

ORDINANCE No. 187244

Create a local improvement district to construct street, sidewalk and stormwater improvements from NW Raleigh St to NW Upshur St in the NW 20th Ave Local Improvement District (Hearing; Ordinance; C-10049)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37125 on May 27, 2015, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the NW 20th Avenue Local Improvement District. In the event of any finding or any directive within this Ordinance conflicting with Resolution No. 37125 involving this local improvement district, the finding or directive within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37125 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37125 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 June 24, 2015 local improvement district formation hearing on June 3, 2015 to the owners of the benefited properties within the proposed NW 20th Avenue Local Improvement District. 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 NW 20th Avenue Local Improvement District, the deadline and procedure for filing a remonstrance against the formation of the NW 20th Avenue Local Improvement District, and the amount of the estimated future assessment on benefited properties as set forth in Exhibit A (attached to the original only). The deadline to submit a written remonstrance was at 5:00 PM on June 17, 2015.
4. Notices of the local improvement district formation hearing were posted within the NW 20th Avenue Local Improvement District on June 9, 2015.
5. The Local Improvement District Administrator published notice of the June 24, 2015 local improvement district formation hearing in the Daily Journal of Commerce on June 8 and June 10, 2015.

6. The improvements will be constructed on NW 20th Avenue from the north right-of-way line of NW Raleigh Street to the north right-of-way line of NW Upshur Street plus any transition work on abutting street segments, intersections, and/or adjacent properties determined to be necessary by the City Engineer, including but not limited to:
 - a. NW 23rd Avenue between NW Thurman Street and NW Vaughn Street consisting of restriping and/or civil work as determined to be necessary by the City Engineer; and
 - b. NW Thurman Street from NW 20th Avenue to NW 21st Avenue, consisting of partial or reconstruction full reconstruction as determined to be necessary by the City Engineer including but not limited to accommodating truck traffic and/or realigning the NW 20th Avenue & Thurman Street intersection.
7. Additional improvements within the local improvement district to NW Savier Street between NW 19th Avenue and NW 21st Avenue will be made only if the abutting property owner(s) agree to fund the additional cost of these improvements. This scope change will be made only if the owner(s) of properties abutting such street frontages elect to sign an Extra Work Agreement for their frontage(s) to be improved as part of the NW 20th Avenue LID. However improvements will be made on NW Savier Street within 25 feet of the new right-of-way line of NW 20th Avenue to the points of tangency necessary to establish the new NW 20th Avenue & Savier Street intersection.
8. The general character and scope 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 management facilities; construct sidewalks on both sides of the street; and plant street trees in most locations except underneath the U.S. Highway 30 ramp connecting to the Interstate 405 Freeway as shown in Exhibit B.
9. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
10. The boundaries of the NW 20th Avenue Local Improvement District shall include the properties as shown in Exhibit C.
11. The Local Improvement District Administrator's estimated cost of designing, constructing and financing the improvements is \$7,065,458.15 as shown in Exhibit D. The Local Improvement District Administrator's estimate is based on the Engineer's Estimate as contained in Exhibit E. The Local Improvement District 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 NW 20th Avenue Local Improvement District is \$7,065,458.15.

12. \$4,299,783.15 of the costs estimated in Finding No. 11 are not related to right-of-way acquisition costs (hereafter “non-ROW costs”), were included in Resolution No. 37125 passed by Council on May 27, 2015, and will be eligible for system development charge (SDC) credits for 25.7554% of non-ROW costs without limit, currently estimated at \$1,107,426.16 based on 25.7554% of \$4,299,783.15. The SDC credit percentage of 25.7554% of non-ROW costs is a guaranteed minimum and will not be reduced.
13. \$2,765,675.00 of the costs estimated in Finding No. 11 are related to right-of-way acquisition costs (hereafter “ROW costs”), were not included in Resolution No. 37125 passed by Council on May 27, 2015, but are being added to the project and will be eligible for SDC credits for the lesser of 25.7554% or \$605,125.87 of ROW costs. The effective SDC credit rate is currently estimated at 21.8799% of ROW costs.
14. The total SDC credit amount is currently estimated at \$1,712,552.03 per Findings No. 12 and 13 of this Ordinance for an overall effective SDC credit rate of 24.2384% of all project costs.
15. The Local Improvement District Administrator has analyzed the financial feasibility of the NW 20th Avenue Local Improvement District and has made a finding that the collective bonding capacity of benefiting properties is sufficient so as to minimize the City of Portland’s financial risk associated with this project.
16. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the NW 20th Avenue Local Improvement District 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 NW 20th Avenue Local Improvement District 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 owners of properties to be benefited by the NW 20th Avenue Local Improvement District project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
19. Passage of this Ordinance provides assurance of performance per Section 17.24.055 of City Code for required street, sidewalk and stormwater frontage improvements for Conway Master Plan Case/File No. LU 12-135162 MS for street improvements to:
 - a. NW 20th Avenue between NW Raleigh Street and NW Upshur Street;
 - b. NW 23rd Avenue between NW Thurman Street and NW Vaughn Street; and
 - c. NW Thurman Street between NW 20th Avenue and NW 21st Avenue.

20. Passage of this Ordinance does not provide assurance of performance for street, sidewalk and stormwater frontage improvements for the following street frontages per Section 17.24.055 of City Code for properties identified in Exhibit A of this Ordinance unless an Extra Work Agreement has been executed per Finding No. 7 of this Ordinance:
 - a. NW Savier Street between NW 19th Avenue and NW 20th Avenue; nor
 - b. NW Savier Street between NW 20th Avenue and NW 21st Avenue.
21. Assessments for local improvement districts are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
22. Pursuant to City Code, assessment for the NW 20th Avenue Local Improvement District will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- a. The NW 20th Avenue Local Improvement District (LID) is hereby created as shown in Exhibit C and the NW 20th Avenue Local Improvement District 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 and per Finding No. 19 of this Ordinance.
- 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 properties shall be assessed on a square footage basis.
- e. The City Engineer shall prepare plans and specifications for the improvement.
- f. The City Engineer shall arrange for construction of the local improvement project.
- g. 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 NW 20th Avenue Local Improvement District project. The manner in which the improvements are constructed is at the sole discretion of the City Engineer.

- h. The City Auditor shall obtain interim financing to pay for NW 20th Avenue Local Improvement District project costs prior to bonding.
- i. The Bureau of Transportation 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 Local Improvement District Fund.
- j. The Local Improvement District Administrator is authorized to negotiate Extra Work Agreements to finance, design and construct frontage improvements for properties within the local improvement district boundary for NW Savier St. or other streets or rights-of-way within the local improvement district boundary in addition to NW 20th Avenue provided that:
 - i. The City Engineer has determined the additional work to be technically feasible; and
 - ii. The Extra Work Agreement has been approved as to form by the City Attorney.
- k. The City Auditor to create pending lien records for any property not identified in Exhibit A but within the LID boundary for which an Extra Work Agreement is executed per Directive 'j' of this Ordinance.
- l. The Portland Bureau of Transportation to update the Transportation System Plan (TSP) for streets within the local improvement district boundary as appropriate.

Passed by the Council, JUL 01 2015

Commissioner Steve Novick
Prepared by: Andrew Aebi:slg
Date Prepared: June 11, 2015

Mary Hull Caballero

Auditor of the City of Portland

By *Gayla Jennings*

Deputy

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INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK	CLERK USE: DATE FILED <u>JUN 19 2015</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick <i>aw</i>	Mary Hull Caballero Auditor of the City of Portland By: <u><i>[Signature]</i></u> Deputy ACTION TAKEN: JUN 24 2015 PASSED TO SECOND READING JUL 01 2015 9:30 A.M
BUREAU APPROVAL Bureau: Transportation Policy, Planning and Projects Manager: Art Pearce <i>AMP</i> Director: Prepared by: Andrew Aebi:slg Date Prepared: June 11, 2015 Supervisor: Dan Layden <i>AAA 6/11</i>	
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, comp plan, charter	
Council Meeting Date June 24, 2015	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 10:45 AM Total amount of time needed: 15 minutes (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (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. Novick	4. Novick	✓	
Hales	Hales	→	