

Council Communication

Public Hearing - NE Voyage- NE Lake Drive & NE 15th St. and Lake Cove Reimbursement District (Resolution 2016-27)

Meeting Date: August 8, 2016
Department: Public Works
Secondary Dept.: Public Works
Approval: Ronald Chandler

Primary Staff Contact: Stephanie Reid
E-Mail: stephanier@lincolncity.org
Secondary Staff Contact: Lila Bradley
Estimated Time: 5 minutes

Background

City Council passed Resolution 2015-18 on June 22, 2015 to form a Reimbursement District over all properties that can receive benefit from the sewer improvements in the NE Voyage-Lake Local Improvement District.

The district was formed based on the estimated construction costs, now that the construction is complete and all costs are final, the district needs to be finalized.

Project Description

The NE Voyage, Lake Drive & 15th Street LID project included pressure sewer and paving. The Reimbursement District would benefit if any properties connect to the sewer system constructed by the LID.

Public Notice

Pursuant to Lincoln City Municipal Code (**LCMC**) Chapters 13.04 and 13.06, staff published and mailed notice of the public hearing to all property owners in the LID. Staff also mailed notice of the public hearing by certified mail to all property owners in the Reimbursement District.

Recommendation

Approve or modify Draft Resolution 2016- 27, a resolution finalizing the NE Voyage-Ne Lake Drive & NE 15th St. and Lake Cove Reimbursement District.

Attachments:

None

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RESOLUTION NO. 2016-27

**A RESOLUTION OF THE CITY OF LINCOLN CITY MODIFYING THE
APPROVED “VOYAGE-LAKE PROJECT” REIMBURSEMENT DISTRICT
(RESOLUTION 2015-18) PURSUANT TO LCMC CHAPTER 13.06 –
REIMBURSEMENT TO LID PARTICIPANTS**

RECITALS

- A. On March 9, 2015 the Council, at the request of the City Public Works Department, initiated an application for a Reimbursement District pursuant to LCMC Chapter 13.06 regarding the local improvements to be constructed pursuant to the Voyage-Lake Project; and
- B. Pursuant to Oregon public contract law and Chapter 2.05 of the Lincoln City Municipal Code, the City solicited bids and caused to be constructed the improvements identified in Resolution 2015-18; and
- C. LCMC 13.06.030 D, mandates a second public hearing shall be conducted after construction of the improvements, if a reimbursement district is formed prior to the construction of the improvements; and
- D. After such required public hearing the City Council may modify the Resolution establishing the Reimbursement District to reflect the actual cost of the improvements to be allocated among the benefitted properties; and
- E. Pursuant to LCMC 13.06.020 the City Engineering Department prepared a revised Engineering Report, “FINAL CITY ENGINEER’S REPORT for the Voyage, NE Lake Drive & NE 15th Street and Lake Cove Reimbursement District (hereinafter “Final Engineering Report”) said Final Engineering Report being attached as **Attachment 1**, hereto and made a part hereof by this reference; and
- F. The original Engineer’s estimate of the project was \$168,661.03; the actual construction cost as verified and documented by City staff is \$203,993.96 the increase (\$35,332.93) is proposed to be allocated among the 43 benefitted properties (increasing cost by \$821.70 per connection from \$3,833.21 to \$4,533.20 per connection) for Zone One.
- G. The original Engineer’s estimate of the project was \$52,148.00; the actual construction cost as verified and documented by City staff is \$64,127.44 the increase (\$11,979.44) is proposed to be allocated among the Zone Two potentially benefitted properties (increasing cost by \$239.87 for the first connection from \$1,158.84 to \$1,425.05) for Zone Two.

- 1 H. Council finds and determines that the Final Engineering Report and
2 supporting materials in the record support the fair share reimbursement
3 formula pursuant to LCMC 13.06.065, to the LID participants subject to the
4 terms and conditions of this Resolution and the City Code; and
5
- 6 I. The Final Engineering Report identifies the boundaries of the Reimbursement
7 District as including the benefitted properties identified in Exhibit A to the
8 Final Engineering Report; and
9
- 10 J. For Zone 2, sewer reimbursement, only a portion of the LID infrastructure
11 benefits such properties. An additional connection in Zone 2 will be required
12 to share in an appropriate portion of the improvement cost [\$64,127.44]
13 which is currently only allocated among 43 benefitted lots in the LID. The
14 Council finds and determines that this formula is fair and equitable and will
15 result in proportionate reimbursement (or credit) to LID participants if new
16 connections are added within Zone 2.
17
- 18 K. Only one connection is permitted per legal lot and All lots shall be required to
19 pay per the referenced formula when such payment is triggered by City
20 ordinance [13.06.065], including upon connection to the sewer improvement
21 identified herein; and
22
- 23 L. Pursuant to LCMC 13.06.030 notice of an informational hearing before the
24 City Council was mailed, certified mail return receipt requested, to each of the
25 benefitted property owners; and
26
- 27 M. On August 8, 2016, the City Council conducted a public hearing and heard and
28 considered oral and written testimony on modification of the existing
29 Reimbursement District. The hearing was closed on August 11, 2016, and the
30 record was closed on August 20, 2016; and
31
- 32 N. After close of the hearing and the record, the Council, on August 8, 2016, after
33 due consideration and deliberation, finds and determines that such
34 improvements having been constructed and dedicated to the public, are of
35 benefit to the City and all property to be assessed the modified reimbursement
36 amount will be benefitted to the extent of the amount identified in the Final
37 Engineers Report; and
38
- 39 O. The Council made no substantial modification to the findings or conditions in
40 the Final Engineering Report or supporting documentation; Council directed
41 staff to prepare a Resolution approving the modification to the District; and
42
- 43 P. Accordingly, pursuant to LCMC 13.06.035 the City Council for the City of
44 Lincoln City elects to modify the established and approved "Voyage-Lake
45 Project" Reimbursement District as described in the Final Engineering Report.
46 Council further directs that as a precondition to receipt of any city permit

1 necessary for development of the benefitted properties (exclusive of the base
2 43 LID lots) and as a precondition to any additional connection whatsoever to
3 the improvement identified herein, the benefitted property owners, prior to
4 their connection or connections in the event of a land division, shall pay to the
5 City the identified reimbursement amount(s) as calculated by the formula in
6 the Final Engineering Report, together with an administrative fee of \$100 and
7 interest at the rate of 2.5% from the effective date of this Resolution.
8

9 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**
10 **CITY OF LINCOLN CITY, AS FOLLOWS:**

11
12 SECTION 1. INCORPORATION. The above Findings and Recitals are true and
13 correct and are incorporated herein by this reference.
14

15 SECTION 2. MODIFICATION OF ESTABLISHMENT OF DISTRICT. Effective upon
16 satisfaction of the Conditions enumerated below, the Reimbursement District
17 previously created and consisting of all the benefitted properties described in Exhibit
18 A of the Final Engineering Report (**Attachment 1**), is hereby modified. The prior
19 Resolution 2015-18 remains in full force and effect, except as specifically modified
20 herein. The District modified herein shall be referred to as the "VOYAGE-LAKE
21 PROJECT REIMBURSEMENT DISTRICT."
22

23 SECTION 3 CONDITIONS. The establishment of the Reimbursement District is
24 contingent upon satisfaction of all the conditions identified in or incorporated into
25 Resolution 2015-18 and this Resolution. Please note: LID participant's must execute
26 an acceptance of the terms and conditions of this Resolution within thirty (30)
27 calendar days of approval by the Council to be eligible for reimbursements; Refusal of
28 one of the 43 LID participants from signing shall not prejudice the participation of
29 others); and
30

31 SECTION 4. ORDER ON CONNECTION. The City Council orders and directs that as
32 a precondition to receipt of any city permit necessary for development of the
33 benefitted properties (exclusive of the base 43 LID connections) and as a
34 precondition to any additional connection whatsoever to the pressure sewer
35 improvement identified herein, the benefitted property owners, prior to triggering
36 development [LCMC 13.06.065] or connection, shall pay to the City their identified
37 reimbursement amount pursuant to the appropriate Final Engineering Report
38 formula together with an administrative fee of \$100.00 and interest at the rate of
39 2.5% from the effective date of this Resolution. Further, in the event the City takes
40 over maintenance of sewer pumps approved for use on this system, the applicant and
41 any benefitted property owners on the system shall cooperate with the City to provide
42 access for maintenance by City staff. All benefitted properties are identified in
43 Resolution 2015-18 and Exhibit A to the Engineering Report attached to the
44 Resolution.
45

46 SECTION 5. NO LIEN / ENFORCEMENT. This Resolution does not impose a lien
47 against the benefitted properties; however, unlawful connection to the improvement

1 specified herein may be punished as a daily civil violation pursuant to City Code or as
2 felony or misdemeanor criminal mischief against a public utility under State law.

3
4 SECTION 6. AGREEMENT. LID participants, including the City of Lincoln City,
5 constitute the applicant for the Reimbursement District. The City and LID
6 participants agreeing to accept reimbursement under Section 3 stipulate and agree as
7 follows:

- 8
9 A. This Agreement shall be effective only upon satisfaction of all conditions set
10 forth in this Resolution; and
11
12 B. The public improvement shall meet (and does) all applicable city standards,
13 including construction standards and location within a public easement; Public
14 Works shall conduct such inspections or tests within 60 days, and accept or
15 reject the improvements(Improvements have been accepted); and
16
17 C. City will ensure contractor warrants and guarantees for a period of one year
18 from the date of acceptance (see paragraph B. above) the quality of the
19 improvements dedicated to the public; City will further require contractor to
20 reimburse the City for the cost of repair or replacement if during the warranty
21 period the installation is defective; and
22
23 D. Contractors shall agree to defend, indemnify and hold harmless the City of
24 Lincoln City, its officers, agents and employees from any and all losses, claims,
25 damage, judgments or other costs or expenses arising as a result of or related
26 to the City's construction of the improvements and establishment of the
27 District; and
28
29 E. The applicant agrees that *except as provided* in LCMC 13.06.065 [Obligation
30 to Pay Reimbursement Fee] the City is *not obligated* to collect the
31 reimbursement fee from affected property owners; and
32
33 F. Consistent with LCMC 13.06.065 and LCMC 13.06.075, City shall reimburse
34 the 43 LID participants, and such future participants as are equitable, from
35 payments received from benefitted property owners for additional connections
36 noted herein for the 10 year reimbursement period, as well as a ten (10) year
37 extension period [total twenty (20) years] beginning on the effective date of
38 this Resolution. The Council may extend the Reimbursement period on its
39 own motion as provided in Chapter 13.06 by Resolution.
40
41 G. No SDC credit is awarded by this Resolution. All property owners must pay
42 SDC fees when triggered by City ordinance. NO SDC installment payment is
43 authorized by this Reimbursement District Resolution.
44

45 SECTION 7. ADJUSTMENT AUTHORIZED. The City of Lincoln City shall annually
46 adjust the reimbursement amount on the anniversary date of the Council's resolution.

1 The adjustment shall be fixed and computed against the reimbursement fee as simple
2 interest and shall remain the same for each year the district exists. The interest rate
3 shall be 2.5% percent. Cost of construction shall be subject to such increase, given the
4 formula set forth in the Engineering Report.

5
6 SECTION 8. NOTICE RECORDING. The City Recorder shall notify all owners within
7 the district as provided by LCMC 13.06.050. The Recorder shall also cause notice of
8 the formation and modification of the Reimbursement District to be filed either in
9 Lincoln County official records or in the City Electronic Lien record, in order to
10 provide notice to potential purchasers of property within the district boundaries.
11 Failure to make such recording shall affect neither the legality of the Resolution nor
12 the obligation to pay the fee. [LCMC 13.06.050 and LCMC 13.06.055] Owners and
13 Purchasers: Be advised LCMC 13.12.160 identifies triggers for abandonment of septic
14 systems and connection to sanitary sewer.

15
16 SECTION 9. FINDINGS ADOPTED. The City Council finds and determines that the
17 public hearing (conducted on August 8, 2016) was properly noticed and conducted.
18 The Council further finds that the previous establishment of the Reimbursement
19 District boundary includes all directly benefitted properties, is logically configured
20 based on topography and engineering constraints, and is in the best interest of the
21 city and the public. The City further finds that the allocation of the cost of the
22 improvement is a logical and reasonable allocation of costs (formula) based upon the
23 benefits received by the affected properties. The Council adopts the findings and
24 competent evidence contained in the entire record as supporting its conclusion that
25 the improvements are in the public interest of the City of Lincoln City.

26
27 SECTION 10. EFFECTIVE DATE This resolution is effective as of the date of its
28 adoption and signature by the Mayor, provided however, that the failure of
29 satisfaction of the Conditions, unless excepted, shall render the Resolution null and
30 void.

31
32 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 8th day
33 of August 2016.

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37 _____
38 DON WILLIAMS, MAYOR

39 ATTEST:

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41
42 _____
43 CATHY STEERE, CITY RECORDER

44
45 ATTACHMENT 1



**FINAL CITY ENGINEER'S REPORT for the
NE Voyage, NE Lake Drive & NE 15th Street and Lake Cove
REIMBURSEMENT DISTRICT
July 2016**

On June 22, 2015 City Council approved Resolution 2015-17 that formed the NE Voyage, Lake Drive & 15th Street Local Improvement District (LID) for sewer and road paving. On June 22, 2015 Council also approved Resolution 2015-18 which formed the Voyage-Lake Project Reimbursement District. The Reimbursement District included all properties that can receive benefit from the construction of the sanitary sewer lines in the LID. The Reimbursement District will include two areas, Zone 1 & Zone 2, see attached **Exhibit A**. Zone 1 includes properties that are located within the LID. Zone 2 includes properties that are upstream from the sanitary sewer lines that are constructed by the LID and could receive benefit by its construction.

Pursuant to Chapter 13.06 of the Lincoln City Municipal Code, the City Engineer is submitting the following final engineering report with the final costs associated with the Reimbursement District.

Description of the Improvements

The LID will construct a low pressure sanitary sewer system that will provide a sanitary sewer with a service lateral to each lot of record at the time of construction. There are 43 lots that will be benefited by the construction of the sewer system within the LID.

Location of the Improvements

See **Exhibit A** for a map showing the Reimbursement District Boundary.

Zoning for the Properties benefited by the Improvements

The properties being benefited are zoned R-1-7.5, R-1-5 and Multifamily, see Exhibit B.

Local Improvement District Cost

The final cost of sanitary sewer improvements within the LID is \$203,993.96, with 43 lots paying for the improvements comes to \$4,744.05 per lot.

Reimbursement Formula

For Zone 1, if an existing lot at the time of final assessment of the LID is divided to create additional lot(s), each additional connection to the sanitary sewer system will pay a reimbursement fee. The reimbursement fee will be determined by taking the final total cost for constructing the sanitary sewer (\$203,993.96) divided by the total lots within the LID plus the additional connection. For example (using the 43 lots in the initial LID):

$\$203,993.96 \text{ divided by } (43+ 1) = \$4,636.23$ for the first additional connection

For the second connection: $\$203,993.96 \text{ divided by } 45 = \$4, 533.20$.

For Zone 2, any additional connection to the public sewer system that connects to the lines constructed by the LID will also pay a reimbursement fee. If a property within Zone 2 constructs a public sewer system and does not tie to the LID system, there will be no reimbursement fee. The reimbursement fee will be determined by taking the cost of constructing the sewer line from the Regatta Pump Station to NE Voyage Ave, then north along NE Voyage Ave. to the LID Boundary (\$64,127.44). For example (using the 43 lots in the initial LID):

$\$64,127.44 \text{ divided by } (43+1) = \$1,457.44$ for the first connection.

For the second connection: $\$64,127.44 \text{ divided by } 45 = \$1,425.05$.

Reimbursement Period

The reimbursement district shall exist for 10 years but can be extended by the City Council following a public hearing.

City Engineer's Signature: *Stephanie Reid*

Date: *July 21, 2016*



