

## ATTACHMENT A

### RESOLUTION NO. 2021- 95

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ACCEPTING THE PETITION FOR THE FORMATION OF UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 120-2**

**WHEREAS**, after receiving a petition from certain property owners, the City of Newport Beach ("City") undertook proceedings to form Assessment District Number 120 ("AD 120") in order to finance certain public works of improvement, namely, the conversion of certain overhead electrical, cable and communication facilities to underground locations, together with appurtenant work ("AD 120 Improvements");

**WHEREAS**, after a public hearing on April 13, 2021, the property owners within AD 120 cast sufficient ballots in favor of the district's formation, and the City recorded a Notice of Assessment against each parcel within AD 120 for the purpose of securing the assessments required to finance the AD 120 Improvements;

**WHEREAS**, subsequent to the formation of AD 120, owners of several parcels neighboring the district ("Neighboring Parcels") expressed to the City a desire to finance improvements similar to the AD 120 Improvements;

**WHEREAS**, some of the proposed improvements in the Neighboring Parcels would benefit parcels in AD 120 and the cost per parcel to finance the AD 120 Improvements and improvements in the Neighboring Parcels (collectively, "Combined Improvements") on a combined basis would be less than the cost per parcel to finance the improvements separately due to economies of scale;

**WHEREAS**, a number of property owners within AD 120 and a number of the owners of the Neighboring Parcels (collectively, "Owners") desire to form a new assessment district to finance the Combined Improvements and have filed with the City Clerk several signed counterparts of a petition requesting the implementation of a project to finance the Combined Improvements ("Petition"), the cost of which is to be specifically assessed against each parcel of land benefiting from such improvements as shown on a map attached to the Petition;

**WHEREAS**, in the event the new assessment district is formed, the City Council would dissolve AD 120;

**WHEREAS**, the Petition contains an express waiver of statutory proceedings under the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, as provided in California Streets and Highways Code Section 2804 and satisfies the requirements for instituting proceedings for the conversion of existing overhead electric and communication facilities to underground locations in accordance with California Streets and Highways Code Section 5896.5;

**WHEREAS**, the City Clerk has also received a certificate to the effect that the Petition has been signed by persons owning lands constituting more than sixty percent (60%) in area of the land subject to assessment within the proposed assessment district; and

**WHEREAS**, this City Council finds that the owners of more than sixty percent (60%) in area of the land proposed to be assessed for the proposed improvements, including the owners of more than five of the subject parcels, have signed the Petition and that the Petition contains the matters required by California Streets and Highways Code Sections 2804 and 2804.5.

**NOW, THEREFORE**, the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The Petition, as filed with the City Clerk, is hereby found to be legally sufficient and is accepted.

**Section 2:** The special assessment proceedings shall be undertaken by the terms of the Petition, pursuant to the Municipal Improvement Act of 1913 and without further compliance with the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (commencing with California Streets and Highways Code Section 2800).

**Section 3:** The City Council hereby finds and determines that the public interest and convenience will be served by the taking of such proceedings.

**Section 4:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 5:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 6:** The City Council finds the adoption of this resolution 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) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

**Section 7:** This action is "final" within the meaning of California Streets and Highways Code Section 3012.

**Section 8:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 12th day of October, 2021.

\_\_\_\_\_  
Brad Avery, Mayor

**ATTEST:**

\_\_\_\_\_  
Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE



\_\_\_\_\_  
Aaron C. Harp  
City Attorney

Attachment: Exhibit A - Certificate of Sufficiency of Petition

## EXHBIT A

### CERTIFICATE OF SUFFICIENCY OF PETITION

STATE OF CALIFORNIA  
COUNTY OF ORANCE  
CITY OF NEWPORT BEACH

The undersigned hereby CERTIFIES as follows:


That I am the duly appointed ASSESSMENT ENGINEER of the CITY OF NEWPORT BEACH, CALIFORNIA.

That on the 27<sup>th</sup> day of September, 2021, I reviewed a Petition for the formation of an Assessment District for certain public works of improvement, together with appurtenances, appurtenant work and acquisition, where necessary, in a special assessment district known and designated as ASSESSMENT DISTRICT NO. 120-02 (hereinafter referred to as the "Assessment District"), a copy of which is on file in the Office of the City Clerk.

