

ORDINANCE No. 188786 As Amended

Create a local improvement district to construct street, sidewalk, stormwater and sanitary sewer improvements in the SE 80th Ave and Mill St Local Improvement (Ordinance; C-10060)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37337 on December 13, 2017, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the SE 80th Avenue & Mill Street Local Improvement District (LID). In the event any finding or any directive within this Ordinance conflicts with Resolution No. 37337 involving this LID, the finding or directive within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37337 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37337 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 January 17, 2018 LID formation hearing on December 20, 2017 to the owner of the benefited properties within the proposed SE 80th Avenue & Mill Street 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 80th Avenue & Mill Street LID, the deadline and procedure for filing a remonstrance against the formation of the SE 80th Avenue & Mill Street 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 January 10, 2018.
4. Notices of the LID formation hearing were posted within the SE 80th Avenue & Mill Street LID on January 3, 2018.
5. The LID Administrator published notice of the January 17, 2018 LID Formation Hearing in the Daily Journal of Commerce on December 27, 2017 and on January 3, 2018.
6. The general character and scope of the improvement is to remove the existing dirt, gravel and/or hard surface; grade streets to their proper subgrade; construct asphaltic concrete streets with an aggregate base; construct stormwater drainage facilities consisting of sedimentation manholes and a sump system; construct sidewalks on both sides of the street except for sidewalk on the east side of the street only on SE 80th Avenue south of SE Stephens Street; and plant street trees in most locations except 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 SE 80th Avenue improvements will be constructed from 100 feet north of the north right-of-way line of SE Grant Street to the south right-of-way line of SE Market Street except where existing curb and sidewalk exists, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer as shown in the map in Exhibit C.
9. The SE Mill Street improvements will be constructed from the east right-of-way line of SE 80th Avenue to the west right-of-way line of SE 82nd Avenue except where existing curb and sidewalk exists, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer as shown in the map in Exhibit C.
10. The boundaries of the SE 80th Avenue & Mill Street LID shall include the properties as shown in Exhibit C.
11. The LID Administrator's estimated cost of designing, constructing and financing the improvements is \$3,808,139.63 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 SE 80th Avenue & Mill Street LID is \$1,383,145.60, which has been increased by \$1.00 from the \$1,383,144.60 estimate in Resolution No. 37337. Additional funding is being provided by the Portland Bureau of Transportation (PBOT) in the amount of \$1,035,674.41 for Transportation System Development Charge (TSDC) revenue, and \$523,344.16 for overhead costs for total PBOT funding of \$1,559,018.57. Additional funding is being provided by the Bureau of Environmental Services (BES) in the amount of \$705,409.69 in direct funding, and \$160,565.77 in in-kind funding for sanitary sewer costs for total BES funding of \$865,975.46.
12. The LID Administrator has analyzed the financial feasibility of the SE 80th Avenue & Mill Street 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.
13. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the SE 80th Avenue & Mill Street LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.

14. The parcel of land within the SE 80th Avenue & Mill Street LID will receive special benefit from the project in the amounts set forth in Exhibits A and F.
15. The Council has considered the remonstrances made by the owner of properties to be benefited by the SE 80th Avenue & Mill Street LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
16. Passage of this Ordinance provides assurance of performance per Section 17.24.055 of City Code for improvements to both sides of SE 80th Avenue between SE Stephens Street and SE Market Street; for improvements to the east side of SE 80th Avenue from 100 feet north of SE Grant Street to SE Stephens Street; and for improvements to SE Mill Street from SE 80th Avenue to SE 82nd Avenue.
17. Passage of this Ordinance does not provide assurance of performance for street, sidewalk and stormwater frontage improvements for SE Grant Street, SE Lincoln Street, SE Harrison Street, SE Stephens Street, or SE 82nd Avenue.
18. Assessments for LIDs are not subject to the properties tax limitation established by Article XI, Section 11b of the Oregon Constitution.
19. Pursuant to City Code, assessment for the SE 80th Avenue & Mill Street LID will be imposed by a separate and subsequent ordinance.
20. An intergovernmental agreement (IGA) between Portland Public Schools (PPS) and the City was executed on June 18, 2014 with the passage of Ordinance No. 186660. The amount of this IGA for transportation safety improvements as additionally referenced in Attachment 22 of Exhibit D of Resolution No. 37337 is \$5,200,000.00.
21. PBOT tentatively identified \$64,000 in funding for curb ramp construction at the intersections of SE 76th Avenue & Market street and at SE 80th Avenue & Market Street on January 16, 2018.

