



CITY OF

NEWPORT BEACH

City Council Staff Report

September 25, 2018
Agenda Item No. 6

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: David A. Webb, Public Works Director - 949-644-3311,
dawebb@newportbeachca.gov

PREPARED BY: Michael J. Sinacori, Acting City Engineer
PHONE: 949-644-3342

TITLE: Proposed Assessment District No. 113 – West Balboa Island, North Bayfront, South Bayfront and Agate Avenue

ABSTRACT:

The property owners on West Balboa Island between North Bay Front, South Bay Front and Agate Avenue have submitted a Petition requesting formation of an underground utility assessment district (AD-113). The City Council certified the Petition for AD-113 on February 14, 2017. City Council is asked to declare its intention to levy assessments and issue bonds to finance the undergrounding, approve the Assessment Engineer's Report, and set November 27, 2018, as the time and place of a Public Hearing for AD-113.

RECOMMENDATION:

- a) Staff recommends the City Council acknowledge that on February 14, 2017, the City Council deemed this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302(d) (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).
- b) Adopt Resolution No. 2018-68, *A Resolution of the City Council of the City of Newport Beach, California, Declaring its Intention to take Proceedings Pursuant to the Municipal Improvement Act of 1913 and to Issue Bonds Pursuant to the Improvement Bond Act of 1915, and Make Certain Findings and Determinations in Connection Therewith, all Relating to the Formation of Assessment District No. 113;*
- c) Adopt Resolution No. 2018-69, *A Resolution of the City Council of the City of Newport Beach, California, Preliminarily Approving the Assessment Engineer's Report and Fixing the Time and Place of the Public Hearing for Assessment District No. 113;*
- d) Per City Council Policy L-28 (*Assessment Ballot Guidelines*), determine that the City will not participate in the AD-113 balloting process for the Carol Beek/Balboa Island Park or the public restroom property near the Ferry Crossing by neither voting for nor against the assessment; and

- e) Approve Budget Amendment No.19BA-009 appropriating \$30,000 to Account No. 66302-941006 for Engineering Services to ballot and tabulate voting for AD-113.

FUNDING REQUIREMENTS:

Funds will be provided by property owner contributions and/or bond proceeds if the Assessment District is approved. If AD-113 is formed, the City will be responsible for the estimated assessments for the Carol Beek Center/Balboa Island Park and the Public Restroom property near the ferry (\$153,336).

Based on City Council input, a \$61,620 Professional Services Agreement with Penco Engineering was executed to complete the Engineer's Report for property owners to consider undergrounding for AD-113 formation. Approximately \$50,000 of these funds are expended to date. During preparation of the Engineer's Report, the Assessment Engineer resigned from Penco Engineering and is now with a new firm, NV5. Since the District's Assessment Engineer is now with NV5, staff is working on a Professional Services Agreement with NV5 to complete the assessment engineering effort (mainly for balloting and addressing resident questions). These services cost \$30,000 and require a budget amendment to fund balloting and tabulation services.

If the district is not successfully formed following the vote, the General Funds utilized for the preparation of the Engineer's Report and balloting effort, including legal fees from outside bond counsel, would not be recovered from the proposed district property owners. If the district is successfully formed, then these costs will be covered from the respective property owners within the district.

DISCUSSION:

Owners of properties located in the Proposed Assessment District submitted a Petition to the City requesting the formation of a special assessment district to underground overhead utilities. On January 10, 2017 the assessment engineer certified that owners representing more than 60 percent of the assessable property area within AD-113 had signed the Petition for undergrounding overhead utilities. On February 14, 2017, the City Council approved Resolution No. 2017-11 certifying the Petition for AD-113.

AD-113 Assessment District is being proposed for the conversion of existing overhead utilities to underground locations. The property owners within the boundary of the proposed Assessment District will bear the cost of the improvements and associated proceedings.

