

# PBOT

PORTLAND BUREAU OF TRANSPORTATION

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**Jo Ann Hardesty** Commissioner **Chris Warner** Director

December 12, 2022

## **PROPOSED ADDITIONAL AMENDMENT TO AGENDA ITEM #1063: SE 89th & Taylor LID Formation Ordinance**

\*Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 89th Ave and Taylor St Local Improvement District (Hearing; Ordinance; C-10072)

### **I. BACKGROUND.**

9020 SE Taylor Street remains as the sole residential property included in the SE 89th & Taylor LID after amendments adopted by Council on December 7, 2022.

Council requested that the Local Improvement District Administrator have a follow-up communication with this property owner at the first reading of this Ordinance, and the Local Improvement District Administrator communicated with Council his intent to send a letter to the owner of this property recapping the amendments made by Council. Printing & Distribution confirmed mailing of the letter to this property owner at 10:13 AM on December 9, 2022.

The Local Improvement District Administrator held a telephone conversation with the property owner at 11:27 AM on December 12, 2022. He will likely relocate out of state prior to final assessment of this LID, and the proposed amendments will provide greater certainty and clarity on the LID to the incoming property owner.

The proposed amendments are consistent with the original legislative intent of the LID in which property owners were proposed only to pay marginal cost of improvements, and there is no intent to confer financial risk of the park frontage improvements to residential property in the LID.

## **II. AMENDMENT TO ORDINANCE.**

Directive 'u' is proposed to be added to the Ordinance:

“The estimated assessment amount for Pending Lien No. 174590 at 9020 SE Taylor Street is a guaranteed, not-to-exceed amount. The allocation of costs to Assessment Zone 'B' as set forth in Directive 'e' is similarly a not-to-exceed exceed percentage for Assessment Zone 'B' and may be decreased if the actual percentage of costs is determined to be lower following completion of construction. Frontage improvements benefiting 9020 SE Taylor Street may be removed from the LID construction contract at the sole discretion of the City Engineer without a hearing as otherwise required by Code Section 17.08.080.”

## **III. EMERGENCY CLAUSE.**

The following emergency clause is proposed to be added to the Ordinance:

“The Council declares that an emergency exists to provide assurance of performance under Code Section 17.24.055 for frontage improvements to enable construction of Berrydale Park as soon as possible; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.”

Respectfully submitted,

*Andrew H. Aebi*

Andrew H. Aebi  
Local Improvement District Administrator

## **ORDINANCE No.**

\*Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 89th Ave and Taylor St Local Improvement District (Hearing; Ordinance; C-10072)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37589 on October 12, 2022, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the SE 89th Avenue & Taylor Street Local Improvement District (“LID”).
2. The record related to the adoption of Resolution No. 37589 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37589 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 December 7, 2022, LID formation hearing on November 17, 2022 to the owners of the benefited properties within the proposed SE 89th Avenue & Taylor Street 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 SE 89th Avenue & Taylor Street LID, the deadline and procedure for filing a remonstrance against the formation of the SE 89th Avenue & Taylor Street 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 December 1, 2022.
4. Notices of the LID formation hearing were posted within the SE 89th Avenue & Taylor Street LID on November 17, 2022.
5. The LID Administrator published notice of the December 7, 2022, LID Formation Hearing in the Daily Journal of Commerce on November 21, 2022, and on November 23, 2022.
6. The general character and scope of the improvement as originally proposed is to remove the existing dirt, gravel, curb and/or hard surface; grade the street to its proper subgrade; construct an asphaltic concrete street with an aggregate base; construct stormwater drainage facilities including pipes, inlets and maintenance access holes; construct curb and sidewalk as shown in Exhibit B; and plant street trees except where the existing tree canopy is deemed sufficient by the City Forester.

7. The typical sections shown in Exhibit B reflect a full reconstruction of SE 89th Avenue. SE Taylor Street and SE 92nd Avenue improvements are generally limited to infill curb and sidewalk, and curb ramp replacement as needed, without full street reconstruction.
8. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
9. The SE 89th Avenue improvements as originally proposed will be constructed from the south property line of 1179 SE 89th Avenue on the west side of the street and from the north property line of 1231 SE 92nd Avenue on the east side of the street to the north right-of-way line SE Taylor Street, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
10. The SE Taylor Street improvements as originally proposed will be constructed from the west right-of-way line of SE 89th Avenue to the west right-of-way line of SE 92nd Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
11. The SE 92nd Avenue improvements will be constructed from the south right-of-way line of SE Taylor Street to the north property line of 1231 SE 92nd Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
12. The boundary of the SE 89th Avenue & Taylor Street LID as originally proposed includes the properties as shown in the map Exhibit C.
13. The LID Administrator's estimated cost of designing, constructing and financing the improvements as originally proposed is \$1,478,312 as shown in Exhibit D, not including the cost of utility relocation that may be required at utilities' expense. The LID Administrator's estimate is based on the Engineer's Estimate of February 3, 2022, as contained in Exhibit E. 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.
14. The estimated amount of the future assessment for the SE 89th Avenue & Taylor Street LID as originally proposed is \$1,150,910 and properties would be assessed on a square footage basis for City-owned properties providing \$815,476 in funding within Assessment Zone 'A' and on an equal shares basis for privately-owned properties providing \$335,434 in funding with the LID in Assessment Zone 'B'.

15. The LID Administrator has analyzed the financial feasibility of the SE 89th Avenue & Taylor Street LID and has made a finding that the collective bonding capacity of benefiting properties is sufficient to minimize the City's financial risk associated with this project.
16. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the SE 89th Avenue & Taylor Street LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
17. The parcels of land within the SE 89th Avenue & Taylor Street LID will receive special benefit from the project in the amounts set forth in Exhibits A and I.
18. The Council has considered the remonstrances made by the owner of properties to be benefited by the SE 89th Avenue & Taylor Street LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
19. Passage of this Ordinance will constitute an assurance of performance as allowed by Section 17.24.055 B.5 of City Code.
20. Assessments for LIDs are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
21. Pursuant to City Code, assessments for the SE 89th Avenue & Taylor Street LID will be imposed by a separate and subsequent ordinance.
22. There are existing flooding issues at the intersection of SE 89th Avenue & Main Street due to the lack of existing stormwater infrastructure at this location south of the boundary of the SE 89th & Taylor LID boundary.

NOW, THEREFORE, the Council directs:

- a. The SE 89th Avenue & Taylor Street LID is hereby created as shown in Exhibit ~~C~~ H and the SE 89th Avenue & Taylor Street LID includes the properties to be benefited in the amounts identified in Exhibits A and ~~F~~ I with the Bureau of Revenue & Financial Services directed to update pending lien records to reflect the apportionment shown in Exhibit I in lieu of the apportionment shown in Exhibit C,
- b. Assurance of performance for nonexempt properties identified in Exhibit A I is provided upon Council passage of this Ordinance per Section 17.24.055 of City Code.

