



ORDINANCE NO. 27734

L.I.D. No. 8651

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AN ORDINANCE providing for the construction of permanent pavement, together with the installation of concrete curbs and gutters, and storm drain lines with storm water catch basins where needed at various locations in the City; creating Local Improvement District No. 8651; providing for a special fund for the payment of the improvement by special assessment upon the property within the district benefited thereby, for the issuance of warrants, installment notes, bond anticipation notes, or other short-term obligations to pay that part of the cost and expense of the improvement assessed against the property in the district, and for the payment of the remainder of the cost thereof.

WHEREAS all of the preliminary proceedings for the establishment of Local Improvement District ("L.I.D.") No. 8651 have been taken as provided by law, and

WHEREAS the Hearings Examiner of the City, after public hearing duly held, has recommended to the City Council the formation of L.I.D. No. 8651; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That there shall be constructed a public works and improvement consisting of providing for construction of permanent pavement, together with the installation of concrete curbs and gutters, and storm drain lines with storm water catch basins, together with all other work necessary to complete the project in accordance with the maps, plans, and specifications prepared and now on file in the office of the Director of the Department of Public Works Department, which maps, plans, and specifications are hereby adopted.



1 Section 2. That there is hereby created a local improvement district, to be
2 known as L.I.D. No. 8651, which shall embrace as nearly as practicable all the
3 property specially benefited by the improvements described above, which property
4 is described as follows:

5 **Segment 1:** North 29th Street from Proctor Street to Monroe Street

6 Those portions of the SE quarter of the Section 25, Township 21, Range 3E,
7 W.M., described as follows:

8 Lots 1 through 22, Block 13, GRANDIN ADDITION to Tacoma, as per the plat
9 recorded in Volume 8 of Plats at page 97, records of the Pierce County Auditor;
situate in the City of Tacoma, County of Pierce, State of Washington.

10 Lots 1 through 3, Block 18, LAWRENCE ADDITION to Tacoma, W.T., as per
11 the plat recorded in Volume 3 of Plats at page 40, records of the Pierce County
12 Auditor; situate in the City of Tacoma, County of Pierce, State of Washington.

13 **Segment 2:** North 28th Street from Union Avenue to Washington Street

14 Those portions of the NW Quarter of Section 25, Township 21, Range 2E,
15 W.M. described as follows:

16 Lots 6 through 10, Blocks 9 and 10, Lots 1 through 4, Blocks 15 and 16,
17 PUGET PARK ADDITION to Tacoma, W.T., as per the plat recorded in Volume
2 of Plats at page 67, records of the Pierce County Auditor; situate in the City
of Tacoma, County of Pierce, State of Washington.

18 **Segment 3:** Verde Street from North 36th Street to North 37th Street

19 Thos portions of the NW Quarter of Section 25, Township 21, Range 2E, W.M.,
20 described as follows:

21 All of Blocks 10 and 11, HOPE PARK ADDITION to Tacoma, Washington, as
22 per the plat recorded in Volume 6 of Plats at page 89, records of the Pierce
23 County Auditor; situate in the City of Tacoma, County of Pierce, State of
Washington.



Segment 4: South 94th Street from Alaska Street west to a dead end

Those portions of the SW Quarter of Section 32, Township 20, Range 3E, W.M., described as follows:

All of Blocks 7 through 10, CHRISTMAS ADDITION to Tacoma, W.T., as per the plat recorded in Volume 2 of Plats at Page 84, records of the Pierce County Auditor; together with vacated Wilkeson Street abutting said Blocks, situate in the City of Tacoma, County of Pierce, State of Washington.

Section 3: That the estimated cost and expense of the improvements is \$2,026,967.00 and that the total estimate assessed amount to the property owners is \$443,215.45 at a fixed rate of \$84.00 per assessable unit of frontage (AUF).

The City's environmental services (Surface Water Utility) is contributing \$567,500.00 and the General Fund (L.I.D. Participation Fund) is contributing \$1,016,251.55. The proposed L.I.D. is a 10-year assessment roll. Actual assessments may vary from assessment estimates, so long as the assessments do not exceed the increased true and fair value the improvement adds to the property being assessed. At the option of the property owners, the assessments levied against the property shall become due and payable in cash, without interest, within thirty days after publication of notice of assessment, or in ten (10) equal annual installments with interest on deferred payments at a rate to be hereafter fixed, but in no event greater than one-half percent above the rate of interest fixed upon sale of bonds for the district; and each year one of such installments, together with interest due thereon and on all installments thereafter to become due, shall be collected in the manner provided by law.

Section 4. That a special fund is hereby created, to be called Local Improvement Fund, District No. 8651, which shall consist in the aggregate of the



1 several amounts assessed, levied, and collected upon the several lots and parcels
2 of land in the local improvement district for the purpose of defraying the cost and
3 expense of the improvement to be borne by the property within the district, and
4 into which fund shall be deposited the proceeds of the sale of warrants, installment
5 notes, bond anticipation notes, or other short-term obligations drawn against the
6 fund which may be sold by the City. Out of the fund shall be paid the warrants,
7 installment notes, bond anticipation notes, or other short-term obligations, interest
8 thereon, and the cost of the improvement to be borne by the property included in
9 the district.
10

11 Section 5. The Director of the Department of Public Works is hereby
12 ordered to call for bids for said improvements, and to proceed and complete the
13 improvements and to make out and certify to the City Council an assessment roll,
14 all as provided by law.

15 In case no bid is accepted, the Director of Public Works is hereby
16 authorized to proceed and complete the improvement by the method of day labor
17 or force account and by use of materials, supplies, and equipment, as authorized
18 by the City Charter and ordinances of the City. The Director of Public Works shall
19 keep a separate account of the expenditures as made and the exact cost of the
20 improvements separately computed. Upon certification by the Director of Public
21 Works that any sums are due to any person for labor or materials for the
22 improvements, the proper officers shall issue a warrant therefor drawn upon the
23 L.I.D. Fund, District No. 8651. The Director of Public Works shall certify to the City
24 Council the assessment roll on the property as provided by law.
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Section 6. Under the provisions of the laws of the state of Washington, amendments thereto, and this ordinance, there shall be issued warrants, installment notes, bond anticipation notes, or other short-term obligations, issued pursuant to Ordinance No. 23412, as it may be amended, in payment of the cost and expense of the district, payable out of the Local Improvement District Fund. Such warrants, installment notes, bond anticipation notes, or other short-term obligations shall bear interest from the date of their issuance at a rate to be hereafter fixed by the Director of the Department of Finance in accordance with Ordinance No. 23412, and shall be redeemed from the Local Improvement District Fund or by other warrants, installment notes, bond anticipation notes, or other short-term obligations, or from the proceeds of local improvement bonds hereafter issued.

