



Item No. 19 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: ROBERT OVADIA, PUBLIC WORKS DIRECTOR

DATE: SEPTEMBER 18, 2019

**SUBJECT: DISCUSSION OF RULE 20A UTILITY UNDERGROUNDING
WORK CREDITS, INCLUDING THE POTENTIAL SALE OF
ACCUMULATED WORK CREDITS AND PROVIDE STAFF WITH
DIRECTION**

RECOMMENDATION

Discuss options for use of Rule 20A Utility Undergrounding Work Credits; consider the option of selling accumulated Rule 20A work credits; and provide staff with direction.

BACKGROUND

The California Public Utilities Commission (CPUC) and utility companies established a program to underground utilities across the State in 1967, commonly known as Rule 20. Under Rule 20A, investor-owned utilities allocate funds to communities to convert overhead electric facilities to underground facilities. These funds are not provided directly to communities but rather allocated as credits to cover the utility provider's project costs, primarily design and construction, for approved projects. The local jurisdiction is required to fund project costs associated with project support, and more significantly the relocation of other impacted municipally owned utilities and facilities, such as street lights and traffic signals.

The Town receives an allocation of approximately \$25,000 Rule 20A work credits annually and, including the 2019 allocation, has accumulated approximately \$1.4 million in credits to fund PG&E's costs associated with utility undergrounding projects. Jurisdictions may borrow future allocations, up to 5 years in advance, to implement projects. PG&E has indicated that their recent undergrounding projects have varied significantly and have ranged between \$1,000 and \$2,000 per linear foot. The Town would be responsible for certain costs in implementing the district including staff time, project coordination and inspection, and infrastructure associated with street light conversions in the district boundaries. The various communication companies would be responsible for the costs associated with relocating their facilities underground, and affected

private properties would be responsible for converting their properties to accept underground utility service.

To create an underground utility district, the Town Council is required to determine, pursuant to a public hearing, that the undergrounding is in the general public interest for one or more of the following reasons:

- 1) Such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electric facilities;
- 2) The street or road or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;
- 3) The street or road or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public; and
- 4) The street or road or right-of-way is considered an arterial street or major collector as defined in the Governor’s Office of Planning and Research General Plan Guidelines.

As noted in the previous staff reports, Rule 20A funds can be “sold” to interested communities in exchange for General Fund dollars. Prior to PG&E’s declaration of bankruptcy, it was estimated that the Town could expect to receive 40-50% on the dollar for the funds.

Local agencies are permitted to trade or sell unused Rule 20A credits. Several local agencies have done so to raise funds for their projects. Typically, credits are sold or traded at less than their dollar value due to their limited use. Credit market value has varied depending on need, interest, and availability, ranging between 5 to 50 cents on the dollar. Example transactions are noted in the table below.

Seller	Purchaser	Year	Credit Value	Cash Value	Rate
Trinity County	Pinole	2018	\$631,104	\$315,552	\$.50
Butte County	Colusa County	2018	\$2,000,000	\$500,000	\$.25
Rocklin	Tiburon	2018	\$438,080	\$109,520	\$.25
Sonora	Half Moon Bay	2017	\$400,000	\$200,000	\$.50
Rocklin	Live Oak	2017	\$ 2,000,000	\$ 500,000	\$.25
Vallejo	Dublin	2017	\$ 750,000	\$ 300,000	\$.40
Foster City	Half Moon Bay	2017	5 years of credit allocations		\$.47
Foster City	Half Moon Bay	2016	\$ 437,189	\$ 200,000	\$.46
King City	Pismo Beach	2016	\$ 775,000	\$ 300,000	\$.39
County of San Luis Obispo	Arroyo Grande	2013	\$ 3,000,000	\$ 150,000	\$.05

The average value of recent credit transfers has been approximately \$.39 per credit, not including the Arroyo Grande transaction which was unusually low. With PG&E's recent declaration of bankruptcy, the value in the current market is unclear. While the Town may elect to set a "minimum" sale price, the price is largely driven by need and interest. The Town may elect to hold onto its Rule 20A funds; but, given the cost of undergrounding and the amount of funds the Town has available, it is unlikely that a local project will develop.

ANALYSIS

In April 2019, the CPUC held a workshop pursuant to Underground Proceed R.17-05-010 to discuss the background of the Rule 20 tariffs, locations of Rule 20A projects and estimated customer costs of the program, as well as potential near term improvements/modifications including: reporting efficiency, adequacy and transparency, credit and project tracking, credit allocation and reallocation. As the CPUC moves forward in the rulemaking discussions, it is possible that there may be changes in how credits are allocated and potential restrictions on the sale, transfer and borrowing of credits amongst other changes to the program.

On July 31, 2019, the Town received a Rule 20A Work Credit Reallocation Final Notice, pursuant to CPUC Resolution E-4971, which reallocated work credits from inactive communities to the City of Live Oak. In total, \$554,000 of unused work credits were transferred proportionately from jurisdictions that have not actively participated in the Rule 20A program.

The transfer was authorized by the CPUC in lieu of authorizing borrowing of future credit allocations beyond the 5-year limit currently approved in the Rule 20 program. Live Oak was a unique situation where the undergrounding project was a predecessor to a major Caltrans Highway 99 improvement project. PG&E provided an initial estimate of \$4M for the undergrounding in 2017. The City of Live Oak had accumulated approximately \$735,000 in work credits (including their 5-year borrow) and was able augment their credits with a \$1.3M transfer from Sutter County and by purchasing \$2M from the City of Rocklin, for a total in excess of the \$4M estimated by PG&E. In 2018 PG&E determined that the initial estimate of \$4M was too low after comparing the project with another similar project in Colusa. PG&E worked with Live Oak to attempt to reduce the scope, but it was still greater than the \$4M accumulated by Live Oak. In an effort to keep the Highway project on-track, PG&E requested CPUC authorization to allow Live Oak to borrow beyond the 5-year maximum to fund the project. The CPUC acted to reallocate funds from other jurisdictions rather than approve an extended borrow period. Approximately \$6,700 of the Town's accumulated Rule 20A work credits were reallocated by the action.

Staff has reached out to other communities to gauge interest in the potential sale of the Town's accumulated credits. A few jurisdictions have indicated a preliminary interest in purchasing credits depending on the unit costs.

Though the PUC action to reallocate Rule 20A credits to the City of Live Oak is unique, the CPUC is in the process of evaluating the Rule 20A program and may act in the future to change the way credits are allocated and/or the ability to transfer credits in the future.

If the Council supports the sale of the Town's Rule 20A funds, staff recommends that the Council direct staff to seek out and negotiate a sale and keep the Council apprised of the sale price. Staff does not recommend setting a minimum threshold for the sale as pricing fluctuates based on need and interest.

POLICY FOCUS

The Council's policy discussion should focus on the potential sale/transfer of Rule 20A work credits to interested communities in exchange for unrestricted General Funds.

FISCAL IMPACT

The sale of Rule 20A work credits would provide additional one-time revenue into the Town's General Fund that could be used to address other Town priorities.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- ___ Audit/Finance Committee (meets every other month)
- ___ Bicycle/Pedestrian Committee (meets as needed)
- ___ Civic Center Advisory Committee (meets as needed)
- ___ Environmental Programs Committee (meets every other month)
- ___ Park and Recreation Committee (meets each month)
- ___ Planning Commission (meets each month)
- ___ Rail Committee (meets every other month)
- ___ Transportation Committee (meets every other month)
- ___ Tree Committee (meets each month)