The undersigned hereby further specifically certifies as follows:

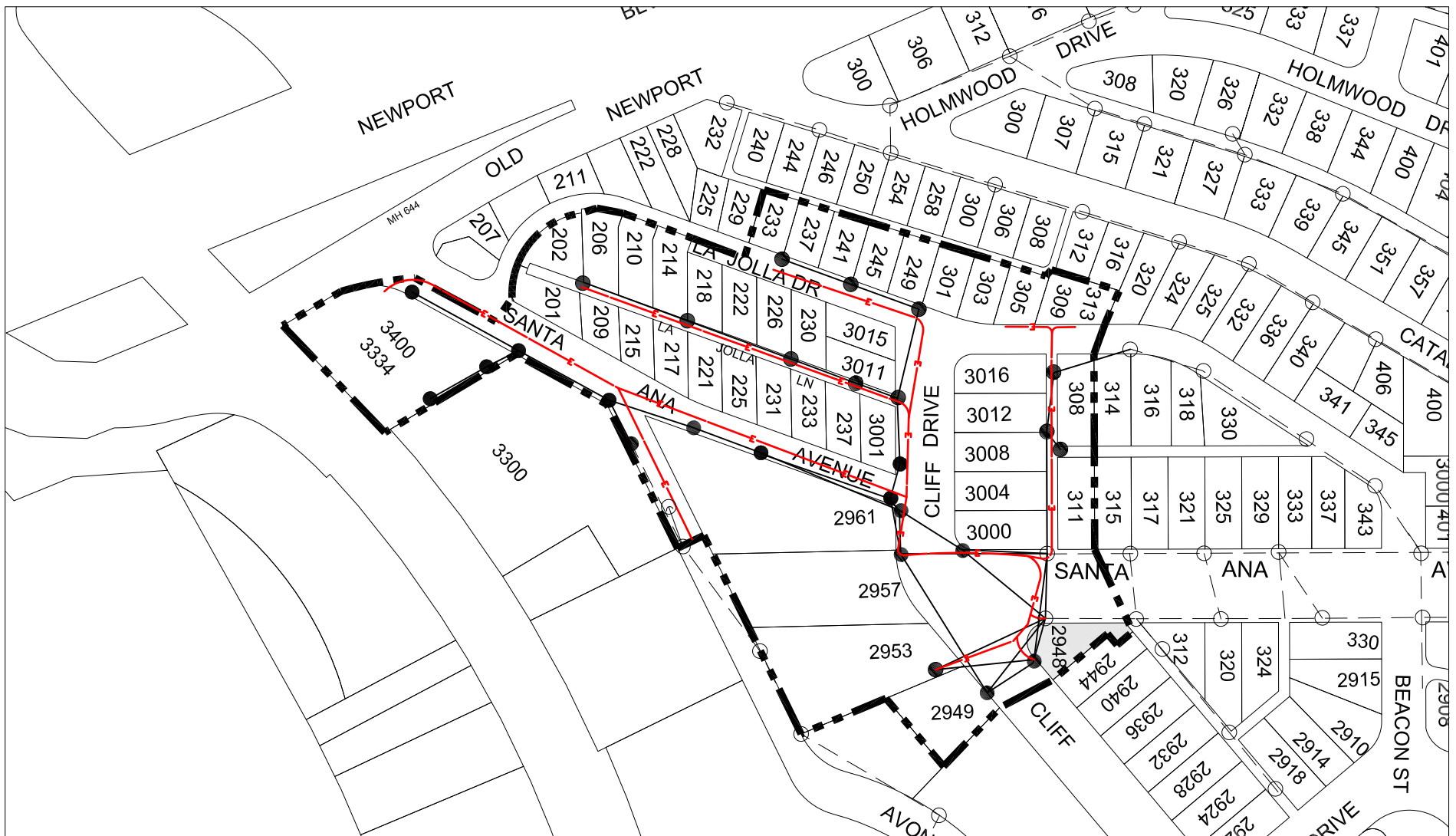
1. That I caused said Petition to be examined and my examination revealed that said Petition was signed by not less than five (5) owners of assessable land in the proposed Assessment District as shown by the last equalized assessment roll used by the City, owning lands constituting more than fifty percent (50%) of the area of all assessable lands within the proposed Assessment District, all as prescribed by Section 5896.6 of the Streets and Highways Code of the State of California.
2. Pursuant to the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, that said Petition did represent sixty-five and three tenths of a percent (65.30%) of the assessable area of property within the proposed boundaries of the Assessment District.

