive (Attachment C), 2) newly proposed boundaries and 3) anticipated assessment range for the district. Staff also revised the petition form to more clearly state what signing the petition meant (Attachment D).

RECOMMENDATION:

Given the current list of issues addressed above, staff recommends determining whether District 4a should be permitted to form under the policies and procedures in place at the time the petition drive commenced, or whether newly adopted policies and procedures should retroactively apply to the formation of this district. Additionally, staff seeks direction on determining which costs (or portions thereof) from the previous district should be absorbed by the new district (e.g., previous plan design costs) should it move forward.

ATTACHMENTS:

Attachment A	Resolution No. 6050
Attachment B	Utility Undergrounding District Map
Attachment C	Sample Survey Forms
Attachment D	Sample Petition Notice for District 4a
Attachment E	Revised Petition Form

RESOLUTION NO. 6050

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MANHATTAN BEACH, CALIFORNIA, DETERMINING UNPAID
ASSESSMENTS FOR UNDERGROUND UTILITY ASSESSMENT
DISTRICT NO. 05-2

WHEREAS, the City Council (the "City Council") of the City of Manhattan Beach, California (the "City") has previously undertaken proceedings under the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, commencing with Section 10000) (as amended, the "1913 Act") and has confirmed assessments for the Underground Utility Assessment District No. 05-2 (the "Assessment District"), and an Assessment Diagram and Notice of Assessment has been recorded on November 21, 2005, in the office of the County Recorder of the County of Los Angeles; and

WHEREAS, such proceedings provide that bonds representing the unpaid assessments (the "Bonds") will be issued pursuant to the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code, commencing with Section 8500 (as amended, the "1915 Act"); and

WHEREAS, there has been previously filed with the City Clerk a list of unpaid assessments for the Assessment District; and

WHEREAS, actual construction bids received for the project are lower than estimated amounts, and the City Council wishes to direct the City Manager to reduce the amount of the assessments to reflect the results of the bid process; and

WHEREAS, there is on file with the City Clerk a revised list of unpaid assessments for the Assessment District, and

Whereas Exhibit "A" certifies the total amount of the paid and unpaid assessments; and

WHEREAS, as a result of such reductions this City Council wishes to establish \$4,545,000 as the revised amount of the unpaid assessments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are all true and correct.

SECTION 2. The City hereby directs the City Manager to reduce the amount of the assessments to reflect lower than expected project costs and finds and determines, as set forth in Exhibit "A", that the amount of revised assessments remaining unpaid in the Assessment District is \$4,545,000.

SECTION 3. The unpaid assessments shall be payable in the manner provided in Section 8680 *et seq.* of the 1915 Act, and shall be payable in the same manner and at the same time and in the same installments as the general taxes of the City on real property are payable. Pursuant to Section 8682 of the 1915 Act, a certified copy of this resolution and a copy of the list of unpaid assessments shall be filed by the City Clerk in the Office of the Auditor-Controller (the "County Auditor-Controller") of the County of Los Angeles, California (the "County"). Said County Auditor-Controller is requested to proceed in accordance with Section 8682 of the 1915 Act in the collection of installments of these assessments and the interest thereon on the secured property tax assessment roll of the County.

SECTION 4. Except as revised by this resolution, the actions taken and to be taken by the City Clerk, the City staff and consultants relating to the preparation of the list of unpaid assessments and the filing of the same with the County Auditor-Controller is hereby confirmed and ratified.

SECTION 5. This Resolution shall take effect upon its adoption by the City Council. The City Clerk shall certify to the passage and adoption of this Resolution, shall cause the same to be

entered among the original resolutions of said City, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 1st day of August, 2006.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

