



Legislation Text

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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.

WHEREAS, in January 2011, the City Council (“Council”) of The City of Seattle (the “City”) adopted Resolution 31264, creating the Central Waterfront Committee (CWC) to oversee development of the waterfront conceptual design and framework plan (“Concept Design and Framework Plan”), to ensure robust and innovative public engagement, to identify public and private funding sources, and to establish the foundation for a lasting civic partnership for the implementation of improvements to the central waterfront area of Seattle upon the removal of the Alaskan Way Viaduct; and

WHEREAS, by Ordinance 123761, originally passed in November 2011 and as amended by Ordinance 125188, the Council authorized creation of the Central Waterfront Improvement Fund and authorized an interfund loan to that fund to allow the Seattle Department of Transportation (SDOT) to incur pre-construction costs of planning and design for improvements that could be financed in part by a future local improvement district to be formed and known as the “Waterfront LID”; and

WHEREAS, by Resolution 31399, adopted in August 2012, the Council expressed the City’s support for the Concept Design and Framework Plan, which was developed based on broad and inclusive public

engagement over two years by the City and the CWC, and endorsed a Central Waterfront Strategic Plan (“Strategic Plan”), which established a funding plan and called for leveraging a mix of public, private, and philanthropic sources, including formation of the Waterfront LID, to achieve the vision described in the Concept Design and Framework Plan; and

WHEREAS, the Council subsequently established the “Central Waterfront Improvement Program” to incorporate elements of the Concept Design and Framework Plan into the City’s annual Capital Improvement Plans, pursuant to which the City is planning to invest approximately \$248 million from a range of local funding sources; and

WHEREAS, in addition to the local funding sources, the State of Washington has committed approximately \$194 million toward the completion of various components of the Central Waterfront Improvement Program; and

WHEREAS, a portion of the Central Waterfront Improvement Program includes those improvements identified in Section 1 of this ordinance (the “LID Improvements”), which are intended to be financed through the formation of the Waterfront LID; and

WHEREAS, by Resolution 31768, adopted in September 2017, the Council reaffirmed the funding plan (including local improvement district formation) for the Central Waterfront Improvement Program and outlined a process for formation of the Waterfront LID; and

WHEREAS, by Resolution 31812 (“Intent-to-Form Resolution”) adopted in May 2018, the Council declared its intent to order the construction of the LID Improvements and to create the Waterfront LID to assess a part of the cost and expense of carrying out those LID Improvements against the property specially benefited thereby; and

WHEREAS, it is the intention of this Council that, after confirmation of a final assessment roll and the expiration of the 30-day period for prepayment of such assessments without interest or penalty, the City will finance the unpaid portion of the assessment roll by the issuance of local improvement district

bonds (“LID Bonds”) which will provide for a deposit of bond proceeds into the City’s Local Improvement Guaranty Fund in an amount to be set pursuant to the ordinance authorizing issuance of the LID Bonds (but not to exceed a maximum of 10 percent of the amount of the LID Bonds issued) and that those 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. This Council further intends that persons who pay their assessments in full during the 30-day prepayment period will not be responsible for these financing costs (i.e., the costs of issuing the LID Bonds and making a Guaranty Fund deposit); and

WHEREAS, all of the preliminary proceedings for the establishment of the Waterfront LID have been taken as provided by law, all as further described in Section 2 of this ordinance; and

WHEREAS, the Council has determined it to be in the best interests of the City that the LID Improvements as hereinafter described be carried out and that the Waterfront LID be created in connection herewith;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. LID Improvements. The LID Improvements consist of those improvements within the Central Waterfront Improvement Program that are identified with particularity on Exhibit A to this ordinance, which is incorporated herein by reference.

Section 2. LID Formation Steps Taken. The City has taken the required preliminary steps to the formation of an LID, including:

(a) Formation Hearings. By adopting the Intent-to-Form Resolution in May 2018, the City Council declared its intention to order the LID Improvements and fixed the times and places for hearing all matters relating to the proposed LID Improvements and all comments thereon and objections thereto (the “Formation Hearings”).

(b) LID Improvements Estimated Cost Certified. The Director of the Office of the Waterfront and

Civic Projects (OWCP), on behalf of the Director of Transportation, Seattle Department of Transportation, caused an estimate to be made of the cost and expense of the proposed LID Improvements and certified that estimate to the City Council on June 1, 2018, together with all papers and information in the Director's possession touching the proposed LID Improvements; a description of the boundaries of the proposed LID; and a statement of what portion of the cost and expense of the LID Improvements should be borne by the property within the proposed Waterfront LID. The Director's estimate is accompanied by a diagram of the proposed Waterfront LID area showing the lots, tracts, parcels of land, and other property which will be specially benefited by the proposed LID Improvements and the estimated cost and expense thereof to be borne by each lot, tract and parcel of land or other property.

