

# PBOT

PORTLAND BUREAU OF TRANSPORTATION

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**Dan Saltzman** Commissioner **Leah Treat** Director

July 6, 2017

**EXHIBIT G**

## SUMMARY OF REMONSTRANCES AND FINDINGS TO COUNCIL

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

### I. SUMMARY

Five (5) written remonstrances representing owners of the 28 nonexempt properties in the North Suttle Road Local Improvement District were received by the filing deadline registering remonstrances against formation of the local improvement district. Total remonstrances represent 45.5% of the area of properties included in the local improvement district and 45.5% of the estimated assessment within the local improvement district. These remonstrances are attached as Attachments 1 through 5.

An additional one (1) objection was received representing the two (2) owners of four (4) nonexempt properties in the North Suttle Road Local Improvement District was received by the filing deadline registering objections to formation of the local improvement district. Total objections represent 25.7% of the area of properties included in the local improvement district and 25.7% of the estimated assessment within the local improvement district. This objection is attached as Attachment 6. The previously-recorded waivers of remonstrance are attached as Attachments 7 and 8.

Council retains jurisdiction to form the North Suttle Road Local Improvement District because the remonstrance level of 45.5% is less than the 60% threshold in Section 9-403 of the City Charter.



*The Portland Bureau of Transportation fully complies with Title VI of the Civil Rights Act of 1964, the ADA Title II, and related statutes and regulations in all programs and activities. For accommodations, complaints and information, call (503) 823-5185, City TTY (503) 823-6868, or use Oregon Relay Service: 711.*

## II. ISSUES RAISED BY THE MERIT USA, INC. AND OIL REREFINING COMPANY REMONSTRANCE.

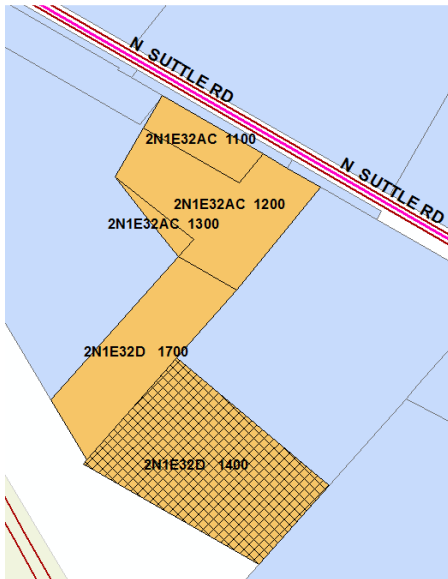
A remonstrance was submitted by W.L. Briggs, representative of Merit USA, Inc. and Oil Rerefining Company for five (5) properties identified in Exhibits A and F with pending liens No. 160826, 160828, 160833, 160834, and 160838 addressed as 4150 North Suttle Road. This remonstrance is attached as Attachment 1.

### *Issue #1:*

Please remove the assessment for the property with pending lien No. 160838 with a proposed future assessment of \$278,952.05. This property is a land-locked, wetland, environmental restricted area.

### *Response:*

- a. Actual assessments for this LID will be imposed by a separate and subsequent Ordinance. Council may choose at its discretion to partially or fully exempt this property from assessment as highlighted in crosshatch on the map below.



- b. This property is an environmental conservation (“c”) zone but is not in an environmental protection (“p”) zone for which an exemption would be made.
- c. The proposed apportionment reflects the assumption that on-site stormwater management will be required for all properties financially participating in the LID, either currently or in the future, whether such area is actually in a “c” zone.