Section 7. Pursuant to the provisions of the laws of the state of Washington, the City Council hereby directs that the improvements be paid for by the City in cash and that the warrants, installment notes, bond anticipation notes, or other short-term obligations authorized to be issued under the provisions of this



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ordinance be sold by the proper officers of the City in accordance with Ordinance No. 23412, as it may be amended, and that the proceeds thereof shall be applied in payment of the cost and expense of the improvement.

Passed JUL 22 2008

Mayor

Attest:

City Clerk

Approved as to form and legality:

City Attorney

Property description approved:

Chief Surveyor
Public Works Department

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OFFICE OF THE HEARING EXAMINER
CITY OF TACOMA

In the Matter of:

**Proposed Local Improvement
District 8651.**

ERRATA

On April 28, 2008, RODNEY M. KERSLAKE, the duly acting Hearing Examiner for the City of Tacoma, Washington, conducted a public hearing on the above-captioned matter and on June 11, 2008, the Hearing Examiner entered his Findings of Fact, Conclusions of Law, and Recommendation.

Subsequent to the issuance of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation, a number of scrivner's error were discovered beginning on Page 1, Line 19. The word "alleys" is incorrect and should be replaced with the word "streets."

Therefore, Line 19 is hereby corrected to read as follows:

"...line and storm water catch basins, where needed, on the following streets: Segment 1: North..."

Furthermore, a second scrivner's error was discovered on Page 6, Line 5, in regard to the description of Segment 5. The word "dead" was omitted. Therefore, Line 5 is hereby corrected to read as follows:

ERRATA

- 1 -

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1 “Segment 5 (South 94th Street from Alaska Street west to a dead
2 end):”

3 Lastly, a duplicate scrivener’s error was discovered on Page 7, Line 20 and Page 8, Line
4 20, which incorrectly describes the location of Segment 4 as “South 94th Street from Alaska
5 Street west to a dead end.” Therefore, Line 20, on both Pages 7 and 8 should instead read:

6 “Segment 4 (Whitman Street from North 37th Street to North 40th
7 Street):”

8
9 DATED this 27th day of June, 2008.

10
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12 _____
13 LOUISA LEGG, Administrative Legal Secretary

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COPY

ERRATA

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City of Tacoma
Hearing Examiner

June 11, 2008

David Wurzbach
Department of Public Works
Construction Division, L.I.D. Section
747 Market Street, Room 620
Tacoma, WA 98402
(Inter-office Delivery)

Re: Proposed Local Improvement District No. 8651 – Formation

Please find enclosed the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation to the Tacoma City Council, the Department of Public Works' Report to the Hearing Examiner filed April 21, 2008, and Proposed L.I.D. 8651 Remonstrance Memo dated June 5, 2008. The Hearing Examiner's recommendation is the result of a hearing held on April 28, 2008.


LOUISA LEGG
Administrative Legal Secretary

I CERTIFY THAT I MAILED A COPY OF THIS DOCUMENT
TO THE PERSONS AND ADDRESSES LISTED THEREON,
POSTAGE PREPAID, IN A RECEPTACLE FOR UNITED
STATES MAIL AT TACOMA, WASHINGTON
ON June 11, 2008

Enclosures

cc: City Clerk, City of Tacoma

Liz Wheeler, Finance Department, City of Tacoma

Kevin Mahoney, 3819 N. Whitman Street, Tacoma WA 98407

Lawrence J. Asher, 3929 N. 29th Street, Tacoma WA 98407

Lawrence J. Asher, c/o North Tacoma Properties, LLC, 4830 NE Lamms Lane,
Poulsbo WA 98370

Desi Turner, 3937 N. 29th Street, Tacoma WA 98407

Julius Bernard, 2717 N. Washington Street, Tacoma WA 98407

Jack Warnick, 4412 N. 37th Street, Tacoma WA 98407

William Knox, 3625 N. Verde Street, Tacoma WA 98407

Madred and Jeffery Slaker, 3701 N. Whitman Street, Tacoma WA 98407

Irene Prenovost, 3734 N. Whitman Street, Tacoma WA 98407

Larry Folger, 3711 N. Whitman Street, Tacoma WA 98407

John W. Taylor, 2721 N. Washington Street, Tacoma WA 98407

Steven Coates-White, 3619 N. 28th Street, Tacoma WA 98407

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3 **OFFICE OF THE HEARING EXAMINER**

4 **CITY OF TACOMA**

5
6 **In the Matter of:**

7 **PROPOSED LOCAL**
8 **IMPROVEMENT DISTRICT**
9 **NO. 8651**

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION

10
11
12 A public hearing on the formation of Local Improvement District No. 8651 was held on
13 April 28, 2008, and the Hearing Examiner having considered the evidence presented, reviewed
14 the file and being otherwise fully advised, makes the following:

15 **FINDINGS OF FACT:**

16 1. The Tacoma City Council adopted Resolution No. 37436 on April 1, 2008,
17 expressing the intent of the Council to construct improvements consisting of establishing a
18 grade and placing thereon a permanent pavement, together with the installation of storm drain
19 lines and storm water catch basins, where needed, on the following alleys: **Segment 1:** North
20 29th Street from Proctor Street to Monroe Street; **Segment 2:** North 28th Street from Union
21 Avenue to Washington Street; **Segment 3:** Verde Street from North 36th Street to North 37th
22 Street; **Segment 4:** Whitman Street from North 37th Street to North 40th Street and; **Segment 5:**
23 South 94th Street from Alaska Street west to a dead end. Furthermore, it is also the intent of
24

25
26 **FINDINGS OF FACT,**
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 1 -

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ORIGINAL

1 the City Council collect special assessments to pay the costs and the expenses of such
2 improvements upon real property specifically described therein to the extent that such property
3 would be specially benefited thereby. Resolution No. 37436 is incorporated herein by
4 reference as though fully set forth. Actual assessments may vary from assessment estimates,
5 so long as the estimates do not exceed the increased true and fair value the improvement adds
6 to the property being assessed.
7

8 2. Notices of Public Hearing, for Local Improvement District No. 8651, were
9 published on April 3 and 4, 2008. Said notices were mailed to the affected property owner(s)
10 of record on April 4, 2008. Subsequently, a number of discrepancies in the notices were
11 discovered, so a corrected notice was mailed to the affected property owner(s) on April 8,
12 2008. An Affidavit of Publication has been filed with the City Clerk as well as plans and
13 estimates required by said Resolution.

14 3. Pursuant to applicable laws and the direction of the Tacoma City Council, a
15 public hearing was held on April 28 2008, to consider the formation of Local Improvement
16 District (L.I.D.) No. 8651.

17 4. The report of the Department of Public Works (hereinafter "DPW"), entered into
18 the record as Exhibit No. 1, indicates that the estimated overall project cost is \$2,026,967.00
19 and that the total estimated assessed amount to property owners is \$443,215.45 at a fixed rate
20 of \$84.00 per Assessable Unit of Frontage (AUF). The City's Environmental Services
21 (Surface Water Utility) is contributing \$567,500.00 and the General Fund (L.I.D. Participation
22 Fund) is contributing \$1,016,251.55. The proposed L.I.D. is a 10-year assessment roll.
23

24 Cost breakdowns for each segment within the proposed L.I.D. are summarized below:

25
26 **FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 2 -**

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1 **Segment 1 (North 29th Street from Proctor Street to Monroe Street):** The
2 total assessed to property owners is \$52,042.40, along with the City's
3 participation (L.I.D. Participation Fund) of \$72,957.60, and contributions
4 from the City's Surface Water Utility Fund of \$175,000.00, equals an
5 estimated segment cost of \$300,000.00

6 **Segment 2 (North 28th Street from Union Avenue to Washington Street):**
7 The total assessed to property owners is \$40,989.35, along with the City's
8 participation (L.I.D. Participation Fund) of \$138,510.65, and contributions
9 from the City's Surface Water Utility Fund of \$5,500.00, together equals an
10 estimated segment cost of \$185,000.00.

11 **Segment 3 (Verde Street from North 36th Street to North 37th Street):** The
12 total assessed to property owners is \$74,685.95, along with the City's
13 participation (L.I.D. Participation Fund) of \$250,281.05, and contributions
14 from the City's Surface Water Utility Fund of \$57,000.00, together equals an
15 estimated segment cost of \$381,967.00.

16 **Segment 4 (Whitman Street from North 37th Street to North 40th Street):**
17 The total assessed to property owners is \$170,167.00, along with the City's
18 participation (L.I.D. Participation Fund) of \$324,833.00, together equals an
19 estimated segment cost of \$495,000.00.

20 **Segment 5 (South 94th Street from Alaska Street west to a dead end):** The
21 total assessed to property owners is \$105,330.75, along with the City's
22 participation (L.I.D. Participation Fund) of \$229,669.25, and contributions
23 from the City's Surface Water Utility Fund of \$330,000.00, equals an
24 estimated segment cost of \$665,000.00.

25 5. Testimony by David Wurzbach, representing the DPW, establishes the following
26 with regard to all five segments:

- 27 A. The L.I.D. proposal began with an opinion survey that was circulated and
28 was signed by a majority of the property owners directly abutting the
29 proposed improvement area. The L.I.D. formation process was delayed for
30 a number of years due to lack of City participation funding.

31 **FINDINGS OF FACT,
32 CONCLUSIONS OF LAW, AND
33 RECOMMENDATION (L.I.D. 8651) - 3 -**

- 1 B. All segments are residential City streets. The proposed improvements to the
2 subject streets is considered a general benefit to the City.
- 3 C. The zone and termini formula, as set forth in RCW 35.44.30 and .40, was
4 used to determine the preliminary assessments for each property within the
5 proposed L.I.D. Only those properties specially benefitted by the proposed
6 improvements were included in the L.I.D..
- 7 D. All streets within the proposed L.I.D. would be constructed with a structural
8 cross-section of materials composed of 5 inches of crushed surface base
9 course (ballast) topped with 2 ½ inches of crushed surface top course and
10 finished with 3 inches of asphalt/concrete. Additionally, the streets will be
11 edged with cement concrete curbs and gutters that will channel excess
12 surface water to the closest storm catchment and sewer mains will be
13 extended where needed. Catch basins will be installed to handle excess
14 surface water.
- 15 E. Tacoma Water will replace the water mains in Segment Nos. 1 through 3 and
16 find it unnecessary to replace the water mains in Segment Nos. 4 and 5 since
17 the mains are still in good condition.
- 18 F. At the design phase of the project, each segment's paving will be evaluated
19 for its individual needs and will be constructed according to City street
20 standards at the time. At the same time, individual property owners will have
21 an opportunity to meet on-site with City engineering staff to discuss proposed
22 improvement impacts and supplemental work options related to the proposed
23 improvement. Removal or trimming of trees/hedges which may impede right-
24 of-way construction can also be discussed, as well as removal or
25 modifications to landscaping and landscaping structures such as fences and
26 retaining walls.
- G. Once the L.I.D. has been created through a City ordinance, the formation
becomes a public record which will show on each parcel's Notification of
Title to Owners with regard to a future financial obligation to pay any
remaining L.I.D. construction costs. Should an owner decide to refinance or
market the property for sale, both the owner and prospective buyers, financial
institutions, realtors, and others would have access to such information.

With regard to individual segments, Mr. Wurzbach testified to the following:

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 4 -**

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1 **Segment 1 (North 29th Street from Proctor Street to Monroe**
2 **Street)**: Only that portion of North 29th Street from the center line to
3 the north street boundary would be improved since the south half of
4 the street is already improved as part of a local school improvement
5 project that occurred a couple of years ago. Approximately 557
6 lineal feet of new sanitary sewer line and approximately 723 feet of
7 new 18 inch storm sewer line will replace existing sanitary and storm
8 lines. The advisory petition was signed by 69.7 percent of abutting
9 property owners. The level of remonstrance stands at 6.05 percent.
10 The DPW has not received any applications for financial assistance
11 through the City's L.I.D. Assistance Funding Program.

