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RESOLUTION NO. 23.061

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE CONSTRUCTION OF CERTAIN IMPROVEMENTS AND TO FORM UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 2014-2 (WOODS COVE)

WHEREAS, in accordance with the provisions of Section 5896.6 of the California Streets and Highways Code, the owners of more than 50 percent in area of the properties subject to assessment for the proposed construction of certain improvements hereinafter described (the "Improvements") have signed and filed with the City Clerk a written petition for the construction in proceedings to be taken by the City Council of the City of Laguna Beach (herein referred to as the "City") pursuant to the provisions of the Municipal Improvement Act of 1913, being Division 12 of the California Streets and Highways Code ("Improvement Act"), applicable provisions of Article XIID of the California Constitution, being the "Right to Vote on Taxes Act" ("Proposition 218"), and provisions of Government Code Section 53750 et seq., being the "Proposition 218 Omnibus Implementation Act" and for the issuance of bonds in the proceedings under the Improvement Bonds Act of 1915 (the "1915 Act") (collectively the "Acts"); and

WHEREAS, it appears to the City Council that an assessment district should be formed to finance the installation of said Improvements under the provisions of the Acts to enhance public safety and the overall aesthetics of this community; and

WHEREAS, the proposed territory and boundaries of such assessment district are shown on a map, which map is designated "Boundary Map for Underground Utility Assessment District No. 2014-2, City of Laguna Beach" (herein referred to as the "Map"), has been presented to the City Council for approval and is on file in the office of the City Clerk; and

WHEREAS, Harris & Associates, the assessment engineer ("Engineer of Work"), is competent to make and has filed with the City Clerk the report with regard to the Improvements, which report is required by the Acts to be made and filed; and

WHEREAS, before ordering the Improvements, the City Council is required, under the Acts, to adopt a resolution declaring its intention to do so.

1 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH**
2 **DOES RESOLVE:**

3 **SECTION 1.** The City Council hereby finds and declares that the public interest and
4 necessity require the construction of the Improvements, as hereinafter described, and the City Council
5 hereby declares its intention to order the Improvements and to form an assessment district covering
6 the real property benefited by said Improvements.

7 **SECTION 2.** The proposed assessment district shall be designated "Underground Utility
8 Assessment District No. 2014-2."

9 **SECTION 3.** The Map, which indicates by a boundary line the extent of the territory
10 included in said proposed assessment district, is hereby declared to describe the proposed boundaries
11 of "Underground Utility Assessment District No. 2014-2" and shall govern for all details as to the
12 extent of said assessment district.

13 **SECTION 4.** The City Clerk is hereby directed to endorse her certificate on the original of
14 the Map evidencing the date and adoption of this resolution and to file said Map in her office, and to
15 file a copy of said Map so endorsed with the County Recorder of Orange County, California within
16 fifteen (15) days after the adoption of the resolution fixing the time and place of hearing on the
17 formation and extent of the assessment district.

18 **SECTION 5.** The Improvements which the City Council intends to order are the
19 construction of certain underground utility system improvements, appurtenances, right-of-way
20 improvements, and all appurtenant work in connection therewith in certain streets and other public
21 easements as provided in the Engineer's Report. The City Council determines that the Improvements
22 will enhance views, safety, and aesthetics of the neighborhood within the district.

23 **SECTION 6.** Pursuant to Section 4 of Article XIID of the Constitution of the State of
24 California, parcels within the assessment district that are owned or used by any local agency, the State
25 of California or the United States shall not be exempt from assessment, unless it can be demonstrated
26 by clear and convincing evidence that such publicly-owned parcels in fact receive no special benefit
27 from the Improvements.
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1 **SECTION 7.** Notice is hereby given that serial bonds to represent unpaid assessments,
2 which bear interest at a fixed or variable interest rate of not to exceed twelve percent per annum, or
3 such higher maximum interest rate as may be permitted by law, will be issued hereunder in the
4 manner provided in Division 10 of the California Streets and Highways Code (the Improvement Bond
5 Act of 1915) and the last installment of such bonds shall mature in not to exceed 39 years from the
6 second of September next succeeding 12 months from their date. The alternate procedure for
7 collecting assessments and advance retirement of bonds as set forth in Part 11.1 of Division 10 of the
8 California Streets and Highways Code shall apply herein. Pursuant to Section 8650.1 of said Code, the
9 City Council may determine to issue said bonds so that other than an equal annual proportion of the
10 principal amount shall mature each year.

11 **SECTION 8.** The City Council further hereby declares that it is its intention to covenant
12 that, upon default of any assessment payment due (except under circumstances to be specified in
13 resolution for the bonds), it will cause foreclosure proceedings to be brought within 150 days of such
14 default, as permitted by Section 8830(b) of the California Streets and Highways Code.

