



Legislation Text

File #: CB 120537, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to downtown business improvement areas; establishing a new ten-year Business Improvement Area to be known as the Metropolitan Improvement District; 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 Metropolitan Improvement District that was established by Ordinance 124175 (“2013 MID”); suspending the issuance of assessments and providing for the continuity of services under the 2013 MID; providing for the transfer of any remaining funds from the 2013 MID 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 over 66 percent of the total special assessments levied by this ordinance filed a petition with The City of Seattle (“City”) to establish a new Metropolitan Improvement District pursuant to chapter 35.87A RCW, a copy of which is filed in Clerk File 322591; 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 Metropolitan Improvement District, and the result was nearly 66 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 32089, initiating the Metropolitan Improvement District 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 March 28, 2023, adopted Resolution 32090 entitled “A RESOLUTION of intention to establish a new Metropolitan Improvement District and fix a date and place for a hearing thereon,” which stated its intention to establish the new Metropolitan Improvement District, 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 32091, which stated its intention to disestablish the current Metropolitan Improvement District established in 2013 by Ordinance 124175 and set a date and place for a public hearing; and

WHEREAS, the purpose of the Metropolitan Improvement District 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 32090, the City Council, through its Economic Development, Technology, and City Light Committee, held a virtual public hearing at 9:30 a.m. on April 12, 2023, 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 Metropolitan Improvement District is in the best interest of the owners of commercial, multifamily residential, and mixed-use properties within the Metropolitan Improvement District’s boundaries; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Disestablished. The current Business Improvement Area (BIA) known as the Metropolitan Improvement District (“2013 MID”) established by Ordinance 124175 shall be disestablished at 12:01 a.m. on

July 1, 2023.

Section 2. 2013 MID Assessments to Cease. No further MID assessments from Ordinance 124175 shall be made after July 1, 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 2013 MID to provide for continuity of services and winding up of operations of the 2013 MID. All 2013 MID program and management operations shall cease effective July 1, 2023 and all remaining funds in the 2013 MID 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 Metropolitan Improvement District (“MID”), 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 Metropolitan Improvement District Area:

- From the corner of Elliott Avenue and Denny Way, proceed west to Elliott Bay [excluding Myrtle Edwards Park]; then proceed
 - South along the waterfront to Alaskan Way and Broad Street; then proceed
 - South along Alaskan Way, including the piers and/or properties abutting the west side of Alaskan Way, to South Dearborn St; then proceed
 - East to 1st Ave South; then proceed
 - South to South Royal Brougham Way, including properties abutting the west side of 1st Ave South to Alaskan Way South; then proceed
 - East to Occidental Avenue South; then proceed
 - North on Occidental Avenue South to South King Street; then proceed

- East on South King Street, including properties abutting the south side of South King Street to 4th Avenue South; then proceed

- North on 4th Avenue South to South Washington Street; then proceed
- East on South Washington Street to 6th Avenue South; then proceed
- North along 6th Avenue South and 6th Avenue to Jefferson Street; then proceed
- North along Interstate-5 to Denny Way [excluding Freeway Park]; then proceed
- West along Denny Way and West Denny Way to Elliott Avenue.

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. Cleaning and Maintenance Services;
- B. Community Safety, Hospitality, and Outreach Services;
- C. Public Events and Beautification of Public Spaces;
- D. Economic Development, Advocacy and other Planning Services;
- E. Promotion, Marketing and Communication Services;
- F. Transportation and Parking Support; and
- G. Program 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 MID programs that will be paid for with the proposed MID's assessments in the fiscal year of 2023-2024 is estimated to be approximately \$18.3 million. 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, a ten-year special assessment shall be levied upon and collected from the 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 Metropolitan Improvement District (MID) described in Section 4 of 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. The MID shall annually update records based on data and information from King County and the City. Ratepayers shall be assessed by the City in ten annual installments to be billed semi-annually beginning in the year of the authorization (2023), by applying the following assessment rates to each ratepayer:

A. Base Year Assessment = $(\$0.45 \times \text{Land Square Footage}) + (\$0.37 \times (\text{Total Taxable Value (Land + Improvements)} / \$1,000))$. Records for the assessment calculation are based on information provided by the King County Assessor's Office. This calculation is called the "Base Formula." Modifications or limitations to these assessments are described below.

B. Building Square Footage Ceiling. For any individual parcel for which the Floor Area Ratio (FAR=Net Building Square Footage/Land Square Footage) is greater than 0.5, no Base Year assessment shall exceed an amount equal to $(\$0.24 \times \text{Net Building Square Footage})$. This rate is called the "Building Square Footage Ceiling."

C. For the following special classifications of Ratepayers (using King County Assessor's Present Use Code) and where more than 75 percent of a property's total net building square footage is designated a hotel, parking or residential section use code, a Special Assessment Ceiling Rate as set forth below shall be applied to the Base Year Assessment to determine the rate most reflective of benefit for that particular class of Ratepayer:

1. Hotel Room Ceiling. The hotel room ceiling shall be \$112 in the first assessment year; \$125 in the second assessment year and adjusted by an inflationary factor as set forth in Section 6(G)(3) of this ordinance in the second through tenth assessment years.

2. Residential Unit Ceiling. The residential unit ceiling shall be \$175 in the first assessment

year; \$195 in the second assessment year and also adjusted by an inflationary factor as set forth in Section 6(G) (3) of this ordinance in the second through tenth assessment years.

3. Surface Parking Ceiling: ($\$0.81 \times (\text{Total Appraised Value}/\$1,000)$).

D. If the Total Appraised Value and Total Taxable Value in the King County Assessor's records are not equal, then using the King County Assessor's notations about "Tax Value Reason" (TVR), nonprofit rates or other special criteria may apply under the following rules:

1. If TVR is "OP" (Operating Property), then use Appraised Value.

2. If TVR is "HP" (Historic Property), then use Taxable Value.

3. If TVR is "NP" (Nonprofit Org.), and the property is in nonprofit use, then use Taxable Value and calculate the MID Assessment as 25 percent of the Base Formula. Twenty-five percent of the Base Formula is called the Nonprofit Rate.

4. If TVR is "EX" or "MX" (Exempt from Taxes), then review the property in detail, and:

a. If the property is owned and operated by a governmental organization, and in governmental use, then it is exempt from mandatory MID assessment.

b. If the property is owned and operated by a nonprofit organization in nonprofit use, the MID Assessment is calculated using Taxable Value and the Nonprofit Rate.

c. If the property is operated by a for-profit organization, the MID Assessment is calculated using Appraised Value.

5. If TVR is blank, then use Taxable Value.

E. When more than one Assessment Ceiling Rate applies to a single parcel, Ratepayers shall pay the lesser of the applicable Assessment Ceilings.

F. Properties owned by governmental entities and public utilities will not be assessed except as provided in Section 6(D) of this ordinance.

G. To maintain the current level of services and increase benefits provided by MID, annual assessment

rate increases shall be applied consistent with this subsection.

1. Assessments in the second through fifth years, as adjusted pursuant to this subsection, shall be based upon the same property values as in the first assessment year. In the sixth assessment year (2028-2029), the base formula shall be calculated using the most recent Total Appraised Value, Total Taxable Value, Land Square Footage, Net Building Square Footage, and other information from the King County Assessor's Office.

2. Assessments in the sixth, seventh, eighth, ninth, and tenth assessment years, as adjusted pursuant to this subsection, shall be based upon the same property values as in the sixth assessment year.

3. After the first assessment year, the Land Square Footage rate, and the ceilings for Building Square Footage, Hotel Room, and Residential Unit rates shall be adjusted by an Inflationary Factor, which will be equal to the change in the annual Consumer Price Index for All Urban Consumers in Seattle-Tacoma-Bellevue ("CPI") but no less than 2.5 percent and no greater than 5 percent.

4. After the first assessment year, the value portion of the prior year's base assessment calculation shall be adjusted by an Inflationary Factor, which will be equal to the change in the annual Consumer Price Index for All Urban Consumers in Seattle-Tacoma-Bellevue ("CPI") but no less than 2.5 percent and no greater than 5 percent.

5. Notwithstanding the provisions of this subsection, the following shall apply:

a. The Base Formula rate for the Total Taxable Value portion of the calculation will not exceed \$0.37.

b. The Base Formula rate for the Land Square Footage portion of the calculation will not exceed \$0.45 x the cumulative Inflationary Factor.

c. The Building Square Footage Ceiling will not exceed \$0.21 x the cumulative Inflationary Factor.

d. The Hotel Room Ceiling will not exceed \$125.00 x the cumulative Inflationary Factor.

e. The Residential Unit Ceiling will not exceed \$195.00 x the cumulative Inflationary

Factor.

f. The Surface Parking Ceiling will not exceed $\$0.81 \times$ the cumulative Inflationary

Factor.

H. 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 MID 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 Business Improvement Area (BIA) assessments will be billed at the next regularly scheduled billing period established by the Director of Treasury Services.

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

J. 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 July 1, 2023, 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 Metropolitan Improvement District 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 124175 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 Metropolitan Improvement District.

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 Metropolitan Improvement District 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 Metropolitan Improvement District 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 Managers' board or committee at which Metropolitan Improvement District 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 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 Metropolitan Improvement District. 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 Metropolitan Improvement District 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 Metropolitan Improvement District 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 Metropolitan Improvement District shall have a term of ten years and will expire ten 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 Metropolitan Improvement District 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.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)

Attachments:
Attachment A - Proposed MID Boundaries