

PRELIMINARY EXPENSE AGREEMENT

City of Piedmont Piedmont Hills Underground Assessment District

Recitals

- A. The parties to this Preliminary Expense Agreement ("this Agreement") are the City of Piedmont, a California charter city (the "City"), and the undersigned Proponents of the Piedmont Hills Underground Assessment District ("the Proponents") who are residents of the proposed district, working with other residents of the streets to be undergrounded in connection with the Piedmont Hills Underground Assessment District.
- B. The Piedmont City Council has or is expected to approve a resolution of intent to form the Proposed District.
- C. Certain of the residents of the Proposed District have executed written commitments to deposit funds or have already contributed funds toward the Preliminary Expenses for the Proposed District, which Preliminary Expenses include the preliminary engineering work to be performed by the Engineer of Work, Harris and Associates, in the amount of \$226,165; engineering fees by SBC in the amount of \$16,876; and one-half (1/2) of the estimated \$5,000 cost of an arborist to evaluate potential tree damage caused by trenching work on the Proposed District as required by city code or \$2,500; and a 5% contingency in the amount of \$4,867. It is agreed that the total estimated Preliminary Expenses for the Proposed District will be \$250,408.
- D. Various residents owning parcels within the Proposed District have advanced, or will advance, the total sum of \$250,408, to fund the Preliminary Expenses incurred prior to the issuance of bonds to provide funding for the Proposed District. The total of \$250,408 shall be deposited into a special fund established and maintained by the City known as the Central Piedmont Underground Assessment District Preliminary Expense Fund ("the Preliminary Expense Fund"). If and when the sum of \$250,408 is fully deposited into the Preliminary Expense Fund by the residents, the City shall then commit the amount of \$25,000.00 from its allocated 20A funds to apply to the engineering expenses of Pacific Gas & Electric for the Proposed District. These funds are to be used by the City to pay the duly submitted invoices of the Engineer of Work, Harris and Associates, Inc., and SBC, for engineering work that must be undertaken prior to the formation and funding of the Proposed District, as well as one-half (1/2) of the cost of an arborist.
- E. Harris and Associates has notified the City that its engineering fees that will be invoiced to the City prior to balloting shall not exceed \$123,480 and that total costs prior to the formation and funding of the Proposed District will not exceed the sum of \$102,685.

- F. Pacific Gas & Electric has notified the City that its engineering fees for the Proposed District will be \$25,000.00 and SBC has notified the City that its engineering fees for the Proposed District will be \$16,876.00.
- G. The purpose of this Agreement is to provide for payment of any expenses that are incurred prior to the formation and funding of the Proposed District by creation of the Preliminary Expense Fund.

In consideration of the mutual undertakings stated herein, the parties agree as follows:


Agreement

1. The foregoing recitals are true and correct, and the parties expressly so acknowledge.
2. The Proponents shall deposit into the Preliminary Expense Fund with the City for any expenses that are necessarily incurred and paid by the City prior to the formation and funding of the Proposed District the sum of \$250,408, which is agreed between the Proponents and the City to be an amount reasonably expected to cover the anticipated Preliminary Expenses, except for the engineering fees of Pacific Gas & Electric.
3. At such time as the full amount of \$250,408 has been deposited in the Preliminary Expense Fund by the Proponents, the City shall commit the amount of \$25,000.00 from its allocated 20A funds to apply to the engineering expenses of Pacific Gas & Electric for the Proposed District.
4. City shall be responsible for making payment of the Preliminary Expenses based on reasonably detailed bills submitted to the City out of the Preliminary Expense Fund, provided that such bills shall be approved by the City Clerk, Public Works Director and two or more representatives appointed by the Steering Committee of the district.
5. If for any reason all of the monies in the Preliminary Expense Fund are expended, and there are still additional Preliminary Expenses anticipated ("the Anticipated Overage") that are necessary to proceed further prior to the funding of the Proposed District by a bond issue, the Proponents and the City shall meet, review all of the facts then available, determine exactly how much shall be reasonably required to cover the Anticipated Overage, and Proponents shall be required to raise the additional monies necessary to cover the Anticipated Overage before any further work proceeds or any further monetary obligations are incurred relating to the Proposed District, which additional monies shall be deposited in the Preliminary Expense Fund.
6. If Proponents are unsuccessful in raising sufficient funds to cover the Anticipated Overage, all actions relating to the Proposed District shall cease.

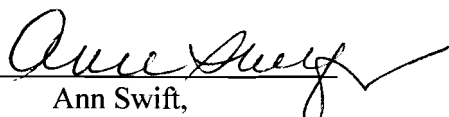
- 7. If the Proposed District fails for any reason to be approved by the Piedmont City Council, any monies remaining in the Preliminary Expense Fund shall first be repaid to the City of Piedmont for preliminary engineering costs by P.G. & E. in the amount of \$25,000, then be refunded by City to the Proponents, and Proponents will reimburse those persons who originally contributed such monies pro rata based on the following: (a) First each person whose contribution exceeded \$2,000 shall be repaid such excess amount; and (b) any remaining reimbursement funds shall be allocated to persons based on the percentage of their contribution to the total amount collected excluding the excess contributions in (a) above.

- 8. If the Proposed District proceeds successfully to the issuance of bonds to finance such Proposed District, the Proponents and residents making contributions shall be reimbursed for their contributions out of the bond proceeds.

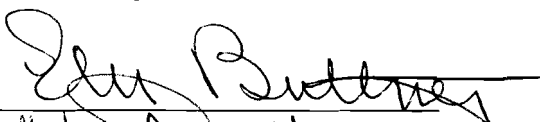


CITY OF PIEDMONT




By 
Michael Bruck
Mayor

Attest:

By 
Ann Swift,
City Clerk

PROPONENTS:

5/2/05