



CITY OF

NEWPORT BEACH

City Council Staff Report

February 14, 2017
Agenda Item No. 5

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, Assistant City Engineer,
msinacori@newportbeachca.gov

PHONE: 949-644-3342

TITLE: Petition Certification and Request for Funding for Proposed
Assessment District No. 113 to Underground Overhead Utilities for
West Balboa Island

ABSTRACT:

Residents within an 18-block area of West Balboa Island have now submitted a Petition to the City of Newport Beach signed by at least 60 percent of the affected property owners requesting formation of Underground Utility Assessment District Number 113. The next step in the assessment district process would be for the City to advance funds to retain an assessment engineer to prepare an Engineer's Report and to circulate ballots for a property owner vote on the assessment. Staff will assist the process by developing and soliciting a property owner vote in the coming months to be based on a conservative cost estimate developed at the completion of the schematic level design.

RECOMMENDATION:

- a) Find 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. 2017-5, *A Resolution of the City Council of the City of Newport Beach, California, Accepting Petition of Assessment District No. 113*; and
- c) Approve Budget Amendment No. 17BA-022 appropriating \$125,000.00 from the Assessment District No. 113 unappropriated Fund Balance to Account No. 66302-941006 (Assessment District 113 Engineering Services).

FUNDING REQUIREMENTS:

Upon approval of the Budget Amendment, sufficient funding is available to complete this task. The following fund will be expensed:

Account Description	Account No.	Expensed to Date	Estimated Total Cost
AD 113 Assessment Engineering	66302-941006	\$30,800	\$125,000

Staff estimates preliminary design engineering costs to total \$125,000.00 for this Assessment District. Costs incurred to date amount to \$30,800.00.

In the event that formation of the District is successful, these costs will be reimbursed by cash contributions and bond proceeds from property owners within the District. If the District fails to be formed, funds advanced for preliminary work cannot be recovered from the proposed district property owners. In such case, the General Fund will cover the advance used for preliminary formation costs.

DISCUSSION:

The property owners of Proposed Underground Assessment District No. 113 ("AD 113") have submitted a Petition to the City requesting a Special Assessment District be formed, pending approval of a district wide vote, to finance the undergrounding of overhead utilities within the proposed district. The boundaries of the proposed AD 113 are shown on Attachment A.

One of the initial steps in the District formation process is the circulation of the Petition for Special Assessment Proceedings. Proponents of AD 113 circulated the Petition to property owners within the proposed district and have now submitted the petition signatures to the City. The submitted signatures represent just over 60 percent of the assessable land within the proposed District. The City's guidelines require a minimum of 60 percent in favor of the District in order to proceed with the formation of a District. PENCO Engineering, Inc. has now reviewed and certified that owners representing over 60 percent of the assessable property within proposed AD 113 had signed the Petition in support of undergrounding overhead utilities.

Staff is proposing that the expedited formation process be utilized for this District that has been done for the four recently approved districts (AD-111, 116, 116b and 117). This process reduces the financial risk to the City and builds on the momentum that has occurred during the signature gathering time for the Petition. The process proposed will be as follows: City staff retains an Assessment Engineer to prepare the Engineer's Report and prepare ballots for the property owners to vote on the undergrounding proposal based on a conservative cost estimate developed at the completion of the schematic level design rather than waiting for the completion of all the necessary utility company design work (which has been ranging around 18-24 months).

If the vote for AD 113 is successful, with formation completed, the City will then direct final utility design. It is estimated to take approximately two years after a successful early vote to complete the design and to bid the work. If the vote for AD 113 is unsuccessful, the City will stop all further work and not incur additional design costs.

As shown on the District 113 boundary map, the Carol Beek Community Center/Balboa Island Park is within the District 113 boundary. For the purposes of the Petition certification, the area of the park is a part of the 60 percent petition calculation. City Council Policy L-28 discusses the assessment and voting process for City owned land such as Parks. Per the policy, City Council will have the discretion on a case-by-case basis to either vote for an assessment, against an assessment or not to vote. In the future, when staff brings forward the assessment district proceedings, which includes the approval of the assessment engineer's report and setting of the protest hearing, City Council will determine how to vote for its City-owned land. At that time, costs to underground the Park will be presented for consideration. Regardless of a City vote, if the Assessment District is approved through a majority vote, the City would be required to financially participate for its share of the undergrounding associated with the Park.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find 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:

