

ORDINANCE No. 188576 As Amended

Create a local improvement district to construct street, sidewalk and stormwater improvements in the N Suttle Road Local Improvement District (Ordinance; C-10058)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37282 on May 10, 2017, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the North Suttle Road Local Improvement District (LID). In the event any finding or any directive within this Ordinance conflicts with Resolution No. 37282 involving this LID, the finding or directive within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37282 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37282 shall be considered a remonstrance for purposes of Section 17.08.070 of City Code nor for purposes of Section 9-403 of the City Charter.
3. The City Auditor mailed notice of the July 12, 2017 LID formation hearing on June 21, 2017 to the owner of the benefited properties within the proposed North Suttle Road LID. The property owners were notified of the time and location of the hearing conducted by Council, the total estimated project costs, the right and manner to object to the formation of the North Suttle Road LID, the deadline and procedure for filing a remonstrance against the formation of the North Suttle Road LID, and the amount of the estimated future assessment on benefited properties as set forth in Exhibit A. The deadline to submit a written remonstrance was at 5:00 PM on July 5, 2017.
4. Notices of the LID formation hearing were posted within the North Suttle Road LID on June 27, 2017.
5. The LID Administrator published notice of the June 7, 2017 LID formation hearing in the Daily Journal of Commerce on June 19 and on June 21, 2017.
6. The general character and scope of the improvement is to remove the existing dirt, gravel and/or hard surface; grade the street to its proper subgrade; construct a concrete street with an aggregate base; construct stormwater drainage facilities including stormwater planters; construct curbs on both sides of the street, construct sidewalk on one side of the street, generally on the north side; and plant street trees one side of the street as shown in Exhibit B.
7. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.

8. The improvements will be constructed on North Suttle Road from the west right-of-way line of North Portland Road to 2,935 feet west of the west right-of-way line of North Portland Road, plus any transition work on abutting street segments, intersections, railroad track and/or adjacent property determined to be necessary by the City Engineer as shown in the map in Exhibit C.
9. The boundaries of the North Suttle Road LID shall include the properties as shown in Exhibit C.
10. The LID Administrator's estimated cost of designing, constructing and financing the improvements is \$9,633,874.77 as shown in Exhibit D, not including the cost of utility relocation that may be required at utilities' expense. The LID Administrator's estimate is based on the Engineer's Estimate as contained in Exhibit E. The LID Administrator's level of confidence in the cost estimate for this project as of the filing date of this Ordinance is "Low" per Exhibit A of Resolution No. 36430 adopted by Council on July 26, 2006 given that project specifications are preliminary. The estimated amount of the future assessment for the North Suttle Road LID is \$8,225,450.95, which is being reduced by \$300,000.00 from the amount of \$8,525,450.95 referenced in Resolution No. 37282. Additional funding is being provided by the Portland Bureau of Transportation (PBOT) in the amount of \$1,108,423.82 for overhead costs and \$300,000 from Heavy Vehicle Use Tax (HVUT) funding.
11. The LID Administrator has analyzed the financial feasibility of the North Suttle Road LID and has made a finding that the collective bonding capacity of benefiting properties is sufficient so as to minimize the City's financial risk associated with this project.
12. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the North Suttle Road LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
13. The parcel of land within the North Suttle Road LID will receive special benefit from the project in the amounts set forth in Exhibits A and F.
14. The Council has considered the remonstrances made by the owner of properties to be benefited by the North Suttle Road LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
15. Passage of this Ordinance provides assurance of performance per Section 17.24.055 of City Code for improvements to North Suttle Road from the west right-of-way line of North Portland Road to 2,935 feet west of the west right-of-way line of North Portland Road.

16. Assessments for LIDs are not subject to the properties tax limitation established by Article XI, Section 11b of the Oregon Constitution.
17. Pursuant to City Code, assessment for the North Suttle Road LID will be imposed by a separate and subsequent ordinance.
18. An engineering study was received from Maul Foster Alongi Inc. on August 16, 2017 and is included as Exhibit H to this Ordinance.
19. PBOT will provide an additional \$500,000 in project funding, from Transportation System Development Charge ("TSDC") revenue, subject to directives 'k' and 'l' of this Ordinance, subject to subsequent Council approval of the new Citywide TSDC project list. This funding will be in the form of an additional assessment of this amount to the property with Pending Lien No. 160842.
20. The \$300,000 in funding identified in Finding No. 10 of this Ordinance will be provided in the form of an additional assessment of this amount to the property with Pending Lien No. 160842, not subject to the conditions of directives 'k' and 'l' of this Ordinance, and will be in lieu of \$300,000 in non- LID funding of this project.
21. BES will provide an additional \$500,000 in project funding to defray property owners' costs of building new stormwater infrastructure, which is estimated at a cost more than this additional funding. This funding will be from BES ratepayer revenue and is subject to directives 'k' and 'l' of this Ordinance. This funding will be in the form of an additional assessment of this amount to the property with Pending Lien No. 160824.
22. PBOT completed geographic information system ("GIS") calculations of National Wetland Inventory ("NWI") area on July 15, 2017 and found the following:
 - a. The property with Pending Lien No.160818 has 5,220 square feet of NWI area.
 - b. The property with Pending Lien No.160831 has 8,270 square feet of NWI area.
 - c. The property with Pending Lien No. 160833 has 118 square feet of NWI area.
 - d. The property with Pending Lien No. 160838 has 104,711 square feet of NWI area.

NOW, THEREFORE, the Council directs:


- a. The North Suttle Road LID is hereby created as shown in Exhibit C and the North Suttle Road LID includes the properties to be benefited in the amounts identified in Exhibits A and F.
- b. Assurance of performance for properties identified in Exhibit A is provided upon Council passage of this Ordinance per Section 17.24.055 of City Code.
- c. The properties owner's estimated share of costs is as shown in Exhibit F. Costs for any necessary utility relocation shall be allocated per Subsection 17.16.100 of City Code as well as per the Final Procedures for Allocation of Utility Relocation Costs adopted on June 5, 2002.
- d. The properties shall be assessed on a square footage basis.
- e. The City Engineer shall prepare plans and specifications for the improvement.
- f. The City Engineer shall arrange for construction of the local improvement project.
- g. Procurement Services within the Bureau of Internal Business Services shall advertise for bids, prepare a contract, and award the contract through a competitive bid process. The improvements may be constructed in whole or in part by the City of Portland, or the City of Portland may seek bids for any portion of the North Suttle Road LID project. The manner in which the improvements are constructed is at the sole discretion of the City Engineer.
- h. The City Auditor shall obtain interim financing to pay for North Suttle Road LID project costs prior to bonding.
- i. PBOT is authorized to incur expenditures for this project per Finding No. 10 and Exhibit D, and the City Auditor is authorized to reimburse such expenditures from the LID Fund.
- j. PBOT staff are directed to explore adding a North Suttle Road corridor improvement project including sidewalk infill to the Transportation System Development Charge (TSDC) eligible project list. This will be done during the upcoming TSDC program update process, with the decision on whether to actually add such a project to the TSDC eligible project list at the sole discretion of the City Council as may be approved under a separate and subsequent Ordinance. Any SDC funding granted will be added to project contingency with property owners' estimated LID assessments remaining unchanged. SDC-funded project contingency may also be used to change the pavement section from asphaltic concrete to Portland Cement at the sole discretion of the City Engineer.
- k. PBOT will not be under any obligation subsequent to the Council action referenced in directive 'j' of this Ordinance to apply TSDC funding to this LID if the City

Attorney deems it necessary to file for condemnation to acquire necessary property rights for this LID.

- l. PBOT will not be under any obligation subsequent to the Council action referenced in directive 'j' of this Ordinance to apply TSDC funding to this LID if property owner(s) file for a writ of judicial review of Council approval of this Ordinance.
- m. A change in scope as recommended in Finding No. 18 of this Ordinance will not require subsequent Council approval per Section 17.08.080 of City Code; however, any change(s) in street scope will be at the sole discretion of the City Engineer, and any change(s) in stormwater scope will be at the sole discretion of the Chief Engineer of BES as they may deem to be feasible and appropriate.
- n. The Local Improvement District Administrator to prepare an LID apportionment within the Final Assessment Ordinance in accordance with Finding No. 19 of this Ordinance and its terms and conditions, upon completion of construction of the N. Suttle Rd. LID.
- o. The Local Improvement District Administrator to prepare an LID apportionment within the Final Assessment Ordinance in accordance with Finding No. 20 of this Ordinance upon completion of construction of the N. Suttle Rd. LID.
- p. The Local Improvement District Administrator to prepare an LID apportionment within the Final Assessment Ordinance in accordance with Finding No. 21 of this Ordinance and its terms and conditions, upon completion of construction of the N. Suttle Rd. LID.
- q. The Local Improvement District Administrator to prepare an LID apportionment within the Final Assessment Ordinance in accordance with Finding No. 22 of this Ordinance, upon completion of construction of the N. Suttle Rd. LID. A partial exemption for any single property based on NWI area does not relieve the remaining obligation for remaining non-NWI area. Remaining assessable area associated with Pending Lien Nos. 160833 and 160838 will be proportionally reallocated based on area to other properties in common ownership with Pending Lien Nos. 160826, 160828, and 160834.

Passed by the Council, **AUG 30 2017**

Commissioner Dan Saltzman
Prepared by: Andrew Aebi:smp
Date Prepared: August 23, 2017

Mary Hull Caballero
Auditor of the City of Portland
By 

Deputy

787 928 962

Agenda No.
ORDINANCE NO. 188576 As Amended
 Title

Create a local improvement district to construct street, sidewalk and stormwater improvements in the N Suttle Road Local Improvement District (Ordinance; C-10058)

INTRODUCED BY Mayor/Auditor <i>Comm. Saltzman</i> MAYOR Ted Wheeler	CLERK USE: DATE FILED <u>JUL 03 2017</u>
MAYOR APPROVAL Mayor—Finance and Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman <i>Jon</i> Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Transportation Policy, Planning & Projects Group Manager: Art Pearce Director: Leah Treat Prepared by: Andrew Aebi: smp <i>AAA</i> Date Prepared: June 12, 2017 Supervisor: Millicent Williams <i>MLW</i>	ACTION TAKEN: <i>Art Pearce - 6/20/17</i> JUL 12 2017 CONTINUED TO AUG 23 2017 10:00 A.M. TIME CERTAIN
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	AUG 23 2017 PASSED TO SECOND READING As Amended AUG 30 2017 9:30 A.M.
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date July 12, 2017	

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: <i>10:00 AM</i> Total amount of time needed: <i>20</i> (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	<input checked="" type="checkbox"/>	
4. Eudaly	<input checked="" type="checkbox"/>	
Wheeler	<input checked="" type="checkbox"/>	