

ORDINANCE No. 179297^N

*Increase the estimated assessment amount in Assessment Zone D on Marquam Hill in the Portland Aerial Tram Local Improvement District (Ordinance; amend Ordinance Nos. 178675 and 179009; C-10009)

The City of Portland ordains:

Section 1. The Council finds:

1. Resolution No. 36225 was passed by City Council on June 10, 2004 initiating local improvement district formation proceedings in the Portland Aerial Tram Local Improvement District (LID).
2. Ordinance No. 178675 was passed by City Council on August 18, 2004 forming the Portland Aerial Tram LID.
3. Ordinance No. 179009 was passed by City Council on December 22, 2004 amending Ordinance No. 178675.
4. The City Engineer currently projects overall Portland Aerial Tram project costs to increase by \$11,500,000.00 over the project costs that were estimated at the time of LID formation. This will increase the amount to be assessed through the LID by \$11,500,000. In addition, Auditor's costs (including recording, superintendency and Local Improvement District Construction Fund interest), are projected to increase by \$259,910.36. The total cost of the property owners' share of project costs through the LID increases to \$31,191,035.48, including projected Auditor's costs of \$691,035.48
5. The Portland Office of Transportation is absorbing overhead costs.
6. The Local Improvement District Administrator recommends that City Council apportion all of the increased local improvement district project costs to Assessment Zone D.
7. The result of implementing finding No. 10 of this ordinance is that Zone D's assessment will be \$23,500,000.00 plus an allocated portion of LID costs for Auditor's charges including financing, currently estimated at \$532,437.18.
8. The only owner of properties in Zone D is OHSU. OHSU consents to the increased estimated assessments for Zone D properties.
9. There are no changes to the estimated assessments in Zones A, B North, B South and C.
10. The revised Engineer's Estimate is as shown in Exhibit B.
11. The revised Local Improvement District Administrator's Estimate is as shown in Exhibit C based on the amounts in Exhibit B.
12. This amendment to Ordinance No. 178675 and to Ordinance No. 179009 constitutes a major change to scope or cost of improvements per Section 17.08.080 of City Code.

13. Property owners were sent notice of the June 1, 2005 hearing on May 11, 2005 based on Multnomah County property tax records as of April 18, 2005.
14. Notice of the June 1, 2005 hearing was published in the Daily Journal of Commerce on May 16 and 17, 2005.
15. Four notices of the June 1, 2005 hearing were posted within the boundaries of the Portland Aerial Tram LID on May 16, 2005.

NOW, THEREFORE, the Council directs:

- a. Finding No. 11 of Ordinance No. 178675 is amended by Finding No. 4 of this ordinance.
- b. Finding No. 12 of Ordinance No. 178675 is amended by Finding No. 10 of this ordinance.
- c. Exhibit C of Ordinance No. 178675 is replaced by Exhibit C to this Ordinance.
- d. Exhibit D of Ordinance No. 178675 is replaced by Exhibit B to this Ordinance.
- e. Exhibit E of Ordinance No. 178675 is replaced by Exhibit A to this Ordinance.
- f. Directive "a" of Ordinance No. 179009 is replaced with the following:

"The City Council affirms that the amount of costs that will be assessed to property owners in this LID after the final assessment hearing required by Code will not exceed the estimated assessments in Exhibit A to this Ordinance plus LID costs for Auditor's charges, including financing."

- g. The City Auditor shall update estimated lien records for the Zone D properties whose assessment amounts are changing based on a comparison of the "Previous Total" amounts set forth in the "All Zones' Assessments" page of Exhibit B to the shaded "Revised Total" amounts set forth in the "All Zones' Assessments" page of Exhibit A.
- h. All objections are overruled.

Section 2. The Council declares that an emergency exists because it is critical that the Local Improvement District be revised as soon as possible to provide for payment of executed contracts for the project, to provide for the most efficient means of financing the project; and to accurately reflect the current state of the project's financing plan; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, JUN 01 2005

Mayor Tom Potter
Prepared by: Matt Brown:slg
May 12, 2005
TRAM LID Ord.doc

GARY BLACKMER

Auditor of the City of Portland

By

Susan Parsons
Deputy

Agenda No.

ORDINANCE NO.

