

## ORDINANCE No. 189472

Create a local improvement district to construct street, sidewalk, and stormwater improvements in the NE 97th Ave Phase II Local Improvement District (Hearing; Ordinance; C-10067)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37417 on March 13, 2019, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the NE 97th Avenue Phase II Local Improvement District (LID). In the event any finding or any directive within this Ordinance conflicts with Resolution No. 37417 involving this LID, the finding or directive within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37417 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37417 shall be considered a remonstrance for purposes of Section 17.08.070 of City Code nor for purposes of Section 9-403 of the City Charter.
3. The Bureau of Revenue & Financial Services mailed notice of the April 17, 2019 LID formation hearing on March 27, 2019 to the owners of the benefited properties within the proposed NE 97th Avenue Phase II LID. The property owners were notified of the time and location of the hearing conducted by Council, the total estimated project costs, the right and manner to object to the formation of the NE 97th Avenue Phase II LID, the deadline and procedure for filing a remonstrance against the formation of the NE 97th Avenue Phase II LID, and the amount of the estimated future assessment on benefited properties as set forth in Exhibit A. The deadline to submit a written remonstrance was at 5:00 PM on April 10, 2019.
4. Notices of the LID formation hearing were posted within the NE 97th Avenue Phase II LID on April 2, 2019.
5. The LID Administrator published notice of the April 17, 2019 LID Formation Hearing in the Daily Journal of Commerce on April 1, 2019 and on April 3, 2019.
6. The general character and scope of the improvement is to remove the existing asphaltic concrete, dirt and gravel; grade streets to their proper subgrade; construct an asphaltic concrete street with an aggregate base, construct stormwater drainage facilities; construct sidewalks and plant street trees on both sides of the street; and if approval granted by the Oregon Department of Transportation (ODOT), replace the Interstate 205 multiuse path in its current location as shown in Exhibit B.

7. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
8. The NE 97th Avenue improvements will be constructed from the south property line of 207-215 NE 97th Avenue on the west side of the street and from the south property line of 228 NE 97th Avenue to the north property line of East Burnside Street; plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer; and
9. The East Burnside Street improvements will be constructed from the east property line of 10 SE 94th Avenue to the east right-of-way line of NE and SE 97th Avenue; plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer; and
10. The boundaries of the NE 97th Avenue Phase II LID shall include the properties as shown in Exhibit C.
11. The LID Administrator's estimated cost of designing, constructing and financing the improvements is \$5,676,965.09 as shown in Exhibit D, not including the cost of utility relocation that may be required at utilities' expense and not including the cost of replacing light rail track for the benefit of the Tri-County Metropolitan Transportation District of Oregon. The LID Administrator's estimate is based on the Engineer's Estimate as contained in Exhibit E, which excludes E. Burnside St. costs provided by the Tri-County Metropolitan Transportation District of Oregon plus contingency. The LID Administrator's level of confidence in the cost estimate for this project as of the filing date of this Ordinance is "Low" per Exhibit A of Resolution No. 36430 adopted by Council on July 26, 2006 given that project specifications are preliminary.
12. The estimated amount of the future assessment for the NE 97th Avenue Phase II LID is \$5,316,349.19 with Assessment Zone 'A' paying 56.7719977% of LID costs estimated at \$3,018,197.64 for NE 97th Avenue improvements and Assessment Zone 'B' paying 43.2280023% of LID costs estimated at \$2,298,151.55 for East Burnside Street and NE 97th & Burnside Street intersection and crossing improvements. These assessment zone ratios will be adjusted at final assessment based on the proportion of cost categories based on actual costs. Additional funding is being provided by the Portland Bureau of Transportation (PBOT) in the amount of \$360,615.89 for overhead costs.

13. The LID Administrator has analyzed the financial feasibility of the NE 97th Avenue Phase II LID and has made a finding that the collective bonding capacity of benefiting properties would normally be insufficient so as to minimize the City's financial risk associated with this project notwithstanding valuation to assessment being below a minimum 2-to-1 ratio. This finding is based on:
  - a. The proportion of the assessment being concentrated in Exhibit 'B' being assessed solely to the Tri-County Metropolitan District of Oregon, and;
  - b. The opportunity afforded by Code Chapter 17.24.055 for lot consolidation once this Ordinance is approved in the only area in Portland designated as a Regional Center and which includes high density RX zoning.
14. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the NE 97th Avenue Phase II LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
15. The parcels of land within the NE 97th Avenue Phase II LID will receive special benefit from the project in the amounts set forth in Exhibits A and F.
16. The Council has considered the remonstrances made by the owner of properties to be benefited by the NE 97th Avenue Phase II LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
17. Passage of this Ordinance provides assurance of performance per Section 17.24.055 of City Code for:
  - a. Frontage improvements to both sides of NE 97th Avenue from the project limits of the previously-completed NE 97th Avenue Green Street LID to the north right-of-way line of East Burnside Street; and
  - b. Interstate 205 Multiuse Path improvements that may be required by the Oregon Department of Transportation; and
  - c. Rail crossing improvements at the NE 97th Avenue and East Burnside Street intersection.
18. Passage of this Ordinance does not provide assurance of performance per Section 17.24.055 of City Code for:
  - a. Frontage improvements to a future NE Couch Street east of NE 97th Avenue; nor
  - b. Frontage improvements to a future NE Davis Street east of NE 97th Avenue.



