



NEWPORT BEACH

City Council Staff Report

June 8, 2021
Agenda Item No. 21

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2021-59: Underground Utility Assessment District
No. 113 (West Balboa Island) – Award of Contract No. 7979-1 and
Authorization of Limited Obligation Improvement Bonds

ABSTRACT:

Construction bids have been received for the Underground Utility Assessment District No. 113 project. Staff requests the City Council’s approval to award the construction contract to Hot Line Construction, Inc. In addition, staff recommends that the City Council authorize the issuance of limited obligation improvement bonds and the execution and delivery of all legal documents, substantially to form, necessary to issue limited obligation improvement bonds to finance the remaining unpaid assessments in Assessment District No. 113.

RECOMMENDATION:

- a) Acknowledge this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Class 2 Section 15302 (d) (conversion of overhead electrical utility distribution lines where the surface is restored to the condition existing prior to the undergrounding) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it will not have an adverse effect on the environment;
- b) Approve the project plans and specifications;
- c) Award Contract No. 7979-1 to Hot Line Construction, Inc. for the bid amount of \$4,308,179.00 for Underground Utility Assessment District No. 113, and authorize the Mayor and City Clerk to execute the contract;
- d) Establish a contingency of \$430,000.00 (approximately 10% of total bid) to cover the cost of unforeseen work not included in the original contract;

- e) Approve Amendment to Professional Services Agreement No. 7572-3 with NV5 of Irvine, CA for an additional not-to-exceed fee of \$233,295.00 for Construction Administration and Residential Permit Support Services; and
- f) Adopt Resolution No. 2021-59, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing and Providing for the Issuance of Bonds Pursuant to the Provisions of the Improvement Bond Act of 1915 for City of Newport Beach Assessment District No. 113 and Approving Certain Documents and Authorizing Certain Actions in Connection Therewith.*

DISCUSSION:

Underground Utility Assessment District No. 113 (AD 113) is the west Balboa Island area bounded by Collins Island, Agate Avenue, North Bay Front and South Bay Front (Attachment A) and was approved by the property owners on November 27, 2018.

Originally part of the larger Balboa Island – Utility Undergrounding District No. 87 that was voted down at the Public Hearing on April 28, 2009, AD 113 was redistricted at the request of island proponents with revised boundaries to include 215 parcels.

Historically, utility undergrounding projects have been bid and overseen by Southern California Edison. Due to high costs and failed negotiations with SCE’s contractors, the City of Newport Beach (City) requested bids for directly constructing the work and managing efforts of the underground infrastructure to reduce cost. AD 113 is the fourth utility undergrounding project directly constructed and managed by the City.

At 10 a.m. on April 7, 2021, the City Clerk opened and read the following bids for this project:

	<u>BIDDER</u>	<u>TOTAL BID AMOUNT</u>
Low	Hot Line Construction, Inc..	\$ 4,308,179.00
2nd	Asplundh Construction Corp.	\$ 4,444,444.00
3rd	Arizona Pipeline Company	\$ 4,765,459.00
4th	International Line Builders Inc.	\$ 6,789,807.36

The apparent low bidder for this project, Hot Line Construction, Inc. (Hot Line), submitted a bid 32.6% percent above the Engineer’s Estimate of \$3,250,000. Staff have analyzed the project budget and believes that there is sufficient capacity within the proposed financing to cover the additional construction costs given the contingency available and savings that will be realized in the budget for the financing costs. The disparity between the bid and the Engineer’s Estimate is attributed to a higher cost for PVC piping caused by a shortage of materials due to the Covid-19 pandemic. Hot Line submitted all the necessary forms and possesses a Classification “A” California State Contractors License as required by the project specifications. A check of the contractor’s references indicates satisfactory completion of similar projects for Southern California Edison and other public agencies.

Work necessary to complete this contract consists of trenching; installing conduit, vaults, handholes, and pull boxes; removing existing overhead wiring, transformers and poles; repaving; and all other incidental items of work to complete work in place. The contractor will have 160 working days to complete the work once given the notice to proceed. Construction will be scheduled in phases to minimize impacts to residents. For example, the contractor will be allowed to close alternating alleys to complete the work in a timely manner. The anticipated construction start date is August 16, 2021, and the project is expected to take seven months to complete.

In effort to support continuity and the successful implementation of this project, the Public Works Department is requesting an amendment to NV5's current contract for Construction Administration and Residential Permit Support Services for this undergrounding project (Attachment B.) NV5 worked on the AD 117, 116, 116b, and UUD22 Phase I undergrounding projects and is currently providing support for the AD 111, UUD22 Phase 2, McFadden Alleys and Court Street utility undergrounding projects.

Issuance of Bonds

The City Council has previously indicated its intention to issue limited obligation improvement bonds pursuant to the provisions of the Improvement Bond Act of 1915 (Act) in a principal amount not to exceed the unpaid assessments of AD 113.

On November 27, 2018, a public hearing and vote was held, at which time it was determined that a weighted majority of the ballots received were in favor of forming AD 113. As such, Council adopted a resolution approving the Final Engineer's report; approving and confirming a total assessment of \$6,249,500 on the parcels determined to be specially benefited by the undergrounding project as indicated in the Final Engineer's Report; designating AD 113 as an underground utilities district; and declaring the intention to issue bonds.