Title

*Increase the estimated assessment amount in Assessment Zone D on Marquam Hill in the Portland Aerial Tram Local Improvement District. (Ordinance; amend Ordinance No. 178675; amend Ordinance No. 179009; C-10009)

INTRODUCED BY	Filed:
Mayor Tom Potter	Gary Blackmer Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs	By: _____ Deputy
Finance and Administration	
Safety	
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Transportation Engineering & Development	
Prepared by Matt Brown:slg <i>MB</i> Date May 12, 2005	For Meeting of: <u> JUNE 1, 2005 </u>
Budget Impact Review: <input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not Required	ACTION TAKEN:
Included PPD: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Filename: TRAM LID Ordinance.doc	
Bureau Head: <i>Donald Gardner</i> Donald Gardner, Director	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
			YEAS	NAYS
Consent	Regular <input checked="" type="checkbox"/>			
NOTED BY		Adams	Adams	
City Attorney		Leonard	Leonard	
		Saltzman	Saltzman	
		Sten	Sten	
		Potter	Potter	

Portland Aerial Tram

Cost Estimate
Revised April 28, 2005

CIVIL CONSTRUCTION COSTS	100% Design Development Cost Estimate	Revised Cost Estimate 4/28/05
PLANNED CONSTRUCTION COSTS		
UPPER STATION	\$8,042,000	\$11,380,831
PCF SHORING ALLOWANCE	\$250,000	Included in Upper Station Cost
TOWER	\$2,187,000	\$2,303,188
LOWER STATION	\$2,773,000	\$4,131,913
PLANNED CONSTRUCTION COST	\$13,252,000	\$17,815,932
CONTINGENCIES		
CONTINGENCY FOR DESIGN DEVELOPMENT @ 10%	\$1,325,200	Included in Owner's Contingency
ESCALATION TO MIDPOINT @ 3.34%	\$450,568	Included in Owner's Contingency
TOTAL CIVIL PLANNED CONSTRUCTION COST	\$15,027,768	\$17,815,932
TRAMWAY COSTS		
BASE TRAMWAY PER DOPPELMAYR BID	\$6,645,700	\$9,903,106
ALLOWANCE FOR CUSTOM CABIN DESIGN	\$600,000	Included in Base Tramway Bid
TOTAL TRAMWAY COST	\$7,245,700	\$9,903,106
NEIGHBORHOOD IMPROVEMENTS		
ALLOWANCE FOR GIBBS STREET IMPROVEMENTS	Not Included	\$750,000
TOTAL PROJECT CONSTRUCTION COST	\$22,273,468	\$28,469,038
SOFT COSTS	\$5,508,347	\$7,905,962
OWNER CONTINGENCY	\$718,185	\$3,625,000
TOTAL PROJECT COST	\$28,500,000	\$40,000,000
PROJECT BUDGET	\$28,500,000	\$40,000,000

179297

EXHIBIT B

1792 97

CITY OF PORTLAND, OREGON
BUREAU OF TRANSPORTATION ENGINEERING AND DEVELOPMENTLOCAL IMPROVEMENT DISTRICT ADMINISTRATOR'S REVISED ESTIMATE
of the various kinds of work performed in the aerial tram improvement of:

Portland Aerial Tram Local Improvement District

Construction

Construction Estimate		
Upper Station	\$ 8,042,000.00	
PCF Shoring Allowance	\$ 250,000.00	
Tower	\$ 2,187,000.00	
Lower Station	\$ 2,773,000.00	
Base Tramway per Doppelmayr Bid	\$ 6,645,700.00	
Allowance for Custom Cabin Design	\$ 600,000.00	
		\$ 20,497,700.00

Engineering & Project Management

\$ 5,508,347.00

Contingency

Contingency for Design Development @ 10%	\$ 1,325,200.00	
Escalation to Midpoint @ 3.34%	\$ 450,568.00	
Owner Contingency	\$ 12,218,185.00	
		\$ 13,993,953.00

Auditor's Costs

LID Construction Fund - Progress Payment Interest	\$ 553,313.96	
LID Construction Fund - Superintendence	\$ 136,013.52	
Recording	\$ 1,708.00	
		\$ 691,035.48