EXHIBIT A

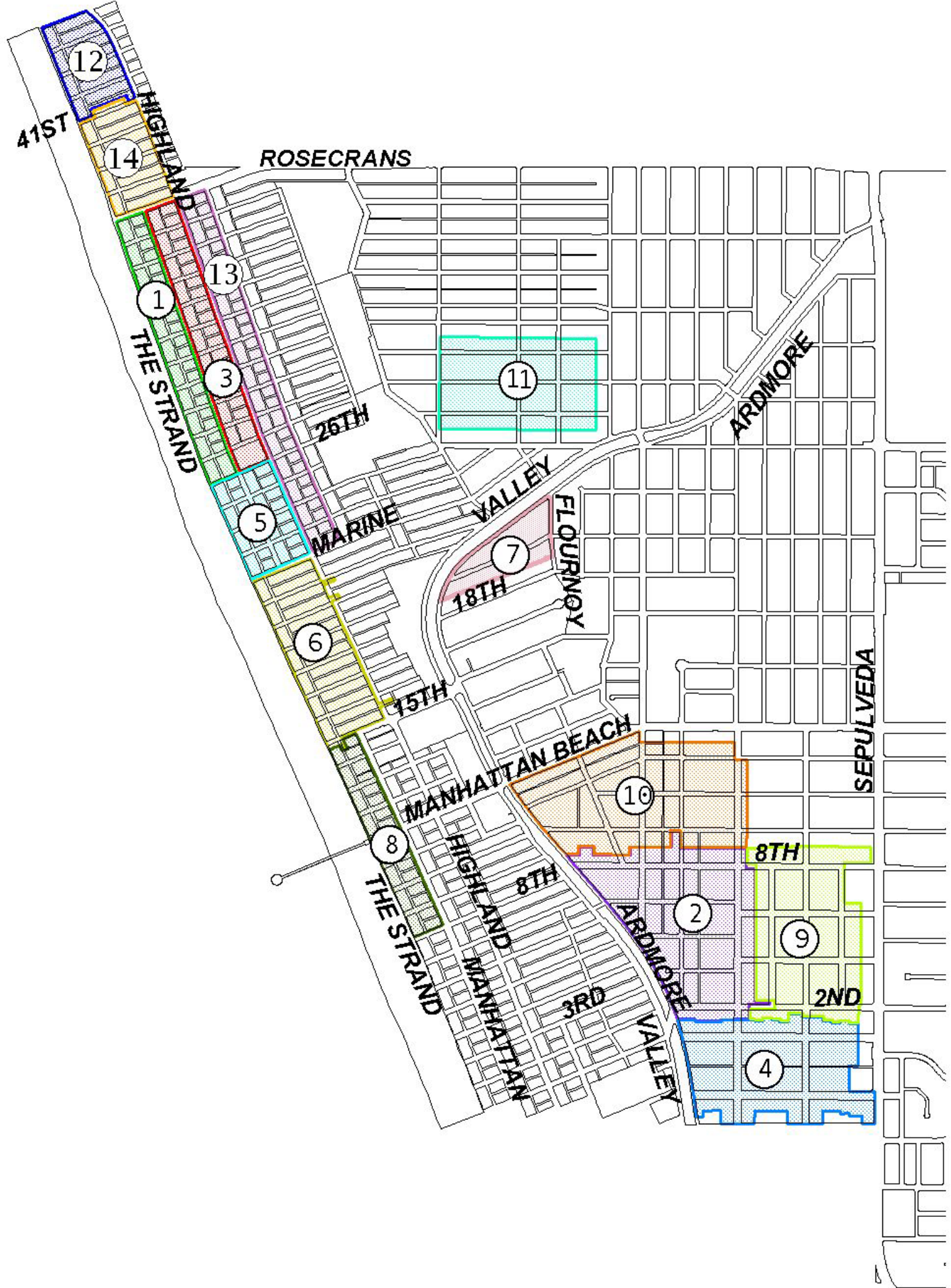
FORM OF
CERTIFICATE OF PAID AND UNPAID ASSESSMENTS

CITY OF MANHATTAN BEACH
UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-2

I HEREBY CERTIFY that the attached list of Paid and Unpaid Assessments correctly reflects (1) that the total amount of assessments recorded on November 21, 2005, was \$8,061,023, (2) such total amount of assessments was reduced to \$6,265,000 as a result of lower than expected project costs, (3) that the total amount of cash payments received by the City of Manhattan Beach, California (the "City") from property owners on account of assessments levied in the Underground Utility Assessment District No. 05-2 (the "Assessment District") prior to the expiration of the cash payment period on or about June 30, 2006, as reported to me by the Finance Director of the City, is \$1,720,000 of original assessment amount reduced by related prepayment discount, and (4) that, after deducting said amount of \$1,720,000 from the \$6,265,000 amount of the reduced assessment, the amount of the assessments remaining unpaid in the Assessment District is therefore \$4,545,000.

