

ORDINANCE No. 189347 As Amended

Create a local improvement district to construct street, sidewalk, and stormwater improvements and construct a mast arm traffic signal at the NE 42nd Ave and Columbia Blvd intersection in the NE 46th Ave and Bryant St Local Improvement District (Ordinance; C-10065)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37394 on November 7, 2018, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the NE 46th Avenue & Saratoga Court Local Improvement District (LID). In the event any finding or any directive within this Ordinance conflicts with Resolution No. 37394 involving this LID, the finding or directive within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37394 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37394 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 December 12, 2018 LID formation hearing on November 21, 2018 to the owners of the benefited properties within the proposed NE 46th Avenue & Saratoga Court 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 NE 46th Avenue & Saratoga Court LID, the deadline and procedure for filing a remonstrance against the formation of the NE 46th Avenue & Saratoga Court 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 December 5, 2018, which was extended to January 2, 2019, with no remonstrance received by either the original or extended remonstrance deadline.
4. Notices of the LID formation hearing were posted within the NE 46th Avenue & Saratoga Court LID on November 27, 2018.
5. The LID Administrator published notice of the December 12, 2018 LID Formation Hearing in the Daily Journal of Commerce on November 23, 2018 and on November 26, 2018.

6. The general character and scope of the NE 42nd Avenue 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; construct curbs on both sides of the street, construct sidewalks on the east side of the street; and plant street trees on the east side of the street as shown in Exhibit B.
7. The general character and scope of the NE Columbia Blvd. improvement is to construct stormwater drainage facilities; construct curbs on the north side of the street, construct sidewalks on the north side of the street; and plant street trees on the north side of the street as shown in Exhibit B.
8. The general character and scope of the NE 46th Avenue improvement is to remove the existing dirt, gravel and/or hard surface; grade the street to its proper subgrade; construct an asphaltic concrete street with an aggregate base; construct stormwater drainage facilities; construct curbs on both sides of the street, construct sidewalks on the west side of the street; and plant street trees on the west side of the street as shown in Exhibit B.
9. The general character and scope of the NE Saratoga Court improvement is to remove the existing dirt, gravel and/or hard surface; grade the street to its proper subgrade; construct an asphaltic concrete street with an aggregate base; construct stormwater drainage facilities; construct curbs on both sides of the street, construct sidewalk on the north side of the street; and to plant street trees on the north side of the street as shown in Exhibit B.
10. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
11. The NE 42nd Avenue improvements will be constructed from the north right-of-way line of NE Columbia Blvd. to 320 feet north of the north right-of-way line of NE Columbia Blvd., plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
12. The NE Columbia Blvd. improvements will be constructed from the east right-of-way line of NE 42nd Avenue to the west right-of-way line of NE 46th Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
13. The NE 46th Avenue improvements will be constructed from the north right-of-way line of NE Columbia Blvd. to the south property line of 7039 NE 46th Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.

14. The NE Saratoga Court improvements will be constructed from the east right-of-way line of NE 46th Avenue to the west right-of-way line of NE 47th Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
15. The boundaries of the NE 46th Avenue & Saratoga Court LID shall include the properties as shown in Exhibit C.
16. The LID Administrator's estimated cost of designing, constructing and financing the improvements is \$12,822,556.17 as shown in Exhibit D, not including the cost of utility relocation that may be required at utilities' expense and not including the cost of relocating NE Columbia Blvd. bus stops and/or constructing bus pullouts for the benefit of the Tri-County Metropolitan Transportation District of Oregon. 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.
17. The estimated amount of the future assessment for the NE 46th Avenue & Saratoga Court LID is \$11,634,243.93 with Assessment Zone 'A' paying 100% of LID costs up to \$162,098.91; Assessment Zone 'B' paying 78.5412935% of LID costs of \$162,098.92 or greater; and Assessment Zone 'C' paying 21.4587065% of LID costs of \$162,098.92 or greater. Additional funding is being provided by the Portland Bureau of Transportation (PBOT) in the amount of \$1,188,312.24 for overhead costs. The LID assessment will be reduced by the extent of any right-of-way dedication for NE Saratoga Court, which will be funded from project contingency.
18. The LID Administrator has analyzed the financial feasibility of the NE 46th Avenue & Saratoga Court 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.
19. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the NE 46th Avenue & Saratoga Court LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
20. The parcels of land within the NE 46th Avenue & Saratoga Court LID will receive special benefit from the project in the amounts set forth in Exhibits A and F.
21. The Council has considered the remonstrances made by the owner of properties to be benefited by the NE 46th Avenue & Saratoga Court LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.

22. Passage of this Ordinance provides assurance of performance per Section 17.24.055 of City Code for:
- a. Frontage improvements to both sides of NE 42nd Avenue from the north right-of-way line of NE Columbia Blvd. to 320 feet north, with the exception of future infrastructure improvements identified in Finding No. 22a of this Ordinance; and
 - b. Frontage improvements to the north side of NE Columbia Blvd. from the east right-of-way line of NE 42nd Avenue to the west right-of-way line of NE 46th Avenue; and
 - c. Frontage improvements to both sides of NE 46th Avenue from NE Columbia Blvd. to the south property line of 7039 NE 46th Avenue, with the exception of future infrastructure improvements identified in Finding No. 22d of this Ordinance; and
 - d. Frontage improvements to NE Saratoga Court, with the exception of future infrastructure improvements identified in Finding No. 22f of this Ordinance; and
23. Passage of this Ordinance does not provide assurance of performance per Section 17.24.055 of City Code for:
- a. Sidewalk improvements to the west side of NE 42nd Avenue from NE Columbia Blvd. to 320 feet north; and
 - b. Frontage improvements to NE 42nd Avenue north of 320 feet north of the north right-of-way line of NE Columbia Blvd.; and
 - c. Frontage improvements to the south side of NE Columbia Blvd. from NE 42nd Avenue to NE 46th Avenue; and
 - d. Sidewalk improvements to the east side of NE 46th Avenue from NE Columbia Blvd. to the south property line of 7039 NE 46th Avenue; and
 - e. Frontage improvements to NE 42nd Avenue north of 320 feet north of the north right-of-way line of NE Columbia Blvd.; and
 - f. Frontage improvements to NE Saratoga Court, with the exception of Finding No. 22c of this Ordinance; and

24. Assessments for LIDs are not subject to the properties tax limitation established by Article XI, Section 11b of the Oregon Constitution.
25. Pursuant to City Code, assessment for the NE 46th Avenue & Saratoga Court LID will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- a. The NE 46th Avenue & Saratoga Court LID is hereby created as shown in Exhibit C and the NE 46th Avenue & Saratoga Court 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 subject to the limitations of Finding No. 17 of this Ordinance.
- 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 City Engineer shall prepare plans and specifications for the improvement.
- e. Properties shall be assessed on a square footage basis in three (3) assessment zones.
- f. Procurement Services within the Bureau of Revenue and Financial 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 NE 46th Avenue & Saratoga Court LID project. The manner in which the improvements are constructed is at the sole discretion of the City Engineer.
- g. The City Auditor shall obtain interim financing to pay for NE 46th Avenue & Saratoga Court LID project costs prior to bonding.
- h. PBOT is authorized to incur expenditures for this project per Finding No. 16 and Exhibit D, and the City Auditor is authorized to reimburse such expenditures from the LID Fund.

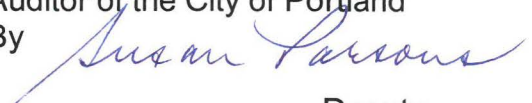
- i. The LID Administrator is authorized to negotiate Extra Work Agreements to finance, design and construct frontage and/or electrical infrastructure improvements for properties within the LID boundary beyond the project limits identified in Finding Nos. 11 through 14 of this Ordinance without a hearing per Section 17.08.080 of City Code provided that:
 - i. The City Engineer has determined the additional work to be technically feasible; and
 - ii. An Extra Work Agreement for properties or properties abutting the additional improvement been approved as to form by the City Attorney.
 - iii. The LID boundary is amended concurrent with final assessment of this LID if the property for which an Extra Work Agreement is executed is outside the boundary identified in Exhibit C of this Ordinance. A separate Ordinance to amend the LID boundary shall not be required.
- j. The requirement for a hearing per Code Chapter 17.08.080 per directive 'i' of this Ordinance is waived for the purpose of acquiring property rights and designing and constructing improvements on NE Columbia Blvd. to relocate bus stops and/or to construct pullouts for bus operators to stage road reliefs so that buses dwell outside the eastbound and westbound travel lanes of NE Columbia Blvd.
- k. The requirement for a hearing per Code Chapter 17.08.080 to modify Finding No. 9 of this Ordinance is waived in the event that the City Engineer approves plans subsequent to final engineering to construct sidewalk improvements and tree planting on the south side of the street instead of the north side of the street.
- l. The requirement for a hearing per Code Chapter 17.08.080 is waived to allow the City Engineer the sole discretion to adjust the alignment of NE Saratoga Court from the alignment shown in Exhibit C of this Ordinance.
- m. All unamended references to NE Saratoga Court in the record of Resolution No. 37394 and the record of this Ordinance also refer to NE Bryant Street.

Passed by the Council, JAN 16 2019

Commissioner Chloe Eudaly
Prepared by: Andrew Aebi: cdb
Date Prepared: 1/7/2019

Mary Hull Caballero
Auditor of the City of Portland

By



Deputy

Agenda No. **189347** As Amended
Ordinance NO.
 Title

Create a local improvement district to construct street, sidewalk, and stormwater improvements and construct a mast arm traffic signal at the NE 42nd Ave and Columbia Blvd intersection in the NE 46th Ave and ~~Saratoga Ct~~ Local Improvement District (Hearing; Ordinance; C-10065)

Bryant ST

INTRODUCED BY Commissioner/Auditor: Chloe Eudaly	CLERK USE: DATE FILED <u>DEC 04 2018</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <u><i>[Signature]</i></u> Deputy
BUREAU APPROVAL Bureau: PBOT Group: Policy, Planning & Projects Group Manager: Art Peace Director: Chris Warner	ACTION TAKEN: DEC 12 2018 CONTINUED TO JAN 09 2019 <i>10am Time Certain</i> JAN 09 2019 PASSED TO SECOND READING JAN 16 2019 9:30 A.M. As Amended
Prepared by: Andrew Aebi:cdb Supervisor: Millicent Williams Date Prepared: November 14, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
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, charter, Comp Plan	
Council Meeting Date December 12, 2018	

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

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz ✓	
2. Fish	2. Fish ✓	
3. Saltzman	3. <i>Hardesty</i> Saltzman ✓	
4. Eudaly	4. Eudaly ✓	
Wheeler	Wheeler ✓	