

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING) ORDINANCE NO. 80-91
THE JOHNSON CREEK BASIN FLOOD)
CONTROL AND POLLUTION ABATEMENT) Introduced by the Regional
PROJECT LOCAL IMPROVEMENT DISTRICT) Services Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose

The purposes of this ordinance are to establish the Johnson Creek Basin Flood Control and Pollution Abatement Local Improvement District, adopt an estimated assessment and direct the Executive Officer to implement the proposed project by contract.

Section 2.

The Johnson Creek Basin Flood Control and Pollution Abatement Project shall be implemented as described in the Preliminary Engineering Report approved by Metropolitan Service District Resolution No. 80-149, except that

- a. Prior to the commencement of Phase II, the Council shall by ordinance adopt the drainage management plan.
- b. Prior to the commencement of any capital improvements in Phase II, such capital improvements shall meet the standard federal cost-benefit test as applied by the Corps of Engineers.
- c. The apportionment formula for the allocation of Phases II and III costs shall employ a differential which reflects any additional benefits accruing to floodplain properties identified by the drainage management plan. Property not receiving any benefit shall not be assessed.
- d. In the event the costs for Phase II of the project exceed the estimated costs contained in the Preliminary Engineering Report approved by Metropolitan Service District Resolution No. 80-149 by ten percent (10%) or more, the Council shall terminate the Local Improvement District and shall promptly propose a new Local

Improvement District based on the new estimated costs and activities.

Section 3.

The estimated cost of the project in accordance with the Preliminary Engineering Report is \$9,432,000 for the planning and construction (Phases I and II), and \$550,000 maximum per year for continuing operations, maintenance and administration (Phase III).

Section 4.

The portion of the total cost to be assessed against benefited properties is estimated to be \$5,110,000 for the planning and construction (Phases I and II), and \$550,000 maximum per year for the continuing operation and maintenance (Phase III). These costs shall be assessed as provided by State law and Metro ordinance upon the property specially benefited thereby, which property is hereby determined and declared to be all the lots, parts thereof and parcels of land within the district as described in the Preliminary Engineering Report Exhibits I and II for the Johnson Creek Basin Flood Control and Pollution Abatement Project.

Section 5.

Contractors engaged in the performance and completion of this project shall take and have entire charge of the work during its progress, and shall be responsible for any loss or accident resulting from carelessness or neglect, and the project and portions thereof shall be completed to the satisfaction of the Council.

Section 6.

The Executive Officer may provide that improvements shall be completed within a time set by the Executive Officer, and contracts may contain a provision that for each day required to complete a

contract, after the time fixed for its completion, the contractor shall pay as liquidated damages a sum to be set in the contract.

Section 7.

Any contracts executed by the Executive Officer under this project as part of Metro's local share, and excepting any federal funding, shall contain a stipulation to the effect that the person, firm or corporation to whom the contract shall be let shall look for payment only from the assessments to be assessed upon the property benefitted by the improvements and collected and paid for that purpose, and that they will not require the Metropolitan Service District by any legal process or otherwise to pay the same out of any other fund, except as otherwise provided in the contract, State law, or Metro ordinance.

Section 8.

All contracts executed under this project shall be subject to this ordinance, State law and other Metro ordinances related thereto.

Section 9.

The Executive Officer is hereby authorized and directed to obtain proposals for planning and construction of this project.

ADOPTED by the Council of the Metropolitan Service District
this 27th day of June , 1980.



Presiding Officer

ATTEST:



Clerk of the Council

AJ/gl/7849/92

Ord. No. 80-91
Page 3 of 3

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METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)
THE JOHNSON CREEK BASIN FLOOD)
CONTROL AND POLLUTION ABATEMENT)
PROJECT LOCAL IMPROVEMENT DISTRICT)

ORDINANCE NO. 80-91
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Services Committee

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ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1980.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/gl
7849/92

Motion Before The Council

It is hereby moved that the Council amend the language in proposed Ordinance No. 80-91, Establishing the Johnson Creek Basin Flood Control and Pollution Abatement Project Local Improvement District as follows:

1. That Section 2 be amended to read:

The Johnson Creek Basin Flood Control and Pollution Abatement Project shall be implemented as described in the Preliminary Engineering Report approved by Metropolitan Service District Resolution No. 80-149, except that

- a. Prior to the commencement of Phase II, the Council shall by ordinance adopt the drainage management plan.
- b. Prior to the commencement of any capital improvements in Phase II, such capital improvements shall meet the standard federal cost-benefit test as applied by the Corps of Engineers.
- c. The apportionment formula for the allocation of Phase II costs shall employ a differential which reflects any additional benefits accruing to floodplain properties identified by the drainage management plan.
- d. In the event the costs for Phase II of the project exceed the estimated costs contained in the Preliminary Engineering Report approved by Metropolitan Service District Resolution No. 80-149 by ten percent (10%) or more, the Council shall terminate the Local Improvement District and shall promptly propose a new Local Improvement District based on the new estimated costs and activities.

