



Legislation Text

File #: 19-0344, **Version:** 1

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:

Consider: 1) Approving the Underground Utility Assessment District Final Engineer's Report and Confirming the Assessments and Proceedings for Each District Approved by a Majority Vote of the Weighted Returned Ballots in Districts 19-12 and 19-14, or 2) Declaring Abandonment of Proceedings for Each District Not Approved by a Majority Vote of the Weighted Returned Ballots (Public Works Director Katsouleas).

- a) **ADOPT RESOLUTION NO. 19-0091 FOR DISTRICT 19-12 (APPROVING ASSESSMENT ENGINEER'S REPORT AND CONFIRMING ASSESSMENTS OR DECLARING ABANDONMENT)**
- b) **ADOPT RESOLUTION NO. 19-0092 FOR DISTRICT 19-14 (APPROVING ASSESSMENT ENGINEER'S REPORT AND CONFIRMING ASSESSMENTS OR DECLARING ABANDONMENT)**

RECOMMENDATION:

Staff recommends that City Council adopt the following Resolutions (Attachments) to complete the Underground Utility Assessment District (UUAD or District) formation process should they be approved by a majority of the weighted returned ballots in each District. In the event that Districts 12 and 14 are not approved by majority vote of the weighted returned ballots, staff has drafted alternative Resolutions (Attachments) to abandon the proceedings for each District.

For District 19-12 (District 12):

- 1. Resolution No. 19-0091 approving the Underground Utility Assessment District Final Engineer's Report and Confirming the Assessment and Proceedings (Attachment) if the ballot results are in favor of formation.
- 2. Resolution No. 19-0091 declaring Abandonment of Proceedings (Attachment) if the ballot results are against formation.

For District 19-14 (District 14)

- 3. Resolution No. 19-0092 approving the Underground Utility Assessment District Final Engineer's Report and Confirming the Assessment and Proceedings (Attachment) if the

election results are in favor of formation.

4. Resolution No. 19-0092 approving a Resolution Declaring Abandonment of Proceedings (Attachment) if the election results are against formation.

FISCAL IMPLICATIONS:

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.

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 results of the Proposition 218 ballot protest vote procedures:

Category	District 12	District 14
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
Bond Costs	<u>\$ 629,732.78</u>	<u>\$ 636,884.44</u>
Total Undergrounding Costs	\$6,735,000.00	\$6,810,000.00

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 date to bring the Districts forward.

BACKGROUND:

In 2005, property owners within proposed Districts 12 and 14 submitted signed petitions showing at least 60% support among affected property owners within those Districts. This was the required minimum threshold needed in order to initiate the process for undergrounding utilities. Initial funding for Southern California Edison (SCE) engineering and design was then approved by City Council on November 21, 2006, for these two Districts, with additional funding for both Districts subsequently allocated for Frontier and Charter on April 1, 2008.

In 2010, all work on underground utility districts 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. Those plans were completed in April 2019, and subsequently put out to bid by the utility companies. They 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.

The final District 12 and 14 construction and cabling costs to convert overhead utilities to underground facilities were provided by the three utilities to the City in late June and early July, 2019. These costs and all other incidental and bond costs incurred and projected to facilitate the conversion work were then incorporated into the Preliminary Assessment Engineer's Reports (Attachment) created by NV5.

Recall that NV5 was retained to develop an assessment methodology that distributes District 12 and 14 total project costs among all parcels within those Districts. The allocation formula developed by NV5 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; and
- 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 aesthetic benefit and thus a larger portion of the project costs. A summary of the total and average assessments for each District is provided below.

On August 6, 2019, City Council adopted resolutions approving the proposed boundary maps for each District, declared its intent to finance the improvements through the levy of assessments and the issuance of bonds, approved the Preliminary Engineer's Reports, and set the date for the Public Hearing to consider District formation for the October 1, 2019 City Council meeting. Following the August 6th meeting, ballot materials were mailed to all property owners within each District (Attachment).

DISCUSSION:

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 were mailed to each affected property owner in Districts 12 and 14. The Public Hearing is being held upon the expiration of a 45-day period from the mailing of the Notice of Proposed Assessment. During the Public Hearing, City Council will hear public testimony either in support for or against the proposed Districts. All ballot votes submitted by the close of the Public Hearing will then be tabulated during the meeting to determine the percentage of property owners, by weighted return of the assessments, in favor of and opposed to the project. Please note that 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 assessments are in favor of the Assessment District, City Council may (but is not obligated to) proceed with formation of the District and construction may commence. If the weighted returns are less than 50%+1, City Council may not proceed with District formation and the District is immediately dissolved.

The following actions will be accomplished through adoption of one Resolution for each District, as follows:

- **Resolution Confirming Assessments**

If the District is approved by property owners, City Council may adopt a Resolution forming the Assessment District, authorizing the assessments, and approving the Final Engineer's Report. This Resolution may only be adopted if the ballot results are greater than 50%+1 in favor of District formation.

- **Resolution Declaring Abandonment**

If the District is not approved by property owners, City shall abandon the proceedings to form the Assessment District. This Resolution shall be adopted if a majority of the ballot results are: 1) against formation, or 2) in favor of District formation but City Council elects nevertheless to abandon the proceedings to form the Assessment District.

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 immediately 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 if paying off the assessment before year 12. Alternatively, property owners who elect to pay their 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 nine percent reduction off the total 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 Final 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. One modification was made to each of the Preliminary Engineer's Reports for Districts 12 and 14, where reference to the total district assessment amount was corrected in the fourth paragraph on page 18 of each report.

Property owners were mailed notice of their individual assessment amounts three days after City Council approval of the Preliminary Engineer's Reports on August 6, 2019. A follow-up notice regarding the mailed ballot materials was also included in the mailed notice of the public meeting hosted by Public Works on August 27, 2019 to discuss individual assessments with property owners. During that meeting, staff and the Assessment Engineer provided 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 12:** \$19,754.22 to \$43,582.38, with an average of \$29,539.47
- **District 14:** \$23,421.85 to \$56,184.87, with an average of \$27,909.84

As mentioned above, if Districts 12 and 14 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 dissolved and the City will not be reimbursed for all costs expended to date.

It is important to 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 between property owners and private electrical contractors, and will vary depending on 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.

In summary, staff recommends that City Council:

For District 12

1. Adopt Resolution 19-0091 confirming the assessments and proceedings if the weighted returned ballots are greater than 50%+1; or
2. Adopt Resolution 19-0091 declaring abandonment of the proceedings if the weighted returned ballots are less than 50%.

For District 14

3. Adopt Resolution 19-0092 confirming the assessments and proceedings if the weighted returned ballots are greater than 50%+1; or
4. Adopt Resolution 19-0092 declaring abandonment of the proceedings if the weighted returned ballots are less than 50%.

PUBLIC OUTREACH:

A Public Meeting was held on June 11, 2019, to provide property owners in Districts 12 and 14 the opportunity to review the design plans. Property owners were able 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 each utility stub out relative to individual property service panels; and
3. 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 was held on August 27, 2019, to discuss individual assessments with property owners. At this meeting, property owners were able to 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. AD 12 - Resolution No. 19-0091 (Confirming Assessments)
2. AD 12 - Resolution No. 19-0091 (Declaring Abandonment)
3. AD 12 - Assessment Map
4. AD 12 - Certificate of City Clerk - Results of the Assessment Ballots
5. AD 12 - Final Assessment Engineer's Report
6. AD 12 - Notice of Public Hearing
7. AD 14 - Resolution No. 19-0092 (Confirming Assessments)
8. AD 14 - Resolution No. 19-0092 (Declaring Abandonment)
9. AD 14 - Assessment Map
10. AD 14 - Certificate of City Clerk - Results of the Assessment Ballots
11. AD 14 - Final Assessment Engineer's Report
12. AD 14 - Notice of Public Hearing
13. Sample Ballot and Procedures
14. Sample Notice of Proposed Assessment
15. PowerPoint Presentation