



## Legislation Text

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**File #:** 19-0466, **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 Underground Utility Assessment District 19-4 and Consideration of a Resolutions to Initiate District Formation Proceedings, Approve the Preliminary Engineer's Report, and Set a Date and Time for a Public Hearing (Public Works Director Katsouleas).

**ADOPT RESOLUTIONS NOS. 19-0103 AND 19-0104**

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**RECOMMENDATION:**

Staff recommends that City Council adopt the following resolutions to initiate Underground Utility Assessment District (UUAD) formation proceedings for District 19-4 (District 4):

1. Resolution No. 19-0103 approving the Resolution of Intention (Attachment).
2. Resolution No. 19-0104 approving the Preliminary Engineer's Report and setting a Public Hearing for the City Council Meeting of January 7, 2020 (Attachment).

**FISCAL IMPLICATIONS:**

The total cost to underground electrical and telecom utilities for 167 homes in District 4 is \$7,255,000, which includes plan designs, construction, construction oversight, cabling, financing, and other incidental costs as follows:

<b>Category</b>	<b>Cost</b>
Design Services	\$ 189,726.00
Construction and Cabling	\$5,279,613.61
Project Contingency	\$ 527,961.36
Incidental Expenses	\$ 628,271.25
<u>Bond Costs</u>	<u>\$ 629,427.78</u>
<b>Total Undergrounding Costs</b>	<b>\$7,255,000.00</b>

To date, \$222,206 has been spent on utility design plans and Assessment Engineering services using funds provided by various homeowners (Depositors) in District 4. Should District 4 be formed following the results of the Proposition 218 vote, then these funds would be fully reimbursed to

Depositors per the terms of the loan agreement approved by City Council on June 5, 2018. Additionally, the City will be reimbursed for its total costs incurred, including past and future staff time to administer the District formation and completion process. If the District is not approved, the City will not recoup reimbursement for the staff time expended to bring District 4 forward.

### **BACKGROUND:**

On October 3, 2017, City Council approved a request from District 15 property owners to expand its boundaries back to those of the former District 4, which had failed the Proposition 218 process in November 2005. City Council also approved the District's request to allow it to immediately proceed with design and assessment engineering at its own cost, thus bypassing the City's survey validation requirement. Recall that the survey validation process is required when the City contemplates advancing its own funds for design and Assessment Engineering services, but it is not required otherwise.

On June 5, 2018, City Council approved entering into a Deposit Agreement with District 4 property owners, who subsequently deposited \$222,206 with the City to cover design and assessment engineering costs so that District 4 designs could immediately commence. Shortly thereafter, Southern California Edison (SCE) began design work and Frontier and Spectrum followed suit in early 2019. All design plans were completed in June 2019 and reviewed by staff in July 2019. Minor corrections were made, and final draft plans were presented to District 4 homeowners in September 2019. During this same time period, around June 5, 2019, the City executed a contract amendment with NV5 to provide additional assessment engineering services for District 4.

The final utility design plans were put out to bid in September 2019, and due back on October 21, 2019. In addition to the construction pricing, cabling costs to convert overhead utilities to underground facilities for District 4 were provided to the City by the utility companies by October 30, 2019. Those costs, as well as all other incidental and bond costs incurred and projected to facilitate the conversion work, were incorporated into the District 4 Preliminary Engineer's Report (Attachment), which also describes the allocation formula used to apportion the total project costs to each parcel in the District.

### **DISCUSSION:**

As mentioned above, NV5 was retained by the City to develop an assessment methodology that properly distributes District 4's total project costs to parcels within the district. 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
- 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 District, except to those who do not receive these benefits. Safety and reliability benefits 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 Report is complete, the next step in the process is for City Council to adopt the attached Resolutions for District 4, and initiate the Proposition 218 voting procedures for potential formation of the District.

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 provides approval of the Preliminary Engineer's Report and sets the date, time, and place for a Public Hearing to count the Proposition 218 votes returned, where upon the District may be potentially formed. 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 the 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 January 7, 2020, City Council will hear public testimony either in support for or against the proposed District, 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 District 4 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 and is projected to end on Friday, February 14, 2020. 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 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 nine percent 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 District.

Individual property owner assessments are identified in the Preliminary Engineer's Reports for District 4, which is 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. This meeting is scheduled for December 10, 2019, at 6:00 PM at the Police/Fire Conference Room. 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 District 4 are \$28,311.39 to \$127,342.41, with an average of \$43,443.11.

As mentioned above, if the District is approved by the property owners and City Council following the Proposition 218 voting process, the City and Depositors will be reimbursed for their costs, including Assessment Engineering fees, utility design fees, and staff time. If the District does not pass the Proposition 218 voting process, it will be formally dissolved and the City and Depositors 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 September 12, 2019, to review the design plans with property owners in Underground Utility Assessment District 4 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 December 10, 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 19-4 Boundary Map
2. Resolution No. 19-0103
3. Resolution No. 19-0104
4. Preliminary Engineer's Report
5. Sample Ballot & Procedures
6. Sample Notice of Proposed Assessment
7. Notice of Public Hearing
8. Certificate of Sufficiency
9. PowerPoint Presentation