

CITY OF NORTH BEND, WASHINGTON

ORDINANCE NO. 1780

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, ORDERING CERTAIN UTILITY LOCAL SEWER IMPROVEMENTS; CREATING A UTILITY LOCAL IMPROVEMENT DISTRICT; ORDERING THE CARRYING OUT OF THE PROPOSED IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF THE COST OF SUCH IMPROVEMENTS BY SPECIAL ASSESSMENTS UPON THE PROPERTY IN THE DISTRICT; AND PROVIDING FOR THE ISSUANCE AND SALE OF REVENUE BONDS AND INTERIM FINANCING WARRANTS OR NOTES.

WHEREAS, RCW 35.43.120 provides that “[a]ny local improvement may be initiated upon a petition signed by the owners of property aggregating a majority of the area within the proposed district. The petition must briefly describe: (1) [t]he nature of the proposed improvement, (2) the territorial extent of the proposed improvement, (3) what proportion of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor, and (4) the fact that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property”; and

WHEREAS, upon receipt of a properly executed petition, the legislative authority must hold a public hearing after publishing notice of such hearing as provided in RCW 35.43.125 and RCW 35.43.150 prior to the formation of such proposed district; and

WHEREAS, the City of North Bend, Washington (the “City”) operates a municipal sewer utility for the benefit of all residents and businesses within the City limits, and thereby provides an urban level of public sewer services; and

WHEREAS, currently there is no public sewer in the Meadowbrook area of the City, which includes most of the westerly portion of the City, west of the South Fork Snoqualmie River, as more particularly described in Exhibit A; and

WHEREAS, in 2021, the City Council received signed petitions from a majority of the private property owners by area of Meadowbrook petitioning the City to form a utility local improvement district (“ULID”) in the Meadowbrook area described in Exhibit A for the purpose of extending sewer service to such area; and

WHEREAS, on February 15, 2022, the City Council adopted Resolution No. 2009 authorizing the Mayor to execute a petition related to City-owned property within the Meadowbrook area petitioning the City to form a ULID in such area; and

WHEREAS, the Public Works Director has determined that the petition is sufficient and that the facts set forth therein are true; and

WHEREAS, at its regular City Council meeting held on April 5, 2022, the Council unanimously accepted the petitions reflecting more than 64% of the property within the proposed Meadowbrook area ULID, and scheduled a public hearing for May 17, 2022; and

WHEREAS, the Public Works Director caused an estimate to be made of the cost and expense of the proposed improvements and certified that estimate to the City Council, together with all papers and information in such individual's possession touching the proposed improvements, and a statement of what portion of the cost and expense of the improvements should be borne by the property within the proposed ULID; and

WHEREAS, public hearings were held May 17 and June 21, 2022, after notice was provided by law, and after discussion of the proposed improvements and due consideration thereof and of all objections thereto, the City Council has determined to order the local improvements described below and to create a ULID in the Meadowbrook area; and

WHEREAS, estimates of the costs and expenses of the proposed improvements, a description of the boundaries of the proposed ULID, a statement of what portion of the costs and expenses of the improvements would be borne by the property within the proposed ULID, and a diagram showing the lots, tracts and parcels to be benefited and other information pertaining to the proposed district, have been filed with the City Clerk and certified to the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City shall design, construct and install sewer service facilities to the properties located in the herein after defined Meadowbrook Sewer ULID, including a sanitary sewer collection system, sewer conveyance system, sewer lift station(s), a forcemain crossing over or under South Fork Snoqualmie River, and necessary appurtenances as described in Exhibit B attached hereto and incorporated herein by this reference (together, the "Improvements").

Section 2. The Improvements, when designed, shall be in accordance with the City's Public Works Standards, the provisions of this ordinance and any other ordinances as hereafter may be adopted in connection with such Improvements; provided, however, that changes in detail of such plans that do not significantly alter the scope or costs of the Improvements will not require further approval.

Section 3. There is hereby established a ULID of the City to be known as "Utility Local Improvement District No. 7 (Meadowbrook)" (referred to herein as the "Meadowbrook Sewer ULID"). The boundaries the Meadowbrook Sewer ULID shall be as described in Exhibit A attached hereto and incorporated herein by this reference. It is hereby found that the above-described boundaries embrace as nearly as practicable all the property specially benefited by the Improvements.

Section 4. The total cost and expense of the Improvements thereto is preliminarily estimated to be approximately \$7,500,000 (as of 2021), of which 100% shall be borne by and assessed against the property within the Meadowbrook Sewer ULID specially benefited by the

Improvements. Assessments shall be made against the property within the Meadowbrook Sewer ULID in accordance with the special benefits accruing to such property.

The entire cost and expense of the Improvements including all labor and materials required to make a complete improvement, all engineering, surveying, inspection, ascertaining ownership of the lots or parcels of land included in the assessment district, and all advertising, mailing and publication of notices, accounting, administrative, printing, legal, interest and other expenses incidental thereto, shall be borne by and assessed against the property specially benefited by such Improvements included in the Meadowbrook Sewer ULID embracing as nearly as practicable all property specially benefited by such improvements.

