

CITY COUNCIL COMMITTEE

Policy Development and Internal Operations

Mayor Guy Bjerke, Chair
Helen Allen, Committee Member

5:30 p.m.
Wednesday, April 28, 2010

Garden Conference Room
1950 Parkside Drive, Concord

ROLL CALL

PUBLIC COMMENT PERIOD

- 1. DISCUSSION** – Use of Rule 20A Funds Policy – report by Alex Pascual, Director of Public Works & Engineering.
- 2. ADJOURNMENT**

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**REPORT TO COUNCIL COMMITTEE ON
POLICY DEVELOPMENT & INTERNAL OPERATIONS****TO HONORABLE COMMITTEE MEMBERS:**

DATE: April 28, 2010

SUBJECT: USE OF RULE 20A FUNDS POLICY**Report in Brief**

The purpose of this report is to brief the Committee regarding the need for a policy on the use of City Rule 20A funds in conjunction with developments, which allows the City to recover part of its Rule 20A funds.

Staff recommends that the Committee hear the report, provide input, direct staff to prepare a policy on the use of Rule 20A funds in conjunction with developments, and direct staff to present the policy to the City Council for consideration.

Background

Pacific Gas & Electric Company's (PG&E) Electric Undergrounding Program (Rule 20) sets forth the guidelines for undergrounding of overhead utilities in its service area. Rule 20 projects fall into two categories:

City Initiated Projects (Rule 20A)

Rule 20A projects are utility undergrounding projects that PG&E implements at a city's request using the city's "allocation of work credits" (credits). Annually, PG&E sets aside a certain amount of credits to each of the cities in its service area for the purpose of funding future utility undergrounding projects. Rule 20A funds may only be used for projects that will serve areas that benefit the general public, such as public streets.

Rule 20A may not fund design, inspection, and other administrative costs associated with implementing a project. Also, Rule 20A may not fund replacement streetlights. As the wooden poles with lights are removed following the undergrounding of the overhead utilities, they need to be replaced with standard streetlights to restore street lighting.

Once a city earns enough credit, the city may request PG&E to implement a utility undergrounding project. If PG&E determines that there are sufficient funds in its Rule 20 account, it will provide funds for implementing the project. Otherwise, implementation of the project will be put off until such time as

sufficient funds accrue in the Rule 20 account. The request and response process for starting the project is on a “first come first serve basis.” This process, termed “queue period” by PG&E, currently takes about 5 to 7 years.

Following completion of the project, PG&E deducts the fund amount used from the city’s credit amount.

Developer Initiated Projects (Rule 20B/Rule 20C)

Rule 20B and Rule 20C projects are utility undergrounding projects initiated and funded by developers. Rule 20B projects deal with relatively large projects, at least 600 feet in length while Rule 20C projects are less than 600 feet.

Past Use of Rule 20A Funds in Conjunction with Developments

As noted above, Rule 20A funds would not fund design, construction inspection, administrative, and replacement streetlight costs. Therefore, the City needs to provide matching funds if it wishes to implement a utility undergrounding project.

Due to the lack of street funds, over the years, City utility undergrounding projects only occur within the Redevelopment Area. Redevelopment funds provide the needed matching funds for these projects.

A number of years ago, the City began partnering with developers to implement utility undergrounding projects. For a development that the Redevelopment Agency or the City wishes to provide incentives, the City makes its Rule 20A funds available for the undergrounding of utilities along the public street abutting the development. The developer provides the needed matching funds that otherwise the City would fund. To date, the City has partnered with developers on three utility undergrounding projects:

1. Waterworld Parkway (Metroplex) – completed.
2. The Alameda (Centrepointe) – construction currently scheduled to begin mid-May 2010.
3. Market Street (Chuck E. Cheese) – in PG&E queue, construction scheduled in 5 years.

Current practice for making the City’s Rule 20A funds available to a development related project calls for approval by the City Manager. A development condition of approval is then added setting forth this arrangement, i.e. the City makes the Rule 20A funds available and the developer provides the matching funds.

Discussion

Recent discussions with a developer and detailed analysis of funding options provided insight to potential financial opportunities for the City. A developer has approached staff to discuss the potential use of the City’s Rule 20A funds to underground the utilities along a public street abutting its property. Staff hired a consultant, paid for by the developer, to prepare the cost estimates and financial analysis.

Attachment A compares the cost to the developer of the utility undergrounding project under two options. The Rule 20B option would cost \$1.7 million while the Rule 20A option about \$0.7 million, about \$1million less than the Rule 20B option.

The Rule 20A option shown in Attachment A allows the City to recover 50% of the Rule 20A amount expended on the project through reimbursement from the developer. Attachment A shows the City recovering about \$422,000. This financial arrangement differs from the past use of Rule 20A funds wherein the City does not recover any amount. The developer is interested in pursuing this financial arrangement but has not informed staff if it wishes to enter into an agreement with the City at this time.

Staff has reviewed the Rule 20 Program guidelines and did not find any prohibition regarding the City's ability to recover part of the Rule 20A funds from the developer. The City's consultant has also informed a high level PG&E staff regarding the City's plan to recover some of the cost and using it to fund the needed match on future City Rule 20A projects. PG&E confirmed that there is no prohibition.

Use of Rule 20A Funds Policy

Adopting a policy requiring developers to reimburse the City 50% of its Rule 20A funds allows the City to establish an account to provide matching funds for future City Rule 20A projects.

In July 2006, when staff presented the Monument Blvd. Corridor Streetscape Urban Design Study and Design Guidelines, the City Council asked staff how the City would fund the undergrounding of overhead utilities along Monument Blvd. The City has two options. First, as properties redevelop, the City can require developers to underground the utilities as a development condition of approval. The second option is for the City Council to adopt a policy requiring a developer to reimburse the City a certain amount (i.e. 50%) of its Rule 20A funds on projects the City implements in conjunction with a development. Recognizing that the City has street funding shortfall over the years, and now likely Redevelopment funding shortfall due to State takeaways, the latter option appears to be the only available option to the City if it wishes to implement a project.

Currently, there is no City Council adopted policy regarding the use of the City's Rule 20A funds in conjunction with a development. As described in the Background section, current practice calls for the City Manager approval of the use of City Rule 20A funds in conjunction with developments.

Adoption of a policy that sets forth the rules on the use of Rule 20A funds in conjunction with a development allows for consistent administration of the funds. Staff recommends that the Committee direct staff to develop a policy addressing such issues as type of projects that could be considered, developers' financial obligations (payment of all non-Rule 20A qualifying costs and partial Rule 20A cost recovery), approving authority, and fund administrator.

Fiscal Impact

Currently, the City has a balance of about \$4.6 million in Rule 20A credits and accrues about \$772,000 credits per year. Adoption of a policy regarding use of Rule 20A funds in conjunction with developments that allows partial recovery of the funds will provide matching funds for future City Rule 20A projects.

Public Contact

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Recommendation for Action

Hear the report, provide input, direct staff to prepare a policy on the use of Rule 20A funds in conjunction with developments, and direct staff to present the policy to the City Council for consideration.

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Attachment A: Comparison of Developer Cost for Rule 20B / Rule 20A Sharing

Rule 20B / Rule 20A Sharing
 Cost to Developer - Comparison

Attachment A

RULE 20B	
Developer Pays for Joint Trench Design	\$80,000
Developer pays Construction Inspection	\$100,000
Developer pays Replacement street lights; assume 5 lights at \$4,000	\$20,000
Developer pays for the trench, conduit and boxes for PG&E and pays for the cost to complete the system less the equivalent overhead credit. Tax is also applied to the payment.	\$700,964
Developer pays Income Tax Component of Contribution (ITCC) (at 34%)	\$238,328
Developer provides conduit and boxes. AT&T charges for cabling.	\$300,500
Developer provides trench, conduit and boxes. Comcast provides wiring.	\$291,500
Services are paid by the property owners.	
TOTAL COST TO DEVELOPER	\$1,731,292

RULE 20A SHARING	
Developer pays City's Administrative costs	\$150,000
Developer pays Construction Inspection	\$100,000
Developer pays Replacement street lights; assume 5 lights at \$4,000	\$20,000
PG&E pays for their share of the mainline undergrounding and debits the allocation (\$934,619)	
Developer reimburses City for 50% of reduction in PG&E allocation. (per reimbursement amount tab)	\$422,086
AT&T pays for their share of the mainline undergrounding	
Comcast pays for their share of the mainline undergrounding	
Services are paid by the property owners unless the City utilizes the 100' and \$1,500 service panel options.	
TOTAL COST TO DEVELOPER	\$692,086
Note: Using Rule 20A reduces the PG&E's allocation for the City by \$844,172	