



TOWN OF TIBURON
Tiburon Town Hall
1505 Tiburon Boulevard
Tiburon, CA 94920

TIBURON TOWN COUNCIL

December 12, 2016
Special Meeting - 7:30 p.m

AGENDA

CALL TO ORDER AND ROLL CALL

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION, IF ANY

ORAL COMMUNICATIONS

Persons wishing to address the Town Council on subjects not on the agenda may do so at this time. Please note however, that the Town Council is not able to undertake extended discussion or action on items not on the agenda. Matters requiring action will be referred to the appropriate Commission, Board, Committee or staff for consideration or placed on a future Town Council meeting agenda. Please limit your comments to three (3) minutes.

ACTION ITEMS

1. Consideration Of A Resolution Of The Town Declaring Its Intention To Take Proceedings To Underground All Existing Overhead Utility Facilities Within The Boundaries Of The Proposed Town Of Tiburon Assessment District No. 2017-01 (Hawthorne Undergrounding District)

Documents:

[EX 1.PDF](#)
[EX 2-4.PDF](#)
[STAFF REPORT.PDF](#)

ADJOURNMENT

GENERAL PUBLIC INFORMATION

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (415) 435-7377. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Belvedere-Tiburon Library located adjacent to Town Hall. Agendas and minutes are posted on the Town's website, www.ci.tiburon.ca.us.

Upon request, the Town will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service at least 5 days before the meeting. Requests should be sent to the Office of the Town Clerk at the above address.

PUBLIC HEARINGS

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing(s) described later in this agenda, or in written correspondence delivered to the Town Council at, or prior to, the Public Hearing(s).

TIMING OF ITEMS ON AGENDA

While the Town Council attempts to hear all items in order as stated on the agenda, it reserves the right to take items out of order. No set times are assigned

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- LEGEND:**
- PG&E TRANSFORMER
 - PG&E SPLICE VAULT
 - PG&E NO 3 BOX
 - AT&T T4 VAULT
 - COMCAST B48 BOX
 - +— STREETLIGHT
 - +— EX. JOINT POLE
 - +— JT PROPOSED JOINT TRENCH
 - +— DISTRICT BOUNDARY LIMITS

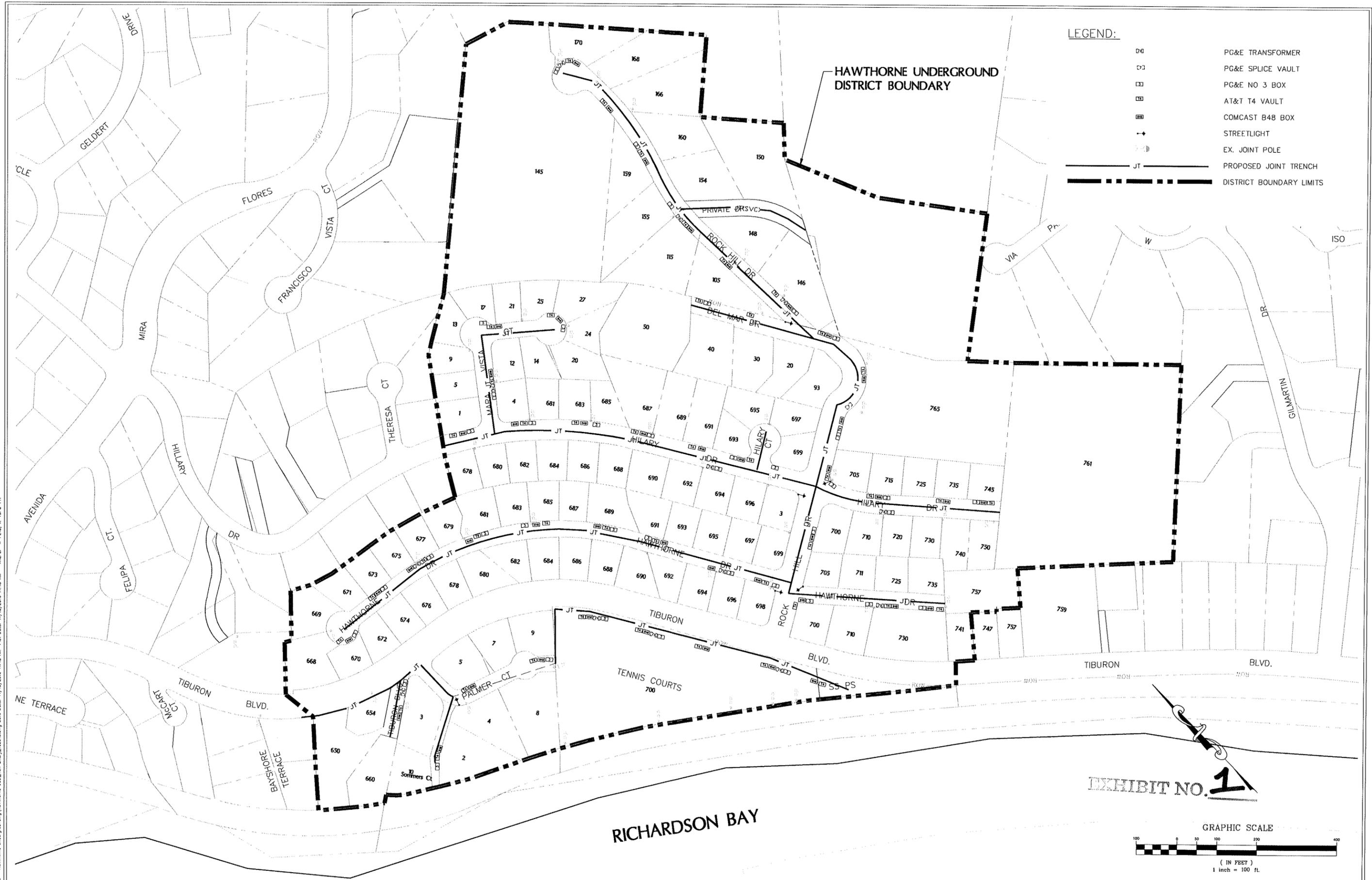
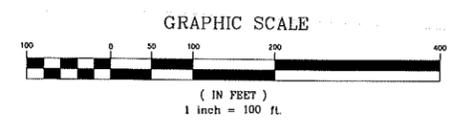


EXHIBIT NO. 1



THESE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY AND COPYRIGHT OF THE ENGINEER AND SHALL NOT BE USED ON ANY OTHER WORK EXCEPT BY WRITTEN AGREEMENT WITH THE ENGINEER. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS AND FIELD DIMENSIONS SHALL BE VERIFIED ON THE JOB SITE. ANY DISCREPANCY SHALL BE BROUGHT TO THE NOTICE OF THE ENGINEER PRIOR TO THE START OF ANY WORK.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	BY	REVISION					DRAWN BY: AP DESIGNED BY: LG CHECKED BY: RC	DATE ISSUED: MAR 2016 JOB NO.: XXX-XXXX.XX	Harris & Associates <small>ENGINEERS, ARCHITECTS, PLANNERS</small>	TOWN OF TIBURON HAWTHORNE UNDERGROUNDING DISTRICT	PROPOSED BOUNDARY MAP NOVEMBER 15, 2016	DRAWING: SHEET 1 OF 1
NO.	DATE	BY	REVISION												

**CERTIFICATE OF TOWN CLERK
AS TO THE SUFFICIENCY OF PETITIONS FOR
TOWN OF TIBURON
ASSESSMENT DISTRICT NO. 2017-1
(HAWTHORNE UNDERGROUNDING DISTRICT)**

I, Lea Stefani, Town Clerk of the Town of Tiburon, do hereby certify that I have examined the petitions submitted by the owners of certain parcels of land within the proposed Town of Tiburon Assessment District No. 2017-1 (Hawthorne Undergrounding District) (the "District"). In accordance with Streets & Highways Code Section 5896.7 I have checked the petitions submitted to me and determined that petitions have been submitted by more than five owners of assessable land within the proposed District, as shown on the last equalized assessment roll, who own lands constituting more than one-half of the area of all assessable lands within the proposed District.

Dated this 7th day of December, 2016.



Lea Stefani
Town Clerk of the Town of Tiburon

EXHIBIT NO. 2

TOWN OF TIBURON
POLICY & PROCEDURES
FOR THE FORMATION OF
UTILITY UNDERGROUNDING ASSESSMENT DISTRICTS

Town Policy

The Town of Tiburon strongly supports the undergrounding of overhead utility wires and poles (see Town Council Resolution No. 2996, adopted February 2, 1994). Undergrounding of overhead utilities improves public safety under fire, earthquake and high wind conditions; reduces utility company maintenance costs for tree trimming to maintain overhead lines and equipment; and results in improved visual characteristics.

General Overview

These policies describe the basic considerations and actions required to relocate and to finance such relocation of overhead utility lines underground. The policies are provided to guide property owners in achieving undergrounding of utilities in their neighborhoods and to help the Town Council, Town Staff and Town consultants in assisting in such efforts. Specific figures regarding estimated costs for undertaking this effort and ultimately implementing a specific project are not presented herein since they vary depending on the size, location of the proposed district and economic factors. A separate Frequently Asked Questions brochure (available at Town Hall or at www.tiburon.org) may provide a range of answers to those types of specific non-policy questions.

The procedures, events and steps described below are governed by California State law and guidelines of California Public Utilities Commission (regulating the Pacific Gas & Electric Company (PG&E) and other utilities) about the physical and financial requirements for utility undergrounding projects. The Town must comply with these laws and regulations while taking appropriate actions to coordinate the project from its inception to its completion.

To provide for financing and to enforce connections to the underground system, the undergrounding districts will be special assessment districts established by the Town under State law. Unless contributions are available from other sources, property owners should know that 100% of the cost of the underground project will be borne by the property owners in the district. If available, funds from PG&E and other utilities will be applied to help reduce the costs, but there is no assurance of such availability.

The proponents of a proposed district must submit a written petition to the Town showing the support by owners of at least 60% of all of the parcels in the prospective district. The Town will supply examples of petitions and instructions on its signing. Along with the petition, the required

subscription deposit for district formation costs (see discussion below) and an informal boundary map showing the parcels proposed to be included must be provided. Upon receipt of a satisfactory petition, deposit and informal map, the Town will begin the process of district formation.

