



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### CITY COUNCIL MEETING

910 Calle Negocio  
2nd Floor  
San Clemente, California  
www.san-clemente.org

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**Meeting Date:** November 19, 2024

**Agenda Item:** 8D

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**Submitted By:** Public Works

**Prepared By:** Zak Ponsen, Assistant City Engineer

Dave Rebensdorf, Public Works Director/City Engineer

**Subject:**

**CONSIDERATION OF A RESOLUTION AMENDING THE EXISTING DEL MAR/DOWNTOWN AREA UNDERGROUND UTILITY DISTRICT 02-01, CANCELING DISTRICT 02-02 AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**Fiscal Impact:**

None. There is no fiscal impact to modify the underground utility districts. Rule 20A underground utility district construction projects are ultimately paid for by SDG&E and rate payer fees.

**Summary:**

For the City Council's consideration is a resolution (Attachment 1) to amend the existing boundaries for the Del Mar/Downtown Area Underground Utility Districts (UDD) 02-01 (Attachment 2) and 02-02 (Attachment 3). The purpose of the proposed modification is due to large increases in construction cost estimates and SDG&E regulations that no longer provide funding for Rule 20A projects. The proposed amendment results in a large reduction to the underground utility districts. The proposed boundary area for UDD 02-01 is to underground the overhead utilities within the public alley that is approximately 150 feet west of El Camino Real from Avenida Cabrillo to Avenida Granada (Attachment 4 and Exhibit A of Resolution No. 24-xxxx).

Due to the large discrepancy in funding for the underground projects, staff is also recommending the cancelation of Del Mar/Downtown Area Phase 2 Underground Utility District 02-02 (UDD 02-02). This district was proposed to underground the overhead utilities within an interior utility easement in the 100 and 200 block of Avenida Granada.

Since December 31, 2023, SDG&E no longer provides funding allotments to cities to help fund Rule 20A undergrounding projects. Rule 20A provided funding from rate payers to underground electrical lines for projects that provide a benefit to the general public. The City's current work credit balance for Rule 20A projects is \$2,750,543. SDG&E's latest cost estimate for UDD 02-01 as it stands today is \$19,056,727. This latest cost estimate includes a newly required 24% tax related to the California Public Utility Commission (CPUC) required Income Tax Component of Contributions and Advances (ITCCA). As of 2017, the CPUC treats financial construction contributions above the work credit allowance as taxable income and subject to the ITCCA 24% tax.

**Background:**

On May 2, 2017, staff provided the City Council with a very extensive update and summary of the undergrounding of overhead utilities. That report outlined the rules, regulations, projects and funding related to Rule 20 undergrounding. That report is provided as Attachment 5.

On February 20, 2002, the City Council adopted Resolutions No. 02-17 and 02-18 (Attachment 6) to establish the UDD 02-01 and UDD 02-02. These districts include the area generally bounded by El Camino Real, Avenida Del Mar, the Community Center, Avenida Cabrillo, and Avenida Granada.

On July 17, 2012, the City Council approved Resolution No. 12-049 (Attachment 7) that expanded UDD 02-01 to include more of the public alley west of Avenida Granada. This updated resolution also approved the UDD 02-01 to fund the modifications to customers utility services and panels that is often necessary during undergrounding projects. The proposed amended UPP 02-01 cost estimate by SDG&E does include covering the cost of up to 100 feet of customer service laterals, but does not include the cost of any necessary upgrades to private customer utility panels.

As part of the Rule 20 program, the City of San Clemente historically received approximately \$250,000 per year that was applied to a work credit for Rule 20A type projects. The most recent Rule 20A project was the undergrounding of overhead utilities in the Los Molinos and Calle Valle area in 2014/15.

As noted in the May 2, 2017 update to City Council (Attachment 5), it was expected that the UDD 02-01 project would takes several years of additional SDG&E allotted funding and borrowing of future allotments to potentially get the project started in 2030 at the earliest.

Recent California Public Utility Commission (CPUC) decisions eliminated any further allotments into city work credits after December 31, 2023. CPUC Rule 20 Decision (D. 23-06-008) has resulted in SDG&E contacting the City requesting that the Del Mar/Downtown Area Phase 1 Underground Utility District 02-01 (UDD 02-01) be reduced in scope or cancelled for future consideration (Attachment 8) by December 1, 2024.

Staff has recently been coordinating with SDG&E to determine a reduced underground area boundary that could be accomplished within the City's current work credit of \$2,750,543. The upper alley that parallels El Camino Real was chosen due to it high pedestrian activity, past City Council actions to try to beatify the alley, and its proximity to public parking areas. Additionally, by undergrounding the overhead utilities in this alley, it would remove the most prominent overhead wires that cross Ave. Del Mar when viewed from El Camino Real and Ave. Del Mar.



**Council Options:**

- Adopt Resolution No. 24-168, approving the amendment to UDD 02-01 as shown in Attachment 4 (and Exhibit A of Resolution No. 24-168), removing the UDD 02-01 funding for upgrading private utility panels unless additional savings can be found during final construction, formally cancelling UDD 02-02, and finding the project categorically exempt from CEQA.
- Adopt Resolution No. 24-168 with modifications.

- Continue the item and direct staff to provide additional information. Note- unless an extension past December 1, 2024 from SDG&E is granted, the City risks losing its underground utility districts.
- Do not adopt Resolution No. 24-168 and deny the recommended amendments to the underground utility districts.

***Environmental Review/Analysis:***

Staff recommends that the City Council determine this action to be categorically exempt from CEQA under Class 2 (Replacement or Reconstruction, 14 CCR section 15302(d)) of the State CEQA Guidelines.

***Recommended Actions:***

**Staff Recommendation**

Staff recommends that the City Council approve Resolution No. 24-168, which would take the following actions:

1. Find the project categorically exempt from CEQA under Class 2 (Replacement or Reconstruction, 14 CCR Section 15302(d)) of the State CEQA Guidelines;
2. Approve the amendment to reduce UDD 02-01 to the area as shown in Attachment 4;
3. Remove the UDD 02-01 funding for upgrading private utility panels unless additional savings can be found during final construction; and
4. Formally cancel UDD 02-02 for future consideration of undergrounding of overhead utilities in the Avenida Granada utility easement.

***Attachment:***

1. Resolution No. 24-168
  - a. Exhibit A to Resolution
2. Existing Del Mar/Downtown Underground District No. 02-01 Boundary Map
3. Existing Del Mar/Downtown Underground District No. 02-02 Boundary Map
4. Proposed Del Mar/Downtown Underground District No. 02-01 Boundary Map
5. Agenda Package for May 2, 2017 Staff Update to Council Regarding Undergrounding Districts
6. 2002 Resolutions for Creation of Del Mar/Downtown Underground Utility Districts 02-01, and 02-02
7. 2012 Resolution to Expand Del Mar/Downtown Underground Utility District 02-01
8. SDG&E letter to the City Requesting Amendments to District 02-01

***Notification:***

Per Municipal Code Section 13.36.020, all affected property owners within the underground districts were mailed a Notice of Public Hearing, which was also published in the Orange County Register on November 1, 2024.

RESOLUTION NO. 24-168

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE EXISTING DEL MAR/DOWNTOWN AREA UNDERGROUND UTILITY DISTRICT NO. 02-01, CANCELING THE DEL MAR /DOWNTOWN AREA PHASE 2 UNDERGROUND UTILITY DISTRICT NO. 02-02, AND FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER CLASS 2 (14 CCR 15302(D))

WHEREAS, on February 20, 2002, the City Council adopted Resolution No. 02-17 to establish the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 (UDD 02-01) and Resolution No. 02-18 to establish the Del Mar /Downtown Area Phase 2 Underground Utility District No. 02-02 (UDD 02-02) in accordance Chapter 13.36 of the Municipal Code of the City of San Clemente; and

WHEREAS, on July 17, 2012, the City Council adopted Resolution No. 12-049 to expand UDD 02-01 and to include service connection and panel upgrades cost into the district; and

WHEREAS, since December 31, 2023, SDG&E no longer provides funding allotments to cities to help fund Rule 20A undergrounding projects; and

WHEREAS, the City's current work credit balance for Rule 20A projects is \$2,750,543 and SDG&E's cost estimate for construction of Underground Utility District No. 02-01 is \$19,056.727; and

WHEREAS, on April 30, 2024, SDG&E requested that the City amend its Underground Utility Districts and/or cancel them per the time frame of the California Public Utility Commission (CPUC) Decision D. 23-06-008; and

WHEREAS, following notification to all affected property owners as required by law, a public hearing was held by the San Clemente City Council on November 19, 2024 at 6:00 p.m. in the Council Chambers, 910 Calle Negocio, San Clemente, California, to ascertain whether the public health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated services, within the area shown in the attached Exhibit A; and

WHEREAS, such hearing has been duly and regularly held, and all persons interested have been given an opportunity to be heard; and

WHEREAS, Chapter 13.36 of the Municipal Code of the City of San Clemente provides that the supplying utility shall furnish all facilities and equipment as required by applicable rules, regulations and tariffs on file with the CPUC; and

WHEREAS, the approved CPUC Rule 20A tariff for SDG&E allows, upon request by the City of San Clemente, use of the City of San Clemente's Rule 20A allocations for the cost to: a) install no more than 100 feet of each customer's underground electric service lateral occasioned by the undergrounding; and/or b) convert a customer's meter panel to accept underground service occasioned by the undergrounding, excluding permit fees; and

WHEREAS, based on the Rule 20A allocation summary provided by SDG&E there are sufficient uncommitted allocations in the City of San Clemente's Rule 20A work credit balance to provide for up to 100 feet of the expected cost of the customer service laterals, but not the private utility panel upgrades that may necessary.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby find, determine and resolve as follows:

SECTION 1. That the above recitations are true and correct and incorporated fully herein.

SECTION 2. That based on a review of the record as a whole, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) under Class 2 (Replacement or Reconstruction, 14 CCR section 15302(d)) of the State CEQA Guidelines because it consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced and there is no possibility of a direct or reasonably foreseeable indirect significant effect on the environment. The project involves 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 the undergrounding.

SECTION 3. The City of San Clemente hereby finds and determines that the public health, safety, and welfare requires the removal of poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services, and that pursuant to Chapter 13.36 of the Code of the City of San Clemente, the Del Mar/Downtown Phase 1 Area Underground Utility District 02-01 (UDD 02-01) is hereby amended to the boundary area depicted in the attached Exhibit A, which is incorporated fully herein by this reference. Exhibit A is generally defined as the public alley approximately 150 feet west of El Camino Real between Avenida Cabrillo and Avenida Granada.

SECTION 4. The City Council does hereby order the removal of all poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services within the amended Underground Utility District 02-01 no later than December 31, 2033.

SECTION 5. The City Clerk is hereby instructed to notify all affected utilities and all affected property owners within said Underground Utility District of the adoption of this resolution. The City Clerk shall further notify the affected property owners that if they or

any person occupying such property desires to continue to receive electric, communication, or other similar or associated service, they or any occupant at the property shall, by the date fixed in this resolution, provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations, and tariffs of the respective utility or utilities on file with the CPUC as of the date of adoption of this resolution. Such notification shall be made by mailing a copy of this resolution, together with a copy of said Chapter 13.36, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

SECTION 6. The City Council hereby finds that the Underground Utility District 02-01 herein amended is in the general public interest for the following reasons:

1. That undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and
2. That the Underground Utility District is in an area extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.

SECTION 7. The City Council desires and formally directs that up to 100 feet of the customer service connections and associated costs related to the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 be provided by SDG&E using the City of San Clemente’s available Rule 20A allocations.

SECTION 8. The City Council desires and formally directs that the customer service panel upgrades and associated costs related to the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 be provided by SDG&E using the City of San Clemente’s available Rule 20A allocations only to the extent that cost savings of the project are available during design and construction.

SECTION 9. The City of San Clemente hereby cancels and terminates all aspects of the existing Del Mar/Downtown Phase 2 Underground Utility District No. 02-02.