In accordance with the provisions of RCW 35.44.047, the City may use any method or combination of methods to compute assessments which may be deemed to fairly reflect the special benefits to the properties being assessed.

Section 5. Upon completion of the Improvements, an assessment roll shall be prepared and, after notice and hearing in the manner provided by law, an assessment roll shall be confirmed. Assessments not paid within the 30-day prepayment period provided by law shall be payable in installments, and the City shall issue bonds as provided below. The number of years said installments shall run, the dates of payment of the same and the rate of interest that the unpaid installments shall bear shall be as hereafter fixed by ordinance.

Section 6. There is hereby created a fund of the City to be known as the “Utility Local Improvement District No. 7 Project Fund” (the “Meadowbrook Sewer ULID Project Fund”) for the purpose of paying the cost of the Improvements provided for in this ordinance and into which there shall be paid all of the assessments collected in the Meadowbrook Sewer ULID as and when directed by the ordinance confirming the assessment roll. All moneys received from the sale of bonds, notes and warrants drawn on the Meadowbrook Sewer ULID Project Fund shall be deposited into the Meadowbrook Sewer ULID Project Fund, and applied solely in payment of the costs and expenses of the Improvements.

Section 7. Bond anticipation notes or other short term obligations may be issued in payment of the cost and expense of the Improvement, such notes or other obligations to be paid out of the “North Bend 1979 Water and Sewer Revenue Bond Fund,” previously created and referred to as the Revenue Bond Fund, and, until the bonds referred to in this section are issued and delivered to the purchaser thereof, to bear interest from the date thereof at a rate to be established in connection with the issuance of such obligations, and to be redeemed in cash and/or by revenue bonds herein authorized to be issued. In the alternative, the City hereafter may provide by ordinance for the issuance of other short-term obligations pursuant to chapter 39.50 RCW.

The City is authorized to issue revenue bonds for the District (the “Bonds”), which shall bear interest at the rates, and to be payable on or before such dates, to be hereafter fixed by ordinance. The Bonds shall be issued in exchange for and/or in redemption of any and all bond anticipation notes issued hereunder or other short-term obligations hereafter authorized and not redeemed in cash within 20 days after the expiration of the 30-day period for the cash payment of assessments without interest on the assessment roll for the District. The Bonds shall be redeemed by the collection of special assessments to be levied and assessed against the property within the

Meadowbrook Sewer ULID, payable in annual installments, with interest at a rate to be hereafter fixed by the ordinance authorizing issuance and sale of the Bonds. The exact form, amount, date, interest rate and denominations of such Bonds shall be fixed by ordinance of the City Council. Such Bonds shall be sold in such manner as the City Council shall hereafter determine.

Section 8. It is the intent of the City to reimburse a portion of the costs of the Improvements with the proceeds of bonds to be issued by the City (the “Reimbursement Bonds”) the interest on which is excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 9. The payment of an assessment levied for the Meadowbrook Sewer ULID on underdeveloped properties (as defined in this Section 9) may be made by owners of other properties within the Meadowbrook Sewer ULID, if they so elect, subject to the following:

a. The owner(s) of the underdeveloped property on whose behalf payments of assessments have been made, shall reimburse all such assessment payments to the party who made the payments when those properties are sold, developed or redeveloped, together with compound interest at a rate, if any, specified in the reimbursement agreement.

b. Reimbursement shall be made on a lump sum basis.

c. In the event the underdeveloped property has not been sold, developed or redeveloped before the date that is two years prior to the maturity date of the Bonds, reimbursement shall be made no later than the time of dissolution of the Meadowbrook Sewer ULID.

d. Underdeveloped property shall be those properties that are undeveloped or are not developed to their highest and best use.

e. Reimbursement amounts due from underdeveloped properties shall be liens upon the underdeveloped properties in the same manner and with like effect as assessments made under this ordinance.

The payment of an assessment levied for the Meadowbrook Sewer ULID may be made by others (guarantors) pursuant to the terms of a cost allocation agreement, if they so elect, without reimbursement, subject to the property owner’s assumption of the Meadowbrook Sewer ULID payment obligation upon the occurrence of certain qualifying events in accordance with the terms and provisions of such agreement.

Section 10. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 11. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON,
AT A REGULAR MEETING THEREOF, THIS 2ND DAY OF AUGUST, 2022.**

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Pacifica Law Group LLP, Bond Counsel

ATTEST/AUTHENTICATED:

Published: August 12, 2022

Effective: August 17, 2022

Susie Oppedal, City Clerk

Exhibit A

ULID Boundary

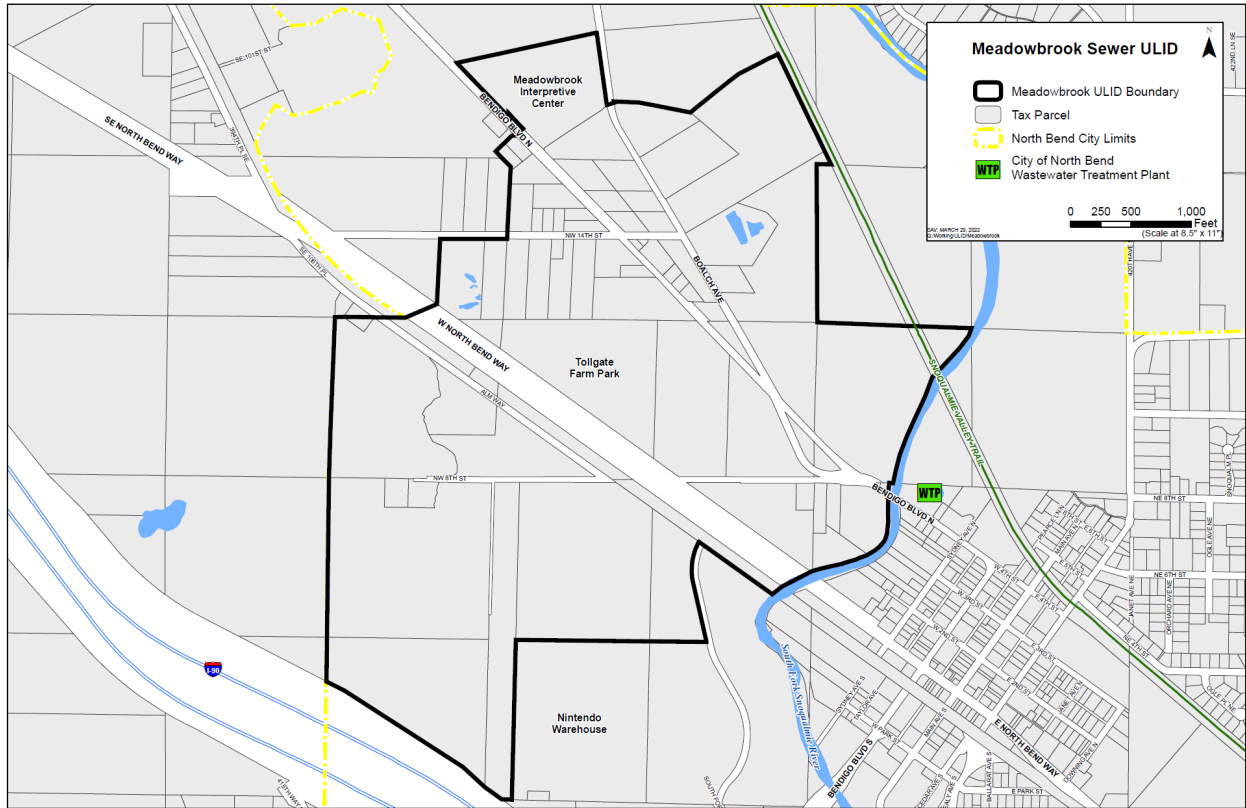


Exhibit B

Improvements

The Meadowbrook Sewer ULID comprises approximately 68 tax parcels in the northwest quadrant of the City of North Bend. The Meadowbrook Sewer ULID would provide public sewer to approximately 353 acres of City property that currently lacks public sewer. The area has lacked sewer for two primary reasons, both of which are addressed with certain components of the Improvements. First, the Meadowbrook Sewer ULID area is geographically isolated due to South Fork Snoqualmie River being located between the Meadowbrook Sewer ULID and the City's wastewater treatment plant ("WWTP"), thus the Meadowbrook Sewer ULID includes a pipe bridge. Second, the Meadowbrook Sewer ULID area is topographically lower in elevation than the WWTP, thus the Meadowbrook Sewer ULID includes lift stations and forcemains. Most of the proposed sewer system is not composed of gravity sloping pipes.

In addition to the pipe bridge, forcemains and lift stations, the Improvements also include sewer maintenance holes, sewer cleanouts, several gravity sewer pipes and a discharge into the City's existing WWTP lift station vault. Total cost of the Meadowbrook Sewer ULID has been estimated by Gray and Osborne to be approximately \$7.5 million (in 2021). Total benefits resulting from the Improvements as appraised by Sova Consulting are approximately \$11.6 million (in 2021).

The Improvements are expected to take 12-18 months to procure construction documents. To prepare the construction plans, the following professionals are expected to be used: Professionally Licensed Surveyor, Geotechnical Engineer, Civil Engineer, Structural Engineer, Electrical Engineer, Wetland Biologist, Cultural / Archaeologist. The Improvements are expected to take 9 to 12 months to permit, which includes a City of North Bend Grading Permit and HPA (hydraulic project approval) from Washington State Department of Fish and Wildlife. Construction of the Improvements is estimated to take 9 to 15 months, depending in part on what month of the year construction commences. The earliest construction could commence is estimated to be 2024 or 2025. The earliest possible completion year is estimated to be 2025.