The Town will retain the District Engineer for the assessment district, along with Bond Counsel and the bond Underwriter. The District Engineer (with the assistance of Town staff and bond Underwriter) will prepare an estimate of all of the costs of the project. Those costs will include construction cost estimates (based on information from the utilities) and an allowance for the Town's administrative costs calculated to reimburse the Town for the work of Town staff on the project and bond issuance costs and deduct any possible contributions. An Advisory Services fund is also established to allow project proponents and opponents to obtain legal advice and information from the Bond Counsel regarding the assessment process and their rights and responsibilities.

That net cost will be apportioned or "assessed" to each of the parcels in the district based on how each parcel is specially benefited from the undergrounding work. Under Proposition 218, the District Engineer is responsible for defining the special benefit each parcel receives and may take into account a variety of factors in defining that benefit. The method of allocating special benefit may vary from district to district depending on the conditions of and the improvements needed for each such district.

Under State law, the Town Council must hold a public hearing and conduct an assessment ballot to seek approval of the assessment part of the district. This approval requires an affirmative majority approval (based on dollars assessed) by property owners returning ballots. If approved, the Town may proceed with the assessment and the district. The assessment may then be paid in cash or allowed to "go to bond" or be financed at tax-exempt municipal bond rates for 20-25 years. Bonded assessments are collected on the County tax bill. The assessment is not a personal obligation of the property owner and it passes with the title to the property assessed, like regular taxes. The Bond Counsel and Underwriter prepare documents needed for the bonds.

The costs of individual service connections to the underground facilities are borne by each property owner and are typically not included in the assessment. If possible, a small amount of bond funds may be available on a per-financing basis, at the request of property owners (first come-first served) to help finance connections. The actual amount available will depend on the size of the project and the estimated amount of bond financing available and will vary with each project.

The entire process may take at least 12 to 24 months (assuming no legal actions/challenges). The duration of the process may also be affected by utility company financial conditions and staffing priorities.

Procedural Events & Steps for District Formation

This section outlines the process of forming a special assessment district for utility undergrounding in Tiburon.

1. Preliminary Meetings

Interested Property Owners meet with Town Staff to discuss the process and procedures, and to have questions answered and concerns addressed. This would typically include representatives of the Department of Public Works and the Town Manager. The project proponents would also be encouraged to hold a neighborhood meeting to discuss the proposed project, solicit input, answer questions, etc. and schedule an informal presentation before the Town Council to solicit informal support for the proposed project. These are some of the most important steps in successfully creating a district. This document, along with the FAQ brochure should be distributed to all property owners whose participation is to be solicited. Proponents should also arrange a site walk with the prospective District Engineer to develop ballpark estimates of preliminary costs associated with creating the District. This will help refine the estimate of the total amount of subscription deposit funds that will be submitted to the Town along with petitions of interest as described below.

2. Petition of Interest

Proponents of the proposed district circulate Petitions of Interest among all Property Owners of the prospective district.

3. Informal Boundary Map

As part of the Petition process, the Property Owner proponents prepare an informal boundary map showing the area proposed to be the district based upon the results of the circulated petition. The Town and District Engineer will review this map and may suggest changes, as required to satisfy utility companies' requirements and requests of other, adjacent Property Owners. Property Owner Proponents may wish to distribute the informal boundary map. Property Owner Proponents may also request a 'boundary walk' with the affected utility companies to better refine the project boundary. It should be noted that the utility companies (particularly PG&E) may require a deposit before they will attend a boundary walk.

4. Subscription Deposits

When obtaining Petitions, Property Owner Proponents should also raise subscription deposit funds for preliminary design engineering and construction cost estimates and legal advisory services. Funding must be sufficient to secure engineering cost estimates from electric, telephone, and the cable franchise provider and to pay the advance costs required to retain the District Engineer.

The District Engineer will prepare complete technical plans and drawings for review by the utilities, and establish final cost estimates for the construction bidding process. Plans must contain detailed information on trench size and location, and the location of equipment within the trenches. Such drawings are usually ordered and directed by the District Engineer. Such costs may range from \$900 to \$1,700 per Property Owner Proponent and will depend on the size of the district, complexity of the project, the costs for the preliminary services required to establish the district.. Recently, PG&E and SBC (formerly Pacific Bell) have required full deposits up front before they will proceed with engineering support for a proposed district. The utility companies develop engineering drawings and technical specifications for design of their particular underground facilities, which are then incorporated into composite drawings by the District Engineer. It is the composite drawings which are ultimately used for construction bidding purposes. If the district is formed and issues bonds, it will refund or credit these funds to the Property Owner Proponents in proportion to their contributions.

As further described in the following section, the Property Owner Proponents are also required to raise funds for Legal Advisory services. In accordance with a recently adopted Settlement Agreement, this amount is to be \$100 per Property Owner Proponent, up to a maximum of \$10,000 for the entire district.

Accordingly, the total subscription deposit necessary to form an assessment district may range between \$1,000 and \$1,800 per Property Owner Proponent. If for any reason, the district is not formed, and/or fails to issue the bonds, the Property Owner Proponents will receive only the amount of their contributions that have not been spent.

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

The Petitions may be submitted to the Town when Property Owners representing at least 60% of the total number of parcels to in the proposed district have signed and the Subscription Deposits (see above) and the informal boundary map are ready. Staff will check the Petition to be sure that there the necessary signatures from the required percentage of properties and that the Subscription Deposit and boundary map are in order.

6. First Council Meeting-Resolution of Intention

At the first Council meeting, the Council adopts the Resolution of Intention to Make Acquisitions and Improvements which formally begins the assessment process.

7. Consultants

With the Resolution of Intention, the Town will appoint: Bond Counsel, the District Engineer, and the Underwriter. The District Engineer prepares the estimates of costs, the proposed assessment of the costs to each parcel in the district, the formal maps of the district and the plans and specifications for the construction work. The plans may be preliminary at this stage. In accordance with State law, the assessment of costs to each parcel in the district will be

developed by an analysis of the special benefit that each property owner receives from the improvements funded by the assessment. All of the above information is summarized in the “Engineer’s Report” for the district.

The Underwriter is responsible for helping to estimate the costs of the bonds and in pricing, selling and delivering the bonds to the bond market. The Underwriter is paid only from the bond issue and only if bonds are issued.

Bond Counsel directs all legal proceedings to establish the district including Council resolutions, notices, forms of documents and instructions, including the levy of the assessments and issuance of bonds. Except for the Advisory Services to Property Owners below, Bond Counsel is paid only if the bonds are actually issued.

Bond Counsel also provides advice and information (the “Advisory Services”) to all interested Property Owners within the proposed district (whether they support or oppose the project) about the assessment process and their rights and responsibilities.

- All Property Owners shall be provided with notice of their right to meet with Bond Counsel, and this notice shall include written materials that describe the assessment process and their rights and opportunities to be heard during the process.
- Bond Counsel shall hold at least 2 meetings for the purpose of advising the Property Owners: The 1st meeting as soon as practicable following Town appointment of Bond Counsel and the 2nd second meeting shall be held before Town Council votes to preliminarily adopt the Engineer’s Report for the district.
- To the extent that Advisory Funds are available, Bond Counsel shall be available to provide brief follow-up telephone consultation to affected Property Owners.
- In the event the Advisory Fund is insufficient to provide all of the Advisory Services described in this section, Bond Counsel shall provide Advisory Services in the following order of priority: (1) written materials describing the process; (2) meeting with Property Owners prior to adoption of the draft Engineer’s Report; (3) meeting following retention of Bond Counsel; and (4) telephone consultation.
- The Town Attorney has sole discretion to supervise Bond Counsel’s provision of Advisory Services to ensure, so far as practicable, that such services are fairly allocated between all affected Property Owners.

8. Second Council Meeting-Preliminary Approval

The District Engineer prepares and files the following items with the Town Clerk:

- The Engineer's Report containing estimates of total assessment district costs, including costs for District Engineer, utility company engineering, Bond Counsel, Underwriter Advisory Fund, construction contract and Town administration. Construction cost estimates will include a breakdown of each property owner's individual service connection cost.
- Map of Proposed Boundaries and Assessment Diagram for the district
- Plans & Specifications for Project,

The Town Council adopts:

- Resolution Preliminarily Approving District Formation/Boundary Map, Engineer's Report, and Directing Actions with Respect Thereto; and
- Resolution Approving Plans and Specifications and Calling for Bids for Construction (If the plans and specifications are still preliminary, this step may be deferred until after the Assessment District is officially formed and the final plans are prepared by the District Engineer).

9. After Second Council Meeting

Immediately following the Second Council Meeting, the Town Clerk, in coordination with the District Engineer and Bond Counsel, takes the following actions:

- Mails Notices of Proposed Assessments and Ballots to Property Owners at least 45 days prior to the Public Hearing;
- Records Map of Proposed Boundaries of the District; and
- Coordinates publication of call for construction bids (if appropriate).

10. Informational Workshop

In the 45-day period after Item 9, Town Staff and the consultants hold a Workshop about the project and the proposed financing.

11. Construction Bids

Under the State Public Contract Code and the Chapter 3A of the Tiburon Municipal Code, Town solicits contractor bids for construction. Typically, the bid period is 30 days, with bids received about two weeks before the public hearing and ballot. After the bid opening, the District Engineer and Town Staff determine the lowest responsible bid and adjust the proposed assessments if warranted. This step may be deferred until after Item 17 if preliminary plans and specifications are used for district formation.

12. Third Council Meeting-Public Hearing and Ballot

At a Council meeting held at least 45 days following mailing of the Notice of Proposed Assessments, the Town Council will:

- Hold a public hearing to solicit any comments for or against the assessment
- Close the public hearing and call for the tabulation of ballots

The Town Clerk opens and counts ballots. Ballots are weighted on dollars assessed (for example, if all assessments are the same, each property owner has one vote). Only valid ballots actually received by the end of the hearing are counted. Unsigned, unreadable or unmarked ballots are not valid. If more than 50 percent of the ballots cast are against, the proceedings must be abandoned.