12 **Segment 2 (North 28th Street from Union Avenue to Washington**
13 **Street)**: A new catch basin will be installed at the northwest corner
14 of North 28th Street at Union Avenue. The existence of a large
15 Douglas fir, possibly located within the right-of-way, still needs to
16 be determined and if such tree exists, removal of it will be decided
17 after the completion of a future land survey. The advisory petition
18 was signed by 64.58 percent of abutting owners. The City has not
19 received any applications for financial assistance through the City's
20 L.I.D. Assistance Funding Program. One letter in favor of the
21 proposed L.I.D. formation has been filed with the City Clerk. The
22 remonstrance level remains at zero percent.

23 **Segment 3 (Verde Street from North 36th Street to North 37th**
24 **Street)**: The existing Street surface on Verde Street is oil matte.
25 Approximately 525 feet of existing sanity sewer mains will be
26 replaced and approximately 310 feet of storm sewer extension will
27 be required from North Stevens Street along North 36th Street. The
28 advisory petition was signed by 55.72 percent of abutting property
29 owners. The DPW is in receipt of a single application for the City's
30 L.I.D. Assistance Funding Program, as well as one protest letter.
31 The level of remonstrance is 4.3 percent.

32 **Segment 4 (Whitman Street from North 37th Street to North 40th**
33 **Street)**: The existing street surface on Whitman Street is oil mat
34 which also has existing storm drainage. The full impact of
35 landscaping and other unidentified issues that intrude extensively in
36 localized areas along the street right-of-way will be addressed after a
37 land survey has been completed. The advisory petition was signed

38 **FINDINGS OF FACT,**
39 **CONCLUSIONS OF LAW, AND**
40 **RECOMMENDATION (L.I.D. 8651) - 5 -**

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1 by 68.89 percent of abutting property owners. Three letters of
2 protest have been filed and also two applications for relief through
3 the City's L.I.D. Assistance Funding Program. Once the properties
4 that would require financial assistance were removed from the
5 formation calculations, the protest level stood at 11.73 percent.

6 **Segment 5 (South 94th Street from Alaska Street west to a end):**
7 South 94th Street has an oil mat surface with very poor drainage.
8 Furthermore, sidewalks exist only on the south side on the west end
9 of on South 94th Street. The advisory petition was signed by 52.75
10 percent of abutting property owners. The remonstrance level is zero
11 percent and no applications for the City's L.I.D. Assistance Funding
12 Program has been received.

13 6. A number of interested property owners appeared at hearing and their concerns,
14 questions, and/or comments are summarized below along with the City's responses:
15

16 **Segment 1 (North 29th Street from Proctor Street to Monroe**
17 **Street):** A property owner residing at 3937 North 29th Street
18 appeared in protest and asked for further explanation as to why
19 owners of property located on the south side of North 29th Street
20 didn't have to pay for improvements on their side of the street.
21 Furthermore, the commenting property owner also felt the proposed
22 L.I.D. improvement costs were high and needed further explanation
23 of their affect on her property taxes. The property owner of 3929
24 North 29th Street appeared in writing protesting the proposed L.I.D.
25 The owner felt the proposal would create a personal financial
26 hardship. In response, City staff explained that in order to proceed
with its plans to rebuild/remodel one of its schools in the immediate
area, the Tacoma School District was required to pay for the North
29th south side street improvements which it chose to pay for
through a work order and not through an L.I.D.. In addressing
concerns with regard to the assessed amount to property owners,
City staff noted the property owners are paying roughly one-third of
the total construction costs. City staff also explained that
comparable home sales in the area can have a bigger influence in

27 **FINDINGS OF FACT,**
28 **CONCLUSIONS OF LAW, AND**
29 **RECOMMENDATION (L.I.D. 8651) - 6 -**

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1 determining a parcel's property taxes than would improvements
2 constructed through an L.I.D..

3 **Segment 2 (North 28th Street from Union Avenue to Washington**
4 **Street)**: A property owner residing at 2027 Washington Street,
5 spoke in protest to the petition process. In addition, the property
6 owner didn't believe the benefit to his non-abutting property was
7 enough to warrant the amount assessed to his property. A second
8 owner of property residing at 3619 North 28th Street spoke in support
9 of the proposed L.I.D., mainly for safety reasons concerning existing
10 traffic generated by a neighborhood public school. The owner of
11 property at 2721 North Washington Street appeared in writing also
12 supporting the proposed L.I.D.. City staff noted that the proposed
13 street improvement would help improve the grid of streets in the
14 neighborhood and the non-abutting property is included within one
15 of the assessment zones provided by statute.

16 **Segment 3 (Verde Street from North 36th Street to North 37th**
17 **Street)**: An owner of property residing at 3625 N. Verde Street
18 spoke in protest. The property owner felt the proposed street
19 improvements are not equal to those in surrounding neighborhoods
20 and also believes they will not improve current undesirable driving
21 conditions in the area. In addition, the proposed L.I.D. would create
22 a financial hardship to the commenting owner of property.
23 Appearing in writing was an owner of property residing at 4412
24 North 37th Street. The owner wrote in opposition feeling his non-
25 abutting property would not benefit from the planned improvements.
26 City staff noted that the proposed street improvement would help
improve the grid of streets in the neighborhood and the non-abutting
property is included within one of the assessment zones provided by
statute.

Segment 4 (South 94th Street from Alaska Street west to a dead
end): An owner of property residing at 3701 N. Whitman, who
previously submitted a written protest, also appeared in person at
hearing to make additional comment. The property owner had no
desire to be included within the boundaries of the proposed L.I.D
and anticipated traffic problems including heavier traffic volumes on
Whitman Street, once construction is completed. Similarly, owners
of property located at 3834 and 3701 North Whitman Street wrote

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 7 -**

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1 letters of protest and posed concerns relating to changes in
2 neighborhood traffic conditions, assessments costs, disruptions
3 relating to street improvement construction, replacement costs of
existing driveway and sprinkler systems.

4 **Segment 5 (South 94th Street from Alaska Street west to a dead**
5 **end)**: No one appeared in writing or at hearing in support or protest.

6 7. At the conclusion of proceedings, the remonstrance to L.I.D. formation for each
7 segment was re-calculated since three owners of property signed official protests at hearing.
8 The remonstrance for Segment No. 1 rose to 14.12 percent, with regard to Segment 2, the
9 remonstrance rose to 7.17. percent, and the remonstrance for Segment No. 3 rose to 10.16
10 percent. There were no changes at hearing to the remonstrance levels for Segments 4 and 5.
11 At the time of the issuance of these Findings of Fact, Conclusions of Law, and Decision, the
12 remonstrance levels for each segment are as follows:
13

14 **Segment 1 (North 29th Street from Proctor Street to Monroe Street)**: 14.12 percent
15 remonstrance.

