

17.08.070 Local Improvement District Formation and Remonstrances.

(Amended by Ordinance Nos. 189413 and 190132, effective October 16, 2020.)

A. Notice of Public Hearing

- 1. Publication Notice:** Except as otherwise provided by Charter for changes to street grades, the Local Improvement District Administrator will publish 2 notices of the City’s intent to form a local improvement district by publication in a paper of general circulation in the City at least 14 calendar days before the Formation Hearing . The notices will include the following information:
 - a.** The time, date and place of the formation hearing before City Council;
 - b.** The name of the proposed local improvement district;
 - c.** A description of the type and scope of improvements to be made;
 - d.** A map or description of the properties proposed for inclusion in the local improvement district for which a legal description is not required;
 - e.** A preliminary estimate of the total cost of the local improvement based on the preliminary engineer’s estimate;
 - f.** The methodology or methodologies by which properties will be assessed, which may include neither assessed valuation nor real market valuation as elements;
 - g.** A statement that the proposal could be modified as a result of the testimony at the formation hearing and that property owners should attend the hearing to have an opportunity to testify on proposed changes;
 - h.** A statement mentioning the right to remonstrate, who may remonstrate, how remonstrances can be made, the deadline for filing remonstrances; and where remonstrances must be filed; and
 - i.** Contact information for the Local Improvement District Administrator.
- 2. Posting Notice:** At least 14 calendar days before the local improvement district formation hearing, the Local Improvement District Administrator will cause to be posted conspicuously within the proposed local improvement district, at least two notices headed “Notice of Proposed Improvement” in letters not less than 1 inch in height, and the notices will

Exhibit E

contain in legible characters the information required in Subsection 17.08.070 A.1. The Local Improvement District Administrator will place an affidavit of the posting of such notices within the project file, stating therein the date when and places where the notices have been posted.

3. Mail Notice: At least 21 calendar days before the local improvement district formation hearing on the proposed improvement, the ~~Revenue Division~~ Bureau of Revenue and Financial Services, at the direction of the Local Improvement District Administrator, will mail to the owner of each property within the proposed local improvement district, a notice containing the following:
 - a. The information required in Subsection 17.08.070 A.1.;
 - b. A description of the property; and
 - c. A preliminary estimate of the assessment for the property.
4. A record will be kept of the mailing, posting and publication of any notice required by this Ordinance. Any mistake, error, omission or failure with respect to publication, posting or mailing notice will not affect City Council's jurisdiction to proceed or otherwise invalidate the local improvement proceedings when notice is provided by at least one of the methods in this Section.

B. Remonstrances

1. If property owners choose to remonstrate against the proposed improvement such remonstrances must be received by the ~~Revenue Division~~ Bureau of Revenue and Financial Services by 5:00 PM ~~seven~~(7) calendar days prior to the local improvement district formation hearing. A remonstrance must be in writing and must be delivered in person or by first class U.S. mail to the ~~Revenue Division~~ Bureau of Revenue and Financial Services. The ~~Revenue Division~~ Bureau of Revenue and Financial Services is not responsible for remonstrances sent via facsimile or via e-mail. The remonstrance will state the reasons for the objection. Any person acting as agent or Attorney with power to act in signing the remonstrance will, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner or owners of property. The ~~Revenue Division~~ Bureau of Revenue and Financial Services will forward the remonstrance to the Local Improvement District Administrator for a response. A written remonstrance may be withdrawn at any time before the close of the City Council hearing on the formation of the local improvement district.
2. Owners of property covered by waivers of remonstrance may submit an objection; however such an objection will not be considered for purposes of

Exhibit E

determining City Council jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement.

3. The number of remonstrances that will defeat formation of a proposed local improvement district will be as provided by Chapter 9 of the City Charter for the particular type of improvement.

C. Formation Ordinance

1. The local improvement district formation ordinance will contain at least the following findings:
 - a. Name of the proposed local improvement district;
 - b. A general description of the project scope as may also be shown on a typical section;
 - c. A description of the proposed local improvement district with a reference to specific local improvement district boundaries, or a map showing the properties proposed for inclusion in the local improvement district;
 - d. A preliminary estimate of the total cost of the local improvement, including design, construction, engineering, project management and financing;
 - e. The assessment methodology or methodologies by which benefit within the local improvement district will be assigned;
 - f. A preliminary estimate of assessments for each property owner within the local improvement district based on the proposed assessment methodology or methodologies;
 - g. A statement as to the financial feasibility of the local improvement district, based on the preliminary estimate of assessments and outstanding past assessments and taxes; and
 - h. An exhibit containing findings addressing each remonstrance received, and number of remonstrances received.
2. The local improvement district formation ordinance will contain, at a minimum, directives that:
 - a. Create the local improvement district;
 - b. Include benefited properties in the local improvement district as shown on an attached exhibit;

Exhibit E

- c. State the property owners' share of the costs that the benefited properties will be assessed, and any other entities' shares, as applicable;
- d. State the assessment methodology;
- e. Direct the Responsible Engineer to arrange for the preparation of plans and specifications;
- f. Direct the Responsible Engineer to arrange for construction of the improvement;
- g. Direct the ~~Revenue Division~~ Bureau of Revenue and Financial Services to obtain interim financing to pay for local improvement costs prior to bonding; and
- h. Sustain or overrule any remonstrances received.

D. Local Improvement District Formation Hearing

1. The City Council will hold a public hearing on the proposed improvement. As provided by Subsection 17.08.070 A.3., the hearing will be held at least 21 calendar days after the date notice was deposited in the mail. The City Council may continue or discontinue the proceedings; may direct a modification of its resolution of intent; or may direct formation of the local improvement district and override any remonstrances, provided the City Council retains jurisdiction as provided by Chapter 9 of the City Charter for the particular type of improvement. The City Council may direct a modification to the location or scope of the improvement, and/or to the local improvement district which it deems will be benefited by the improvement; or make such other modifications in the proceedings as it finds reasonable.
2. Modification of Scope of Improvements: If the City Council significantly and materially modifies the scope of the improvement within the adopted formation ordinance so that an assessment is likely to be significantly and materially increased upon one or more properties, or if the City Council enlarges the local improvement district within the adopted formation ordinance, then a new preliminary estimate of assessments will be made and new notices will be sent to the property owners within the proposed local improvement district, and another hearing will be held. The notice will advise property owners who still wish to remonstrate that their remonstrance must be resubmitted. However, no new publication or posting will be required. In the event of modification that meets the objection of any remonstrance, such remonstrance will not be counted as such unless renewed following such modification.
3. Decision to Form Local Improvement District: Upon completion of the hearing process, the City Council may approve or decline formation of a

Exhibit E

local improvement district by ordinance. As provided in Subsection 17.08.070 C.1., a decision to approve formation of a local improvement district will be supported by findings supporting a conclusion of special benefit and addressing the remonstrances, and will direct the Local Improvement District Administrator to arrange for construction of the local improvement.

4. If the City Council approves formation of the local improvement district, the Responsible Engineer will arrange for the preparation of plans and specifications. Upon completion, approved plans will be available for inspection at the Responsible Bureau for at least the minimum time period specified in its Records Retention and Disposition Schedule. The local improvement may be constructed and/or engineered in whole or in part by the City or by another government agency, or the City may seek bids for any portion of the local improvement. Projects partially or fully funded by local improvement district revenue will be subject to competitive bidding and will not be subject to Subsection 5.34.150 H. of City Code unless this Section is waived in the ordinance forming the local improvement district.
5. The City Council will have final determination of the kind and character of the local improvement, its location and extent, materials to be used, and all matters contained in the plans and specifications.
6. The City Council will also have final determination of the assessment methodology and boundaries of the local improvement district that is to be assessed for the costs of the improvement, except that the assessment methodology may not include a criterion based on real market valuation or assessed market valuation. The possibility or likelihood that some property contained in the property description of the proposed local improvement district may not be benefited by the proposed improvement will not invalidate the local improvement district description.
7. Upon City Council's passage of an ordinance forming a local improvement district, the assessment methodology may not be changed except by City Council Ordinance notwithstanding concurrence among the property owner(s), nor can the assessment obligation be transferred to a property not included in the local improvement district. No release of obligation will be made by the ~~Revenue Division~~ Bureau of Revenue and Financial Services until after final assessment is made.