In January 2019, a cash collection period was opened to afford property owners the opportunity to prepay all or any portion of the assessments levied upon their parcel or parcels at a 6.8% discount since certain prepaid financing costs could otherwise be avoided if bond financing was not required as follows:

Bond Reserve	4.7%
Capitalized Interest	1.2%
Underwriter's Discount	<u>0.9%</u>
Total	6.8%

The cash collection period expired on March 31, 2021, and an Amended Notice of Assessment was recorded on April 29, 2021, in the official records of the County Recorder of the County of Orange, discharging the liens on those parcels for which the assessment had been fully paid. Cash payments totaling \$1,548,033 were received, representing 30% of the discounted value of the assessments.

The sum of the cash payments, together with the \$112,278 assumed financing cost previously included in the total assessment, reduces the remaining amount of unpaid assessments to \$4,589,189 as depicted below.

Assessment levied – cost of improvement project and financing	\$6,249,500
Less: City received – prepaid contributions from property owners	\$1,548,033
Less: Exercised financing discount	\$112,278
Remaining unpaid assessment amount	\$4,589,189

If the City Council wishes to proceed with financing the remaining unpaid assessments, the Council should adopt a resolution, included with this report as Attachment C, to authorize the issuance of bonds pursuant to the Act for the proposed district, designated as the “City of Newport Beach Assessment District No. 113.” The resolution authorizes the issuance of bonds in a principal amount not to exceed \$4,589,189 to complete the funding for the Undergrounding Project, to fund a reserve fund and to pay incidental costs of the Assessment District proceedings and the costs of issuance and certain administrative expenses for the Bonds.

This resolution would also authorize the form, execution, and delivery of all documents necessary to issue and deliver the bonds including:

- (1) a Bond Purchase Agreement, under the terms of which, among other things, the City agrees to sell and Stifel, Nicolaus & Company, Incorporated (the “Underwriter”) agrees to purchase the Bonds (Attachment D);
- (2) a Preliminary Official Statement, which describes the Bonds, the Assessment District, the Undergrounding Project, and related matters (Attachment E);
- (3) a Fiscal Agent Agreement, a document between the City and US Bank National Association which governs the terms of the Bonds (Attachment F); and
- (4) a Continuing Disclosure Agreement, included in the Preliminary Official Statement as Appendix F, for the purpose of obligating the City to provide certain annual financial information and notice of certain prescribed events as required for compliance with Rule 15c2-12 of the United States Securities and Exchange Commission.

This resolution also authorizes officers of the City to take any and all actions necessary to execute and deliver any and all documents deemed necessary or advisable in consultation with the City Attorney, Bond Counsel and Disclosure Counsel in order to carry out the intent of this resolution in general and the Fiscal Agent Agreement and the Bond Purchase Agreement in particular. In accordance with the City’s Debt Management Policy (F-6), Exhibit A of this resolution provides additional information relating to the issuance of Bonds, including the maximum term, maximum annual debt service, call provisions, cost of issuance and a list of consultants hired for this issuance.

Also as required by Council Policy F-6, included as Attachment G to this staff report, is a memo from Urban Futures, Inc., the Independent Registered Municipal Advisor (IRMA) for this issuance, recommending issuing non-rated, publicly offered bonds. Included in that memo, in order to comply with F-6, is the analyses of financing scenarios considered.

Finally, per the requirements of Senate Bill 450, Attachment H contains the good faith estimates provided by Urban Futures, Inc.

FISCAL IMPACT:

Sufficient funding will be available from the pre-payments from the AD-113 property owners and the proposed bond issuance. In addition, funding for anticipated wastewater and water system repairs will be required for the project and funding will be available in the proposed FY 2021-22 Capital Improvement Budget. The construction contract will be funded from the following sources:

<u>Account Description</u>	<u>Account Number</u>	<u>Amount</u>
AD Construction	66302-941032	\$ 4,758,474.00
Water CIP Fund	70201931-980000-22W05	65,000.00
Wastewater CIP Fund	71101-980000-22S03	<u>150,000.00</u>
	Total:	\$ 4,973,474.00

Staff recommends establishing approximately a 10% contingency for unforeseen conditions associated with construction.

Proposed fund uses are as follows:

<u>Vendor</u>	<u>Purpose</u>	<u>Amount</u>
Hot Line Construction, Inc.	Construction Contract	\$ 4,308,179.00
Hot Line Construction, Inc.	Construction Contingency	430,000.00
NV5	Construction Administration & Residential Permit Support	233,295.00
Various	Printing & Incidentals	<u>2,000.00</u>
		\$ 4,973,474.00

ENVIRONMENTAL REVIEW:

On February 14, 2017 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 – Location Map

Attachment B – Amendment to Professional Services Agreement with NV5

Attachment C – Resolution No. 2021-59

Attachment D – Bond Purchase Agreement

Attachment E – Preliminary Official Statement (with Continuing Disclosure Agreement
as Appendix F)

Attachment F – Fiscal Agent Agreement

Attachment G – Memo Recommending Financing Scenario

Attachment H – Good Faith Estimates