As a result of the high construction cost escalations witnessed this past year for AD-111, 116, 116b and 117, staff was unable to bring the Preliminary Engineers Report for AD-113 forward. During the Petition stage of this project the estimated cost per parcel was \$24,700. However based on the AD-117 bids received this year, the cost is now estimated at \$29,070 per parcel, which also assumes the City will be managing the construction instead of SCE. The proponents of this district have been patiently awaiting completion of the Engineer's Report and now have asked Staff to move this project forward to a vote before the end of the year. They also understand the increased cost since the petition approval.

Municipal Improvement Act of 1913 governs the procedures used to create assessment districts. Bonds issued under the Improvement Bond Act of 1915 carry up to a 40-year term and are issued to finance assessments not paid in cash within 30 days after confirmation of the assessment. Staff is recommending a 20-year term for this AD-113.

Federal Income Tax Component of Contribution Tax (ITCC) has been eliminated pursuant to Council direction. The ITCC is a tax assessed whenever private party contributions in aid of construction (CIAC) are made for the benefit of utilities. To date, underground utility districts have not been assessed this tax as underground utility districts are viewed as providing public benefit by increasing community aesthetics and public safety.

If following the public hearing and balloting, AD-113 is formed; an assessment lien would be recorded on the title of properties included in the District. Thereafter, a cash collection period would take place to provide property owners with an opportunity to prepay their assessment and remove the assessment lien. A second cash collection period is also anticipated prior to the bond sale, which is anticipated to occur prior to construction and after design is complete.

The total assessment for Proposed Assessment District No. 113 is estimated as follows:

Proposed Assessment District No. 113

ITEM	COST
Cost of Design and Construction	\$5,109,000.00
Incidental Costs and Expenses	\$712,500.00
Financing (Bond) Costs	\$428,000.00
Estimated Total Cost:	\$6,249,500.00

In addition to the payment of the assessment, each property owner will be responsible for the costs of connecting the main service conduit in the public right-of-way to the property owner's home or business. The cost to the property owner for this conversion varies depending on the condition and location of the current electrical service. Each property owner is encouraged to contact a licensed electrical contractor to assess its particular property needs.

The following is a tentative schedule for proposed Assessment District No. 113:

Resolution of Intention	September 25, 2018
Public Hearing	November 27, 2018
Utility Companies Design Completed	December 2020
Tentative Bond Sale Period	May thru July 2021
City managed utility construction work commences	August 2021
Property owners notified to install service connections	September 2022
Property owners complete conversions	March 2023
Public Utilities begin to remove overhead structures	April 2023
Public utilities finish removing poles and overhead structures	October 2023

The assessment engineer used a lot size methodology to apportion assessments within each district considering that all properties are receiving the same safety, connection and aesthetic benefit. The special benefits from undergrounding the overhead utilities were defined as follows:

- **Improved Aesthetics Benefit.** This benefit relates to the improved aesthetics of the streetscape due to the removal of overhead wires and utility poles. For the purposes of this report, a street is defined as either a street or alley. The removal of guy wires and other support structures related to the overhead facilities are included in the definition of improved aesthetics. Properties that are directly adjacent to overhead facilities receive an aesthetic benefit.

- **Additional Safety Benefit.** This benefit relates to the additional safety of having the overhead distribution wires placed underground and having the power poles removed, which eliminates the threat of downed utility lines and poles due to wind, rain and other unforeseeable events. Falling facilities can lead to personal injuries and damage to structures, including fire. Properties immediately adjacent to the facilities usually have a greater risk. Furthermore, in compact communities like Balboa Island, the negative effects of falling lines and poles are more widespread including blocked driveways and alleys, and property damage due to impact. Properties that are adjacent to, or in proximity of, overhead facilities receive a safety benefit.

- **Connection Benefit.** This benefit relates to the enhanced reliability of service from the utilities being underground, due to having all new wires and equipment and having that equipment underground, which reduces the threat of service interruption from downed lines. When compared to overhead systems, fewer outages occur due to various acts of nature, traffic collisions and obstructions (such as trees). Properties that are connected to, or have the ability to connect to, the facilities proposed to be undergrounded receive a connection benefit.

The following is a summary of properties with unique considerations:

Assessment Nos. 1, 2, 3 and 60. Pole and guy wires will remain adjacent to these properties, but the properties will be connected to new undergrounded system and power and cable lines will go underground adjacent to their properties. Therefore, these properties will be assigned zero (0) aesthetic benefits; all other benefits will be assigned.

Assessment No.57. The poles, wires and guy wires to be undergrounded are not in close proximity to the access point for this property and do not provide significant aesthetic benefit to this property. This property is directly oriented to the bay and receives no aesthetic benefit derived from undergrounding in the alleys. The poles, wires and guy wires to be underground are not in close proximity to this property and would not encroach on this property should they fall. Therefore, this property is assigned zero (0) aesthetic benefit and zero (0) safety benefit. It does connect to the new system and will be assigned a connection benefit.

Assessment No. 61. Pole and guy wires will remain adjacent to this property; power and cable lines will go underground adjacent to the property. The property will not connect to the new underground system. Therefore, this property will not receive a connection benefit but aesthetic benefit is improved but not completely, so it is assigned a ½ aesthetic benefit. It does receive the safety benefit as adjacent power and cable wires are being undergrounded.

Ballot Tabulation Procedures:

All assessment ballots submitted to the City Clerk prior to the close of the public hearing recommended to be set for November 27, 2018, will be tabulated per the ballot tabulation procedures directed by City Council Policy L-28.

ENVIRONMENTAL REVIEW:

On February 14, 2017 the City Council deemed this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302(d) (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).

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). In addition, the property owners of the proposed assessment district will receive notice of the Public Hearing a minimum of 45 days before the scheduled date along with their balloting information package.

ATTACHMENTS:

Attachment A – Resolution of Intention No. 2018-68
Attachment B – Resolution No. 2018-69
Attachment C – Preliminary Engineer's Report for AD 113
Attachment D – Budget Amendment

RESOLUTION NO. 2018- 68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DECLARING ITS INTENTION TO TAKE PROCEEDINGS PURSUANT TO THE MUNICIPAL IMPROVEMENT ACT OF 1913 AND TO ISSUE BONDS PURSUANT TO THE IMPROVEMENT BOND ACT OF 1915, AND MAKE CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH, ALL RELATING TO THE FORMATION OF ASSESSMENT DISTRICT NO. 113

WHEREAS, the City Council of the City of Newport Beach ("City") desires to provide certain property located in the City with the undergrounding of electric, telephone and cable facilities, and the removal of poles, overhead wires, guys, anchors and appurtenant work therewith as further described in Section 3 hereof ("Improvements") and to order the formation of an Assessment District to pay the costs thereof under and pursuant to the provisions of the Municipal Improvement Act of 1913 (the "1913 Act");

WHEREAS, the proposed assessment district, if it is formed, is to be known and designated as Assessment District No. 113 ("Assessment District");

WHEREAS, the proposed boundaries of the Assessment District are shown on a map which indicates by a boundary line the extent of the territory proposed to be included in the Assessment District, which map is designated "Boundary of Proposed Assessment District No. 113" ("Map"), which Map is on file in the office of the City Clerk;

WHEREAS, the City Council has been presented with petitions signed by at least fifty percent (50%) of the property owners located within the boundaries of the proposed Assessment District requesting the formation of the Assessment District to finance the Improvements;

WHEREAS, pursuant to California Streets and Highways Code Section 5896.8, there is on file with the City Clerk a certificate of Penco Engineering/NV5 certifying the sufficiency of such petitions;

WHEREAS, it appears to the City Council that the Assessment District should be formed to finance the installation of said Improvements under the provisions of the 1913 Act;

WHEREAS, the City Engineer, with the assistance of Penco Engineering/NV5, is competent to make and file with the City Clerk the report with regard to the Improvements, which report is required by the 1913 Act to be made and filed;

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

WHEREAS, before ordering the Improvements, the City Council is required, under the 1913 Act, to adopt a resolution declaring its intention to do so;

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

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

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The above recitals, and each of them, are true and correct and are incorporated into the substantive portion of this resolution.

Section 2: The Map is hereby approved, adopted and declared to describe the proposed boundaries of the Assessment District; and it shall govern for all details as to the extent of the Assessment District. The City Clerk is hereby directed to endorse her certificate on the original of the Map evidencing the date and adoption of this resolution and to file said Map in her office, and to file a copy of said Map so endorsed with the County Recorder of Orange, California within fifteen (15) days after the adoption of the resolution fixing the time and place of hearing on the formation and extent of the Assessment District.

Section 3: The Improvements generally include the undergrounding of existing electric, telephone and cable facilities, including the removal of poles, overhead wires, guys and anchors and the installation of new underground service connections and new

streetlights and appurtenant work therewith as shown on the Map. The improvements will be designed by the Southern California Edison Company ("Edison") and other utility providers. Either Edison, the City, or the City's contractors will construct the Improvements, and the City will inspect the work to ensure conformance to City standards and specifications where applicable. Once completed, the underground facilities will become the property and responsibility of Edison and such other utility providers. Each owner of property located within the Assessment District will be responsible for arranging and paying for work on his or her property necessary to connect facilities constructed by the public utilities in the public streets to the points of connection on the private property owned by the property owner. Conversion of individual service connections on private property is not included in the work done by the Assessment District. Failure to convert individual service connections on private property may result in a recommendation to the City Council that the public utilities be directed to discontinue service to that property. Overhead facilities cannot be removed until all overhead service has been discontinued.

Section 4: The City Council hereby finds and declares that the public interest and necessity require the Improvements, and the Improvements will be of direct and special benefit to the properties and land within the Assessment District. The City Council hereby declares its intention to order the conversion of the existing overhead electric and communication facilities to underground locations, and the acquisition of the Improvements, to make the expenses thereof chargeable upon the area included within the Assessment District, and to form the Assessment District.

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

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

Section 7: Penco Engineering/NV5 is appointed the Assessment Engineer. The Assessment Engineer is hereby authorized and directed to make and file with the City Clerk a written report with regard to the 1913 Act ("Report"), which Report shall comply with the requirements of Section 10204 and Section 2961 of the Streets and Highways Code and Article XIID of the California Constitution and shall contain the following:

- (a) Plans and specifications for the Improvements;

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the Improvements, if the works, appliances or property are to be acquired as part of the Improvements;

(c) An estimate of the cost of the Improvements, and the cost of land, rights of ways, easements, and incidental expenses in connection with the Improvements, including the cost of registering bonds;

(d) A diagram showing the exterior boundaries of the Assessment District, the boundaries of any zones within the Assessment District and the lines and dimensions of each parcel of land within the Assessment District as they existed at the time of passage of this resolution (each subdivision to be given a separate number on the diagram);

(e) A proposed assessment of the total amount of the cost and expenses of the proposed Improvements upon the several subdivisions of land in the Assessment District in proportion to the estimated benefits to be received by such subdivision, respectively, from the Improvements (the assessment shall refer to the subdivisions by their respective numbers assigned as provided in (d) above); and

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

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

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

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

Section 8: Following the acquisition of the Improvements and the payment of all incidental expenses in connection with the formation of the Assessment District and the issuance of bonds pursuant to the 1915 Act, any surplus remaining in the improvement

fund established for the Assessment District shall be used as determined by the City Council as provided in Section 10427 of the Streets and Highways Code.

Section 9: Notice is hereby given that serial or term bonds to represent unpaid assessments and to bear interest at a rate not to exceed twelve percent (12%) per annum will be issued in the manner provided in the Improvement Bond Act of 1915 to represent the unpaid assessments and the last installment of such bonds shall mature a maximum of twenty (20) years from the second day of September next succeeding twelve (12) months from their date. The principal amount of such bonds maturing or becoming subject to mandatory prior redemption each year shall not be an amount equal to an even annual proportion of the aggregate principal amount of the bonds, but rather (except as specifically otherwise provided by the City Council in connection with the sale of such bonds), shall be an amount which, when added to the amount of interest payable in each year, will be a sum which is substantially equal in each year, except for the moneys falling due on the first maturity or mandatory prior redemption date of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds. Such bonds shall be serviced and collected by the City Treasurer or by such registrar and/or paying agent(s) as this City Council may from time to time designate.

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

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

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

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

Section 14: It is hereby determined that the bonds proposed to be issued in these proceedings may be refunded. Any adjustment to assessments resulting from such refunding shall be done on a pro rata basis as required pursuant to Section 8571.5 of the Streets and Highways Code. Any such refunding shall be pursuant to the provisions of Division 11.5 (commencing with Section 9500) of the Streets and

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

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

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

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

Section 18: All inquiries for any and all information relating to these proceedings, including information relating to protest procedures, should be directed to:

CITY OF NEWPORT BEACH
Attention: Michael Sinacori
100 Civic Center Drive
Newport Beach, California 92660
(949) 644-3342

Section 19: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 20: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 21: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.


ADOPTED this ____ day of _____, 2018.

Marshall "Duffy" Duffield
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

(for)

RESOLUTION NO. 2018- 69**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, PRELIMINARILY APPROVING THE ASSESSMENT ENGINEER'S REPORT AND FIXING THE TIME AND PLACE OF THE PUBLIC HEARING FOR ASSESSMENT DISTRICT NO. 113**

WHEREAS, by Resolution No. 2018-68 ("Resolution of Intention") in the proceedings for the formation of Assessment District No. 113 ("Assessment District") this City Council ordered a report ("Report") prepared by Penco Engineering/NV5 ("Assessment Engineer") under and pursuant to the provisions of Article XIID of the California Constitution ("Article XIID") and the Municipal Improvement Act of 1913 ("1913 Act"), and, in particular, Section 10204 of the California Streets and Highways Code; and

WHEREAS, the Assessment Engineer has prepared the Report and filed the same with the City Clerk, and the City Clerk has presented the Report to this City Council for consideration.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The Report is preliminarily approved, and the City Clerk is directed to endorse the fact and date of such approval on the Report and to file the Report in her office. The Report shall stand as the report for the purpose of all subsequent proceedings under the 1913 Act and Article XIID except that it may be conformed, modified, or corrected as provided in the 1913 Act and Article XIID.

Section 2: Pursuant to Section 2961 of the Streets and Highways Code and based on the information set forth in the Report, this City Council finds that the total amount of the principal sum of all unpaid special assessments levied against the parcels proposed to be assessed, other than contemplated by the present proceedings, plus the principal amount of the special assessment proposed to be levied in the instant proceedings, do not exceed one-half of the total value of the parcels proposed to be assessed, as computed pursuant to paragraph (2) of subdivision (b) of Section 2961.

Section 3: A public hearing shall be held on November 27, 2018, at 7:00 p.m. at the regular meeting place of the City Council at City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California 92660, to hear and consider protests and

objections to the proposed Assessment District and the Report and to receive and count the ballots for and against the proposed Assessment District.

Section 4: At least forty-five (45) days prior to the public hearing referred to in Section 3 hereof, the City Clerk shall cause a notice of the adoption of the Resolution of Intention, the filing of the Report and the setting of time and place for said public meeting and the public hearing referred to in Section 2 hereof to be mailed, postage prepaid, to all persons owning real property proposed to be assessed in the Assessment District and whose names and addresses appear on the last equalized County of Orange assessment roll or the State Board of Equalization assessment roll, as the case may be, or who are known to the City Clerk. Such notice shall conform in all respects to the provisions of Section 53753 of the California Government Code and Article XIID, Section 4 of the California Constitution.

Section 5: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 6: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly, and 15302(d) there is a Categorical Exclusion for the conversion of overhead electrical utility distribution system facilities to underground.

Section 8: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.


ADOPTED this _____ day of _____, 2018.

Marshall "Duffy" Duffield
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

(for)