



**CITY OF**

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# **NEWPORT BEACH**

## **City Council Staff Report**

October 12, 2021  
Agenda Item No. 5

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** David A. Webb, Public Works Director - 949-644-3311,  
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**TITLE:** Resolution No. 2021-95: Request for Petition Certification and  
Funding for Expanding Underground Assessment District No. 120-2  
(Santa Ana Avenue and Cliff Drive Area)

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**ABSTRACT:**

The City Council formed Undergrounding Utility Assessment District No. 120 on April 13, 2021, after a positive vote of 23 property owners. Shortly after that approval, residents on the adjacent La Jolla Drive and La Jolla Lane expressed a strong desire to be included in the approved district. As a result, a request to expand the district was made. The larger assessment district has 42 property owners. At least 60 percent of these property owners have signed and submitted a petition to the City of Newport Beach (City), requesting the formation of the larger assessment district. The next step in the assessment district process would be for the City to advance funds to have the assessment engineer prepare a new Engineer's Report and to circulate ballots for the property owners to vote on the revised assessments for the larger district. Staff will assist the process by developing and soliciting a property owner vote in the coming months. It will be based on a conservative cost estimate developed at the completion of the schematic level design.

**RECOMMENDATION:**

- a) Find 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);
- b) Adopt 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*; and
- c) Approve Budget Amendment No. 22-017 authorizing an advance from the General Fund in the amount of \$37,500 and appropriating said amount to Account No. 66902-941006 (AD-120 Assessment Engineering). Funds remaining in any fiscal year will be carried forward to future annual budgets per Council Policy F-3.

## **DISCUSSION:**

The City Council formed Undergrounding Utility Assessment District No. 120 on April 13, 2021, after a majority vote of 23 property owners in this two-block area. Shortly after that approval, residents on the adjacent La Jolla Drive and La Jolla Lane expressed a strong interest to be included in the approved district. As a result, a request to expand the district was made. Because there is no process under assessment district law to expand an existing assessment district as desired, a new assessment district, 120-2 will have to be formed that will include both the area within Undergrounding Utility District No. 120 and the adjacent properties on La Jolla Drive and La Jolla Lane. The larger 120-2 assessment district has 42 property owners who have submitted a petition to the City, signed by at least 60 percent of the owners, requesting the formation of the larger assessment district. The boundaries of the proposed larger assessment district are shown in Attachment A.

The submitted petition signatures represent just over 65 percent of the assessable land within the proposed larger district. The City's guidelines require a minimum of 60 percent in favor of the district in order to proceed with the formation of a district. Harris & Associates has reviewed and certified that owners representing over 60 percent of the assessable property within the proposed larger district had signed the petition in support of undergrounding overhead utilities.

Staff is proposing that the expedited formation process be utilized for this district that has been done for the four recently approved districts (AD-111, 113, 116, 116b, 117 and 124). This process reduces the financial risk to the City and builds on the momentum that has occurred during the signature gathering time for the petition. The process proposed will be as follows: City staff retains an Assessment Engineer to prepare the Engineer's Report and prepare ballots for the property owners to vote on the undergrounding proposal. The assessments will be based on a conservative cost estimate developed at the completion of the schematic level design in November 2021, rather than waiting for the completion of all the necessary utility company design work (which has been ranging around 18-24 months).

If the vote for the larger 120-2 district is successful, with formation completed, the City will then direct final utility design. It is estimated to take approximately two years after a successful early vote to complete the design and to bid the work. If the larger assessment district is ultimately formed, then the City Council will adopt a resolution to dissolve the original Undergrounding Utility District Assessment District No. 120. If the vote for the larger 120-2 district is unsuccessful, the City will stop all further work and not incur additional design costs on the expanded district. The original approved Undergrounding Utility District Assessment District No. 120 would go forward as Council directed on April 13, 2021.

**FISCAL IMPACT:**

The Budget Amendment appropriates \$37,500 in increased expenditure appropriations in Account No. 66902-941006 (AD Assessment Engineering) for AD-120. The following is a summary of expenditures:

<b>Account Description</b>	<b>Account No.</b>	<b>Expensed to Date</b>	<b>Estimated Total Cost</b>
AD-120 Assessment Engineering	66902-941006	\$55,580	\$137,045

The expenditures to date for this district include efforts to prepare the engineers report and balloting for the original district approved by the City Council on April 13, 2021. In addition, the notice of assessment was mailed to all 23 property owners, which resulted in one owner paying. An additional \$37,500 will be required to prepare the new engineers report and complete the second balloting efforts.

In the event that formation of the larger district is successful, these additional costs will be reimbursed by cash contributions and bond proceeds from 42 property owners within the larger district. If the larger district fails to be formed, funds advanced for this second balloting effort cannot be recovered from the original district property owners. In such case, the General Fund will cover the advance used for second balloting formation costs.

**ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find 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. 2021-95

Attachment B – Budget Amendment