TOTAL PROJECT & LID COSTS

\$ 40,691,035.48

Property Owner Share

Local Improvement District assessment	\$ 31,191,035.48	
		\$ 31,191,035.48

Other Funding

Funding per Development Agreement	\$ 9,500,000.00	
		\$ 9,500,000.00

TOTAL PROJECT & LID FUNDING

\$ 40,691,035.48



CITY OF
PORTLAND
 OFFICE OF
TRANSPORTATION

F
 Mayor Tom Potter
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 Portland, Oregon 97204-1914
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Brant
 Williams
 Director

Eileen
 Argentina
 System
 Management

Bryant
 Engle
 Finance

Don
 Gardner
 Engineering &
 Development

Sam M.
 Irving, Jr.
 Maintenance

Laurel
 Wentworth
 Planning

FOR MAYOR'S OFFICE USE ONLY

Reviewed by Bureau Liaison _____

DATE: May 12, 2005
TO: Mayor Tom Potter
FROM: Matt Brown, Project Manager

RE: *Increase the estimated assessment amount in Assessment Zone D on Marquam Hill in the Portland Aerial Tram Local Improvement District. (Ordinance; amend Ordinance No. 178675; amend Ordinance No. 179009; C-10009) EMERGENCY ORDINANCE

- 1. INTENDED THURSDAY FILING DATE: May 12, 2005
- 2. REQUESTED COUNCIL AGENDA DATE: June 1, 2005
- 3. CONTACT NAME & NUMBER: Matt Brown, 823-7027
- 4. PLACE ON: CONSENT REGULAR
- 5. BUDGET IMPACT STATEMENT ATTACHED: Y N N/A
- 6. (3) ORIGINAL COPIES OF CONTRACTS APPROVED AS TO FORM BY CITY ATTORNEY ATTACHED: Yes No N/A

7. BACKGROUND/ANALYSIS

This ordinance is related to and accompanied by an ordinance approving a capital funding Intergovernmental Agreement with OHSU and an ordinance amending Contract #35021 with Portland Aerial Transportation, Inc.

On April 13, 2005, the Portland Development Commission approved Amendment #7 to the South Waterfront Central District Project Development Agreement. The Amendment dealt with the issue of the revised budget for the Portland Aerial Tram, increasing the project budget from \$28.5 Million to \$40.0 Million. In the Development Agreement Amendment, OHSU committed to financing the entire \$11.5 Million cost increase through an increase in its Local Improvement District assessment.

The LID for the Portland Aerial Tram provides \$30.5 Million of the \$40.0 million total project budget. \$7.0 Million is assessed in the South Waterfront portion of the LID, spread across four assessment zones that vary based on distance from the lower tram terminus. The remaining \$23.5 Million is assessed within the Marquam Hill portion of the LID. The assessments are placed on OHSU owned properties, and are not placed against any other institution or property owner on Marquam Hill.

The revision to the LID leaves the South Waterfront portion of the project at \$7.0 Million, so the property owners there will not see any cost increase as a result in the LID revision or the increased cost of the project. (In fact, assessments in South Waterfront went down a few dollars as the result of this revision.) The entire \$11.5 Million increase is being added to "Zone D," which are OHSU owned properties on Marquam Hill.

At this time, the City is facing multiple lawsuits filed by the Zidell family (ZRZ Realty) related to the Portland Aerial Tram LID. Staff and the City Attorney's office have been working together to ensure that the proposed ordinance revising the LID is on sound legal footing, which it is. All proper notice requirements have been or will be fulfilled – notice to property owners was sent on May 11, 2005, notices within the district will be posted on May 16, 2005, and notices will be published in the Daily Journal of Commerce on May 16 and 17, 2005.

The legal requirements for Council on the LID are to hold a hearing whenever a major change in budget and/or scope are encountered on the project (Portland City Code 17.08.080). Because of the significant cost increase in the project, this hearing is necessary to fulfill the City's obligation for proper due process, even though the cost increase is being voluntarily and entirely borne by a single property owner.

At the same time as Council considers this revision to the LID, the Council will also consider approving an IGA with OHSU that obligates OHSU to provide the City with its \$4 Million cash contribution for the project that is part of the \$40 Million tram budget.

Request for Emergency Designation

1) Why is it necessary to circumvent the regular agenda process and timelines?