- c. The properties' owners' estimated share of costs is as shown in Exhibit ~~F~~ I. 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 with the west curb and west sidewalk eliminated from SE 89th Avenue notwithstanding the typical section shown for SE 89th Avenue as shown in Exhibit B. SE 89th Avenue shall be built with a flush curb parallel to the centerline of SE 89th Avenue to preserve the newly-constructed pavement, which will be removed and replaced by a traditional height curb under future public works permitting (PWP) projects. Property owners will fund all PWP costs including new curb, new sidewalk, and widening of SE 89th Avenue.
- e. Properties shall be assessed on a zoned square footage basis for City-owned properties and on an equal shares basis for residential properties with 97.145755% of costs apportioned to Assessment Zone 'A' for City-owned properties and 2.854245% of costs apportioned to Assessment Zone 'B' for residential properties.
- 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 SE 89th Avenue & Taylor Street LID project, including the LID improvement being constructed in combination with the Berrydale Park construction contract. The manner in which the improvements are constructed will be at the sole discretion of the City Engineer.
- g. The Bureau of Revenue & Financial Services shall obtain interim financing to pay for SE 89th Avenue & Taylor Street LID project costs prior to bonding.
- h. PBOT is authorized to make expenditures for this project per Finding No. 12 and per 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 with any owner of property or properties not owned by Portland Parks & Recreation to finance the design and construction of frontage improvements provided that:
  - i. The City Engineer has determined the additional work to be technically feasible; and
  - ii. An Extra Work Agreement for property or properties abutting the additional improvement(s) have been approved as to form by the City Attorney; and
  - iii. The LID boundary is amended by Council to add the property not currently included in Exhibit H, but this boundary amendment will not be subject to a hearing notwithstanding Section 17.08.080 of City Code.
- j. The requirement for a hearing per Code Section 17.08.080 is waived in the event that existing sidewalk on SE 92nd Avenue is deemed to be adequate and need not be replaced; however, this shall not affect the apportionment of costs between assessment zones as set forth in Directive 'e' of this Ordinance.
- k. PBOT and the Bureau of Environmental Services (BES) are not directed to explore the financial feasibility of forming a separate and subsequent LID per Finding No. 22 of this Ordinance.
- l. In the event of any conflict between Binding City Policy ENB-6.02 and Code Chapter 17.08, Code Chapter 17.08 shall prevail.
- m. In the event of any conflict between Binding City Policy ENB-6.02 and this Ordinance, this Ordinance shall prevail.
- n. If any finding or directive within this Ordinance conflicts with Resolution No. 37589, the finding or directive within this Ordinance shall prevail.
- o. Code Section 17.08.070.B.1 is waived to provide an additional day for remonstrances to be received from property owners.
- p. Per the scope amendment adopted by Council, the project limits in Finding No. 9 and Finding No. 10 are amended so that frontage improvements will be constructed only for Berrydale Park and for 9020 SE Taylor Street.
- q. Per the scope amendment adopted by Council, the total project cost in Finding No. 13 is amended from \$1,478,312 to \$1,047,838 reflecting a reduction in construction costs from Exhibit E resulting from the reduced project scope.

- r. Per the scope amendment adopted by Council, total project funding in Finding No. 14 is amended from \$1,478,312 to \$1,047,838 reflecting the elimination of all but one residential assessment and the elimination of pavement preservation funding since the SE 89th & Taylor intersection will not be improved.
- s. The Council adopts the apportionment identified in Exhibit I in lieu of the apportionment proposed in Exhibit F.
- t. The Council authorizes PBOT to require frontage improvements upon development or a land use action for any property for which frontage improvements were originally proposed but were amended to be eliminated. Notwithstanding the typical section shown in Exhibit B, PBOT may require frontage improvements including curbs, sidewalk and street trees resulting in a 28'-wide or 32'-wide curb-to-curb width street to allow parking on both sides of the street.
- u. The estimated assessment amount for Pending Lien No. 174590 at 9020 SE Taylor Street is a guaranteed, not-to-exceed amount. The allocation of costs to Assessment Zone 'B' as set forth in Directive 'e' is similarly a not-to-exceed percentage for Assessment Zone 'B' and may be decreased if the actual percentage of costs is determined to be lower following completion of construction. Frontage improvements benefiting 9020 SE Taylor Street may be removed from the LID construction contract at the sole discretion of the City Engineer without a hearing as otherwise required by Code Section 17.08.080.

Section 2. The Council declares that an emergency exists to provide assurance of performance under Code Section 17.24.055 for frontage improvements to enable construction of Berrydale Park as soon as possible; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,  
Commissioner Jo Ann Hardesty  
Prepared by: Andrew Aebi:cdb  
Date Prepared: 12/12/2022

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

Deputy



# PBOT

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**Jo Ann Hardesty** Commissioner **Chris Warner** Director

December 5, 2022

## **PROPOSED AMENDMENTS TO AGENDA ITEM #1000: SE 89th & Taylor LID Formation Ordinance**

Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 89th Ave and Taylor St Local Improvement District (Hearing; Ordinance; C-10072)

### **I. PROPOSED AMENDMENTS TO ORDINANCE.**

The Local Improvement District Administrator recommends that frontage improvements be built for all properties originally proposed for inclusion in the proposed SE 89th & Taylor Street LID. However, as of December 5, 2022, no additional City funding had been identified as requested within remonstrances received to defray residential property owner assessments. Therefore, it is requested that Council approve amendments as shown in the accompanying marked-up copy of the Ordinance to defer frontage improvements for properties removed from the LID boundary to future public works permitting (PWB) projects triggered by certain land use and/or development actions.

