



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: