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# 190792

Emergency Ordinance

## **\*Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 155th Ave and Main St-Millmain Dr Local Improvement District (Hearing; C-10071)**

Passed

Amended by Council

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37568 on March 16, 2022, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the SE 155th Avenue & Main Street - Millmain Drive Local Improvement District ("LID").
2. The record related to the adoption of Resolution No. 37568 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37568 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 Bureau of Revenue & Financial Services mailed notice of the April 20, 2022 LID formation hearing on April 1, 2022 to the owners of the benefited properties within the proposed SE 155th Avenue & Main Street - Millmain Drive 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 SE 155th Avenue & Main Street - Millmain Drive LID, the deadline and procedure for filing a remonstrance against the formation of the SE 155th Avenue & Main Street - Millmain Drive 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 April 13, 2022.

Introduced by

[Commissioner Jo Ann Hardesty](#)

Bureau

[Transportation](#)

Contact

Andrew Aebi

Local Improvement District  
Administrator & Project  
Manager

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

April 27, 2022

4. Notices of the LID formation hearing were posted within the SE 155th Avenue & Main Street - Millmain Drive LID on April 5, 2022.
5. The LID Administrator published notice of the April 20, 2022 LID Formation Hearing in the Daily Journal of Commerce on April 4, 2022 and on April 6, 2022.
6. The general character and scope of the improvement is to remove the existing dirt, gravel, curb and/or hard surface; grade the street to its proper subgrade; construct an asphaltic concrete street with an aggregate base; construct stormwater drainage facilities including pipes, inlets and maintenance access holes; construct curb, sidewalk and bike lane on the park side of the street as shown in Exhibit B; and plant street trees on the park side of the street except where the existing tree canopy is deemed sufficient by the City Forester.
7. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
8. The SE Main Street improvements will be constructed from the east property line of 15137 SE Main Street to the western terminus of SE Millmain Drive, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
9. The SE Millmain Drive improvements will be constructed from the eastern terminus of SE Main Street to the west property line of the SE Millmain Drive frontage of 15840 SE Taylor Street, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
10. The SE 155th Avenue improvements will be constructed from the south property lines of 1015 SE 155th Avenue and 1016 SE 155th Avenue to the southern terminus of a pending right-of-way dedication by Portland Parks & Recreation ("Parks"), plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
11. The boundary of the SE 155th Avenue & Main Street - Millmain Drive LID includes the properties as shown in the map Exhibit C.
12. The LID boundary will be amended through the separate and subsequent Final Assessment Ordinance for this LID if the property for which an Extra Work Agreement is voluntarily executed is outside the boundary identified in Exhibit C of this Ordinance. A separate Ordinance to amend the LID boundary shall not be required.

13. The LID Administrator's estimated cost of designing, constructing and financing the improvements is \$2,525,000 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 of February 3, 2022 as contained in Exhibit E, which did not include temporary pedestrian walkways due to the lack of existing pedestrian facilities west of and south of Parklane Park. 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.
14. The estimated amount of the future assessment for the SE 155th Avenue & Main Street - Millmain Drive LID is \$2,525,000 excluding costs of contaminated media removal, which is assumed to occur before right-of-way is dedicated by Parks to PBOT, and also excluding right-of-way costs, with right-of-way assumed to be donated from Parks to PBOT.
15. The LID Administrator has analyzed the financial feasibility of the SE 155th Avenue & Main Street - Millmain Drive 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.
16. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the SE 155th Avenue & Main Street - Millmain Drive LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
17. The parcels of land within the SE 155th Avenue & Main Street - Millmain Drive LID will receive special benefit from the project in the amounts set forth in Exhibits A and F.
18. The Council has considered the remonstrances made by the owner of properties to be benefited by the SE 155th Avenue & Main Street - Millmain Drive LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
19. Passage of this Ordinance will constitute an assurance of performance as allowed by Section 17.24.055 B.5 of City Code.
20. Assessments for LIDs are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
21. Pursuant to City Code, assessments for the SE 155th Avenue & Main Street - Millmain Drive LID will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- A. The SE 155th Avenue & Main Street - Millmain Drive LID is hereby created as shown in Exhibit C and the SE 155th Avenue & Main Street - Millmain Drive LID includes the properties to be benefited in the amounts identified in Exhibits A and F.
- B. Assurance of performance for nonexempt properties identified in Exhibit A is provided upon Council passage of this Ordinance per Section 17.24.055 of City Code.
- C. The properties' owners' 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 consistent with Case / File No. LU [21-025688](#) CU AD.
- E. Properties shall be assessed on a square footage basis.
- 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 SE 155th Avenue & Main Street - Millmain Drive LID project. The manner in which the improvements are constructed will be at the sole discretion of the City Engineer.
- G. The Bureau of Revenue & Financial Services shall obtain interim financing to pay for SE 155th Avenue & Main Street - Millmain Drive LID project costs prior to bonding.
- H. PBOT is authorized to make expenditures for this project per Finding No. 13 and per Exhibit D, and the Bureau of Revenue & Financial Services is authorized to reimburse such expenditures from the LID Fund.
- I. The LID Administrator is authorized to negotiate Extra Work Agreements with any owner of property or properties not owned by Portland Parks & Recreation to finance the design and construction of sidewalks without a hearing notwithstanding Section 17.08.080 of City Code provided that:
  1. The City Engineer has determined the additional work to be technically feasible; and

2. An Extra Work Agreement for property or properties abutting the additional improvement(s) have been approved as to form by the City Attorney.
- J. The requirement for a hearing per Code Section 17.08.080 is waived in the event that Parks elects to receive compensation from PBOT for right-of-way acquisition costs.
  - K. The requirement for a hearing per Code Section 17.08.080 is waived in the event that a major cost increase occurs as the result of contaminated media removal expense.
  - L. The requirement for a hearing per Code Section 17.08.080 is not waived in the event that temporary pedestrian walkways are added to the project during design.
  - M. Code Section 17.08.060.D is waived in the event that LID construction is added to the Parklane Park construction contract administered by Portland Parks & Recreation utilizing Construction Manager/General Contractor (CMGC) construction method.
  - N. Code Section 17.08.110 B.4 is waived for this LID since all assessable properties are anticipated to develop prior to final assessment of this LID.
  - O. In the event of any conflict between Binding City Policy ENB-6.02 and Code Chapter 17.08, Code Chapter 17.08 shall prevail.
  - P. In the event of any conflict between Binding City Policy ENB-6.02 and this Ordinance, this Ordinance shall prevail.
  - Q. If any finding or directive within this Ordinance conflicts with Resolution No. 37568, the finding or directive within this Ordinance shall prevail.
  - R. Due to a two-day mailing delay resulting from the inability of the assessment and liens system software to process a notification date on the 29th, 30th or 31st day of a month, the application of Code Section 17.08.070 is waived to the extent necessary to allow mail notice to be provided nineteen (19) days before the Council hearing and to allow for remonstrances to be received five (5) days before the Council hearing.

Section 2. The Council declares that an emergency exists to avoid delays to land use approval for construction of Parklane Park because formation of this local improvement district provides assurance of performance for street frontage improvements per Code Section 17.24.055; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

## Documents and Exhibits

-  [Exhibit A](#) (602.75 Kb)
-  [Exhibit B](#) (985.01 Kb)
-  [Exhibit C](#) (1.44 Mb)
-  [Exhibit D](#) (590.75 Kb)
-  [Exhibit E](#) (663.78 Kb)
-  [Exhibit F](#) (639.19 Kb)
-  [Exhibit G - As amended](#) (117.17 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  
April 27, 2022

Auditor of the City of Portland  
Mary Hull Caballero

## Impact Statement

-  [Impact Statement](#) (31.04 Kb)

## Budget Office Financial Impact Analysis

This legislation forms the SE 155th Avenue & Main Street & Millmain Drive Local Improvement District (LID) as a prerequisite for design and construction. Portland Parks & Recreation (PP&R) is funding the entire amount of the LID. This LID anticipates greater integration of the planned Parklane Park street frontage improvements with the Portland Bureau of Transportation's (PBOT) 4M and 150s Greenway projects and reduce the possibility of throwaway improvements being constructed in PBOT's right-of-way which could result in PP&R's use of the public works permitting (PWP) process. The total project cost is \$2,525,000 which represents a low confidence estimate. The LID amount is apportioned solely to PP&R-owned properties. Request for budget appropriation for this LID is anticipated to occur after Council approves the LID formation.

## Agenda Items

309 Regular Agenda in [April 20-21, 2022 Council Agenda](#)

Passed to second reading

Passed to second reading April 27, 2022 at 9:30 a.m.

### 334 Regular Agenda in [April 27-28, 2022 Council Agenda](#)

Passed As Amended

Motion to accept amended Exhibit G and add an emergency clause to avoid delays to land use approval for construction of Parklane Park because formation of this local improvement district provides assurance of performance for street frontage improvements per Code Section 17.24.055: Moved by Hardesty and seconded by Wheeler. (Y-5)

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea