Legislation Details (With Text)

File #:	CB 120162 **Version:** 2	**Name:**	CB 120162
Type:	Ordinance (Ord)	**Status:**	Passed
		In control:	City Clerk
On agenda:	9/27/2021		
Final Action:	10/1/2021	**Ord. No.**	Ord 126446
Title:	AN ORDINANCE establishing a new 15th Avenue East Business Improvement Area (BIA); levying special assessments upon owners of commercial property, multi-family 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 BIA Advisory Board; providing for an implementation agreement with a Program Manager; and ratifying and confirming certain prior acts.		
Sponsors:	Tammy J. Morales		
Indexes:			
Attachments:	1. Ex A – 15th Avenue East Business Improvement Area, 2. Summary and Fiscal Note, 3. Summary Att A - 15th Ave E BIA Benefit Analysis, 4. Summary Att B - 15th Ave E BIA Racial Equity Toolkit, 5. OED Presentation, 6. Merchants Group Presentation, 7. Central Staff Memo, 8. Amendment 1 - Program priorities and board composition, 9. Corrected Amendment 1 (added; 9/22/21), 10. Signed Ordinance 126446, 11. Affidavit of Publication		

Date	Ver.	Action By	Action	Result
10/1/2021	2	City Clerk	attested by City Clerk	
10/1/2021	2	Mayor	returned	
10/1/2021	2	Mayor	Signed	
10/1/2021	2	City Clerk	submitted for Mayor's signature	
9/27/2021	2	City Council	passed	Pass
9/21/2021	1	Community Economic Development Committee	pass as amended	Pass
9/8/2021	1	Community Economic Development Committee	discussed	
8/16/2021	1	City Council	referred	
8/10/2021	1	Council President's Office	sent for review	
8/3/2021	1	City Clerk	sent for review	
8/3/2021	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE establishing a new 15th Avenue East Business Improvement Area (BIA); levying special assessments upon owners of commercial property, multi-family 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 BIA Advisory Board; providing for an implementation agreement with a Program Manager; 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, multi-family residential, and mixed use properties located within the area and representing over 65 percent of the total special assessments levied by this ordinance filed a petition with The City of Seattle ("City") to establish a new 15th Avenue East Business Improvement Area pursuant to chapter 35.87A RCW, a copy of which is filed in Clerk File 322031; 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, multi-family 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 15th Avenue East Business Improvement Area, and the result was nearly 73 percent 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 32013, initiating the 15th Avenue East 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 August 9, 2021, adopted Resolution 32014 entitled "A RESOLUTION of intention to establish a 15th Ave Business Improvement Area and fix a date and place for a hearing thereon.", which stated its intention to establish the 15th Avenue East Business Improvement Area, the proposed boundaries, and the proposed programs, and which set the date and time for a public hearing; and

WHEREAS, the purpose of the 15th Avenue East Business Improvement Area is to enhance conditions for the commercial, multi-family residential, and mixed-use properties by performing activities that go beyond

the basic services provided by the City; and

WHEREAS, as provided by Resolution 32014, the City Council, through its Community Economic Development Committee, held a virtual public hearing at 2:00 p.m. on September 8, 2021, at City Council Chambers, City Hall, 600 Fourth Avenue, 2nd Floor, Seattle, Washington, 98104; and

WHEREAS, the testimony received at that virtual public hearing resulted in the Council determining that establishing a new 15th Avenue East Business Improvement Area is in the best interest of the owners of commercial, multi-family residential, and mixed-use properties within the 15th Ave East 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 15th Avenue East Business Improvement Area ("15th Ave BIA") within the following boundaries as shown on the map attached to this ordinance as Exhibit 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:

• Beginning at the northern-most intersection of East Mercer Street and 15th Avenue East, proceed south to East Denny Way, including all parcels adjoining the east and west sides of 15th Avenue East and excluding parcels south of East Denny Way.

• Beginning at the intersection of East Thomas Street and 16th Avenue East, proceed south to the intersection of 16th Avenue East and East Denny Way, including parcels adjoining the west side of 16th Avenue East.

• Beginning at the intersection of East John Street and 15th Avenue East, proceed west to 14th Avenue East, including all parcels adjoining on the north side.