If a majority approving vote is received, and the Council concurs, Council then adopts:

Resolution Adopting Engineer's Report, Confirming Assessments and Directing Actions with Respect Thereto

This resolution levies the assessment and directs recordings and filings for the assessment lien and directs the cash payment period. This resolution also has provisions establishing completion time requirements for individual service connections.

13. Immediately After 12 above:

The Town Clerk, District Engineer and Bond Counsel, takes the following actions:

- Files and Records Assessments, Notices of Assessment and Assessment Diagram;
- Publishes Notice to Pay Assessments; and
- Mails Notices to Pay Assessment to each Property Owners (include the deadline date for completing individual service connections).

14. Cash Payment Period

Property Owners have a minimum 30-day period to pay cash for their assessments or any portion. At the end of the 30-day period, the exact amount of bonds to be issued is determined based on the remaining, unpaid assessments.

After the cash payment period:

- The Administrative Services Director completes the List of Unpaid Assessments; and
- The Bond Purchase Agreement and Preliminary Official Statement are filed with the Town Clerk.

Property Owners must also decide whether to contract with the Contractor performing the District work or hire their own contractor to perform individual service connection work on their property.

15. Fourth Council Meeting-Bonds

At a Town Council Meeting after Item No. 14 above, Town Council adopts:

- Resolution Authorizing Issuance of Bonds; and
- Resolution Authorizing Execution of the Construction Contract. This step may be deferred until after Item 17 if preliminary plans and specifications need to be finalized by the District Engineer.

16. After Item 15

The Administrative Services Director and Underwriter price the bond issue, and the Town executes the following:

- Bond Purchase Agreement (sells bonds); and
- Preliminary Official Statement (describes bonds for market)

17. Bond Closing

Approximately 2 weeks after Item 16, the bonds are delivered to Underwriter in exchange for the purchase price under the Bond Purchase Agreement. This, along with the cash payments, provides the funds for to pay for the underground project and its related costs.

18. Execution of Construction Contract

The Town executes the Construction Contract with the selected bidder. Construction work would typically commence within a few weeks of contract execution. Town staff makes progress payments to the Contractor as with any public works contract. Construction duration will depend on the size and complexity of the project, but typically lasts 60 to 90 days.

19. Utility Coordination

Upon completion of construction, the Town coordinates with the utilities to connect all properties to the new underground system. This process may take several weeks or more depending on the scheduling requirements of each utility company. Each property owner is responsible for connecting his or her property to the newly undergrounded facilities. The Town's contractor is usually required to offer service connection work at established costs. However, each owner may chose his or her own contractor or other provider for the individual service connection work.

20. Work Completed

After all connections are completed, the utilities will remove the overhead system. Town pays final bills and costs, including any remaining legal and administrative costs incurred by the Town for the project. If there is any surplus remaining, the Council may take action to provide any further improvements needed to complete the project and/or distribute any surplus as provided by law.

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON, CALIFORNIA, DECLARING ITS INTENTION TO TAKE PROCEEDINGS PURSUANT TO THE MUNICIPAL IMPROVEMENT ACT OF 1913 AND TO ISSUE BONDS PURSUANT TO THE IMPROVEMENT BOND ACT OF 1915 TO UNDERGROUND ALL EXISTING OVERHEAD UTILITY FACILITIES WITHIN THE BOUNDARIES OF THE PROPOSED TOWN OF TIBURON ASSESSMENT DISTRICT NO. 2017-1 (HAWTHORNE UNDERGROUNDING DISTRICT) AND MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH

WHEREAS, the Town Council of the Town of Tiburon (the "Town") has previously adopted Town Council Resolution No. 2996 supporting the undergrounding of overhead utility wires and poles and has adopted Policy and Procedures for the Formation of Utility Undergrounding Assessment Districts (the "Policies"); and

WHEREAS, in accordance with the Policies, the owners of certain parcels of land have submitted petitions (the "Petitions") to the Town requesting the formation of an assessment district in order to underground all of the overhead utility wires, poles and other facilities providing utility service to the area within the proposed assessment district; and

WHEREAS, the Town Clerk has reviewed the Petitions and in accordance with Streets and Highways Code Section 5896.7 has presented to the Town Council a certificate as to the sufficiency of the Petitions to the effect that petitions have been submitted by more than five owners of assessable land within the proposed assessment district, as shown on the last equalized assessment roll, who own lands constituting more than one-half of the area of all assessable lands within the proposed assessment district; and

WHEREAS, the Town Engineer and Director of Public Works (the "Town Engineer") has reviewed the Petitions and determined that the Petitions show support for the proposed assessment district by the owners of at least sixty percent (60%) of the parcels within the proposed assessment district; and

WHEREAS, the Town Council desires to adopt this resolution in accordance with the Policies and the provisions of Streets and Highways Code Section 10200, which is a part of the Municipal Improvement Act of 1913 (the "1913 Act"), declaring its intention to make acquisitions and improvements to underground all electric, telephone and cable facilities, remove poles, overhead wires, guys and anchors and complete appurtenant work thereto as further described in Section 3 hereof (the "Improvements") and to order the formation of an assessment district to pay the costs thereof under and pursuant to the provisions of the 1913 Act; and