Executed at Manhattan Beach, California, on August 1, 2006.

City Clerk





City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 546-3501

June 13, 2006

Official City Survey: Utility Undergrounding – District XX

Your response to the attached survey is critical to help the City determine:

1. The current level of SUPPORT FOR or OPPOSITION TO undergrounding utilities.
2. Whether to **continue plan designs** for Proposed District 10 or whether to **cancel all or a portion** of the project. The attached Fact Booklet contains additional information for your review.

Only one survey may be completed and submitted for each legal parcel within the District. If you own multiple properties, a separate survey must be submitted for each property location. Surveys must be 1) filled out and signed by the property owner to be considered valid and 2) returned to City Hall at the address above by the deadline specified. If you have questions or would like more information prior to filling out this survey, please contact Stephanie Katsouleas at 310-802-5368, skatsouleas@citymb.info. For finance-related questions, please contact the Finance Department at 310-802-5550.

The Survey Must be Signed and Returned By: Wednesday, July 5, 2006



OFFICIAL SURVEY
City of Manhattan Beach
This is not a Ballot or Bill

Assessor Parcel Number: «APN»
Owner Name: «MAILOWNER»
Situs Address: «SITUSADDR»

District XX

Estimated Parcel Assessment Range (in today's dollars): \$23,705.00 - \$40,595.00
Estimated Parcel Assessment Average: \$29,632.00

☐ Yes, I am in favor of undergrounding at the current estimated assessment range.	☐ Yes, I would consider taking advantage of a City-sponsored assessment deferment program. ¹
☐ No, I am opposed to undergrounding at the current estimated assessment range.	☐ No, I would not consider taking advantage of a City-sponsored deferment program. ¹

Date

Owner Printed Name

Owner Signature

¹ The Assessment Deferral Program would allow qualifying residents to defer all or a part of their assessment (with interest) until the sale or transfer of the primary residence. Qualifying income levels range from \$24,000 to \$100,000 for various types of assistance. Incomes below \$24,000 would qualify for the State deferral program.



City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 546-3501

July 10, 2006

SECOND ATTEMPT
Official City Survey: Utility Undergrounding – District 7

The Survey Must be Signed and Received By: Monday, July 24, 2006

You are receiving this second survey because, as of the date of this mailing, we did not receive your initial survey response. However, your response to the attached survey is critical to help the City determine:

1. The current level of SUPPORT FOR or OPPOSITION TO undergrounding utilities.
2. Whether to **continue plan designs** for Proposed District 7 or whether to **cancel all or a portion** of the project. The Fact Booklet included herein contains additional information for your review.

Only one survey may be completed and submitted for each legal parcel within the District. If you own multiple properties, a separate survey must be submitted for each property location. Surveys must be 1) filled out and signed by the property owner to be considered valid and 2) returned to City Hall at the address above by the deadline specified. If you have questions or would like more information prior to filling out this survey, please contact Stephanie Katsouleas at 310-802-5368, skatsouleas@citymb.info. For finance-related questions, please contact the Finance Department at 310-802-5550.