16 **Segment 2 (North 28th Street from Union Avenue to Washington Street)**: 7.171
17 percent remonstrance.

18 **Segment 3 (Verde Street from North 36th Street to North 37th Street)**: 10.16 percent
19 remonstrance.

20 **Segment 4 (South 94th Street from Alaska Street west to a dead end)**: 11.78 percent
21 remonstrance.

22 **Segment 5 (South 94th Street from Alaska Street west to a dead end)**: zero percent
23 remonstrance.

24
25
26 **FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 8 -**

City of Tacoma
Office of the Hearing Examiner
Tacoma Municipal Building
747 Market Street, Room 720
Tacoma, WA 98402-3768
(253)591-5195 FAX (253)591-2003

1 8. Only those properties that would be specially benefited by the proposed alley
2 improvements have been included within the boundaries of the proposed L.I.D..

3 9. The verbatim transcript in the referred-to matter is in the custody of the Hearing
4 Examiner's Office, the official file is in the custody of the City Clerk, and both are available for
5 review by the Council and any party in interest.

6 10. Any Conclusion of Law hereinafter stated which may be deemed to be a Finding
7 of Fact herein is hereby adopted as such.

8
9 From these Findings of Fact come the following:

10
11 **CONCLUSIONS OF LAW:**

- 12 1. The Hearing has jurisdiction in the matter. *TMC 1.23.050.A.2.*
13 2. The Department of Public Works has complied with all applicable laws with
14 respect to the formation of Local Improvement District No. 8651.
15 3. The purposes of the initial hearing in regard to formation of L.I.D.s are to
16 determine if the formation of the district should proceed and if the limits of the district are
17 proper. Chandler v. City of Puyallup, 70 Wash. 632, 633 (1912). Accordingly, the only issues
18 properly presented during the formation stage of the L.I.D. process are:

- 19
20 (a) The jurisdiction or authority of the city to proceed with creating the
21 district.
22 (b) The proper boundaries of the district.

23
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25
26 **FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 9 -**

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1 Underground Equality v. Seattle, 6 Wn. App. 338, 342, 492 P.2d 1071 (1972). Issues relative
2 to the amount of special benefit resulting from the improvements proposed must await the
3 hearing in regard to the final assessments. Underground Equality at 342.

4
5 4. There has been no dispute presented in this proceeding relative to the City of
6 Tacoma's (City) authority to create the subject L.I.D..¹ The City's authority to create an L.I.D.
7 initiated by resolution of the local legislative body, as is the case here, is statutorily limited
8 only by the following provision:

9
10 **35.43.180 Restraint by protest.** The jurisdiction of the legislative authority
11 of a city or town to proceed with any local improvement initiated by
12 resolution shall be divested by a protest filed with the city or town council
13 within thirty days from the date of passage of the ordinance ordering the
14 improvement, signed by the owners of the property within the proposed local
15 improvement district or utility local improvement district subject to sixty
16 percent or more of the total cost of the improvement including federally-
17 owned or other non-assessable property as shown and determined by the
18 preliminary estimates and assessment roll of the proposed improvement
19 district or, if all or part of the local improvement district or utility local
20 improvement district lies outside of the city or town, such jurisdiction shall be
21 divested by a protest filed in the same manner and signed by the owners of
22 property which is within the proposed local improvement district or utility

23
24 ¹RCW 35.43.040 provides, in pertinent part, that:

25
26 "...Whenever the public interest or convenience may require, the legislative authority of any city or town may
order the whole or any part of any local improvement including but not restricted to those, or any combination
thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not
restricted to the planting, setting out, cultivating, maintaining and renewing of shade or ornamental trees and
shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and
collect special assessments on property specially benefited thereby to pay the whole or any part of the expense
thereof, viz:

(1) Alley, avenues, boulevards, lanes, park drives, parkways, parking facilities, public places, public
squares, public streets, their grading, regarding, planking, re-planking, paving . . . (Emphasis supplied.)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 10 -**

City of Tacoma
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1 local improvement district but outside the boundaries of the city or town, and
2 which is subject to sixty percent or more of that part of the total cost of the
3 improvement allocable to property within the proposed local improvement
4 district or utility local improvement district but outside the boundaries of the
5 city or town, including federally-owned or other non-assessable property: . . .
(Emphasis supplied.)

6 RCW 35.43.180.

7 5. The Council, however, has further limited its authority to proceed with the
8 formation of an L.I.D. through the adoption of a formal policy of not forming such districts if
9 the protest to formation is 50 percent or greater.²

10 6. The City has the authority by statute to proceed with the formation of L.I.D. 8651
11 under RCW 35.43.180, since the protest is less than 60 percent and by its own adopted policy
12 since the protest is less than 50 percent.

13 7. Properties within proposed L.I.D. 8651 would be specially benefited by the
14 proposed improvements and the boundaries proposed for the L.I.D. are proper and only include
15 those properties that would be specially benefited by the proposed improvement.
16

17 Several property owners raised objections to the inclusion of their properties within the
18 proposed L.I.D. due to the fact that their properties did not abut the street segments proposed to
19 be improved under the proposed L.I.D.; thus, in their view, were not specially benefited by the
20

21 ² Resolution 32989, adopted April 25, 1995 provides in pertinent part as follows:

22 "2. In proposed L.I.D.s in which the number of assisted property owners
23 constitutes less than twenty-five percent (25%) of the total number of property
24 owners, the proposed L.I.D. shall not be formed if the City has received written
25 protest signed by the owners of the property within the proposed L.I.D. subject to
26 more than fifty percent (50%) of the total cost of the improvement.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION (L.I.D. 8651) - 11 -**

1 street improvement. However, each of the protester's properties were included in an
2 assessment zone as provided by statute³ and the street improvements, if constructed, would
3 assist in improving the network of streets within their respective neighborhoods. As a matter
4 of law, the questions of whether benefits for an L.I.D. are special or general and the
5 appropriateness of proposed assessment can only be raised at the subsequent assessment roll
6 hearing. Underground Equality at 342. (Citation omitted.)
7

8 8. Any Finding of Fact hereinbefore stated which may be deemed to be a Conclusion
9 of Law herein is hereby adopted as such.
10

11 From these Conclusions of Law is entered this:

12 **RECOMMENDATION:**

13 Based on applicable Tacoma City Council policies with respect to formation of local
14 improvement districts, the Hearing Examiner recommends the formation of Local
15 Improvement District No. 8651.
16

17 **DATED** this 11th day of June, 2008.