SECTION 10. That City staff is authorized and directed to execute such documents and take such actions as are necessary and proper to accomplish the purposes of this resolution.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA     )  
 COUNTY OF ORANGE     ) §  
 CITY OF SAN CLEMENTE    )

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-168 was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

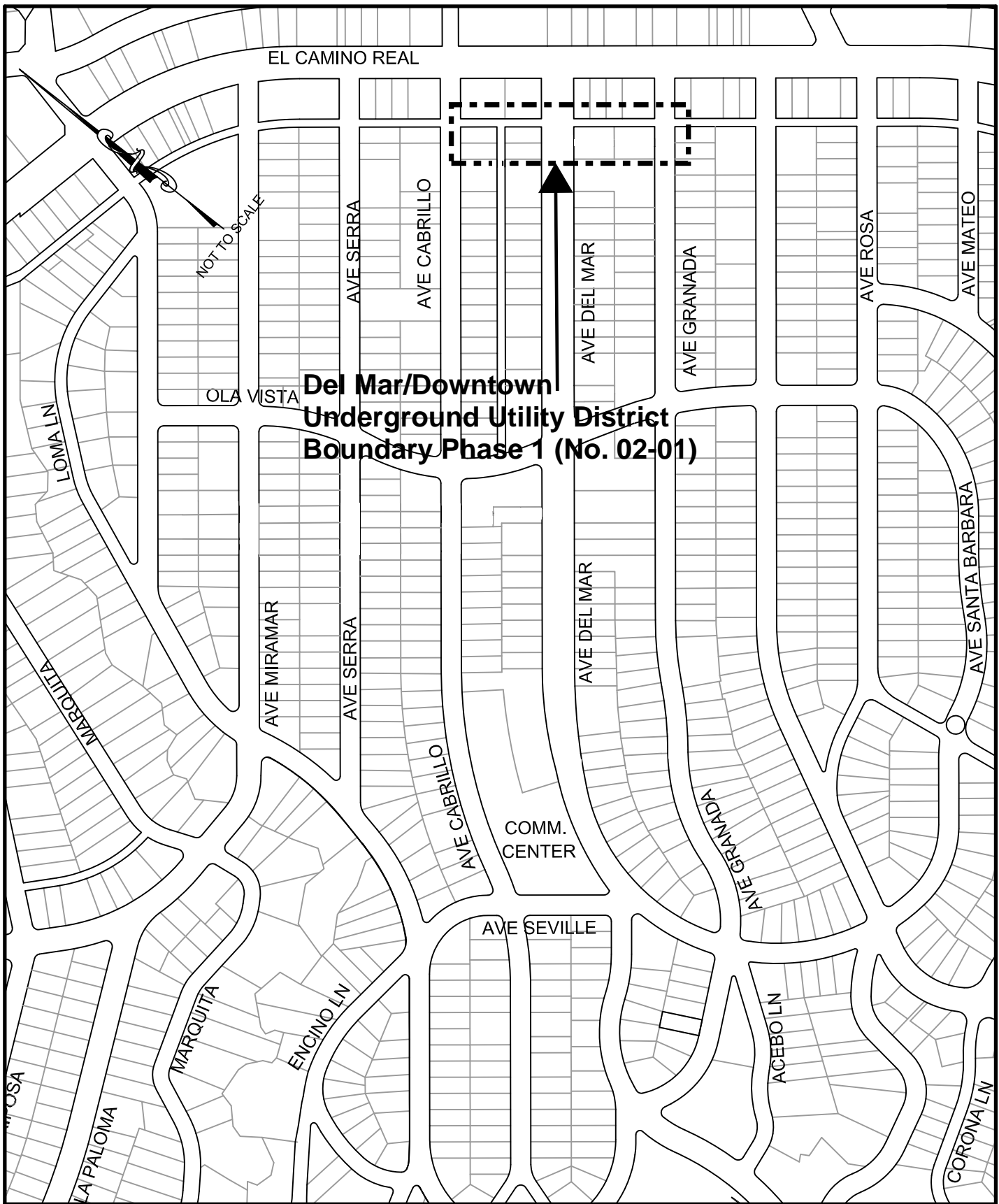
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

Approved as to form:

\_\_\_\_\_  
 Elizabeth A. Mitchell, City Attorney





**Del Mar/Downtown  
Underground Utility District  
Boundary Phase 1 (No. 02-01)**

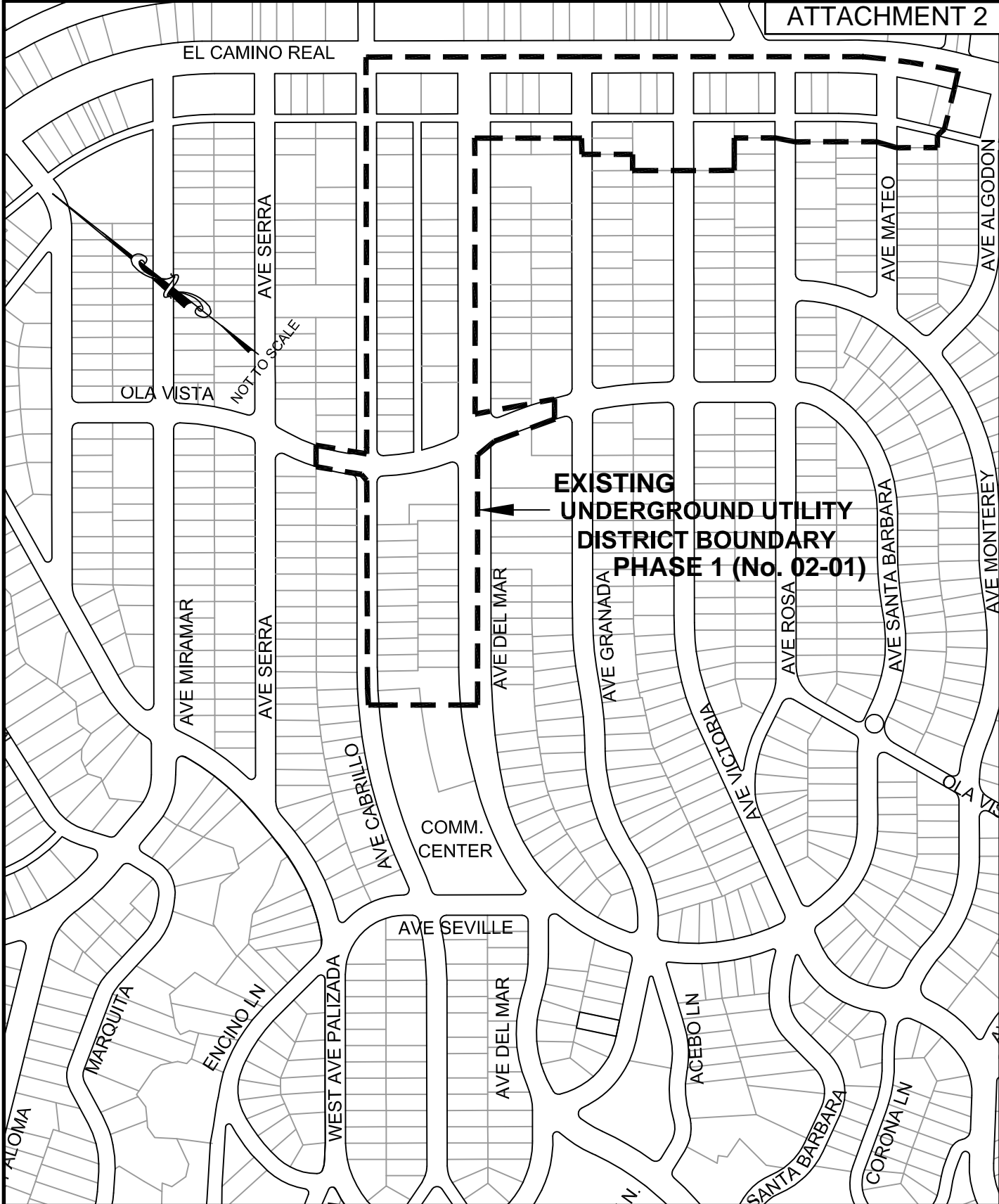


*City of San Clemente*

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**BOUNDARY MAP**

Proposed Del Mar/Downtown  
Underground Utility District Boundary  
Phase 1 (No. 02-01)



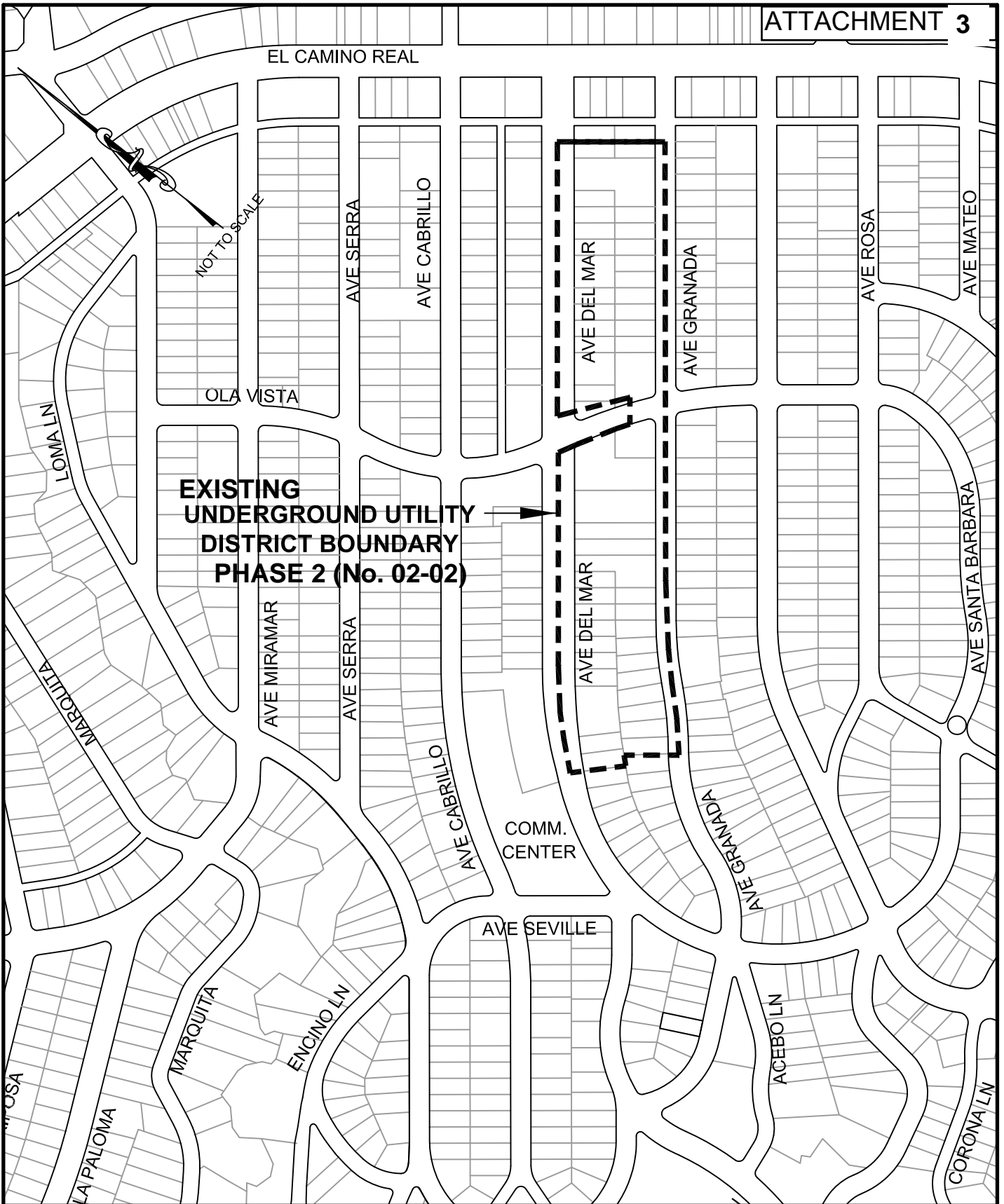
**EXISTING  
UNDERGROUND UTILITY  
DISTRICT BOUNDARY  
PHASE 1 (No. 02-01)**



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**BOUNDARY MAP**  
**Del Mar / Downtown**  
**Underground Utility District**  
**Phase 1 (No. 02-01)**



**EXISTING  
UNDERGROUND UTILITY  
DISTRICT BOUNDARY  
PHASE 2 (No. 02-02)**

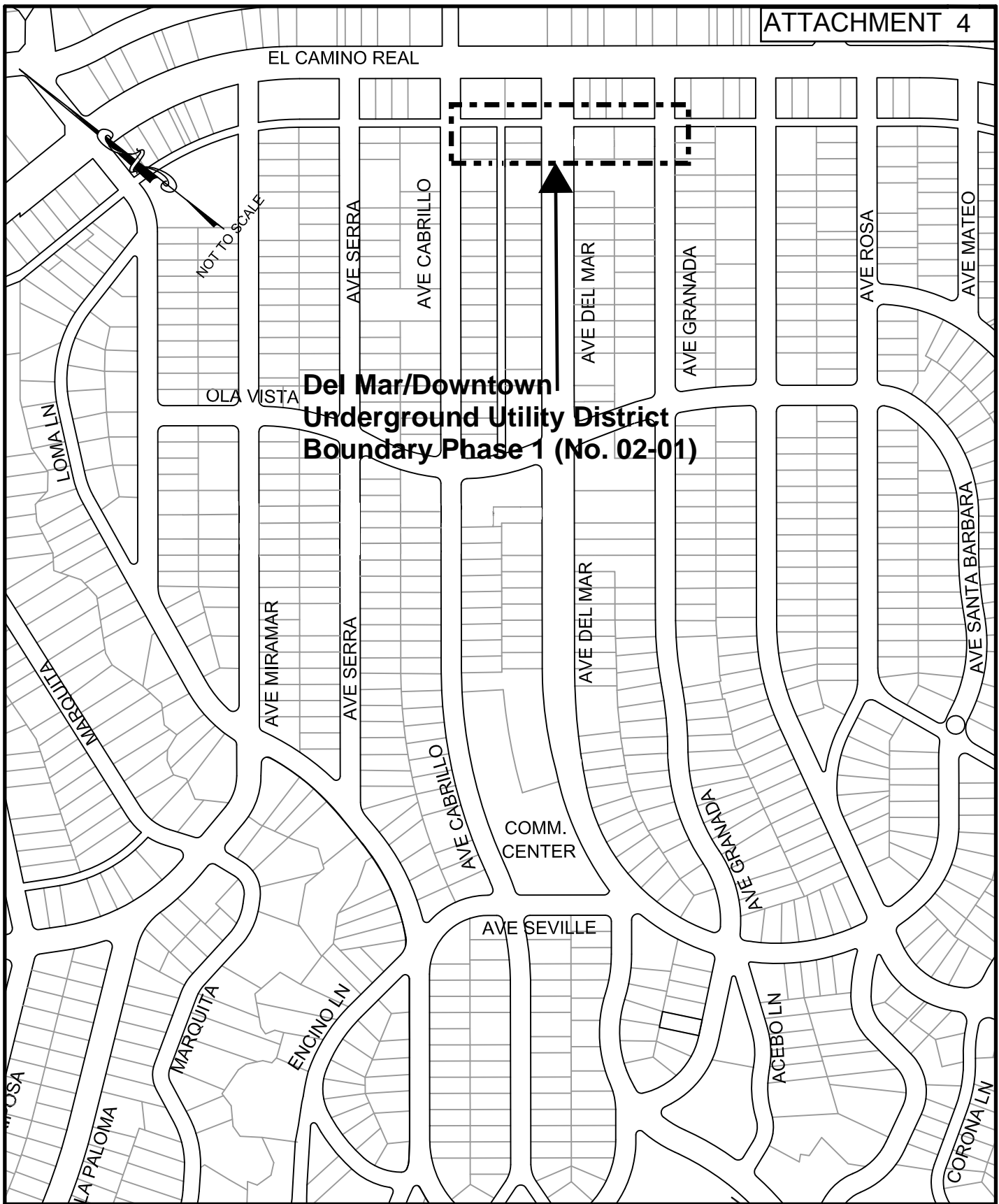


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**BOUNDARY MAP**

**Del Mar / Downtown  
Underground Utility District  
Phase 2 (No. 02-02)**



**Del Mar/Downtown  
Underground Utility District  
Boundary Phase 1 (No. 02-01)**






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**BOUNDARY MAP**

Proposed Del Mar/Downtown  
Underground Utility District Boundary  
Phase 1 (No. 02-01)



**Approvals:**City Manager Dept. Head Attorney Finance **AGENDA REPORT**

SAN CLEMENTE CITY COUNCIL MEETING

Meeting Date: May 2, 2017

**Department:** Public Works / Engineering  
**Prepared By:** Tom Bonigut, Deputy Public Works Director TB

**Subject:** *UPDATE ON UNDERGROUNDING OF OVERHEAD UTILITIES.*

**Fiscal Impact:** None with this update.

**Summary:** This report is to provide the City Council with an update on undergrounding of overhead utilities and seek direction for further action.

**Background:** With the completion of the most recent overhead utility undergrounding project in the Los Molinos area, the City Council requested an update concerning undergrounding of remaining overhead utility lines within the City. The update also serves to support General Plan Implementation Measure #NR-8 to develop and implement a utilities undergrounding plan and Implementation Measure #PFSU-48 to update priorities for the undergrounding of overhead utility lines. Both of these measures are listed as a medium priority per the City Council's March 2017 update of the General Plan Strategic Implementation Plan. This report is organized into the following sections which are discussed below:

- Overhead utilities within San Clemente
- Utility undergrounding approaches
- Completed and planned projects
- Other potential projects
- Funding options
- Next steps

**Discussion:** Overhead Utilities within San Clemente  
 Generally, San Diego Gas & Electric (SDG&E) owns, operates and maintains most of the poles and overhead electricity lines within the City. There are two main types of overhead electric facilities, namely transmission and distribution lines. The transmission line system provides high voltage service to a large regional area, while the distribution line system receives power from the transmission system and makes electricity available at a usable voltage to smaller local service areas. The only transmission lines in the City are the set of lines that run generally along the Avenida La Pata corridor. Most of the local overhead distribution lines are concentrated on the west side of Interstate 5 from North Beach to about West Avenida Junipero Serra as shown in the map provided in Attachment 1. This coincides with the older parts of town, as relatively newer areas east of Interstate 5 were constructed with underground utility lines. Note that many of the overhead lines are located along the rear property lines of adjoining properties and not along the street. AT&T and Cox Cable also have overhead lines which typically take the same route as the SDG&E overhead

distribution lines because they share and use the same support poles. It is these existing local overhead utility lines that are the focus of undergrounding efforts.

#### Utility Undergrounding Approaches

The California Public Utilities Commission (CPUC) has established a set of policies and procedures known as "Rule 20" to regulate the conversion of overhead electric equipment to underground facilities. Rule 20 determines the level of utility ratepayer funding for the following three undergrounding arrangements.

#### *Rule 20A*

This approach provides for City-directed projects which are paid for by SDG&E using fees collected from all ratepayers, not just those in the area to be undergrounded. Since ratepayer funding is used, the projects must provide a benefit to the general public by satisfying one or more of the following criteria:

- The undergrounding will eliminate an unusually heavy concentration of overhead facilities;
- The undergrounding will restore wheelchair access that is limited or impeded by the facilities;
- The public street carries a heavy volume of pedestrian or vehicular traffic;
- The public street is considered an arterial or major collector road; or
- The public street is within or passing through a civic, public recreational, or area of unusual scenic interest to the general public.

For Rule 20A projects, SDG&E typically funds all undergrounding costs for the facilities within the public right-of-way (including removal of overhead facilities and installation of new underground facilities), with customers responsible for service trenches and meter panel modifications on private property. However, upon request by the City (via inclusion in the required Underground Utility District Resolution), SDG&E can use Rule 20A allocations to install customer service laterals up to 100 feet and modify customer meter panels.

#### *Rule 20B*

This approach facilitates undergrounding when Rule 20A doesn't apply. Generally, projects must include at least 600 feet of overhead line and be located on public streets. Property owners pay for the installation cost of the new underground system, while SDG&E pays for the removal of the overhead system. Ratepayer funds may be used to fund the engineering and design of the project, with the remaining cost provided by property owners.

#### *Rule 20C*

This approach enables property owners to privately fund 100% of the undergrounding costs if neither of the above situations applies.

#### *Rule 20D*

This approach is specific to the SDG&E service territory and facilitates undergrounding of overhead lines within designated fire threat zones. However, this approach is not applicable to San Clemente due to the limited fire threat areas and very low number of overhead utilities within those areas.

When an underground conversion of overhead electric facilities occurs, any overhead telephone lines are also converted following a similar set of CPUC tariff rules. Conversion of any overhead cable facilities is required at no cost by the City's Municipal Code and cable franchise agreement.

#### Completed and Planned Undergrounding Projects

Some examples of completed Rule 20A undergrounding projects in the City include Avenida Pico (from Los Molinos to Frontera/Presidio), Avenida de la Estrella (Presidio to Palizada), and El Camino Real (Palizada to Canada). The Calle Valle/Los Molinos project was the most recent completed Rule 20A project. The Calle de Los Alamos neighborhood undergrounding was a Rule 20B project completed in the early 2000's and involved an assessment district to fund the project.

Currently there are two planned projects for which formal underground utility districts have been established. These include the following:

- Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 (refer to Attachment 2 for boundary map).
- Del Mar/Downtown Area Phase II Underground Utility District No. 02-02 (refer to Attachment 3 for boundary map).

Also, the overhead line on Calle de Los Molinos north of Avenida Pico will be converted to underground by 2018 as an obligation of the Marblehead Coastal development.

The preliminary design has been completed for the Del Mar Phase I project. However, the project cost estimate greatly exceeds (by \$2.8 million) the City's current Rule 20A allocation balance. Based on the current allocation balance and estimates of future annual allocations, sufficient Rule 20A allocations to construct the project would not be available until the Year 2030 (refer to Attachment 4 for summary of the City's Rule 20A allocation balance). No work has begun on the Del Mar Phase II project.

#### Other Potential Projects

There are several other potential undergrounding projects remaining from a priority list set by the City Council in 1992. These include the following in priority order:

1. Avenida Del Presidente from Avenida Valencia to Avenida Calafia;
2. Avenida Calafia from Avenida Presidente to Calafia State Beach entrance;
3. Alley west of El Camino Real from ECR from Trafalgar Lane to West El Portal (note that the alley segment from Avenida Mateo to Avenida Cabrillo is part of Del Mar Phase 1 district);
4. Los Molinos commercial area north of Pico (note the segment on Los Molinos north of Avenida Pico will occur by 2018 as noted above);
5. Avenida De La Estrella from East Avenida Marquita to East El Portal; and
6. East El Portal from Avenida De La Estrella to North El Camino Real.

Staff has also received a request for residents along a portion of Avenida Florencia in the North Beach area for undergrounding, however that potential project does not appear to meet Rule 20A criteria and thus would need to be property owner funded under Rule 20B or 20C unless the City provided funding.

### Funding Options

Conversion of overhead utilities to an underground system is costly, with total costs ranging from about \$1,000 to \$1,500 per linear foot of overhead line to be undergrounded. Potential options to fund undergrounding efforts are summarized below.