WHEREAS, the proposed assessment district, if it is formed, is to be known and designated as the Town of Tiburon Assessment District No. 2017-1 (Hawthorne Undergrounding District) (the "Assessment District"); and

EXHIBIT NO. 4

WHEREAS, the proposed boundaries of the Assessment District are shown on a map which indicates by a boundary line the extent of the territory proposed to be included in the Assessment District, which map has been prepared by Harris & Associates (the "Assessment Engineer") and designated "Town of Tiburon Hawthorne Undergrounding District Proposed Boundary Map" (the "Map"), which Map is on file in the office of the Town Clerk; and

WHEREAS, the Town Engineer, with the assistance of the Assessment Engineer, is competent to make and file with the Town Clerk the report with regard to the Improvements, which report is required by the 1913 Act to be made and filed; and

WHEREAS, the conversion of overhead electric utility distribution system facilities to underground, including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to undergrounding, is categorically exempt from the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) ("CEQA") and its implementing guidelines (14 California Code of Regulations Section 15000 *et seq.*) (the "Guidelines") pursuant to Section 15302(d) of the Guidelines; and

WHEREAS, in order to finance the cost of the Improvements the Town Council intends to consider issuing bonds secured by the assessments to be levied on property in the Assessment District pursuant to the Improvement Bond Act of 1915, being Division 10 (commencing with Section 8500) of the Streets and Highways Code (the "1915 Act"); and

WHEREAS, before issuing bonds, the Town Council is required, under the 1915 Act, to adopt a resolution declaring its intention to do so;

NOW, THEREFORE, The Town Council of the Town of Tiburon does hereby find, order and resolve as follows:

SECTION 1. The above recitals, and each of them, are true and correct.

SECTION 2. In accordance with the Policies, the Town Council hereby appoints Harris & Associates as the Assessment Engineer and the firm of Stradling Yocca Carlson & Rauth, a Professional Corporation and Samuel Sperry as bond counsel for the Assessment District.

SECTION 3. The Improvements generally include the undergrounding of existing electric, telephone and cable facilities, including the removal of poles, overhead wires, guys and anchors and the installation of new underground service connections and new streetlights and appurtenant work therewith within the area shown on the Map. The Map is hereby approved as the preliminary boundary Map for the Assessment District. The Improvements will be designed and constructed to the standards required by the Pacific Gas and Electric Company ("PG&E") and other utility providers. The Town will inspect the work to ensure conformance to Town standards and specifications where applicable. Once completed, the underground facilities will become the property and responsibility of PG&E and such other utility providers. Each owner of property located within the Assessment District will be responsible for arranging for and paying for work on his property necessary to connect facilities constructed by the public utilities in the public streets to the points of connection on the private property. Conversion of individual service connections on private property is not included in the work to be done by the Assessment District. Failure to convert individual service connections on private property may result in a recommendation to the Town Council that the public utilities be directed to discontinue service to that property or that other actions

be taken in accordance with applicable laws to convert such individual service connections. Overhead facilities cannot be removed until all overhead service has been discontinued.

SECTION 4. The Town Council hereby finds and declares that the public interest and necessity require the acquisition and construction of the Improvements, and any portion of the costs of the Improvements to be assessed against parcels within the Assessment District will be of direct and special benefit to such parcels. The Town Council hereby declares its intention to order the conversion of the existing overhead electric and communication facilities to underground locations, and the acquisition of the Improvements, to make the expenses thereof chargeable upon the area included within the Assessment District, and to form the Assessment District.

SECTION 5. The Town Council further declares its intention to levy a special assessment upon the land within the Assessment District in accordance with the respective special and direct benefit to be received by each parcel of land from the Improvements.

SECTION 6. The Town Council finds and determines that before ordering the acquisition of the Improvements it shall take proceedings pursuant to the 1913 Act and pursuant to Part 7.5 of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, Streets and Highways Code Section 2960 *et seq.* (the "1931 Act").

SECTION 7. The Assessment Engineer is hereby authorized and directed to make and file with the Town Clerk a written report with regard to the 1913 Act (the "Report"), which Report shall comply with the requirements of Section 10204 and Section 2961 of the Streets and Highways Code and Article XIID of the California Constitution and shall contain the following:

- (a) Plans and specifications for the Improvements;
- (b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the Improvements, if the works, appliances or property are to be acquired as part of the Improvements;
- (c) An estimate of the cost of the Improvements, and the cost of land, rights of ways, easements, and incidental expenses in connection with the Improvements, including the cost of registering bonds, and a determination of the portion of the costs that represent a general benefit and the portion of the costs that represent a direct and special benefit to each of the parcels within the Assessment District;
- (d) A diagram showing the exterior boundaries of the Assessment District, the boundaries of any zones within the Assessment District and the lines and dimensions of each parcel of land within the Assessment District as they existed at the time of passage of this resolution (each subdivision to be given a separate number on the diagram); and
- (e) A proposed assessment of the total amount of the cost and expenses of the proposed Improvements that confer a direct and special benefit upon the several subdivisions of land in the Assessment District in proportion to the estimated special benefits to be received by such subdivision, respectively, from the Improvements (the assessment shall refer to the subdivisions by their respective numbers assigned as provided in (d) above).