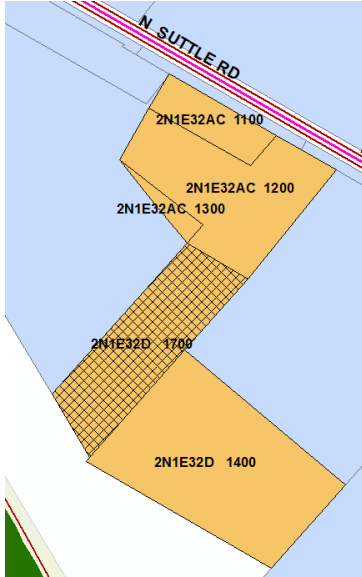
- d. This property represents 3.4% of the LID per Exhibit F of this Ordinance, and exempting this property would result in a proportionate increase to other properties in the LID, including other properties that were the subject of this remonstrance.
- e. Properties in “c” zones have been assessed in the past, especially when in common ownership with other properties, with potential or actual development potential to adjacent properties.
- f. As an alternative to exempting this property altogether, Council could alternatively choose to apportion the estimated assessment for this property to other estimated assessments for properties in common ownership by Merit USA and Oil Rerefining Co. in lieu of to other properties in the LID.
- g. Council could choose to establish a new precedent of exempting property in the “c” zone, but would presumably do this for all properties in the LID.

*Issue #2:*

Please remove the assessment for the property with pending lien No. 160833 with a proposed future assessment of \$157,924.07. The only access is through the property in front of it and it is zoned as a conservation area with limited development rights.

*Response:*

- a. Actual assessments for this LID will be imposed by a separate and subsequent Ordinance. Council may choose at its discretion to partially or fully exempt this property from assessment as highlighted in crosshatch on the map below.



- b. This property is an environmental conservation (“c”) zone but is not in an environmental protection (“p”) zone for which an exemption would be made.
- c. The proposed apportionment reflects the assumption that on-site stormwater management will be required for all properties financially participating in the LID, either currently or in the future, whether such area is actually in a “c” zone.
- d. This property represents 1.9% of the LID per Exhibit F of this Ordinance, and exempting this property would result in a proportionate increase to other properties in the LID, including other properties that were the subject of this remonstrance.
- e. Properties in “c” zones have been assessed in the past, especially when in common ownership with other properties, with potential or actual development potential to adjacent properties.
- f. As an alternative to exempting this property altogether, Council could alternatively choose to apportion the estimated assessment for this property to other estimated assessments for properties in common ownership by Merit USA and Oil Rerefining Co. in lieu of to other properties in the LID.
- g. Council could choose to establish a new precedent of exempting property in the “c” zone, but would presumably do this for all properties in the LID.

### III. ISSUES RAISED BY THE LACAMAS LABORATORIES REMONSTRANCE.

A remonstrance was submitted by Tony Lemon, representative of Lacamas Laboratories for four (4) properties identified in Exhibits A and F with pending liens No. 160825, 160839 and 160841 and a fourth exempt property addressed as 3625 North Suttle Road. This remonstrance is attached as Attachment 2.

#### *Issue #1:*

We agree that North Suttle Road is in need of repair. However, we oppose the LID because the financial burden imposed on the property owners far outweighs the benefits. Lacamas Laboratories would pay \$337,780. We simply cannot afford to pay that amount.

#### *Response:*

- a. The LID would result in each \$1.00 contributed by Lacamas Labs being leveraged with \$23.35 in funding from other neighboring properties. An additional \$4.17 in additional non-LID funding would also be provided, resulting in total financial leverage of \$27.52 for each \$1.00 provided by Lacamas Labs.
- b. The very flat topography of the area makes it much less financially feasible for a property to build N. Suttle Rd. on a piecemeal basis. The LID offers a much more cost-effective solution to building necessary street and stormwater improvements, which would likely be impossible to construct privately given the need for property acquisition, requiring City involvement.
- c. One-third of the estimated assessment for Lacamas Labs and other properties in the LID is for contingency and right-of-way acquisition. Property owners should budget for those expenses to be incurred. However, in a scenario in which contingency were not necessary and right-of-way were to be donated, the reduction to Lacamas Labs' assessment would be 33.3% or \$112,373.03.

*Issue #2:*

The proposed LID goes well beyond what is needed given the use of N. Suttle Rd.

*Response:*

- a. The City proposes that N. Suttle Rd. be built with an adequate pavement section to ensure structural integrity for its current use. The current street is self-described by a property owner as “the worst road in Portland” (see record of Resolution No. 37282). The pavement condition of the street is mostly in poor and very poor condition. Although there are isolated stretches of good condition pavement, it is prudent to budget for a full reconstruct of the entire pavement section. Even if an isolated pavement section is theoretically salvageable, it often is not possible to replace only adjacent sections of pavement without causing drainage problems and/or grade problems.
- b. Sidewalks are included on one side of the street only as a cost savings measure to avoid additional right-of-way acquisition. Sidewalk on one side off the street provides for a safe area for pedestrians and avoids mixing trucks and pedestrians in the roadway.
- c. Street lighting is a standard element of LID projects to improve safety and security.
- d. The planned vegetation is for stormwater management purposes and will enable the City to comply with regulations to properly and responsibly treat public stormwater runoff before discharging it into the Columbia River, and will be a condition of a permit to discharge stormwater.

*Issue #3:*

Several of the property owners have retained consultant Maul Foster & Alongi (“MFA”) to analyze the proposed LID. The MFA analysis is merited prior to any Council decision on the LID.

*Response:*

- a. The 13-year history of multiple and recurring property owner complaints clearly demonstrates that the existing roadway is severely inadequate both for current use and in the future (see record of Resolution No. 37282). The LID Administrator feels that this record alone is a sufficient basis on which to form an LID, whether it is amended prior to LID formation.

- b. The LID Administrator also feels that a second technical opinion may be beneficial in aiding property owners' technical understanding of the proposed LID scope regardless of whether this LID is amended.
  
- c. The LID Administrator recommends to Council that final approval of the LID be deferred to August 23, 2017 to allow completion of the MFA study within a reasonable time frame. Regardless of whether Council chooses to delay formation of the LID, the City will review the MFA study and incorporate its findings to the extent practicable, while also ensuring an adequate life of the new pavement and minimizing long-term life-cycle maintenance costs.

#### **IV. ISSUES RAISED BY THE PMP PROPERTIES REMONSTRANCE.**

A remonstrance was submitted by Mary Ewert, representative of PMP Properties, for two (2) properties identified in Exhibits A and F with pending liens No. 160835 and 160836. This remonstrance is attached as Attachment 3.

##### *Issue #1:*

We agree that North Suttle Road is in need of repair. However, we oppose the LID because the financial burden imposed on the property owners far outweighs the benefits. PMP Properties would pay \$606,145.27. We simply cannot afford to pay that amount.

##### *Response:*

- a. The LID would result in each \$1.00 contributed by PMP Properties being leveraged with \$12.57 in funding from other neighboring properties. An additional \$4.17 in additional non-LID funding would also be provided, resulting in total financial leverage of \$16.74 for each \$1.00 provided by PMP Properties.
- b. The very flat topography of the area makes it much less financially feasible for a property to build N. Suttle Rd. on a piecemeal basis. The LID offers a much more cost-effective solution to building necessary street and stormwater improvements, which would likely be impossible to construct privately given the need for property acquisition, requiring City involvement.
- c. One-third of the estimated assessment for PMP Properties and other properties in the LID is for contingency and right-of-way acquisition. Property owners should budget for those expenses to be incurred. However, in a scenario in which contingency were not necessary and right-of-way were to be donated, the reduction to PMP Properties' assessment would be 33.3% or \$201,653.27.



*Issue #2:*

The proposed LID goes well beyond what is needed given the use of N. Suttle Rd.

