



ORDINANCE NO. 28496

1 AN ORDINANCE reestablishing a Downtown Tacoma Business Improvement
 2 Area for a ten-year period; approving the budget, program, and special
 3 assessment upon real property, and the owners thereof, within the area;
 4 and providing for the deposit of revenues in a special account, and
 5 expenditures therefrom.

6 WHEREAS the owners of property subject to 50 percent or more of the
 7 special assessment levied filed a petition with the City of Tacoma to reestablish a
 8 Downtown Tacoma Business Improvement Area ("BIA"), pursuant to RCW 35.87A,
 9 a copy of the petition being on file with the City Clerk and contained in this
 10 ordinance file, and

11 WHEREAS the City Council, pursuant to Resolution No. 39916, adopted
 12 January 23, 2018, declared its intent to reestablish a Downtown Tacoma BIA,
 13 pursuant to RCW 35.87A, and

14 WHEREAS, as provided in Resolution No. 39916, the City Council held a
 15 public hearing on February 20, 2018, concerning the formation and continuation of
 16 the Downtown Tacoma BIA and the imposition of special assessments on real
 17 property (and property owners) within such Downtown Tacoma BIA, prior to the
 18 adoption of this ordinance; Now, Therefore,

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 20 BE IT ORDAINED BY THE CITY OF TACOMA:

21 Section 1. District Established.

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 23 A. That, as authorized by RCW 35.87A, there is hereby reestablished a
 24 Downtown Tacoma Business Improvement Area within the following-described
 25 boundaries (when a street or alley is named, the district boundary is the center line
 26 of the right-of-way unless otherwise stated):



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Beginning at Broadway and 6th Avenue, then west on 6th Avenue to South Baker Street, south on South Baker Street to Fawcett Avenue, south on Fawcett Avenue to South 21st Street, west on South 21st Street to Tacoma Avenue South, south on Tacoma Avenue South to South 23rd Street, east on South 23rd Street to Jefferson Avenue, south on Jefferson Avenue to South 23rd Street, east on South 23rd Street to A Street, north on A Street extended to South 15th Street, then northeasterly to South 14th Street and Cliff Street extended, then north on Cliff Street extended to South 12th Street and the west right-of-way line of Schuster Parkway, then northwesterly along Schuster Parkway to its connection to Stadium Way, then north on Stadium Way to the north end of Parcels 200505-0050 and 200202-0060, then east along the parcel lines to Broadway, then north to the beginning at 6th Avenue;

said area being hereinafter called the "District" or "BIA" (Business Improvement Area).

The District may be expanded to contiguous areas within the planning boundaries for Working Definition of Downtown upon the petition of property owners representing more than 50 percent of assessed valuation of an area, the approval of the Local Development Council of Tacoma, and pursuant to the procedures outlined in RCW 35.87A.075.

B. Termination of District.

1. The BIA and the special assessment upon properties shall continue for a period of ten years (commencing May 1, 2018) unless, at least 180 days prior to such termination, a petition is submitted to the City requesting the continued existence of the BIA, with such petition documenting approval of the owners of the property in the BIA who will pay 50 percent or more of the annual special assessment for the District.



1 2. The BIA and the special assessment therefore shall terminate
2 within one year (or such longer period as set forth in the termination petition) from
3 the date of submission to the City of a petition containing the signatures of the
4 owners of the property in the BIA who pay 50 percent or more of the annual special
5 assessment requesting termination of the BIA and levy.

6 Section 2. District Assessment.

7 A. That all real property, inclusive of land and buildings (and the owners
8 thereof) within the boundaries of the District, will be specially benefited by the
9 purposes for which the District is being established; and such property (and the
10 owners thereof) shall be subject to a special assessment as authorized by
11 RCW 35.87A.010, this ordinance, and amendments thereto.

12 B. That the benefit to the property (and the owners thereof) subject to the
13 special assessment, and to the BIA as a whole, is a special benefit which would
14 not otherwise be available but for the activities, programs, and special services
15 carried out with funding provided by the special assessments authorized herein;
16 and that such special benefits, and the increase in value of the property in the BIA
17 resulting therefrom, and the increased opportunity which is created for each
18 property (and the owners thereof) within the BIA to benefit from the BIA programs,
19 activities, and special services, are hereby found to be commensurate with, or in
20 excess of, the amount of the assessment under this ordinance.

21 Section 3. Purposes and Programs. Special assessment revenues shall
22 only be used for the following types of purposes, programs, services, and
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administrative and collection costs associated therewith in accordance with the
1 Work Plan, attached as Exhibit "A":

2 A. Security. The operation of a security program is to: (1) provide
3 enhanced security for common areas and for people, which may include, but is not
4 limited to, dissemination of information relative to security, and (2) provide
5 additional security through a combination of public and private personnel and
6 facilities; and such other measures or activities as will accomplish the above-stated
7 objectives, and also assist in changing the perception that the District is an
8 undesirable or unsafe area.
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11 B. Maintenance and appearance enhancement of common areas, such as
12 the sweeping and cleaning of sidewalks, the removal or covering of graffiti, the
13 removal or prevention of litter, and such other related activities or services which
14 would enhance the appearance of the area and encourage the general public to
15 increasingly visit and do business in the District.
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17 C. Provide professional management, planning, and promotion for the area,
18 including the management and promotion of retail trade activities in the area,
19 generate favorable publicity, promote the District and the property and businesses
20 therein as a clean, safe, and inviting area, and attract customers, visitors,
21 businesses, and other investments as deemed appropriate and approved by the
22 ratepayers.
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24 This listing of programs is illustrative and not exclusive. All such activities
25 are to be supplemental to City of Tacoma street maintenance and normal police
26 staffing or security, at the level previously and regularly provided by the City, and



1 are not to displace any services previously and regularly provided by the City. The
2 specific programs, activities, and services to be funded with the special
3 assessment will be determined annually at the time the City Council approves the
4 annual budget for the District for the ensuing year, in the manner as more
5 specifically set forth in Section 12 below. The budget, programs, activities, and
6 services for the first annual period of the renewed BIA shall be approved pursuant
7 to Section 13 below.

8 Section 4. Levy of Special Assessment. To finance programs and services
9 authorized in Section 3 above, there is levied and shall be collected an annual
10 special assessment upon the buildings and other real property within the District
11 (and the owners thereof), at the following rates, in accordance with the rates and
12 budget established in Exhibit "B":

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14 A. Use Assessments.

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16 1. Property improved with buildings containing office, retail, and
17 commercial uses (unless such building or use falls within another classification as
18 below provided), shall be assessed up to the annual rate of \$0.16 for each
19 square foot of the total gross square footage of such building used for such uses.

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21 2. Unimproved land, surface parking lots, parking garages,
22 warehouse and storage facilities, churches, or similar buildings which are only
23 substantially occupied for the intended use once or twice a week; those portions of
24 buildings used for transient lodging; and buildings which are vacant and
25 unoccupied for more than two years pursuant to Section 4.D may be assessed at
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1 the annual rate of up to \$0.10 per square foot of the gross square footage of such
2 building or of the surface area of the land, whichever is greater.

3 B. Land Assessments. Parcels within the boundaries may be assessed at
4 the annual rate of up to seven cents per square foot of the total gross size of such
5 parcels. Properties owned and occupied by a state or federal government agency
6 are exempted from the land assessment.

7 C. "Gross square footage," as used herein, shall mean all floor area within
8 the exterior surfaces of the exterior walls, including lobbies, washrooms, janitor's
9 closets, building stairs, fire towers, elevator shafts, flues, vents, stacks, pipe shafts,
10 vertical ducts, basement areas, areas of exterior exit stairways and balconies, and
11 those parts of other exterior balconies and walkways under roof overhangs.

12 Pursuant to RCW 35.87A, the ordinance, or amendments thereto, may provide for
13 reasonable classification of businesses for purposes of determining the rate to be
14 charged, which rates may be lower than those set forth herein, areas assessed,
15 and may provide for exemptions from assessments as may be appropriate.

16 D. A portion of a building which is vacant in excess of two years may qualify
17 for assessment under Section 4.A.2 pursuant the following:

18 1. Term of vacancy shall be evaluated at the commencement of the
19 next annual assessment period.

20 2. A vacant area shall be deemed to be occupied and assessable at
21 the occupied rate at the commencement of the next annual assessment period
22 unless, prior thereto, the owner of the building or owner's representative shall give
23 written certification to the City that the space in question still remains vacant.
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1 3. More than 50 percent of the building's gross floor area must be
2 vacant.

3 4. If less than 50 percent of the building is occupied and assessable
4 under Section 4.A.1, only that portion of the building that is occupied shall be
5 assessed under Section 4.A.1. The remaining unoccupied portion of the building
6 shall be assessed under Section 4.A.2.

7 Section 5. Calculation of Assessments.

8 A. The gross building square footage and parcel area shall be initially
9 determined from the records of the Pierce County Assessor-Treasurer, subject to
10 adjustment thereafter upon a finding that the actual area on which the assessment
11 is to be calculated or the use thereof is different from that shown on the Pierce
12 County Assessor-Treasurer's record. It is presumed that Section 4.A.1 applies to
13 buildings unless adequate evidence is made available that Section 4.A.2 is
14 applicable. The burden of proof shall be on the ratepayer questioning the
15 assessment.
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18 B. The initial assessment and subsequent annual assessments showing
19 the rate of the special assessment, the gross square footage on which it is
20 calculated, and the total assessment for each separate ownership shall be mailed
21 to the owner or reputed owner whose name appears as the owner on the tax rolls
22 of the Pierce County Assessor-Treasurer and at the address for such owner as
23 shown on the tax rolls of the Pierce County Assessor-Treasurer. Subsequent
24 annual assessments, with the applicable rate, gross square footage, and total
25 assessment for each separate ownership, may be sent by regular mail or delivered
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1 by the City to the owner or reputed owner as contained in the records of the City
2 Treasurer and at the address for such owner or reputed owner as contained in the
3 records of the City Treasurer, and if no addresses is shown there, to the address
4 shown in the tax records of the Pierce County Assessor-Treasurer. It will be
5 presumed that ownership and the address of any owner or reputed owner remains
6 the same as at the time of mailing of the initial annual assessment, unless the City
7 Treasurer receives written notice of a change in the address of the owner to which
8 the assessment notice is to be mailed. Duplicate notices will be mailed upon
9 request of the owner to the owner's named representative at the address given in
10 such written request by the owner.
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12 C. Any increase of the assessment rate in order to produce a total
13 assessment equal to the approved annual budget will not exceed the maximum
14 assessment rates as set forth in Section 4 above, and as Section 4 may be
15 amended, except to the extent that such excess amount is equal to or less than the
16 inflation in prices which has occurred since the date of the first annual assessment,
17 as measured by the Consumer Price Index more specifically defined in Section 14
18 below. Any unexpended and unobligated budgeted amount remaining at the end
19 of any annual assessment period, and any assessments or funds collected and
20 deposited in the District Fund in excess of the amount authorized to be expended
21 for the annual assessment period in which such excess amounts are received,
22 may be expended as authorized by: (1) the next annual BIA budget approved by
23 the City Council, (2) amendment to the current annual budget, as approved by the
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1 City Council, pursuant to Section 20 below, or (3) preserved in the District Fund for
2 future expenses.

3 Section 6. Exemptions. Public rights-of-way and property owned by the
4 state and federal government shall be exempt from the special assessment,
5 provided that nothing herein shall preclude the state or federal government from
6 agreeing to make payment for any such assessment. Property owned by the City
7 and leased to the federal government for an initial term of at least ten years shall
8 be exempt from the special assessment for the term of the lease and any
9 extension thereof, except such exemption shall not apply if the federal government
10 agrees to pay or voluntarily pays the special assessment as to such property.
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12 Section 7. Collection Schedule. Insofar as is consistent with this ordinance
13 and RCW 35.87A, special assessments shall be collected on an annual basis, with
14 payments due on June 1 (or the first City business day thereafter) or within
15 30 days after mailing to the property owner the first notice of the amount of the
16 annual special assessment due, whichever date is later. A property owner may
17 elect to make payment in two equal, semiannual installments, the first due on
18 June 1 (or the first City business day thereafter) or within 30 days after mailing to
19 the property owner the first notice of the amount of the annual special assessment
20 due, whichever date is later, and the next installment to be due on December 1 (or
21 the first City business day thereafter), provided: (a) failure to make timely payment
22 in May (unless such date be extended by late mailing of notice) makes the entire
23 annual assessment due and payable, and (b) a charge of \$20 shall be added to
24 semiannual payments to cover the cost of processing. The special assessment
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1 upon property (and the owner thereof) which becomes assessable by reason of
2 loss of exemption, or which becomes assessable at a different rate by reason of a
3 change in occupancy or use, shall be adjusted to reflect such rate change at the
4 commencement of the next annual assessment period. Upon termination of the
5 BIA, pursuant to Section 1.B or otherwise, no refunds for overpayments of
6 assessments shall be made to persons paying such overpayments, unless there
7 are sufficient funds in the District Fund to pay such overpayments after payment of
8 all other costs, debts, or liabilities incurred on or payable from the District Fund. If
9 there are sufficient funds remaining to refund some of the overpayments, but not
10 all, such refunds shall be prorated among those who have made timely claims
11 pursuant to Section 16 below, and are entitled to such refunds.
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13 Section 8. Deposit into Fund. A special fund is hereby created, to be called
14 the Downtown Business Improvement Area Fund, hereafter called the "District
15 Fund," into which shall be deposited:
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- 17 A. All revenues from special assessments levied under this ordinance;
- 18 B. Interest, late charges, penalties, and income from the investment of fund
19 deposits;
- 20 C. Gifts and donations to the fund; and
- 21 D. Restitution monies for expenditures made from the fund and
22 reimbursement due the fund.
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24 Section 9. Expenditures. Expenditures from the District Fund, as may be
25 authorized by the City Council, shall be used exclusively for the purposes specified
26 in this ordinance and shall not be used for any other purpose.



1 Section 10. Administration. The City Manager, or such other City officer(s)
2 as the City Manager may designate to act in the City Manager's stead, shall
3 administer the District for the City, with authority to:

4 A. Classify property and ratepayers within the types of use under Section 4
5 above, determine the gross square footage of buildings and land for assessment
6 purposes, determine the rate applicable to a ratepayer when classifications
7 overlap, and resolve ambiguities in the application of rates. In determining gross
8 square footage, the designated City official may rely on figures supplied by the
9 Pierce County Assessor, the Local Development Council of Tacoma ("LDC"), or a
10 lease agreement, without making measurements directly.
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12 B. Collect the special assessments, refund special assessments when
13 overpaid, and extend the deadline for payment and/or waive delinquency charges
14 and interest whenever the delinquency is the result of the failure by the City to
15 provide a statement of the amount due, or nonpayment results from extenuating
16 circumstances beyond the ratepayer's control, such as a casualty loss.
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18 C. Determine and apply the interest rate for late payments contemplated by
19 Section 17.

20 D. Establish a schedule of proportionate payments for new ratepayers first
21 becoming subject to the assessment after May 1 of the year.
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23 E. After consultation and with the advice of the LDC, or its successor, take
24 such other action as is necessary and appropriate to carry out contemplated
25 programs with special assessments.
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1 F. Refer for initial determination and recommendations thereon questions
2 pertaining to determination of gross square footage, rates, building use, and other
3 questions pertaining to an application of the special assessment on a particular
4 property or property owner to the LDC, or its successor, in accordance with the
5 contract to be approved between the LDC and the City. Such initial determination
6 and recommendation by the LDC shall be advisory, and the City Manager or the
7 designated City official may adopt, amend, or reject such recommendation in
8 making administrative determinations hereunder. Any determination hereunder by
9 the City Manager or the designated City official may be appealed to the Hearing
10 Examiner, and from the Hearing Examiner to the City Council, in the manner
11 authorized pursuant to Section 16 below.
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13 G. Direct the appropriate officers of the City to pursue collection
14 procedures, including bringing legal civil actions in district or superior court, to
15 collect any unpaid assessments and to collect such unpaid assessments by
16 foreclosure action against the property on which it is assessed in accordance with
17 laws applicable to foreclosure of local improvement district liens, and/or to collect
18 by civil action such unpaid assessment by judgment against the owner.
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20 Section 11. Advisory Board. The Board of Directors of the LDC, or its
21 successor, shall serve as an advisory board in carrying out a contract for program
22 management of activities and programs to be funded through special
23 assessments. The advisory board shall contain members representative of the
24 classifications subject to assessment. The City Manager may appoint City
25 representatives in a nonvoting capacity to the advisory board.
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1 Section 12. Annual Budget/Annual Assessment Amount. On or before
2 March 1 of any year, after consultation with the LDC (or its successor) and any
3 established ratepayers' advisory board (as may be provided in the management
4 contract), the City Manager, or designee, shall submit to the City Council the
5 following: (a) a statement of the proposed programs and activities to be conducted
6 during the ensuing fiscal year (May 1 through April 30); (b) the proposed annual
7 budget; and (c) a statement of any adjustment to the assessment rates required for
8 financing the proposed activities and budget for the ensuing fiscal year. See
9 attached Exhibit "A" for the 2018-2019 Work Plan, and Exhibit "B" for the
10 2018-2019 Budget.
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12 After receipt of the proposed budget, and if a hearing is required under
13 chapter 35.87A RCW, the City Council will adopt a resolution setting the time and
14 place for a hearing to be held by the City Council to consider the proposed
15 activities and budget. Notice of the hearing shall be given by: (a) one publication
16 of the notice of hearing in a newspaper of general circulation in the City; and
17 (b) mailing a copy of the proposed activities, budget, and assessment rates for the
18 ensuing fiscal year to the owner or reputed owner of property in the District whose
19 names appear as the owners on the records of the City Treasurer, at the address
20 for such owners as shown on the records of the City Treasurer, or at such other
21 address for a particular owner as such owner may have previously requested in
22 writing; or, if no address is shown there, to the address shown in the tax records of
23 the Pierce County Assessor/Treasurer.
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1 At the time fixed for the hearing, and at the times to which the hearing may
2 be adjourned, or in the event a hearing is not required under chapter 35.87A RCW,
3 the City Council may correct, revise, modify, and amend the proposed activities,
4 budget, and assessment; and, thereafter, the City Council may approve, by
5 ordinance or resolution, said activities, budget, and assessment as proposed or as
6 modified. Upon City Council approval, the assessment roll shall be filed with the
7 City Treasurer and billings for the ensuing annual assessment shall be mailed to
8 the property owners in the District. Any property owner wishing to object to the
9 special assessment billed shall file an appeal consistent with Section 17.
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11 Filed with the office of the City Clerk prior to the passage of this ordinance is
12 a map showing the boundaries of the BIA and a list showing each lot and parcel to
13 be assessed and the rate and amount assessed, as authorized herein, against
14 each lot and parcel (and the owner thereof), together with improvements thereon.
15 Such list, together with the assessments as shown, is referred to as the "Annual
16 Assessment Roll," which is hereby approved and confirmed. Initial assessments
17 shall be made in accordance with the approved Annual Assessment Roll; and
18 subsequent annual assessments shall be made in accordance with subsequent
19 Annual Assessment Rolls as may be amended to reflect changes in the
20 per-square-foot rate of the assessment, amended to reflect correction of errors in
21 the computation of an assessment as to a particular property, or as may otherwise
22 be amended by the City Council. The City Treasurer or other City official, as
23 authorized herein, is hereby directed to collect the initial annual assessments as
24 shown on the Annual Assessment Roll and collect subsequent annual
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1 assessments, as may be shown on subsequent Annual Assessment Rolls, as the
2 same may be amended or corrected.

3 Section 13. Approval of Expenditures/Contract for Program Management.

4 The first annual budget for the first year of the renewed BIA and activities,
5 services, and projects to be funded with the special assessment proceeds, as set
6 forth in the materials on file with the City Clerk, are hereby approved. There is
7 hereby appropriated and authorized to be expended from the District Fund the sum
8 of \$1,303,100, or so much thereof as may be necessary, for the purposes,
9 projects, activities, and services approved for the first year of the renewed BIA.
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11 The Downtown Business Improvement Area Budget for 2018-2019 is
12 recommended at \$1,303,100, compared to a total budget of \$976,820 for the
13 previous year. This increase in expenditure is attributable to cover costs
14 associated with the expansion of boundaries, services, and availability of services.
15 The high and low intensity use rates are set to remain at \$0.107 and \$0.057 per
16 square foot, respectively. Due to the expanded footprint, the intensity use
17 assessments will generate \$194,726 in additional revenue. The renewal adds a
18 parcel or land area assessment at a rate of 0.03 per square foot. The parcel area
19 assessment will generate \$159,180.
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21 Unless otherwise authorized by the City, the total amount to be specially
22 assessed and expended in subsequent years shall be as set forth in the annual
23 budget approved by the City. The particular programs and services to be provided
24 for each subsequent annual period and the amount of funding thereof shall be
25 approved by resolution or ordinance of the City Council, as provided by Section 12
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above. The City may enter into a contract subject to approval by City Council with the LDC to administer the projects and activities for the first year of the renewed BIA and each annual period thereafter, the term of which contract to be effective from May 1 through April 30 of each BIA year, unless a suitable successor organization is recommended by (a) a majority of the votes of the ratepayers at their annual meeting weighed by the dollar value of their assessments, (b) a petition signed by ratepayers paying a majority of the assessments, or (c) by the association itself.

Section 14. Rate Changes. Any change in the assessment shall only be made by ordinance and as authorized in RCW 35.87A.130-140. Upon the recommendation of the advisory board, the City may, from time to time by ordinance, increase or reduce assessment rates to reflect changes in programs or program costs. The maximum rates are established in Section 4. These rates may only be exceeded to reflect changes in the purchasing power of money as measured by the Seattle-Tacoma Consumer Price Index for All Urban Consumers (CPI-U), published by the United States Department of Labor, Bureau of Labor Statistics (on or about October of each year), or a suitable, comparable index recommended by the advisory board.

Section 15. Non-transferability. Responsibility for BIA assessments remains with the property owner or ratepayer; provided, however, ratepayers are not precluded from recovering assessment costs through their normal lease negotiation processes.



1 Section 16. Notices. Notices of assessments, installment payments, or
2 delinquency, and all other notices contemplated by this ordinance, may be sent by
3 regular mail or delivered by the City to the address shown on the records of the
4 City Treasurer, and, if no address is shown there, to the address shown in the tax
5 records of the Pierce County Assessor-Treasurer. Failure of the ratepayer to
6 receive any mailed notice shall not release the ratepayer from the duty to pay the
7 assessment or pay said assessment on the due date, together with any
8 delinquency charges, except as authorized by Section 10.B above.

9 Section 17. Disputes/Appeals.

10 A. Correction of Assessment/Initial Appeal. Any person having been issued
11 a notice of assessment, interest, and/or penalties may appeal the assessment and
12 a conference for examination and review of the assessment. The petition shall be
13 filed in the office of the City Clerk within 30 days after issuance of the original
14 notice or the period covered by any extension of the due date thereof granted by
15 the City Manager, or designee (referred to as the "City official"). The initial appeal
16 shall set forth the amount of assessment, interest, and/or penalties, if any, which
17 the petitioner believes should be reduced or refunded and the reason such
18 correction should be granted.

19 The City official shall promptly consider the initial appeal, and may grant or
20 deny the appeal. If denied, the petitioner shall be notified by mail thereof, together
21 with the reasons for such denial. If a conference is granted, the City official shall
22 fix the time and place therefor and notify the petitioner thereof by mail. Prior to the
23 date set for the conference, the City official may also request, but not require, the
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1 petitioner to meet with a board of arbitrators (which may be provided for under the
2 contract with the LDC) in order to receive recommendations from the board on
3 such matter. After the conference with the City official, the City official may make
4 such determinations as may appear to be just and lawful and consistent with the
5 provisions of this ordinance, and shall mail a copy of such determination to the
6 petitioner. If no such initial appeal is filed within the 30-day period specified in this
7 Section 17, the assessment covered by the notice shall become final and any right
8 to contest or appeal such assessment amount shall be deemed conclusively
9 waived. No previous assessments shall be reconsidered if a timely initial appeal is
10 not made.
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12 B. Appeal to Hearing Examiner. Any person having received a notice of
13 denial of a petition or a notice of determination made under Subsection A above
14 may appeal the same to the City's Hearing Examiner within 20 days from the date
15 of the notice of such denial or determination. In the notice of appeal, the petitioner
16 shall set forth the amount of the assessment, interest, and/or penalties which the
17 petitioner contends should be reduced or refunded and the reason for such
18 reduction or refund. The appeal shall be perfected by filing a copy of the notice of
19 appeal in the office of the City official making the denial or determination and filing
20 the original thereof in the office of the Hearing Examiner within the time specified
21 herein. The appeal before the Hearing Examiner shall be conducted in
22 accordance with the rules of practice and procedure as set forth in Chapter 1.23 of
23 the Tacoma Municipal Code ("TMC"). In such proceeding, the petitioner shall be
24 deemed the plaintiff and the City official denying the petition or making the
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1 determination being appealed shall be deemed the defendant. The burden shall
2 rest on the plaintiff to prove that the assessment, together with any interest or
3 penalties thereon, is incorrect, either in whole or in part, and to establish the
4 correct amount thereof.

5 C. Appeal to City Council. Either party designated in Subsection B above
6 as plaintiff or defendant may appeal the decision of the Hearing Examiner to the
7 City Council. Such appeal shall be within the time and in accordance with the rules
8 and procedures as set forth in TMC 1.23 and 1.70. The burden of proof shall
9 remain upon the plaintiff (ratepayer) to prove that the assessment in question is
10 incorrect, either in whole or in part, and to establish the correct amount of the
11 assessment and any interest or penalties thereon.

