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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-0430 and
CWF-0431

NOTICE OF AMENDED APPEAL OF
HEARING EXAMINER’S FINDINGS AND
RECOMMENDATION ON RRRR
INVESTMENT LLC’S OBJECTION TO
WATERFRONT LID NO. 6751 PROPOSED
FINAL ASSESSMENT FOR PARCEL NO.
2538831460 and 2538831480

33
34 RRRR Investment LLC (“Taxpayer”) files this amended appeal pursuant to RCW
35 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of
36 Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December
37
38 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the
39
40 Hearing Examiner’s Findings and Recommendation issued September 8, 2020 (“Examiner’s
41
42 Recommendation”) and the Hearing Examiner’s Findings and Recommendation issued
43
44 February 1, 2021.
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1 **I. Taxpayer / Appellant**

2 The Taxpayer filing this amended appeal is:

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5 RRRR Investment LLC
6 PO BOX 21749 SEATTLE WA 98111
7 Bryon Madsen
8 206-689-2457
9 bryon@obcx.com
10

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12
13 **II. Taxpayer's Representatives**

14 RRRR Investment LLC representatives in this matter are:

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16
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26 **III. Statement of Taxpayer's Interest and Incorporation of Prior Arguments**

27 RRRR Investment LLC is the taxpayer for the property that is subject to the
28
29 proposed final assessment described in Section IV.
30

31 Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to
32 include additional arguments relevant to the revised Final Recommendations of the Hearing
33 Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an
34 objection to the assessment, which was based on the Final Study. Taxpayer further timely
35 filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council.
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37 Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed
38 with the City Clerk on September 22, 2020. This amendment is a supplement is to be read
39 together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by
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1 reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner
2 as authorized by the Hearing Examiner, including without limitation all records pertaining to
3 the November 2020 through February 2021 remand hearing ordered by Council.
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7 **IV. Amended Arguments on Appeal**
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9 RRRR Investment LLC supplements its appeal of the Hearing Examiner's
10 recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local
11 Improvement District No. 6751 proposed final assessment dated December 30, 2019 against
12 the following property:
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16 King County Parcel No. 2538831460
17 Site Address: 1521 2nd Ave., Unit 3800 Seattle, Washington 98101
18 Proposed Final LID Assessment for Parcel: \$41,245
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20 King County Parcel No. 2538831480
21 Site Address: 1521 2nd Ave., Unit 3802, Seattle, Washington 98101
22 Proposed Final LID Assessment for Parcel: \$44,084
23
24

25 To avoid repetition, Taxpayer incorporates the evidence and arguments raised before
26 the Hearing Examiner and before the City in its September 22, 2020 appeal, into this
27 amended appeal.
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32 **A. The Anticipated Special Benefits to Taxpayer's Property should be**
33 **Discounted to Present Value and Assessments Adjusted as Appropriate**
34

35 On remand, the City's appraiser acknowledged that special benefits to parcels can be
36 reduced, even to zero, if those benefits accrue in the future. *See* Declaration of Robert
37 Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the
38 assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits
39 redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to
40 the theatre parcel is too remote to support a current assessment. *Id.* The Examiner accepted
41 that recommendation. The City's appraiser further acknowledged that benefit reductions
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1 due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined by
2 discounting to present value. *Id.*; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020)
3
4 (benefits to theatre “would be a long enough time out to where it wouldn’t measurably affect
5 value.”). Nevertheless, the appraiser refused to more generally discount his benefit
6
7 calculations to present value because the general benefits are not anticipated from the LID
8
9 improvements until after they are completed in 2024, 5 years after his 2019 assessment, and
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11 perhaps not until 2029. The appraiser’s and Examiner’s recommendation to reduce the
12
13 theatre’s assessment to zero is reasonable. His refusal to make other discounts to his special
14
15 benefit calculation, and related assessments, to account for the delay between the assessment
16
17 and realization of any special benefits to Taxpayer’s property is unreasonable, contrary to
18
19 standard appraisal practice, and renders the other proposed Waterfront LID special
20
21 assessments, and the Examiner’s Recommendations, arbitrary and capricious and based on
22
23 “fundamentally wrong methods.”
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26 All special benefit taxes assessed by a municipality must be based on “actual,
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28 physical and material [special benefits that are] not merely speculative or conjectural.”
29
30 *Heavens v. King Cty. Rural Library Dist.*, 66 Wn. 2d 558, 563, 404 P.2d 453 (1965).
31
32 Additionally, the assessments may not materially exceed the actual special benefit conferred
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34 by the LID Improvements. *Id.* Further, LID assessments must be proportionate. *Id.* Failure
35
36 to meet any of these legal requirements is fatal to the assessment. Taxpayer’s September 22,
37
38 2020 appeal challenged the City appraiser’s valuation because, among other flaws, it did not
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40 discount benefits the City estimated would accrue to the properties from improvements to be
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42 delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the
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44 appraiser’s inconsistent approach, selectively applying discounting to one (that we know of)
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46 property while treating all or most others (including Taxpayer’s) differently, and
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1 withholding any discount. This inconsistent treatment is both arbitrary and capricious and
2 disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted
3 for some properties because the benefits are too distant, while assessing other properties as
4 though distant benefits have already been secured. As Taxpayer identified in its September
5 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this
6 may not accrue for at least five years after they are completed, in 2029. *See* Gibbons Decl.
7 ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either
8 reject the improper calculation of the benefit or remand and require the appraiser to discount
9 the benefits to net present value.
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19 **B. In Light of Covid's Continuing Impact on Taxpayer and other**
20 **Downtown Property Owners and other Material Changes Since October**
21 **2019, the LID Should be Cancelled, or at Least Assessments**
22 **Recalculated, to take Into Account Property Value Reductions**
23