*Response:*

- a. The City proposes that N. Suttle Rd. be built with an adequate pavement section to ensure structural integrity for its current use. The current street is self-described by a property owner as “the worst road in Portland” (see record of Resolution No. 37282). The pavement condition of the street is mostly in poor and very poor condition. Although there are isolated stretches of good condition pavement, it is prudent to budget for a full reconstruct of the entire pavement section. Even if an isolated pavement section is theoretically salvageable, it often is not possible to replace only adjacent sections of pavement without causing drainage problems and/or grade problems.
- b. Sidewalks are included on one side of the street only as a cost savings measure to avoid additional right-of-way acquisition. Sidewalk on one side off the street provides for a safe area for pedestrians and avoids mixing trucks and pedestrians in the roadway.
- c. Street lighting is a standard element of LID projects to improve safety and security.
- d. The planned vegetation is for stormwater management purposes and will enable the City to comply with regulations to properly and responsibly treat public stormwater runoff before discharging it into the Columbia River, and will be a condition of a permit to discharge stormwater.

*Issue #3:*

Several of the property owners have retained consultant Maul Foster & Alongi (“MFA”) to analyze the proposed LID. The MFA analysis is merited prior to any Council decision on the LID.

*Response:*

- a. The 13-year history of multiple and recurring property owner complaints clearly demonstrates that the existing roadway is severely inadequate both for current use and in the future (see record of Resolution No. 37282). The LID Administrator feels that this record alone is a sufficient basis on which to form an LID, whether it is amended prior to LID formation.

- b. The LID Administrator also feels that a second technical opinion may be beneficial in aiding property owners' technical understanding of the proposed LID scope regardless of whether this LID is amended.
  
- c. The LID Administrator recommends to Council that final approval of the LID be deferred to August 23, 2017 to allow completion of the MFA study within a reasonable time frame. Regardless of whether Council chooses to delay formation of the LID, the City will review the MFA study and incorporate its findings to the extent practicable, while also ensuring an adequate life of the new pavement and minimizing long-term life-cycle maintenance costs.

## **V. ISSUES RAISED BY THE ECO SERVICES REMONSTRANCE.**

A remonstrance was submitted by Joseph Koscinski, representative of Eco Services, for a property identified in Exhibits A and F with pending lien No 160820. This remonstrance is attached as Attachment 4.

### *Issue #1:*

The cost of the N. Suttle Rd. LID at \$9.6 million is greatly in excess of the funding necessary to complete improvements to the roadway.

### *Response:*

- a. PBOT has budgeted for a minimum possible width street for safe truck operations while also complying with stormwater and other requirements. 29% or \$2.4 million of budgeted \$8.2 million LID assessment amount is for contingency to protect property owners from cost increases. This contingency if unspent will not be charged to property owners, and this contingency does not reflect planned additional scope items.
- b. The very flat topography of the area makes it much less financially feasible for a property to build N. Suttle Rd. on a piecemeal basis. The LID offers a much more cost-effective solution to building necessary street and stormwater improvements, which would likely be impossible to construct privately given the need for property acquisition, requiring City involvement.
- c. One-third of the estimated assessment for Eco Services and other properties in the LID is for contingency and right-of-way acquisition. Property owners should budget for those expenses to be incurred. However, in a scenario in which contingency were not necessary and right-of-way were to be donated, the reduction to Eco Services' assessment would be 33.3% or \$567,399.26.

*Issue #2:*

The proposed LID goes well beyond what is needed given the use of N. Suttle Rd.

*Response:*

- a. The City proposes that N. Suttle Rd. be built with an adequate pavement section to ensure structural integrity for its current use. The current street is self-described by a property owner as “the worst road in Portland” (see record of Resolution No. 37282). The pavement condition of the street is mostly in poor and very poor condition. Although there are isolated stretches of good condition pavement, it is prudent to budget for a full reconstruct of the entire pavement section. Even if an isolated pavement section is theoretically salvageable, it often is not possible to replace only adjacent sections of pavement without causing drainage problems and/or grade problems.
- b. Sidewalks are included on one side of the street only as a cost savings measure to avoid additional right-of-way acquisition. Sidewalk on one side off the street provides for a safe area for pedestrians and avoids mixing trucks and pedestrians in the roadway.
- c. Street lighting is a standard element of LID projects to improve safety and security.
- d. The planned vegetation is for stormwater management purposes and will enable the City to comply with regulations to properly and responsibly treat public stormwater runoff before discharging it into the Columbia River, and will be a condition of a permit to discharge stormwater.

