



Legislation Text

File #: CB 120634, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to Ballard Business Improvement Areas; establishing a new 12-year Business Improvement Area to be known as the Ballard Improvement Area; levying special assessments upon owners of commercial property, multifamily residential property, and mixed-use property within the area; providing for the deposit of revenues in a special account and expenditures therefrom; providing for collection of and penalties for delinquencies; providing for the establishment of a Ratepayers Advisory Board; providing for an implementation agreement with a Program Manager; disestablishing the existing Ballard Business Improvement Area that was established by Ordinance 125151 (“2017 BIA”); suspending the issuance of assessments and providing for the continuity of services under the 2017 BIA; providing for the transfer of any remaining funds from the 2017 BIA Account; and ratifying and confirming certain prior acts.

WHEREAS, chapter 35.87A RCW authorizes the City to establish business improvement areas to provide special benefits to business and property owners within a defined geographic area through the imposition of special assessments; and

WHEREAS, the owners of commercial, multifamily residential, and mixed-use properties located within the area and representing nearly 65 percent of the total special assessments levied by this ordinance filed a petition with The City of Seattle (“City”) to establish a new Ballard Improvement Area pursuant to chapter 35.87A RCW, a copy of which is filed in Clerk File 322710; and

WHEREAS, to gauge the percentage of special assessments that were reflected in signed petitions, City staff followed RCW 35.87A.010, and calculated the dollar amount of the special assessment that each commercial, multifamily residential, or mixed-use property would pay, and compared the dollar amount represented by signed petitions and letters of support to the estimated total for the entire proposed Ballard Improvement Area, and the result was nearly 65% percent (64.3%) in approved and validated

petitions, which exceeds the threshold of 60 percent stated in RCW 35.87A.010; and

WHEREAS, the City Council adopted Resolution 32101, initiating the Ballard Improvement Area via the resolution method instead of the petition method as provided for in RCW 35.87A.030; and

WHEREAS, pursuant to RCW 35.87A.040, the City Council on August 15, 2023, adopted Resolution 32102 entitled “A RESOLUTION of intention to establish a new Business Improvement Area to be known as the Ballard Improvement Area (BIA) and fix a date and place for a hearing thereon,” which stated its intention to establish the new Ballard Improvement Area, the proposed boundaries, and the proposed programs, and which set the date and time for a public hearing; and

WHEREAS, pursuant to RCW 35.87A.180, the City Council adopted Resolution 32103, which stated its intention to disestablish the current Ballard Business Improvement Area established in 2016 by Ordinance 125151 (“2017 BIA”) and set a date and place for a public hearing; and

WHEREAS, the purpose of the Ballard Improvement Area is to enhance conditions for the commercial, multifamily residential, and mixed-use properties by performing activities that go beyond the basic services provided by the City; and

WHEREAS, as provided by Resolution 32102 and Resolution 32103, the City Council, through its Economic Development, Technology, and City Light Committee, held a public hearing regarding disestablishing the 2017 BIA and establishing a new Ballard Improvement Area at 9:30 a.m. on September 13, 2023, at City Council Chambers, City Hall, 600 Fourth Avenue, 2nd Floor, Seattle, Washington, 98104; and

WHEREAS, the testimony received at that public hearing resulted in the Council determining that establishing a new Ballard Improvement Area is in the best interest of the owners of commercial, multifamily residential, and mixed-use properties within the Ballard Improvement Area’s boundaries; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Disestablished. The current Business Improvement Area known as the Ballard Business

Improvement Area (“2017 BIA”) established by Ordinance 125151 shall be disestablished at 12:01 a.m. on Jan 1, 2024.

Section 2. 2017 BIA assessments to cease. No further BIA assessments from Ordinance 125151 shall be made after December 31, 2023.

Section 3. Winding up of operations. The Director of the Office of Economic Development or designee (“OED Director”) is authorized to enter into an agreement with the Program Manager of the 2017 BIA to provide for continuity of services and winding up of operations of the 2017 BIA. All 2017 BIA program and management operations shall cease effective December 31, 2023, and all remaining funds in the 2017 BIA Account shall immediately be transferred to the account described in Section 9 of this ordinance.

Section 4. Area established. As authorized by chapter 35.87A RCW, there is established a Business Improvement Area to be known as the Ballard Improvement Area (“BIA”), within the following boundaries as shown on the map attached to this ordinance as Attachment A and described in this section. When a street or alley is named, the area boundary is the centerline of the right-of-way including vacated portions unless otherwise specified in the description.

The Ballard Improvement Area:

- Beginning at the intersection of NW Market St and 28th Ave NW, proceed north along 28th Ave NW to the northern boundary of the property at the northeast corner of 28th Ave NW and NW Market St, continuing east along this northern boundary of adjoining parcels to 26th Ave NW
 - Proceed north along 26th Ave NW to NW 56th St
 - Proceed east along NW 56th St to the western boundary of the property at the northwest corner of NW 56th St and 24th Ave NW; proceed north along this western boundary to the property’s northern boundary, then continue east to the western boundary of the property at the southwest corner of NW 57th St and 24th Ave NW; proceed north along this western boundary to NW 57th St
 - Proceed north of NW 57th St to the western boundary of the property at the southwest corner of

NW 58th St and 24th Ave NW; continue along this western boundary to NW 58th St

- Proceed east along NW 58th St to the intersection at 22nd Ave NW; then continue east along NW 58th St to the second property (relative to this intersection) located on the southside, proceeding along its eastern boundary to its southern boundary; then west along this southern boundary to property's western boundary; then directly south to NW 57th St

- Proceed east along NW 57th St to the intersection at 17th Ave NW; then south along 17th Ave NW to NW 56th St

- Continue east along NW 56th St to the intersection at 15th Ave NW; then south to the intersection at NW 54th St

- Proceed west along NW 54th St to the intersection at 17th Ave NW; proceed south along 17th Ave NW to NW Dock Pl

- Proceed southwest along NW Dock Pl to the intersection at Ballard Ave NW; then proceed northwest along Ballard Ave NW, including all properties abutting the west side of Ballard Ave NW (not including parcel 2767702591), to the intersection at NW Market St

- Proceed west along NW Market St to 24th Ave NW, including parcels 2767702830 and 2767702831

- Proceed south along 24th Ave NW to the intersection at NW 54th St

- Proceed west along NW 54th St to 28th Ave NW; then continue north along 28th Ave NW to NW Market St

Secondary Service Area

Non-Contiguous Parcels - Secondary Services Area (Ballard Blocks; not to include parcels 2768303135 and 2768303225)

- Beginning at the intersection of Shilshole Ave NW and 15th Ave NW, proceed north along 15th Ave NW to the intersection of NW Ballard Way

- Proceed east along NW Ballard Way to intersection of 14th Ave NW; then proceed south along 14th Ave NW to the intersection of NW 45th St

- Proceed west along NW 45th St to the intersection of Shilshole Ave NW and 15th Ave NW

In case of a conflict between the descriptions of the areas and the map, the descriptions shall control.

Section 5. Programs. Special assessment revenues shall be used for the following component programs within the Business Improvement Area:

A. Public Safety and Public Health Enhancement;

B. Clean Environment and Public Realm;

C. Advocacy, Urban Design and Transportation;

D. Marketing and Promotions;

E. Business Development and Retention; and

F. Organizational Management.

All such activities are supplemental to programs and services provided by the City and are not intended to displace any services regularly provided by municipal government. The total projected cost of BIA programs that will be paid for with the proposed BIA's assessments in the fiscal year of 2024 is estimated to be approximately \$990,190. This will also be the approximate amount in subsequent years as adjusted by various factors including, but not limited to, inflation and other impacts to the total level of assessment due to factors discussed in the assessment formula.

Section 6. Levy of special assessments. To finance the programs authorized in Section 5 of this ordinance and as described in the Ballard Alliance Renewal and Business Plan, a 12-year special assessment shall be levied upon and collected from all owners of commercial property, multifamily residential property (buildings containing four or more residential units), and mixed-use property (multifamily residential and commercial) located within the boundaries of the Ballard Improvement Area (BIA) described in Section 4 of this ordinance and shown in Attachment A to this ordinance. Initial assessment calculations will be based on

property information from the King County Assessor’s Office for Value Year 2021/Tax Year 2022, as accessed on November 30, 2022, and the BIA shall annually update records based on data and information from King County and the City. Ratepayers shall be assessed by the City in 12 annual installments to be billed semi-annually beginning with the base year of authorization (2024), by applying the following assessment rates to each ratepayer:

A. First Year Assessment: $(\$0.60 \times (\text{Total Appraised Value}/\$1,000)) + (\$0.14 \times \text{Total Lot Square Feet})$.

Total Appraised Value in these calculations shall be based on Land + Improvements. This calculation is called the “Base Formula.” Modifications or limitations to the First Year Assessments are described below. To the extent that ratepayers are eligible for multiple assessment ceilings, the lowest applicable rate applies.

B. If the Total Appraised Value (Land + Improvements) and Total Taxable Value (Land + Improvements) in the King County Assessor’s records are not equal due to tax exemption status, the following rules apply:

1. If the Total Taxable Value is zero, then the First Year Assessment = $[(\$0.60 \times (\text{Total Appraised Value}/\$1,000)) + (\$0.14 \times \text{Total Lot Square Feet})] \times 25\%$.

2. If the Total Taxable Value is not zero, then the First Year Assessment = $(\$0.60 \times (\text{Total Taxable Value} / \$1,000)) + (\$0.14 \times (\text{Total Lot Square Feet} \times \text{Total Taxable Value} / \text{Total Appraised Value})) + ((\$0.60 \times (\text{Total Appraised Value} - \text{Total Taxable Value})/\$1,000) \times 25\%) + ((\$0.14 \times \text{Total Lot Square Feet} \times (\text{Total Appraised Value} - \text{Total Taxable Value})/\text{Total Appraised Value}) \times 25\%)$.

C. Multifamily Tax Exemption (MFTE) Residential Properties.

1. Residential properties receiving an MFTE tax exemption do not qualify for the 25 percent non-profit reduced assessment rate and assessments will be calculated using the Base Formula.

2. If a property is owned by a for-profit entity and qualifies for the MFTE from the City, the First Year Assessment will be calculated using the Total Appraised Value upon 100 percent completion of the building and/or authorization of MFTE.

D. Additional modifications or limitations to assessments are described below:

1. Residential Ceiling: The benefit ceiling for owned and rental multifamily residential units is \$130 per unit per year.

2. Building Square Foot Ceiling: The benefit ceiling for building square footage is \$0.25 per square foot for any property with an FAR that is 0.5 or more.

3. Special consideration will be given to a multifamily residential building containing four or more residential units. This applies whether that building is located on one or multiple property parcels. The intent is that the residential ceiling benefit would apply to all multifamily residential buildings containing four or more residential units whether or not the ratepayer has combined, or intends to combine, multiple parcels when the base year for BIA assessments is established. This includes buildings located on more than one property parcel owned by the following ratepayers:

a. "PPF AMLI 2428 NW Market Street" for the properties known as "AMLI Ballard Jacobsen Site";

b. "EQR-R E TAX DEPARTMENT" for the properties known as "Urbana Apartment";
and

c. "EQR Tallman LLC" for the properties known as "Ballard Tallman."

4. The following five parcels (listed by King County parcel number) will be assessed at 50 percent of the Base Formula, as these will benefit from secondary rather than primary BIA services: 2768303229, 2768303247, 2768303190, 2768303245, and 2768303315. These parcels, known as the Ballard Blocks, are non-contiguous with the rest of the BIA and are designated as a secondary service area. Due to this designation, the non-contiguous parcels will receive all BIA benefits excluding clean and safe services.

E. Assessment Installments and Annual Increments.

1. Ratepayers will be assessed by The City of Seattle for 24 biannual installments beginning with the base year of authorization (2024).

2. For each year following the first year of authorization, the following assessment escalations will apply to the assessment formulas:

a. Year 2: Year 2 assessments will equal Year 1 assessments times the percentage change in the Consumer Price Index (CPI) for All Urban Consumers in Seattle-Tacoma-Bellevue (“CPI-U-Seattle”), October 2022 to October 2023 unless there is an increase in Building Square Feet for a given parcel. If CPI-U-Seattle is less than two percent, use two percent. If CPI-U-Seattle is more than six percent, use six percent.

If there is an increase in Building Square Feet for a given parcel, then that parcel will be recalculated using the latest available King County Assessor’s data with the Land Area Factor, Building Square Foot Ceiling, and Residential Ceiling escalated by CPI-U-Seattle (between two and six percent).

b. Years 3 through 12: Use the same annual escalation scheme as for Year 2, with the percentage change of no more than 6% as the ceiling and no less than 2% as the floor, which is dependent on the CPI-U-Seattle between October 2022 and October of the year prior to the assessment year.

G. New benefit areas shall be added to the assessment roll on an annual basis, as follows. A “new benefit area” is created when a parcel’s net building square footage increases as a result of either a new building or expansion of an existing building. A new benefit area shall be added to the BIA assessment roll following its inclusion in the King County Assessor assessment roll during the preceding year. The new benefit area shall be assessed according to the Base Formula factors and assessment ceiling rates in effect during the assessment year. A new benefit area will continue to have its value updated to the most current year value until it is designated as 100 percent complete and no new dollars are added by the King County Assessor’s Office. The formula for a new benefit area will be calculated using the new King County Assessor’s values in the Base Formula multiplied by the annual CPI Factor in effect. New BIA assessments will be billed at the next regularly scheduled billing period established by the Director of Treasury Services.

H. Rate Changes. Changes in assessment rates other than as described in this section shall only be authorized by ordinance consistent with RCW 35.87A.140 and with the approval of the BIA Advisory Board

and shall not occur more than one time per year.

Section 7. Assessments shall commence as of January 1, 2024, or on the effective date of this ordinance, whichever is later.

Section 8. Billing schedule. Special assessments shall be billed on a semi-annual basis. The Treasury Director may change the billing frequency by directive to an interval no more frequent than quarterly. The Treasury Director shall mail a copy of a directive issued under this section to all ratepayers not less than 90 days before the new billing due date is to take effect.

Section 9. Deposit of revenues. There is in the City Treasury's Business Improvement Area Fund a separate subaccount designated the Ballard Improvement Area Account (called "the Account"). The following monies shall be deposited in the Account:

- A. All revenues from special assessments levied under this ordinance;
- B. All income to the City from public events financed with special assessments;
- C. Gifts and donations;
- D. Interest and all other income from the investment of Account deposits;
- E. Reimbursements due to the Account; and
- F. All revenues from special assessments levied under Ordinance 125151 pursuant to Section 3 of this ordinance.

Section 10. Administration. The Treasury Director shall administer the program for the City with authority to:

A. Collect the special assessments; refund special assessments when overpaid or otherwise improperly collected; extend the deadline for payment; and waive delinquency charges, processing fees, and interest whenever the delinquency results from extenuating circumstances beyond the ratepayer's control, such as a casualty loss causing premature closure of the business or bankruptcy, or the total payment due to the City

(exclusive of delinquency charges and interest) is \$10 or less;

B. Calculate and collect the interest, delinquency charges, and processing fees for late payments; and

C. Accept and deposit advance payment of assessments by ratepayers; accept donations from governmental agencies, the public, and owners and operators of businesses on property that is developed or redeveloped during the existence of the Ballard Improvement Area.

Section 11. Delinquent payments. If an assessment has not been paid within 30 days after its due date, the Treasury Director shall send a reminder notice and add a \$5 processing fee. If the assessment is not paid within 60 days after its due date, a delinquency charge shall be added in the amount of ten percent of the assessment. All assessments that are not paid within 60 days of the due date shall also bear interest from the due date at 12 percent per annum. The Treasury Director is authorized to refer any unpaid assessments to a collection agency or to bring an action to collect any unpaid assessments in any court of competent jurisdiction in King County.

Section 12. Notices. Notices of assessment, installment payments, or delinquency, and all other notices contemplated by this ordinance may be sent by ordinary mail or delivered by the City to the address shown on the records of the Treasury Director, and, if no address is shown there, to the address shown on the records of the King County Assessor's Office. Failure of the ratepayer to receive any mailed notice shall not release the ratepayer from the duty to pay the assessment on the due date and any interest, delinquency charges, and processing fees.

Section 13. Disputes. Any ratepayer aggrieved by the amount of an assessment or delinquency charge may upon request obtain a meeting with the Treasury Director or the Treasury Director's designee. If not satisfied, the ratepayer may appeal the matter to the City's Hearing Examiner in the manner provided for a contested case under Seattle Municipal Code Chapter 3.02. The ratepayer has the burden of proof to show that the assessment or delinquency charge is incorrect.

Section 14. Audit. The City may conduct random audits of ratepayers to ensure that assessments are

being properly calculated and reported.

Section 15. Expenditures. Expenditures from the Account shall be made upon demand and presentation of documentation of allowable expenses to the Treasury Director by the BIA Program Manager and shall be used exclusively for the purposes as defined in Section 5 of this ordinance.

Section 16. Program Manager. The Director of the Office of Economic Development or designee (“OED Director”) is authorized to contract with a local non-profit entity operating primarily within the City with experience in BIA management to act as the Program Manager. The Program Manager’s duties, subject to the approval of the ratepayers at each annual meeting, will be to manage the day-to-day operations of the Ballard Improvement Area and to administer the projects and activities. The Program Manager shall exercise fiduciary responsibility to spend the special assessment revenues exclusively for the benefit of the Ballard Improvement Area and only for the purposes identified in Section 5 of this ordinance. The Program Manager shall abide by City ordinances and state law related to business improvement areas.

Meetings of the Program Manager’s board or committee at which Ballard Improvement Area activities are anticipated to be discussed shall be open to the public, with at least five days’ advance notice posted by the Program Manager on its website and also disseminated by any other means that the Program Manager generally uses to communicate.

Section 17. BIA Advisory Board. The OED Director shall, within 30 days of the effective date of this ordinance, appoint an interim BIA Advisory Board comprised of ratepayers representative of the entire geography and variety of sizes within the Ballard Improvement Area. The OED Director shall solicit recommendations from the ratepayers and shall appoint the interim board from that list. The interim BIA Advisory Board will, within 90 days of the effective date of this ordinance, recommend an inaugural BIA Advisory Board (“Board”).

The composition of the Board shall be representative of the varying sizes and types of property owners, residents, and business tenants, within the geographic area of the Ballard Improvement Area and may include

public agencies.

The OED Director shall appoint the inaugural Board members from the list recommended by the interim BIA Advisory Board. The OED Director may appoint additional members to the Board beyond those recommended by the interim BIA Advisory Board to ensure a broad representation of ratepayers.

As a prerequisite to serving on the Board, each member shall sign an acknowledgment, prepared by the OED Director, that they will abide by City ordinances and state law related to business improvement areas.

The Board shall be responsible for: adopting bylaws consistent with the City's BIA policies; adopting policy guidelines; recommending approval of budgets, expenditures, and programs; and providing advice and consultation to the OED and Treasury Directors and to the Program Manager.

The Board shall meet at least once quarterly; recommend an annual work program and budget; address and discuss ratepayer concerns and questions regarding the Ballard Improvement Area programs; and sponsor an annual ratepayers' meeting. Meetings of the Board shall be open to the public and subject to the Open Public Meetings Act, with at least five days' advance notice posted by the Program Manager on its website and disseminated by any other means that the Program Manager generally uses to communicate.

At the annual ratepayers' meeting, the Board shall present its proposed work plan and budget for the next year, and its recommendation regarding whether to continue with the current Program Manager. The work plan, budget, and recommendation regarding whether to continue with the current Program Manager must be approved by a vote of the ratepayers and submitted to the OED Director for review and approval.

Section 18. Request to disestablish. The Ballard Improvement Area shall have a term of 12 years and will expire 12 years after the date that the area is established. Upon a petition signed by ratepayers that would pay 60 percent of the proposed special assessments, the BIA Advisory Board shall request that the City Council disestablish the Ballard Improvement Area in accordance with chapter 35.87A RCW.

Section 19. Ratification and confirmation. The making of contracts and expenditures and the sending of assessment notices consistent with the authority of this ordinance taken after its passage and prior to its

effective date are ratified and confirmed.

Section 20. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

Attachment:

Attachment A - Proposed BIA Boundaries