## **II. NO PROPOSED AMENDMENTS TO EXHIBIT A.**

No amendments are proposed to the Assessment Register; however amendments to the Ordinance implement different pending lien amounts than what is shown in Exhibits A and F. The remaining unamended Exhibit A will show the amounts proposed and for which notice was provided for each benefiting property in the LID prior to amendments. An updated Assessment Register will be included in the separate and subsequent LID Final Assessment Ordinance following construction of the LID with a reduced scope and reduced project limits.

## **III. NO PROPOSED AMENDMENTS TO EXHIBIT B.**

No amendments are proposed to the typical sections; however amendments to the Ordinance delete frontage improvements for all properties abutting SE 89th Avenue not owned by Portland Parks & Recreation. The amendments also delete frontage improvements for all properties abutting SE Taylor Street not owned by Portland Parks & Recreation, except for 9020 SE Taylor Street. The owners of this property did not file a remonstrance against LID formation and retaining this property in the LID will eliminate what otherwise would be two contiguous frontage improvements along SE Taylor Street abutting Berrydale Park.

## **IV. NO PROPOSED AMENDMENTS TO EXHIBIT C.**

No amendments are proposed for the original map; however amendments to the Ordinance implement an LID boundary as shown in a new map as shown in a new Exhibit H. The original LID map is retained to show the difference between the LID as originally proposed and as implemented by Council.

## **V. NO PROPOSED AMENDMENTS TO EXHIBIT D.**

No amendments are proposed for the LID Administrator's Estimate; however amendments will reduce both total costs and total funding. Pavement preservation funds from Portland Bureau of Transportation (PBOT) general transportation revenue (GTR) are eliminated since the SE 89th & Taylor intersection will be eliminated from the scope, and new curb ramps will not be constructed to eliminate barriers to access for pedestrians using mobility devices. An updated LID Administrator's estimate will be included in the separate and subsequent LID Final Assessment Ordinance following construction of the LID with a reduced scope and reduced project limits.

## **VI. NO PROPOSED AMENDMENTS TO EXHIBIT E.**

No amendments are proposed for the Engineer's Estimate; however amendments will reduce costs and quantities associated with items of work. An updated Engineer's estimate will be included in the separate and subsequent LID Final Assessment Ordinance following construction of the LID with a reduced scope and reduced project limits.

## **VII. NO PROPOSED AMENDMENTS TO EXHIBIT F.**

No amendments are proposed to the original Apportionment Worksheet; however amendments to the Ordinance implement different pending lien amounts than what is shown in Exhibits A and F. The remaining unamended Exhibit F will show the amounts proposed and for which notice was provided for each benefiting property in the LID prior to amendments. An updated Apportionment Worksheet will be added as a new Exhibit I reflecting construction of the LID with a reduced scope and reduced project limits.

## **VIII. REPLACEMENT OF EXHIBIT G.**

Exhibit G as filed reflected no remonstrances being received as of the filing date of this Ordinance. Exhibit G is being replaced to reflect receipt of ten (10) remonstrances received by the filing deadline. E-mail testimony was received by the owner of 1203 SE 89th Avenue on November 29, 2022. It is not being included in the replacement Exhibit G because this property was not originally proposed for assessment by this LID, nor do the amendments to the LID cause this property to be assessed.

**IX. ADDITION OF NEW EXHIBIT H.**

No amendments are proposed for the original map; however amendments to the Ordinance implement an LID boundary as shown in a new map as shown in a new Exhibit H. The original LID map is retained to show the difference between the LID as originally proposed and as implemented by Council.

**X. ADDITION OF NEW EXHIBIT I.**

No amendments are proposed to the original Apportionment Worksheet; however amendments to the Ordinance implement different pending lien amounts than what is shown in Exhibits A and F. The remaining unamended Exhibit F will show the amounts proposed and for which notice was provided for each benefiting property in the LID prior to amendments. An updated Apportionment Worksheet will be added as a new Exhibit I reflecting construction of the LID with a reduced scope and reduced project limits.

