



Legislation Text

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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:

Consider: 1) Approving the Final Assessment Engineer's Report for Underground Utility Assessment District (UUAD) 19-4; 2) Confirming the Assessments and Proceedings for UUAD 19-4 if Approved by a Majority Vote of the Weighted Returned Ballots in UUAD 19-4; 3) Adopting a Resolution Awarding a Construction Contract to Asplundh Construction, LLC for the UUAD 19-4 Project for \$3,998,090; 4) Authorizing the City Manager to Approve Additional Work, if Necessary, for up to \$527,962; and 5) Approving the Plans and Specifications for the Project; or 5) Declaring Abandonment of Proceedings for UUAD 19-4 Based on the Weighted Returned Ballot Results (Public Works Director Katsouleas).

a) **ADOPT RESOLUTION NO. 20-0003 APPROVING THE FINAL ASSESSMENT ENGINEER'S REPORT AND CONFIRMING ASSESSMENTS OR DECLARING ABANDONMENT OF PROCEEDINGS FOR UUAD 19-4**

b) **ADOPT RESOLUTION NO. 20-0004 APPROVING AN AGREEMENT**

RECOMMENDATION:

Staff recommends that City Council adopt:

1. Resolution No. 20-0003 (attachment) approving the Underground Utility Assessment District (UUAD) 19-4 Final Engineer's Report (attachment) and Confirming the Assessment and Proceedings if the ballot results are in favor of formation or declaring Abandonment of Proceedings (attachment) if the ballot results are against formation.
2. Resolution No. 20-0004 (attachment) awarding a construction contract to Asplundh Construction, LLC for the UUAD 19-4 Project for \$3,998,090, authorizing the City Manager to execute the Agreement; authorizing the City Manager to approve additional work, if necessary, for up to \$527,962; and approving the Plans and Specifications for the Project.

FISCAL IMPLICATIONS:

The total cost to underground electrical and telecom utilities for 167 homes in UUAD 4 is \$7,255,000. This includes plan designs, construction, construction oversight, cabling, project contingency for possible additional work, financing, and other incidental costs as follows:

Category	Cost
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>
Total Undergrounding Costs	\$7,255,000.00

To date, \$222,206 has been spent on utility design plans and Assessment Engineering services using funds provided by various property owners (Depositors) in UUAD 19-4. Should UUAD 19-4 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 UUAD 19-4 is not approved, the City will not recoup reimbursement for the staff time expended to bring it forward to a vote.

BACKGROUND:

On October 3, 2017, City Council approved a request from UUAD 15 property owners to expand its boundaries back to those of the former UUAD 05-4, which had failed the Proposition 218 process in November 2005. City Council also approved property owners' request to allow UUAD 19-4 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 UUAD 19-4 property owners, who subsequently deposited \$222,206 with the City to cover design and assessment engineering costs so that UUAD 19-4 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 UUAD 19-4 property owners 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 UUAD 19-4.

Bids for the final utility design plans for UUAD 19-4 were solicited on a competitive basis in accordance with the provisions of the California Public Contract Code in September 2019. The project was advertised for bid in the City's publisher of record (Beach Reporter), in several construction industry publications, and was listed on the City's website and BidSync, an online service that connects vendors, suppliers and contractors to government procurement opportunities. Staff also notified over 60 contractors on the City's contractor database regarding this project.

A total of three competitive bids were received and opened on October 28, 2019. The bid results are as follows:

Contractor	Total Bid Price
Asplundh Construction, LLC	\$3,998,090.00
E.E. Electric Inc.	\$4,361,288.00
Hot Line Construction Inc.	\$5,342,000.00

Staff reviewed Asplundh Construction, LLC's contractor license and found it to be in order. Additionally, references indicate the contractor has the knowledge and capability to complete the work in a timely and acceptable manner.

All bid packets were analyzed for arithmetical errors, completeness, accuracy, etc. Asplundh Construction, LLC's bid packet omitted the "unit prices" for the bid items, but this omission resulted in no variance to the total bid amount included in the submitted bid. Further, it did not include additional evidence indicating the capacity of the persons signing the Bid to bind the Bidder. In consultation with the City Attorney's Office, it was determined that the omission of unit prices on Asplundh Construction, LLC's bid packet and late submittal of evidence are both immaterial deviations for the purposes of considering its bid as responsive. Additionally, per the specifications, in cases of discrepancy between the unit price and the extended amount set forth for the item, if the unit price is omitted, the extended amount shall prevail. Therefore, the extended amount for each bid item is used to calculate the unit price for that bid item, and the total base bid amount is unchanged.

In addition to the construction (civil) bids received, cabling costs to convert overhead utilities to underground facilities for UUAD 19-4 were also provided to the City by the utility companies. Those cabling costs, as well as all other incidental and bond costs incurred and projected to facilitate the conversion work, were incorporated into the UUAD 19-4 Preliminary Engineer's Report (attached), which also describes the allocation formula used to apportion the total project costs to each parcel in the UUAD.

Recall that NV5 was retained to develop an assessment methodology that distributes UUAD 19-4's total project costs among all parcels within UUAD 19-4. 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 UUAD 19-4. 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 UUAD 19-4 is provided below.

