BEFORE THE CITY COUNCIL FOR THE CITY OF SEATTLE

In re Proposed Final Assessment Roll for Local Improvement District No. 6751 ("Waterfront LID")	Hearing Examiner File No. CWF-0439 NOTICE OF AMENDED APPEAL OF HEARING EXAMINER'S FINDINGS AND RECOMMENDATION ON ASHFORD SEATTLE WATERFRONT LP'S OBJECTION TO WATERFRONT LID NO. 6751 PROPOSED FINAL ASSESSMENT FOR PARCEL NO. 7666202345

Ashford Seattle Waterfront LP files this amended appeal pursuant to RCW 35.44.070, Seattle Municipal Code 20.04.090, City of Seattle Resolution 31915, City of Seattle Resolution 31979, the notice of the Seattle Office of the City Clerk dated December 30, 2019, the notice of the Seattle Office of the City Clerk dated February 1, 2021, the Hearing Examiner's Findings and Recommendation issued September 8, 2020 ("Examiner's Recommendation") and the Hearing Examiner's Findings and Recommendation issued February 1, 2021.

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I. Taxpayer / Appellant

The Taxpayer filing this amended appeal is:

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II. Taxpayer's Representatives

Ashford Seattle Waterfront LP's representatives in this matter are:

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

Ashford Seattle Waterfront LP ("Taxpayer") owns the property that is subject to the proposed final assessment described in Section IV.

Taxpayer is amending its appeal as authorized in City of Seattle Resolution 31979 to include additional arguments relevant to the revised Final Recommendations of the Hearing Examiner issued on February 1, 2021. On February 4, 2020, Taxpayer timely filed an objection to the assessment, which was based on the Final Study. Taxpayer further timely filed an appeal of the Hearing Examiner's 2020 recommendations to the City Council. Taxpayer maintains and incorporates all objections and arguments raised in its appeal filed with the City Clerk on September 22, 2020. Among those are Taxpayer's objection that its purported special benefit assessment is dramatically, and irrationally, higher proportionately than the assessments proposed against its neighbors. This amendment is a supplement is to

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be read together with Taxpayer's appeal filed on September 22, 2020. Taxpayer incorporates by reference all filings, evidence, and pleadings filed by any party before the Hearing Examiner as authorized by the Hearing Examiner.

IV. Amended Arguments on Appeal

Ashford Seattle Waterfront LP supplements its appeal of the Hearing Examiner's recommendation to deny Taxpayer's objection to the City of Seattle's Waterfront Local Improvement District No. 6751 proposed final assessment dated December 30, 2019 against the following property:

King County Parcel No. 7666202345
Site Address: 2100 ALASKAN WY, Seattle, Washington
Proposed Final LID Assessment for Parcel: $2,106,827

Ashford Seattle Waterfront reiterates that its assessment percentage is disproportionate to other hotels in its competitive set, as demonstrated in Exhibit 7 to our Statement of Objections, filed on February 3, 2020, shown below for convenience:

LID Map #	Prop Tax ID #	Property Name	Market Value w/out LID	Market Value with LID	Special Benefit	Special Benefit % Change	Ratio
A-005	766620 2317	The Edgewater	$95,420,000	$96,279,000	$859,000	0.90%	39.18%
C-126	094200 0165	W Hotel	$182,483,000	$184,272,000	$1,789,000	0.98%	39.18%
D-235-001	780292 0010	Hilton Seattle	$112,852,000	$113,813,000	$961,000	0.85%	39.18%
D-245	094200 0430	Renaissance Seattle	$215,497,000	$216,570,000	$1,073,000	0.50%	39.18%
E-110-002 & E-111-001	619500 0030 & 679212 0020	Eliot Grand Hyatt	$222,002,000	$225,335,000	$3,333,000	1.50%	39.18%
			$165,650,800	**$167,253,800**	**$1,603,000**	**0.97%**	39.18%
		Subject Property					
A-014	**766620 2345**	**Seattle Marriott Waterfront**	**$167,975,000**	**$173,352,000**	**$5,377,000**	**3.20%**	**39.18%**
		Indicated Values Based on Comparables					
A-014	**766620 2345**	**Seattle Marriott Waterfront**	**$167,975,000**	**$169,654,750**	**$1,679,750**	**1.00%**	**39.18%**

To avoid repetition, Taxpayer incorporates the evidence and arguments raised before the Hearing Examiner and before the City in its September 22, 2020 appeal, into this amended appeal.