18 
19 **RODNEY M. KERSLAKE, Hearing Examiner**
20
21
22
23

24 ³ RCW 35.44.030 and .040.

25 **FINDINGS OF FACT,**
26 **CONCLUSIONS OF LAW, AND**
RECOMMENDATION (L.I.D. 8651) - 12 -

City of Tacoma
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Tacoma Municipal Building
747 Market Street, Room 720
Tacoma, WA 98402-3768
(253)591-5195 FAX (253)591-2003

1 **NOTICE**

2 **RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION**

3 **RECONSIDERATION:**

4 Any aggrieved person or entity having standing under the ordinance governing the matter, or as
5 otherwise provided by law, may file a motion with the Office of the Hearing Examiner requesting
6 reconsideration of a decision or recommendation entered by the Hearing Examiner. A motion for
7 reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and
8 must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the
9 Hearing Examiner's decision/recommendation, not counting the day of issuance of the
10 decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend
11 day or a holiday, the last day for filing shall be the next working day. The requirements set forth
12 herein regarding the time limits for filing of motions for reconsideration and contents of such
13 motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with
14 the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the
15 Hearing Examiner. It shall be within the sole discretion of the Examiner to determine whether an
16 opportunity shall be given to other parties for response to a motion for reconsideration. The Hearing
17 Examiner, after a review of the matter, shall take such further action as he/she deems appropriate,
18 which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code*
19 *1.23.140*)

20 **APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:**

21 Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved
22 person or entity having standing under the ordinance governing such application and feeling that the
23 recommendation of the Hearing Examiner is based on errors of procedure, fact or law shall have the
24 right to appeal the recommendation of the Hearing Examiner by filing written notice of appeal and
25 filing fee with the City Clerk, stating the reasons the Hearing Examiner's recommendation was in
26 error.

APPEALS SHALL BE REVIEWED AND ACTED UPON BY THE CITY COUNCIL IN ACCORDANCE WITH TMC 1.70.

GENERAL PROCEDURES FOR APPEAL:

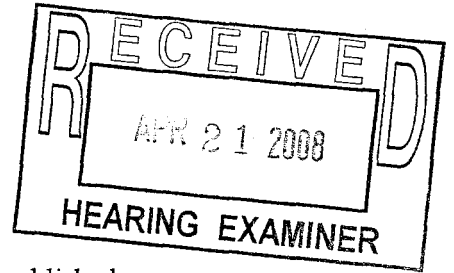
The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.

**REPORT TO THE HEARINGS EXAMINER
FOR L.I.D. HEARING APRIL 28, 2008- 5:00 P.M.**

L.I.D. NO. 8651 Construction of permanent street pavement, together with installation of concrete curbs & gutters, and storm-drain lines with storm-water catch basins where needed, on:

- North 29th Street from Proctor Street to Monroe Street (Segment #1)
- North 28th Street from Union Avenue to Washington Street (Segment #2)
- Verde Street from North 36th Street to North 37th Street (Segment #3)
- Whitman Street from North 37th Street to North 40th Street (Segment #4)
- South 94th Street from Alaska St west to the dead end (Segment #5)



Notices: Resolution No. 37436 setting the hearing date was published April 3rd and 4th, 2008.

Notice of Public Hearing letters were mailed to owners of record on April 4, 2008.

Status: Being considered for creation as the result of adequate petitions.

Background: Rate per AUE: \$84.00 (Fixed Rate)

Estimated project cost: \$2,026,967.00

Total Est. Assessed to Property Owners: \$ ^{443,215.45} ~~443,660.35~~ (corrected on record on 4.28.08)

Surface Water Utility: \$ 567,500.00

General Fund Contribution: \$1,016,251.55

To our knowledge the proceedings are all proper and in conformance with L.I.D. statutes.

Protest: 6.05% (Segment 1)
3.58% (Segment 4)

This is a 10-year Assessment Roll.

Recommendation: Considering the amount of protest, we recommend the L.I.D. be created.

File: lid8651

EXH. 1

COST BREAKDOWN BY SEGMENT

Segment 1 - North 29th Street from Proctor Street to Monroe Street.

Total Assessed to Property Owners	\$ 52,042.40
General Fund Contribution	\$ 72,957.60
Surface Water Utility	<u>\$175,000.00</u>
Estimated Segment Cost	\$300,000.00

Segment 2 - North 28th Street from Union Avenue to Washington Street.

Total Assessed to Property Owners	\$ 40,989.35
General Fund Contribution	\$138,510.65
Surface Water Utility	<u>\$ 5,500.00</u>
Estimated Segment Cost	\$185,000.00

Segment 3 - Verde Street from North 36th Street to North 37th Street.

Total Assessed to Property Owners	\$ 74,685.95
General Fund Contribution	\$250,281.05
Surface Water Utility	<u>\$ 57,000.00</u>
Estimated Segment Cost	\$381,967.00

Segment 4 - Whitman Street from North 37th Street to North 40th Street.

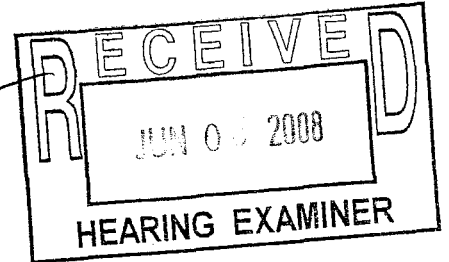
Total Assessed to Property Owners	\$170,167.00
General Fund Contribution	<u>\$324,833.00</u>
Estimated Segment Cost	\$495,000.00

Segment 5 - South 94th Street from Alaska St west to the dead end.