Respectfully submitted,



Andrew H. Aebi  
Local Improvement District Administrator

## **ORDINANCE No.**

Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 89th Ave and Taylor St Local Improvement District (Hearing; Ordinance; C-10072)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37589 on October 12, 2022, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the SE 89th Avenue & Taylor Street Local Improvement District (“LID”).
2. The record related to the adoption of Resolution No. 37589 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37589 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 December 7, 2022, LID formation hearing on November ~~4~~, 17, 2022 to the owners of the benefited properties within the proposed SE 89th Avenue & Taylor Street 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 SE 89th Avenue & Taylor Street LID, the deadline and procedure for filing a remonstrance against the formation of the SE 89th Avenue & Taylor Street 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 December 1, 2022.
4. Notices of the LID formation hearing were posted within the SE 89th Avenue & Taylor Street LID on November ~~24~~, 17, 2022.
5. The LID Administrator published notice of the December 7, 2022, LID Formation Hearing in the Daily Journal of Commerce on November 21, 2022, and on November 23, 2022.
6. The general character and scope of the improvement as originally proposed is to remove the existing dirt, gravel, curb and/or hard surface; grade the street to its proper subgrade; construct an asphaltic concrete street with an aggregate base; construct stormwater drainage facilities including pipes, inlets and maintenance access holes; construct curb and sidewalk as shown in Exhibit B; and plant street trees except where the existing tree canopy is deemed sufficient by the City Forester.

7. The typical sections shown in Exhibit B reflect a full reconstruction of SE 89th Avenue. SE Taylor Street and SE 92nd Avenue improvements are generally limited to infill curb and sidewalk, and curb ramp replacement as needed, without full street reconstruction.
8. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
9. The SE 89th Avenue improvements as originally proposed will be constructed from the south property line of 1179 SE 89th Avenue on the west side of the street and from the north property line of 1231 SE 92nd Avenue on the east side of the street to the north right-of-way line SE Taylor Street, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
10. The SE Taylor Street improvements as originally proposed will be constructed from the west right-of-way line of SE 89th Avenue to the west right-of-way line of SE 92nd Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
11. The SE 92nd Avenue improvements will be constructed from the south right-of-way line of SE Taylor Street to the north property line of 1231 SE 92nd Avenue, plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
12. The boundary of the SE 89th Avenue & Taylor Street LID as originally proposed includes the properties as shown in the map Exhibit C.
13. The LID Administrator's estimated cost of designing, constructing and financing the improvements as originally proposed is \$1,478,312 as shown in Exhibit D, not including the cost of utility relocation that may be required at utilities' expense. The LID Administrator's estimate is based on the Engineer's Estimate of February 3, 2022, as contained in Exhibit E. 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.
14. The estimated amount of the future assessment for the SE 89th Avenue & Taylor Street LID as originally proposed is \$1,150,910 and properties would be assessed on a square footage basis for City-owned properties providing \$815,476 in funding within Assessment Zone 'A' and on an equal shares basis for privately-owned properties providing \$335,434 in funding with the LID in Assessment Zone 'B'.

15. The LID Administrator has analyzed the financial feasibility of the SE 89th Avenue & Taylor Street LID and has made a finding that the collective bonding capacity of benefiting properties is sufficient to minimize the City's financial risk associated with this project.
16. The remonstrance level is evaluated in Exhibit F. Council retains jurisdiction over the formation of the SE 89th Avenue & Taylor Street LID because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
17. The parcels of land within the SE 89th Avenue & Taylor Street LID will receive special benefit from the project in the amounts set forth in Exhibits A and F I.
18. The Council has considered the remonstrances made by the owner of properties to be benefited by the SE 89th Avenue & Taylor Street LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit G.
19. Passage of this Ordinance will constitute an assurance of performance as allowed by Section 17.24.055 B.5 of City Code.
20. Assessments for LIDs are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
21. Pursuant to City Code, assessments for the SE 89th Avenue & Taylor Street LID will be imposed by a separate and subsequent ordinance.
22. There are existing flooding issues at the intersection of SE 89th Avenue & Main Street due to the lack of existing stormwater infrastructure at this location south of the boundary of the SE 89th & Taylor LID boundary.

NOW, THEREFORE, the Council directs:

- a. The SE 89th Avenue & Taylor Street LID is hereby created as shown in Exhibit ~~C~~ H and the SE 89th Avenue & Taylor Street LID includes the properties to be benefited in the amounts identified in Exhibits A and F I with the Bureau of Revenue & Financial Services directed to update pending lien records to reflect the apportionment shown in Exhibit I in lieu of the apportionment shown in Exhibit C,
- b. Assurance of performance for nonexempt properties identified in Exhibit A I is provided upon Council passage of this Ordinance per Section 17.24.055 of City Code.

