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## 191991

Ordinance

### Amend the NW Park Ave and Johnson-Kearney St Local Improvement District to construct only NW Johnson St and NW Kearney St and to construct NW Park Ave in a separate and newly-formed NW Park Ave Local Improvement District in conjunction with the segregation of pending local improvement district liens (C-10069; amend Contract 30004963)

Passed

Amended by Council

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37505 on September 16, 2020, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the NW Park Avenue and Johnson-Kearney Streets Local Improvement District (LID).
2. The Council approved formation of the NW Park Avenue and Johnson-Kearney Streets LID with the passage of Ordinance No. 190180 on October 28, 2020.
3. The record related to Council approval of Resolution No. 37505 and Council approval of Ordinance No. 190180 is incorporated into the record of this Ordinance, except that no part of the record of Resolution No. 37505 nor of Ordinance No. 190180 shall be considered a remonstrance against this major scope change for purposes of Section 17.08.130 of the City Code or Section 9-405 of the City Charter.
4. The Local Improvement District Administrator mailed notice of the October 2, 2024, major scope change hearing on September 11, 2024, to the owners of the benefited properties within the current NW Park Avenue and Johnson-Kearney Streets 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 amendment of the NW Park Avenue and Johnson-Kearney Streets LID, the deadline and procedure for filing a remonstrance against the major

Introduced by

[Mayor Ted Wheeler](#)

City department

[Transportation](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

December 4, 2024

scope change of the NW Park Avenue and Johnson-Kearney Streets 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 September 25, 2024.

5. Notices of the LID major scope change hearing were posted within the NW Park Avenue and Johnson-Kearney Streets LID on September 16, 2024.
6. The LID Administrator published notice of the September 11, 2024, LID major scope change hearing in the Daily Journal of Commerce on September 18, 2024, and on September 20, 2024.
7. The amended general character and scope is to remove the existing dirt, gravel and/or hard surfaces; grade the streets to their proper subgrade; construct streets with aggregate base and a combination of asphaltic concrete and plain concrete pavement; remove contaminated media; construct sanitary sewers, stormwater sewers and stormwater management facilities, excluding offsite facilities; construct water mains; construct temporary asphalt sidewalks on both sides of the street; install street lighting; and plant street trees in most locations as shown in Exhibit B. NW Johnson Street will include a two-way cycle track. A northbound-to-eastbound right turn lane will be installed on NW 9th Avenue at Lovejoy Street. Utility undergrounding will be included in the NW 9th Avenue, NW Johnson Street and NW Kearney Street improvements.
8. Four (4) new traffic signals will no longer be installed at the intersections of NW 9th Avenue and Everett, Glisan, Johnson and Kearney Streets per the decision of the City Traffic Engineer on January 31, 2022.
9. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
10. The NW Johnson Street improvements will be constructed from the east right-of-way line of NW 9th Avenue to the west right-of-way line of NW Broadway/Station Way plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
11. The NW Kearney Street improvements will be constructed from the east right-of-way line of NW 9th Avenue to the west right-of-way line of NW Broadway/Station Way plus any transition work on abutting street segments, intersections, and/or adjacent property determined to be necessary by the City Engineer.
12. The amended boundary of the NW Park Avenue Johnson-Kearney Streets LID includes the properties as shown in the map in Exhibit C.
13. The LID Administrator's amended estimated cost of designing, constructing and financing the NW Johnson Street and NW Kearney