TM/gl
8647/150

THIS 27th DAY OF June 1988A G E N D A M A N A G E M E N T S U M M A R Y OF THE COUNCIL
Cynthia M. Wickman

TO: Metro Council
FROM: Executive Officer
SUBJECT: Ordinance Establishing the Johnson Creek Basin Flood Control and Pollution Abatement Project Local Improvement District

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Adopt Ordinance No. 80-91 creating a Johnson Creek Basin Flood Control and Pollution Abatement Project Local Improvement District (LID). The formation of the LID allows Metro to proceed with improvements necessary to correct the drainage problems through assessing affected properties for Phase I construction and planning costs of \$770,000. Phase II costs for construction estimated at \$4,340,000 will be assessed after completion of Phase I. Phase III costs are for annual operation and maintenance and are set at a maximum of \$550,000 per year. Assessments for Phase III will commence 4-5 years after start of construction for Phase I.
- B. POLICY IMPACT: This action will allow Metro to carry through on policy which resulted from declaration of Johnson Creek as an area of Regional Significance at the request of local jurisdictions. Approval of the LID will give Metro the financial resources necessary to act as the local sponsor for the U.S. Army Corps of Engineers flood control projects for Johnson Creek. Approval will also enable Metro to develop a comprehensive drainage management plan and provide for drainage management and runoff control projects in the Johnson Creek Basin.
- C. BUDGET IMPACT: There has been a special account established in the Metro budget to cover the costs of the LID formation. These funds were provided through loans made to Metro by affected local jurisdictions. The costs of channel improvements will be financed by the federal government, all other costs will be assessed to the properties within the LID boundaries. There is no impact on General fund revenues.

II. ANALYSIS:

- A. BACKGROUND: Johnson Creek has a past history of frequent and serious flooding. In March, 1979, the Metro Council declared the Johnson Creek Basin an area of regional concern and appointed a task force to evaluate the flooding and drainage problems on the Johnson Creek Basin and recommend a combination of options for solving those problems. The recommendation to form the Johnson Creek

LID comes after a year of public and local and federal government involvement in studying the Johnson Creek flooding problem and the political and physical alternatives available to solve the problems. The Preliminary Engineering Report has recommended a three-phase approach to reduce the problem. Metro staff and the Johnson Creek Task Force are now recommending that the LID be formed for the purpose of financing and administering the cost of the capital improvement and drainage/runoff management programs proposed for Johnson Creek Basin.

B. ALTERNATIVES CONSIDERED:

- . Do nothing, which would mean a continuance of the current flooding, drainage and pollution problems in the Basin.
- . Formation of a Special District, which would be more costly to create than an LID.
- . Formation of two separate LIDs, one for Phase I and another for Phase II and III. This option was considered early in the planning process and was rejected. The primary reason was that Metro, in order to act as local sponsor of the Corps' project, must be capable of implementing all three phases.

The issue of two LIDs was considered again by the Task Force and was rejected in approving the draft Preliminary Engineering Report. Notice forms have been ordered and any change at this point would delay the hearing process and necessitate postponing the initiation of the project by approximately one year.

- C. CONCLUSION: The LID process is a traditional means of financing, and distributing to affected parties, the cost of capital improvements which directly benefit an area. It is necessary that some action be taken to reduce the severity and public costs of flooding in the Johnson Creek Basin. Staff analysis indicates that the proposed program will achieve the desired goals. Metro staff recommends the adoption of the attached Ordinance.

JRL:bk
8302/118
6/26/80

ORDINANCE NO. 80-91

TITLE FOR THE PURPOSE OF ESTABLISHING
THE JOHNSON CREEK BASIN FLOOD CONTROL
AND POLLUTION ABATEMENT PROJECT LOCAL
IMPROVEMENT DISTRICT

DATE INTRODUCED June 16, 1980
 FIRST READING June 16, 1980
 SECOND READING June 27, 1980
 DATE ADOPTED June 27, 1980
 DATE EFFECTIVE June 27, 1980

ROLLCALL

| | Yes | No | Abst. |
|--------------------------|-----|----|-------|
| Burton | X | | |
| Stuhr | X | | |
| Williams | X | | |
| Berkman | | | |
| Kirkpatrick | | | X |
| Deines | | X | |
| Rhodes | X | | |
| Schedeen | | X | |
| BONNER Miller | X | | |
| Banzer | | X | |
| Peterson | | X | |
| Kafoury | X | | |