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190716

Ordinance

Create the Errol Heights Local Improvement District to construct street, sidewalk, and stormwater improvements (Hearing; C-10064)

Passed

Amended by Council

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37530 on February 3, 2021, declaring its intent to initiate Local Improvement District formation proceedings, and establishing the name of the local improvement district as the Errol Heights Local Improvement District (LID).
2. The record related to the adoption of Resolution No. 37530 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37530 shall be considered a remonstrance for purposes of Section 17.08.070 of City Code or for purposes of Section 9-403 of the City Charter.
3. The Revenue Bureau mailed notice of the February 16, 2021 LID Formation Hearing on January 26, 2022 to the owners of the benefited properties within the proposed Errol Heights 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 Errol Heights LID, the deadline and procedure for filing a remonstrance against the formation of the Errol Heights 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 February 9, 2022.
4. Notices of the LID Formation Hearing were posted within the Errol Heights LID project area on February 1, 2022.
5. The Errol Heights LID Project Manager published notice of the February 16, 2022 LID Formation Hearing in the Daily Journal of Commerce on January 31, 2022 and February 1, 2022.

Introduced by

[Commissioner Jo Ann Hardesty](#)

Bureau

[Transportation](#)

Prepared by

Elizabeth Tillstrom

Date Prepared

January 27, 2022

Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

February 23, 2022

6. The general character and scope of the improvements is to clear and grade streets to their proper subgrade; construct asphaltic concrete streets with an aggregate base; construct stormwater facilities primarily consisting of conveyance channels, stormwater planters, and sedimentation/sump systems; construct sidewalk on SE Malden Drive and portions of SE Tenino Drive and SE Tenino Court; install street lighting, provide gravel shoulders for parking and plant street trees as shown in Exhibit B.
7. The boundary of the Errol Heights LID includes the properties as shown in the map Exhibit C.
8. The Errol Heights LID street improvements will be constructed in the public ROW on all streets noted in Exhibit C.
9. Per Ordinance 190277, adopted on February 3, 2021, temporary construction easements have been obtained for any required grading work on private property.
10. The total, not-to-exceed amount for the future assessment of the Errol Heights LID is \$1,639,960. Additional funding is being provided by the Portland Bureau of Transportation (PBOT) in the amount of \$4,000,000 in Transportation System Development Charge (TSDC) funds and Out of the Mud Program Funding. Additional funding is being provided by the Bureau of Environmental Services to fund 100% of design and construction costs related to the stormwater management scope and by Portland Parks and Recreation to fund 100% of design and construction costs related to street and frontage improvements adjacent to Errol Heights Park on SE Tenino Court.
11. As required by PCC 17.08.070 C.1.e., the assessment methodology will be based on the properties' square footage.
12. Notwithstanding Section 17.08.010 B of City Code, the Local Improvement District Administrator for the LID is Elizabeth Tillstrom. The PBOT Project Manager has analyzed the financial feasibility of the Errol Heights LID and has made a finding that the collective bonding capacity of benefiting properties is sufficient to minimize the City's financial risk associated with this project.
13. The remonstrance level is evaluated in Exhibit D. Council retains jurisdiction over the formation of the Errol Heights LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
14. The Council has considered the remonstrances made by the owner(s) of properties to be benefited by the Errol Heights LID project and adopts the summary of remonstrances and findings as set forth in Exhibit E.
15. The Bureau's level of confidence in the cost estimates for this project is high as the design and final Engineer's Estimate has been

completed.

16. Assessments for LIDs are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
17. Passage of this Ordinance will constitute an assurance of performance as allowed by Section 17.24.055 B.5 of City Code for the following improvements only, except at the sole discretion of the City Engineer:
 - A. Street, stormwater and frontage improvements for all streets within the Errol Heights LID as noted in Exhibit C.
 - B. Private property improvements such as grading, planting or driveway connections that have been identified on the contract plans. PBOT has obtained either a temporary construction easement for any required grading work on private property or a signed permit-of-entry for the optional asphalt driveway connection.
18. Pursuant to City Code, assessments for the Errol Heights LID will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- A. The Errol Heights LID is hereby created as shown in Exhibit C and the Errol Heights LID includes the properties to be benefited in the amounts identified in Exhibits A and D.
- 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 explained by Finding No.16 of this Ordinance.
- C. The property owners' estimated share of costs is as shown in Exhibit D. 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. Properties shall be assessed on a square footage basis with the LID providing funding of \$1,639,960 as shown in Exhibit D.
- E. 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 will be constructed in whole by the City of Portland.
- F. The Bureau of Transportation will provide the Bureau of Revenue and Financial Services with interim financing to pay for Errol Heights LID project costs prior to assessment.

G. PBOT is authorized to make expenditures for this project per Finding No. 10 and the Bureau of Revenue & Financial Services is authorized to reimburse such expenditures from the LID Fund.

H. In the event of any conflict between Binding City Policy ENB-6.02 and Code Chapter 17.08, Code Chapter 17.08 shall prevail.

I. In the event of any conflict between Binding City Policy ENB-6.02 and this Ordinance, this Ordinance shall prevail.

J. If any finding or directive within this Ordinance conflicts with Resolution No. 37530, the finding or directive within this Ordinance shall prevail.

Documents and Exhibits

 [Exhibit A](#) (145.9 Kb)

 [Exhibit B](#) (2.04 Mb)

 [Exhibit C](#) (1.99 Mb)

 [Exhibit D](#) (214.36 Kb)

 [Exhibit E - As Amended](#) (1017.93 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed as amended by Council
February 23, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

 [Impact Statement](#) (41.82 Kb)

Budget Office Financial Impact Analysis

This legislation will create the Local Improvement District (LID) for street and stormwater management improvements in the Errol Heights section of the Brentwood-Darlington neighborhood in southeast Portland. *(This ordinance should be considered along with the related Errol Heights Local Improvement District deferral loan program ordinance included in this Council agenda.)*

Financial analysis has been included in the related Council item.

Agenda Items

92 Time Certain in [February 16-17, 2022 Council Agenda](#)

Passed to second reading as amended

Motion to accept substitute Exhibit E: Moved by Hardesty and seconded by Wheeler. (Y-5)

Passed to second reading February 23, 2022 at 9:30 a.m. as amended

135 Regular Agenda in [February 23-24, 2022 Council Agenda](#)

Passed As Amended

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea