

RESOLUTION 1982

A RESOLUTION OF THE NORTH BEND CITY COUNCIL, AS GOVERNING BOARD OF TRANSPORTATION BENEFIT DISTRICT NO. 1 OF THE CITY OF NORTH BEND, PROVIDING FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE DISTRICT AT THE STATE GENERAL ELECTION ON NOVEMBER 2, 2021, OF A PROPOSITION AUTHORIZING THE CITY TO RE-IMPOSE A SALES AND USE TAX AT THE RATE OF TWO-TENTHS OF ONE PERCENT (0.2%) FOR A PERIOD NOT EXCEEDING 10 YEARS, COMMENCING APRIL 1, 2022, FOR THE PURPOSE OF PAYING PART OF THE COST OF TRANSPORTATION IMPROVEMENT PROJECTS CONTAINED IN THE CITY'S SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM, MULTI-MODAL CONNECTIVITY PROJECTS, AND FOR OTHER STREET, SIDEWALK, AND TRAIL REPAIR AND IMPROVEMENTS; SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION; DIRECTING PROPER CITY OFFICIALS TO TAKE NECESSARY ACTIONS; AND PROVIDING FOR OTHER PROPERLY RELATED MATTERS

WHEREAS, Chapter 36.73 RCW enables cities and counties to create transportation benefit districts to finance and carry out transportation improvements necessitated by economic development and to improve the performance of transportation systems. Under RCW 36.73.015(6), transportation improvements include, among other things, projects contained in the transportation plan of the state, a regional transportation planning organization, a county, or a city, and may include investment in transportation projects and programs of regional or statewide significance; and

WHEREAS, following a public hearing held in accordance with RCW 36.73.050, Transportation Benefit District No. 1 ("TBD") was formed by North Bend Ordinance No. 1436, adopted on July 19, 2011, for the purpose of making transportation improvements that are consistent with the City's Transportation Improvement Plan, including the TBD improvements identified in Subsection 1(F) of this Resolution ("TBD Improvements" and/or "TBD Projects"); and

WHEREAS, the TBD Board adopted Resolution No. 01-2011 on August 2, 2011, providing for a ballot proposition to be submitted to voters to impose a two-tenths of one percent (0.2%) sales and use tax within the district for a period of ten years to fund the TBD Projects pursuant to RCW 36.73.040(3), 36.73.065(1) and 82.14.0455; and

WHEREAS, North Bend voters approved imposition of the proposed sales and use tax at the November 8, 2011 election; and

WHEREAS, on July 1, 2015, the State Legislature passed Second Engrossed Substitute Senate Bill 5987, amending Chapter 36.73 RCW and authorizing cities to assume the rights, powers, functions, and obligations of transportation benefit districts with the same boundaries as the establishing city; and

WHEREAS, on April 4, 2017, the City adopted Ordinance No. 1620 wherein the City assumed the rights, powers, functions, and obligations of TBD No. 1 and became the governing board thereto; and

WHEREAS, the voter-approved two tenths of one percent (0.2%) sales and use tax imposed in North Bend pursuant to Chapter 36.73 and RCW 82.14.0455 expires on March 31, 2022; and

WHEREAS, the City Council has determined that it is necessary and appropriate to re-impose and collect, upon approval by a majority of the voters in TBD No. 1, a sales and use tax authorized by RCW 82.14.0455 at a rate of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or of the value of the article used in the case of a use tax, for the purpose of paying part of the cost of the TBD Improvements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Findings. The North Bend City Council as the governing Board of the TBD hereby finds the best interests of the inhabitants of the TBD require the TBD to renew and continue to impose a sales and use tax in the amount of two-tenths of one percent (0.2%) for one additional ten-year period 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 pay or finance the cost of transportation improvement projects identified in Section 2 of this Resolution.

Section 2. Transportation Benefit District Improvements. The revenue generated by the sales and use tax described in Section 1 will be dedicated to financing transportation improvement projects including:

- (1) Projects identified in the City’s Six-Year (2022–2027) Transportation Improvement Program (Resolution No. 1981, adopted on June 15, 2021), or as hereafter amended;
- (2) Multi-modal connectivity projects;
- (3) Street, sidewalk and trail repair and improvements.

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 TBD Improvements set forth in Section 1 of this Resolution shall be deemed a part of the costs of the TBD Improvements.

The City Council shall determine the application of moneys available for the TBD Improvements so as to accomplish, as nearly as may be possible, all of the TBD Improvements. If the proceeds of sales and use taxes authorized herein, plus any other money of the City available therefor, are insufficient to accomplish all of the TBD Improvements, the City shall use the available funds for paying the cost of those portions of the TBD Improvements deemed by the City most necessary and in the best interest of TBD No. 1.

