



CITY OF

NEWPORT BEACH

City Council Staff Report

June 8, 2021
Agenda Item No. 7

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution Nos. 2021-50 and 2021-51: Proposed Assessment District No. 124 (Central Balboa Island) – Approval of Preliminary Engineers Report and Notice of Intent to Form Underground Utility District

ABSTRACT:

The property owners within a roughly 50-block area of central Balboa Island submitted a petition requesting formation of an underground utility assessment district (AD 124). The City Council certified the petition for AD 124 on February 23, 2021. The City Council is now asked to declare its intention to levy assessments and issue bonds to finance the undergrounding, approve the Assessment Engineer's Report, and set July 27, 2021, as the time and place for a Public Hearing for AD 124.

RECOMMENDATION:

- a) Adopt Resolution No. 2021-50, *A Resolution of the City Council of the City of Newport Beach, California, Declaring Its Intention to Take Proceedings Pursuant to the Municipal Improvement Act of 1913 and to Issue Bonds Pursuant to the Improvement Bond Act of 1915, and Make Certain Findings and Determinations in Connection Therewith, all Relating to the Formation of Assessment District No. 124*; and
- b) Adopt Resolution No. 2021-51, *A Resolution of the City Council of the City of Newport Beach, California, Preliminarily Approving the Assessment Engineer's Report and Fixing the Time and Place of the Public Hearing for Assessment District No. 124*.

DISCUSSION:

Owners of property located in the proposed assessment district submitted a petition to the City of Newport Beach (City) in December 2020, requesting the formation of a special assessment district to underground overhead utilities. On February 22, 2021, the assessment engineer certified that owners representing more than 60 percent of the assessable property area within Proposed Assessment District No. 124 had signed a petition for undergrounding overhead utilities. On February 23, 2021, the City Council approved Resolution No. 2021-12 certifying the petition for AD 124.

AD 124 is being proposed for the conversion of existing overhead utilities to underground locations. The property owners within the boundaries of the proposed assessment district will bear the cost of the improvements and the associated proceedings.

The Municipal Improvement Act of 1913 governs the procedures used to create the assessment district. Bonds issued under the Improvement Bond Act of 1915 carry up to a 40-year term and are issued to finance assessments not paid in cash within 30 days after confirmation of the assessment. Staff is recommending a 20-year term for AD 124.

The Federal Income Tax Component of Contribution (ITCC) has been eliminated pursuant to City Council direction. The ITCC is a tax assessed whenever private party contributions in aid of construction (CIAC) are made. To date, underground utility districts have not been assessed this tax as underground utility districts are viewed as providing public benefit by increasing community aesthetics and public safety.

If following the public hearing and balloting AD 124 is formed, an assessment lien would be recorded on the title of properties included in the district. Thereafter, a cash collection period would take place to provide property owners with an opportunity to prepay their assessment and remove the assessment lien. A second cash collection period is also anticipated prior to the bond sale, which is anticipated to occur prior to construction and after design is complete.

The total assessment for Proposed Assessment District No. 124 is estimated as follows:

Proposed Assessment District No. 124	
ITEM	COST
Cost of Design and Construction	\$28,764,200
Incidental Costs and Expenses	\$1,262,500
Financing (Bond) Costs	\$2,789,000
Estimated Total Cost:	\$32,815,700

In addition to the payment of the assessment, each property owner will be responsible for the costs of connecting the main service conduit in the public right-of-way to the property owner's home or business, if applicable. The cost to the property owner for this conversion varies depending on the condition and location of the current electrical service. Each property owner is encouraged to contact a licensed electrical contractor to assess its particular property needs.

As this project is very large and in the interest of time, SCE recommends designing and constructing the project in two phases. The first phase would start at the Grand Canal and move westerly to the middle of the project area. That would focus SCE and the other utility companies design efforts and allow the City to start the construction of portions of the district sooner than later.

The following is a tentative schedule for proposed AD 124:

Resolution of Intention	June 8, 2021
Public Hearing	July 27, 2021
Utility Companies Phase 1 Design Completed (Phase 2 a year later)	January 2023
Tentative Bond Sale Period	May 2023
City managed utility construction work commences – Phase 1	August 2023
Property owners notified to begin installing service connections – Phase 1	April 2025
City managed utility construction work commences – Phase 2	August 2024
Property owners notified to begin installing service connections – Phase 2	April 2026
Property owner's complete conversions	December 2026
Public utilities begin to remove overhead structures	January 2027
Public utilities finish removing poles and overhead structures	Summer 2027

The assessment engineer used a lot size methodology to apportion assessments within this district based on the finding that a majority of the properties are receiving similar safety, connection aesthetic, and view enhancement benefits. The special benefits from undergrounding the overhead utilities were defined as follows:

- **Improved Aesthetics Benefit:** This benefit relates to the improved aesthetics of the streetscape due to the removal of overhead wires and utility poles. For the purposes of this report, a street is defined as either a street or alley. The removal of guy wires and other support structures related to the overhead facilities are included in the definition of improved aesthetics. Properties that are directly adjacent to overhead facilities receive an aesthetic benefit. This benefit is based on the area of the parcel.
- **Safety Benefit:** This benefit relates to the additional safety of having the overhead distribution wires placed underground and having the power poles removed, which eliminates the threat of downed utility lines and poles due to wind, rain and other unforeseeable events. Falling facilities can lead to personal injuries and damage to structures, including fire. Properties immediately adjacent to the facilities usually have a greater risk. Furthermore, in areas like Central Balboa Island, the negative effects of falling lines and poles are widespread including blocked driveways and property damage due to impact. Many of the streets are narrow with one-way only designations. Alleys are often used as a travelway rather than just ingress and egress to properties. Properties that are adjacent to, or in proximity of, overhead facilities receive a safety benefit. This benefit is based on the average area of the parcels in the district.

- **Reliability Benefit:** This benefit relates to the enhanced reliability of service from the utilities being underground, due to having all new wires and equipment and having that equipment underground, which reduces the threat of service interruption from downed lines. When compared to overhead systems, fewer outages occur due to various acts of nature, traffic collisions and obstructions (such as trees). Properties that are connected to, or have the ability to connect to, the facilities proposed to be undergrounded receive a reliability benefit. This benefit is based on the average area of the parcels in the district.

The range for the estimated assessment costs per parcel is as follows:

District No.	Range of Assessments	70% of Properties Assessed
AD 124	\$24,614.23 to \$45,334.09	Under \$33,630.95

Note that assessments vary due to the property size and benefits received.

Ballot Tabulation Procedures:

All assessment ballots submitted to the City Clerk prior to the close of the public hearing, recommended to be set for July 27, 2021, will be tabulated per the ballot tabulation procedures directed by City Council Policy L-28.

FISCAL IMPACT:

The City Council approved Budget Amendment No. 21-031 on February 23, 2021, appropriating \$135,000 from the General Fund to Account No. 67502-941006 (AD Assessment Engineering) for preliminary design and assessment engineering costs.

In the event that formation of the district is successful, these costs will be reimbursed by cash contributions and bond proceeds from property owners within the district. If the district fails to be formed, funds advanced for preliminary work cannot be recovered from the proposed district property owners. In such case, the General Fund will cover the advance used for preliminary formation costs.

ENVIRONMENTAL REVIEW:

On February 23, 2021 the City Council deemed this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302(d) (conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding).

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Resolution No. 2021-50
Attachment B – Resolution No. 2021-51
Attachment C – Notice of Exemption