

1 **OFFICE OF THE HEARING EXAMINER**

2 **CITY OF TACOMA**

3
4 **In the Matter of:**

HEX2020-039

5 **LOCAL IMPROVEMENT DISTRICT**
6 **NO. 8643.**

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION
(FINAL ASSESSMENT ROLL)

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9 **A PUBLIC HEARING** in the above-captioned matter considering the Final
10 Assessment Roll for Local Improvement District No. 8643 was held on January 14, 2021,
11 before JEFF H. CAPELL, the Hearing Examiner for the City of Tacoma.¹ The City of Tacoma
12 (the “City”) appeared through Ralph Rodriguez, Local Improvement District Administrator for
13 the City’s Department of Public Works (“DPW”). The evidentiary record in the matter was
14 closed on January 15, 2021, after a brief extension past conclusion of the hearing to allow for
15 additional written comments to be submitted. None were received.

16 The Hearing Examiner, having considered the evidence presented, having reviewed the
17 records and files in the case, and being otherwise fully advised, makes the following:

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¹ Due to National, State of Washington (“State”) and City Proclamations of Emergency caused by the COVID-19 virus, the City closed the Tacoma Municipal Building to the public until further notice on or around March 17, 2020. As a result, the public hearing in this matter was conducted virtually using Zoom teleconferencing with both internet visual and audio access, as well as separate telephonic (only) access via call in number.

FINDINGS, CONCLUSIONS,
AND RECOMMENDATION
(FINAL ASSESSMENT ROLL)

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1 **FINDINGS OF FACT**

2 1. On July 25, 2006, the Tacoma City Council adopted Ordinance No. 27510, which
3 approved the formation of Local Improvement District No. 8643 (the “LID” or “LID 8643”).²
4 Ordinance No. 27510 provided for the construction of permanent pavement with storm
5 drainage in the following locations:

- 6 **1) Union Avenue from North 24th Street to North 25th Street – northbound**
7 **(Segment 1);**
- 8 **2) Washington Street from North 16th Street to North 18th Street (Segment 2);**
- 9 **3) Wapato Street from South 50th Street to South 51st Street (Segment 3); and**
- 10 **4) Huson Street from South 64th Street to South 66th Street (Segment 4).**

11 The construction was to be done together with all other work necessary to complete the project
12 in accordance with maps, plans, and specifications prepared and on file in the Office of the
13 Director of Public Works. Ordinance No. 27510 is incorporated herein by reference as though
14 fully set forth.

15 2. The Assessment Roll for LID 8643 was filed in the Office of the City Clerk on
16 October 9, 2020, and the same shows the amount intended for assessment against each lot and
17 parcel of land in payment of the cost and expense of the improvements previously referred to,
18 and said roll has been opened for inspection by all parties interested therein.

19 3. Pursuant to applicable laws and at the direction of the Tacoma City Council
20 taken on December 1, 2020 in their duly convened meeting, a public hearing on the
21 Assessment Roll was set and then held by the Hearing Examiner on January 14, 2021.

² Local improvement districts may be referred to herein generically as “LID”s as well.

1 4. The Notice of Filing of the Assessment Roll was published as required by law
2 on December 3 and 7, 2020. Notice of Public Hearing letters were mailed to owners of
3 record in the LID on December 10, 2020. An Affidavit of Publication has been filed with the
4 City Clerk. All procedures as provided for by law with respect to adoption of the
5 Assessment Roll have been taken, including, but not limited to, mailing notices regarding
6 the Assessment Roll hearing to owners of record on December 10, 2020. *Rodriguez*
7 *Testimony; Ex. C-1, Ex. C-3, Ex. C-4.*

8 5. The final project cost is \$1,178,888.37 which consists of \$191,069.65 being
9 assessed to property owners. The amount assessed to property owners in the LID includes
10 \$60,978.90 worth of work requested by individual property owners and assessed to each
11 requesting owner directly. The City contributed \$663,699.54 to the total project cost. Within
12 that amount, the City's Wastewater Utility (ENV-00471) contributed \$151,421.16, and the
13 City's Surface/Storm Water Utility (ENV-00349-02) contributed \$172,698.02. The LID is
14 proposed to be a 10-year assessment roll. The proposed final assessments are based on the
15 cost per Assessable Unit of Frontage (AUF) being \$52.00 (fixed rate).