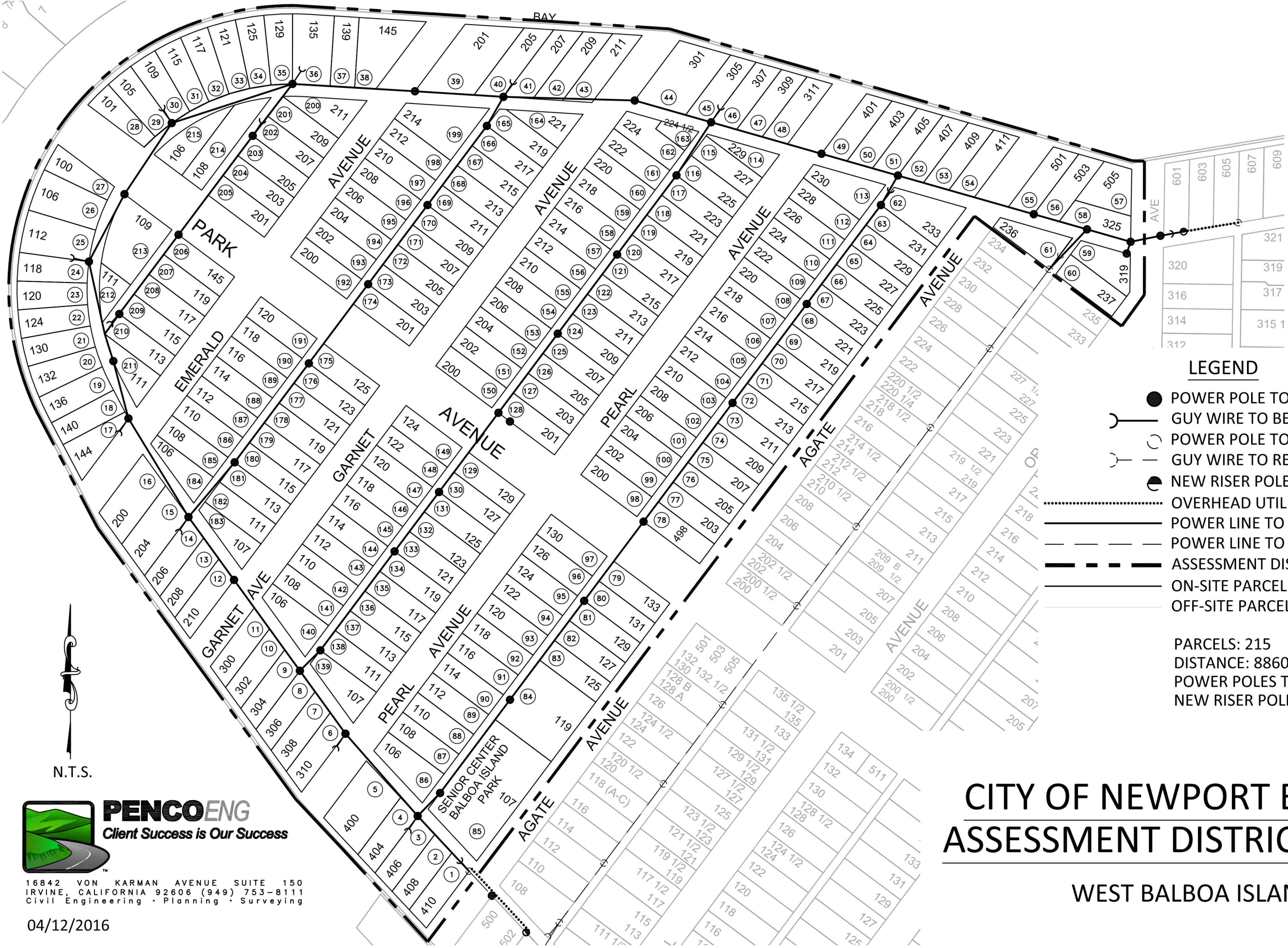
The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Proposed Assessment District Boundary Map

Attachment B – Resolution No. 2017-11 - Accepting Petition and Determining Sufficiency thereof for Proposed Assessment District No. 113

Attachment C – Budget Amendment



LEGEND

- POWER POLE TO BE REMOVED
- GUY WIRE TO BE REMOVED
- POWER POLE TO REMAIN IN PLACE
- GUY WIRE TO REMAIN IN PLACE
- NEW RISER POLE
- OVERHEAD UTILITY GUY WIRE TO REMAIN
- POWER LINE TO BE REMOVED
- POWER LINE TO REMAIN
- - - - ASSESSMENT DISTRICT AREA BOUNDARY
- ON-SITE PARCEL
- OFF-SITE PARCELS

PARCELS: 215
 DISTANCE: 8860 LF
 POWER POLES TO BE REMOVED: 46
 NEW RISER POLES: 2

CITY OF NEWPORT BEACH ASSESSMENT DISTRICT - 113

WEST BALBOA ISLAND



PENCOENG
Client Success is Our Success

16842 VON KARMAN AVENUE SUITE 150
IRVINE, CALIFORNIA 92606 (949) 753-8111
Civil Engineering • Planning • Surveying

04/12/2016

RESOLUTION NO. 2017- __**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF NEWPORT BEACH ACCEPTING PETITION OF
ASSESSMENT DISTRICT NO. 113**

WHEREAS, the owners of certain real property situated in the City of Newport Beach (the "City") have filed with the City Clerk several signed counterparts of a petition, requesting the implementation of a project for the undergrounding of certain existing, overhead utility facilities, together with appurtenant work and improvements, as described therein, the cost of which is to be specifically assessed against each parcel of land benefiting from such improvements as shown on an exhibit map attached to the petition; and

WHEREAS, the petition contains an express waiver of statutory proceedings under the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, as provided in Section 2804 of the Streets and Highways Code of the State of California and satisfies the requirements for instituting proceedings for the conversion of existing overhead electric and communication facilities to underground locations in accordance with Section 5896.5 of the Streets and Highways Code of the State of California; and

WHEREAS, the City Clerk has also received a certificate to the effect that the petition has been signed by persons owning lands constituting more than sixty percent (60%) in area of the land subject to assessment within the proposed assessment district; and

WHEREAS, this City Council finds that the owners of more than sixty percent (60%) in area of the land proposed to be assessed for the proposed improvements, including the owners of more than five of the subject parcels, have signed such petition and that the petition contains the matters required by Sections 2804 and 2804.5 of the Streets and Highways Code.

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

Section 1: The petition, as filed with the City Clerk, is hereby found to be legally sufficient and is accepted.

Section 2: The special assessment proceedings shall be undertaken by the terms of the petition, pursuant to the Municipal Improvement Act of 1913 and without further compliance with the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (commencing with Section 2800 of the Streets and Highways Code).

Section 3: This City Council hereby finds and determines that the public interest and convenience will be served by the taking of such proceedings.

Section 4: 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 5: The City Council finds the adoption of this resolution 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) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

Section 6: This action is "final" within the meaning of Streets and Highways Code Section 3012.

Section 7: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

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.

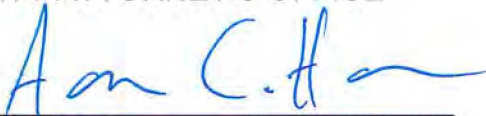
ADOPTED this ____ day of _____, 20__.

Kevin Muldoon, Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment: Certificate of Sufficiency of Petition

CERTIFICATE OF SUFFICIENCY OF PETITION

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

The undersigned hereby CERTIFIES as follows:


That I am the duly appointed ASSESSMENT ENGINEER of the CITY OF NEWPORT BEACH, CALIFORNIA.

That on the 10th day of January, 2017, I reviewed a Petition for the formation of an Assessment District for certain public works of improvement, together with appurtenances, appurtenant work and acquisition, where necessary, in a special assessment district known and designated as ASSESSMENT DISTRICT NO. 113 (hereinafter referred to as the "Assessment District"), a copy of which is on file in the Office of the City Clerk.

The undersigned hereby further specifically certifies as follows:

1. That I caused said Petition to be examined and my examination revealed that said Petition was signed by not less than five (5) owners of assessable land in the proposed Assessment District as shown by the last equalized assessment roll used by the City, owning lands constituting more than fifty percent (50%) of the area of all assessable lands within the proposed Assessment District, all as prescribed by Section 5896.6 of the Streets and Highways Code of the State of California.
2. Said Petition did represent sixty-two and sixty-nine hundredths of a percent (62.69%) of the assessable area of property within the proposed boundaries of the Assessment District.

Executed this 10th day of January, 2017 at Irvine, California.



JEFFREY M. COOPER, P.E.
PENCO ENGINEERING, INC
ASSESSMENT ENGINEER
CITY OF NEWPORT BEACH
STATE OF CALIFORNIA