19. Assessments for LIDs are not subject to the properties tax limitation established by Article XI, Section 11b of the Oregon Constitution.
20. Pursuant to City Code, assessment for the NE 97th Avenue Phase II LID will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- a. The NE 97th Avenue Phase II LID is hereby created as shown in Exhibit C and the NE 97th Avenue Phase II LID includes the properties to be benefited in the amounts identified in Exhibits A and F.
- b. Assurance of performance for properties identified in Exhibit A is provided upon Council passage of this Ordinance per Section 17.24.055 of City Code subject to the limitations of Finding Nos. 17 and 18 of this Ordinance.
- c. The properties owner's estimated share of costs is as shown in Exhibit F. Costs for any necessary utility relocation shall be allocated per Subsection 17.16.100 of City Code as well as per the Final Procedures for Allocation of Utility Relocation Costs adopted on June 5, 2002.
- d. The City Engineer shall prepare plans and specifications for the improvement.
- e. Properties shall be assessed on a square footage basis in two (2) assessment zones.
- f. Procurement Services within the Bureau of Revenue and Financial Services shall advertise for bids, prepare a contract, and award the contract through a competitive bid process. The improvements may be constructed in whole or in part by the City of Portland, or the City of Portland may seek bids for any portion of the NE 97th Avenue Phase II LID project. The manner in which the improvements are constructed is at the sole discretion of the City Engineer.
- g. The Bureau of Revenue & Financial Services shall obtain interim financing to pay for NE 97th Avenue Phase II LID project costs prior to bonding.
- h. PBOT is authorized to incur expenditures for this project per Finding No. 11 and Exhibit D, and the Bureau of Revenue & Financial Services is authorized to reimburse such expenditures from the LID Fund.

- i. The LID Administrator is authorized to negotiate Extra Work Agreements to finance, design and construct frontage and/or electrical infrastructure improvements for properties within the LID boundary beyond the project limits identified in Finding Nos. 8 through 9 of this Ordinance without a hearing per Section 17.08.080 of City Code provided that:
  - i. The City Engineer has determined the additional work to be technically feasible; and
  - ii. An Extra Work Agreement for properties or properties abutting the additional improvement been approved as to form by the City Attorney.
  - iii. The LID boundary is amended concurrent with final assessment of this LID if the property for which an Extra Work Agreement is executed is outside the boundary identified in Exhibit C of this Ordinance. A separate Ordinance to amend the LID boundary shall not be required.
- j. The requirement for a hearing per Code Chapter 17.08.080 per directive 'i' of this Ordinance is waived in the event that Interstate 205 Multiuse Path improvements are reduced or are built without the use of LID funding.
- k. If a separate and subsequent Ordinance to improve a future NE Couch Street from NE 97th Avenue and NE 99th Avenue is not adopted prior to the Council adoption of a Final Assessment Ordinance for this LID, then no property shall be assessed by this LID for more than half of the east-west distance from NE 97th Avenue to NE 99th Avenue, and the assessments within Assessment Zone 'A' shall be reallocated to reflect this change. A requirement for a hearing under Code Chapter 17.08.080 is hereby waived.
- l. PBOT to process combined street vacations for the entire widths of NE Couch Street and NE Davis Street between Interstate 205 and NE 97th Avenue, and for the west side of NE 97th Avenue to effect taxlot depths of not less than 91 feet. The combined street vacations will be subject to Planning & Sustainability Commission approval as well as City Council approval of a separate and subsequent Ordinance.

Passed by the Council, APR 24 2019

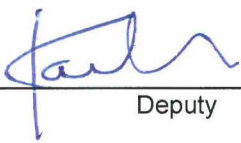
Commissioner Chloe Eudaly  
 Prepared by: Andrew Aebi: cdb  
 Date Prepared: 3/21/2019

**Mary Hull Caballero**  
 Auditor of the City of Portland  
 By

 Deputy

Agenda No.  
**Ordinance NO. 189472**  
Title

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<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Chloe Eudaly</b></p>	<p>CLERK USE: DATE FILED <u>APR 09 2019</u></p>
<p><b>COMMISSIONER APPROVAL</b></p>	<p>Mary Hull Caballero Auditor of the City of Portland</p>
<p>Mayor—Finance &amp; Administration – Wheeler</p>	<p>By:  Deputy</p>
<p>Position 1/Utilities - Fritz</p>	<p><b>ACTION TAKEN:</b></p>
<p>Position 2/Works - Fish</p>	<p>APR 17 2019 PASSED TO SECOND READING APR 24 2019 9:30 A.M.</p>
<p>Position 3/Affairs - Hardesty</p>	
<p>Position 4/Safety - Eudaly <i>CDE by MUE</i></p>	
<p><b>BUREAU APPROVAL</b></p>	
<p>Bureau: PBOT Group: Policy, Planning &amp; Projects Group Manager: Art Peace Director: Chris Warner <i>AWP</i></p>	
<p>Prepared by: Andrew Aebi:cdb <i>ANA 3/22/19</i></p>	
<p>Supervisor: Millicent Williams <i>CHW 4/1/19</i></p>	
<p>Date Prepared: March 21, 2019</p>	
<p>Impact Statement</p>	
<p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document.</p>	
<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p><b>City Auditor Office Approval:</b> required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, charter, Comp Plan <i>AWP</i></p>	
<p>Council Meeting Date <b>April 17, 2019</b></p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/>  <b>Start time: 10:30 AM</b>  <b>Total amount of time needed: 15 min.</b>          (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/>  <b>Total amount of time needed:</b>          (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Hardesty	3. Hardesty	<input checked="" type="checkbox"/>	
4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>	
Wheeler	Wheeler	<input checked="" type="checkbox"/>	