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191800

Ordinance

Amend NE Couch – Davis Street Local Improvement District boundary and reduce system development charge funding by \$1 million in exchange for system development charge credits with no change to pending lien amounts (C-10068)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37454 on October 16, 2019, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the NE Couch-Davis Street Local Improvement District (LID). In the event any finding or any directive within this Ordinance conflicts with Resolution No. 37454 involving this LID, the finding or directive within this Ordinance shall prevail.
2. The Council approved formation of the NE Couch-Davis Street LID with the passage of Ordinance No. 189811 on December 18, 2019. In the event any finding or any directive within this Ordinance conflicts with Ordinance No. 18911 involving this LID, the finding or directive within this Ordinance shall prevail.
3. Bids for the first phase of construction of the NE Couch – Davis Street LID were opened on April 30, 2024, and a contract award is pending per Bid No. 00002310 by a separate and subsequent Report to Council pending future Council consideration and approval.
4. The Portland Bureau of Transportation (PBOT) wishes to substitute up to \$1,000,000 of system development charge (SDC) credits in exchange for a reduction of \$1,000,000 in PBOT SDC funding per Finding No. 12 of Ordinance No. 189811. The reduction in SDC funding will be offset by a reduction of \$1,000,000 in project contingency pending a construction contract award for the first phase

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Transportation](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

June 26, 2024

of construction as noted in Finding No. 3 of this Ordinance.

5. The Bureau of Revenue & Financial Services created Pending Lien Nos. 171597 through 171619 as a result of Council passage of Resolution No. 37454 on October 16, 2019. None of these pending lien amounts are proposed to be amended by this Ordinance. However, an additional property currently addressed as 207-215 NE 97th Avenue will potentially receive special benefit from utility undergrounding improvements and a proposed future street vacation. This property should have a new pending lien record created to enable Council to make a finding of special benefit in the separate and subsequent Final Assessment Ordinance.
6. RX – Central Residential zoning is largely prevalent within the boundaries of the NE Couch – Davis Street LID. As evidenced by recently completed multifamily development to the north abutting nearby NE Everett Court to the north between NE 97th Avenue and NE 99th Avenue, utility undergrounding provides special benefit for properties. It will enable the eventual elimination of utility poles within the LID boundary, in turn enabling multifamily development to occur with little to no setback from the right-of-way line, maximizing the number of future housing units that can be developed.
7. It is cost effective to construct water main extensions as part of new street construction, which also furthers PBOT's asset management goals by minimizing or eliminating issuance of street opening permits after new street construction is complete.
8. Directives 'i' and 'j' of Ordinance No. 189811 provide for Extra Work Agreements to fund the work respectively contemplated in Findings No. 6 and 7 of this Ordinance. However, given property ownership turnover since formation of the NE Couch – Davis Street LID, the need to negotiate and execute Extra Work Agreements among multiple property owners for work planned as part of the design of this LID would be an inefficient and time-consuming process which in turn could delay the ability of the City Engineer to issue a Notice to Proceed for the first phase of construction of the NE Couch – Davis Street LID.
9. Given that 92.2% of the pending lien amounts established at LID formation are attributable to property in private ownership which will receive special benefit from enabling high-density multifamily development, it is preferable to incorporate the work in Finding Nos. 6 and 7 as a project cost in lieu of as part of multiple Extra Work Agreements. This percentage will likely increase at final assessment per Finding No. 5 of this Ordinance, and as areas of private property will be designated as public rights-of-way concurrent with the first and second phases of construction and which therefore will not be assessed.

10. NE 97th Avenue will not be built with curb returns nor with curb ramps compliant with the Americans with Disabilities Act at the west legs of the NE 97th Avenue & Couch Street and NE 97th Avenue & Davis Street intersections. The project design assumes that NE Couch Street between Interstate 205 and NE 97th Avenue and NE Davis Street between Interstate 205 and NE 97th Avenue will be vacated by a separate and subsequent Ordinance. The street vacation should therefore be funded as a project cost in lieu of by Extra Work Agreements.
11. Pursuant to City Code, assessment for the NE Couch-Davis Street LID will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:


- A. PBOT SDC funding is reduced from \$2,000,000 to \$1,000,000 notwithstanding Finding No. 12 of Ordinance No. 189811.
- B. PBOT is directed to provide up to \$1,000,000 in SDC credits with the terms of the SDC credits to be established in a separate and subsequent Final Assessment Ordinance.
- C. The Bureau of Revenue & Financial Services is directed to create a new pending lien record for the property currently addressed as 207-215 NE 97th Avenue with a new pending lien amount of zero. Per Finding No. 5 of this Ordinance, the Local Improvement District Administrator shall prepare a separate and subsequent Final Assessment Ordinance for Council consideration which if approved by Council may impose an assessment for this property reflecting new special benefit to this property.
- D. Notwithstanding directive 'i' of Ordinance No. 189811, the City Engineer is authorized to fund utility undergrounding work without executing Extra Work Agreements, and PBOT is authorized to reimburse Pacificorp for any necessary utility undergrounding work which cannot be performed by PBOT's contractor.
- E. Notwithstanding directive 'j' of Ordinance No. 189811, the City Engineer is authorized to issue a Notice to Proceed for work including construction of new water mains without executing Extra Work Agreements. It is anticipated but not required that the water main construction will be performed by PBOT's contractor.
- F. PBOT is authorized to expend project funds to prepare a separate and subsequent ordinance to vacate NE Couch Street and NE Davis Street between Interstate 205 and NE 97th Avenue.
- G. The Council affirms Directive 'k' and Directive 'l' of Ordinance No. 18911, and with construction commencing soon on the first phase of

construction, Council waives any and all requirements for a hearing per Code Chapter 17.08.080.

H. Notwithstanding directive 'g' of this Ordinance, the Council directs that there be no increase in the assessment amount for Pending Lien No. 171607 beyond the amount estimated at LID formation, given that the taxlot is not adjacent to others in current common ownership and has a current lot size area of only 9,000 square feet.

I. The LID boundary is amended per Finding No. 5 of this Ordinance, and the Council adopts the new LID map per Exhibit A of this Ordinance.

Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2024/03-exhibit-a-map-for-ne-couch-davis-lid-amendment-2024-06-12-rev0.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2024/03-exhibit-a-map-for-ne-couch-davis-lid-amendment-2024-06-12-rev0.pdf) 1.67 MB

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 by Council
June 26, 2024

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

- This Ordinance reduces PBOT SDC funding for this LID from \$2 million to \$1 million with an offsetting reduction of \$1,000,000 in budgeted project contingency.
- This Ordinance also eliminates the need for multiple Extra Work Agreements to be negotiated and executed to fund utility undergrounding improvements, water main improvements and to fund staff work on the vacation of NE Couch Street and NE Davis Street between Interstate 205 and NE 97th Avenue, as assumed in project design.
- The Ordinance directs that a new pending lien record be created for a property which will receive special benefit from utility undergrounding improvements and from the vacation of NE Davis Street between Interstate 205 and NE 97th Avenue. The actual assessment amount will be determined by Council at the separate and subsequent Final Assessment Hearing following completion of project construction.

Financial and Budgetary Impacts

- The substitution of \$1 million of SDC credits for \$1 million in SDC funding is cost neutral for PBOT, but PBOT benefits by forgoing SDC revenue in the future in lieu of making an immediate cash outlay for SDC funding.
- No changes to amounts of current pending liens.
- This Ordinance must be approved by Council before the City Engineer can issue a Notice to Proceed for the first phase of construction, which will provide significant financial certainty for the project.
- This Ordinance allows construction to proceed on the LID and waives the need for additional Council hearings, which reduces financial risk to both PBOT and owners of properties for which the LID enables multifamily development.

Community Impacts and Community Involvement

- Testimony in favor of this Ordinance will be submitted into the Council record reflecting 92.2% of property ownership of the LID based on current estimated assessments, which will not be changed by this Ordinance.

100% Renewable Goal

N/A

Budget Office Financial Impact Analysis

This action amends the NE Couch – Davis Street Local Improvement District boundary and reduces system development charge funding by \$1 million in exchange for system development charge credits. The action reduces PBOT SDC funding for the NE Couch - Davis St LID from \$2 million to \$1 million with an offsetting reduction of \$1,000,000 in budgeted project contingency. The action is cost neutral.

Document History

Item 559 Regular Agenda in [June 20, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/6/19)
(<https://www.portland.gov/council/agenda/2024/6/19>)

City Council

Passed to second reading

Passed to second reading June 26, 2024 at 9:30 a.m.

Item 594 Regular Agenda in [June 26, 2024 Council Agenda](#)
(<https://www.portland.gov/council/agenda/2024/6/26>)

City Council

Passed

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Absent

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea