



## Legislation Text

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**File #:** 17-0409, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Mark Danaj, City Manager

**FROM:**

Stephanie Katsouleas, Public Works Director

**SUBJECT:**

Consideration of Policy and Next Steps for Utility Underground Assessment Districts 15 and 4 (Public Works Director Katsouleas).

**DISCUSS AND PROVIDE DIRECTION**

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**RECOMMENDATION:**

Staff recommends that City Council approve the proposed policy direction for Utility Underground Assessment District (UUAD) 15 and former UUAD 4 that would allow District 15 to explore reformation of District 4 without compromising its status as District 15 in the event that District 4 fails the survey validation or the Proposition 218 process.

**FISCAL IMPLICATIONS:**

The fiscal implications for advancing District 4 will include the following:

- Costs to review and finalize the formerly developed SCE, Frontier and Spectrum utility plans (quotes not yet received). However, District 4 residents have proposed to pay for these plans to accelerate the UUAD formation process, with the understanding that if the District passes the Proposition 218 process, they will be reimbursed with the proceeds from assessments and/or bond proceeds.
- Assessment Engineering Costs. Quotes have not yet been obtained because the work is dependent on the outcome of the Survey Validation Process. District 4 residents have offered to post a bond for this work as a security measure to ensure that District 15 is not adversely affected by advancing District 4 first (further described below).

The financial implications for District 15 are unknown, and will depend on the success of District 4 as described below. Utility designs for SCE are complete, but still needed for Frontier and Spectrum. It is also likely that SCE will require a pre-construction review given the age of those plans.

**BACKGROUND:**

On November 21, 2005, a public hearing was held to conduct the Proposition 218 process for potential formation of Districts 2, 4 and 6. At that meeting, the weighted returns for 168 parcels in District 4 showed that 50.1% of the district was in favor of undergrounding, while 49.9% were opposed. Because the actual number of property owners voting in favor of district formation

represented less than 50% of the district, City Council declined to approve its formation and the district was dissolved. Shortly thereafter, in 2006, 74 property owners located completely within District 4 decided to reform as a new, smaller district where there was a clear majority of support for undergrounding. They then met the city-established thresholds for UUAD formation and were subsequently assigned district no. 15 in January 2007. District 15 was the last district formed before the city-initiated utility undergrounding moratorium took effect in 2009/10. Although plans were completed by SCE for District 15, no plans were ever completed by Frontier and Spectrum. (See Attachment 1 for District 4 and 15 boundaries.)

On June 6, 2017, staff sought and City Council provided direction on whether to reinstitute the UUAD formation process for Districts 12 and 14. At that time, staff also asked City Council to delay proceeding with District 15 until residents in that district could survey former District 4 on their overall support for utility undergrounding. Over the summer, District 4/15 residents reached out to property owners located within District 4 but outside the boundaries of District 15 to gauge whether there was renewed support for undergrounding. Those results show that there has been a significant shift in favor of and support for moving forward with UUAD formation for the larger District 4.

Based on that outcome, District 15 representatives met with City staff in early September to discuss how best to proceed given both the presumed support for and concerns about advancing District 4 in lieu of District 15. Based on that meeting, District 15 residents proposed a strategy that would ensure that the City did not lose any money in advancing District 4 while retaining potential rights to District 15 should District 4 fail the Proposition 218 process.

## **DISCUSSION:**

The relationship between District 4 and 15 is unique and does not exist with any other districts in the City. Therefore, staff felt it was desirable to consider it independently of any other district formation guidelines such that the City's risk is minimized while its opportunity for reimbursement is maximized. Therefore, staff recommends that City Council consider and approve a series of actions that would facilitate these undergrounding districts, which include:

- 1. Approve a Survey Validation Threshold of 60% RETURNED surveys to qualify for advancing District 4 to a Proposition 218 vote.** This threshold is consistent with both the original policy approved in 2006 when District 15 was formed and with Council's September 5, 2017 directive for previously failed Districts 8 and 13. There was no Survey Validation process in use when District 4 was formed. Please note that the City will conduct the Survey Validation process following the receipt of bids for District 12, expected within the next six months. This will ensure that the most up-to-date information is used in estimating the current cost of undergrounding.
- 2. Allow District 4 property owners to provide the funding necessary for reviewing and updating the previous utility design plans for SCE, Frontier and Spectrum so that that work can begin prior to conducting the Survey Validation process.** District 4 property owners have offered to "pay for the plans" so that no time is wasted while the City waits for District 12's bid to come in. Should District 4 eventually pass both the Survey Validation and Proposition 218 process, then the City would reimburse those property owners the design fees paid with funds collected from the assessments. Effectively the City becomes a pass-through.
- 3. Accept a bond or some other form of guaranteed payment for the amount the City will spend on Assessment Engineering Services for District 4.** District 15 residents desire to "preserve their position in line" should District 4 fail the Proposition 218 process. To ensure

that there is no risk to the City in proceeding with District 4 first, they have offered to guarantee that the City will not lose any funds in advancing District 4 to a vote. If District passes the Proposition 218 process, those funds would also be refunded or released to the original payers. If District 4 fails, funds would not be returned and the City would proceed with completing design plans for District 15 and bring it to a Proposition 218 vote, similar to what is now occurring for Districts 12 and 14.

4. If City Council does not concur with items 1-3 above, then District 15 proponents wish to proceed with formation of District 15 only.

The property owners in District 4 have a high degree of confidence that their district will pass the Proposition 218 process. Logistically, it is administratively easier, potentially cheaper for property owners and likely quicker to advance District 4 for consideration. And the actions listed above ensure that there is no financial risk to the City in taking this approach. If the District passes, the potential funds recovered total approximately \$68,115. Alternatively, the City will need to allocate additional funds to finalize plans for Frontier and Spectrum. Although staff does not yet have a quote for that work, the previous estimates were \$51,349 and \$26,825, respectively. The City has already spent \$15,000 for SCE's District 15 design plans, however those funds would not be recovered if District 4 is ultimately formed.

#### **CONCLUSION:**

Staff does not see any downside for the City to approve items 1-3 above because there is no financial risk in allowing District 4's formation to proceed, and there are potentially significant potential property owner benefits in pursuing District 4 prior to considering District 15. Additionally, this approach is consistent with the City's overarching goal to help facilitate a resident-driven process while taking no formal position on the benefits or drawbacks of utility undergrounding.

#### **POLICY ALTERNATIVES:**

**ALTERNATIVE 1:** Do not allow District 15 to expand to encompass former District 4 parcels, and instead proceed with only with District 15 formation under the same guidelines as those set for Districts 8 and 13.

**PROS:** There is no clear advantage in considering this alternative.

**CONS:** The City will miss out on the opportunity to reduce its own cost while allowing Underground Utility Assessment Districts to form based on the resident driven process. Additionally, it will be in conflict with the majority desire of district residents.

**PUBLIC OUTREACH/INTEREST:** District proponents have done a significant amount of outreach to District 4 residents in determining the level of support for utility undergrounding.

#### **ENVIRONMENTAL REVIEW**

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

#### **LEGAL REVIEW**

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

**Attachment:**

1. District 4 and 15 Boundaries