

## SUMMARY and FISCAL NOTE\*

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*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**1. Legislation Title:** AN ORDINANCE relating to the Central Waterfront Improvement Program and the LID Improvements identified herein; establishing Local Improvement District No. 6751 (“Waterfront LID”) and ordering the carrying out of the proposed LID Improvements, as a component of the Seattle Central Waterfront Improvement Program in accordance with Resolution 31812; providing that payment for the LID Improvements be made in part by special assessments upon the property in the Waterfront LID, payable by the mode of “payment by bonds”; creating a local improvement fund; authorizing the issuance of local improvement bonds; and providing for interfund loans and for the issuance and sale of short-term financing instruments, and ratifying and confirming certain prior acts, all by a two-thirds vote of the City Council at a regular meeting.

**2. Summary and background of the Legislation:**

Summary

- This legislation establishes a Local Improvement District (LID) to be known as “LID 6751” or “Waterfront LID” to fund a portion of the Central Waterfront Improvement Program. The Waterfront LID would assess property in the area determined to be specially benefitting from the LID Improvements.
- The legislation also orders the construction of the LID Improvements as described in Exhibit A to this Ordinance and authorizes the sale of local improvement bonds and provides for short-term financing instruments as needed to carry-out the improvements.
- This legislation also creates a Waterfront LID Fund in the City Treasury for paying the cost of the LID Improvements. All of the assessments collected will be deposited into the Waterfront LID Fund as and when directed by the ordinance confirming the assessment roll.

Resolution of Intent to Form Waterfront LID

On May 21, City Council approved Resolution 31812 declaring its intention to form an LID to fund a portion of the Central Waterfront Improvement Program. The preliminary total assessment amount provided in the Resolution was \$200 million plus the amounts necessary to pay the costs of financing.

Since passage of the resolution of intent to form the Waterfront LID, the City has held several public hearings, conducted by the Seattle Hearing Examiner, and staff have engaged with a large group of property owners within the district. The results of these

opportunities for input on the Waterfront LID have been used to develop this ordinance and revise the proposed preliminary total assessment amount, reducing the amount from \$200 million to \$160 million, subject to Council approval of a concurrent Protest Waiver Agreement pursuant to RCW 35.43.180 through a companion ordinance.

### Budget

The most recent adopted budget, which Council passed in November 2018, assumed a \$200 million LID (plus the amounts necessary to pay the costs of financing) as this was the preliminary amount per the Resolution. With the LID now estimated to be \$160 million (plus the amounts necessary to pay the costs of financing) per this ordinance, the City updated its plan with new amounts for estimated costs, public resources, and philanthropic resources. However, these appropriation and revenue changes are not currently reflected in the most recent adopted budget or CIP; appropriation changes will be subsequently made either in a standalone ordinance or as part of the 2020 budget process once the LID is formed and final amount known.

The current cost estimate for the Central Waterfront Improvement Program capital improvements is approximately \$712 million, including the cost to form and administer the LID. Approximately 62%, or \$442 million, of the \$712 million Central Waterfront Improvement project budget will be funded through public funding sources. The remaining \$270 million will be raised through a combination of private sources, including philanthropic contributions to be raised by Friends of Waterfront Seattle, and funding through LID assessments. The Friends of the Waterfront is committed to raising \$110 million in philanthropy, and the formation of the LID through Council passage of this ordinance would allow for the collection of no more than \$160 million in LID assessments plus the amounts necessary to pay the costs of financing and to make a deposit to the LID Guaranty Fund\* (not to exceed 10% of the amount of LID Bonds issued). In addition to the \$712 million project budget, the City is investing approximately \$100 million in other funds to relocate and improve public utilities along the Central Waterfront.

*\* The LID Guaranty Fund protects lenders financing LID Bonds and the City from defaults of payment of LID assessments. Provision of a Guaranty Fund typically results in lower interest rates for LID property owners paying assessments over 20 years, rather than during the initial payment period. It also helps assure that defaults of payment by LID property owners does not impact the City's credit worthiness.*

### Preliminary Special Benefit Study

In 2017, FAS engaged the services of an independent licensed real estate appraiser to perform a feasibility study for the LID. Following completion of the feasibility study, the same independent real estate appraiser completed a preliminary special benefit study for the LID in April 2018. A special benefit is the difference in estimated market value resulting from the LID-funded improvements. To calculate the special benefit for each property, the appraiser considered the characteristics of each property, including zoning and the property's highest and best use. The appraiser looked at how LID improvements would affect property value and determined the special benefit based on several factors including how similar improvements have affected property values in other projects

nationwide, market trends, and the individual property's proximity to the improvements. The preliminary study estimated the total special benefit to the 6,130 parcels within the proposed LID boundary to be approximately \$414 million.

#### Final Special Benefit Study & Final Assessment Roll

State law requires a property's LID assessment not exceed the total special benefit the property receives from the LID-funded improvements and requires all property in the LID boundary to be assessed at a uniform rate. Following Council formation of the LID, the independent appraiser will complete a final special benefit study to determine the final total special benefit. The final assessment ratio will be applied uniformly to each property in the LID boundary determined to receive a special benefit from the improvements.

The Executive recommends that the final assessment roll be limited to an amount equal to \$160 million plus the amounts necessary to pay the costs of financing and to make a deposit to the LID Guaranty Fund. The ordinance confirming the final assessment roll will define the proportion of assessments representing financing costs and the Guaranty Fund deposit; the amount to be deducted, forgiven, or rebated to any property owner paying all of the assessment during the 30-day prepayment period.

Once a final assessment roll is established the City will be obligated to deliver the LID improvements. This formation ordinance states the City's intent not to pursue any future supplemental assessments to cover additional costs accrued during construction as described in Section 7.

#### Authorization of LID Bonds

The legislation identifies the payment method for the LID to be "payment by bonds" and authorizes the City to issue LID bonds or interim financing in order to pay the costs of the LID Improvements. After confirmation of the final assessment roll, and the expiration of the 30-day period for prepayment of assessments by property owners without interest or penalty, the City will finance the unpaid portion of the assessment roll by the issuing of the LID bonds. As described in Section 12 of the ordinance, the LID Bonds may be issued (i) to pay costs of the LID Improvements (including repayment of interfund loans or refunding of any and all short-term obligations issued to pay such costs), (ii) to pay the costs of creation and administration of the Waterfront LID, (iii) to pay the costs of financing, and (iv) to make a deposit to the LID Guaranty Fund. The amount deposited in the Guaranty Fund will be set pursuant to a future ordinance authorizing issuance of the LID Bonds but not to exceed a maximum of 10% of the amount of the LID Bonds issued. LID Guaranty Fund proceeds, when released from that fund in accordance with state law, will be earmarked to pay for major maintenance of the LID Improvements or other identified needs related to the Improvements.

#### Operating Partnership with Friends of Waterfront Seattle

Ensuring the completed Waterfront improvements are well-maintained and have the support of a strong public/non-profit partnership has been central to the City's goals and policies for the Waterfront Seattle program and a key interest of stakeholders who will be

paying an assessment as part of the LID. For this reason, a parallel, companion ordinance authorizing the City to enter into an operations and maintenance agreement with the Friends of Waterfront Seattle has been submitted. This agreement ensures a high level of on-going maintenance, programming, and security for the Waterfront, maximizing the long-term value of the Waterfront improvements. The Executive anticipates this ordinance being acted on in parallel with the LID Formation ordinance.

#### Next Steps

The formal protest period for LID Formation began on May 21, 2018, when the Seattle City Council passed the Resolution of Intent to Form the Waterfront LID and continues until 30 days after the Council's passage of this ordinance forming the LID. If property owners representing 60% or more of the value of the total assessment make a formal protest, then the City is divested of its authority to form the LID.

After the protest period closes, property owners then have an additional 30 days to file an appeal of the LID formation with the King County Superior Court. If there is no successful protest of the LID formation, the City will engage the same independent real estate appraiser that developed the preliminary special benefit assessment study to complete a final special benefit study. The independent appraiser will review the status of individual properties and any changes that have taken place since the development of the preliminary assessment roll, consider materials submitted by property owners and any updated data from the King County Assessor's Office to develop a final special benefit study to determine the final assessment roll.

A resolution setting the time, date and place of the assessment roll hearing is anticipated to be introduced at Council in spring 2019, with approval of the final assessment roll ordinance anticipated for fall 2019.

## **2. CAPITAL IMPROVEMENT PROGRAM**

- a. Does this legislation create, fund, or amend a CIP Project?     \_\_\_ Yes X No

## **3. SUMMARY OF FINANCIAL IMPLICATIONS**

- a. Does this legislation amend the Adopted Budget?             \_\_\_ Yes X No

- b. Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

This ordinance forms the Waterfront LID, which funds a portion of the Central Waterfront Improvement Program consistent with Council direction in Resolution 31812 and establishes the Waterfront LID Fund. If the LID is formed, the City will be legally committed to complete the projects as outlined in the formation ordinance. In addition, if the LID is formed, as an owner of property within the defined LID boundary area, the City will incur costs associated with assessments on City properties estimated to be \$1.6 to \$2 million based on special benefit amounts identified in the preliminary special

benefit study. The City may also incur costs related to administering the deferral programs (see Section 4-f below).

**c. Is there financial cost or other impacts of *not* implementing the legislation?**

If this ordinance is not approved, the formation of the Waterfront LID cannot move forward. This could potentially impact the schedule for construction, increasing capital costs through escalation, delaying the replacement of capital infrastructure. Not implementing the legislation would require the City to find other revenues to offset the LID proceeds or change the scope of the Central Waterfront program. The City has an interfund loan obligation for LID eligible costs that have been incurred to date that is intended to be paid by the LID bond proceeds upon issuance of LID bonds.

#### 4. OTHER IMPLICATIONS

**a. Does this legislation affect any departments besides the originating department?**

Yes. Parks, SCL and SPU all have infrastructure being built, improved or replaced as part of the Central Waterfront program. FAS is responsible for administering the LID.

**b. Is a public hearing required for this legislation?**

No.

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

Yes, upon formation of the LID, sellers of real property will be required to share information on any outstanding LID assessments owed to the City.

**d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

No, not for this ordinance. Publication of notice was required following the Resolution of Intent-to-Form and will be required prior to consideration of the final assessment roll.

**e. Does this legislation affect a piece of property?**

Yes, a map is included as an exhibit to the ordinance.

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

LID proceeds will be used to pay debt service on LID bonds that will partially fund the provision of 20 acres of improved parks and public spaces along Seattle's Waterfront. These spaces have been designed to encourage use by people of all ages, incomes, and abilities and supports free expression. Construction contracts associated with the waterfront improvements will meet the City's WMBE and priority hire program requirements. Employment associated with operating and maintaining waterfront parks and public spaces will provide living-wage jobs to local citizens regardless of their age, ethnicity, gender, or sexual orientation.

Passage of this legislation forms the Waterfront LID. If the LID is formed, confirmation of the LID final assessment roll is anticipated to take place in fall 2019 and notice of final assessments will be sent to each property. Upon receiving notice of final assessment amounts due, property owners will have the option to either make a single payment within 30 days for the entirety of their assessment or to finance the assessment over 20 years, paying in installments with interest and financing costs over that period as required by law. Only federal property, housing authority property and land designated for agricultural or timberland use are exempt from LID assessments. The impact to property owners providing low-income housing and human services to vulnerable and historically disadvantaged communities is anticipated to be low given that many of these properties have deed restrictions or existing recorded agreements with the City or other government agencies limiting how the property can be used. Properties with these types of long-term limitations often receive no special benefit from the LID improvements.

A number of State and City authorized deferral programs exist as an option for property owners experiencing economic hardship as a result of the LID.

- **Washington State:** State statute allows limited deferrals for low-income senior and low-income disabled adult property owners who may experience economic hardship as a result of the LID assessment. The State's special assessment deferral program is not a reduction in the amount owed. The program postpones payment of special assessments for up to 20 years. The amount deferred, plus interest per year, becomes a lien on the property by the state until the total amount deferred is paid. In addition, payments are subject to interest. Principal and accumulated interest are due upon sale or change of ownership, or at end of the deferral term. Due to the lien requirement, qualifying low-income property owners may still be impacted by the creation of the LID.
- **City of Seattle:** As defined in state statute, the City may provide an additional assessment deferral program to support property owners of low-income status receiving a LID assessment. Like the State deferral programs, the deferred amount plus interest per year becomes a lien on the property until the total amount deferred is paid. The City currently allows qualifying property owners to defer up to two installments, and the City's lien on the property is limited to the amount of two installments plus interest. Due to the lien requirement and the short-term nature of the City deferral program, qualifying low-income property owners may still be impacted by the creation of the LID. The Executive recommends authorizing this hardship deferral program and will define recommended economic hardship qualifications in the ordinance confirming the assessment roll.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

This legislation forms Local Improvement District to fund a portion of the cost of the improvements transform Seattle's central waterfront. The Waterfront Improvement

Program spans the waterfront from Pioneer Square to Belltown. It includes improved connections between center city neighborhoods and Elliott Bay, critical utility infrastructure, and new Alaskan Way and Elliott Way surface streets to serve all modes of travel and twenty acres of new and improved public space.