street improvements is \$24,007,706.29 as shown in Exhibit D, not including the cost of utility relocation that may be required at utilities' expense and certain NW Johnson-Kearney Streets LID credit facility financing costs being paid by Prosper Portland. The LID Administrator's estimate is based on the Engineer's Estimate 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 amended estimated amount of the future assessment for the NW Park Avenue and Johnson-Kearney Streets LID is \$14,327,706.29. Additional funding is being provided by the Portland Bureau of Transportation (PBOT) in the amount of \$3,680,000.00 in Transportation System Development Charge (TSDC) funding and by the State of Oregon House Bill 1530 grant in the amount of \$6,000,000.00.
15. The LID Administrator has analyzed the financial feasibility of the amended NW Park Avenue and Johnson-Kearney Streets 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 against the major scope change is evaluated in Exhibit A. Council retains jurisdiction over the amendment of the NW Park Avenue and Johnson-Kearney Streets 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 NW Park Avenue and Johnson-Kearney Streets LID will receive special benefit from the project in the amounts set forth in Exhibit A.
18. The Council has considered the remonstrances made by the owner of properties to be benefited by the NW Park Avenue and Johnson-Kearney Streets LID project, and adopts the summary of remonstrances and findings as set forth in Exhibit F.
19. Passage of this Ordinance will constitute an assurance of performance as allowed by Section 17.24.055 B.5 of City Code for the following improvements only, except at the sole discretion of the City Engineer:
  - a. Frontage improvements to NW Johnson Street as indicated in Finding No. 10 of this Ordinance; and
  - b. Frontage improvements to NW Kearney Street as indicated in Finding No. 11 of this Ordinance.
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 NW Park Avenue and Johnson-Kearney Streets LID will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- A. The NW Park Avenue and Johnson-Kearney Streets LID is hereby renamed to the NW Johnson-Kearney Streets LID, and includes the properties to be benefited in the amounts identified in Exhibit A.
- B. All references to the NW Park Avenue and Johnson-Kearney Streets LID in Resolution No. 37505, Ordinance No. 190180 and this Ordinance are interchangeable with the new name of the LID established by Directive A of this Ordinance.
- C. The Budget and Finance service area's Revenue Division to update pending lien amounts from Exhibits A and F of Ordinance No. 190180 to the amounts shown in Exhibit A of this Ordinance.
- D. Typical sections shown in Exhibit B of Ordinance No. 190180 are updated to Exhibit B of this Ordinance.
- E. The LID map as shown in Exhibit C of Ordinance No. 190180 is updated to Exhibit C of this Ordinance.
- F. The Local Improvement District Administrator's estimate as shown in Exhibit D of Ordinance No. 190180 is updated to Exhibit D of this ordinance.
- G. The Engineer's estimate as shown in Exhibit E of Ordinance No. 190180 is updated to Exhibit E of this Ordinance.
- H. All subsequent applications of Code Section 17.08.080 of City Code are waived for this LID.
- I. 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 explained by Finding No. 19 of this Ordinance.
- J. The properties' owners' estimated share of costs is as shown in Exhibit D. Costs for any necessary utility relocation shall be allocated per Section 17.16.100 of City Code and the Final Procedures for Allocation of Utility Relocation Costs adopted on June 5, 2002.
- K. The City Engineer shall prepare plans and specifications for the improvement consistent with the approved United States Postal Service (USPS) Master Plan preliminary engineering plans.
- L. The City Debt Manager will seek authorization from the Council to obtain financing for the Johnson-Kearney Streets LID in an approximate amount consistent with the LID assessment amount under Section 14 of this ordinance. Such financing is to be paid in a manner consistent with

existing intergovernmental agreements between the City and Prosper Portland, as amended in conformance with Exhibit G of this ordinance.

M. Properties shall be assessed on a zoned square footage basis with the LID providing funding of \$14,327,706.29 as shown in Exhibit D with

1. 65.10257886% of funding of project costs up to \$14,327,706.29 from Assessment Zone 'A' in the amount of \$9,372,706.29;
2. 34.89742114% of funding of project costs up to \$14,327,706.29 in the amount of \$5,000,000 from Assessment Zone 'B,' which is a not-to-exceed amount;
3. PBOT TSDC revenue funding of \$3,680,000.00; and
4. State HB 1530 funding of \$6,000,000.00.

PBOT TSDC revenue and State HB 1530 funding are to be spent first, as allowed under applicable law, to minimize financing costs of the LID credit facility.

N. To the extent this ordinance's findings or directives concerning the use of the NW Johnson-Kearney Streets LID credit facility conflict with the provisions of Code Chapter 5.04 or Binding City Policy FIN-3.47, this ordinance will prevail.

O. Procurement Services within the City Operations service area shall advertise for bids, prepare a contract, and award the contract through a competitive bid process, which may be a Construction Manager/General Contractor (CMGC) contract. The improvements may be constructed in whole or in part by the City or the City may seek bids for any portion of the NW Johnson-Kearney Streets LID project. The manner in which the improvements are constructed will be at the sole discretion of the City Engineer.

P. The Budget and Finance Service Area's Debt Management Division shall obtain interim financing to pay for NW Johnson-Kearney Streets LID project costs prior to bonding.

Q. PBOT is authorized to make expenditures for this project per Finding No. 13 and per Exhibit D, and the Budget and Finance Service Area's Revenue Division is authorized to reimburse such expenditures from the City's Local Improvement District Fund to the extent there is adequate remaining capacity on the credit facility for the Johnson-Kearney Streets LID.

R. The City will enter into an agreement (or amend existing agreements as needed) to provide that Prosper Portland will make debt service payments as required under the NW Johnson - Kearney Streets LID credit facility, the City will compensate Prosper Portland for making these debt service payments by Prosper Portland retaining \$1,700,000 in tax increment finance revenue that would have otherwise been paid to the City, acting by and through its Housing Bureau, pursuant to the



Housing Set Aside Policy, and the City will use \$1,700,000 in HUD Section 108 Program Income to replace the funds retained by Prosper Portland. The City's resources and requirements for servicing the NW Johnson-Kearney Streets LID credit facility shall be budgeted in the Special Projects Debt Service Fund.

S. The LID Administrator is authorized to negotiate Extra Work Agreements to finance design and construct permanent sidewalks in lieu of interim asphalt sidewalks without a hearing notwithstanding Section 17.08.080 of City Code provided that:

1. The City Engineer has determined the additional work to be technically feasible; and
2. An Extra Work Agreement for property or properties abutting the additional improvement(s) have been approved as to form by the City Attorney.

T. The LID Administrator is authorized to negotiate Extra Work Agreements to finance, design and construct improvements to assets that will not be owned or maintained by the City without a hearing notwithstanding Section 17.08.080 of City Code provided that:

1. The City Engineer has determined the additional work to be technically feasible; and
2. An Extra Work Agreement for properties or properties abutting the additional improvement been approved as to form by the City Attorney.

U. In the event of any conflict between Binding City Policy ENB-6.02 and Code Chapter 17.08, Code Chapter 17.08 shall prevail.

V. In the event of any conflict between Binding City Policy ENB-6.02 and this Ordinance, this Ordinance shall prevail.











W. If any finding or directive within this Ordinance conflicts with Resolution No. 37505 or Ordinance No. 190146 involving this LID, the finding or directive within this Ordinance shall prevail.

X. Per Directive 'm' of Ordinance No. 190180, the LID Administrator is directed to schedule a Final Assessment Hearing on or after January 5, 2033, although an earlier date may be scheduled with written concurrence from Prosper Portland.

Y. The City Administrator is authorized and directed to execute an amendment to the Amended and Restated Intergovernmental Agreement between Prosper Portland and the City, acting by and through its then-Office of Management and Finance, Bureau of Revenue and Financial Services, dated August 8, 2023, in the form attached as Exhibit G.

Z. The City Administrator is authorized and directed to execute an amendment to existing agreements between Prosper Portland and the City, acting by and through its Housing Bureau, whereby Prosper Portland retains \$1.7 million in tax increment financing revenue that would have otherwise been paid to the City, acting by and through its Housing Bureau, pursuant to the Housing Set Aside Policy, as the City will be able to use \$1,700,000 in HUD Section 108 Program Income to replace the funds retained by Prosper Portland.

## Exhibits and Attachments

-  [Approved Amendments Memo](#) 156.63 KB
-  [Ordinance - Strikethrough / Underline Version](#) 118.38 KB
-  [Exhibit A](#) 656.09 KB
-  [Exhibit B](#) 631.22 KB
-  [Exhibit C](#) 1 MB
-  [Exhibit D - As Amended](#) 20.3 KB
-  [Exhibit E](#) 808.44 KB
-  [Exhibit F](#) 764.46 KB
-  [Exhibit G - As Amended](#) 150.84 KB
-  [Exhibit G - Strikethrough / Underline Version](#) 134.44 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed as amended by Council  
December 4, 2024

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

- Amends the local improvement district as a prerequisite to beginning construction of the project.
- NW Park Avenue, NW Johnson Street and NW Kearney Street are currently combined into a single LID.
- This Ordinance will bifurcate the LID so that NW Johnson Street and NW Kearney Streets are built in the first phase under its own LID, with a new LID building NW Park Avenue in a second construction phase.