(c) Notice Provided and Public Hearings Conducted. The City caused due notice of the Formation Hearings to be given in the manner provided by law and as described in the recitals to this ordinance. The Formation Hearings were held on the dates and at the times described in the Intent-to-Form Resolution, and all objections to the proposed LID Improvements were duly considered by the Seattle Hearing Examiner or the Hearing Examiner's designee, and all persons appearing at such hearing and wishing to be heard were heard.

(d) Hearing Examiner Report Received by Council. The Seattle Hearing Examiner has submitted the Hearing Examiner's Report on the comments received during the Formation Hearings on the City's intention to form the LID (the "Hearing Examiner's Report"), Clerk File 320972.

Section 3. LID Improvements Ordered. Having completed the foregoing preliminary proceedings and in consideration of the Hearing Examiner's Report, the City Council determines it to be in the best interests of the City that the LID Improvements as herein described be carried out and that a local improvement district be created in connection herewith. Therefore, pursuant to RCW 35.43.040, the City Council orders the construction of the LID Improvements. The LID Improvements shall be in accordance with plans and specifications prepared by the Director of the OWCP, on behalf of the Director of Transportation of the Seattle Department of Transportation, and on file in the City Clerk's office, and may be modified by the City Council

as long as such modifications do not affect the purpose of the LID Improvements or constitute materially different improvements; provided, however, that changes in detail of such plans that do not significantly alter the scope or costs of the LID Improvements will not require further approval.

Section 4. Local Improvement District Created. There is created and established a local improvement district, to be known as Local Improvement District No. 6751 of the City (interchangeably, “LID 6751” or the “Waterfront LID”). The boundaries of the Waterfront LID are described in Exhibit B attached hereto and by this reference incorporated herein. It is hereby found that the above-described boundaries embrace as nearly as practicable all the property specially benefited by the LID Improvements.

Section 5. Allocation of Costs. The total estimated cost and expense of design and construction of the Central Waterfront Improvement Program is estimated to be approximately \$712 million. Notwithstanding the provisions of any other ordinance of the City, the total cost of (a) the LID Improvements, including the planning, design, and construction of the improvements, and (b) the estimated costs of creation and administration of the Waterfront LID (together, the “LID Expenses”), and the estimated financing costs (i.e., the costs of issuing the LID Bonds and estimated amounts necessary to fund a deposit to the LID Guaranty Fund), is declared to be approximately \$346.57 million, all as described in Exhibit C to this ordinance.

The portion of the LID Expenses that shall be borne by and assessed against the property within the Waterfront LID specially benefited by the LID Improvements shall not exceed \$160 million plus the amounts necessary to pay the costs of financing (including the costs of issuing the LID Bonds and making a deposit to the LID Guaranty Fund). Assessments shall be made against the property within the Waterfront LID in accordance with the special benefits accruing to such property. The balance of the cost and expense of the LID Improvements shall be paid from other amounts available to the City, including philanthropic donations from individuals and organizations, consistent with the City’s overall funding plan for the Central Waterfront Improvement Program.

Section 6. Method of Assessment. In accordance with the provisions of RCW 35.44.047, the City

may use any method or combination of methods to compute assessments that may be deemed to fairly reflect the special benefits to the properties being assessed.

Section 7. Final Assessment Roll. Upon approval of this ordinance, an assessment roll shall be prepared and, after notice and hearing in the manner provided by law, the assessment roll shall be confirmed. The final confirmed assessment roll will 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. All remaining costs and expenses of the LID Improvements and the Central Waterfront Improvement Program are to be paid from the sources identified in Section 5 of this ordinance or other amounts budgeted for this purpose in the future. It is the City's intent not to pursue any future supplemental assessments to cover additional costs accrued during construction.

Section 8. Mode of Payment. In accordance with the provisions of SMC 20.04.050, the mode of payment for the Waterfront LID is "payment by bonds." Assessments not paid within the 30-day prepayment period provided by law shall be payable in installments of principal and interest with terms to be fixed by future ordinance.

Section 9. Deferral of Assessments for Economically Disadvantaged Property Owners. The collection of an assessment upon property assessed by a local improvement district, or any installment thereof, may be deferred as provided in RCW 35.43.250 and 35.54.100, as now existing or hereafter amended, upon the application of a person responsible for the payment of an assessment, who is economically disadvantaged. The City shall establish, in the ordinance confirming the assessment roll, the terms and conditions for the deferral of collection of such assessments, the persons eligible therefor, the rate of interest, the duties of the respective City officials and the obligations of the City's previously created Local Improvement Guaranty Fund with respect thereto, all in accordance with chapter 20.12 SMC and RCW 35.43.250 and 35.54.100.

