



## Legislation Text

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**File #:** 19-0248, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Stephanie Katsouleas, Public Works Director

Prem Kumar, City Engineer

Anastasia Seims, Senior Civil Engineer

**SUBJECT:**

Presentation of the Underground Utility Assessment Districts 19-12 and 19-14 and Consideration of Resolutions to Initiate District Formation Proceedings, Approve the Preliminary Engineer's Reports, and Set a Date and Time for a Public Hearing (Public Works Director Katsouleas).

a) **ADOPT RESOLUTIONS NOS. 19-0072 AND 19-0073 for DISTRICT 19-12**

b) **ADOPT RESOLUTIONS NOS. 19-0074 AND 19-0075 for DISTRICT 19-14**

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**RECOMMENDATION:**

Staff recommends that the City Council adopt the following resolutions to initiate Underground Utility Assessment District (UUAD) Formation proceedings:

**For District 19-12 (District 12):**

1. Resolution No. 19-0072 approving the Resolution of Intention (Attachment)
2. Resolution No. 19-0073 approving the Preliminary Engineer's Report and setting a Public Hearing for the City Council Meeting of October 1, 2019 (Attachment)

**For District 19-14 (District 14)**

3. Resolution No. 19-0074 approving the Resolution of Intention (Attachment)
4. Resolution No. 19-0075 approving the Preliminary Engineer's Reports and setting a Public Hearing for the City Council Meeting of October 1, 2019 (Attachment)

**FISCAL IMPLICATIONS:**

There are no fiscal implications in adopting the attached resolutions to initiate district formation proceedings.

To date, the City has expended \$238,193 and \$268,028 for utility design plans and Assessment Engineering services for District 12 and District 14, respectively, which are fully reimbursed to the City if the Districts are approved.

Additionally, bids provided by the utility companies for construction and cabling, along with other

incidental and financing costs to convert from overhead to underground facilities is \$6,496,807 for District 12, and \$6,541,972 for District 14.

The following total costs would be carried by Districts 12 and 14 if they are approved by property owners and City Council in each District following implementation of the Proposition 218 ballot protest vote procedures:

<b>Category</b>	<b>District 12</b>	<b>District 14</b>
Number of Assessable Parcels	228	244
Design Costs	\$ 197,308.45	\$ 225,178.45
Construction Costs	\$5,309,833.06	\$5,345,831.47
Project Contingency Costs	\$ 265,491.65	\$ 267,291.57
Incidental Expenses	\$ 332,634.06	\$ 334,814.07
<u>Bond Costs</u>	<u>\$ 629,732.78</u>	<u>\$ 636,884.44</u>
<b>Total Undergrounding Costs</b>	<b>\$6,735,000.00</b>	<b>\$6,810,000.00</b>

If the Districts are formed, the City will be reimbursed for its total costs incurred, including Assessment Engineering fees, utility design fees, and past and future staff time. If the Districts are not approved, the City will not recoup the funds and staff time expended to bring the Districts forward.

#### **BACKGROUND:**

In 2005, property owners within each of proposed Districts 12 and 14 submitted signed petitions showing at least 60% support among affected property owners within Districts in order to initiate the process for the underground utilities. Initial funding for SCE engineering and design was then approved by City Council on November 21, 2006, for these two districts, with additional funding subsequently allocated for Frontier and Charter on April 1, 2008.

In 2010, all work on underground utility district work was suspended by City Council due to the economic recession, and a moratorium was placed on the entire UUAD program. That moratorium was lifted by City Council on June 6, 2017, which allowed Districts 12 and 14 to continue through the UUAD formation process. Shortly thereafter, the three utility companies were directed to proceed with completing design plans for Districts 12 and 14.

On June 13, 2018, staff released a Request for Proposals (RFP) for the Assessment Engineering services to develop an assessment methodology and allocate district formation costs among affected parcels in Districts 12 and 14. NV5 was awarded a contract to provide this service on August 21, 2018.