- Taxlots have been platted since LID formation, so this ordinance segregates assessments to new taxlots and between the two LIDs.
- The segregation of assessments will provide significantly more clarity on future LID obligations to prospective purchasers and developers of property within the currently-formed LID.

## Financial and Budgetary Impacts

- The overall amount of the combined LID assessments between the currently-formed LID to be amended and the new LID to be formed does not change.
- The bifurcation of the LID provides considerably greater flexibility to manage interim financing costs prior to final assessment.
- An additional \$6.0 million in project costs will be funded by a State HB 1530 grant.
- The overall \$3.6 million in PBOT SDC funds budgeted for the project does not change, but direct funding of the LID is reduced to \$1.9 million.
- \$1.7 million in PBOT SDC funds will be set aside to budget for interim interest costs incurred by Prosper Portland, and will be replaced with HUD Section 108 Program Income funding for direct project costs.
- No funding is being provided by PBOT General Transportation Revenue (GTR).
- Per Administrative ENB-6.02, 85% of the future LID assessment amount is on currently publicly-owned properties and is therefore exempt from all feasibility tests in ENB-6.02; however these properties meet the requirements of Code Section 17.08.050.E. The remaining 15% of the future LID assessment amount will be secured on properties currently in private ownership which meet all other applicable requirements of ENB-6.02 in addition to Code Section 17.08.050.E. Formation of the LID also advances City goals and objectives as identified within Ordinance No. 190146 approved by Council on September 23, 2020.
- The Portland Bureau of Transportation, Budget and Finance Service Area's Debt Management and Revenue Divisions, and Prosper Portland have collaborated on using the NW Johnson-Kearney Streets LID credit facility that is being authorized separately but alongside this ordinance.
- Pursuant to intergovernmental agreements between the City and Prosper Portland, NW Johnson – Kearney Streets LID credit facility financing costs will be paid for separately by Prosper Portland as described in Exhibit G. The Special Projects Debt Service Fund is frequently used for financings involving intergovernmental agreements and in this case is being used to record the receipt of funds from Prosper Portland and payment of credit facility interest to better manage the financing arrangement of the intergovernmental agreements.
- The risk of Prosper defaulting on payments due as a result to an inability to transact on land sales may also be mitigated by provisions that allow for renegotiation of the terms of the Community Benefit Agreement and/or the Disposition and Development Agreement due to financial infeasibility that could reduce Prosper Portland's financial obligations within the Funding and Finance Plan.
- If the aforementioned mechanisms are insufficient, the requirement of full and timely debt service payments on the NW Johnson-Kearney



Streets LID credit facility and related long-term bonds creates potential risk to City funds, including the General Fund, if Prosper Portland defaults on the LID assessment payments.

- Formation of this LID conserves discretionary public resources and enables funding of additional planned public infrastructure within the Broadway Corridor.

## Economic and Real Estate Development Impacts

Engagement specific to the creation of the LID financing mechanism for the Broadway Corridor was limited to notifications to the impacted property owners as set forth in Chapter 17.08 of City Code.

The adjustments to the existing NW Park Avenue & Johnson / Kearney Street LID are necessary to implement the city code-required Broadway Corridor Master Plan, which in turn serves as a guide for the redevelopment of the former Post Office property. The Broadway Corridor Master Plan was informed by robust community engagement throughout the plan development process, which engaged more than 1,000 people through a steering committee, public forums, in-person open houses, online open houses, focus groups, and round table discussions.

The former Post Office property is currently a largely vacant 14-acre asphalt site. Creation of the LIDs, and subsequent construction of the associated streets, has significant economic and real estate development impact, including:

- Directly creates construction contracting opportunities with an anticipated LID construction contract of \$14 million for the first phase of LID construction.
- Provides street infrastructure critical to catalyzing four million square feet of mixed-income development and public amenities on an underutilized site – stitching together the Pearl District, Old Town and Union Station and helping revitalize an area hit hard by the Covid-19 pandemic and regional housing crisis.
- Creates a Phase 1 affordable housing development parcel owned by PHB, and leverages Metro affordable housing bonds to create ~230 affordable (up to 60% median family income) housing units.
- Leverages an estimated \$1 billion in private investment and enables smart growth by unlocking a development site that can house up to 1,800 to 2,400 new households and 4,000 to 8,800 jobs in a mixed-income new neighborhood, thereby reducing displacement pressures on adjacent neighborhoods.