Section 10. Local Improvement Fund Created. The Local Improvement District No. 6751 Fund ("Waterfront LID Fund") is created and established in the City Treasury for the purpose of paying the cost of

the LID Improvements provided for in this ordinance and into which shall be paid all of the assessments collected in the Waterfront LID as and when directed by the ordinance confirming the assessment roll. The proceeds of interfund loans or other short-term obligations drawn against the fund which may be issued and sold by the City, and the collections of assessments, interest and penalties thereon, shall be deposited in the Waterfront LID Fund. Notwithstanding any other ordinance of the City (including provisions of the Seattle Municipal Code), the Director of the Finance Division of the Department of Finance and Administrative Services (“City Finance Director”) is authorized and directed to create within the Waterfront LID Fund such accounting designations as may be necessary to segregate the amounts available to be used to pay the costs of the LID Improvements from the assessments collected for repayment of the LID Bonds.

Section 11. Construction of Improvements; Payment for LID Improvements. Notwithstanding the foregoing or the provisions of any other ordinance of the City, unless the authority to proceed is restrained by protest under RCW 35.43.180, the LID Improvements may be carried out in whole or in part under the provisions of RCW 35.51.020, Chapter 39.10 RCW, Article VII of the City Charter, Chapter 20.04 SMC or as otherwise authorized by law.

Section 12. Authorization of LID Bonds and Interim Financing.

(a) Bonds. The City is authorized to issue LID Bonds, in one or more series, for the Waterfront LID, which shall bear interest at a rate and be payable on or before a date or dates to be hereafter fixed by 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 LID Bonds shall be paid and redeemed by the collection of assessments to be levied and assessed against the property within the Waterfront LID, payable in annual installments, with interest at a rate to be hereafter fixed by ordinance under the mode of “payment by bonds,” as defined by law and the ordinances of the City. The form, amounts, dates, interest rates and denominations of such bonds hereafter shall

be fixed pursuant to ordinance of the City Council.

(b) Interim Financing. In anticipation of the issuance of the LID Bonds, the City Finance Director or the Finance Director's designee has previously been authorized in Ordinance 125188 to loan funds from the City's Transportation Master Fund or its participating funds to the Central Waterfront Improvement Fund, for a period beginning December 30, 2011. Pending issuance of the LID Bonds, the City may provide for the extension of this or additional interfund loans to pay for costs of the LID Improvements or for the issuance of short-term obligations pursuant to chapter 39.50 RCW or local improvement district notes in accordance with applicable law and ordinances of the City.

(c) Expenditures and Reimbursement. The City on December 23, 2013, declared its official intent to reimburse itself for expenditures to be made for the LID Improvements (other than for any cost or expense expected to be borne by the City) prior to the date that any short-term obligations or local improvement district bonds are issued to finance the LID Improvements, from proceeds of interfund loans or other funds that are not, and are not reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside to pay the cost of the LID Improvements.

Section 13. Restraint by Protest. The jurisdiction of the Council to proceed with the LID Improvements shall be divested by a protest filed with the Council within 30 days from the date of passage of this ordinance, all in accordance with RCW 35.43.180.

Section 14. Filing of Preliminary Assessment Roll. The Director of OWCP, on behalf of the Director of Transportation, filed the preliminary assessment roll and other information required by SMC 20.04.060 with the City Clerk on June 1, 2018. Notwithstanding the provisions of any other ordinance of the City, not later than 15 days after the passage of this ordinance, the Director of Finance and Administrative Services (FAS) shall post the preliminary assessment roll for Local Improvement District No. 6751 upon the Director's index of local improvement assessments against the properties affected by the local improvement.

Section 15. Section Headings. The section headings in this ordinance are used for convenience only

and shall not constitute a substantive portion of this ordinance.

Section 16. Ratification. Any act consistent with the authority of this ordinance taken prior to its effective date is ratified and confirmed.

Section 17. Effective Date. 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 a majority consisting of more than two-thirds of all of the members of the City Council the _____ day of _____, 2019, and signed by me in open session in authentication of its passage this _____ day of _____, 2019.

President _____ of the City Council

Approved by me this _____ day of _____, 2019.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2019.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Exhibit A - Waterfront LID Improvements

Exhibit B - Waterfront LID Boundaries

Exhibit C - Waterfront LID Improvements Cost Estimate Summary