Final utility design plans were completed in February 2019, and put out to bid in April/May 2019. The design plans were also presented to property owners in Districts 12 and 14 for review on June 11, 2019, and made available for public review and comment through June 21, 2019. Final construction and cabling costs to convert overhead utilities to underground facilities for District 12 and 14 were provided to the City by the utility companies between June 21 and July 12, 2019. Those costs, as well as all other incidental and bond costs incurred and projected to facilitate the conversion work, were then incorporated into the Preliminary Engineer's Reports (Attachment). The Preliminary Engineer's Reports also describes the allocation formula used to apportion the total project costs to

each parcel in Districts 12 and 14.

### **DISCUSSION:**

NV5 was retained by the City to develop an assessment methodology that distributes District 12 and 14 total project costs to parcels within each of those districts. The allocation formula developed by NV5 for Districts 12 and 14 can generally be described as follows:

- 1/3 of the total cost is allocated to a special benefit for neighborhood aesthetics
- 1/3 of the total cost is allocated to a special benefit for safety
- 1/3 of the total cost is allocated to a special benefit for reliability

Safety and reliability are assumed to benefit all parcels equally, regardless of property size, and thus are equally allocated to each parcel in the Districts. They represent two-thirds of the total per-parcel cost. The remaining one-third, the aesthetic benefit, is based on the unique area of each parcel and not on the size or value of the parcel dwelling itself. Larger parcels receive a higher neighborhood benefit and thus a larger portion of the project costs. A summary of the total and average assessments for each district is provided below.

Now that bidding has concluded and the Preliminary Engineer's Reports are complete, the next step in process is for City Council to adopt the attached Resolutions for Districts 12 and 14, and initiate the Proposition 218 voting procedures for potential formation of the Districts.

The following actions will be accomplished through adoption of the Resolutions:

- **Resolution of Intention:**  
This jurisdictional resolution is required under the "Municipal Improvement Act of 1913" proceedings, declaring intent to finance improvements through the levy of assessments and the issuance of bonds.
- **Resolution Approving Preliminary Engineer's Report and Fixing the Time and Place of the Public Hearing:**  
This resolution action provides approval of the Preliminary Engineer's Reports and sets the date, time, and place for a Public Hearing to count the Proposition 218 votes returned and potentially form the Districts. Pursuant to the provisions of the "Municipal Improvement Act of 1913," the Preliminary Engineer's Reports consist of the following:
  - Plans and Specifications
  - Assessment Methodology
  - Cost of Proposed Improvements
  - Assessment Roll
  - Assessment Diagram/Boundary Map
  - Valuation Information

Upon setting a date for the Public Hearing, a Notice of Proposed Assessment, the Proposition 218 ballot, a return envelope, and a Notice of Public Hearing will be mailed to each affected property owner in each District. The Public Hearing must be held upon or after the expiration of a 45-day period from the mailing of the Notice of Proposed Assessment. At the Public Hearing, scheduled for

October 1, 2019, City Council will hear public testimony either in support for or against the proposed Districts, and the mailed ballot votes will be tabulated during the meeting to determine the percentage of property owners, by weighted return, in favor of the project. The value of each vote returned is weighted according to the proportional financial obligation of the affected parcel. This means that ballots with higher assessment values have more voting power than ballots with lesser assessment values. If at least 50%+1 of the weighted returned ballots are in favor of the Assessment District, City Council may proceed with formation of the District and construction may commence.

Should either District be approved after tabulation of the weighted ballots, property owners will be given an opportunity to pay their assessments during a 30-day cash collection period, which will commence shortly after voter approval of the district(s) and is projected to end on Tuesday, November 5, 2019. After the cash collection period ends, the City will calculate the remaining balance due for the entire District and sell bonds representing the unpaid balance of the assessments. The prepayments and bond proceeds, which are secured by the unpaid assessments, will finance district formation costs as well as construction and cabling work. Property owners who elect to bond-finance their assessments in lieu of making a cash payment will be able to spread the total assessment balance over a 20-year period, with annual payments made as part of their annual property tax bills. It is important to note that bond-financed assessments may be paid off at any time during the 20-year period with a minor pre-payment penalty. Alternatively, property owners who elect to pay the total assessment due during the cash collection period will not incur the bond financing fees that are built into the total assessment calculation for voting purposes. This can result in an approximately 9% reduction of the proposed assessments presented to voters. This reduced assessment option is clearly stated in the ballot materials presented to property owners in the Districts.