*Issue #3:*

Several of the property owners have retained consultant Maul Foster & Alongi (“MFA”) to analyze the proposed LID. The MFA analysis is merited prior to any Council decision on the LID.

*Response:*

- a. The 13-year history of multiple and recurring property owner complaints clearly demonstrates that the existing roadway is severely inadequate both for current use and in the future (see record of Resolution No. 37282). The LID Administrator feels that this record alone is a sufficient basis on which to form an LID, whether it is amended prior to LID formation.

- b. The LID Administrator also feels that a second technical opinion may be beneficial in aiding property owners' technical understanding of the proposed LID scope regardless of whether this LID is amended.
- c. The LID Administrator recommends to Council that final approval of the LID be deferred to August 23, 2017 to allow completion of the MFA study within a reasonable time frame. Regardless of whether Council chooses to delay formation of the LID, the City will review the MFA study and incorporate its findings to the extent practicable, while also ensuring an adequate life of the new pavement and minimizing long-term life-cycle maintenance costs.

**VI. ISSUES RAISED BY THE WAYPOINTS PROPERTIES LLC REMONSTRANCE.**

A remonstrance was submitted by Tim Spurgeon, representative of Waypoints Properties LLC, for a property identified in Exhibits A and F with pending liens No. 160821. This remonstrance is attached as Attachment 5.

*Issue #1:*

We agree that North Suttle Road is in need of repair. However, we oppose the LID because the financial burden imposed on the property owners far outweighs the benefits. Waypoints would pay \$420,851.32. We simply cannot afford to pay that amount.

*Response:*

- a. The LID would result in each \$1.00 contributed by Waypoints being leveraged with \$18.54 in funding from other neighboring properties. An additional \$4.17 in additional non-LID funding would also be provided, resulting in total financial leverage of \$22.71 for each \$1.00 provided by Waypoints.
- b. The very flat topography of the area makes it much less financially feasible for a property to build N. Suttle Rd. on a piecemeal basis. The LID offers a much more cost-effective solution to building necessary street and stormwater improvements, which would likely be impossible to construct privately given the need for property acquisition, requiring City involvement.

- c. One-third of the estimated assessment for Waypoints and other properties in the LID is for contingency and right-of-way acquisition. Property owners should budget for those expenses to be incurred. However, in a scenario in which contingency were not necessary and right-of-way were to be donated, the reduction to PMP Properties' assessment would be 33.3% or \$140,009.42.

*Issue #2:*

The proposed LID goes well beyond what is needed given the use of N. Suttle Rd.

*Response:*

- a. The City proposes that N. Suttle Rd. be built with an adequate pavement section to ensure structural integrity for its current use. The current street is self-described by a property owner as "the worst road in Portland" (see record of Resolution No. 37282). The pavement condition of the street is mostly in poor and very poor condition. Although there are isolated stretches of good condition pavement, it is prudent to budget for a full reconstruct of the entire pavement section. Even if an isolated pavement section is theoretically salvageable, it often is not possible to replace only adjacent sections of pavement without causing drainage problems and/or grade problems.
- b. Sidewalks are included on one side of the street only as a cost savings measure to avoid additional right-of-way acquisition. Sidewalk on one side off the street provides for a safe area for pedestrians and avoids mixing trucks and pedestrians in the roadway.
- c. Street lighting is a standard element of LID projects to improve safety and security.
- d. The planned vegetation is for stormwater management purposes and will enable the City to comply with regulations to properly and responsibly treat public stormwater runoff before discharging it into the Columbia River, and will be a condition of a permit to discharge stormwater.