OFFICIAL SURVEY
City of Manhattan Beach
This is not a Ballot or Bill

Assessor Parcel Number: «APN»
Owner Name: «MAILOWNER»
Situs Address: «SITUSADDR»

District 7

Estimated Parcel Assessment Range (in today's dollars): \$21,701.00 - \$37,164.00
Estimated Parcel Assessment Average: \$27,127.00

☐ Yes, I am in favor of undergrounding at the current estimated assessment range.	☐ Yes, I would consider taking advantage of a City-sponsored assessment deferment program. ¹
☐ No, I am opposed to undergrounding at the current estimated assessment range.	☐ No, I would not consider taking advantage of a City-sponsored deferment program. ¹

Date

Owner Printed Name

Owner Signature

¹ The Assessment Deferral Program would allow qualifying residents to defer all or a part of their assessment (with interest) until the sale or transfer of the primary residence. Qualifying income levels range from \$24,000 to \$100,000 for various types of assistance. Incomes below \$24,000 would qualify for the State deferral program.



City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 802-5000

FAX (310) 802-5001

TDD (310) 546-3501

June 6, 2006

Petition Drive Request Utility Underground District 4a

What Signing a Petition for Utility Undergrounding Means

By signing the petition circulated, you indicate that you are generally in favor of utility undergrounding given the current estimated cost, and would like to know the actual cost before voting for or against undergrounding. Obtaining the required 60% signatures of affected homeowners allows design plans to be developed, actual costs obtained, and a vote for undergrounding to take place.

By not signing the petition, you indicate that you are not in favor of utility undergrounding at the current estimated costs, and have no interest in moving the project forward to actual pricing and a vote.

If the 60% signature threshold is achieved, all affected homeowners will be notified of a proposed schedule for district formation.

Dear Property Owner,

On June 5, 2006, homeowners in your neighborhood proposed the formation of revised utility underground district (4a) to the City of Manhattan Beach, the boundaries of which include your property as identified on the back of this notice. **This letter serves to notify you of the potential residential effort underway to form a revised district in your area.**

In order to become a proposed district recognized by the City, at least 60% of the homeowners within the defined area must sign a petition in support of undergrounding. The petition is then submitted to the City and signatures are verified. If the 60% signature requirement is met, the City will then facilitate the utility undergrounding process, which includes:

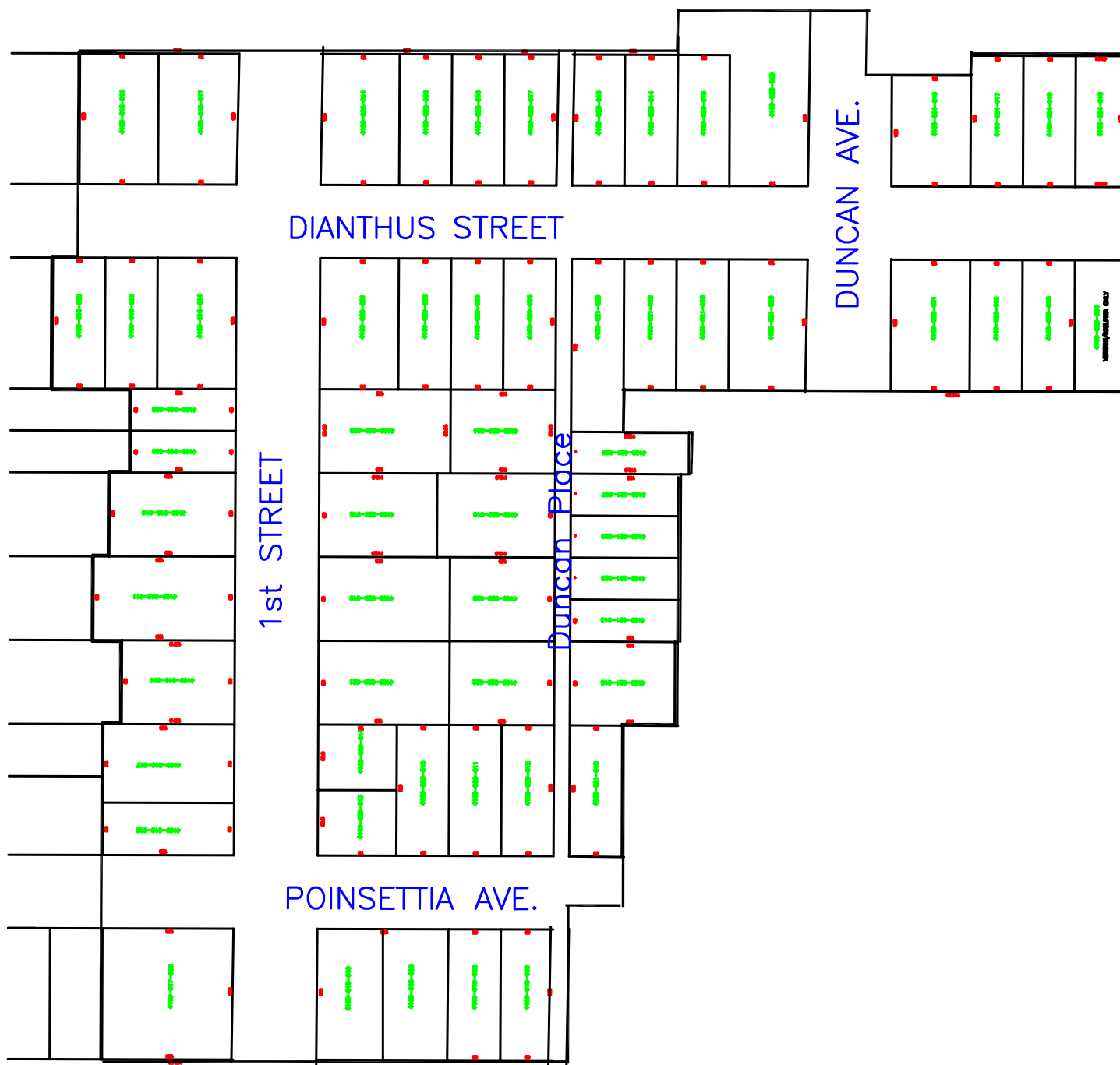
1. Initiating/completing utility design plans
2. Retaining an assessment engineer to allocate the total project costs among affected parcels
3. Implementing voting/balloting procedures for individual parcel assessments according to CA Proposition 218
4. Facilitating financing should the proposed district be approved by a majority of affected homeowners
5. Overseeing the undergrounding project through completion (construction, cabling, private property conversions and pole removal)