Individual property owner assessments are identified in the Preliminary Engineer's Reports for Districts 12 and 14, which are attached to this staff report and available on file in the Public Works Department and with the City Clerk. Property owners will be mailed notice of their individual assessment amounts within three days of City Council's approval of the Preliminary Engineer's Reports. A follow-up postcard will be mailed approximately two weeks later informing property owners that they should have received their ballot materials in the mail and encouraging them return their ballots.

The Public Works Department will also host a public meeting during the 45-day mailed ballot period to discuss individual assessments with property owners on August 27, 2019, at 6:30 PM at the Joslyn Community Center. During the public meeting, staff and the Assessment Engineer will provide property owners an opportunity to further review their individual assessments and ask questions regarding the assessment methodology, election process or any other aspect of the district formation process.

The fully-burdened assessment ranges for property owners in the Districts are:

- **District 19-12:** \$19,754.22 to \$43,582.38, with an average of \$29,539.47
- **District 19-14:** \$23,421.85 to \$56,184.87, with an average of \$27,909.84

As mentioned above, if the Districts are approved by the property owners and City Council following the Proposition 218 voting process, the City will be reimbursed for its costs, including Assessment Engineering fees, utility design fees, and staff time. If either District does not pass the Proposition

218 voting process, it will be formally dissolved and the City will not be reimbursed for all costs expended to date.

Note that the individual property owner assessments represent only the improvement costs within the public right-of-way. The assessments do not include the additional costs that may be incurred by property owners to make private properties ready to receive underground wire connections. The cost for this connection work is coordinated directly with private electrical contractors and will vary depending each property's unique characteristics. Examples of such unique characteristics are the distance from the service panel to the property line, working around physical structures or land improvements such as stairs and retaining walls, or whether a panel upgrade is required, etc. Property owners are encouraged to consider this additional cost when deciding whether to vote in favor of or opposition to the proposed assessment.

#### **PUBLIC OUTREACH:**

A Public Meeting was held on June 11, 2019, to review the design plans with property owners in Underground Utility Assessment Districts 12 and 14 to provide them an opportunity to:

1. Review the construction documents showing all infrastructure planned in the public right-of-way adjacent to each parcel;
2. Verify the correct location of individual property service panels/meters;
3. Verify the correct location of each utility stub out relative to individual property service panels; and
4. Comment on the proposed designs both at the meeting and by appointment for 10 days following the meeting. All comments provided are being considered, and if appropriate, incorporated into the construction documents.

A second Public Meeting is scheduled for August 27, 2019, to discuss individual assessments with property owners. At this meeting, property owners may review their individual assessments and ask questions.

#### **LEGAL REVIEW:**

Bond Counsel has reviewed this staff report and all the attachments and has approved as to legal form.

#### **ATTACHMENTS:**

1. UUAD 19-12 Boundary Map
2. UUAD 19-14 Boundary Map
3. Resolution No. 19-0072
4. Resolution No. 19-0073
5. Resolution No. 19-0074
6. Resolution No. 19-0075
7. Preliminary Engineer's Reports for UUAD 19-12
8. Preliminary Engineer's Reports for UUAD 19-14
9. Sample Ballot and Procedures
10. Sample Notice of Proposed Assessment
11. Notice of Public Hearing District for UUAD 19-12

- 12. Notice of Public Hearing District for UUAD 19-14
- 13. Certificate of Sufficiency for UUAD 19-12
- 14. Certificate of Sufficiency for UUAD 19-14
- 15. PowerPoint Presentation