(f) A proposed maximum annual assessment upon each of the several subdivisions of land in the Assessment District to pay costs incurred by the Town and not otherwise reimbursed which result from the administration and collection of assessments or from the administration or registration of any associated bonds and reserve or other related funds.

In addition, the Report shall contain the information required by the 1931 Act as set forth in Streets and Highways Code Section 2961(b), including:

(a) The total amount, as near as may be determined, of the total principal sum of all unpaid special assessments and special assessments required or proposed to be levied under any completed or pending assessment proceedings, other than the proposed assessments to be levied with respect to the Assessment District, which would require an investigation and report under the 1931 Act against the total area proposed to be assessed; and

(b) The total true value, as near as may be determined, of the parcels of land and improvements within the Assessment District which are proposed to be assessed. Total true value may be estimated as the full cash value of the parcels as shown upon the last equalized assessment roll of the county. Alternatively, total true value may be determined by other reasonable means, including, but not limited to, by adjusting the value shown on the last equalized assessment roll to correct for deviations from market value due to Article XIII A of the California Constitution.

SECTION 8. Notice is hereby given that serial or term bonds to represent unpaid assessments and to bear interest at a rate not to exceed 12 percent per annum will be issued in the manner provided in the 1915 Act to represent the unpaid assessments and the last installment of such bonds shall mature a maximum of 30 years from the second day of September next succeeding 12 months from their date. The principal amount of such bonds maturing or becoming subject to mandatory prior redemption each year shall not be an amount equal to an even annual proportion of the aggregate principal amount of the bonds, but rather (except as specifically otherwise provided by the Town Council in connection with the sale of such bonds), shall be an amount which, when added to the amount of interest payable in each year, will be a sum which is substantially equal in each year, except for the moneys falling due on the first maturity or mandatory prior redemption date of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds. Such bonds shall be serviced and collected by the Town Treasurer or by such registrar and/or paying agent(s) as this Town Council may from time to time designate.

SECTION 9. Following the acquisition of the Improvements and the payment of all incidental expenses in connection with the formation of the Assessment District and the issuance of bonds pursuant to the 1915 Act, any surplus remaining in the improvement fund established for the Assessment District shall be used as determined by the Town Council as provided in Section 10427 of the Streets and Highways Code.

SECTION 10. The provisions of Part 11.1 of the 1915 Act, providing an alternative procedure for the advance payment of assessments and the calling of bonds, shall apply.

SECTION 11. Except as specifically otherwise provided for herein, the Improvements shall be made and ordered pursuant to the provisions of the 1913 Act.

SECTION 12. The Town Council hereby determines that the Town will not obligate itself to advance available funds from its treasury to cure any deficiency which may occur in the bond redemption fund established for the Assessment District.

SECTION 13. The public interest will not be served by allowing the property owners to take any contract to be let for the construction of the Improvements, and no notice of award of contract shall be published.

SECTION 14. It is hereby determined that the bonds proposed to be issued in these proceedings may be refunded. Any adjustment to assessments resulting from such refunding shall be done on a pro rata basis as required pursuant to Section 8571.5 of the Streets and Highways Code. Any such refunding shall be pursuant to the provisions of Division 11.5 (commencing with Section 9500) of the Streets and Highways Code, except that, if, following the filing of the report specified in Section 9523 and any subsequent modifications of the report, the Town Council finds that all of the conditions specified in Section 9525 are satisfied and that the adjustments to assessments are on a pro rata basis, the Town Council may approve and confirm the report and any, without further proceedings, authorize, issue, and sell the refunding bonds pursuant to Chapter 3 (commencing with Section 9600) of Division 11.5 of the Streets and Highways Code. Any such refunding bonds shall bear interest at the rate of not to exceed twelve percent (12%) per annum, or such higher rate of interest as may be authorized by applicable law at the time of sale of such bonds; and the last installment of such bonds shall mature on such date as will be determined by the Town Council in the proceedings for such refunding.

SECTION 15. It is in the public interest and more economical to do certain work on private property to eliminate any disparity in level or size between the Improvements and private property and to add the actual cost of such work to the assessment of the property to which such work was done; provided that no work of this nature shall be performed until and unless the written consent of the owner of property is first obtained.

SECTION 16. Pursuant to Streets and Highways Code Section 10110, the Town intends to enter into agreements with PG&E and the other utility providers, and any agreement between the Town and PG&E, or any other public utility, for the ownership, management, or control of the underground electric, telephone and cable facilities to be installed in connection with the Improvements, would benefit any current or future residents of the Assessment District.

SECTION 17. Pursuant to Section 15302(d) of the Guidelines, the undergrounding of the Improvements will have no significant effect on the environment and is categorically exempt from CEQA. The Town Clerk is directed to cause a notice of exemption to be posted as required by law.

SECTION 18. The Town Council hereby waives the requirement in the Policies for the appointment at this time of an underwriter for the Assessment District (the "Underwriter") and determines that delaying the appointment of the Underwriter to a later date in the proceedings will not adversely affect the proceedings as the Town will be engaging a municipal advisor to assist it in estimating the costs of issuing the bonds for the Assessment District.