#### *Rely on Rule 20A Allocations*

Under the Rule 20A program described above, SDG&E allocates funds for undergrounding efforts according to a CPUC formula. Annual allocations can be accumulated and up to five years of future allocations can be borrowed against if needed. The City could continue to rely solely on Rule 20A allocations to fund public benefit undergrounding projects. However, the high cost of undergrounding coupled with relatively low allocations for the City mean that few projects will be accomplished by solely relying on Rule 20A. For example, the current cost estimate for the Del Mar Phase I undergrounding project is nearly \$4 million (and could rise with subsequent updates). As previously noted about \$2.8 million is needed to complete that project based on current estimates, and the project would not occur until 2030 at the earliest based on current and projected allocations (refer to Attachment 4). Unlike other areas, SDG&E does not allow municipalities to buy or sell excess Rule 20A allocations. So, to advance the schedule of the Del Mar Phase I project or to accomplish more undergrounding than what Rule 20A provides, other sources of funding would be needed.

#### *City General Funds*

The City could allocate general (unrestricted) funds toward undergrounding projects. However the potential for such funding would need to be considered and weighed against other competing priorities.

#### *Assessment District*

An assessment district could be formed to accomplish undergrounding in a defined project area. The assessment on properties within the district then supports issuance of a bond to fund the undergrounding work. Significant effort is required to establish an assessment district and identify the "special" benefit that may be assessed in accordance with Proposition 218 requirements. An assessment district requires approval by a simple majority of property owners within the proposed district boundary (where ballots are weighted by assessment amount).

#### *Community Facilities District (CFD)*

A CFD, also known as a Mello-Roos district, could be formed to accomplish undergrounding in a defined project area. The special tax placed on properties within the district then supports issuance of a bond to fund the undergrounding work. Since a CFD imposes a special tax and not an assessment, the special benefit requirement of Proposition 218 does not apply. However, the special tax requires approval by two-thirds of voters within the proposed district (but the approved tax is paid by property owners).



### *Taxes*

The City could pursue approval of tax measure that would secure issuance of bonds to fund undergrounding efforts. A general tax not solely dedicated for utility undergrounding could be approved by a simple majority of voters, while a tax specifically for undergrounding would be considered a "special tax" requiring two-third voter approval. There are several forms of tax measures including sales, parcel, property and utility user taxes.

### *City of San Diego Electric Bill Surcharge Approach*

Per City Council direction, the City Attorney's office researched the City of San Diego's approach to undergrounding and its potential applicability to San Clemente. The City of San Diego's undergrounding program follows the Rule 20A approach to convert overhead lines along major city streets, but also addresses other areas not covered by Rule 20A using funds generated from an electricity bill surcharge authorized by the CPUC. Unfortunately, the likelihood to do this in San Clemente is very small because: 1) San Diego used its charter authority to accomplish this; 2) it requires approval of the CPUC, which is rare; and 3) CPUC approval of the San Diego program was based in part on the fact that the program was created to settle litigation between the City of San Diego and AT&T.

San Diego finances its program through a franchise fee surcharge on SDG&E and a rate surcharge on AT&T. Unlike San Diego, San Clemente lacks charter authority to impose or negotiate a franchise fee surcharge. Whether even a city charter grants this authority was the subject of a major dispute between the City of San Diego and AT&T. That case was resolved, in part, with the program in question. Even then, the resolution required CPUC approval.

This rate surcharge is very uncommon, and the City Attorney's office is unaware of any similar program in the state. In fact, when adopting this surcharge, the CPUC noted that "extraordinary and unique events" led to its decision to approve the surcharge, and the CPUC then directed its staff to "advise any utilities seeking such measures, either surcharges or increases in franchise fees, that the statewide plan (i.e. Rule 20) controls utility undergrounding."

While San Clemente could request that the CPUC impose a surcharge on SDG&E, AT&T and other affected utility customers to fund undergrounding projects, the City should be aware that the CPUC has expressed a strong policy preference against it. Given this, the most likely source of funding for non-Rule 20A projects is otherwise unrestricted City funds or the creation of an assessment district or CFD as noted above:

### Next Steps

Since there is an established undergrounding district and a preliminary design for the Del Mar Phase I area, staff recommends developing more detail on funding options to help complete that project sooner than the Rule 20A-only approach would allow. If the City Council is interested in pursuing other possible downtown improvement projects such as alley upgrades, it would be best to complete utility undergrounding construction before starting other improvement projects in the Del Mar area. If the City

Council still desires to complete the Del Mar Phase I project, and possibly also the Phase II project, staff would focus efforts on those projects. In this case there would not be a need at this time to identify additional potential undergrounding projects unless a funding mechanism is also identified. Establishing assessment or community facilities districts involves considerable time and effort that is beyond staff's current capacity to handle unless new work priorities are updated. Consultant services will also be required to establish districts or pursue tax measures.

**Recommended**

**Action:** STAFF RECOMMENDS THAT the City Council receive this update on overhead utility wire undergrounding, and provide direction to staff regarding future undergrounding plans.

**Attachment:**

1. Map of overhead electric distribution lines.
2. Del Mar Phase I undergrounding boundary map.
3. Del Mar Phase II undergrounding boundary map.
4. SDG&E Rule 20A allocation summary.

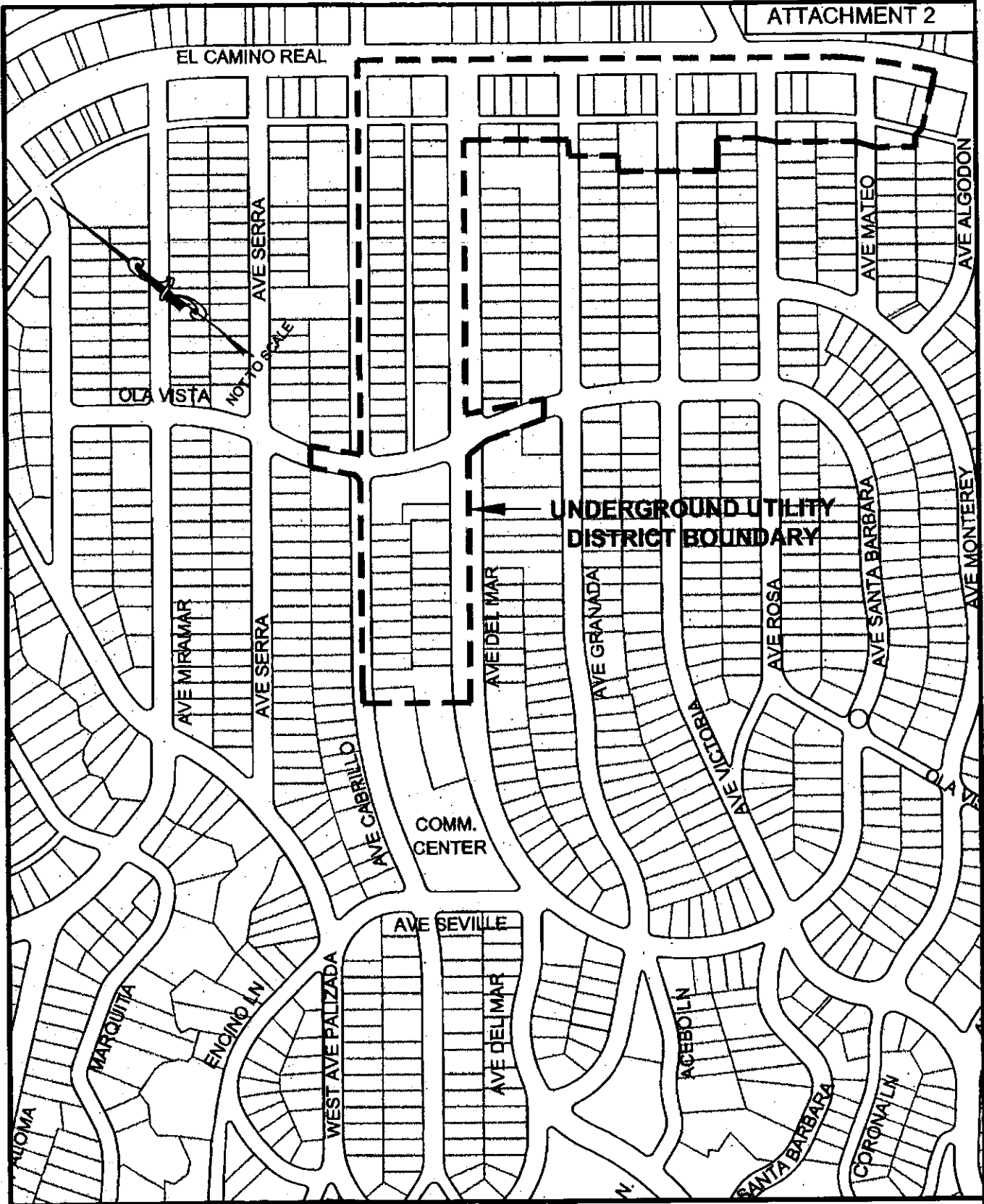
**Notification:** George Gregory, Lyn Harris Hicks.

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*City of San Clemente*

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**BOUNDARY MAP**

**Del Mar / Downtown  
 Underground Utility District  
 (Phase I)**



**City of San Clemente  
Rule 20A Allocation and Balance Summary**

	<b>Rule 20A Allocation Balance</b>
<i>Current</i>	
2017 allocation balance	\$1,208,967
Del Mar Phase I estimate	(\$3,980,829)
Current balance	(\$2,771,862)
<i>Projected</i>	
2017: Annual allocation (+154k)	(\$2,617,862)
2018: Annual allocation (+154k)	(\$2,463,862)
2019: Annual allocation (+154k)	(\$2,309,862)
2020: Annual allocation (+154k)	(\$2,155,862)
2021: Annual allocation (+154k)	(\$2,001,862)
2022: Annual allocation (+154k)	(\$1,847,862)
2023: Annual allocation (+154k)	(\$1,693,862)
2024: Annual allocation (+154k)	(\$1,539,862)
2025: Annual allocation (+154k)	(\$1,385,862)
2026: Annual allocation (+154k)	(\$1,231,862)
2027: Annual allocation (+154k)	(\$1,077,862)
2028: Annual allocation (+154k)	(\$923,862)
2029: Annual allocation (+154k)	(\$769,862)
2030: Five-year allocation advance (+770,000k)	\$138

Notes:

1. Project costs are estimates, and actual project costs will be deducted from the allocation balance when each project is completed.
2. Projected annual allocations are estimates based on the 2017 allocation, and may vary.
3. Allocations do not represent actual funding, but instead are a planning tool for the City. The allocations represent a qualified right to direct/assign a portion of SDGE's anticipated capital budget to qualified Rule 20A projects. Per the CPUC, half of the allocation is based on the ratio of the City's overhead meters to total system overhead meters, and half based on the City's total meters to total system meters.

Agenda Item 5-C  
 Approvals: \_\_\_\_\_  
 City Manager MP  
 Dept. Head [Signature]  
 Attorney \_\_\_\_\_  
 Accounting \_\_\_\_\_  
 Other \_\_\_\_\_



**AGENDA REPORT**  
**SAN CLEMENTE CITY COUNCIL MEETING**  
 Meeting Date: February 20, 2002

**Department:** Engineering Division WEC  
**Prepared By:** M. Akram Hindiyeh, Principal Civil Engineer MAH

**Subject:** ESTABLISHMENT OF THE UNDERGROUND UTILITY DISTRICT NO. 02-01 AND ESTABLISHMENT OF THE UNDERGROUND UTILITY DISTRICT NO. 02-02

**Summary:** Staff is recommending the City Council consider undergrounding of overhead utilities within the following downtown areas:

1. Proposed Downtown Area (Phase I) Underground Utility District #1 could include parts of Avenida Cabrillo, Avenida Del Mar and El Camino Real. See the attached map boundary.
2. Proposed Downtown Area (Phase II) Underground Utility District #2 could include parts of Avenida Granada and Avenida Del Mar. See the attached map boundary.

Neighborhood public meetings were scheduled with the property owners and business owners at different times to discuss the proposed Underground Utility Districts, their benefits and the impact on all of the property owners.

If the City Council approves staff's recommendations, the City is required to establish Underground Utility Districts. The Districts' property boundaries are defined on the attached maps. A number of parcels will be required to underground their overhead services and the utility companies will be responsible for undergrounding their overhead lines within the public right-of-way. These properties will be required to pay the cost of trenching within their properties for the electrical service connections.

The property owners will be responsible for hiring electrical contractors to connect their existing services to the new service points at the property lines. The average estimated cost for these service connections is approximately \$3,000 to \$10,000. The cost varies depending upon the distance from the property line to the utility panel of the property and whether the existing meters will need to be moved or replaced. The estimated costs of the Undergrounding Districts are approximately \$750,000 and \$600,000, respectively. The projects will be funded from the City of San Clemente Rule 20A Allocation provided by San Diego Gas and Electric.

A tentative schedule for this project is as follows:

	District #1	District #2
City Council to Establish Underground Utility District	2/20/02	2/20/02
SDG&E to Start Design of Underground System	9/01/02	9/01/03
Pacific Bell & Cox Cable to Start Design	3/01/03	3/01/04
Underground Utility Design Complete	7/01/04	7/01/05
Underground Utility Construction Project Starts	9/01/04	9/01/05
Customer Conversion to Underground Facilities	3/01/05	3/01/06
Underground Utility Project Complete	9/01/05	9/01/06

**Recommended**

**Action:**

STAFF RECOMMENDS THAT the City Council:

1. Adopt Resolution No. \_\_\_\_\_ entitled "A Resolution of the City Council of the City of San Clemente, California, establishing an Underground Utility District to be known as the Downtown Area Phase I Underground Utility District No. 02-01"; and
2. Adopt Resolution No. \_\_\_\_\_ entitled "A Resolution of the City Council of the City of San Clemente, California, establishing an Underground Utility District to be known as the Downtown Area Phase II Underground Utility District No. 02-02".

**Fiscal Impact:**

No.

The utility undergrounding costs within the public right-of-way are funded by Utility Allocation Funds (Rule 20A) as established by the Public Utilities Commission. At this time, the only known City contribution will be staff time.

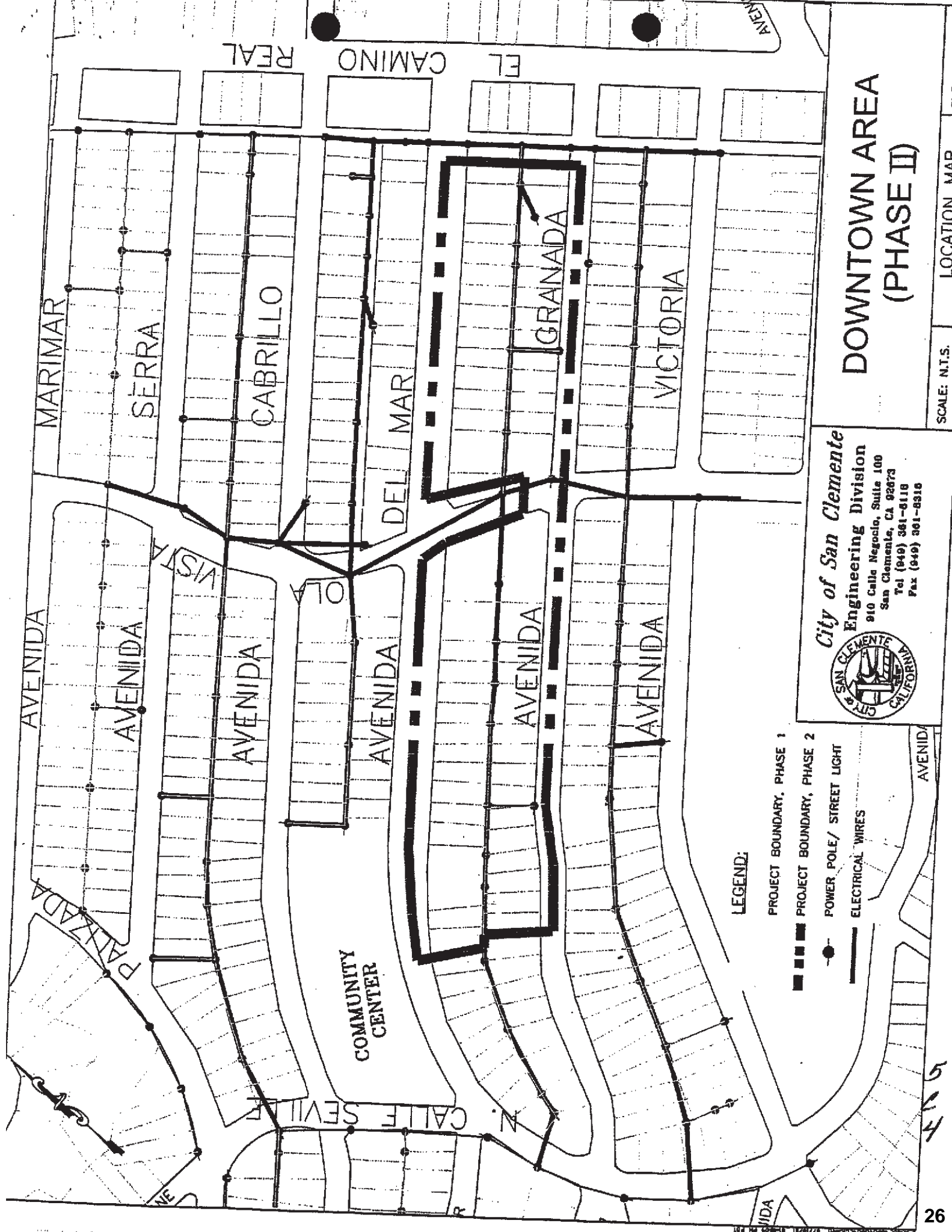
**Attachments:**

Resolution  
Boundary Maps

*5-26*







# DOWNTOWN AREA (PHASE II)

**City of San Clemente**  
**Engineering Division**  
 910 Calle Negocio, Suite 100  
 San Clemente, CA 92673  
 Tel (949) 361-0118  
 Fax (949) 361-8316



**LEGEND:**

- PROJECT BOUNDARY, PHASE 1
- - - PROJECT BOUNDARY, PHASE 2
- POWER POLE / STREET LIGHT
- ELECTRICAL WIRES

RESOLUTION NO. 02-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING AN UNDERGROUND UTILITY DISTRICT TO BE KNOWN AS THE DOWNTOWN AREA PHASE I UNDERGROUND UTILITY DISTRICT NO. 02-01

WHEREAS, following notification to all affected property owners and utilities as required by law, a public hearing was held by the San Clemente City Council on the 20<sup>th</sup> day of February 2002, at the hour of 7:00 PM in the Council Chambers in the Civic Center Building, San Clemente, California, to ascertain whether the public health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated service, within the area described in Exhibit "A", which is attached hereto; and

WHEREAS, such hearing has been duly and regularly held, and all persons interested have been given an opportunity to be heard.

NOW, THEREFORE, The City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City of San Clemente hereby finds and determines that the public health, safety, and welfare require the removal of poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service, and that, pursuant to Chapter 13.36 of the Code of the City of San Clemente, the above described area is hereby declared an Underground Utility District, and is designated Downtown Phase I Underground Utility District No. 02-01 (the "Underground Utility District"). Attached hereto, marked Exhibit "A", and hereby incorporated as a part of this resolution, is a map delineating the boundaries of the Underground Utility District.

Section 2. The Council does hereby order the removal of all poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service within the Underground Utility District on or before September 1, 2005.

Section 3. The City Clerk is hereby instructed to notify all affected utilities and all affected property owners within said Underground Utility District of the adoption of this resolution. The City Clerk shall further notify the affected property owners that if they or any person occupying such property desires to continue to receive electric, communication, or other similar or associated service, they or any occupant at the property shall, by the date fixed in this resolution, provide all necessary facility changes on their premises so as to

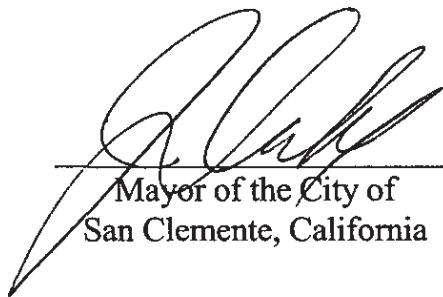
receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Public Utilities Commission of the State of California as of the date of adoption of this resolution. Such notification shall be made by mailing a copy of this resolution, together with a copy of said Chapter 13.36, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

Section 4. The Council hereby finds that the Underground Utility District herein created is in the general public interest for the following reasons:

1. That undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and
2. That the Underground Utility District is in an area extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.

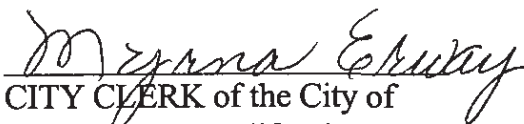
Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this 20th day of February, 2002



\_\_\_\_\_  
 Mayor of the City of  
 San Clemente, California

ATTEST:



\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

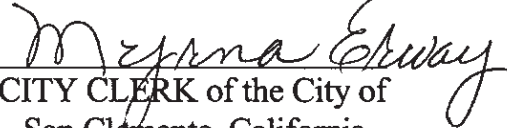
STATE OF CALIFORNIA    )  
 COUNTY OF ORANGE     ) §  
 CITY OF SAN CLEMENTE    )

I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 02-17 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 20th day of February, 2002, by the following vote:

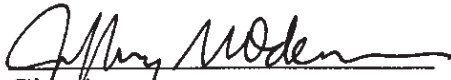
AYES: DIEHL, DOREY, EGGLESTON, RITSCHER, MAYOR DAHL

