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RESOLUTION NO. 23.080

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, DECLARING THE RESULTS OF THE ASSESSMENT BALLOTING PROCEEDING, CONFIRMING ASSESSMENTS IN UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 2014-2, ORDERING THE PROPOSED IMPROVEMENTS TO BE MADE, TOGETHER WITH APPURTENANCES, APPROVING THE ENGINEER'S REPORT, AND DESIGNATING THE ASSISTANT CITY MANAGER/CHIEF FINANCIAL OFFICER OR THE CITY TREASURER TO COLLECT AND RECEIVE MONEY

WHEREAS, by Resolution No. 23.061 heretofore adopted on September 26, 2023, the City Council of the City of Laguna Beach (City) declared its intention to order the work to be done and the improvements to be made as described in that resolution in an assessment district to be designated Underground Utility Assessment District No. 2014-2, as shown and designated on that certain map entitled "Assessment Diagram of Woods Cove Underground Utility Assessment District No. 2014-2, City of Laguna Beach, County of Orange, State of California" on file in the office of the City Clerk; and

WHEREAS, the City Council in and by Resolution No. 23.061 referred the work, acquisitions, and improvements to Harris & Associates as Engineer of Work, and directed it to make and file with the City Clerk a preliminary report in writing (Engineer's Report); and

WHEREAS, by Resolution No. 23.062, the City Council preliminarily approved the Engineer's Report and fixed Tuesday, December 12, 2023, at 5:00 p.m. in the chambers of the City Council, City Hall, 505 Forest Avenue, Laguna Beach, California, as the time and place for a public hearing for hearing comments regarding the proposed acquisitions and improvements, the extent of the assessment district, and the proposed assessment, and provided for mailed notice of the public hearing; and

WHEREAS, following the September 26, 2023, approval of the preliminary Engineer's Report, it was determined four parcels required review and the assessments were reduced, and additional discussion of the City's general benefit contribution was added and is reflected in the final

1 Engineer's Report on file with the City Clerk; and

2 **WHEREAS**, the proposed undergrounding project is categorically exempted from further
3 review under the California Environmental Quality Act pursuant to the provisions of the State CEQA
4 Guidelines Sections 15301, 15302(d), and 15303; and

5 **WHEREAS**, Design Review 22-1404 was approved by the Planning Commission on
6 September 7, 2022, for the placement of aboveground utility structures associated with the proposed
7 utility undergrounding improvements, and the project was found to conform with the general plan,
8 including the certified local coastal program and any applicable specific plans; and

9 **WHEREAS**, the City Clerk filed with the City Council a declaration setting forth the time
10 and manner of compliance with the requirements for mailing notices of the passage of Resolution No.
11 23.062 and of the time and place for the aforementioned public hearing for hearing comments
12 regarding the proposed acquisitions and improvements, together with the assessment ballot required
13 by Article XIID of the California Constitution and California Government Code Section 53753, and
14 the City Council hereby finds that notice of the passage of that resolution and of the time and place for
15 hearing comments regarding the proposed acquisitions and improvements have been mailed in the
16 time, form, and manner required by law; and

17 **WHEREAS**, the public hearing was duly held by the City Council at the time and place for
18 the hearing of all comments on the proposed work and improvements; and

19 **WHEREAS**, at the time and place fixed for the public hearing, the Engineer of Work
20 submitted the final Engineers' Report, which was prepared and contained all the matters and items
21 called for pursuant to the provisions of the Municipal Improvement Act of 1913, being Division 12 of
22 the Streets and Highways Code of the State of California, including plans and specifications of the
23 proposed improvement, a general description of work, appliances or property to be acquired, an
24 estimate of the costs of the improvements and of land, rights of way, easements, and incidental
25 expenses in connection with the improvements, a diagram showing the assessment district and the
26 boundaries and dimensions of the subdivisions of land within the assessment district as they were
27 expected at the time the resolution was adopted, a proposed assessment of the total amount of the
28 costs and expenses of the proposed improvements upon the several subdivisions of land in the

1 assessment district in proportion to the estimated benefits to be received by such subdivisions from the
2 improvements and a proposed maximum annual assessment for administration and collection of
3 assessments; and

4 **WHEREAS**, the final Engineer's Report has been made a part of the record of these
5 proceedings and is on file in the office of the City Clerk; and

6 **WHEREAS**, at the public hearing, comments were received, the City Council closed the
7 public hearing, and the assessment ballots submitted by the record owners of the properties within the
8 proposed assessment district received prior to the close of the public hearing have been tabulated by
9 the City Clerk, acting as the tabulation official appointed by the City Council, all in the manner
10 provided by law; and

11 **WHEREAS**, the City Clerk has prepared and submitted to this City Council a Certificate of
12 Tabulation Official and Statement of Assessment Ballots Submitted, a copy of which is attached as
13 Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation
14 of the assessment ballots; and

15 **WHEREAS**, the majority of the assessment ballots cast, weighted by the amount of the
16 assessments represented thereby, were in favor of the formation of the assessment district and levy of
17 the assessment as set forth in the final Engineer's Report; and

18 **WHEREAS**, the City Council thereupon acquired jurisdiction to order the proposed
19 improvements to be made.

20 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH**
21 **DOES RESOLVE:**

22 **SECTION 1.** The recitals above are true and correct and are incorporated herein by this
23 reference.