SECTION 19. All inquiries for any and all information relating to these proceedings, including information relating to protest procedures, should be directed to:

Greg Chanis
Town Manager
1505 Tiburon Boulevard
Tiburon, California 94920
(415) 435-7373

SECTION 20. This Resolution shall take effect immediately upon its passage.

SECTION 21. The Town Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED on December 12, 2016.

JIM FRASER, Mayor

ATTEST:

LEA STEFANI, Town Clerk



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Town Council Special Meeting
December 12, 2016
Agenda Item: AI -1

STAFF REPORT

To: Mayor and Members of Town Council
From: Town Manager
Town Attorney
Subject: Proposed Undergrounding District
Reviewed By: G.C.

BACKGROUND

Property owners on portions of Rock Hill Drive, Hawthorne Drive, Hillary Drive, Hillary Court, Mira Vista Court, Del Mar Drive, Palmer Court and Tiburon Boulevard have filed petitions to form a utility undergrounding district (hereinafter referred to as the "Proposed Undergrounding District"). Attached hereto as **Exhibit 1** is the proposed boundary map for the Proposed Undergrounding District. Pursuant to the attached certificate from the Town Clerk, more than five property owners owning lands constituting more than one-half of the area of all assessable lands within the Proposed Undergrounding District have signed petitions as required by State law. In addition, the Town Engineer has determined that property owners of more than the 60% of the parcels to be included in the Proposed Undergrounding District, as required by the Town's policy, have signed petitions requesting that the Proposed Undergrounding District be formed. The Town Clerk's certificate is attached as **Exhibit 2**. In addition, attached hereto as **Exhibit 3** is the Town's policy for forming underground assessment districts.

The Proposed Undergrounding District involves the designation of a contiguous area within which includes all parcels will specially benefit from the construction of specific public improvements. The request for the Council's initiation of special assessment proceedings is made in accordance with the Municipal Improvement Act of 1913, and further requests that bonds be sold to finance the improvements in accordance with the Improvement Bond Act of 1915. The bonds would be secured by assessments levied on the parcels within the Proposed Undergrounding District, which would be paid by the parcel owners as part of their property tax bills over a period not to exceed 30 years.

As part of proceeding with the Proposed Undergrounding District, it is necessary for the Town to appoint a District Engineer and Bond Counsel. The District Engineer will have responsibility to prepare a report regarding the Proposed Undergrounding District which will include the plans and specifications for the improvements and the portion of the costs that represent a general benefit and the portion of the costs that represent a direct and special benefit to each of the parcels within the Proposed Undergrounding District.

The Town requested proposals for engineering and assessment services and received four responses. Upon reviewing the responses and conducting interviews, staff concluded that Harris

& Associates (“Harris”) should serve as the Town’s District Engineer for this Proposed Undergrounding District. The Town obtained a preliminary cost estimate from Harris to provide the services outlined in the Town’s policy, and Harris estimated the costs of providing the services in order to proceed with a vote on the Proposed Undergrounding District to be \$109,855. The Town has received deposits from some of the petitioners in the amount of \$151,000, and Harris’s work will be paid by these deposits.

In regards to appointing Bond Counsel, the Town’s policy describes several responsibilities for the Bond Counsel. First, Bond Counsel must direct all legal proceedings to establish the Proposed Undergrounding District. Second, Bond Counsel must provide advisory services to all interested property owners within the Proposed Undergrounding District about the assessment process and their rights and responsibilities. The Town Attorney obtained several proposals from certain law firms specializing in municipal public financing, and those firms uniformly would not agree to provide the advisory services required under the Town’s policy because of a perceived conflict of interest with representing the Town while also advising the property owners of any district. In order to satisfy this potential conflict of interest concern, the Town was able to obtain the services of Sam Sperry who has previously assisted the Town with legal services. Mr. Sperry has agreed to provide the limited services stated in the Town’s policy to advise the property owners about their rights and responsibilities. In addition to Mr. Sperry’s advisory Bond Counsel services, Town staff recommends the retention of Bob Whalen with Stradling, Yocca, Carlson & Rauth to provide Bond Counsel services to the Town. Mr. Whalen has assisted the Town in its review of the legal sufficiency of the petitions for the Proposed Undergrounding District, and will continue overseeing the formation process so that the Town complies with all statutory requirements while moving forward with the formation of the Proposed Undergrounding District.

In order to move forward, the Council must adopt the attached resolution that 1) Approves the preliminary boundary map, 2) Designates Harris & Associates as Assessment Engineer, 3) Directs the preparation of the Engineer’s Report, and 4) Appoints Sam Sperry and Stradling, Yocca, Carlson & Rauth as Bond Counsel. When the Engineer’s Report is completed, the Council will establish the date for a public meeting at which Council will be asked to preliminarily approve the Engineer’s Report and set a date for a public hearing on the proposed assessments and for the delivery of ballots by property owners.

It should be noted that all of the actions scheduled at this meeting are preliminary and do not commit the Council to the formation of the Proposed Undergrounding District.

RECOMMENDATION

Staff recommends that the Town Council adopt the attached Resolution (**Exhibit 4**).

EXHIBITS

1. Proposed Boundary Map for Proposed Undergrounding District
2. Town Clerk’s Certificate
3. Town of Tiburon Undergrounding Policy
4. Resolution

Prepared By: