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Phone: 503-823-4000 Portland.gov/Transportation
Ted Wheeler Mayor Millicent D. Williams Director

October 21, 2024

**PROPOSED AMENDMENTS TO PREVIOUS AGENDA ITEM #837:
NW Park Avenue & Johnson/Kearney Streets LID Amending 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)

I. PROPOSED AMENDMENTS TO ORDINANCE.

There is no change to total costs or revenues of the LID as amended; however \$1.7 million in PBOT System Development Charge (SDC) funding is being restored to replace an equivalent amount of HUD Section 108 Program Income, which is being eliminated as a component of LID funding. This change will be reflected in amendments to existing Finding #13, existing Finding #14, existing Directive 'R' and new Directive 'Z'.

II. NO PROPOSED AMENDMENTS TO EXHIBITS A, B, NOR C.

No amendments are proposed to these exhibits.

III. REPLACEMENT OF EXHIBIT D.

Exhibit D is replaced to reflect PBOT SDC funding being increased by \$1.7 million to substitute for HUD Section 108 Program Income funding.

IV. NO PROPOSED AMENDMENTS TO EXHIBITS E NOR F.

No amendments are proposed to these exhibits.

V. REPLACEMENT OF EXHIBIT G.

Exhibit G is replaced to reflect PBOT SDC funding being increased by \$1.7 million to substitute for HUD Section 108 Program Income funding.

VI. REPLACEMENT OF IMPACT STATEMENT.

The Impact Statement is replaced to reflect PBOT SDC funding being increased by \$1.7 million to substitute for HUD Section 108 Program Income funding.

Respectfully submitted,

A handwritten signature in black ink that reads "Andrew H. Aebi". The signature is written in a cursive, slightly slanted style.

Andrew H. Aebi
Local Improvement District Administrator

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)

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 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 ~~and, in a limited amount, by the City, pursuant to a separate agreement~~. 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 ~~\$13,980~~\$680,000.00 in Transportation System Development Charge (TSDC)

funding, ~~\$1,700,000 in HUD Section 108 Program Income~~, 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 ~~and, in a limited amount, the City,~~ 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.

CITY OF PORTLAND, OREGON
BUREAU OF TRANSPORTATION

LOCAL IMPROVEMENT DISTRICT ADMINISTRATOR'S PRELIMINARY ESTIMATE

of the various kinds of work performed in the street, sidewalk, stormwater, sanitary sewer, water main and utility underground ding improvement of:

NW Johnson / Kearney Streets Local Improvement District
on September 23, 2024**Construction**

Construction Estimate	
Bid Item Total	\$14,016,709.06
Anticipated Items	\$875,202.15
Construction Contingency	\$700,835.00
Utility Undergrounding	\$2,500,000.00
	\$18,092,746.21

Engineering

Engineering Estimate	
Design Engineering	\$1,655,191.25
Construction Engineering	\$1,491,005.29
	\$3,146,196.54

Project Management

Project Management	\$409,836.06
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Right-of-Way Acquisition

Right-of-Way Acquisition	\$0.00
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Project Contingency

Project Contingency	\$1,401,392.73
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Revenue Bureau and Financing Costs

LID Fund or Alternative Financing - Progress Payment Interest	\$0.00
LID Construction Fund - Superintendence	\$62,755.35
Recording	\$812.00
	\$63,567.35

Overhead

83.32% of PBOT personnel costs	\$893,967.40
	\$24,007,706.29

TOTAL PROJECT COSTS**\$24,007,706.29**

Local Improvement District (LID) Funding - Assessment Zone 'A'	\$9,327,706.29
Local Improvement District (LID) Funding - Assessment Zone 'B'	\$5,000,000.00
	\$14,327,706.29

Transportation System Development Charge (TSDC) Revenue	\$1,980,000.00
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HUD Section 108 Program Income	\$1,700,000.00
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State of Oregon Grant HB 1530	\$6,000,000.00
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TOTAL PROJECT FUNDING**\$24,007,706.29**

**FIRST AMENDMENT TO THE AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT**

**Between Prosper Portland and the City of Portland, Oregon
For the River District Urban Renewal Area Support (Broadway Corridor Project)**

THIS FIRST AMENDMENT (“Amendment”) is dated effective _____ (the “Effective Date”) and is by and between Prosper Portland, the economic development and urban renewal agency of the City of Portland (“Prosper Portland”) and the City of Portland, an Oregon municipal corporation (the “City”).

A. On August 8, 2023, Prosper Portland and the City, acting by and through its then-Office of Management and Finance, Bureau of Revenue and Financial Services (“OMF”), entered into an Amended and Restated Intergovernmental Agreement for River District Urban Renewal Area Support (the “OMF Agreement”), to set forth the parties’ roles and responsibilities with respect to financial support of the redevelopment of the USPS Property.

B. On October 28, 2020, in accordance with a Funding and Finance Plan approved by the City Council on September 23, 2020, by Ordinance No. 190146, the City Council approved Ordinance No. 190180, creating the NW Park Avenue and Johnson – Kearney Streets local improvement district (“Original LID”) to fund construction of street, sidewalk, stormwater, sanitary sewer, water main, and off-site signal and intersection improvements in the Broadway Corridor, and the City Council directed OMF to obtain short-term financing (“LID Interim Financing”) to pay for certain LID costs prior to issuing long-term LID Bonds (the “LID Bonds”, and combined with the LID Interim Financing, the “LID Debt”).

C. On _____, by Ordinance No. _____, the City Council: (i) renamed the Original LID, now to be known as the NW Johnson – Kearney Streets LID (the “Johnson-Kearney LID”), (ii) provided a budget for the Johnson-Kearney LID of \$ _____, and (iii) directed the City’s execution of this Amendment.

D. On _____, by Ordinance No. _____, the City Council created a separate NW Park Avenue LID (the “Park Avenue LID”) and provided a budget for the Park Avenue LID of \$ _____.

E. The terms “LID Bonds,” and “LID Debt” used in this Amendment are understood to refer to the financing costs of the NW Johnson-Kearney Streets LID and the NW Park Avenue LID. The term “LID Interim Financing” used in this Amendment refers only to the short-term financing used to pay for certain NW Johnson-Kearney Streets LID costs prior to issuing long-term LID Bonds for the NW Johnson-Kearney Streets LID. All other capitalized terms used but not defined in this Amendment have the meaning given to them in the OMF Agreement.

~~F. The Department of Housing and Urban Development has notified the City and Prosper Portland that the City may use approximately \$1.7 million of Economic Development Initiative (EDI) Program Income (the “HUD Funds”) for the Broadway Corridor Project, and the City intends to use the HUD Funds to help pay for the NW Johnson-Kearney Streets improvements~~

~~in place of transportation system development charges previously allocated by the Portland Bureau of Transportation.~~

~~G. — The Portland Bureau of Transportation allocated \$3.68 million of transportation system development charges to the NW Johnson-Kearney Streets improvements. With the availability of the HUD Funds, transportation system development charges in the amount of \$1.7 million are available for LID Interim Financing costs (the “TSDC Funds”).~~

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein, the parties agree as follows:

1. LID Interim Financing. Section II.B. of the OMF Agreement is deleted in its entirety and replaced with the following:

a. Prosper Portland will pay the interest and financing costs from the Pledged Security funds for the LID Interim Financing, including any amounts attributable to properties of the Portland Housing Bureau and other public or private entities subject to the NW Johnson-Kearney Streets LID during the design and construction period of the NW Johnson-Kearney Streets LID and including the period preceding the issuance of the related LID Bonds, regardless of any property sales or transfers that occur prior to final assessment. The LID Interim Financing will accrue interest consistent with the construction financing credit facility or facilities initially negotiated and issued by the City or subsequently refunded by the City. Prosper Portland will semi-annually fund LID Interim Financing interest and other financing fees and costs (including without limitation legal fees and related costs) related to the LID Interim Financing.

~~b. — Notwithstanding the foregoing, the City has an obligation to fund a portion of LID Interim Financing interest costs solely from the TSDC Funds. The City will use the TSDC Funds to pay interest on the LID Interim Financing upon written request from Prosper Portland. For use of the TSDC Funds for LID Interim Interest, Prosper Portland will provide a written request before March 31st in the fiscal year preceding the fiscal year of the requested use of TSDC Funds. The City Administrator or the Deputy City Administrator of Budget and Finance may approve requests received outside this time window. The City will notify Prosper Portland in writing when TSDC Funds have been spent or are anticipated to be depleted and Prosper Portland will resume responsibility and payment for the remaining LID Interim Financing interest, fees, and costs, in accordance with Section 1(a) of this Amendment.~~

e.b. Prosper Portland will make the LID Interim Financing costs a budget priority. If Prosper Portland has insufficient Pledged Security funds to timely pay all amounts due on the LID Interim Financing, the City may satisfy those payment obligations using other City funds.

~~d. — The City will take the necessary steps to make available and use the HUD Funds to pay for eligible costs of the NW Johnson-Kearney Streets improvements as soon as practicable in an effort to reduce the costs of the LID Interim Financing.~~

2. Law. This Amendment will be governed by and construed and enforced in accordance with the laws of the State of Oregon.

3. Ratification. The OMF Agreement, as modified by this Amendment, remains in full force and effect and the parties hereby ratify the same.

4. Authority. The individuals executing this Amendment on behalf of any party individually represent and warrant that they have been authorized to do so and have the power to bind the party for whom they are signing.

IN WITNESS WHEREOF, the City and Prosper Portland have duly executed this Amendment as of the Effective Date.

The City of Portland

Prosper Portland

By: _____
Jonas Biery, Deputy City Administrator

By: _____
Shea Flaherty Betin
Interim Executive Director

By: _____
Priya Dhanapal, Deputy City
Administrator

Approved as to form:

Approved as to form:

Prosper Portland Legal Counsel

City Attorney