

May 13, 2020

MEMORANDUM

To: Community Economic Development Committee
From: Yolanda Ho, Analyst
Subject: CB 119779 – University District Business Improvement Area

On May 20, 2020, the Community Economic Development Committee (Committee) will have an initial briefing and discussion on [Council Bill \(CB\) 119779](#), which would establish a new University District Business Improvement Area (U. District BIA). Proponents of the proposed U. District BIA will be at the Committee meeting to describe the background, outreach, intent, and scope of the proposal.

This memorandum: (1) provides background on the U. District BIA; (2) describes City policy and State law governing the formation of a BIA; (3) summarizes the content of CB 119779; and (4) identifies issues and potential options for the Committee’s consideration. Attachment 1 shows the boundaries of the current and proposed U. District BIA.

Background

BIAs are economic development funding mechanisms that allow businesses, multifamily residential developments, and mixed-use developments located within the geographic boundaries of the area to assess themselves to fund enhanced services, programming, and management for the area.

The Office of Economic Development (OED) provides staff support to BIAs, and the Department of Finance and Administrative Services (FAS) collects assessment revenues from ratepayers and disburses the funds.

The current U. District BIA was established in 2015 by [Ordinance 124761](#) for a five-year term that expires on May 31, 2020. The revenues collected through the U. District BIA support enhanced services in the following program categories:

1. Cleaning and public safety;
2. Events and marketing;
3. Policy and advocacy, but not related land use or zoning changes;
4. Economic development;
5. Planning; and
6. Program management.

Establishing a New BIA

Procedures for establishing and operating a BIA are governed by [Chapter 35.87A RCW](#). BIAs are initiated either by a petition from prospective ratepayers who would pay at least 60 percent of the BIA assessments or by resolution. The City has its own non-binding BIA policies, most recently amended by [Resolution 31567](#) in 2016. Per the adopted policies, the City will consider a new BIA when presented with a petition by those who represent 60 percent or more of the total assessment in the proposed BIA.

Relevant to the new U. District BIA, the City policies state that:

“If any single entity in support of the BIA represents more than 25 percent of the total assessment, the City encourages BIA proponents to seek additional support from potential ratepayers, demonstrated by presenting a petition representing 65 percent or more of the total assessment in the proposed BIA. When this occurs, the City recommends that the BIA proponents notify all potential ratepayers in writing that they are seeking additional support because a single entity represents more than 25 percent of the total assessment.”¹

The University of Washington (UW) would represent nearly 35 percent of the total U. District BIA assessment.

On January 19, 2020, the proponents submitted to OED petitions ([Clerk File 321659](#)) in support of the new U. District BIA from ratepayers representing 64.7 percent of the total assessment, short of the recommended minimum threshold of 65 percent. Additionally, the proponents did not include the recommended petition language indicating they were seeking a higher level of support because a single entity would represent more than 25 percent of the total assessment. Since submitting the petitions, the proponents have received additional petitions of support, bringing the total level of support to 65.4 percent. The proponents received no petitions in opposition of the new U. District BIA.

On April 27, 2020, the Council started the process to consider the U. District BIA by introducing three pieces of legislation:

1. [Resolution 31943](#), which initiates consideration of the U. District BIA;
2. [Resolution 31944](#), which establishes the intent to establish the U. District BIA and sets a date for a public hearing on the proposal; and
3. [CB 119779](#), which would establish the U. District BIA and levy the special assessment to fund BIA activities.

That same day, the Council adopted Resolution 31943 and Resolution 31944, initiating the process to establish the U. District BIA and setting the date and location of the public hearing for May 27, 2020. The hearing will be held remotely due to the COVID-19 civil emergency.

¹ [Citywide Business Improvement Area Policies](#), p.2.

As required by State law, the resolution of intention to establish (which provides information on the public hearing) was published in the Seattle Times and Daily Journal of Commerce and mailed to all potential ratepayers at least 10 days prior to the hearing.