NOW, THEREFORE, the Council directs:

- a. The SE 80th Avenue & Mill Street LID is hereby created as shown in Exhibit C and the SE 80th Avenue & Mill Street 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.

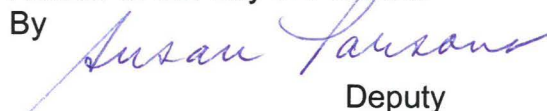
- d. The properties shall be assessed on a square footage basis in three assessment zones. Assessment Zone 'A' north of SE Stephens Street shall bear 78.122756% of LID costs; Assessment Zone 'B' between SE Stephens Street and the north property line of the SE 80th Avenue frontage of 2025 SE 82nd Avenue shall bear 4.195577% of LID costs on an equal shares basis; and Assessment Zone 'C' south of the north property line of the SE 80th Avenue frontage shall bear 17.681667% of LID costs.
- e. The City Engineer shall prepare plans and specifications for the improvement.
- f. 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 SE 80th Avenue & Mill Street LID project. The manner in which the improvements are constructed, including directive 'f' of this Ordinance, is at the sole discretion of the City Engineer.
- g. The City Auditor shall obtain interim financing to pay for SE 80th Avenue & Mill Street LID project costs prior to bonding.
- h. PBOT is authorized to incur expenditures for this project per Finding No. 11 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 improvements for properties within the LID boundary beyond the project limit identified in Finding No. 8 and Finding No. 9 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.
- j. The final amount assessed by a separate and subsequent Ordinance to Pending Lien No. 1163117 to the Portland Public Schools (PPS) property at 7730 SE Market Street shall be a credit towards the IGA obligation referenced in Finding No. 20 of this Ordinance.

- k. The LID Administrator is authorized to negotiate Extra Work Agreements to finance, design and construct frontage improvements for properties within the LID boundary beyond the project limit identified in Finding No. 8 and Finding No. 9 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.
- l. Construction of the curb ramps identified in Finding No. 21 of this Ordinance nor omission of the curb ramps from the project plans shall require a Council hearing under Section 17.08.070 of City Code. The curb ramps may be included in the project plans solely at the City Engineer's discretion.
- m. The City Engineer is authorized to issue a permit to the owner of the property at 2025 SE 82nd Avenue to privately construct its SE 80th Avenue frontage improvements in lieu of having the improvements constructed by the LID. Issuance of the permit is subject to an agreement approved as to form by the City Attorney and executed between the property owner and PBOT.

Passed by the Council, JAN 24 2018

Commissioner Dan Saltzman
Prepared by: Andrew Aebi:SM
Date Prepared: January 17, 2018

Mary Hull Caballero
Auditor of the City of Portland
By


Deputy

Agenda No. **ORDINANCE NO. 188786** *As Amended*
Title

Create a local improvement district to construct street, sidewalk, stormwater and sanitary sewer improvements in the SE 80th Ave and Mill St Local Improvement (Ordinance; C-10060)
District Hearing

<p>INTRODUCED BY Mayor/Auditor: COMMISSIONER DAN SALTZMAN</p>	<p>CLERK USE: DATE FILED <u>JAN 09 2018</u></p>
<p>MAYOR APPROVAL Mayor—Finance and Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman <i>Don Saltzman</i> Position 4/Safety – Eudaly</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Mary Hull</i></u> Deputy</p>
<p>BUREAU APPROVAL Bureau: Transportation <i>AP</i> Policy, Planning & Projects Group Manager: Art Pearce Director: Leah Treat <i>Leah Treat</i></p>	<p>ACTION TAKEN: JAN 17 2018 PASSED TO SECOND READING <i>As Amended</i> JAN 24 2018 9:30 A.M.</p>
<p>Prepared by: Andrew Aebi: <i>AAA 12/29/17</i> Date Prepared: December 18, 2017 Supervisor: Millicent Williams <i>MW</i></p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter</p>	
<p>Council Meeting Date January 17, 2018</p>	

AGENDA

TIME CERTAIN
Start time: *10:15 AM*
Total amount of time needed: *15 min*
(for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: **15 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. Saltzman	✓	
4. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	_____	