

May 25, 2021

MEMORANDUM

To: Public Assets and Native Communities Committee
From: Eric McConaghy, Analyst
Subject: Waterfront Local Improvement District Final Assessments and Bonds

On June 4, 2021, the Public Assets and Native Communities Committee (Committee) will receive a briefing, discuss and possibly vote on two Council Bills (CB) related to the Waterfront Local Improvement District #6751 (Waterfront LID):

- [CB 120072 - Final Assessments and Assessment Roll Waterfront LID 6751](#) and
- [CB 120073 - Waterfront LID Bonds](#)

This memorandum offers four takeaways about CB 120072 and CB 120073:

1. Passage of CB 120072 would approve the Waterfront LID Final Assessment Roll (Final Assessment Roll) and limit the total amount of the Waterfront LID final assessments (final assessments) for the purpose of constructing the Waterfront LID Improvements (the Improvements) plus financing costs to \$174,379,463;
2. Passage of CB 120073 would authorize the City to issue local improvement district bonds (the Waterfront LID Bonds) to pay costs of the Improvements;
3. Approval of CB 120072 and CB 120073 would culminate a decade of City legislative decisions; and
4. Council's Quasi-Judicial Rules prohibit certain communications about any individual's Waterfront LID final assessment.

1. Passage of CB 120072 would approve the Final Assessment Roll and limit the total amount of the final assessments for the purpose of constructing the Improvements plus financing costs to \$174,379,463.

The City formed the Waterfront LID in 2019 via [Ordinance 125760](#) in order to assess properties in the area determined to have special benefits from the Improvements. Consistent with this ordinance, the Seattle Department of Transportation (SDOT) Director prepared the Final Assessment Roll for approval.

A final assessment roll for any local improvement district (LID) is a listing of all properties in the LID and the amount to be assessed against each property based on the increase in value accruing to each property (the "special benefit") that is attributable to the construction of the local improvements. The passage of CB 120072 would approve the Final Assessment Roll for properties within the Waterfront LID and establish the levy to collect the assessed amount for each. Table 1 lists the names and descriptions for the Improvements.

Table 1. Waterfront LID Improvements

Improvement	Description
Promenade	A continuous public open space extending along the west side of Alaskan Way from King Street to Pine Street.
Overlook Walk	An elevated pedestrian bridge situated at the terminus of the Pike/Pine corridor, would include several buildings, an elevated lid over the surface street, open space with excellent view amenities, and an accessible pedestrian pathway with many connections between the Pike Place Market and the waterfront.
Pioneer Square Street Improvements	Streetscape and new roadway/ sidewalk improvements to portions of S Main Street, S Washington Street, Yesler Way and S King Street from Alaskan Way/First Avenue east to 2nd Avenue S. The improvements would create pedestrian-friendly links from Pioneer Square to the waterfront.
Union Street Pedestrian Connection	A universally accessible pedestrian link between the new waterfront and Western Avenue. An elevated pedestrian walkway and elevator would extend from the southwest corner of Union Street and Western Avenue to the eastern side of Alaskan Way.
Pike/Pine Streetscape Improvements	Pedestrian improvements along Pike and Pine streets from First Avenue to Ninth Avenue, providing enhanced pedestrian access to and from the Pike Place Market and waterfront.
Waterfront Park	A rebuilt pier park located at the base of Union Street, would provide a unique atmosphere for social gathering/performance spaces with excellent view amenities.

Ordinance 125760 limited the total of all final assessments to \$160 million plus financing costs. The total amount of the final assessments proposed in CB 120072 and the maximum bond issuance amount in CB 120073 (see below) would comply with the limit set by Ordinance 125760.

CB 120072 would approve a total amount for the final assessments of \$174,379,463 that when collected would yield revenue equal to about 49 percent of the \$357 million necessary to pay the full construction costs of the Waterfront LID Improvements and related costs. The City plans to pay the balance of the costs with funds from City, state, and philanthropic sources.

For context, the total estimated cost of the Improvements is about 48 percent of the estimated \$737 million cost of the entire Central Waterfront Improvement Program.¹ In addition to the Waterfront LID Improvements, the Central Waterfront Improvement Program includes support for the Seattle Aquarium expansion, Pike Place Marketfront (complete), Alaskan Way reconstruction, and Waterfront LID administration costs.

CB 120072 would allow full payment of assessments within 30 days of the official publication of the Final Assessment Roll, the prepayment period, or payment of

¹ <https://www.seattle.gov/Documents/Departments/FinanceDepartment/21adoptedbudget/OW.pdf>

assessments in installments over 20 years, with interest-only being due for each of the first 10 years and 10 equal, principal-plus-interest installments due annually on the outstanding principal for the second 10 years.

The estimated annual interest rate on Waterfront LID assessments would be 6.5 percent. The actual annual interest rate would be set by CB 120073 at a rate equal to the highest rate applicable to the Waterfront LID Bonds plus 0.35 percent. There would be no penalty for prepayment of a portion or all the principal balance outstanding at any time.

The legislation would also provide for handling delinquent payments and for deferral of payments for economically disadvantaged property owners.

2. Passage of CB 120073 would authorize the City to issue local improvement district bonds (the Waterfront LID Bonds) to pay costs of the Improvements.

Ordinance 125760 authorized the City to issue local improvement district bonds backed by the Waterfront LID assessments (the Waterfront LID Bonds). Passage of CB 120073 would authorize the City to issue the Waterfront LID Bonds in the maximum amount of \$174,379,463, equal to the total amount of the Final Assessment Roll that would be confirmed by the passage of CB 120072. However, the actual amount of the bond sale would likely be less than total amount of the Final Assessment Roll. Per CB 120073, the City would issue the Waterfront LID Bonds in an amount equal to total amount of the Final Assessment Roll minus the amount of all assessment payments received during the 30-day prepayment period.

The revenues from the Waterfront LID Bonds would be deposited in the Waterfront LID Fund and would be spent on cost of constructing the Improvements and financing costs. This would include repaying two interfund loans used to fund the Improvements: one² to the CWIF of approximately \$12.2 million and another³ to the Waterfront LID Fund of \$7.9 million. The City would also reimburse approximately \$9.7 million in Waterfront LID expenses that the City previously paid from other revenue sources within the CWIF. The City would also deposit some of the proceeds of the Waterfront LID Bonds sales to the Local Improvement Guaranty Fund and would expend some of the proceeds to pay the costs of issuance of the Waterfront LID Bonds.

CB 120073 would pledge the final assessments paid in installments (together with all interest and penalties) to the payment of the Waterfront LID Bonds debt service. The Waterfront LID Bonds would not be general obligations and would not be backed by the full faith and credit of the City. Bond holders would have claim only for payment from the final assessments and from the Local Improvement Guaranty Fund, not the general income of the City.

² Authorized by [Ordinance 123761](#), as amended by [Ordinance 125990](#)

³ Authorized by [Ordinance 125991](#)

CB 120073 proposes updates to Seattle Municipal Code (SMC) Chapter 20.08 Local Improvement Guaranty Fund because they are relevant and topical. Approval of the legislation would amend the SMC with language consistent with State law dealing with the local improvement guaranty funds⁴ and deferral of payment of assessments.⁵

3. Approval of CB 120072 and CB 120073 would culminate more than a decade of City legislative decisions.

The City has made clear its intention to form the Waterfront LID to provide funds to pay the costs of capital improvements for the Central Waterfront since the passage of [Ordinance 123761](#) in 2011. The attached chronology (Attachment 1) places the proposed legislation in context with the City's legislative decisions regarding the Waterfront LID over the past ten years. Approval of CB 120072 and CB 120073 would be consistent with the past decisions.

Guided by State law, the SMC and the [City Council Rules for Quasi-Judicial Proceedings \(QJ Rules\)](#), the City has completed the following necessary steps between the City's formation of the Waterfront LID with Ordinance 125760 and the approval of the Final Assessment Roll:

1. The City commissioned ABS Valuation (City Appraiser) to perform a Final Special Benefit Study;
2. The SDOT Director filed the final assessment roll based on the Final Special Benefit Study with the City Clerk;
3. The City set the date for the hearing and designated the Hearing Examiner (HE) to hold the hearing on the final assessment roll;
4. The HE conducted the hearing;
5. The HE filed his findings and recommendations based on the record from the hearing (the [Initial Report](#)), including recommendations to remand 17 properties (Remanded Properties) for further analysis;
6. Based on the HE's recommendations, Council directed the City Appraiser to submit further analysis concerning valuation of the Remanded Properties to the HE ([Resolution 31979](#)) – the City Appraiser fulfilled the direction;
7. Council directed the HE to review the City Appraiser's further analysis for the Remanded Properties and to hold a hearing on the results of the analysis on the Remanded Properties (Resolution 31979) – the HE fulfilled the direction;
8. Council directed the HE to reduce any findings, recommendations, and decisions on the Remanded Properties to writing and to consolidate them with the findings and recommendations of the Initial Report into a "[Final Report](#)" (Resolution 31979) – the HE fulfilled the direction;

⁴ [Revised Code of Washington \(RCW\) 35.54.060](#)

⁵ [RCW 35.43.250](#)

9. As designated by Council (multiple resolutions, see Attachment 1), the Public Assets and Native Communities Committee (Committee) held hearings of all appeals from the HE's recommendations for both the Initial Report and the Final Report (see [Clerk File 321893](#) and [Clerk File 321914](#)); and
10. On April 6, 2021, the Committee recommended that Council deny each appeal and that Council approve the final assessments and the Final Assessment Roll for Waterfront LID, with the revisions recommended by the HE.

Council has not yet completed the final step necessary before considering and potentially approving the Final Assessment Roll by voting on CB 120072. For the final step, Council must decide on each appeal and approve the Final Assessment Roll consistent with the decisions on the appeals. The Council would consider the recommendations of the Committee for these decisions.

Council's decisions on these matters would be demonstrated by adopting the Findings, Conclusions and Decision of the City Council of the City of Seattle In the Matter of the Final Assessment Roll for Local Improvement District No. 6751 (Waterfront LID) and the Appeals of Multiple Appellants (FCD) ([Clerk File 314476](#)). Council could vote on the adoption of the FCD and on the approval of CB 120072 and CB 120073 during the same Council meeting.

4. Council's Quasi-Judicial Rules prohibit certain communications about any individual's Waterfront LID final assessments.

Revised Code of Washington (RCW) 35.44.070 and Seattle Municipal Code (SMC) 20.04.090 require the Council to hear any appeals from the report of the Hearing Examiner on the final assessment roll for local improvement districts (LIDs). According to the City Council Rules for Quasi-Judicial Proceedings (QJ Rules), the matter of an appeal of an individual's final assessment for a LID is quasi-judicial. As a quasi-judicial matter, Councilmembers may not have any direct or indirect communication with a proponent, opponent, or party of record about the merits of an appeal of a Waterfront LID assessment outside a Council hearing or meeting considering the Waterfront LID.

The matter of an appeal of an individual's final assessment for a LID is pending when the Hearing Examiner has filed the Report with the City Clerk. The appeals of the Waterfront LID assessments became pending quasi-judicial matters on September 8, 2020 with the Hearing Examiner's filing of the Initial Report.

They will remain quasi-judicial until the final termination of all judicial appeals of the Council decision in the matter of the final assessment roll for the Waterfront LID. The Council decision may be appealed to King County Superior Court per RCW 35.44.200.

Next Steps

Council will meet on Tuesday, June 1 rather than May 31 in observance of Memorial Day. Council committees have been rescheduled for the same reason. The Public Assets and Native Communities Committee will meet on Friday, June 4.

If the Committee votes on recommendations to Council for CB 120072 and CB 120073 on June 4, then the Council could take final action on the legislation as soon as June 17 in accordance with [Council Rules VI.H.4](#): “Starting at noon on the Thursday immediately preceding a regular City Council meeting, committees shall not refer legislation to that meeting for final action except upon passage of a motion by the Chair to suspend this Rule and the concurrence of the President.”

If the Council and the Mayor approve both Council Bills in June 2021, then the City currently expects to issue Waterfront LID bonds by December 2021.

Attachments:

1. Chronology of Legislation and Related Actions Regarding the Waterfront LID

cc: Dan Eder, Interim Director
Aly Pennucci, Policy and Budget Manager

Attachment 1: Chronology of Legislation and Related Actions Regarding the Waterfront LID

Month/Year	Legislation	Decision-makers	Effect
Nov. 2011	ORD 123761	Council & Mayor	Authorized the creation of the Central Waterfront Improvement Fund (CWIF) and an interfund loan from the City's Consolidated Cash Pool of \$2.4 million to the CWIF until Dec. 31, 2016 for costs could be financed in part by a future Waterfront LID
Aug. 2012	RES 31399	Council & Mayor	Supported Concept Design and Framework Plan and endorsed Strategic Plan that called for funding plan of public, private, and philanthropic sources, including formation of the Waterfront LID
Nov. 2012	ORD 124033	Council & Mayor	Amended ORD 123761 to increase the amount of an interfund loan to the CWIF from \$2.4 million to \$13.7 million
Dec. 2013	ORD 124345	Council & Mayor	Increased the interfund loan authorization to the CWIF from \$13.7 million to \$31.2 million
Nov. 2016	ORD 125188	Council & Mayor	Extended the duration of the interfund loan to the CWIF from Dec. 31, 2016 to Dec. 31, 2019 and established the Transportation Master Fund as the lending fund
Sept. 2017	RES 31768	Council & Mayor	Reaffirmed the Central Waterfront Improvement Program funding plan including a future Waterfront LID and outlined the process for the formation of the Waterfront LID
May 2018	RES 31812	Council & Mayor	Declared the City's intent to construct the Waterfront Local Improvement District Improvements and to create the Waterfront LID; scheduled public hearings in July 2018; determined that the hearings would be held before a hearing examiner
Sept. 2018	n/a	n/a	<i>The Seattle Hearing Examiner (HE) conducted hearings in July. HE submitted the HE's Report on the comments received during the hearings, filed as Clerk File 320972.</i>
Jan. 2019	ORD 125760	Council & Mayor	Formed Local Improvement District No. 6751 to finance the LID Improvements and created a local improvement fund (the "Waterfront LID Fund") and authorized sale of Waterfront LID Bonds

Attachment 1: Chronology of Legislation and Related Actions Regarding the Waterfront LID

Month/Year	Legislation	Decision-makers	Effect
Jan. 2019	ORD 125761	Council & Mayor	Committed Friends of the Waterfront (Friends) to \$110 philanthropic contribution to Waterfront projects; authorized a 2-year pilot agreement with Friends to manage Waterfront spaces and anticipated a management agreement to follow; directed the Executive to submit park boulevard legislation to the City Council; and established the Central Waterfront Oversight Committee
Jan. 2019	ORD 125672	Council & Mayor	Approved a protest waiver agreement with certain Waterfront LID property owners that exchanged their waiver of objection to the Waterfront LID formation in exchange for limiting the total final assessment to \$160 plus financing and for the City's approval and implementation of an operation and maintenance ordinance (ORD 125671); and authorized the Office of the Waterfront Director to execute the agreement
Jan.-Nov. 2019	n/a	n/a	<i>The City commissioned ABS Valuation (City Appraiser) to perform a Final Special Benefit Study and based on the Final Special Benefit Study the SDOT Director filed the final assessment roll with the City Clerk (see Clerk File 321491).</i>
Nov. 2019	ORD 125990	Council & Mayor	Amended ORD 123761 to extend the duration interfund loan to the CWIF from Dec. 31, 2019 to Dec. 31, 2023; changed the lending fund from the Transportation Fund to the Real Estate Excise Tax I Capital Project Fund (REET I); and reduced the amount of the existing interfund loan from \$ 31.2 million to \$12.2 million
Nov. 2019	ORD 125991	Council & Mayor	Authorized the interfund loan of \$19 million from the REET I to the Waterfront LID Fund until Dec. 31, 2021 to pay the costs of LID Improvements in anticipation of the issuance of Waterfront LID Bonds; with ORD 125990, separated expenditures on Waterfront LID Improvements from other spending on Central Waterfront projects
Nov. 2019	RES 31915	Council & Mayor	Initiated the process to confirm Waterfront LID final assessments and set the date for the required hearing on the Waterfront LID final assessments
Feb.-Sept. 2020	n/a	n/a	<i>The HE conducted the hearing and subsequently filed his report of findings and recommendation with the City Clerk on Sept. 8, 2020 ("Initial Report" – see Clerk File 321780).</i>
Sept. 2020	n/a	n/a	<i>Multiple appellants filed appeals from the Initial Report with the City Clerk.</i>

Attachment 1: Chronology of Legislation and Related Actions Regarding the Waterfront LID

Month/Year	Legislation	Decision-makers	Effect
Sept. & Oct. 2020	RES 31969 , 31972 , 31973 , & 31974	Council	Delegated appeals from the Initial Report to the Public Assets and Native Communities Committee (PANC Committee) and fixed dates for the hearing of appeals
Nov. 2020	RES 31979	Council	Remanded certain properties to the City Appraiser for more analysis, per the HE's recommendations; directed the HE to hold a hearing on the further analysis and prepare a Final Report consolidating the Initial Report with the findings and recommendations on the remanded properties; and postponed hearings previously scheduled for Dec. 1, 2020 and Jan. 5, 2020 to March 2, 2021 and April 6, 2021, respectively
Dec. 2020-Feb. 2021	n/a	n/a	<i>The HE conducted the hearing and subsequently filed the Final Report with the City Clerk on Feb. 1, 2021 - see Clerk File 321888.</i>
Feb. 2021	n/a	n/a	<i>Multiple appellants filed appeals from the Final Report with the City Clerk.</i>
Feb. & March 2021	RES 31990 , 31996 , & 31997	Council	Delegated appeals from the Final Report to the PANC Committee and fixed dates for the hearing of appeals
March & April 2021	n/a	n/a	<i>On March 2, 2021, the PANC Committee held the hearing for multiple appeals of the Initial Report (see Clerk File 321893). On April 6, 2021, the Committee heard appeals from the Initial Report and appeals from the Final Report (see Clerk File 321914).</i>
April 2021	n/a	n/a	<i>The PANC Committee voted to recommended that Council deny each appeal and approve the final assessments and Final Assessment Roll, modified according to the HE's recommendations. The PANC Committee recommended adoption of the written record of the Council's action in this matter in the form of the Findings, Conclusions, and Decision document (see Clerk File 314467).</i>