• Beginning at the intersection of East John Street and 14th Avenue East, proceed north to East Thomas Street, including the parcel adjoining on the east side of 14th Avenue East.

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

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

A. Neighborhood beautification within the Business Improvement Area;

B. Street festival within the Business Improvement Area;

C. Program management and advocacy;

D. Graffiti removal and cleaning; and

E. Economic development in the form of planning and promotion of the area, including, when consistent with that goal, efforts to prevent small businesses within the district from being displaced.

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. Levy of special assessments. To finance the programs authorized in Section 2 of this ordinance, a seven-year special assessment shall be levied upon and collected from the owners of commercial 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 15th Ave BIA described in Section 1 of this ordinance. Initial assessment calculations will be based on property information from the King County Assessor's Office for Tax Year 2021. The 15th Ave BIA shall annually update records based on data and information from King County and the City. Ratepayers shall be assessed by the City in seven annual installments to be billed semi-annually beginning in the year of the authorization (2022), by applying the following an assessment rates to each ratepayer:

A. First Year Assessment = ($0.15 per Lot Square Footage) + ($0.10 per $1,000 of total assessable value). This calculation is called the "Base Formula."

B. For each year following the first year of authorization, the assessment rates shall be adjusted by an Inflationary Factor applied to each of the assessment rates after the first year assessment. The Inflationary Factor will be the lesser of three percent per year or the percentage change in the Consumer Price Index for All

Urban Consumers in Seattle-Tacoma-Bellevue (CPI-U-Seattle), as published by the U.S. Department of Labor, Bureau of Labor Statistics (available at: http://www.bls.gov/eag/eag.wa_seattle_msa.htm), between September 2022 and September of the year prior to the assessment year.

C. "New Benefit Areas" shall be added to the assessment roll on an annual basis, and will supersede the previous assessment for that parcel. A New Benefit Area is created when a parcel's Net Building Square Footage increases as a result of either a new building or significant expansion of an existing building, as recorded 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 the Department of Finance and Administrative Services or designee ("FAS Director").

E. 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 4. Assessments shall commerce as of January 1, 2022, or on the effective date of this ordinance, whichever is later.

Section 5. Billing schedule. 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 6. Deposit of revenues. There is in the City Treasury's Business Improvement Area Fund a separate subaccount designated the 15th Ave East 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 7. Administration. The 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; 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 15th Ave BIA for 15th Ave BIA programs.

Section 8. Delinquent payments. 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 9. 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 FAS 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 10. Disputes. Any ratepayer aggrieved by the amount of an assessment or delinquency charge may upon 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 11. Audit. The City may conduct random audits of ratepayers to ensure that assessments are being properly calculated and reported.

Section 12. Expenditures. 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 13. Program Manager. The Director of the Office of Economic Development or designee ("OED Director") is authorized to contract with a 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 15th Ave BIA and to administer the projects and activities.

The OED Director shall contract with a local non-profit entity to serve as the initial Program Manager.

Meetings of the Program Managers' board or committee at which 15th Ave BIA-funded activities are anticipated to be discussed shall be open to the public, with at least five days' advance notice posted by the Program Manager(s) on its website and also disseminated by any other means that the Program Manager(s) generally uses to communicate.

Section 14. BIA Advisory Board. The OED Director shall, within 30 days of the effective date of this ordinance, appoint an interim BIA Advisory Board ("Board") comprised of ratepayers representative of the entire geography and variety of sizes in the 15th Ave BIA, and residents and business tenants from within the 15th Ave BIA. 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.

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 15th Ave BIA, and may include public agencies. The Board shall include at least two commercial tenants subject to a triple net lease.

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 related to business improvement areas and exercise fiduciary responsibility to collect and spend the special assessment revenues exclusively for the programs identified in Section 2 of this ordinance.

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 OED and FAS 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 15th Ave BIA 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 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 ratepayers and submitted to the OED Director.

Section 15. Request to disestablish. The 15th Ave BIA shall have a term of seven years and will expire seven 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 15th Ave BIA in accordance with chapter 35.87A RCW.

Section 16. 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 17. 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.

Adopted by the City Council the _____ day of _____, 2021, and signed by me in open session in authentication of its passage this _____ day of _____, 2021.

_____

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

_____

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:
Exhibit A - 15th Avenue East Business Improvement Area