The estimated range of assessments for undergrounding utilities in your area ranges from \$37,000 – \$67,000 per parcel, depending to parcel size (square footage). Please note that this is only an estimate and is in today's dollars. Actual costs may be higher or lower should the project be initiated and ultimately priced for construction. Smaller parcels would expect to see assessments toward the lower end of the estimated range, and larger parcels toward the upper end.

Additional information about utility undergrounding can be found in the attached Fact Booklet. If you have any questions about this issue, please do not hesitate to contact me at (310) 802-5368 or via email to skatosuleas@citymb.info.

Sincerely,

Stephanie Katsouleas
Utility Underground Coordinator



City Council
Dana Point
City, California

Noted, owners of more than 60% of the property or properties shown on attached Map No. _____ subject to assessment for the proposed improvement requested hereby, do respectfully request that the City of Dana Point be authorized to institute the necessary proceedings for the improvement of undergrounding of existing aerial utility facilities, including electrical, telephone, and cable television. Improvements necessary substructures (trenching, conduit, manholes, and vaults) with associated engineering and administrative services and all appurtenant work thereto. It is requested that the City of Dana Point be instituted under the combined proceedings of the “Improvement Act of 1913” being Division 12 of the Streets and Highways Code of the State of California and Article XIII D of the City of Dana Point Charter (Chapter 218).

Petition Form: Utility Undergrounding Neighborhood Project

APN)	Parcel Address	Owner Last Name (Print)	Owner First Name (Print)	Owner Address	Owner Signature	Date

Petition for Utility Undergrounding Means

By signing this petition, you indicate that you are generally in favor of undergrounding given the estimated assessment range, and would like to know the actual cost before voting for or against utility undergrounding. The signatures of affected homeowners allows design plans to be developed, actual costs obtained, and a vote for undergrounding to take place. By not signing the petition, you indicate that you are not in favor of the estimated assessment range, and have no interest in moving the project forward to actual pricing and a vote.