

COVINGTON TRANSPORTATION BENEFIT DISTRICT

RESOLUTION NO. 13-03

A RESOLUTION OF THE BOARD OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT, COVINGTON, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED VOTERS OF THE DISTRICT AT AN ELECTION TO BE HELD ON NOVEMBER 5, 2013, AUTHORIZING AN ADDITIONAL SALES AND USE TAX WITHIN THE DISTRICT AT THE RATE OF TWO-TENTHS OF ONE PERCENT FOR A PERIOD NOT TO EXCEED TEN YEARS, COMMENCING APRIL 1, 2014, FOR THE PURPOSE OF PAYING FOR OR FINANCING THE COST OF TRANSPORTATION IMPROVEMENTS; SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION; DIRECTING PROPER DISTRICT 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; and

WHEREAS, 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 and statewide significance; and

WHEREAS, following a public hearing in accordance with RCW 36.73.050, the City of Covington (the "City") approved Ordinance No. 02-13 on April 9, 2013, establishing the Covington Transportation Benefit District (the "District"), pursuant to Chapter 36.73 RCW, for the purpose of funding transportation maintenance and improvement projects that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, more specifically identified in Exhibit A to this resolution, incorporated herein by this reference (collectively the "TBD Projects"); 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 a two-tenths of one percent (0.2%) sales and use tax in accordance with RCW 82.14.0455, consistent with Chapter 36.73 RCW, upon voter approval thereof;

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NOW THEREFORE BE IT RESOLVED BY THE BOARD OF THE COVINGTON TRANSPORTATION BENEFIT DISTRICT, COVINGTON, WASHINGTON, AS FOLLOWS:

Section 1. Description of TBD Projects. The specific TBD Projects to be paid or financed for in whole or in part with proceeds of the sales and use tax described in this resolution consist of the transportation improvement projects identified within Exhibit A herein. 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 therefor, 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 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, 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 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, plus any other money of the District 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 2. Calling of Election. The Board hereby finds and declares that the best interests of the District require the submission to the qualified voters of the District a proposition of whether the District shall impose a sales and use tax within the limitations established in RCW 82.14.0455 for their approval or rejection. The Board thereby requests that the Director of Records and Elections of King County, as *ex officio* Supervisor of Elections in King County ("Director of Elections"), call and conduct an election in the District, in the manner provided by law, to be held therein on November 5, 2013, for the purpose of submitting to the voters of the District, for

their approval or rejection, a proposition whether the District shall impose a sales and use tax at the rate of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or value of the article used in the case of the use tax. If approved, this sales and use tax shall be collected for a period not exceeding ten years, or if dedicated to the repayment of indebtedness incurred in accordance with the requirements of Chapter 36.73 RCW, until such time that indebtedness (including obligations issued to refund that indebtedness) shall have been fully redeemed and retired. The tax is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable under the state chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the District.

If such proposition is approved by the requisite number of voters, the District shall be authorized to use the proceeds of such sales and use tax for the purpose of paying for or financing all or part of the costs of the TBD Projects in accordance with the requirements of Chapter 36.73 RCW.

Section 3. Ballot Proposition. The Secretary of the Board is hereby authorized and directed to certify, no later than August 6, 2013, to the Director of Elections, a copy of this resolution and the following proposition to be submitted to the qualified electors at that election, in substantially the following form:

**COVINGTON TRANSPORTATION DISTRICT
COVINGTON, WASHINGTON
PROPOSITION 1
SALES AND USE TAX FOR
TRANSPORTATION IMPROVEMENTS**

The Board of Covington Transportation District, Covington, Washington, adopted Resolution No. 13-03 concerning a sales and use tax to fund transportation improvements. This proposition would authorize a sales and use tax at a rate of two-tenths of one percent (0.2%) to be collected from all taxable retail sales within the District, in accordance with RCW 82.14.0455, for a period not exceeding ten years, for the purpose of paying for or financing the costs of transportation maintenance and improvement projects identified in Resolution No. 13-03. Should this proposition be approved?

YES

NO

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) legal adviser to the District, Sara Springer, SBS Legal Services, PLLC (sara@sbslegalservices.com, 206-313-2896), as the individuals to whom such notice should be provided. The Chair of the Board and Secretary of the District are each authorized individually to approve changes to the ballot title, if any, deemed necessary by the Director of Elections.

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 reference thereto.

The proper District officials are authorized to perform such duties as are necessary or required by law to submit the question of whether the sales and use tax shall be imposed, as provided in this resolution, to the electors of the District at the November 5, 2013 election.

Section 4. 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 5. Effective Date. This resolution shall be effective immediately after its adoption in the manner provided by law.

Section 6. Ratification of Prior Acts. Any action taken consistent with the authority and prior to the effective date of this resolution is hereby ratified, approved, and confirmed.

PASSED in open and regular session of the Board of the Covington Transportation District on this 23rd day of July, 2013.

 FOR
Margaret Harto, Chair of the Board

ATTESTED:


Sharon Scott, Clerk of the Board

APPROVED AS TO FORM:


Sara Springer, Legal Advisor

Exhibit A

Identification of TBD Projects

The specific District improvements to be paid for and/or financed with proceeds of the sales and use tax described in this resolution consist of the following transportation maintenance projects as well as improvement projects described in detail within the City's six-year Transportation Improvement Program, abbreviated descriptions of which are incorporated herein as follows in no specific order of priority and as may be amended from time to time.

Transportation Maintenance:

- Crack sealing program.
- Overlay program.
- Small capital improvements such as ADA accessible routes and pedestrian facilities.
- Asphalt patching and sidewalk repairs.
- Additional staffing to include seasonal maintenance workers and an addition to the engineering team to provide oversight of transportation programs including overlay, asphalt pavement condition, small CIP for transportation and pedestrian programs and managing grants.

Transportation Improvements:

- SE 272nd Street (SR 516), Jenkins Creek to 185th Place SE: Widen to five lanes & reconstruct; sidewalks; new stream crossing.
- SE 240th Street, 196th Ave SE and SE Wax Road, SE 240th (180th - 196th), 196th (240th - Wax) & SE Wax (193rd - 196th): Overlay existing roadways.
- Citywide Intersection Safety Project: Various signing, striping, and channelization improvements at ten intersections throughout the city (see description for details).
- 156th Avenue, Vicinity SE 272nd Street to Vicinity SE 261st Place: Pavement rehabilitation.
- Jenkins Creek Park, SE 267th Place to SE 268th Street: Non-motorized multi-use trail and bridge replacement.
- Planning Level Study Planning, Town Center Economic Impact & Infrastructure Cost Study.
- SE 272nd Street (SR 516), 185th Place SE to 192nd Avenue SE: Widen to five lanes & reconstruct; sidewalks; new signal.
- 185th Place SE Extension, Wax Road/180th Avenue SE Roundabout to SE 272nd Street: New route; new alignment; access management.
- SE 272nd Street (State Route 516), 160th Avenue SE to 164th Avenue SE Const.: Signal modifications; add turn lanes; stream crossing.
- SE 256th Street and 180th Avenue SE, Safety improvements, Sidewalks Const.: Signal modifications; add right turn lane.