

NORTH BEND TRANSPORTATION BENEFIT DISTRICT

RESOLUTION 01-2011

A RESOLUTION OF THE BOARD OF THE NORTH BEND TRANSPORTATION BENEFIT DISTRICT NO. 1 PROVIDING FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE DISTRICT AT A SPECIAL ELECTION HELD IN CONJUNCTION WITH THE STATE GENERAL ELECTION ON NOVEMBER 8, 2011, OF A PROPOSITION AUTHORIZING THE DISTRICT TO IMPOSE A SALES AND USE TAX AT THE RATE OF TWO-TENTHS OF ONE PERCENT FOR A PERIOD NOT EXCEEDING 10 YEARS, COMMENCING APRIL 1, 2012, FOR THE PURPOSE OF PAYING PART OF THE COST OF TRANSPORTATION IMPROVEMENTS AND DEDICATED FOR THE REPAYMENT OF INDEBTEDNESS INCURRED TO FINANCE THOSE IMPROVEMENTS; SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION; DIRECTING PROPER DISTRICT OFFICIALS TO TAKE NECESSARY ACTIONS; AND PROVIDING FOR OTHER PROPERLY RELATED MATTERS

BE IT RESOLVED BY THE BOARD OF THE NORTH BEND TRANSPORTATION DISTRICT NO. 1 AS FOLLOWS:

Section 1. Recitals. The Board of the North Bend Transportation Benefit District (“TBD”) No. 1 hereby makes the following findings and determinations:

A. RCW Chapter 36.73 enables cities and counties to create transportation benefit districts in order to finance and carry out transportation improvements necessitated by economic development and to improve the performance of transportation systems. Under RCW 36.73.015(3), 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;

B. Following a public hearing held in accordance with RCW 36.73.050, TBD No. 1 was formed by North Bend Ordinance No. 1436, passed 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(E) of this Resolution (“TBD Improvements” and/or “TBD Projects”);

C. TBD No. 1 is a quasi-municipal corporation, an independent taxing authority and a taxing district within the State of Washington authorized to carry out transportation improvements and programs under Chapter 36.73 RCW;

D. The Board of TBD No. 1 has determined that it is necessary and appropriate to 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 of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax, for the purpose of paying part of the cost of specific transportation improvements and dedicated for the repayment of indebtedness incurred in compliance with the requirements of Chapter 36.73 RCW to finance those improvements.

E. The specific TBD Improvements to be financed with proceeds of the sales and use tax and the indebtedness described in this resolution consist of the following transportation improvement projects described in detail within the City's Six-Year (2012-2017) Transportation Improvement Program (Resolution No. 1523, adopted June 7, 2011), which abbreviated descriptions are incorporated herein as follows in no specific order of priority:

- E. North Bend Way Handrail Installation
- Pickett Avenue Reconstruction from 6th to 12th
- Downtown Crosswalk Improvements with in-pavement lighting
- North Bend Way/Ballararat signalization
- Bendigo Traffic Reconfiguration (3rd to NBW)
- North Bend Way/Park Intersection Improvements
- North Bend Way Curb and Gutter/Landscaping Improvements
- North Bend Way/NW 8th St. Intersection Improvements
- North-bound Bendigo right turn lane at Park Street
- Boalch Avenue Reconstruction - NW 14th St to NCL
- Pavement Overlay Program

Section 2. Transportation Benefit District Improvements.

A. 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 Improvements shall be deemed a part of the costs of the TBD Improvements.

B. The Board of Transportation Benefit District No. 1 ("the Board") shall determine the application of moneys available for the TRD Improvements so as to accomplish, as nearly as may be, all of the TBD Improvements. In the event that the proceeds of sales and use taxes authorized herein, plus any other money of TBD No. 1 legally available therefor, are insufficient to accomplish all of the TBD Improvements, the Board shall use the available funds for paying the cost of those portions of the TBD Improvements deemed by the Board most necessary and in the best interest of TBD No. 1.

C. The Board 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 Board may alter, make substitutions to and amend the TBD Project descriptions as it determines is in the best interests of TBD No. 1 consistent with the descriptions in the City's Transportation Plan adopted June 7, 2011 as represented in the abbreviated 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.

D. If the Board 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 Board 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 Board may apply the sales and use tax proceeds, plus any other money of TBD No. 1 legally 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 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.

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 impose a sales and use tax authorized by RCW 82.14.0455 at a rate of two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax, for the purpose of providing for part or the cost of the Transportation Improvements specified in Section 1 of this Resolution. The sales and use taxes imposed under this Section 3 shall, upon voter approval, be dedicated for the repayment of indebtedness incurred in accordance with the requirements of Chapter 36.73 RCW, shall be collected commencing April 1, 2012, and shall continue to be collected for a period not exceeding 10 years, or until such time that indebtedness (including obligations issued to refund that indebtedness) shall have been fully redeemed and retired.

Section 4. Calling of Election. The Board finds that it is in the best interests of TBD No. 1, for the purpose of providing for part of the cost of the Transportation Improvements specified in Section 1 of this Resolution, to submit to the qualified voters of TBD No. 1, at a special election held in conjunction with the state general election on November 8, 2011, a proposition authorizing TBD No. 1 to impose and collect a sales and use tax for collection commencing April 1, 2012, for a period not exceeding 10 years or until such time that indebtedness to which that sales and use tax is dedicated (including obligations issued to refund that indebtedness) shall have been fully redeemed and retired.

Section 5. Ballot Proposition. The Auditor of King County, Washington ("Auditor"), as *ex officio* supervisor of elections, is hereby requested to call and conduct a special election in TBD No. 1, in the manner provided by law, to be held on the date identified in Section 4, 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
Sales and Use Tax for Transportation Improvements**

The Board of North Bend Transportation District No. 1 has adopted Resolution No. 01-2011 concerning a proposition to finance transportation improvements. This proposition would authorize a sales and use tax at a rate of two-tenths of one percent (.2%) of the selling price in the case of a sales tax, or value of article used in the case of a use tax, for a period not exceeding 10 years, and dedicate that tax to repaying North Bend Transportation District No. 1 indebtedness incurred to finance street and related improvements specified in Resolution No. 01-2011. 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 Board hereby designates: (a) the Secretary of the Board; and (b) counsel to 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 Chair of the Board (or his/her designee) is authorized and directed, no later than August 16, 2011, 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 should appear on the ballot at the special election identified in Section 4 of this Resolution. The Chair and the Secretary of the Board 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 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.

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

PASSED BY THE BOARD OF TRANSPORTATION DISTRICT NO. 1 AT A SPECIAL MEETING THEREOF, THIS 2ND DAY OF AUGUST, 2011.

BOARD OF NORTH BEND
TRANSPORTATION BENEFIT
DISTRICT NO. 1:

Alan Gothelf, Chair of the Board

ATTEST:

Approved by a vote of Directors:

___ Ayes; ___ Nays

Stanley Lewis, Secretary of Board

CERTIFICATION

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

1. The foregoing Resolution No. 01-2011 (“Resolution”) is a full, true and correct copy of the Resolution duly adopted at a special meeting of the Board of TBD No. 1 (the “Board”) held at the regular meeting place thereof on August 2, 2011, as that Resolution appears on the minute book of TBD No. 1, and the Resolution is now in full force and effect; and

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

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of, _____, 2011.

NORTH BEND TRANSPORTATION
DISTRICT NO. 1

Stanley Lewis, Secretary of the Board