- c. The properties' owners' estimated share of costs is as shown in Exhibit F I. 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 with the west curb and west sidewalk eliminated from SE 89th Avenue notwithstanding the typical section shown for SE 89th Avenue as shown in Exhibit B. SE 89th Avenue shall be built with a flush curb parallel to the centerline of SE 89th Avenue to preserve the newly-constructed pavement, which will be removed and replaced by a traditional height curb under future public works permitting (PWP) projects. Property owners will fund all PWP costs including new curb, new sidewalk, and widening of SE 89th Avenue.
- e. Properties shall be assessed on a zoned square footage basis for City-owned properties and on an equal shares basis for residential properties with ~~70.854907%~~ 97.145755% of costs apportioned to Assessment Zone 'A' for City-owned properties and ~~29.145093%~~ 2.854245% of costs apportioned to Assessment Zone 'B' for residential properties.
- 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 SE 89th Avenue & Taylor Street LID project, including the LID improvement being constructed in combination with the Berrydale Park construction contract. The manner in which the improvements are constructed will be at the sole discretion of the City Engineer.
- g. The Bureau of Revenue & Financial Services shall obtain interim financing to pay for SE 89th Avenue & Taylor Street LID project costs prior to bonding.
- h. PBOT is authorized to make expenditures for this project per Finding No. 12 and per 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 with any owner of property or properties not owned by Portland Parks & Recreation to finance the design and construction of frontage improvements ~~without a hearing notwithstanding 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 property or properties abutting the additional improvement(s) have been approved as to form by the City Attorney; and
  - iii. The LID boundary is amended by Council to add the property not currently included in Exhibit H, but this boundary amendment will not be subject to a hearing notwithstanding Section 17.08.080 of City Code.
- j. The requirement for a hearing per Code Section 17.08.080 is waived in the event that existing sidewalk on SE 92nd Avenue is deemed to be adequate and need not be replaced; however, this shall not affect the apportionment of costs between assessment zones as set forth in ~~Finding No. 14~~ Directive 'e' of this Ordinance.
- k. PBOT and the Bureau of Environmental Services (BES) are not directed to explore the financial feasibility of forming a separate and subsequent LID per Finding No. 22 of this Ordinance.
- l. In the event of any conflict between Binding City Policy ENB-6.02 and Code Chapter 17.08, Code Chapter 17.08 shall prevail.
- m. In the event of any conflict between Binding City Policy ENB-6.02 and this Ordinance, this Ordinance shall prevail.
- n. If any finding or directive within this Ordinance conflicts with Resolution No. 37589, the finding or directive within this Ordinance shall prevail.
- o. Code Section 17.08.070.B.1 is waived to provide an additional day for remonstrances to be received from property owners.
- p. Per the scope amendment adopted by Council, the project limits in Finding No. 9 and Finding No. 10 are amended so that frontage improvements will be constructed only for Berrydale Park and for 9020 SE Taylor Street.
- q. Per the scope amendment adopted by Council, the total project cost in Finding No. 13 is amended from \$1,478,312 to \$1,047,838 reflecting a reduction in construction costs from Exhibit E resulting from the reduced project scope.

- r. Per the scope amendment adopted by Council, total project funding in Finding No. 14 is amended from \$1,478,312 to \$1,047,838 reflecting the elimination of all but one residential assessment and the elimination of pavement preservation funding since the SE 89th & Taylor intersection will not be improved.
- s. The Council adopts the apportionment identified in Exhibit I in lieu of the apportionment proposed in Exhibit F.
- t. The Council authorizes PBOT to require frontage improvements upon development or a land use action for any property for which frontage improvements were originally proposed but were amended to be eliminated. Notwithstanding the typical section shown in Exhibit B, PBOT may require frontage improvements including curbs, sidewalk and street trees resulting in a 28'-wide or 32'-wide curb-to-curb width street to allow parking on both sides of the street.

Passed by the Council,  
Commissioner Jo Ann Hardesty  
Prepared by: Andrew Aebi:cdb  
Date Prepared: 12/5/2022

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

Deputy