

ORDINANCE NO. 03-07

AN ORDINANCE establishing a Downtown Business Improvement District; providing for the levy of special assessments upon businesses within the area; the deposit of revenues in a special account and expenditures there from; and providing for an operating agreement with the Downtown Business Improvement District.

WHEREAS, the owners and/or operators of businesses subject to sixty percent (60%) or more of the special assessments levied by this Ordinance filed a petition with the City of Richland on October 30, 2006, to establish a Downtown Business Improvement District pursuant to RCW Chapter 35.87A. The petition and supporting documents are on file with the Richland City Clerk; and

WHEREAS, upon receiving the petition, the Richland City Council on November 21, 2006, adopted Resolution No. 66-06 entitled "A Resolution declaring the intention to establish a Downtown Business Improvement District, restating information contained in the initiation petition, and fixing a time and place for a public hearing"; and

WHEREAS, on December 19, 2006, at 7:30 p.m. or soon thereafter as practical, in the Richland City Council Chambers, the Richland City Council held a hearing concerning the formation of the Downtown Business Improvement District; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Richland as follows:

Section 1.01 District Established. The City of Richland, pursuant to RCW Chapter 35.87A, hereby establishes a Downtown Business Improvement District (DBID) within the boundaries described below and as shown on the map

attached as Appendix A. The DBID is bounded by George Washington Way on the east, Jadwin Avenue on the south and west and Knight Street on the north (rate zone 1) and additionally includes businesses fronting on Lee Boulevard between Howard Amon Park and George Washington Way (rate zone 2).

Businesses (as described in RCW 35.87A.020), and further defined in the petition to form the UBID, multi-family residential, mixed-use projects (as described in RCW 35.87A.020(3)), all located within the DBID shall be subject to special assessments as authorized by RCW 35.87A.010. The City Council finds that the benefit to businesses subject to the special assessment is a special benefit which would not otherwise accrue but, for the activities, programs and services carried out with the funds provided by the special assessments authorized pursuant to this Ordinance.

Section 1.02 Programs. The revenues from the special assessments authorized in Section 1.03 shall be used for the following purposes consistent with the Petition to establish the UBID on file with the City Clerk, City Council Resolution No. 66-06 and RCW 35.87A.010. The special assessments shall be used as follows:

The special assessments shall be used for the purposes of management, planning and operating programs pursuant to those purposes outlined in RCW Chapter 35.87A.010. The activities proposed for the first year of operation include, but are not limited to:

1. Holiday lighting
2. Maintenance

3. Landscaping
4. Miscellaneous and contingency
5. Administration:
 - a. The City of Richland will utilize seven percent (7%) of the district's total annual assessments to cover the City's cost of administering the district budget, assessments, delinquencies, and other associated tasks.

The above budget categories are supplemental to existing City services and are not intended to fully displace any services regularly provided by the City. Special assessment revenues may also be used for additional purposes consistent with RCW 35.87A.010 as determined by the City Council and the UBID.

Section 1.03 Levy of Special Assessments. To finance the programs set forth in Section 1.02, above, there is levied and shall be collected, assessments upon the businesses (as described in RCW 35.87A.020) multi-family residential, mixed-use project (as described in RCW 35.87A.020(3)), as set forth on the following special assessment formula for the UBID.

1. Rate zone 1: \$20.00 per month per business.
2. Rate zone 2: \$10.00 per month per business.

Payments are due on the first day of the quarter and will be past due on the 25th day of the quarter. Businesses have the option of paying annually. In that case, payments are due on the fifth day of the year and will be past due on the 25th day of the year. The election to pay annually or quarterly will be a one-time option. Quarterly assessments will be the default method unless a business specifically requests annual statements. A statement, including a \$10.00 re-billing fee, will be mailed for past due assessments.

A business which is more than 60 days delinquent on any UBID Assessment does not retain membership "in good standing" and is not eligible to vote. Upon review of the board, a business not "in good standing" may be denied access to UBID services. Furthermore, the City's Finance Manager is authorized to refer any unpaid assessments and re-billing fees to a collection agency for collection. All collection costs, including attorney fees, are the responsibility of the business that failed to pay their assessment on time. The assessment formula used in establishing the UBID shall be subject to review at the Annual Meeting of the DBID. Any subsequent adjustments of the assessment formula shall be based on a vote requiring 60% of the majority present or holding a valid proxy, at the annual meeting and subsequent approval of the City of Richland Council.

Section 1.04 Exemptions. Special Assessments. No special assessments shall be levied upon and collected from:

1. Concessionaires at public events, vendor or entertainers who engage in business in the area less than 30 days per year.
2. Single-family housing units.
3. Businesses in existence less than one year.

Section 1.05 Downtown Business Improvement District Fund—Created. There is hereby created a fund, known and designated as the Downtown Business Improvement District Fund (DBID), into which shall be paid all UBID revenues from special assessments levied under the authority of RCW 35.87A, gifts and donations for the UBID fund, monies for expenditures made and reimbursements due to the UBID fund, and interest and all other income from the investment of deposits according to established City procedures and policies.

Section 1.06 Downtown Business Improvement District Fund-Distributions. On the first regular business day of each month, the finance manager is authorized, empowered and directed to distribute from the UBID Fund to the UBID the total amount of special assessments collected under RCW 35.87A.130 during the preceding month.

Section 1.07 Downtown Business Improvement District Fund-Administration. The finance manager shall keep a full and careful record of receipts and distributions with respect to the Downtown Business Improvement District Fund.

Section 1.08 Administration. The City Manager or designee shall administer the DBID for the City with authority to:

1. Direct the collection of special assessments; refund special assessments when overpaid or paid for the same area by more than one ratepayer; and extend the deadline for payment and/or waive delinquency charges and interest whenever the delinquency is a result of a failure by the City to provide a statement of the amount due or non-payment results from extenuating circumstances beyond the ratepayer's control, such as a casualty loss causing premature closure of the business or bankruptcy;
2. Execute a contract for an annual program management contract with the DBID or its successor consistent with Section 1.14 of this Ordinance.

The City's contract with the DBID or its successor shall provide for creation of a Board of Directors holding of quarterly meetings and an annual meeting for UBID ratepayers consistent with Sections 1.09 and 1.10 of this Ordinance and obtaining State of Washington not for profit status.

Section 1.09 Board of Directors. The DBID or its successor in performing a contract to administer the DBID programs, shall establish a Board of Directors to: (1) establish and maintain a data base which includes a list and classification of all ratepayers; (2) provide guidance in establishing and carrying out projects and activities financed through special assessments; and (3) determine ratepayer disputes which include adjustment of assessment rate, methods, classification, special benefits and all matters reasonably related thereto. The Board of Directors shall make recommendations for the DBID budget, expenditures, programs, and assessments to the DBID. The Board of Directors shall, at a minimum, meet quarterly. The last quarterly meeting of the fiscal or calendar year shall be considered an annual meeting. A written annual report shall be distributed prior to or at the meeting. The annual report shall provide ratepayers information regarding annual revenues and expenditures and include contact information for the active Board of Directors membership. The annual report shall be provided to the Richland City Council following review by the DBID membership.

Section 1.10 Board of Directors Membership. The Board of Directors shall have a membership of at least five persons operating a business in the UBID. The Board of Directors will be elected by business owners within the DBID for

terms determined by the DBID. The DBID shall, at an annual meeting, receive nominations for election to the Board of Directors. Board of Director members shall be elected by the ratepayers at the annual meeting. The Board of Directors shall report to the DBID ratepayers for the purpose of performing its functions.

Section 1.11 Interim Board of Directors. The City Council shall appoint an interim Board of Directors comprised of at least five ratepayers from the DBID. Within approximately one hundred twenty (120) days from approval of this Ordinance. The Interim Board of Directors will be replaced by a permanent Board of Directors pursuant to Section 1.10, above. The Interim Board of Directors shall develop and promulgate bylaws or rules to guide the operation of the Board of Directors which shall be approved by the City Council.

Section 1.12 Annual Budget. After consultation with the Board of Directors, the DBID shall submit to the City Council on or before February 1st of each year: 1) a statement of the proposed projects and activities to be conducted during the ensuing fiscal or calendar year; (2) the proposed UBID budget; and (3) a statement including a list of ratepayers, the assessment rates and business classifications requested for financing the proposed budget. The City Council, upon receipt of the statement from the DBID may approve, reject and correct the proposed activities, budget and assessments and thereafter, by ordinance or resolution, approve the activities, budget and assessments as provided or as modified. The use of revenue contained in this Ordinance, and as contained in the petition to form the district, are approved by the City Council and will remain in effect until the annual budget is approved consistent with this section.

Section 1.13 Commencement of Assessments. The first quarterly special assessment authorized herein shall be due July 5, 2007 representing the second quarter of the 2007 calendar year.

Section 1.14 Contract for Program Management. The City Manager, or designee, is authorized to contract with the DBID to administer DBID projects and activities for the first year. Thereafter, the City Manager may continue each year to contract with the DBID to administer the forthcoming annual program, unless a suitable successor organization is recommended by: a) a majority of the votes of the ratepayers at their annual meeting, or b) a valid petition signed by the majority of ratepayers. The annual contract will be put in place only after the Richland City Council adopts the annual budget proposed by the DBID consistent with Section 1.12 of this Ordinance.

Section 1.15 Rate Changes. Any change in the assessment rate shall only be made by ordinance and as authorized in RCW 35.87A.140. No change shall occur in the assessment rate unless recommended by DBID Board of Directors consistent with DBID operating and voting procedures and requires a vote of 60% of the majority present or holding a valid proxy at the annual meeting and subsequent approval by the Richland City Council.

Section 1.16 Notices. Notices of assessment, installment payment, or delinquency, and all other notices contemplated by this Ordinance may be sent by ordinary mail or delivered by the City to the address shown on the records of the City Treasurer and, if no address is shown there, to the address shown on the records of the City maintained for business or utility tax purposes. Failure of

the ratepayer to receive any mailed notice shall not release the ratepayer from the duty to pay the assessment.


Section 1.17 Disestablishment of Area. The duration of the Downtown Business Improvement District existence shall be perpetual or until such time as 60% of the membership votes to disband and the City of Richland follows the procedural requirements of RCW 35.87A.180. The City reserves the opportunity to disestablish the DBID by ordinance after adoption of a resolution of intent to disestablish the district and the holding of a public hearing, without the 60% affirmative vote of UBID members, consistent with RCW 35.87A180.

Section 1.18 Disputes. Any ratepayer, aggrieved by the amount of an assessment or delinquency charge, shall request, within twenty (20) days from the date of the assessment or charge, a meeting and/or hearing before the DBID Board of Directors and, if not satisfied with the decision of the Board of Directors, appeal, within ten (10) days from the date of the decision, the matter to the Richland City Council.

Section 1.19 Severability. If any section, subdivision, part or word of this Ordinance or any regulation, rule or order adopted pursuant to the authority thereof be determined invalid, it shall not affect the remainder of this Ordinance, but be confined to the section, subdivision, part or word directly involved in the controversy with the section, subdivision, part or word severed or stricken.


Section 1.20 Effective Date. This Ordinance shall take effect and be in full force thirty (30) days after the date it is passed by the City Council and after its publication in the official newspaper of the City of Richland.

PASSED by the City Council of the City of Richland at a regular meeting
this 6th day of February, 2007.




ROBERT WELCH
Mayor

ATTEST:



Or CYNTHIA JOHNSON
City Clerk

APPROVED AS TO FORM:



THOMAS O. LAMPSON
City Attorney

Date Published: February 11, 2007