24 **SECTION 2.** The City Council hereby finds and declares that the public interest and
25 necessity require the construction of the Improvements, as hereinafter described, and the City Council
26 hereby declares its intention to order the Improvements and to form an assessment district covering
27 the real property benefited by said Improvements.

28 **SECTION 3.** The City Council hereby confirms the proposed assessment in the amount of

1 \$14,389,123 and declares that the final Engineer's Report, including the plans, specifications,
2 description of acquisitions, estimate of the cost of the improvements, assessments, boundary map, and
3 diagram are hereby finally adopted, accepted, confirmed, and approved.

4 **SECTION 4.** The City Council hereby confirms that a cost in the amount of \$1,578,117 for
5 the general benefits of the assessment district received by the public at large, which cost cannot be
6 assessed to the parcels within the district, and \$1,179,500 as a separate City Contribution received by
7 the public at large that the City has chosen not to assess to the parcels within the district, will be paid
8 for by the City of Laguna Beach.

9 **SECTION 5.** Based upon the Engineer's Report and the testimony and other evidence
10 received at the public hearing, it is hereby determined that:

- 11 A. The Engineer's Report identifies all properties within the boundaries of the
12 assessment district that receive a special benefit from the Improvements;
- 13 B. The proportionate special benefit derived by each parcel proposed to be assessed has
14 been determined in relationship to the entirety of the cost of construction of the
15 Improvements;
- 16 C. No assessment is proposed to be imposed on any parcel which exceeds the
17 reasonable cost of the proportional special benefit to be conferred on such parcel
18 from the Improvements;
- 19 D. Only special benefits have been assessed; and
- 20 E. All parcels within the boundaries of the assessment district receiving special benefit
21 are being assessed.

22 **SECTION 6.** The City Council hereby orders the work, acquisitions, and improvements
23 described in Resolution No. 23.062 and in the Engineer's Report, as modified, to be done and made.

24 **SECTION 7.** The City Clerk shall transmit to the Superintendent of Streets/City Engineer of
25 the City of Laguna Beach the diagram and assessment, as amended and modified, and the
26 Superintendent of Streets/City Engineer is hereby directed to record the diagram and assessment in his
27 or her office in a substantial book kept for that purpose; and, in addition, the City Clerk is to record
28 forthwith a Notice of Assessment in the Office of the Recorder, County of Orange, and upon the date


1 of such recordation in the Recorder's office, the assessment shall become a lien upon the lands upon
2 which it is levied, and upon the date of recordation in the Superintendent of Street's/City Engineer's
3 office, the assessment shall become due and payable, all pursuant to the Municipal Improvement Act
4 of 1913.

5 **SECTION 8.** The City Treasurer or the Assistant City Manager/CFO, as determined by the
6 City Manager of the City of Laguna Beach, is hereby designated to collect, and receive the money
7 paid pursuant to the assessment during the cash collection period, in the manner prescribed by law.

8 **SECTION 9.** The City Clerk and/or the City Treasurer, as appropriate, are hereby directed
9 to give notice of the improvement by mailing and publishing notice in the manner set forth in
10 California Streets and Highways Code Section 10404 to the owners of the real property within the
11 assessment district assessed thereby.

12 **SECTION 10.** This Resolution shall be effective immediately upon its adoption.

13
14 ADOPTED this 12th day of December, 2023.

15 
16 _____
17 Sue Kempf, Mayor

18 ATTEST:

19 
20 _____
21 Cheryl Baldrige, Deputy City Clerk

22 I, Cheryl Baldrige, Deputy City Clerk of the City of Laguna Beach, certify that the foregoing
23 Resolution No. 23.080 was duly adopted at a regular meeting of the City Council of said City held on
24 December 12, 2023, by the following vote:

25 AYES: COUNCILMEMBERS: Orgill, Whalen, Rounaghi, Kempf

26 ABSTAIN: COUNCILMEMBERS: Weiss

27 ABSENT: COUNCILMEMBERS: None

28 

Deputy City Clerk, City of Laguna Beach, California

Exhibit A

CERTIFICATE OF TABULATION OFFICIAL
AND STATEMENT OF ASSESSMENT BALLOTS SUBMITTED

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LAGUNA BEACH)

The undersigned, the Deputy City Clerk and duly authorized tabulation official appointed by the City Council of the City of Laguna Beach, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted in the assessment ballot proceedings pertaining to the Underground Utility Assessment District No. 2014-2.

I FURTHER CERTIFY that this Statement of Assessment Ballots Received shows the assessment ballots submitted in favor of the assessment and the assessment ballots submitted in opposition to the assessment, each total weighted according to the financial obligation of the affected properties for which the assessment ballots were submitted.

Total assessment ballots distributed:	380
Total assessment ballots received:	326
Assessment ballots received <u>in favor</u> of the proposed assessment:	178
Weighted value of assessment ballots received <u>in favor</u> of the proposed assessment:	\$7,314,035.40
Assessment ballots received <u>in opposition</u> to the proposed assessment:	129
Weighted value of assessment ballots received <u>in opposition</u> to the proposed assessment:	\$4,657,794.10

This certification is executed this 12th day of December, 2023, in the City of Laguna Beach, California.

Deputy City Clerk
City of Laguna Beach

By:

Title:

[Handwritten Signature]
[Handwritten Title: Deputy city clerk]