Executed this 27<sup>th</sup> day of September, 2021 at Irvine, California.




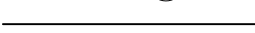
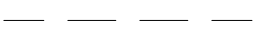


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ALISON BOULEY, P.E.  
HARRIS & ASSOCIATES  
ASSESSMENT ENGINEER  
CITY OF NEWPORT BEACH  
STATE OF CALIFORNIA



## PROPOSED ASSESSMENT DISTRICT NO. 120-2

-  POLES TO REMAIN
-  POLES TO BE REMOVED (27)
-  GUY / RISER POLE TO BE ADDED (1)
-  OVERHEAD LINES TO BE REMOVED
-  OVERHEAD LINES TO REMAIN




-  ASSESSMENT DISTRICT BOUNDARY
-  PROPOSED JOINT TRENCH (3,000 LF)
-  PARCELS TO RETAIN OVERHEAD CONNECTION (1)

FIGURE 1A

PARCELS: 42



N  
1"=200'

Assessment Number	District Number	APN	No.	Street	Petition Signed	Verified Petition	Lot SF	Petition Signer	Property Owner	Comments
1	120	049-101-05	3016	CLIFF DR	YES	YES	6,500	ANN WINTHROP	WINTHROP MARC JOEL TR WINTHROP LIVING TR	Winthrop Living Trust provided trust information naming Ann Winthrop as a trustee.
2	120	049-101-06	3012	CLIFF DR	YES	YES	6,625	RAYMOND P RAMMING	RAMMING RAYMOND PHILLIP III & KATHI	
3	120	049-101-07	3008	CLIFF DR	NO	NO	6,625		WONG DARRYL TR FBO MARIKO WONG	
4	120	049-101-08	3004	CLIFF DR	NO	NO	6,625		RIPLEY CARMEN B TR	
5	120	049-101-09	3000	CLIFF DR	YES	YES	6,625	FRAN BENNETT	BENNETT WILLIAM B TR BENNETT FAMILY TR	Bennett Family Trust provided formation documents listing Fran Bennett as a trustee.
6	120	049-103-01	2961	CLIFF DR	YES	YES	33,253	CHAU HALLER	HALLER DAVID DANG, CHAU	
7	120	049-103-02	2957	CLIFF DR	NO	NO	23,313		DAVIDSSON STURE TR	
8	120	049-110-01	3334	W COAST HWY	YES	YES	31,154	MARIANNE BROOKS	BROOKS MARIANNE C TR	APN 049-110-01 includes 3334 W. Coast Hwy and 3400 W. Coast Hwy.
9	120	425-383-09	3015	CLIFF DR	YES	YES	4,601	PAUL SMITH	SMITH PAUL LYLE TR	
10	120	425-383-10	3011	CLIFF DR	YES	YES	4,601	ELANA M SPIVACK	SPIVACK ADAM I & ELANA M	
11	120	425-383-12	233	SANTA ANNA AVE	YES	YES	4,600	SANDY GOLDBERG	GOLDBERG ROSE & SANDY	
12	120	425-383-13	231	SANTA ANNA AVE	NO	NO	4,601		BEGET JUSTIN T TR THE BEGET FAMILY TR	
13	120	425-383-14	225	SANTA ANNA AVE	YES	YES	4,601	RON HAUGHEY	HAUGHEY RON S	
14	120	425-383-15	221	SANTA ANNA AVE	YES	YES	4,550	MAUREEN ORTLIEB	ORTLIEB MICHAEL A TR ORTLIEB FAMILY LIVING TR	Ortlieb Trust provided formation documents listing Maureen Ortlieb as a trustee.
15	120	425-383-16	217	SANTA ANNA AVE	YES	YES	3,870	KIMBERLY SODERSTROM	SODERSTROM CHARLES W TR KIMBERLEY A SODERSTROM IRREVOC TR	
16	120	425-383-17	215	SANTA ANNA AVE	YES	YES	4,131	ANTHONY CLARK	CLARK ANTHONY E & KIMBERLY	