Implementing this LID revision sooner, rather than later, is critical to the success of the Tram project. Council has already approved construction contracts for the project; this revision will ensure that the full funding is in place as early as possible for use on the project. Passing this ordinance will also provide assurance to property owners in South Waterfront that they will not be asked to increase their contributions to the project due to the increased project cost.

The current actions before Council are also the last remaining items necessary to finalize the Basic Contingency Period in the South Waterfront Central District Project Development Agreement. Upon revision of the LID ordinance and the approval of the capital funding IGA with OHSU, PDC, the City, and the Developer Parties will have fulfilled the Basic Contingencies under the Development Agreement, and the Agreement will be in full force from that point forward. It is important to finalize these last steps as soon as possible and enable all of the parties to pursue their respective projects with the assurance that the Development Agreement is in full force.

2) Why couldn't this item have been filed a month earlier preventing the need for the emergency clause?

The LID revision has taken the most time to finalize, and has required lengthy discussions with both internal and external counsel to ensure that the LID revision proposal was well-crafted and sound. Therefore, filing this item 30 days earlier and out of context with the other two items was not a possibility. Once the Portland Development Commission approved the seventh amendment to the Development Agreement on April 13, 2005, staff worked to revise the LID formulas and prepare for the hearing at the earliest possible date. LIDs also require lead time for mailing, posting and publication of notices, which lengthens the lead time for filing.

3) Why is it in the public's best interest to have the item filed as an emergency precluding the opportunity for public review and input through the regular agenda process?

The emergency designation will not impede the public's ability to comment on the ordinance – the ordinance will still be on the Regular Agenda and the item will be handled as a public hearing. In addition, there are no new issues for property owners to respond to in the LID. Only one property owner (OHSU) is impacted by the revised LID Ordinance, and OHSU has agreed to support the LID.

8. FINANCIAL IMPACT

None.

9. RECOMMENDATION/ACTION REQUESTED

Pass Ordinance.

City of Portland
BUDGET/FINANCIAL COUNCIL ACTION IMPACT STATEMENT

INITIATOR'S SUMMARY OF COUNCIL ACTION (Deliver original to Financial Planning Division. Retain copy).

1. Name of Initiator Matt Brown	2. Interoffice Mail Address 106/800	3. Telephone No. 503-823-7027	4. Bureau/Office/Dept. PDOT/BTE&D/PMD
5a. To Be Filed (date) June 1, 2005	5b. Calendar (Check One) REGULAR Consent 4/5ths <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	5. Date Submitted to OMF Budget Analyst: May 12, 2005	6. Fund Name & Number Transportation Fund #

Please check appropriate box and list dollar amount.

If using electronic MS Word Version, underline appropriate category and type and list dollar amount after. (Opt.)

Category 1 No financial Impact [XX]

Category 2 Routine and Budgeted Items []


- | | |
|--|---|
| <input type="checkbox"/> Contracts | <input type="checkbox"/> Annual Supply Contract |
| <input type="checkbox"/> Grants | <input type="checkbox"/> Claims payment under \$15,000 |
| <input type="checkbox"/> Call for bids on purchasing contracts | <input type="checkbox"/> Creation of a Local Improvement District |
| <input type="checkbox"/> Reports to Council regarding completion of projects | <input type="checkbox"/> Other |

Category 3 Non-Routine or Unbudgeted Item []

SUMMARY OF ACTION: In concise terms, describe what is to take place through the enactment of this council action. Where applicable, narrative should include answers to the following questions. Add space as necessary below each question. Multiple page responses are acceptable if necessary to answer all relevant questions.

- A. What action(s) is proposed?
- B. Who will be affected by the proposed action? (List other City bureaus? Citizens? The business community?)
- C. What will the action cost? In this fiscal year? Subsequent year(s)? How much revenue will it generate? In this fiscal year? In subsequent year(s)? If there are indirect costs or future commitments implied as a necessary accompaniment or result of this action, include an estimate of these costs even if the action does not formally authorize any expenditure.
- D. Is the cost included in the current year's budget? If so, which Fund or AU? If not, identify funding sources and amounts -i.e., interagency, contingency/unforeseen, grants, administrative transfer, etc.
- E. What alternatives to this action have been explored?

APPROPRIATION UNIT HEAD (Typed name and signature)



Brant Williams, Director, Office of Transportation