16 6. The following figures show a comparison between the estimated costs and final
17 costs distribution by segment for the LID:

18 **Segment 1 – Union Avenue from North 24th Street to North 25th Street**
19 **(northbound)**

<u>Estimated</u>	
Total Assessed to Property Owners	\$ 13,293.90
City Contribution	<u>\$121,706.10</u>
Estimated Segment Cost	\$135,000.00

21 Actual

**FINDINGS, CONCLUSIONS,
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1	Amount Assessed to Property Owners	\$ 13,293.75
	Supplemental Work	+ 298.10
2	Total Assessed to Property Owners	\$ 13,591.85
	City Contribution	\$123,128.55
3	Surface Water Utility (ENV-00349-02)	\$ 17,748.83
	Wastewater Utility (ENV-00471)	\$ 86,707.80
4	TOTAL Segment Cost	\$241,177.03

Segment 2 - Washington Street from North 16th Street to North 18st Street

5	<u>Estimated</u>	
6	Total Assessed to Property Owners	\$ 25,862.50
	City Contribution	\$ 99,137.50
7	Estimated Segment Cost	\$125,000.00

8	<u>Actual</u>	
9	Amount Assessed to Property Owners	\$ 25,862.65
	Supplemental Work	+ 14,010.35
10	Total Assessed to Property Owners	\$ 39,873.00
	City Contribution	\$142,612.61
	Storm Sewer Utility	\$ 6,178.18
11	Wastewater Utility (ENV-00471)	\$ 62,809.59
12	TOTAL Segment Cost	\$251,473.38

Segment 3 - Wapato Street from South 50th Street to South 51st Street

13	<u>Estimated</u>	
14	Total Assessed to Property Owners	\$ 31,111.60
	City Contribution	\$ 94,888.40
15	Surface Water Management Fund	\$ 9,000.00
	Estimated Segment Cost	\$135,000.00

16	<u>Actual</u>	
17	Amount Assessed to Property Owners	\$ 31,111.60
	Supplemental Work	+ 9,399.50
18	Total Assessed to Property Owners	\$ 40,511.10
	City Contribution	\$133,869.27
19	Surface Water Utility (ENV-00349-02)	\$ 26,608.46
	TOTAL Segment Cost	\$200,988.83

Segment 4 - Huson Street from South 64th Street to South 66th Street

20	<u>Estimated</u>	
21	Total Assessed to Property Owners	\$ 59,823.40
	City Contribution	\$310,176.60
	Surface Water Construction Fund	\$ 70,000.00
	Estimated Segment Cost	\$440,000.00

**FINDINGS, CONCLUSIONS,
AND RECOMMENDATION
(FINAL ASSESSMENT ROLL)**

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<u>Actual</u>	
Amount Assessed to Property Owners	\$ 59,822.75
Supplemental Work	+ <u>37,270.95</u>
Total Assessed to Property Owners	\$ 97,093.70
City Contribution	\$264,089.11
Surface Water Utility (ENV-00349-02)	\$122,162.55
Wastewater Utility (ENV-00471)	<u>\$ 1,903.77</u>
TOTAL Segment Cost	\$485,249.13

Rodriguez Testimony; Ex. C-1.

7. Ralph Rodriguez, LID Administrator for the City’s Department of Public Works, testified that the improvements for LID 8643 have been completed in accordance with the plans and specifications for such work.

8. The zone and termini formula was used to determine the LID assessments, as authorized by Revised Code of Washington (“RCW”) 35.44.030 and .040. *Rodriguez Testimony.*

9. The evidence established that the fair cash market value of the properties benefited by the LID 8643 improvements has been increased in an amount equal to or greater than the assessments. *Rodriguez Testimony.*

10. No owners of property within LID 8643 contested their proposed assessments at the hearing, and no written objections were filed. DPW received telephone inquiries from three owners within the L.I.D. seeking clarification regarding their assessments. After discussing the matter with DPW personnel, none of the owners have challenged their assessments. *Rodriguez Testimony.*

**FINDINGS, CONCLUSIONS,
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1 No party appeared to contest the Assessment Roll or to offer any testimony or other evidence
2 contesting the City's calculations in support of the Assessment Roll.

3 3. The evidence demonstrates that the proposed Assessment Roll conforms to
4 applicable legal requirements. The City Council should adopt an ordinance assessing the
5 property owners for benefits conferred under LID 8643, as that LID was previously created by
6 the City Council, and the Assessment Roll for LID 8643 should be approved and confirmed. A
7 copy of the City's proposed LID Roll is attached to this Recommendation as Attachment 1.

8 4. Any Finding of Fact hereinbefore stated which may more properly be deemed or
9 considered a Conclusion of Law is hereby adopted as such.

10 From these Findings of Fact and Conclusions of Law the Hearing Examiner enters this:

11 **RECOMMENDATION:**

12 It is the recommendation of the Hearing Examiner that the Assessment Roll for
13 Local Improvement District No. 8643 be approved.

14 **DATED** this 27th day of January, 2021.

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16 **JEFF H. CAPELL, Hearing Examiner**

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
8 and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of
9 the 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 day or a holiday, the last day for filing shall be the next working day. The requirements
set forth herein regarding the time limits for filing of motions for reconsideration and contents of
such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed
with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by
the Hearing Examiner. It shall be within the sole discretion of the Examiner to determine whether
an opportunity shall be given to other parties for response to a motion for reconsideration. The
Hearing Examiner, after a review of the matter, shall take such further action as he/she deems
appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma
Municipal Code 1.23.140*)

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

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

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

16 **GENERAL PROCEDURES FOR APPEAL:**

17 The Official Code of the City of Tacoma contains certain procedures for appeal, and while not
18 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:

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

**FINDINGS, CONCLUSIONS,
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(FINAL ASSESSMENT ROLL)**