



Legislation Text

File #: CB 119297, Version: 2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE establishing a new SODO Parking and Business Improvement Area (BIA); levying special assessments upon owners of business, multi-family residential, and mixed-use properties 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; providing for the continuity of services and the distribution of remaining funds from the current SoDo BIA account that was established in 2013 by Ordinance 124306; 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 current SoDo Parking and Business Improvement Area (2013 SoDo BIA), which was established in 2013 by Ordinance 124306 to provide services and amenities for ratepayers paid for through a levy of special assessments, is set to expire on December 31, 2018; and

WHEREAS, the owners of business, multi-family residential, and mixed-use properties located within the area and representing at least sixty percent of the special assessments levied by this ordinance filed a petition with The City of Seattle to establish a SODO Parking and Business Improvement Area (SODO Business Improvement Area) pursuant to chapter 35.87A RCW, a copy of which is filed in Clerk File 320854; 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 business, multi-family residential, and 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

SODO Business Improvement Area, and the result was 61 percent, which exceeds the threshold of 60 percent stated in RCW 35.87A.010; and

WHEREAS, the City Council adopted Resolution 31823, initiating a SODO Business 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 July 16, 2018 adopted Resolution 31824, entitled 'A RESOLUTION of intention to establish a SODO Parking and Business Improvement Area and fix a date and place for a hearing thereon', which stated its intention to establish the SODO Business Improvement Area, the proposed boundaries and the proposed programs, and which set the date and place for a public hearing; and

WHEREAS, the purpose of the SODO Business Improvement Area is to enhance conditions for the business, multi-family residential, and mixed-use properties by performing activities that go beyond the basic services provided by The City of Seattle; and

WHEREAS, as provided by Resolution 31824 the City Council, through its Governance, Equity, and Technology Committee, held a public hearing on August 7, 2018 at City Council Chambers, City Hall, 600 Fourth Avenue, 2nd Floor, Seattle, Washington, 98104; and

WHEREAS, the testimony received at that hearing resulted in the Council determining that establishing a SODO Business Improvement Area is in the best interest of the owners of business, multi-family residential, and mixed-use properties within the SODO Business Improvement Area's boundaries;
NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Area established. As authorized by chapter 35.87A RCW, there is established a SODO Business Improvement Area within the following boundaries as shown on the map attached to this ordinance as Exhibit A (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):

Beginning at the intersection of South Atlantic Street and Colorado Avenue South, proceed south along Colorado Avenue South to South Massachusetts Street; then proceed east along South Massachusetts Street to Utah Avenue South; then proceed south along Utah Avenue South to the northern boundary of parcel number 766207214, including all parcels on the east side of Utah Ave South; then proceed west along the northern boundary of parcel number 766207214 to the eastern boundary of BNSF property; then proceed southwest along BNSF property line to Colorado Avenue South, including all properties east of the BNSF property line; then proceed south along Colorado Avenue South to South Hanford Street, including all parcels on the east side of Colorado Avenue South; then proceed west along South Hanford Street to East Marginal Way South, including all parcels on the north and south side of South Hanford Street; then proceed south along East Marginal Way South to South Hudson Street, including all parcels on the east side of East Marginal Way South; then proceed west along South Hudson Street to 1st Avenue South; then proceed north along 1st Avenue South to the northern edge of the railroad, near Diagonal Avenue South; then proceed southeast along the northern edge of the railroad to the western boundary of Interstate 5, including all parcels north of the railroad; then proceed north along the western boundary of Interstate 5 to South Royal Brougham Way, including all parcels west of the western boundary of Interstate 5; then proceed west along South Royal Brougham Way to 3rd Avenue South, including all parcels on the south side of South Royal Brougham Way; then proceed south along 3rd Avenue South to South Holgate Street, including all properties on both the west and east sides of 3rd Avenue South; then proceed west along South Holgate Street to Occidental Avenue South, including all parcels on the north and south sides of South Holgate Street; then proceed north along Occidental Avenue South to South Massachusetts Street, including all parcels on the east and west sides of Occidental Avenue South; then proceed north along Occidental Avenue South to South Atlantic Street, including all parcels on the west side of the Occidental Avenue South; then proceed west along South Atlantic Street to 1st Avenue South, including all parcels on the south side of South Atlantic Street; then proceed north along 1st Avenue South to South Royal Brougham Way, including all parcels on the west side of 1st Avenue South; then proceed west along South Royal Brougham Way to East Frontage Road South; then proceed south on East Frontage Road South to South Atlantic Street; then proceed west along South Atlantic Street to Colorado Avenue South.

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

Section 2. Special assessment revenues shall be used for the following component programs:

- A. Transportation;
- B. Safety;
- C. Cleaning; and
- D. Advocacy, marketing, communications, and business community development within existing zoning.

All such activities are supplemental to street maintenance and law enforcement provided by the City and are not intended to displace any services regularly provided by municipal government.

Section 3. To finance the programs authorized in Section 2 of this ordinance, there is a ten-year special assessment levied upon and shall be collected from the owners of business property, multi-family residential

property (buildings containing four or more residential units), and mixed-use property (multi-family residential and commercial) located within the boundaries of the SODO Business Improvement Area described in Section 1 of this ordinance. Records for the initial assessment calculations are based on data and information from the King County Assessor's Office for Tax Year 2017/Assessment Year 2016. The SODO Business Improvement Area will update records based on data and information provided by the King County Assessor's Office. Ratepayers will be assessed by The City of Seattle in ten annual installments to be billed semi-annually beginning in the year of authorization (2019), by applying an assessment rate to each ratepayer as described below:

A. The assessment rate on each assessable property within the SODO Business Improvement Area will be \$0.50 per \$1,000 of total taxable value except as described in subsections 5.B and 5.C of this ordinance.

B. Any properties designated by the King County Assessor as "Tax Exempt" that are leased by commercial tenants will be assessed at a rate of \$0.03 per lot square foot.

C. Any properties designated by the King County Assessor as "Tax Exempt" that are not leased by commercial tenants may contribute to the funding of SODO Business Improvement Area services but are not directly charged.

D. In 2019 and 2020, the assessment will be based on King County Assessor's Office data and information for Tax Year 2017/Assessment Year 2016.

E. All records will be updated every two years using King County Assessor's Office data and information as described below:

1. In 2021 and 2022, the assessment will be based on King County Assessor's Office data and information for Tax Year 2021/Assessment Year 2020;

2. In 2023 and 2024, the assessment will be based on King County Assessor's Office data and information for Tax Year 2023/Assessment Year 2022;

3. In 2025 and 2026, the assessment will be based on King County Assessor's Office data and information for Tax Year 2025/Assessment Year 2024; and

4. In 2027 and 2028, the assessment will be based on King County Assessor's Office data and information for Tax Year 2027/Assessment Year 2026.

F. Changes in assessment rates other than as described in this section shall only be authorized by ordinance consistent with RCW 35.87A.140 with the approval of the Ratepayers Advisory Board and shall not occur more than one time per year. The Ratepayers Advisory Board is described in Section 14 of this ordinance.

Section 4. Assessments shall commence as of January 1, 2019, or on the effective date of this ordinance, whichever is later.

Section 5. There is in the City Treasury's Business Improvement Area Fund a separate subaccount designated the SODO Business 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; and
- E. Reimbursements due to the Account.

Section 6. Administration. The Director of Finance and Administrative Services (FAS 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;

C. After receiving the recommendation of the Board, execute a program management contract with a program manager as described in Section 7 of this ordinance; and

D. 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 SODO Business Improvement Area for SODO Business Improvement Area programs.

Section 7. The FAS Director is authorized to contract with any local non-profit entity 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 SODO Business Improvement Area and to administer the projects and activities. It is the intent of the City Council that the FAS Director contract with the SODO Business Improvement Area as the initial program manager. The selection of a program manager upon the recommendation of the Ratepayers Advisory Board acting on behalf of the ratepayers shall obviate compliance with the consultant selection procedures of Seattle Municipal Code Chapter 20.50 and Section 20.42.050.

Section 8. Special assessments shall be billed on a semi-annual basis. The FAS Director may change the billing frequency by directive to an interval no more frequent than quarterly. The FAS 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. If an assessment has not been paid within 30 days after its due date, the FAS 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 FAS 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 10. 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 FAS Director, and, if no address is shown there, to the address shown on the records of the King County Assessor. 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 11. Any ratepayer aggrieved by the amount of an assessment or delinquency charge may on request obtain a meeting with the FAS Director. 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 12. The City may conduct random audits of ratepayers to ensure that assessments are being properly calculated and reported.

Section 13. Expenditures from the Account shall be made upon demand and presentation of documentation of allowable expenses to the FAS Director by the program manager and shall be used exclusively for the programs as defined in Section 2 of this ordinance.

Section 14. The Director of the Office of Economic Development (OED Director) shall, within 30 days of the effective date of this ordinance, appoint an interim Ratepayers Advisory Board comprised of ratepayers representative of the entire geography and variety of sizes in the SODO Business Improvement Area, and businesses and business tenants from within the SODO Business Improvement Area. The OED Director shall solicit recommendations from the ratepayers and shall appoint the interim board from that list. The interim Ratepayers' Advisory Board will, within 90 days of the effective date of this ordinance, recommend an inaugural Ratepayers Advisory Board (Board). The composition of the Board shall be representative of the

varying sizes, locations, and types of property owners and businesses within the geographic area of the SODO Business Improvement Area.

The OED Director shall appoint the inaugural Board members from the list recommended by the interim Ratepayers Advisory Board. The OED Director may appoint additional members to the Board beyond those recommended by the interim Ratepayers Advisory Board to ensure a broad representation of ratepayers, provided that the additional members so appointed do not exceed one-third of the entire membership of the Board. The Board shall include business tenants from within the SODO Business Improvement Area and may include public agencies.

The Board shall be responsible for adopting bylaws and policy guidelines; recommending approval of budgets, expenditures, and programs; and providing advice and consultation to the FAS Director 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 SODO Business Improvement Area programs; and sponsor an annual ratepayers' meeting. Meetings of the Board 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.

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 Board and submitted to the FAS Director.

The Board and program manager shall evaluate the SODO Business Improvement Area's programs and services and shall report their findings to the City Council when a request to modify or renew the SODO Business Improvement Area is proposed, or in five years from the time of formation, whichever is sooner.

Section 15. The FAS Director or the FAS Director's designee is authorized to enter into an agreement

with the program manager of the 2013 SoDo BIA to provide for continuity of services, fulfillment of any liabilities, and distribution of remaining funds in the 2013 SoDo BIA Account for the benefit of the 2013 SoDo BIA ratepayers, and transfer any remaining de minimis funds and receivables in the 2013 SoDo BIA Account to the SODO Business Improvement Area account described in Section 8 of this ordinance.

Section 16. Upon a petition signed by ratepayers that would pay sixty percent of the proposed special assessments, the Ratepayers Advisory Board shall request that the City Council disestablish the SODO Business Improvement Area in accordance with chapter 35.87A RCW.

Section 17. 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 18. 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 _____, 2018, and signed by me in open session in authentication of its passage this ____ day of _____, 2018.

President _____ of the City Council

Approved by me this _____ day of _____, 2018.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2018.

Monica Martinez Simmons, City Clerk

(Seal)

Exhibit:
Exhibit A - SODO Business Improvement Area