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A. The Council Should Eliminate Personal Property Assessments for this Property

Taxpayer's September 22, 2020 appeal challenged the City's appraiser's and Examiner's recommendation that the City impose special assessments against the value of hotel personal property (furniture, fixtures and equipment), both because personal property is not the type of property that receives a special benefit, and also because the appraiser was not recommending personal property assessments against other types of property - retail, office, residential. On remand, the appraiser recommended, and the Examiner has agreed, that the remanded hotels should not be assessed on the value of their personal property. See Declaration of Robert Macaulay at ¶12 (December 4, 2020) (reducing assessments to account for the value of furniture, fixtures and equipment); Hearing Examiner's Final Recommendation at p. 125 (filed with clerk on Feb. 1, 2021). Taxpayer agrees with that recommended change. However, because Taxpayer's assessment still includes personal property, it leaves Taxpayer's assessment even more disproportionate. It is unfair to assess a few hotels against their personal property while not assessing personal property of other hotels or property types. The value of personal property improperly assessed and the amount by which Taxpayer's assessment should be reduced to eliminate that portion of the assessment is set forth in Exhibit A. *See* Letter of John Gordon, February 11, 2021.

B. The Anticipated Special Benefits to Taxpayer's Property should be Discounted to Present Value and Assessments Adjusted as Appropriate

On remand, the City's appraiser acknowledged that special benefits to parcels can be reduced, even to zero, if those benefits accrue in the future. See Declaration of Robert Macaulay at 20 (Dec. 4, 2020). For that reason, the City's appraiser recommended the assessment on CWF-442 (the Act Theatre) be reduced to zero because a restriction prohibits redevelopment of the theatre's condominium until 2035, and therefore, any special benefit to

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the theatre parcel is too remoted to support a current assessment. Id. The Examiner accepted that recommendation. The City's appraiser further acknowledged that benefit reductions due to delays in delivery of benefits, e.g., to 2030 or 2025, could be determined by discounting to present value. Id.; Macaulay Dep. at 51:16-17, 52:9-13 (Dec. 22, 2020) (benefits to theatre "would be a long enough time out to where it wouldn't measurably affect value."). Nevertheless, the appraiser refused to more generally discount his benefit calculations to present value because the general benefits are not anticipated from the LID improvements until after they are completed in 2024, 5 years after his 2019 assessment, and perhaps not until 2029. The appraiser's and Examiner's recommendation to reduce the theatre's assessment to zero is reasonable. His refusal to make other discounts to his special benefit calculation, and related assessments, to account for the delay between the assessment and realization of any special benefits to Taxpayer's property is unreasonable, contrary to standard appraisal practice, and renders the other proposed Waterfront LID special assessments, and the Examiner's Recommendations, arbitrary and capricious and based on "fundamentally wrong methods."

All special benefit taxes assessed by a municipality must be based on "actual, physical and material [special benefits that are] not merely speculative or conjectural." Heavens v. King Cty. Rural Library Dist., 66 Wn. 2d 558, 563, 404 P.2d 453 (1965). Additionally, the assessments may not materially exceed the actual special benefit conferred by the LID Improvements. Id. Further, LID assessments must be proportionate. Id. Failure to meet any of these legal requirements is fatal to the assessment. Taxpayer's September 22, 2020 appeal challenged the City appraiser's valuation because, among other flaws, it did not discount benefits the City estimated would accrue to the properties from improvements to be delivered sometime between 2024 and 2029 to present, 2019 value. Now, add to that the

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appraiser's inconsistent approach, selectively applying discounting to one (that we know of) property while treating all or most others (including Taxpayer's) differently, and withholding any discount. This inconsistent treatment is both arbitrary and capricious and disproportionate, where the appraiser has arbitrarily decided that no assessment is warranted for some properties because the benefits are too distant, while assessing other properties as though distant benefits have already been secured. As Taxpayer identified in its September 22, 2020 appeal, the City appraiser's own materials show that benefits for a project like this may not accrue for at least five years after they are completed, in 2029. See Gibbons Decl. ISO Closing Stmt., Ex. C at 24, 30-31 (dated 7/7/2020). The City Council should either reject the improper calculation of the benefit or remand and require the appraiser to discount the benefits to net present value.