CB 119779

CB 119779 would establish a new U. District BIA. Among other things, the bill:

- Establishes the geographic boundaries of the U. District BIA;
- Describes the assessment schedule (the annual rates assessed for various property use categories);
- Describes the programs that would be funded by the assessments;
- Establishes an Advisory Board; and
- Authorizes OED to contract for program management.

Recognizing that the current U. District BIA will expire prior to the establishment of the new U. District BIA, the proposed legislation includes a “ratify and confirm” clause allowing the City to make contracts and expenditures, and send out assessment notices after Council adoption, prior to its effective date, which is typically 30 days after the Mayor signs legislation.

Boundaries

The new U. District BIA boundaries (Attachment 1) would differ from the current boundaries by excluding UW property that has not been and will not be receiving services funded by the BIA. The boundaries would also be adjusted to match the area where the [University District Neighborhood Design Guidelines](#) apply.

Assessments

Assessment rates would use 2019-20 U. District BIA assessments as the base, adding a one-time increase of 10 percent and an inflation factor for the first year. In following years, rates would be adjusted annually by the Consumer Price Index (CPI). In addition to maintaining the North and South Cleaning Areas (see Attachment 1 for cleaning area boundaries), a new district-wide cleaning fee is proposed at three cents per lot square foot for properties located within the proposed boundaries outside of the North and South Cleaning Areas.

The current U. District BIA assessed for-profit property owners participating in the Multifamily Tax Exemption (MFTE) program using the nonprofit rate. In accordance with City policies, these properties will no longer receive this discount with the new U. District BIA. Properties that are redeveloped/expanded will have their assessments updated based on the property’s new assessed value.

Term

The new U. District BIA would be established for a period of 12 years, beginning on the effective date of the legislation. Prior to expiration of this term, proponents may recommend that it be extended.

Programs

The new U. District BIA would fund the following range of programs and services:

1. Cleaning and public safety;
2. Events and marketing;
3. Policy and advocacy, but not related to land use or zoning changes;
4. Economic development, including efforts to prevent small businesses within the district area from being displaced;
5. Urban vitality, public realm, and the built environment;
6. Planning; and
7. Program management.

Compared to the current U. District BIA, the new BIA is proposed to have a slightly expanded scope that would include funding programs and services related to: (1) urban vitality, public realm, and the built environment, and (2) efforts to prevent displacement of small businesses within the area.

Program Manager

OED would be authorized to contract with the [U. District Partnership](#) (the current U. District BIA Program Manager) or another local non-profit organization to act as the initial Program Manager. Every five years, OED would be required to administer an open, competitive process to select the Program Manager.

BIA Advisory Board

Within 30 days of the effective date of the legislation, OED would appoint an interim U. District BIA Advisory Board (Board) that would, in turn, recommend membership of an inaugural Board within 90 days of the effective date of the legislation. The Board would be comprised of “representative of the varying sizes and types of property owners, residents, and businesses tenants within the geographic area of the U. District BIA, and may include public agencies.” Membership of the Board is proposed to consist of the following:

1. No more than 35 percent of members shall represent UW;
2. At least one resident (owner);
3. At least one resident (tenant);
4. At least one commercial tenant;

5. At least two commercial tenants subject to a triple net lease; and
6. At least 80 percent of all the members shall be ratepayers. Of this group, at least one member shall be a ratepayer contributing less than 0.5 percent of the total assessment.

In addition to appointing Board members from the list recommended by the interim Board, OED may appoint additional members beyond those recommended to ensure broad representation on the Board. These additional members may not exceed one-third of the membership of the entire Board. Members are limited to serving two consecutive three-year terms. Current members at the time of the reauthorization are allowed to serve the remainder of their terms on the Board and can be appointed to serve one additional term.

Issue Identification for the Committee's Consideration

1. Ratepayer support

While the U. District BIA proponents eventually collected petitions from ratepayers representing slightly over 65 percent of the total assessment, all of the signed petitions were received prior to the onset of the COVID-19 pandemic. The economic impacts of the COVID-19 civil emergency have been severe and are expected to be prolonged. At this point, it is unclear how many of those potential ratepayers who submitted petitions of support continue to support the new BIA as proposed. The public hearing may reveal whether the level of support has changed.²

2. U. District BIA Advisory Board

Compared to the current Advisory Board, the proposed Board would have two additional business tenants, specifically those subject to a triple net lease, for a total of three business tenant representatives. Another change is the addition of one residential representative for a total of two to allow for both an owner and a tenant representative (rather than one or the other).

Unchanged are: the 35 percent cap on UW representatives; requirement that 80 percent of the seats be held by ratepayers; and one seat for a ratepayer contributing less than 0.5 percent of the total assessment.

The Board will have no fewer than 20 members, based on the requirement that at least 80 percent of the seats be held by ratepayers and the four seats reserved for non-ratepayers (i.e., one residential tenant and three business tenants). This would result in a relatively large advisory body. For reference, the current U. District BIA Ratepayer Advisory Board has 15 members.

² [RCW 35.87A.060](#), regarding the public hearing, states that "proceedings shall terminate if protest is made by businesses and residential operators in the proposed area which would pay a majority of the proposed special assessments."

Options:

- A. Amend CB 119779 to reduce the percentage of seats held by ratepayers to decrease the total number of Board members or make other changes to the Board composition in response to public testimony.
- B. No action.

3. Assessment rates

Assessments for most properties would use the current base rate, instead of adjusting to current assessed property values, which would have resulted in much higher rates. The proposed assessment rates would increase by 10 percent plus an inflation factor in the first year, and subsequently be adjusted annually based on CPI. For properties within the new U. District BIA boundaries, outside of the North and South Cleaning Areas, a new district cleaning fee is proposed. Regardless of the amount, any increases to rent³ would represent an added burden to businesses and residents in light of the current crisis. FAS and OED have been working with various BIA ratepayers throughout Seattle to create payment/deferral plans on a case-by-case basis in response to the COVID-19 emergency.

The standard practice for collecting assessments has FAS billing ratepayers for the first assessment once the legislation takes effect, with payment due within 30 days. With the proposed legislation's "ratify and confirm" clause described previously, FAS would have the authority to send assessment bills to U. District BIA ratepayers following Council adoption. Depending on when the Council adopts the legislation and FAS sends out the first bill, assessments could be due as early as mid-July. The Committee could consider delaying the time assessments are due to the City for most ratepayers, though this would limit the U. District BIA's operations.

Options:

- A. Amend CB 119779 to delay collection of assessments for ratepayers, excluding UW, until later in the year or the beginning of 2021.
- B. Amend CB 119779 to reduce assessments rates for the first two years. *Note: if Councilmembers choose to amend rates, an additional notice describing the proposed change should be issued to potential ratepayers at least 10 days in advance of final Council action.*
- C. No action.

³ Among other actions, the Governor's [Proclamation 20-19.1](#) prohibits increasing rents for commercial tenants through June 4.

4. Program Manager

CB 119779 would allow the initial Program Manager to serve for five years before OED is required to conduct a competitive selection process. The Committee could consider allowing the initial Program Manager to continue in that capacity for up to two years, prior to OED initiating the process to select a Program Manager for the next five years. Assuming the proposed 12-year term for the U. District BIA remains unchanged, this would allow for two full five-year terms for the Program Manager.

Options:

- A. Amend CB 119779 to allow the current Program Manager to serve for up to two years as the initial Program Manager prior to OED beginning a process to select a Program Manager.
- B. No action.

Next Steps

At the next meeting on May 27, the Committee will hold the required public hearing remotely per Resolution 31944 and discuss proposed amendments. If Councilmembers want to propose amendments at the May 27 meeting, please contact me by noon on Friday, May 22. Additional amendments may be developed following the public hearing. The Committee could vote on amendments and the proposed bill as amended, on June 3.

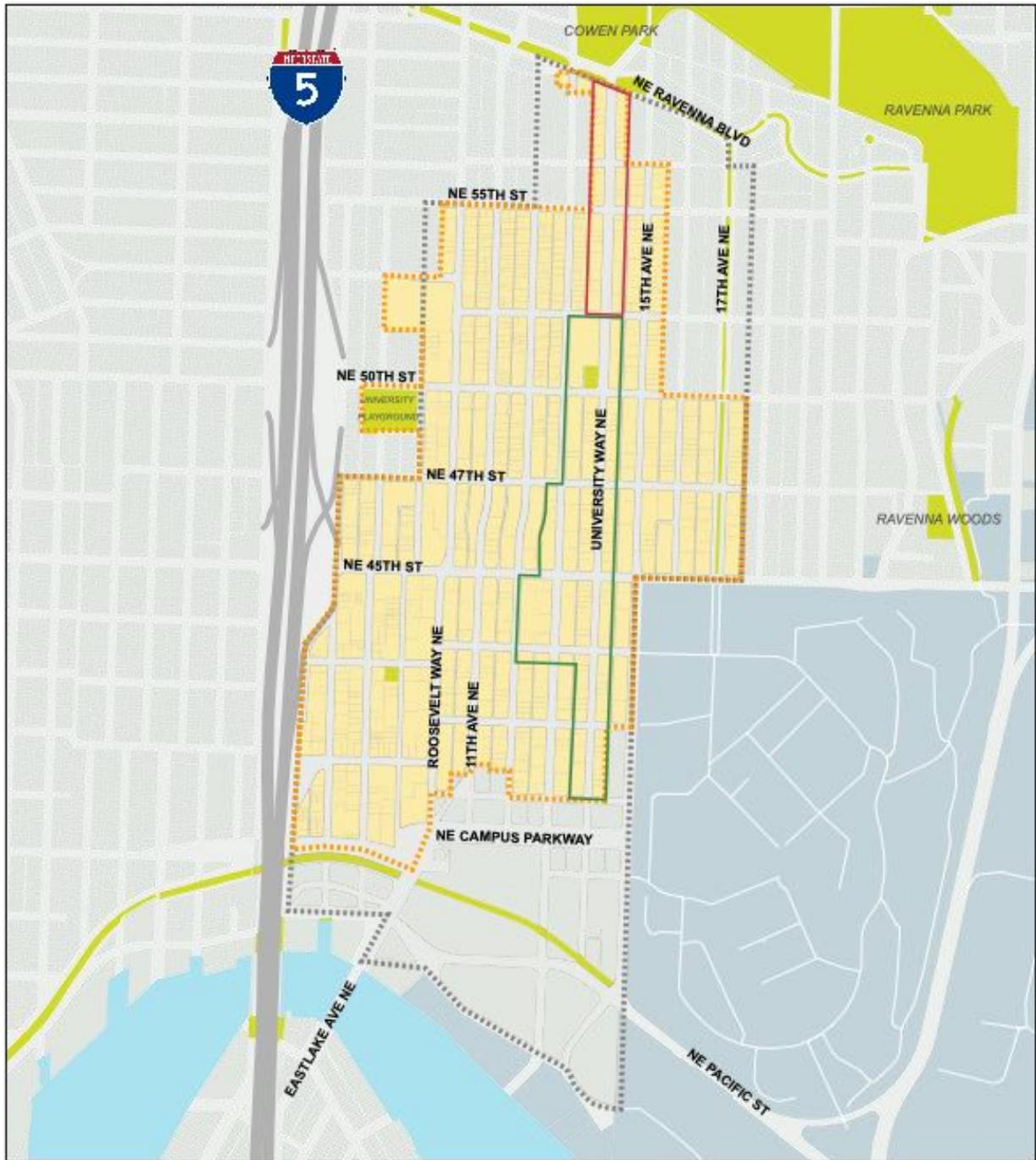
Attachments:

- 1. Proposed U. District Business Improvement Area Map

cc: Kirstan Arestad, Executive Director
Aly Pennucci, Supervising Analyst

Attachment 1 - Proposed U. District Business Improvement Area Map

EXHIBIT A: UDBIA PROPOSED BOUNDARIES



Proposed New U District BIA Boundary