On November 19, 2019, City Council adopted a resolution approving the proposed boundary map for UUAD 19-4 and declaring intent to finance the improvements through the levy of assessments and the issuance of bonds. City Council also approved the Preliminary Engineer's Report, and set the date for a Public Hearing to consider UUAD formation for the January 7, 2020 City Council Meeting.

DISCUSSION:

After setting a date for the Public Hearing on November 19, 2019, 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 UUAD 19-4 (sample attached). 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 proposed UUAD 19-4. 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 ballots are in favor of the assessment for UUAD 19-4, City Council may (but is not obligated to) proceed with district formation and construction may commence. If the weighted returns are less than 50%+1, City Council may not proceed with district formation and UUAD 19-4 is immediately dissolved.

The following actions will be accomplished through adoption of Resolution(s) for UUAD 19-4, as follows:

- **Resolution Confirming Assessments**

If UUAD 19-4 is approved by a majority of the weighted ballots submitted by property owners, City Council may adopt Resolution 20-0003 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 of Award**

If UUAD 19-4 is approved by property owners and Resolution 20-0003 is adopted, staff recommends that City Council also adopt Resolution 20-0004 authorizing the City Manager to award a construction contract to Asplundh Construction, LLC for \$3,998,090, approve additional work, if necessary for up to \$527,962, and approve the Plans and Specifications for the project. Construction is anticipated to commence in April 2020, and the entire project is anticipated to be completed by Fall 2022.

- **Resolution Declaring Abandonment**

If the UUAD is not approved by a majority of the weighted ballots submitted by property owners, the City must abandon the proceedings to form the assessment district. The alternative Resolution 20-0003 shall be adopted if a majority of the weighted ballots returned 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 UUAD 19-4 be approved after tabulation of the weighted ballots returned, 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 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 have their total assessment balances spread 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, although there is a minor pre-payment penalty if paying off an 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 off the proposed assessments presented to voters. This reduced assessment option is clearly stated in the ballot materials presented to property owners in UUAD 19-4.

Individual property owner assessments are identified in the Final Engineer's Report for UUAD 19-4, which is attached to this staff report and available on file in the Public Works Department and with the City Clerk. One modification was made to the Preliminary Engineer's Report for UUAD 19-4, where reference to the Total True Value and the Value to Lien Ratio for Assessment No. 84 was corrected in the table on page 11 of the report.

Property owners were mailed notice of their individual assessment amounts three days after City Council approval of the Preliminary Engineer's Reports on November 19, 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 December 10, 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 UUAD 19-4 are as follows:

- Residential Full Parcel Assessment: \$35,851 to \$61,120
- Residential Partial Parcel Assessment: \$14,650 to \$36,885
- Commercial per Parcel Assessment: \$42,280 to \$128,323

As mentioned above, if UUAD 19-4 is approved by 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 UUAD does not pass the Proposition 218 voting process, it will be formally dissolved and the City and Depositors will not be reimbursed for any and 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 by property owners 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.

As a reminder, the City Council has established an assessment deferment program to assist property

owners who may not be able to afford the assessments, and who's primary residence is in the district, if they meet certain qualifications.

In summary, staff recommends that City Council:

1. Adopt Resolution No. 20-0003 confirming the assessments and proceedings if the weighted returned ballots are greater than 50%+1 or alternatively adopt Resolution No. 20-0003 declaring abandonment of the proceedings if the weighted returned ballots are less than 50%.
2. If UUAD 19-4 is approved, Adopt Resolution No. 20-0004 awarding a construction contract to Asplundh Construction, LLC for the Underground Utility Assessment District No. 19-4 Project for \$3,998,090.00, authorizing the City Manager to execute the Agreement, authorizing the City Manager to approve additional work, if necessary, for up to \$527,961, and approving the Plans and Specifications for the Project; or

PUBLIC OUTREACH:

A Public Meeting was held on September 12, 2019 to review the design plans with property owners in Underground Utility Assessment UUAD 19-4 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 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 December 10, 2019, to discuss individual assessments with property owners. At this meeting, property owners were able to review their individual assessments and ask questions.

Should UUAD 19-4 be approved, notices will be sent to residences and businesses adjacent to the work once the project is ready to commence with construction.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and had determined that the project qualifies for a Categorical Exemption pursuant to Section 15302(d) and 15303(d) (Conversion of overhead electric utility distribution system facilities to underground and conversion of existing small structures to small new equipment and facilities in small structures) of the State CEQA Guidelines. A Notice of Exemption was filed with the Los Angeles County Clerk's Office for the Project.

LEGAL REVIEW:

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

ATTACHMENTS:

1. Resolution No. 20-0003 (Confirming Assessments)
2. Resolution No. 20-0003 (Declaring Abandonment)
3. Resolution No. 20-0004 (Approving Agreement)
4. Assessment Map
5. Certificate of City Clerk - Results of the Assessment Ballots
6. Final Engineer's Report
7. Sample Ballot and Procedures
8. Notice of Public Hearing
9. Sample Notice of Proposed Assessment
10. Agreement - Asplundh Construction, LLC
11. Bid Proposal
12. Project Specifications
13. Project Plans