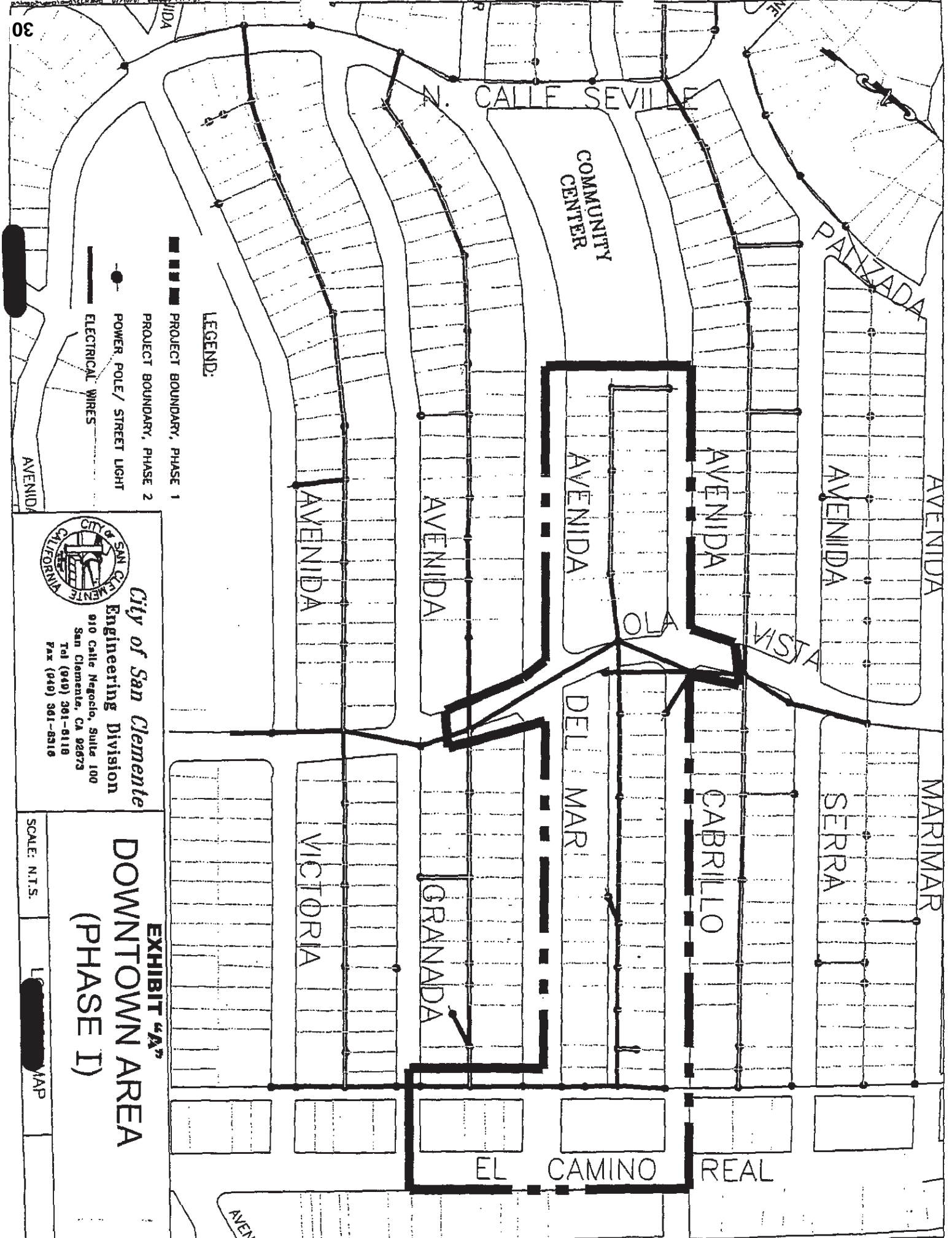
NOES: NONE

ABSENT: NONE

  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

  
City Attorney



30

**LEGEND:**

- ■ ■ ■ ■ PROJECT BOUNDARY, PHASE 1
- - - - - PROJECT BOUNDARY, PHASE 2
- POWER POLE/ STREET LIGHT
- ELECTRICAL WIRES



*City of San Clemente*

Engineering Division

910 Calle Negroso, Suite 100

San Clemente, CA 92673

Tel (949) 361-6118  
Fax (949) 361-6316

**EXHIBIT "A"**  
**DOWNTOWN AREA**  
**(PHASE I)**

SCALE: N.T.S.

MAP



RESOLUTION NO. 02-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING AN UNDERGROUND UTILITY DISTRICT TO BE KNOWN AS THE DOWNTOWN AREA PHASE II UNDERGROUND UTILITY DISTRICT NO. 02-02

WHEREAS, following notification to all affected property owners and utilities as required by law, a public hearing was held by the San Clemente City Council on the 20<sup>th</sup> day of February 2002, at the hour of 7:00 PM in the Council Chambers in the Civic Center Building, San Clemente, California, to ascertain whether the public health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated service, within the area described in Exhibit "A", which is attached hereto; and

WHEREAS, such hearing has been duly and regularly held, and all persons interested have been given an opportunity to be heard.

NOW, THEREFORE, The City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City of San Clemente hereby finds and determines that the public health, safety, and welfare require the removal of poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service, and that, pursuant to Chapter 13.36 of the Code of the City of San Clemente, the above described area is hereby declared an Underground Utility District, and is designated Downtown Phase II Underground Utility District No. 02-02 (the "Underground Utility District"). Attached hereto, marked Exhibit "A", and hereby incorporated as a part of this resolution, is a map delineating the boundaries of the Underground Utility District.

Section 2. The Council does hereby order the removal of all poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service within the Underground Utility District on or before September 1, 2006.

Section 3. The City Clerk is hereby instructed to notify all affected utilities and all affected property owners within said Underground Utility District of the adoption of this resolution. The City Clerk shall further notify the affected property owners that if they or any person occupying such property desires to continue to receive electric, communication, or other similar or associated service, they or any occupant at the property shall, by the date fixed in this resolution, provide all necessary facility changes on their premises so as to


receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Public Utilities Commission of the State of California as of the date of adoption of this resolution. Such notification shall be made by mailing a copy of this resolution, together with a copy of said Chapter 13.36, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

Section 4. The Council hereby finds that the Underground Utility District herein created is in the general public interest for the following reasons:

1. That undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and
2. That the Underground Utility District is in an area extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.

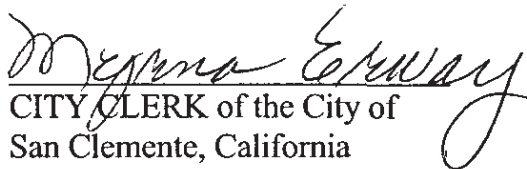
Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this 20th day of February, 2002



\_\_\_\_\_  
 Mayor of the City of  
 San Clemente, California

ATTEST:



\_\_\_\_\_  
 CITY CLERK of the City of  
 San Clemente, California

STATE OF CALIFORNIA    )  
 COUNTY OF ORANGE     ) §  
 CITY OF SAN CLEMENTE    )

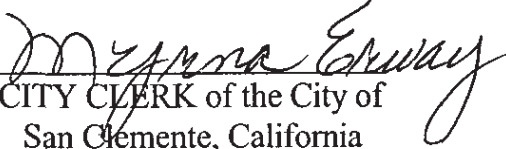


I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 02-18 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 20th day of February, 2002, by the following vote:

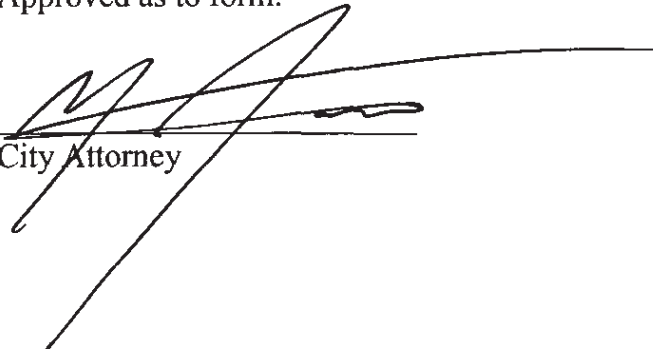
AYES: DIEHL, DOREY, EGGLESTON, RITSCHER, MAYOR DAHL

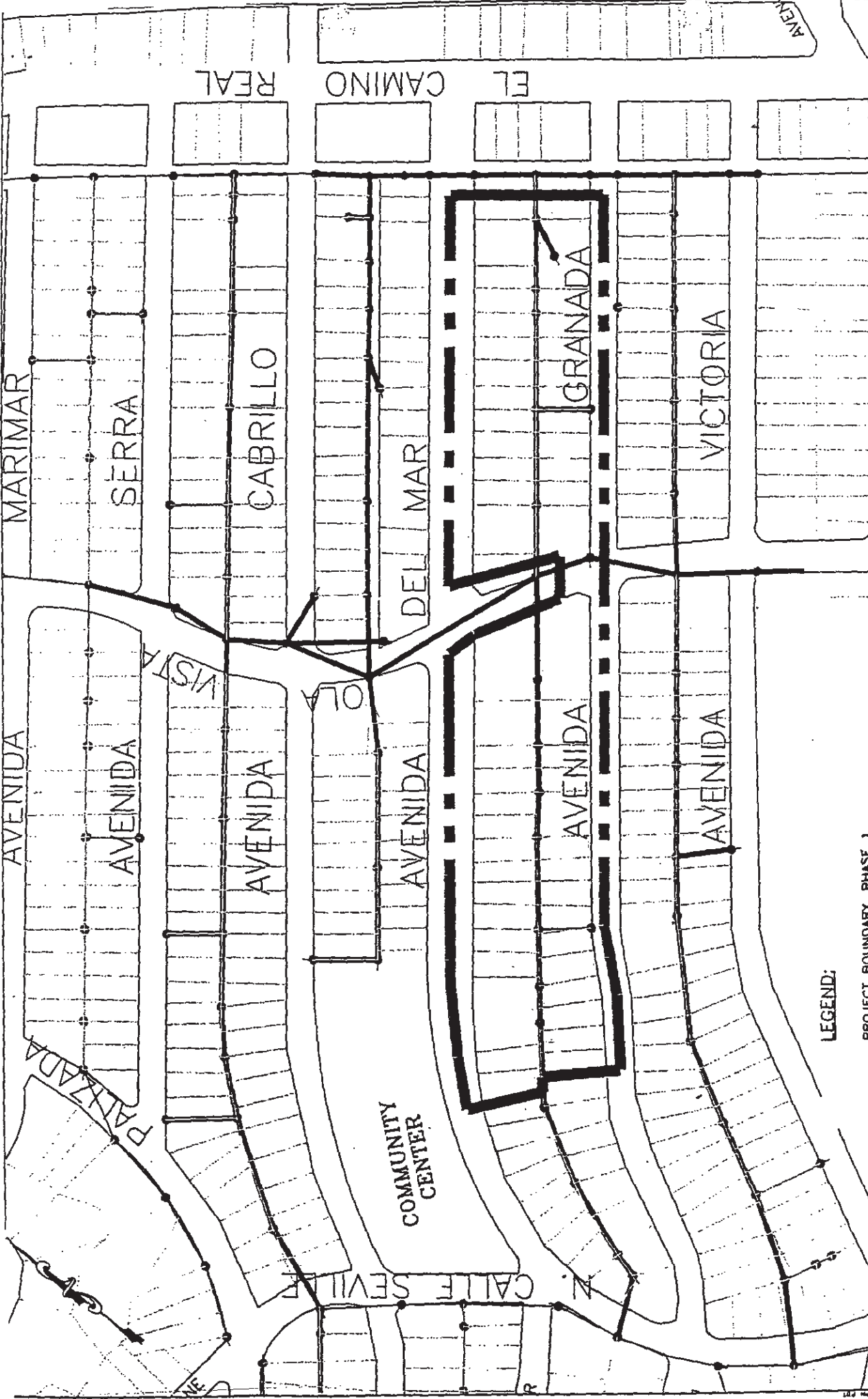
NOES: NONE

ABSENT: NONE

  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

  
City Attorney



**"EXHIBIT 'A'"**  
**DOWNTOWN AREA**  
**(PHASE II)**

*City of San Clemente*  
 Engineering Division  
 910 Calle Negocio, Suite 100  
 San Clemente, CA 92673  
 Tel (949) 361-6118  
 Fax (949) 361-6216



- LEGEND:**
- PROJECT BOUNDARY, PHASE 1
  - PROJECT BOUNDARY, PHASE 2
  - POWER POLE/ STREET LIGHT
  - ELECTRICAL WIRES

SCALE: N.T.S.

MAP



**AGENDA REPORT**  
**SAN CLEMENTE CITY COUNCIL MEETING**  
 Meeting Date: July 17, 2012

Agenda Item 7A  
 Approvals: [Signature]  
 City Manager [Signature]  
 Dept. Head [Signature]  
 Attorney \_\_\_\_\_  
 Finance \_\_\_\_\_

**Department:** Public Works / Engineering  
**Prepared By:** Tom Bonigut, Assistant City Engineer *TB*

**Subject:** *PROPOSAL TO EXPAND THE EXISTING DEL MAR PHASE I UNDERGROUND UTILITY DISTRICT NO. 02-01 AND INCLUDE CUSTOMER SERVICES IN THE DISTRICT.*

**Summary:** In 2002 the City Council adopted Resolution No. 02-17 to establish the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01, which is the area generally bounded by El Camino Real, Avenida Del Mar, the Community Center and Avenida Cabrillo (refer to attached map). SDG&E submitted a preliminary design for the undergrounding project to the City for review. During this time staff received a request to extend the undergrounding district several blocks south along the alley from Avenida Del Mar to Avenida Rosa. SDG&E determined that the additional area could be added to the existing Phase I undergrounding district, so long as the actual district is extended to just past Avenida Mateo (see attached map) to provide for a more suitable termination of the undergrounded facilities. The design for the additional area could be completed by the end of September and there are sufficient SDG&E funding allocations for the cost of the expanded project. Staff recommends that the City Council approve the additional area via the attached Resolution.