The City Council shall determine the exact locations and specifications for the elements of the TBD Improvements as well as the timing, order, and manner of implementing or completing the TBD Improvements. The City Council may alter, make substitutions to, and amend the TBD Project descriptions as it determines is in the best interests of TBD No. 1, and in accordance with the material change policy adopted by the City Council 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 City Council shall determine that it has become impractical to acquire, construct, or implement all or any portion of the TBD Improvements by reason of changed conditions, incompatible development, costs substantially in excess of the amount of sales and use tax proceeds estimated to be available, lack of matching funds, or acquisition by a superior governmental authority, the City Council shall not be required to acquire, construct, or implement such portions. If all of the TBD Improvements have been acquired, constructed, implemented, or duly provided for, or found to be impractical, the City Council may apply the sales and use tax proceeds, plus any other money of the City available therefor (including earnings thereon) or any portion thereof to other transportation improvements then identified in the City's currently adopted six-year transportation improvement program in accordance with the material change policy adopted by the City 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.

Section 3. Sales and Use Tax. If a majority of voters in TBD No. 1 at an election called for that purpose approve the proposition, TBD No. 1 shall re-impose a sales and use tax authorized by RCW 82.14.0455 at a rate of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or of the value of the article used in the case of a use tax, for the purpose of providing for part of the cost of the TBD Improvements specified in Section 1 of this Resolution.

Section 4. Calling of Election. The City Council finds that it is in the best interests of the City, for the purpose of providing for part of the cost of the TBD Improvements specified in Section 1 of this Resolution, to submit to the qualified voters of TBD No. 1, at the state general election on November 2, 2021, a proposition authorizing TBD No. 1 to re-impose and collect a sales and use tax at a rate of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or of the value of the article used for collection, commencing April 1, 2022, for a period not exceeding 10 years.

Section 5. Ballot Proposition. The Auditor of King County, Washington (“Auditor”), as *ex officio* supervisor of elections, is hereby requested to call and conduct an election in TBD No. 1,

in the manner provided by law, to be held on the date identified in Section 4 of this Resolution, for the purpose of submitting to the voters of TBD No. 1, a proposition in accordance with RCW 29A.36.071 and in substantially the following form:

**North Bend Transportation Benefit District No. 1
Proposition 1
Renewal of Sales and Use Tax for Transportation
Improvements**

The North Bend City Council adopted Resolution No. 1982 concerning a proposition to finance transportation improvements. This proposition would authorize renewal and reimposition of a sales and use tax at a rate of two-tenths of one percent (0.2%) to be collected from all taxable sales and uses, for a period of 10 years, to fund projects identified in the City of North Bend’s Transportation Improvement Program (TIP), multi-modal connectivity projects, and other street, sidewalk, and trail repair and improvements. Should this proposition be approved?

YES

NO

Section 6. Notices Relating to Ballot Proposition. For purposes of receiving notice of the exact language of the ballot proposition required by RCW 29A.36.080, the City Council hereby designates (a) the City Clerk, and (b) counsel to the City and TBD No. 1, Kenyon Disend, PLLC (Michael Kenyon, (425) 392-7090, Mike@KenyonDisend.com), as the individuals to whom such notice should be provided.

Section 7. Authorization to Deliver Resolution and Perform Other Necessary Duties. The City Clerk (or his/her designee) is authorized and directed, no later than August 3, 2021, to certify a copy of this Resolution to the Auditor and to perform such other duties as are necessary or required by law to the end that the proposition described herein at Section 5 should appear on the ballot at the election identified in Section 4 of this Resolution. Proper City officials are hereby authorized and directed to perform such other duties as are necessary or required by law to the end that the question of whether TBD No. 1 should re-impose a sales and use tax as provided in this Resolution shall be submitted to the voters of TBD No. 1 at such election. All actions previously taken in furtherance of and not inconsistent with the provisions of this Resolution are hereby ratified and confirmed.

Section 8. Severability. If any provision of this Resolution shall be declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be separable from the remaining provisions and shall in no way affect the validity of the other provisions, or of the imposition or collection of the tax authorized herein.

Section 9. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED BY THE NORTH BEND CITY COUNCIL AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF JUNE, 2021.

Rob McFarland, Mayor

ATTEST:

Approved by a vote of the City Council:

7 Ayes; 0 Nays

Susie Oppedal, City Clerk

CERTIFICATION

I, the undersigned, City Clerk to the City of North Bend, as the Governing Board of Transportation Benefit District No. 1 (“TBD No. 1”), hereby certify as follows:

1. The foregoing Resolution No. 1982 (“Resolution”) is a full, true and correct copy of the Resolution duly adopted at a regular meeting of the City Council held at the regular meeting place thereof on June 15, 2021, as that Resolution appears on the City’s minute book, and the Resolution is now in full force and effect; and

2. A quorum of the members of the City Council was present throughout the meeting and a sufficient number of members of the City Council present voted in the proper manner for the adoption of the Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of, _____, 2021.

CITY OF NORTH BEND

Susie Oppedal, City Clerk