12 D. Extension of Time. The time for payment of any assessment, interest, or
13 penalties payable under this ordinance shall not be extended by reason of any
14 claim by the ratepayer that the amount thereof is incorrect or by reason of the filing
15 of a petition or appeal hereunder. If the City official finds that the nonpayment by a
16 petitioner to pay any assessment by the due date was the result of circumstances
17 beyond the control of the petitioner, interest or penalties imposed under this
18 ordinance, with respect to such assessment, may be waived.

19 Section 18. Delinquent Payments. If an assessment has not been paid
20 within 30 days after its due date and the ratepayer has been making prompt
21 payments in the past, the City official in charge of assessment collections shall
22 send a reminder notice and add a \$50 processing fee. If the assessment is not
23 paid within 60 days after its due date, a delinquency charge shall be added in the
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1 amount of 10 percent of the assessment, in addition to the processing fee. All
2 assessments which are not paid when due shall also bear interest at the rate of
3 12 percent from the payment due date.

4 Section 19. Collection/Foreclosure. Whenever any annual assessment
5 which the ratepayer has elected not to make in two semi-annual payments, or any
6 semi-annual installment of an assessment under this ordinance shall be delinquent
7 for more than 30 days, the entire annual assessment shall be due and payable and
8 shall constitute a lien on the property assessed. The collection thereof may be
9 enforced through foreclosure action on the property assessed in the manner as
10 provided for collection and foreclosure of local improvement district assessments,
11 pursuant to RCW 35 (including, but not limited to Chapters 35.44, 35.49,
12 and 35.50), and applicable provisions of the TMC.

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14 Alternatively, or as a cumulative remedy, the delinquent assessment may be
15 collected from the ratepayer liable therefor by civil action in either district or
16 superior court.

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18 Section 20. Disestablishment of Area - Assets and Liabilities. Upon
19 disestablishment or termination of the BIA and in accordance with
20 RCW 35.87A.190, any proceeds of the special assessments or assets acquired
21 with such proceeds, or liabilities incurred as a result of the formation of such BIA,
22 shall be subject to disposition as the City Council shall determine; provided,
23 however, that any liabilities, either current or future, incurred as a result of action
24 taken to accomplish the purposes of RCW 35.87A.010 or the purposes of the BIA
25 shall not be an obligation of the General Fund or any special fund of the City, but
26



such liability shall be provided entirely from available revenues generated from the special assessments under this ordinance.

1
2 Section 21. Changes in Budget. If the City Council finds that: (a) by
3 reason of changed condition or unanticipated circumstances, it is in the best
4 interest of the participants in the BIA to provide changes to the approved annual
5 budget; (b) changes in the approved annual budget are necessary in order to best
6 meet the objectives or purposes for which the BIA was formed; or (c) the total
7 assessments collected are greater or less than anticipated, or the actual cost of a
8 particular program or service is greater or less than anticipated, then the City
9 Council may, by resolution or ordinance, amend the annual budget and reallocate
10 the funding for the particular programs or services to be provided and to provide
11 funding for such other purposes as may be necessary, as determined by the City
12 Council, to best serve the purposes for which the BIA was formed, in light of the
13 conditions or unanticipated circumstances which then exist.
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17 Section 22. Severability. If any provision of this ordinance, or its application
18 to any person or circumstance, is held invalid, the remainder of this ordinance or
19 the application of the provision to other persons or circumstances is not affected.
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Section 23. Ratification and Confirmation. The making of contracts and the sending of assessment notices pursuant to the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

EXHIBIT "A"

DOWNTOWN TACOMA BUSINESS IMPROVEMENT AREA WORK PLAN - 2018-2019

The Downtown Tacoma Business Improvement Area [BIA] was approved on April 15, 1988 under Substitute Ordinance 24058, reestablished on March 10, 1998 under Ordinance 26205 and reestablished again on February 19, 2008 under Ordinance 27696. The following is the thirty-first year work plan for the district, effective from May 1, 2018 to April 30, 2019, implementing the BIA program for 2018-2019. It includes the administration of the program, appeals process, board and committees, and plans for maintenance, security and marketing.

PLAN OF ACTION

I. CITY OF TACOMA

The City of Tacoma will collect funds and deposit those funds in an interest bearing account that will be reflected in a separate ledger. The City will contract with the Local Development Council [LDC] (dba Downtown Tacoma Business Improvement Area) for management services, which contract is hereafter called the BIA Agreement. No provision of this work plan shall relieve the BIA from carrying out the annual program in accordance with the terms and conditions of the BIA Agreement.

II. DOWNTOWN TACOMA BIA

- A. The BIA membership consists of representatives designated by the owners of record of properties subject to paying assessments into the district. This group elects a Board of Directors to review BIA programming and determine if the funds are being spent in a proper manner, and each year this representative body prepares a new budget and work program for the following year based on identified needs, recognition of problem areas and experience from the previous year. The plan calls for an administrative team from the BIA to manage services, see that there is adequate insurance coverage, oversee all functions and report directly to the Board. The BIA will make an annual report available to all ratepayers and will be ready to respond to issues or emergencies.
- B. The BIA will rent or purchase all equipment and materials needed to manage the district in accordance with City Ordinance 27696 and Chapter R.C.W. 35.87A. It will provide all personnel or subcontract all services and personnel necessary for its operation.
- C. The City will enter into an agreement with the LDC for the management of the BIA.
- D. All equipment purchased with funds generated from the BIA will be returned to the City should the district be discontinued.
- E. Appeals
 1. The BIA will provide appeal forms and information to ratepayers relative to the process for correction or appeal of assessments pursuant to City Ordinance 27696. When requested by the City, BIA staff will provide administrative assistance in determining factual issues pertaining to application of the assessment to a particular property such as square footage, rates and building use.
 2. The BIA will inspect properties and turn in reports as requested.

III. MANAGEMENT

The BIA will administer the basic program with contract staff or firms as needed to implement the program, with an approved budget as established by Tacoma City Ordinance 27696.

IV. COMMITTEES

A. Advisory committees will be made up of ratepayers and other interested parties that will advise the BIA Board in its management of the district.

B. Maintenance Advisory Committee

1. The committee will review all aspects of the BIA maintenance program.
2. It will meet as needed and be ready to respond to issues or requests.
3. The Advisory Committee may include the following or their designee:
 - a. One board representative, acting as Chair
 - b. City of Tacoma representative
 - c. One or more additional ratepayers

C. Security Advisory Committee

1. The committee will review all aspects of the BIA security program.
2. The committee will provide regular coordination for all security activities within the BIA.
3. It will meet as needed and be ready to respond to issues or requests.
4. The Advisory Committee may include the following or their designee:
 - a. One board representative, acting as Chair
 - b. Tacoma Police Department Chief or designee
 - c. Contractor supervisor, if applicable
 - d. City of Tacoma representative
 - e. One or more other ratepayers
 - f. Representatives from other agencies

D. Community Relations Committee

1. The committee will communicate with public agencies, ratepayers, business owners, residents, etc. on behalf of the BIA.
2. The committee oversees BIA beautification and marketing initiatives.
3. It will meet as needed and be ready to respond to issues or requests.
4. The Advisory Committee may include the following or their designee:
 - a. One board representatives, acting as Chair
 - b. City of Tacoma representative
 - c. One or more other ratepayers
 - d. Other stakeholders within the Downtown Tacoma BIA

V. SECURITY PLAN

A. Downtown Police

1. Police officers may patrol a larger area than the BIA while partially funded with BIA assessments. These funds may be used for labor as well as maintenance, supplies and equipment for bicycles used by police officers in the BIA.
2. The BIA may fund selected operations when the Tacoma Police Department and

the BIA mutually arrange such operations.

B. Private Security

1. Service Standard: To provide a community service representative (CSR) patrol, also known as BIA Security Patrol through every block of the BIA at least once per day. Phone-directed patrols will be available on-call every day of the week. Services will be coordinated with police and other public safety agencies to provide maximum flexibility and highest level of service in response to BIA needs.
2. Downtown Security Patrol or CSR (Community Service Representatives)
 - a. BIA Security Patrols will wear readily identifiable uniforms and will be trained as public relations representatives for the downtown area, assisting people with directions and providing related services. Security personnel will not carry weapons, but will be equipped with a cellular telephone for communication with customers and the Tacoma Police Department.
 - b. The tentatively proposed coverage for the 2018-2019 year is below, but may be adjusted as conditions demand:
 - 24 hours a day, 7 days a week
 - c. BIA Security Patrols on bicycles allow for more frequent and effective coverage of the area and will be used when feasible.
 - d. The hours may be adjusted to meet current district needs, including holidays.
 - e. The BIA will approve programming for training of the CSRs.
 - f. Any security personnel objected to by the City, the Tacoma Police Department, or the BIA Board will be removed from the program.

VI. MAINTENANCE PLAN

- A. Service Standard: To clean sidewalks and other common areas throughout the BIA at least once per week. Higher traffic areas may be cleaned more frequently as conditions warrant.
- B. Proposed staffing levels for sidewalk cleaning call for continuation of a supervisor and four full-time employees.
- C. The City has agreed to provide (at no cost to the BIA) the finished space located at the foot of the Broadway hill climb (12th & Commerce) for use by the BIA Maintenance Program. Staff will continue to do routine cleaning of the public rest rooms at 12th & Commerce as agreed with the Public Works Department.
- D. The crew will attempt to inform ratepayers or their representatives of any graffiti noticed on their property. Educational information on removal procedures and organizations that will assist with graffiti removal will be available. In the event that the business or property owner has been informed and does nothing about the graffiti, crews will offer to remove it as time and resources permit. Crews will not clean any graffiti that cannot be reached from standing in the public right-of-way.
- E. The clean-up crew will respond as possible to calls from city officials, ratepayers, the general public, or BIA Security for clean-up matters needing immediate attention.
- F. The crew will work to pressure wash sidewalks throughout the downtown as possible.
- G. When snow is on the ground, the maintenance crew will first focus on removing snow from storm drains and other areas to minimize flooding and puddles for pedestrians

- entering crosswalks. After that, the crew will remove snow from sidewalks to the best of their ability. The crew will not be able to clean snow off all sidewalks in the downtown area. The crew will not clean snow from any downtown streets.
- H. The BIA will coordinate with the City and other downtown agencies to help install and/or maintain common area improvements.

VII. COMMUNITY RELATIONS PLAN

- A. Service Standard: To maintain regular, effective communication with district ratepayers and to support the ratepayers' goal of preserving and enhancing their property values by highlighting the BIA as a desirable area in which to work, shop, live, and visit.
- B. Funds for general marketing of the area may be expended on providing and disseminating information to ratepayers and for more general audiences, through brochures, print or electronic advertising, and websites in order to promote the services of the BIA and the BIA area.
- C. Vertical street banners are incrementally purchased and installed on several arterials within the BIA.
- D. The committee will collaborate to identify opportunities to use its resources judiciously to increase efficiencies and leverage existing opportunities among the various organizations promoting downtown in a manner benefitting all ratepayers.
- E. The Board will regularly survey ratepayers and users about existing and potential BIA services.

EXHIBIT "B"

DOWNTOWN BUSINESS IMPROVEMENT AREA		0% Increase	0% Increase	New Rate Class	
Budget For May 1, 2018 Through April 30, 2019		2016-2017	2017-2018	2018-2019	
	High Rate up to annual rate of .16	Approved	Approved	Approved	
	Low Rate up to annual rate of .10	Budget	Budget	Budget	% Change
	Land Rate up to annual rate of .07				
INCOME PROJECTIONS:		0.1070	0.1070	0.1070	0%
		0.0530	0.0530	0.0530	0%
		-	-	0.0300	N/A
I. ASSESSMENTS					
	A. High Rate	567,447.75	567,447.75	720,431.00	27%
	B. Low Rate	277,370.41	277,370.41	319,113.00	15%
	C. Land Rate			159,180.00	N/A
	D. Estimated uncollectible assessments (.3%)	(7,000.00)	(2,534.45)	(3,596.17)	42%
	E. Other Income	15,000.00	15,000.00	5,000.00	-67%
	F. Estimated Late Fees and Interest	500.00	500.00	500.00	0%
TOTAL PROJECTED INCOME		853,318.16	857,783.71	1,200,627.83	40%
EXPENSE:					
I. ADMINISTRATION					
	A. Management Fees	78,000.00	79,920.00	90,000.00	13%
	B. Professional Services	8,000.00	8,000.00	8,400.00	5%
	C. Insurance	4,400.00	4,600.00	6,000.00	30%
	D. Rent/Overhead	15,800.00	16,300.00	16,800.00	3%
	TOTAL ADMINISTRATION	106,200.00	108,820.00	121,200.00	11%
II. MAINTENANCE					
	A. Personnel				
	1. Permanent Employees	183,000.00	197,000.00	305,000.00	55%
	2. Other Costs (Temp Hires)	44,000.00	44,000.00	-	-100%
	Total Personnel	227,000.00	241,000.00	305,000.00	27%
	B. Equipment				
	1. Sweeper includes maintenance, parking, vehicle tabs	6,700.00	6,700.00	8,000.00	19%
	2. Truck includes maintenance, parking, vehicle tabs	2,400.00	2,400.00	2,500.00	4%
	3. Other equipment maintenance	1,000.00	3,000.00	4,000.00	33%
	4. Insurance for sweeper and truck	3,600.00	3,800.00	3,800.00	0%
	5. Equipment Depreciation/Replacement/Lease	22,300.00	22,300.00	90,000.00	304%
	Total Equipment	36,000.00	38,200.00	108,300.00	184%
	C. Consumable Supplies				
	1. Equipment Gas & Supplies	20,000.00	20,000.00	28,000.00	40%
	2. Cell Phone	1,500.00	1,500.00	2,000.00	33%
	3. Cleaning Supplies	1,500.00	2,000.00	2,000.00	0%
	4. Uniforms & safety equipment	2,000.00	2,000.00	2,500.00	25%
	5. Miscellaneous	700.00	700.00	1,000.00	43%
	Total Consumable Supplies	25,700.00	26,200.00	35,500.00	35%
	TOTAL MAINTENANCE	288,700.00	305,400.00	448,800.00	47%
III. SECURITY					
	A. Security Contract	320,000.00	325,000.00	480,000.00	48%
	B. TPD Emphasis Patrols	129,600.00	129,600.00	129,600.00	0%
	C. Cops On Bikes Supplies/Maintenance	2,000.00	2,000.00	2,000.00	0%
	D. Facilities	8,400.00	8,400.00	8,400.00	0%
	TOTAL SECURITY	\$ 460,000.00	\$ 465,000.00	\$ 620,000.00	33%
IV. COMMUNITY RELATIONS					
	A. Community Outreach	7,000.00	7,000.00	7,000.00	0%
	B. Marketing Services	10,000.00	20,000.00	33,000.00	65%
	C. Banner Program	12,000.00	7,500.00	15,000.00	100%
	D. Ratepayer Communication (Report & Comm)	6,000.00	6,000.00	6,000.00	0%
	E. Common Area Improvements	28,000.00	28,000.00	23,000.00	-18%
	F. Tacoma Link Payments	29,100.00	29,100.00	29,100.00	0%
	TOTAL COMMUNITY RELATIONS	92,100.00	97,600.00	113,100.00	16%
TOTAL EXPENSE		947,000.00	976,820.00	1,303,100.00	33%
Profit/Loss (net increase/decrease of reserves for ops)		(93,681.84)	(119,036.29)	(102,472.17)	-14%