15 **SECTION 9.** The City Council further declares that it is its intention to create a special
16 reserve fund to provide for the purchase of tax delinquent property by the City, and for other advances
17 contemplated to be made by the City under Part 13 of Division 10 of the California Streets and
18 Highways Code, as permitted by Part 16, Sections 8880-8886 of said Code, inclusive.

19 **SECTION 10.** The City Council hereby finds and determines that if the assessment proposed
20 herein results in a surplus in the improvement fund to be provided for in the proceedings hereafter
21 taken pursuant to this resolution, after the Improvements are constructed, the surplus shall be applied
22 as a credit on the assessment or for the redemption of bonds, unless the City Council hereafter
23 otherwise provides by resolution, all in accordance with the provisions of Sections 10427-10427.2,
24 inclusive, of the California Streets and Highways Code.

25 **SECTION 11.** Whenever, in the Municipal Improvement Act of 1913 or in the Improvement
26 Bond Act of 1915, a notice, resolution, order or other matter relative to said proceedings for the work,
27 acquisitions and improvements in said assessment district is required to be published, the City Clerk is
28 hereby ordered to publish such notice, resolution or other matter in the LA Times – Daily Pilot, which

1 is hereby selected by the City Council for that purpose.

2 **SECTION 12.** The City Council hereby appoints Harris & Associates as the Engineer of
3 Work, refers the proposed construction and acquisitions to the Engineer of Work and directs the
4 Engineer to make and file with the City Clerk a report in writing containing the matters specified in
5 Section 10204 of the California Streets and Highways Code.

6 **SECTION 13.** Pursuant to California Streets and Highways Code Section 8769, the City
7 Council hereby determines that the City will not obligate itself to advance available funds from the
8 City Treasury to cure any deficiency which may occur in the Redemption Fund; provided, however,
9 this determination shall not prevent the City from, in its sole discretion, advancing funds for such
10 purpose as otherwise provided in the Improvement Bond Act of 1915.

11 **SECTION 14.** The City Council declares that it is its current intention to contribute
12 approximately \$1,578,117 for the General Benefit received by the public at large, that cannot be
13 assessed to the parcels within the district, and \$1,179,500 as a separate City Contribution received by
14 the public at-large, that the City has chosen not to assess to the parcels within the district.

15 **SECTION 15.** The City Council further declares that it is its intention to enter into
16 agreements with Southern California Edison, Frontier Communications, Cox Communications, and
17 Crown Castle pursuant to Section 5896.9 of the California Streets and Highways Code, regarding the
18 construction and installation of the Improvements, the cost of which shall be assessed upon the real
19 property specially benefiting therefrom and title to which shall vest, upon completion, in said public
20 utilities.

21 **SECTION 16.** The City Council further declares that the bonds issued for Assessment
22 District No. 2014-2 shall be refundable in accordance with the provisions of the "Refunding Act of
23 1984 for 1915 Improvement Act Bonds" (commencing with Section 9500) of the California Streets
24 and Highways Code on the following conditions:

25 (a) The maximum interest rate on the refunding bonds shall not exceed the maximum rate
26 permitted by law at the time of the refunding;

27 (b) The maximum number of years to maturity of the refunding bonds shall not exceed the
28 number of years to maturity of the bonds to be refunded; and

1 (c) Any adjustment to assessments resulting from the refunding will be done on a pro-rata
2 basis.

3 **SECTION 17.** Pursuant to the provision of the authority granted by the Acts, the City
4 Council hereby determines and declares that, in its opinion, the public interest will not be served by
5 allowing any owner of property located within the assessment district to be awarded any contract to be
6 let under this proceeding and said property owners shall not be awarded any such contracts.

7 **SECTION 18.** Appropriate staff of the City is hereby authorized and directed to take such
8 acts in furtherance of this resolution as may be necessary to accomplish the proceedings initiated
9 herein. The costs of such actions, if any, shall be advanced from the appropriate fund of the City; and
10 such advances, if any, shall be reimbursed to said fund from the proceeds of the bonds to be issued
11 hereunder.

12 ADOPTED this 26th day of September, 2023.

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Bob Whalen, Mayor

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16 ATTEST:

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Ann Marie McKay, City Clerk

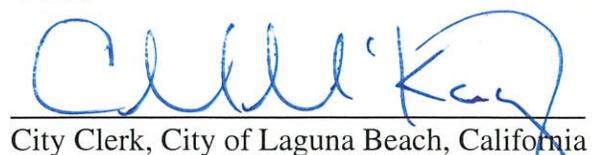
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20 I, Ann Marie McKay, City Clerk of the City of Laguna Beach, certify that the foregoing
21 Resolution No. 23.061 was duly adopted at a regular meeting of the City Council of said City held on
22 September 26, 2023, by the following vote:

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

24 NOES: COUNCILMEMBERS: None

25 ABSENT: COUNCILMEMBERS: None

26 ABSTAIN: COUNCILMEMBERS: Weiss

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City Clerk, City of Laguna Beach, California