

BELLINGHAM TBD NO. 1 RESOLUTION #2010-1

A RESOLUTION OF THE BOARD OF TRANSPORTATION BENEFIT DISTRICT NO. 1, BELLINGHAM, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE DISTRICT ON NOVEMBER 2, 2010 TO IMPOSE UP TO A TWO-TENTHS OF ONE PERCENT (0.002) SALES AND USE TAX WITHIN THE DISTRICT FOR A PERIOD OF TEN YEARS TO FUND SPECIFIED TRANSPORTATION IMPROVEMENTS.

WHEREAS, the City of Bellingham (the "City") approved Ordinance No. 2010-07- 040 on July 12, 2010, establishing Transportation Benefit District No. 1 (the "District") pursuant to chapter 36.73 RCW; and

WHEREAS, the City's six-year (2011-2016) Transportation Improvement Program ("TIP") identifies projects that constitute transportation improvements that may be funded by the District, including Project #1 entitled "Annual Arterial Pavement Resurfacing Program", Project #16 entitled "Non-Motorized Transportation Options", and Project #17 entitled "Transit Enhancement Options", (collectively the "TBD Projects"); and

WHEREAS, on June 21, 2010, the City conducted a public hearing in accordance with RCW 36.73.050, after giving proper notice describing the TBD Projects and activities to be funded by the District, and

WHEREAS, with voter approval, the District may impose a sales and use tax upon the occurrence of any taxable event within the boundaries of the District to fund transportation improvements; and

WHEREAS, the governing board of the District (the "Board") now desires to fund and implement the TBD Projects, through the imposition by the District of up to a two-tenths of one percent (0.002) sales and use tax in accordance with RCW 82.14.0455, consistent with Chapter 36.73 RCW, upon voter approval thereof; and

WHEREAS, it is the intent of the Board to allocate funds from the voter approved sales and use tax in a manner that generally balances the use of the funds equitably among the three project categories identified above during the ten (10) year period of the levy; and

WHEREAS, Project #1, Annual Arterial Pavement Resurfacing is a transportation improvement project of significance to the City; resurfacing of arterial streets on an ongoing basis will optimize the lifecycle of the City's existing infrastructure. Given the reduction in the current funding level available for street resurfacing projects, there is a need for the additional revenue source provided by this voter approved sales and use tax to maintain the City's infrastructure; and

WHEREAS, Project #16 Non-Motorized Transportation Options responds to an important goal in the City's Comprehensive Plan, to facilitate a mode shift to more non-motorized transportation facilities, and this voter approved sales and use will provide needed funding for alternate infrastructure like sidewalk connections, flashing crosswalks, and bike facilities, and

WHEREAS, projects related to public transportation are included in the definition of a transportation improvement project pursuant to RCW 36.73.015 (3), and are eligible Transportation Benefit District projects; and

WHEREAS, Project #17 "Transit Enhancement Projects" has been identified as a public transportation project intended to be funded by imposition of the sales and use tax; and

WHEREAS, in the event a future Whatcom Transportation Authority ballot measure is approved by voters, the Board intends to consider imposing less than the authorized two tenths of one percent (0.002) of the sales and use tax approved by voters in this ballot measure; and

NOW THEREFORE, THE BOARD OF TRANSPORTATION BENEFIT DISTRICT NO. 1, BELLINGHAM, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1 Findings; Description of the TBD Projects.

The Board hereby finds that the best interests of the inhabitants of the District require the District to impose a sales and use tax up to two-tenths of one percent (0.002) pursuant to RCW 36.73.040(3)(a) and RCW 82.14.0455 for the purpose of providing a portion of the funds necessary to finance the TBD Projects.

The TBD Projects consist of the following transportation improvement projects described in the City's six-year (2011-2016) Transportation Improvement Program, which descriptions are incorporated herein:

- Project #1 entitled "Annual Arterial Pavement Resurfacing Program",
- Project #16 entitled "Non-Motorized Transportation Options", and
- Project #17 entitled "Transit Enhancement Options"

The cost of all necessary design, engineering, financial, legal and other consulting services, inspection and testing, administrative and relocation expenses and other costs incurred in connection with the foregoing TBD Projects shall be deemed a part of the costs of the TBD Projects.