C. In Light of Covid's Continuing Impact on Taxpayer and other Downtown Property Owners and other Material Changes Since October 2019, the LID Should be Cancelled, or at Least Assessments Recalculated, to take Into Account Property Value Reductions

In Taxpayer's September 22, 2020 appeal, Taxpayer requested the Council "[t]ak[e] into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019." When Washington's first COVID restrictions were imposed in March and April 2020, there was an assumption that they would be short-lived. A year later, the Puget Sound area is finally again moving to "Phase II." Many downtown hotels are closed, and our hotels are not anticipated to fully recover for another 5 years. Retail stores are boarded up. Homelessness and related challenges have gotten much worse. The City has already imposed higher minimum wages and taxes on businesses to try to fund recovery. The West Seattle Bridge and other bridges are in immediate need of repairs and maintenance. Pier 58, instead of the vibrant waterfront park

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hypothesized in the City's appraisal to exist as of October 2019, collapsed, and is several years from completion, as a best case. In current circumstances, a downtown tax to fund new, non-essential park improvements against financially strapped taxpayers, and likely passed through to financially strapped tenants and customers would be unfair to taxpayers and a misallocation of city resources. COVID threw everyone for a loop. Hotels in particular are struggling. *See* Declaration of Randy Meyer In Response To City Appraiser's Remand, CWF-0415, Exhs. A-C (Jan. 8, 2021) (demonstrating substantial impact of COVID on hotels). But as the City rethinks its budget priorities for the next few years, and its potentially funding sources, Taxpayer respectfully requests that the City dissolve the assessment, at least until it (and property owners) have a chance to recover, and that any assessment take into account the changed circumstances since this appeal process started on February 4, 2020 to avoid unnecessarily and perhaps permanently killing downtown properties and businesses in the name of bettering them.

V. Relief Requested

Particularly in light of the Committee's decision not to take further comment, Taxpayer respectfully request that each Committee member carefully review the record transmitted to Council before voting on our appeal.

Ashford respectfully reiterates its request from the September 22, 2020 appeal that the City Council:

1. Reject the Hearing Examiner's recommended denial of Taxpayer's objection; and
    a. Cancel the Waterfront Local Improvement District No. 6751 proposed final assessment dated December 30, 2019; or

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b. Revise Taxpayer's Waterfront Local Improvement District No. 6751 proposed final assessment to $0 (zero), or such amount as Taxpayer establishes at the hearing in this matter; or

c. Remand the matter to the Hearing Examiner or City appraiser to recalculate and reduce Taxpayer's assessment using recognized appraisal techniques consistent with USPAP and:

   i. Excluding any property value increase attributable to viaduct removal and other planned WSDOT Improvements;

   ii. Excluding any value attributable to personal property as demonstrated in Exhibit A;

   iii. Taking into account the effects of the COVID-19 pandemic on the value of Taxpayer's property and other relevant developments since October 2019;

   iv. Accounting for and excluding (1) any special benefits from existing or planned improvements that already provide similar benefits to Taxpayer's property, and (2) any special detriments from construction and other anticipated LID-related disamenities;

   v. Accounting for and including only those actual benefits anticipated to accrue to Taxpayer's property based on its location relative to Pier 58, Overlook Walk, and the Promenade, and specific elements of the LID Improvements;

   vi. Discounting anticipated special benefits to present value, based on reliable estimates regarding when special benefits will start accruing following completion of the LID Improvements; and

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vii. Accounting for such other issues specific to Taxpayer's property relevant to calculation of such assessment; and

2. Grant such further relief as the City Council deems just and proper.

DATED: February 16, 2021

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