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17 **BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE**
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20 In re Proposed Final Assessment Roll for
21 Local Improvement District No. 6751
22 (“Waterfront LID”)
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Hearing Examiner File No. CWF-0417

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON UNITED WAY
OF KING COUNTY’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
0939000240

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34 United Way of King County (“Taxpayer”) files this amended appeal pursuant to
35 RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City
36 of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated
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38 December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1,
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40 2021, the Hearing Examiner’s Findings and Recommendation issued September 8, 2020
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42 (“Examiner’s Recommendation”) and the Hearing Examiner’s Findings and
43
44 Recommendation issued February 1, 2021.
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1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

3
4
5 United Way of King County
6 720 2nd Ave., Seattle, WA 98104
7

8 **II. Taxpayer's Representatives**

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10 United Way of King County's representatives in this matter are:

11
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21 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

22
23 United Way of King County owns the property that is subject to the proposed final
24 assessment described in Section IV.
25

26
27 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
28 include additional arguments relevant to the revised Final Recommendations of the Hearing
29 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
30 objection to the assessment, which was based on the Final Study. Taxpayer further timely
31 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
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33 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
34 with the City Clerk on September 22, 2020. This amendment is a supplement and is to be
35 read together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates
36 by reference all filings, evidence, and pleadings filed by any party before the Hearing
37 Examiner as authorized by the Hearing Examiner, including without limitation all records
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1 pertaining to the November 2020 through February 2021 remand hearing ordered by
2 Council.
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5 **IV. Amended Arguments on Appeal**

6 United Way of King County supplements its appeal of the Hearing Examiner's
7 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
8 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
9 the following property:
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14 King County Parcel No. 0939000240
15 Site Address: 720 2nd Ave., Seattle, Washington 98104
16 Proposed Final LID Assessment for Parcel: \$139,097
17 Revised Final LID Assessment for Parcel: \$81,928
18

19 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
20 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
21 amended appeal.
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26 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
27 **Discounted to Present Value and Assessments Adjusted as Appropriate**
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29 On remand, the City's appraiser acknowledged that special benefits to parcels can be
30 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
31 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
32 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
33 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
34 the theatre parcel is too remote to support a current assessment. *Id.* The Examiner accepted
35 that recommendation. The City's appraiser further acknowledged that benefit reductions
36 due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined by
37 discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
38 (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect
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1 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
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3 calculations to present value because the general benefits are not anticipated from the LID
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5 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
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7 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
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9 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
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11 benefit calculation, and related assessments, to account for the delay between the assessment
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13 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
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15 standard appraisal practice, and renders the other proposed Waterfront LID special
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17 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
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19 “fundamentally wrong methods.”

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21 All special benefit taxes assessed by a municipality must be based on “actual,
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23 physical and material [special benefits that are] not merely speculative or conjectural.”
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25 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
26
27 Additionally, the assessments may not materially exceed the actual special benefit conferred
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29 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
30
31 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
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33 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
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35 discount benefits the City estimated would accrue to the properties from improvements to be
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37 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
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39 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
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41 property while treating all or most others (including Taxpayer’s) differently, and
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43 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
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45 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
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47 for some properties because the benefit are too distant, while assessing other properties as

1 though distant benefits have already been secured. As Taxpayer identified in its September
2
3 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
4
5 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
6
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8
9 reject the improper calculation of the benefit or remand and require the appraiser to discount
10
11 the benefits to net present value.

12
13 **B. In Light of Covid's Continuing Impact on United Way and other**
14 **Material Changes Since October 2019, the LID Should be Cancelled, or**
15 **at Least Assessments Recalculated, to take Into Account Property Value**
16 **Reductions**

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18 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
19
20 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
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22 other relevant developments since October 2019." When Washington's first COVID
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24 restrictions were imposed in March and April 2020, there was an assumption that they
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26 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
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28 II" but many of the City's businesses and its citizens are still struggling through the
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30 difficulties of the pandemic. In current circumstances, a downtown tax to fund new, non-
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32 essential park improvements against United Way of King County will impose additional
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34 burdens on the organization which is dedicated towards fighting homelessness, helping
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36 students, and breaking the cycle of poverty. Instead, United Way of King County
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38 respectfully requests that the City dissolve the assessment, at least until it (and property
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40 owners) have a chance to recover, and that any assessment take into account the changed
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42 circumstances since this appeal process started on February 4, 2020.

1 **V. Relief Requested**

2 Particularly in light of the Committee's decision not to take further comment from
3 appellants, Taxpayer respectfully request that each Committee member carefully review the
4 full record transmitted to Council before voting on Taxpayer's appeal.
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7 United Way of King County respectfully reiterates its request from the September
8
9 22, 2020 appeal that the City Council:
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- 11 1. Cancel the Waterfront Local Improvement District No. 6751 proposed final
12 assessment dated December 30, 2019; or
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- 14 2. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final
15 assessment to \$0 (zero), or such amount as Taxpayer establishes at the hearing in this
16 matter; or
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- 18 3. Grant the Examiner's recommended reduction on remand but reduce Taxpayer's
19 assessment using recognized appraisal techniques consistent with USPAP and:
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 - 22 a. Excluding any property value increase attributable to viaduct removal and
23 other planned WSDOT Improvements;
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 - 25 b. Taking into account the effects of the COVID-19 pandemic on the value of
26 Taxpayer's property and other relevant developments since October 2019;
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 - 28 c. Accounting for and excluding (1) any special benefits from existing or
29 planned improvements that already provide similar benefits to Taxpayer's
30 property, and (2) any special detriments from construction and other
31 anticipated LID-related disamenities;
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 - 33 d. Accounting for and including only those actual benefits anticipated to accrue
34 to Taxpayer's property based on its location relative to Pier 58, Overlook
35 Walk, and the Promenade, and specific elements of the LID Improvements;
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- 1 e. Discounting anticipated special benefits to present value, based on reliable
2 estimates regarding when special benefits will start accruing following
3 completion of the LID Improvements; and
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6 f. Accounting for such other issues specific to Taxpayer's property relevant to
7 calculation of such assessment; and
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11 4. Grant such further relief as the City Council deems just and proper.
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17 DATED: February 16, 2021

PERKINS COIE LLP

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