Total Assessed to Property Owners	\$105,330.75
General Fund Contribution	\$229,669.25
Surface Water Utility	<u>\$330,000.00</u>
Estimated Segment Cost	\$665,000.00



TO: Rodney M. Kerslake, Hearings Examiner
FROM: Ralph Rodriguez, LID Administrator *RRZ*
SUBJECT: L.I.D. 8651 Remonstrance
DATE: June 5, 2008



The current level of remonstrance for L.I.D. 8651 is as noted below:

Segment 1 - North 29th Street from Proctor Street to Monroe Street - 14.12% remonstrance

Remonstrance received from;

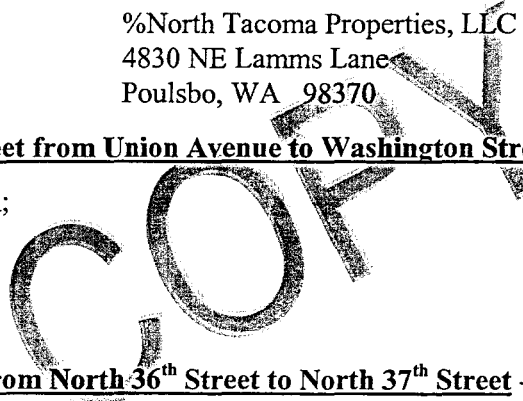
Desi Turner
 3937 N 29th Street
 Tacoma, WA 98407

Lawrence Asher
 %North Tacoma Properties, LLC
 4830 NE Lamms Lane
 Poulsbo, WA 98370

Segment 2 - North 28th Street from Union Avenue to Washington Street - 7.171% remonstrance

Remonstrance received from;

Julius Bernard
 2717 N Washington Street
 Tacoma, WA 98407



Segment 3 - Verde Street from North 36th Street to North 37th Street - 10.16% remonstrance

Remonstrance received from;

Jack Warnick
 4412 N 37th Street
 Tacoma, WA 98407

William Knox
 3625 N Verde Street
 Tacoma, WA 98407

Segment 4 - Whitman Street from North 37th Street to North 40th Street - 11.78% remonstrance

Remonstrance received from;

Madred & Jeffery Slaker
 3701 N Whitman Street
 Tacoma, WA 98407

Irene Prenovost
 3734 N Whitman Street
 Tacoma, WA 98407

Larry Folger
 3711 N Whitman Street
 Tacoma, WA 98407

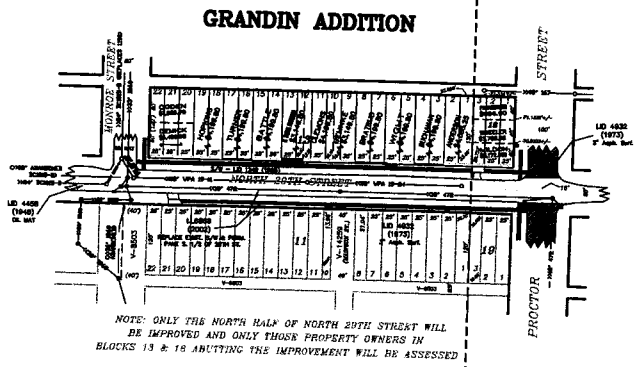
Segment 5 - South 94th Street from Alaska Street west to dead end - 0% remonstrance

Public Works is recommending the formation of LID 8651, Segments 1 through 5, according to guidelines adopted by Resolution 32989.

Ext. 10



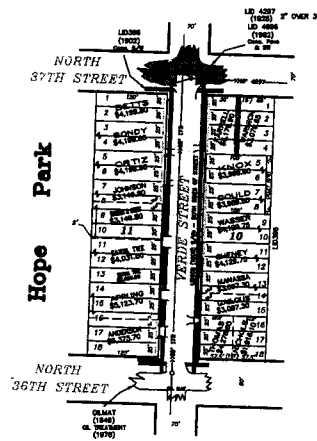
1



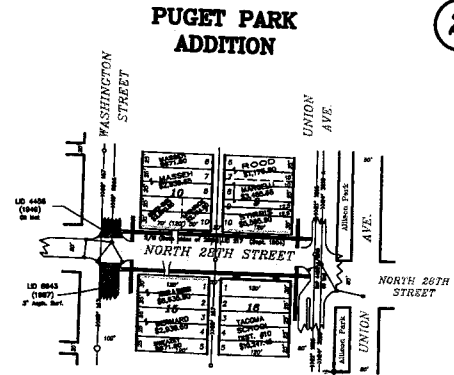
NOTE: ONLY THE NORTH HALF OF NORTH 20TH STREET WILL BE IMPROVED AND ONLY THOSE PROPERTY OWNERS IN BLOCKS 13 & 16 ABUTTING THE IMPROVEMENT WILL BE ASSESSED

LAWRENCE ADDITION

3



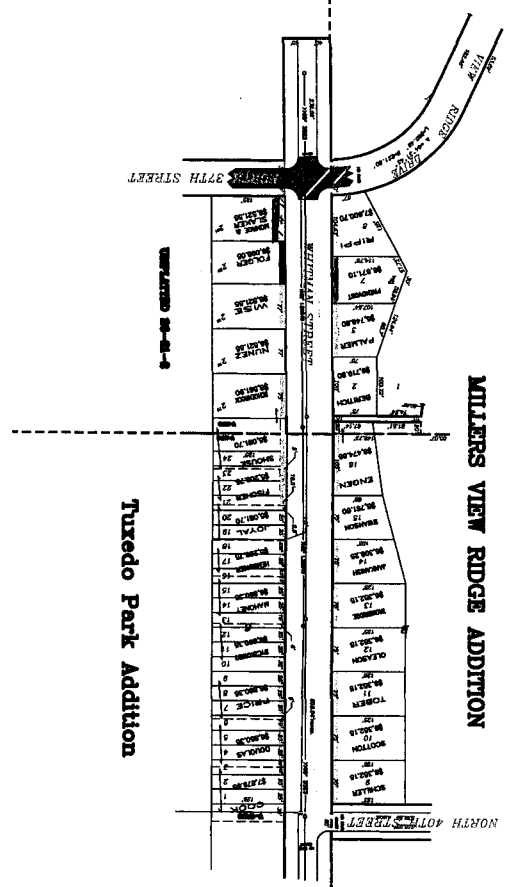
2



Actual Value Land \$	11,912,200
1/4 Actual Value Imp. \$	3,254,100
Total Actual Value \$	15,166,300
Total Unpaid Assessments	
Chargeable against Dist. \$	3,488.66
Delinquent Ass't's \$	498.30
Total Cost \$	2,986,967.00
As't. Assessed \$	443,215.45
Public Funds	
LID Participation \$	1,016,251.55
Surface Water Utility \$	567,500.00

EXH. B (REDUCED COPY)

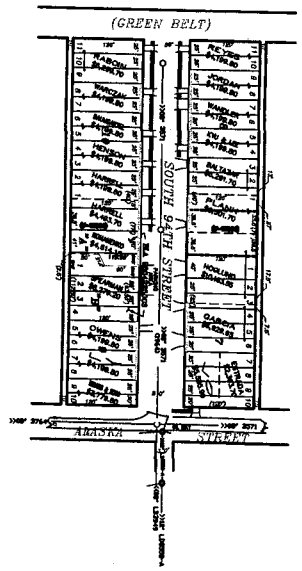
		CITY OF TACOMA DEPARTMENT OF PUBLIC WORKS		LID 8691	
		ASSESSMENT MAP SHOWING PROPERTIES BEING ASSESSED FOR PERMANENT PAVING		SHEET 1 OF 8	
NO.	REVISION	DATE	BY	DATE	BY
		DATE 5-27-08	BY DAV	DATE 5-27-08	BY DAV
		SCALE 1" = 100'			



4

Tuxedo Park Addition

5



REVISED		DATE		BY		APPROVED		TITLE		DEPARTMENT OF PUBLIC WORKS	
CITY OF TACOMA DEPARTMENT OF PUBLIC WORKS ASSESSMENT MAP SHOWING PROPERTIES BEING ASSESSED FOR PERMANENT PAYING										LID 8651 DATE: 1967	

(reduced copy)
 EXH. 9



REQUEST FOR RECEIVED
ORDINANCE RESOLUTION

Request #: 11899
Ord./Res. #: 27734

2008 JUN 27 PM 4: 25

1. DATE: June 27, 2008

CITY CLERK'S OFFICE

2. SPONSORED BY: COUNCIL MEMBER(S) N/A

Form with sections 3a, 3b, 4a, 4b, 4c and signatures for Department Director, Budget Officer, and City Manager.

5. REQUESTED EFFECTIVE DATE: July 22, 2008

Handwritten note: DS 1060

(If a specific council meeting date is required, explain why; i.e., grant application deadline, contract expiration date, required contract execution date, public notice or hearing required, etc.)

6. SUMMARY AGENDA TITLE: (A concise sentence, as it will appear on the Council agenda.)

L.I.D. No. 8651: Construction of permanent street pavement, together with installation of concrete curbs & gutters, and storm-drain lines with storm-water catch basins where needed, on:

- North 29th Street from Proctor Street to Monroe Street (Segment #1);
North 28th Street from Union Avenue to Washington Street (Segment #2);
Verde Street from North 36th Street to North 37th Street (Segment #3);
Whitman Street from North 37th Street to North 40th Street (Segment #4); and
South 94th Street from Alaska Street west to the dead-end (Segment #5).

7. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

Table with 2 columns: Source Documents/Backup Material and Location of Document. Lists items like Errata, Hearing Examiner Report, and Assessment Maps.

9. FINANCIAL IMPACT: A. NO IMPACT (NO FISCAL NOTE)
 B. YES, OVER \$100,000, Fiscal Note Attached
 C. YES, UNDER \$100,000, (NO FISCAL NOTE) Provide funding source information below:

FUNDING SOURCE: (Enter amount of funding from each source)

Fund Number & Name:	State \$	City \$	Other \$	Total Amount
1060-Streets Special Revenue		\$ 443,215.45		
4301-06CON PW Surface Water Utility		\$ 567,500.00		
0010 General Fund		\$1,016,251.55		\$2,026,967.00
If an expenditure, is it budgeted?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Where? Cost Center:	661600
				529800
				653000
			Acct #:	5330100
				5110000

CITY CLERK USE ONLY

Request #: **1169**

Ord/Res #: **27734**

FISCAL NOTE

Each piece of legislation that has a financial impact or creates positions authority requires a fiscal note. After preparation by departmental staff, the Budget and Research Division will review the fiscal note and make any necessary revisions before transmittal to the Legal Department for legislation preparation.

DEPARTMENT: CONTACT PERSON/PHONE: **OMBA CONSULTANT/PHONE:**

Public Works/Constr/LID	Ralph Rodriguez	Dwight Shiotani/591-5174
-------------------------	-----------------	--------------------------

Is it currently budgeted? Yes No

Is this a grant? Yes No If Yes, Operating Capital

EXPENDITURES:

FUND NAME & NUMBER	COST CENTER	WBS	ACCOUNT	2007-2008 EXPENDITURES
Streets Special Revenue - 1060	661600	LID-8651R-EX	5330100	\$75,000
TOTAL				\$75,000

* General Fund: Include Department

REVENUES:

FUND NAME & NUMBER	COST CENTER	WBS	ACCOUNT	2007-2008 REVENUES
Streets Special Revenue - 1060	661600	LID-8651R-FS-AD-08	6311245	\$25,000
Streets Special Revenue - 1060	661600	LID-8651R-FS-AD-02	6311010	\$50,000
TOTAL				\$75,000

Notes: Property Assessment amount is \$443,215.45

FUNDING SOURCE	2007	2008	2009	2010	2011	TOTAL
Streets Special Revenue - 1060					\$443,215.45	\$443,215.45
PW Surface Water Utility - 4301-06Con		\$25,000	542,500			\$567,500.00
General Fund - 0010		\$50,000	\$966,251.55			\$1,016,251.55
TOTAL		\$75,000	1,508,751.55		\$443,215.45	\$2,026,967.00

Ordinance No. 27734 Amended

First Reading of Ordinance: JUL 22 2008

Final Reading of Ordinance: JUL 22 2008

Passed: JUL 22 2008

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson	<i>[Handwritten mark]</i>			
Mr. Fey	<i>[Handwritten mark]</i>			
Ms. Ladenburg	<i>[Handwritten mark]</i>			
Mr. Lonergan	<i>[Handwritten mark]</i>			
Mr. Manthou	<i>[Handwritten mark]</i>			
Ms. Strickland	<i>[Handwritten mark]</i>			
Mr. Talbert	<i>[Handwritten mark]</i>			
Ms. Walker	<i>[Handwritten mark]</i>			
Mayor Baarsma	<i>[Handwritten mark]</i>			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson				
Mr. Fey				
Ms. Ladenburg				
Mr. Lonergan				
Mr. Manthou				
Ms. Strickland				
Mr. Talbert				
Ms. Walker				
Mayor Baarsma				