Property owners were provided mail, notification and posting notice beginning three (3) weeks in advance of the Council date as required by City Code. The segregation of assessments with the creation of new pending liens affects only properties currently owned by Prosper Portland. Coordination and collaboration between PBOT, Prosper Portland and Debt Management has occurred since April 2024 and shaped the LID amendments.

No feedback was received during the LID notification period. It should also be noted that the creation of the LIDs is being proposed in partnership with Prosper Portland, the majority property owner impacted by the LID. Prosper Portland has also discussed the financial impacts of the proposed LID with the Portland Housing Bureau and prospective private developers. No feedback has been received in these discussions counter to the proposed funding strategy.

The LIDs are necessary to unlock commercial and residential development of the former Post Office property. The cost of the LID will be borne by property owners, including future developers. As noted above, the formation of the LIDS is proposed in partnership with Prosper Portland, and details have been shared with prospective developers. Without the LID, economic and real estate development within the former Post Office property is not possible. The LID also improves east-west access to the Greyhound site and connects it to new development in the Broadway Corridor.

Construction of the streets is on the critical path for any economic and real estate development to occur within the property, and the LID enables construction of improvements which have already been established as conditions of development. Amendment of the LID per Code Section 17.24.055 will remove obstacles and barriers to development.

There are no direct impacts from the creation of the LID. However, extensive benefits are achieved via unlocking the development potential of the former Post Office property, as noted above. Without the LID in place to provide assurance of performance per 17.24.055 of City Code and as a mechanism to fairly allocate infrastructure costs across the development parcels, including Greyhound, this centrally located development opportunity would not be competitive for real estate developer and investor interest. Developing 230 units of affordable housing would also not be feasible, as a first phase in delivering on the City's commitment to provide at least 720 units of affordable housing in the Broadway Corridor.

As noted above, real estate development, including housing production across income levels, would not be feasible without the creation of the LIDs.

Conversely, the LID is a means to mitigate the need for undue cost burdens of district-wide infrastructure to be carried by the first phase of development – anticipated to be a half block affordable housing project. By providing a financing mechanism, the costs of infrastructure necessary for a first phase of development can be carried by all development parcels that will ultimately benefit from this upfront investment.

## Community Impacts and Community Involvement

- This project is part of the planned redevelopment of the Post Office site in Northwest Portland.
- This LID was initiated by majority petition support, with outreach to Prosper Portland and Greyhound, which are the only two (2) current property owners in the LID. Prosper Portland has in turn reached out

the development partners who will be the future owners of their property.

100% Renewable Goal

N/A

Financial and Budget Analysis

This action bifurcates the existing Johnson-Kearney St LID, creating a separate LID for NW Park Ave. Overall LID resources provided by PBOT does not change as a result of this split, though \$6 million in additional funding from the State HB 1530 grant is to be incorporated into the project. No additional city resources are required as a result of this action.

Document History

Agenda	Council action
<a href="#">October 2, 2024</a> Regular Agenda City Council	<b>Passed to second reading</b> Passed to second reading November 20, 2024 at 9:30 a.m.
<a href="#">November 20, 2024</a> Regular Agenda City Council	<b>Passed to second reading as amended</b> Motion to amend the Ordinance, Exhibit D, and Exhibit G: Moved by Mapps and seconded by Wheeler. (Aye (5) - Mapps, Rubio, Ryan, Gonzalez, Wheeler) Passed to second reading as amended December 4, 2024 at 9:30 a.m.
<a href="#">December 4, 2024</a> Regular Agenda City Council	<b>Passed</b>  <b>Aye (4):</b> Mingus Mapps, Dan Ryan, Rene Gonzalez, Ted Wheeler <b>Absent (1):</b> Carmen Rubio