*Issue #3:*

Several of the property owners have retained consultant Maul Foster & Alongi ("MFA") to analyze the proposed LID. The MFA analysis is merited prior to any Council decision on the LID.

*Response:*

- a. The 13-year history of multiple and recurring property owner complaints clearly demonstrates that the existing roadway is severely inadequate both for current use and in the future (see record of Resolution No. 37282). The LID Administrator feels that this record alone is a sufficient basis on which to form an LID, whether it is amended prior to LID formation.
- b. The LID Administrator also feels that a second technical opinion may be beneficial in aiding property owners' technical understanding of the proposed LID scope regardless of whether this LID is amended.
- c. The LID Administrator recommends to Council that final approval of the LID be deferred to August 23, 2017 to allow completion of the MFA study within a reasonable time frame. Regardless of whether Council chooses to delay formation of the LID, the City will review the MFA study and incorporate its findings to the extent practicable, while also ensuring an adequate life of the new pavement and minimizing long-term life-cycle maintenance costs.

## **VII. ISSUES RAISED BY THE TRIGGCO & BREUNIG / ROHRBACH OBJECTION.**

An objection was submitted by James C. Brown, attorney on behalf of Triggco Real Estate LLC and Western Container Transport Inc. a.k.a. Breunig / Rohrbach, for properties identified in Exhibits A and F with pending liens No. 160830, 160831, 160816 and 160817. This objection is attached as Attachment 6 and is not counted as a remonstrance because of the waivers of remonstrance attached as Attachments 7 and 8.

### *Issue #1:*

We agree that North Suttle Road is in need of repair. However, we oppose the LID because the financial burden imposed on the property owners far outweighs the benefits. Triggco / Western Container would pay \$781,721.06 and \$1,335,932.56. We simply cannot afford to pay that amount.

### *Response:*

- a. The LID would result in each \$1.00 contributed by Triggco and Breunig / Rohrbach being leveraged with \$2.88 in funding from other neighboring properties. An additional \$4.17 in additional non-LID funding would also be provided, resulting in total financial leverage of \$7.05 for each \$1.00 provided by Triggco and Breunig / Rohrbach.
- b. The very flat topography of the area makes it much less financially feasible for a property to build N. Suttle Rd. on a piecemeal basis. The LID offers a much more cost-effective solution to building necessary street and stormwater improvements, which would likely be impossible to construct privately given the need for property acquisition, requiring City involvement.
- c. One-third of the estimated assessment for Triggco and Breunig / Rohrbach and other properties in the LID is for contingency and right-of-way acquisition. Property owners should budget for those expenses to be incurred. However, in a scenario in which contingency were not necessary and right-of-way were to be donated, the reduction to Triggco and Breunig / Rohrbach's combined assessments would be 33.3% or \$704,504.02.



## VIII. RECOMMENDATION

It is the recommendation of the Local Improvement District Administrator that the City Council overrule any and all remonstrances but continue consideration of the North Suttle Road Local Improvement District Formation Ordinance to August 23, 2017.

It is further recommended that the LID Administrator meet with property owners on August 7, 2017 to review the results of the Maul Foster Alongi ("MFA") analysis and report those findings to Council on August 23, 2017 at which time Council will consider amendments to the North Suttle Road LID Formation Ordinance.

In the absence of Council approving the LID Formation Ordinance on or after August 23, 2017, the LID Administrator recommends that the level of maintenance for N. Suttle Rd. be clarified by Council action on this date or as soon thereafter as practicable.

Respectfully submitted,

A handwritten signature in black ink that reads "Andrew H. Aebi". The signature is written in a cursive, slightly slanted style.

Andrew H. Aebi  
Local Improvement District Administrator