This underground utility district was established as a Rule 20A project<sup>1</sup> in which the cost of undergrounding overhead lines within the public right-of-way is paid by SDG&E. When it was formed, the district excluded costs related to customer service laterals or meter panel modifications. Since this is allowable under Rule 20A, staff recommends that the Del Mar Phase I underground district be changed to include customer service laterals and service meter panel modifications. In September 2011 the City Council established that inclusion of customer services on Rule 20A utility undergrounding projects shall be the City's standard practice. However, since the enabling Resolution for the Del Mar Phase I district was adopted many years ago, staff recommends City Council approval of the attached Resolution to formally include customer services in the Del Mar Phase I undergrounding district.

SDG&E anticipates finalizing the design by the end of September, after which formal coordination with other overhead utilities (phone and cable) will begin. A coordination meeting with affected property owners and customers will be scheduled this Fall to advise on the upcoming project. Construction could begin in the second quarter of 2013, although construction timing will be further coordinated with the Downtown Business Association to help minimize construction impacts.

<sup>1</sup> Refer to attachment for an overview of Rule 20A.

**Recommended**

**Action:**

STAFF RECOMMENDS THAT the City Council adopt Resolution No. \_\_\_\_ entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE EXISTING DEL MAR/DOWNTOWN AREA PHASE I UNDERGROUND UTILITY DISTRICT NO. 02-01 TO INCLUDE CUSTOMER SERVICE CONNECTIONS AND ADDITIONAL PROPERTIES INTO THE DISTRICT."

**Fiscal Impact:**

Yes. There is no impact to City funds, however inclusion of additional area and customer services in the Del Mar/Downtown Phase I project will reduce the City's Rule 20A allocation balance. Per SDG&E there are sufficient allocations for an expanded district that includes the customer services.

**Attachments:**

Boundary map: Del Mar Phase I Underground Utility District No. 02-01  
Rule 20A overview  
Resolution

**Notification:**

Property owners within the existing Del Mar Phase I Underground Utility District No. 02-01 and proposed additional area have been notified in accordance with Municipal Code Section 13.36.020.

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7A-2



## Rule 20A Overview

The California Public Utilities Commission (CPUC) has established a set of policies and procedures known as “Rule 20” to regulate the conversion of overhead electric equipment to underground facilities. Rule 20 determines the level of utility ratepayer funding for the following three undergrounding arrangements:

1. Rule 20A – Provides for City-directed projects which are paid for by SDG&E using fees collected from all ratepayers, not just those in the area to be undergrounded. To qualify for funding, projects must provide a benefit to the general public by satisfying one or more of the following criteria:
  - Unusually heavy concentration of overhead facilities;
  - Heavily-traveled area;
  - The public street qualifies as an arterial or major collector road in the City’s General Plan; or
  - The public street is within or passing through a civic, recreational, or scenic area.

For Rule 20A projects, SDG&E typically pays for all undergrounding costs for the facilities within the public right-of-way (including removal of overhead facilities and installation of new underground facilities), with customers responsible for service trenches and meter panel modifications on private property. However, upon request by the City (via inclusion in the Underground Utility District Resolution), SDG&E can use Rule 20A allocations to install customer service laterals (up to 100 feet) and modify customer meter panels.

Some examples of completed Rule 20A undergrounding projects in the City include Avenida Pico (from Los Molinos to Frontera/Presidio), Avenida de la Estrella (Presidio to Palizada), and El Camino Real (Palizada to Canada).

2. Rule 20B – Allows property owners to elect to form an underground utility assessment district when Rule 20A does not apply. SDG&E pays for the removal of overhead facilities and property owners pay for installation of the new underground facilities. The Calle de Los Alamos undergrounding project completed in 2001 was a Rule 20B project.
3. Rule 20C – Enables property owners to privately fund undergrounding if neither of the above situations applies.

When an underground conversion of overhead electric facilities occurs, any overhead telephone lines are also converted following a similar set of CPUC tariff rules. Conversion of any overhead cable facilities is required at no cost by the existing cable franchise agreement.

7A-4

*Resolution #12-49*

AFTER RECORDING MAIL TO:

City Clerk  
City of San Clemente  
100 Avenida Presidio  
San Clemente, CA 92618

Exempt Recording Requested  
Pursuant to Govt. Code S6103

*Anthony M. Deputy* City Clerk

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder



NO FEE

\* \$ R 0 0 0 5 0 2 7 3 5 1 \$ \*

2012000442363 2:14 pm 08/02/12

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SPACE ABOVE FOR RECORDERS USE ONLY

RESOLUTION NO. 12-49

*IT  
GP  
CF  
NF*

**THIS AREA FOR  
RECORDER'S  
USE ONLY**

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION

RESOLUTION NO. 12-49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE EXISTING DEL MAR/DOWNTOWN AREA PHASE I UNDERGROUND UTILITY DISTRICT NO. 02-01 TO INCLUDE CUSTOMER SERVICE CONNECTIONS AND ADDITIONAL PROPERTIES INTO THE DISTRICT.

WHEREAS, on February 20, 2002, the City Council adopted Resolution No. 02-17 to establish the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 in accordance Chapter 13.36 of the Municipal Code of the City of San Clemente; and

WHEREAS, in response to a property owner request City and San Diego Gas & Electric (SDG&E) staff determined that the existing Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 could be expanded by several blocks along the El Camino Real alley as depicted in the attached Exhibit A; and

WHEREAS, following notification to all affected property owners as required by law, a public hearing was held by the San Clemente City Council on July 17, 2012 at 6:00 p.m. in the Council Chambers, 100 Avenida Presidio, San Clemente, California, to ascertain whether the public health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated services, within the area shown in the attached Exhibit A; and

WHEREAS, such hearing has been duly and regularly held, and all persons interested have been given an opportunity to be heard; and

WHEREAS, Chapter 13.36 of the Municipal Code of the City of San Clemente provides that the supplying utility shall furnish all facilities and equipment as required by applicable rules, regulations and tariffs on file with the California Public Utilities Commission (CPUC); and

WHEREAS, the approved CPUC Rule 20A tariff for SDG&E allows, upon request by the City of San Clemente, use of the City of San Clemente's Rule 20A allocations for the cost to: a) install no more than 100 feet of each customer's underground electric service lateral occasioned by the undergrounding; and/or b) convert a customer's meter panel to accept underground service occasioned by the undergrounding, excluding permit fees; and

WHEREAS, based on the Rule 20A allocation summary provided by SDG&E there are sufficient uncommitted allocations in the City of San Clemente's Rule 20A balance to provide for the expected cost of the customer service connections and expanded project area for the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01; and



WHEREAS, inclusion of customer service connections in the Rule 20A cost of the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 will ensure timely completion of the project and realization of the intended project benefits.

NOW, THEREFORE, The City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City of San Clemente hereby finds and determines that the public health, safety, and welfare requires the removal of poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services, and that pursuant to Chapter 13.36 of the Code of the City of San Clemente, the area depicted in the attached Exhibit A shall be included into the existing Del Mar/Downtown Phase I Underground Utility District No. 02-01 (the "Underground Utility District").

Section 2. The City Council does hereby order the removal of all poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication, or similar or associated services within the Underground Utility District no later than December 31, 2014.

Section 3. The City Clerk is hereby instructed to notify all affected utilities and all affected property owners within said Underground Utility District of the adoption of this resolution. The City Clerk shall further notify the affected property owners that if they or any person occupying such property desires to continue to receive electric, communication, or other similar or associated service, they or any occupant at the property shall, by the date fixed in this resolution, provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations, and tariffs of the respective utility or utilities on file with the CPUC as of the date of adoption of this resolution. Such notification shall be made by mailing a copy of this resolution, together with a copy of said Chapter 13.36, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

Section 4. The City Council hereby finds that the Underground Utility District herein created is in the general public interest for the following reasons:

1. That undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and
2. That the Underground Utility District is in an area extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.

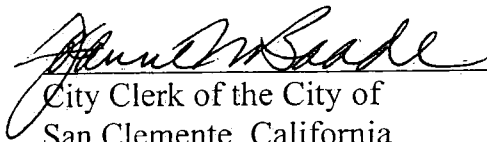
Section 5. The City Council desires and formally directs that the customer service connections and panels, and associated costs related to the Del Mar/Downtown Area Phase I Underground Utility District No. 02-01 be provided by SDG&E using the City of San

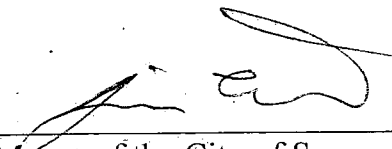
Clemente's available Rule 20A allocations.

Section 6. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this 17th day of July, 2012.

ATTEST:

  
\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

  
\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) §  
CITY OF SAN CLEMENTE )

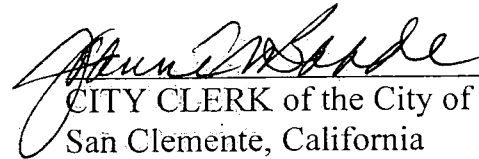
I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 12-49 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 17th day of July, 2012, by the following vote:

AYES: BAKER, BROWN, DAHL, DONCHAK, MAYOR EVERT

NOES: NONE

ABSENT: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 24th day of July, 2012.

  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

/s/ Jeff Oderman  
City Attorney





April 30, 2024

David Rebensdorf  
City of San Clemente | Director of Public Works  
100 Avenida Presidio  
San Clemente, CA 92672

**SUBJECT: California Public Utilities Commission Electric Rule 20A Update and Work Credit Summary**

Dear David,

Thank you for your continued partnership with San Diego Gas & Electric (SDG&E) to underground our overhead electric power lines and meet our commitment to provide clean, safe, and reliable energy to our customers. This letter is intended to provide an explanation concerning the recent California Public Utility Commission (CPUC) Rule 20 Decision (D. 23-06-008) and the consequences to the City of San Clemente's Rule 20A program.

**Rule 20A Background and CPUC D. 23-06-008 Summary:**

Rule 20A is a subprogram of Rule 20 under which the CPUC permits utilities to allocate ratepayer-funded work credits to cities and unincorporated counties for electric facility undergrounding projects that meet eligibility criteria focused on aesthetic purposes. In 2017, the CPUC opened a Rulemaking, R.17-05-010, to review issues related to the undergrounding of electric distribution lines, and specifically to consider the possibility of modifying the undergrounding programs pursuant to the Electric Tariff Rule 20 which is applicable to the investor-owned utilities in California. The rulemaking was separated into two phases. The Phase 1 Decision (D.21-06-013) was released in June 2021 and the Commission issued the Phase 2 Decision (D.23-06-008) approving a revised Electric Rule 20, on June 8, 2023. The second closed Rulemaking 17-05-010.

As directed by D.23-06-008 SDG&E submitted modifications to its Electric Rule 20A Tariff in Advice Letter 4253 and in Advice Letter 4254 (approved on September 13, 2023), which was served on all communities with Rule 20A programs.

The revised Electric Rule 20A Tariff has been updated to the following:

- (a) An Active Rule 20A project shall be defined as a project with a signed resolution that the utility has designated as either “active” or on “hold.” Whereas Resolution E-4971 defines an “inactive” community as a community that has not (i) formally adopted an undergrounding district ordinance which expires at completion of work within the district boundaries, (ii) started or completed construction of an undergrounding conversion project since 2011, or (iii) received Rule 20A allocations from the utility for only 5 years or fewer due to recent incorporation. An “underserved” community is defined as any city, unincorporated county, or tribal jurisdiction that has not completed a Rule 20A project since 2004.
- (b) A Rule 20A project that a utility has designated as on “hold” is a project that was initiated but has stopped for an indeterminate amount of time due to the community possessing insufficient work credits to fund the entire project.
- (c) Any Rule 20A work credit that has not been allocated to a community with an Active Rule 20A project within two years of the effective date of this decision shall be deemed expired.
- (d) Communities shall have the option to contribute financially to any Rule 20A project that has insufficient work credits for completion.
- (e) Any Rule 20A work credit that has not been deducted from a community’s work credit balance by December 31, 2033, shall be deemed expired.

For any questions, please refer to the documents at <https://www.sdge.com/major-projects/Rule20Undergrounding>.