17	120	425-383-18	209	SANTA ANNA AVE	YES	YES	3,229	C WAYNE RAY	RAY C WAYNE TR	
18	120	425-383-19	201	SANTA ANNA AVE	YES	YES	5,160	SHIRLEY VON BOGENBERG	VON BOGENBERG SHIRLEY TR S VON BOGENBERG LIVING TR	
19	120	425-383-20	237	SANTA ANNA AVE	NO	NO	4,601		WESTPHAL JAY V & LYDIA	
20	120	425-383-21	3001	CLIFF DR	YES	YES	4,600	FERIT KURTKAN	KURTKAN FERIT TR KURTKAN FAMILY TR	
21	120	049-102-04	2948	CLIFF DR	YES	YES	6,098	LESLIE ALSENZ	ALSENZ, LESLIE JO TR	
22	120	049-103-08	2949	CLIFF DR	YES	YES	11,200	ANTONIO CAGNOLO	CAGNOLO ANTONIO G	
23	120	049-103-03	2953	CLIFF DR	NO	NO	26,700		WANG HUEI YU TR	
24	120	425-383-01	202	LA JOLLA LN	YES	YES	5,000	RONALD AXE	AXE RONALD D & TERESA F	
25	120	425-383-02	206	LA JOLLA DR	YES	YES	4,250	RAYMOND SMITH	SMITH RAYMOND A TR	
26	120	425-383-03	210	LA JOLLA DR	NO	NO	4,601		BARAGHOUSH AFSHAN	
27	120	425-383-04	214	LA JOLLA DR	NO	NO	4,601		PM INVESTMENT GROUP INC	
28	120	425-383-05	218	LA JOLLA DR	YES	YES	4,601	MIKE POMEROY	POMEROY MICHAEL L TR	
29	120	425-383-06	222	LA JOLLA DR	YES	YES	3,600	TAYLOR WILLIS COSTA	COSTA TAYLOR W	
30	120	425-383-07	226	LA JOLLA DR	YES	YES	4,601	GORDON DE BOER	DE BOER GORDON W	
31	120	425-383-08	230	LA JOLLA DR	YES	YES	4,601	CHRISTY COLEMAN	COLEMAN JEFFREY & CHRISTY	
32	120	425-382-37	233	LA JOLLA DR	YES	YES	4,000	NICOLE CONNERS	CONNERS LOREN C & NICOLE E	
33	120	425-382-36	237	LA JOLLA DR	NO	NO	4,000		MOORE PATRICIA REGINA TR	
34	120	425-382-35	241	LA JOLLA DR	NO	NO	4,000		SHAFONSKY KIRK	
35	120	425-382-34	245	LA JOLLA DR	YES	YES	4,379	LESLIE STOPHER	STOPHER LESLIE	
36	120	425-382-33	249	LA JOLLA DR	YES	YES	4,350	CHARLES JEFFREY DUN	DUN CHARLES J & BLYTHE E	
37	120	425-382-32	301	LA JOLLA DR	YES	YES	4,300	ELIZABETH PRATTY	PRATTY LOUIS P & ELIZABETH A	
38	120	425-382-31	303	LA JOLLA DR	NO	NO	5,924		BENSON MICHAEL S TR THE BENSON FAMILY TR	
39	120	425-382-30	305	LA JOLLA DR	NO	NO	4,225		SILVER MOUNT REALTY LLC	
40	120	425-382-29	309 / 313	LA JOLLA DR	YES	YES	4,225	AMY OGBURN	OGBURN JOHN J TR	Ogburn Family Trust provided formation documents listing Amy L. Ogburn as a trustee.
41	120	049-101-04	308	LA JOLLA DR	YES	YES	6,229	JONATHON & KRISTEN COLLINS	COLLINS JONATHON & KRISTEN	Property Transered in July of 2021.
42	120	049-101-10	311	SANTA ANNA AVE	NO	NO	6,229		EDELHAUSER WILLIAM J JR TR	
							<b>Total</b>	<b>305,580</b>		
							<b>Verified Petitions Square Footage</b>	<b>199,534</b>		
							<b>Percentage of Verified Petitions by Area</b>	<b>65.30%</b>		