The Board shall determine the application of moneys available for the TBD Projects so as to accomplish, as nearly as may be, all of the TBD Projects. In the event that the proceeds

of sales and use taxes authorized herein, plus any other money of the District legally available therefore, are insufficient to accomplish all of the TBD Projects, the Board shall use the available funds for paying the cost of those portions of the TBD Projects deemed by the Board most necessary and in the best interest of the District.

The Board shall determine the exact locations and specifications for the elements of the TBD Projects as well as the timing, order and manner of implementing or completing the TBD Projects. The Board may alter, make substitutions to and amend the TBD Project descriptions as it determines is in the best interests of the District consistent with the general descriptions provided above and in accordance with the material change policy adopted by the Board and the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

If the Board shall determine that it has become impractical to acquire, construct, or implement all or any portion of the TBD Projects by reason of changed conditions, incompatible development, costs substantially in excess of the amount of sales and use tax proceeds estimated to be available, or acquisition by a superior governmental authority, the Board shall not be required to acquire, construct, or implement such portions. If all of the TBD Projects have been acquired, constructed, implemented or duly provided for, or found to be impractical, the Board may apply the sales and use tax proceeds (including earnings thereon) or any portion thereof to other transportation improvements then identified in the City's six-year transportation improvement program in accordance with the material change policy adopted by the Board and the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

In the event that voters approve a future sales and use tax increase proposed by the Whatcom Transportation Authority to fund public transportation, the Board shall determine whether to reduce the amount of sales and use tax collected for funding of public transportation projects in the Transportation Benefit District.

Section 2. Proposition.

It is hereby found and declared that the best interests of the District require the submission to the qualified electors of the District of the proposition whether the District shall impose a sales and use tax within the limitations established in RCW 82.14.0455 for their ratification or rejection at a special election to be held on November 2, 2010. For the purpose of providing funds necessary to pay or finance costs of the TBD Projects, the Whatcom County Auditor, as *ex officio* supervisor of elections in Whatcom County, Washington, is hereby requested to call and conduct such special election to be held within the District on such day and to submit to the qualified electors of the District for their approval or rejection, a proposition to impose a sales and use tax up to the amount of two-tenths of one percent (0.002) of the selling price in the case of a sales tax, or value of the article used, in the case of the use tax. The tax is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the District, for a period of ten years.

Upon approval of the voters of the proposition hereinafter set forth, the District may use proceeds of such sales and use tax for the purpose of paying or financing costs of the TBD Projects in accordance with the requirements of chapter 36.73 RCW. The Secretary of the Board is hereby authorized and directed to certify said proposition to said official in the following form:

**TRANSPORTATION BENEFIT DISTRICT NO. 1
BELLINGHAM, WASHINGTON
SALES AND USE TAX FOR
TRANSPORTATION IMPROVEMENTS**

The Board of Transportation Benefit District No. 1, Bellingham, Washington, adopted Resolution No. 2010-07-040 concerning a sales and use tax to fund transportation improvements. This proposition would authorize a sales and use tax of up to two tenths of one percent (0.002) to be collected from all taxable retail sales within the District in accordance with RCW 82.14.0455 for a term of ten years for the purpose of paying or financing costs of the following transportation improvement projects identified in the City of Bellingham Transportation Improvement Program (TIP): resurfacing pavement on arterial streets and bicycle lanes, adding non-motorized transportation options and transit service. Should this proposition be approved?

Yes?.....

No?.....

Section 3. Corrections.

The Secretary of the District is authorized to make necessary clerical corrections to this resolution including, but not limited to, the correction of scrivener's or clerical errors, references, resolution numbering, section/subsection numbers and any references thereto.

Section 4. Severability.

If any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

PASSED by the Board of Transportation Benefit District No. 1, Bellingham, Washington, at a regular open public meeting thereof held this 9th day of August, 2010.

**TRANSPORTATION BENEFIT DISTRICT
NO. 1, BELLINGHAM, WASHINGTON**

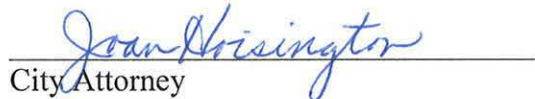


Chair

ATTEST:


Secretary/Treasurer

APPROVED AS TO FORM:


City Attorney