

**ORDINANCE NO. 2010-07-040**

**AN ORDINANCE ESTABLISHING A TRANSPORTATION BENEFIT DISTRICT; SPECIFYING THAT THE BOUNDARIES OF THE DISTRICT WILL COINCIDE WITH CITY BOUNDARIES; AND SPECIFYING THE TRANSPORTATION IMPROVEMENTS TO BE FUNDED BY THE DISTRICT.**

**WHEREAS**, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district (“TBD”), for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the TBD, subject to the provisions of chapter 36.73 RCW; and

**WHEREAS**, transportation improvements are defined in RCW 36.73.015 to include, among others, projects contained in the transportation plan of a city, which may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs; and

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

**WHEREAS**, the City Council finds that the TBD Projects are transportation improvements within the meaning of RCW 36.73.015, 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 TBD, and

**WHEREAS**, the City Council finds it to be in the best interests of the City to establish a citywide TBD to fund and implement the TBD Projects consistent with Chapter 36.73 RCW, and

**WHEREAS**, the City Council shall establish a governing body for the TBD comprised of the City Council acting in an *ex officio* and independent capacity;

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**City of Bellingham**  
CITY ATTORNEY  
210 Lottie Street  
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Telephone (360) 778-8270

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1: Findings**

The City Council finds it is in the public interest to provide adequate levels of funding for transportation improvements through establishment of a TBD. The City Council further finds that Project #1 entitled "Annual Arterial Pavement Resurfacing Program", Project #16 entitled "Non-Motorized Transportation Options", and Project #17 entitled "Transit Enhancement Options" included within the City's six-year (2011-2016) Transportation Improvement Program constitute transportation improvements that may be funded by a TBD.

**Section 2: Formation of a Transportation Benefit District**

The City, pursuant to RCW 35.21.225 and chapter 36.73 RCW, hereby establishes and creates a TBD to be known and referred to as TBD No. 1, subject to the following:

1. **Establishing a Transportation Benefit District.** There is created TBD No. 1 with geographical boundaries comprised of the corporate limits of the City, as these boundaries may be amended following future annexations.
2. **Governing Board.**
  - a. Consistent with RCW 36.73.020(3), the governing board of TBD No. 1 (the "TBD Board") shall be the Bellingham City Council acting in an *ex officio* and independent capacity. The TBD Board shall have the authority to exercise the statutory powers set forth in chapter 36.73 RCW.
  - b. Consistent with RCW 36.73.020(4), the secretary/treasurer of TBD No. 1 shall be the City Finance Director.
  - c. As required by RCW 36.73.160(1), as the same may be amended from time to time, the TBD Board shall develop a material change policy to address major plan changes that affect TBD Project delivery or the ability to finance the plan for funding and implementing the TBD Projects.
  - d. Meetings of the TBD Board shall be governed by the procedural rules applicable to meetings of the City Council, as these rules may be amended by the City Council from time to time. TBD Board actions shall be taken in the same manner and follow the same procedure as for the adoption of City Council resolutions. Meetings of the TBD Board shall, whenever possible, take place on the same dates scheduled for City Council meetings.

Attorney will serve as legal advisor to the TBD Board, except where separate counsel is engaged by the TBD.

f.. The City Council President shall serve as the chair of the TBD Board and shall preside over all meetings of the TBD Board.

**3. Powers of TBD No. 1.** TBD No. 1 shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation the power to request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW 82.14.0455.

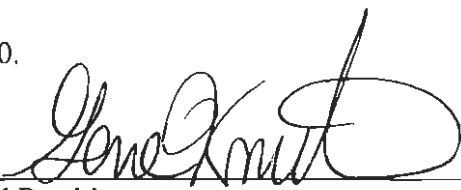
**4. Transportation Improvements Funded.** The funds generated by TBD No. 1 shall be used for the TBD Projects described in Section 1 of this ordinance. The TBD Projects may be amended in accordance with the material change policy described in Section 2(2)(c) of this ordinance and in accordance with the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

**5. Annual Report to the Public.** As required by RCW 36.73.160(2), as the same may be amended from time to time, the TBD shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the TBD.

**6. Dissolution of TBD No. 1.** TBD No. 1 shall be dissolved pursuant to the procedures set forth in chapter 36.73 RCW, when all indebtedness, if any, of TBD No. 1 has been retired and when all of TBD No. 1's anticipated responsibilities have been satisfied.

**Section 3. Severability; Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with provisions of the Bellingham Municipal Code, this ordinance is deemed to control.

**PASSED** by the Council this 12th day of July, 2010.

  
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Council President

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APPROVED by me this 15<sup>th</sup> day of July, 2010.

Terry Borremann  
Mayor *Pro Tempore*

ATTEST: [Signature]  
Finance Director

APPROVED AS TO FORM:

[Signature]  
Office of the City Attorney

Published:

July 16, 2010

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