**Work Credit Allocations Balance:**

Work Credit Balance as of January 1, 2023	\$2,750,543
2023 Adjustments to previously reported projects	\$0
2023 Closed Projects	\$0
2024 Allocation	\$0
<b>Work Credit Allocation Balance Total</b>	<b>\$2,750,543</b>

**Underground Utility Districts Status Summary:**

San Clemente City Council has established Utility Underground Districts (UUD) as listed.

- o District 02-01 – Del Mar Phase 1 | including:
  - o Avenida Cabrillo from El Camino Real to the San Clemente Library;
  - o Avenida Del Mar from El Camino Real to the San Clement Library; and
  - o El Camino Real from Avenida Cabrillo to Avenida Mateo

SDG&E completed a preliminary design for District 02-01 to underground electrical facilities along El Camino Real, Avenida Del Mar, and Avenida Cabrillo as outlined above. The current design for Del Mar Phase 1 20A project exceeds the City of San Clemente’s \$2.75M work credit allocation balance. Therefore, the City of San Clemente will need to revise the UUD to reduce the boundary to be within the work credit allocation budget and return it to SDG&E for consideration no later



than December 1, 2024. This is to allow SDG&E time to review and allocate to the Project within two years of the effective date (by June 2025) as per item (c) listed above. Alternatively, the City of San Clemente may choose to proceed with the 2023 design and provide additional funding sources with the execution of a Mixed-Use Agreement as per item (d) listed above.

It is important to note that effective December 22, 2017, any Contributions in Aid of Construction (CIAC) and any contribution by any governmental entity or civic group shall be treated as taxable income to SDG&E, unless a specific exemption under the law applies. Therefore, if a Mixed-Use Agreement alternative is utilized, the CPUC has authorized SDG&E to collect from the participating community a charge to cover SDG&E’s estimated liability for income taxes related CIAC, also known as the Income Tax Component of Contributions and Advances (ITCCA). Currently, ITCCA tax is collected at a rate of 24% of the collectible value of the project. Please refer to the attached appendices if the City elects to request a waiver of ITCCA tax as a cost saving measure.

Please refer to the next several pages for an overview of the City’s current 20A project, including the associated boundary map. Please note, SDG&E is providing the following cost estimates for reference purposes only and makes no representations, warranties, or promises regarding the accuracy, timeliness, quality, or completeness of the estimates. Estimates are based on known, current information and existing circumstances. Actual costs may change as the project or circumstances change. If work is billed, such bills will be based on actual costs, not estimates. SDG&E will not be liable for any damages, causes of action, or losses arising or claimed to arise out of the use of these estimates.

For any outstanding UUD Resolution that is not completed within the Rule 20A work credit allocation budget, SDG&E asks that City staff notify us if said resolution will be cancelled or proceed as a Rule 20B.

Lastly, SDG&E utilizes a vendor to assist with community outreach prior to and during construction. The assigned vendor responsibilities are, but not limited to, prepare a Community Outreach Engagement Plan, prepare fact sheets in English and Spanish, send e-blasts monthly, post on Nextdoor.com at least quarterly, prepare and distribute door hangers, and attend community meetings. If City staff has resources and prefers to manage these items, please notify SDG&E so that our vendor, and the associated costs, will not be assigned to said project.

**Del Mar Phase 1 (Current Design)**

Municipal Civil Contractor (Trench & Conduit)	\$	11,000,000
SDG&E Electrical Contractor (Cable Poles, Cable and Connections, Services, OH Removal) & Community Outreach	\$	8,056,727
<b>TOTAL</b>	<b>\$</b>	<b>19,056,727<sup>1</sup></b>

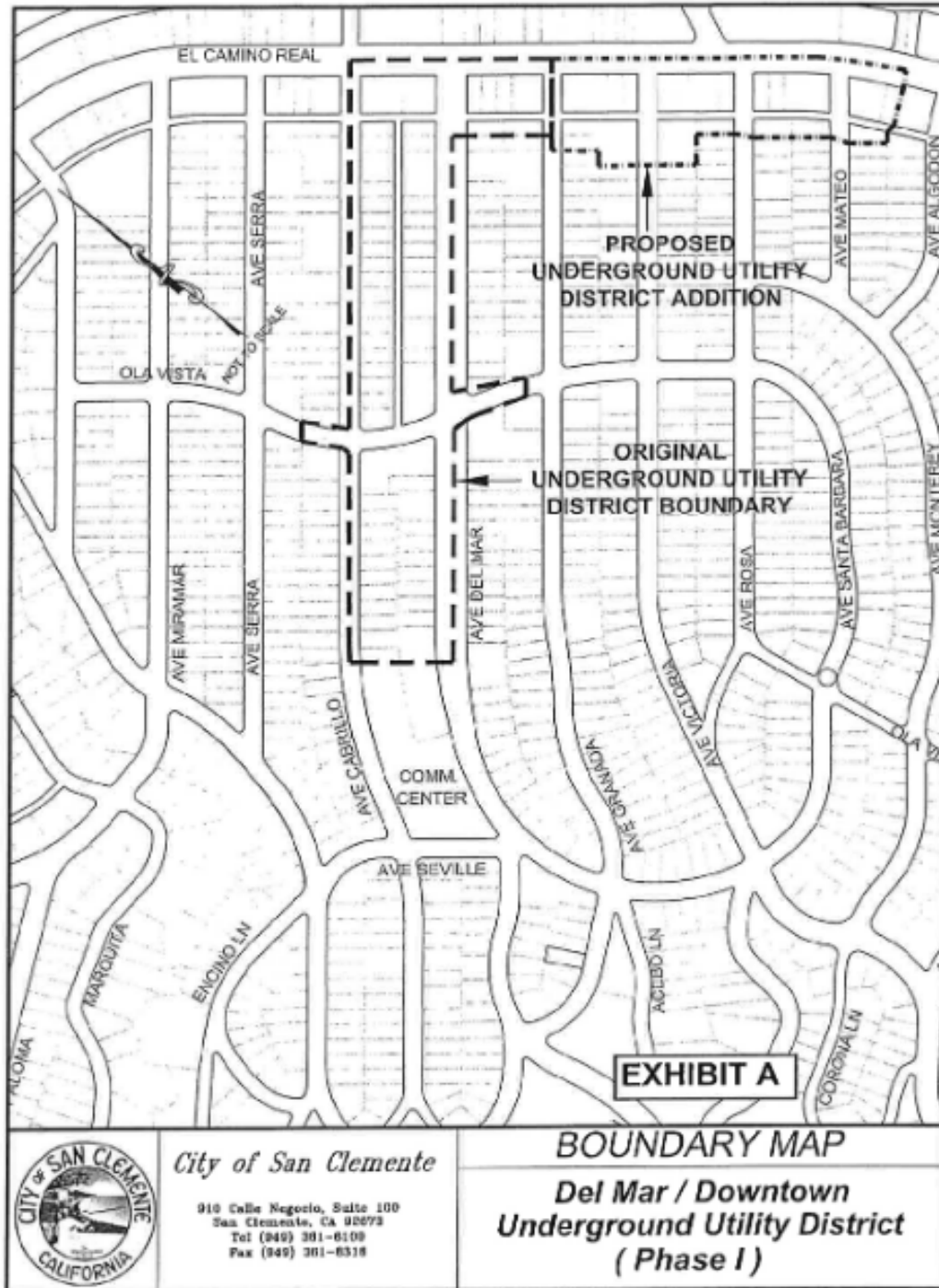
<sup>1</sup>\$19 Million estimate assumes the project will provide additional funds since the available Rule 20A Work Credits are insufficient to offset the entire cost of the project. Therefore, ITCCA tax (24%) was applied to the expected collectible value.

Underground Utility District 02-01: Del Mar Phase 1

Resolution No. 12-49

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Exhibit "A"



**Next Steps:**

The City will need to provide a finalized, detailed boundary map, and updated resolution to ensure the SDG&E conversion design aligns with City expectations.

Other items to note include,

- The City will need to work with the Communication Infrastructure Providers (CIPs) to secure joint trench agreements and provide copies of the CIP's designs for SDG&E reference.
- The City will need to provide its streetlighting design, so SDG&E can confirm proper service to these service points.
- The City will need to confirm the Community Outreach Engagement Plan.
- Please contact me with any questions.

Sincerely,



Kelli Fitzgerald  
Franchise Planning Manager  
[kfitzgerald@sdge.com](mailto:kfitzgerald@sdge.com)



cc:

Michael McEachern – SDG&E | Design & Proj Mgmt | Project Manager II  
Erik Weigand – SDG&E | Regional Public Affairs | Regional Public Affairs Manger  
Engineering Inbox – City of San Clemente

Attachments:

- 2023 Rule 20A Conversion Report - SUMMARY
- ITCCA Letter | Exemption Qualification
- SDG&E ITCCA Exemption Request Form | Master Development Plan
- SDG&E ITCCA Exemption Request Form | Section 1033



## 2023 Rule 20A Conversion Report - SUMMARY

### City of San Clemente

#### Work Credit Allocation Balance

Work Credit Balance as of January 1, 2023	\$2,750,543
2023 Adjustments to previously reported projects	\$0
2023 Closed Projects	\$0
<b>Work Credit Allocation Balance Total</b>	<b>\$2,750,543</b>

#### Estimated Allocation Expenditures\*\*

2023 Projects in Construction	\$0
2023 Closing Projects	\$0
<b>Estimated Allocation Expenditures** Total</b>	<b>\$0</b>

#### Waitlisted Projects (Estimates)

Active Allocated Projects in Design With Resolution	(\$19,056,727)
On Hold Projects With Resolution	\$0
<b>Waitlisted Projects (Estimates) Total</b>	<b>(\$19,056,727)</b>

<b>City of San Clemente Total</b>	<b>(\$16,306,184)</b>
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\*APPROXIMATE AMOUNT - VALUE WILL BE ADJUSTED WITH COMPLETION OF PROJECT AS ACTUAL PROJECT COSTS ARE RECORDED IN PLACE OF ESTIMATED AMOUNTS

\*\*SDG&E IS PROVIDING THESE ESTIMATES FOR REFERENCE PURPOSES ONLY AND MAKES NO REPRESENTATIONS, WARRANTIES OR PROMISES REGARDING THE ACCURACY, TIMELINESS, QUALITY OR COMPLETENESS OF THESE ESTIMATES. ESTIMATES ARE BASED ON KNOWN, CURRENT INFORMATION AND EXISTING CIRCUMSTANCES. ACTUAL COSTS MAY CHANGE AS THE PROJECT OR CIRCUMSTANCES CHANGE. IF WORK IS BILLED, SUCH BILLS WILL BE BASED ON ACTUAL COSTS, NOT ESTIMATES. SAN DIEGO GAS & ELECTRIC COMPANY WILL NOT BE LIABLE FOR ANY DAMAGES, CAUSES OF ACTION OR LOSSES ARISING OR CLAIMED TO ARISE OUT OF THE USE OF THESE ESTIMATES.



## 2023 Rule 20A Conversion Report - DETAIL

### City of San Clemente

<b>Work Credit Expenditures</b>	
<b>2023 Adjustments to previously reported projects</b>	
None	\$0
<b>2023 Closed Projects</b>	
None	\$0
<b>Work Credit Expenditures Total</b>	<b>\$0</b>
<b>Estimated Allocation Expenditures**</b>	
<b>2023 Projects in Construction</b>	
None	\$0
<b>2023 Closing Projects</b>	
None	\$0
<b>Estimated Allocation Expenditures** Total</b>	<b>\$0</b>
<b>Waitlisted Projects (Estimates)</b>	
<b>Active Allocated Projects in Design With Resolution</b>	
SC AV DEL MAR 20A	(\$19,056,727)
<b>On Hold Projects With Resolution</b>	
None	\$0
<b>Waitlisted Projects (Estimates) Total</b>	<b>(\$19,056,727)</b>
<b>City of San Clemente Total</b>	<b>(\$19,056,727)</b>

\*\* Footer referenced on summary page