24 In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e]
25 into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and
26 other relevant developments since October 2019." When Washington's first COVID
27 restrictions were imposed in March and April 2020, there was an assumption that they
28 would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase
29 II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover
30 for another 5 years. Retail stores are boarded up. Homelessness and related challenges have
31 gotten much worse. Residential values have also dropped. Specifically, Taxpayer's Parcel
32 No. 2538831480, after a real estate appraisal and pocket listing the property in July 2020,
33 the value has gone down over \$1 million US Dollars. Concerns of safety and overall
34 vacancy rates, both residential and commercial, have been cited as the cause. The City has
35 already imposed higher minimum wages and taxes on businesses to try to fund recovery.
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1 The West Seattle Bridge and other bridges are in immediate need of repairs and
2 maintenance. Pier 58, instead of the vibrant waterfront park hypothesized in the City's
3 appraisal to exist as of October 2019, collapsed, and is several years from completion, as a
4 best case. In current circumstances, a downtown tax to fund new, non-essential park
5 improvements against financially strapped taxpayers, and likely passed through to
6 financially strapped tenants and customers would be unfair to taxpayers and a misallocation
7 of city resources. COVID threw everyone for a loop. But as the City rethinks its budget
8 priorities for the next few years, and its potentially funding sources, Taxpayer respectfully
9 requests that the City dissolve the assessment, at least until property owners and businesses
10 have a chance to recover, and that any assessment take into account the changed
11 circumstances since this appeal process started on February 4, 2020 to avoid unnecessarily
12 and perhaps permanently killing downtown properties and businesses in the name of
13 bettering them.
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27 **V. Relief Requested**

28 Particularly in light of the Committee's decision not to take further comment from
29 appellants, Taxpayer respectfully request that each Committee member carefully review the
30 full record transmitted to Council before voting on Taxpayer's appeal.
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34 RRRR Investment LLC respectfully reiterates its request from the September 22,
35 2020 appeal that the City Council:
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- 38 1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
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40 a. Cancel the Waterfront Local Improvement District No. 6751 proposed
41 final assessment dated December 30, 2019; or
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43 b. Revise Taxpayer's Waterfront Local Improvement District No. 6751
44 proposed final assessment to \$0 (zero), or such amount as Taxpayer
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1 establishes at the hearing in this matter; or

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3 c. Remand the matter to the Hearing Examiner or City appraiser to
4 recalculate and reduce Taxpayer's assessment using recognized appraisal
5 techniques consistent with USPAP and:
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9 i. Excluding any property value increase attributable to viaduct
10 removal and other planned WSDOT Improvements;
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12 ii. Taking into account the effects of the COVID-19 pandemic on
13 the value of Taxpayer's property and other relevant
14 developments since October 2019;
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16 iii. Accounting for and excluding (1) any special benefits from
17 existing or planned improvements that already provide similar
18 benefits to Taxpayer's property, and (2) any special detriments
19 from construction and other anticipated LID-related
20 disamenities;
21
22 iv. Accounting for and including only those actual benefits
23 anticipated to accrue to Taxpayer's property based on its
24 location relative to Pier 58, Overlook Walk, and the
25 Promenade, and specific elements of the LID Improvements;
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27 v. Discounting anticipated special benefits to present value,
28 based on reliable estimates regarding when special benefits
29 will start accruing following completion of the LID
30 Improvements; and
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32 vi. Accounting for such other issues specific to Taxpayer's
33 property relevant to calculation of such assessment; and
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1 2. Grant such further relief as the City Council deems just and proper.
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7 DATED: February 16, 2021
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10 By:

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