

RESOLUTION NO. 1049

A RESOLUTION OF THE LYNDEN CITY COUNCIL, THE GOVERNING BOARD OF TRANSPORTATION BENEFIT DISTRICT OF THE CITY OF LYNDEN, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE DISTRICT ON NOVEMBER 8, 2022, TO RENEW AND IMPOSE A TWO-TENTHS OF ONE PERCENT (.002) SALES AND USE TAX FOR THE PURPOSE OF FINANCING SOME OR ALL OF THE COSTS OF PROJECTS IDENTIFIED WITHIN THE ADOPTED TRANSPORTATION PLANS FOR A PERIOD OF TEN YEARS

WHEREAS, the City of Lynden ("City") adopted Ordinance No. 1423 on July 16, 2012, establishing the Lynden Transportation Benefit District ("TBD") pursuant to Chapter 36.73 Revised Code of Washington (RCW). And by City Ordinance No. 1524 completed the assumption of powers for the City Council to serve as the governing board of the TBD ("TBD Board"); and

WHEREAS, since the TBD was established, the City has used the collected TBD revenue to contribute to numerous street construction project within Lynden including improvement to the follow streets:

- a. Line Road (street and pedestrian improvements)
- b. 7th Street and alley
- c. 5th Street and alley
- d. Riverview Road
- e. 17th Street (sidewalk Improvements south of Front St.)
- f. Parkview Drive
- g. 17th Street (extension to Main Street)
- h. Foxtail Street (eliminated gap between Eastwood and Bradley Meadows)
- i. Benson Road (sidewalk extension to North Park St.)

WHEREAS, on June 20, 2022, after giving proper notice, the City conducted a public hearing in accordance with RCW 36.73.050; and

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

WHEREAS, the City annually updates and adopts, following a Public Hearing, a Six-Year Transportation Improvement Plan ("STIP") which identifies projects that constitute transportation improvements; and

WHEREAS, projects from the STIP that may be funded by the TBD include the maintenance, preservation, and construction of transportation projects; and

WHEREAS, the City Council, acting as the TBD Board, now desires to continue to fund and implement certain transportation improvements ("TBD Projects"), through a two-tenths of one percent (.002) sales and use tax in accordance with RCW 82.14.0455, consistent with Chapter 36.73 RCW, upon voter approval thereof; and

NOW, THEREFORE, THE CITY COUNCIL ACTING AS THE BOARD OF THE LYNDEN TRANSPORTATION BENEFIT DISTRICT, LYNDEN, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Findings; Description of the TBD Projects.

The City Council hereby finds that the best interests of the Lynden community to renew and continue the imposition of a sales and use tax of two-tenths of one percent (0.002) pursuant to RCW 36.73.040(3)(a), RCW 82.14.0455 and ESSB 5974 for the purpose of providing funds necessary to finance transportation projects. While the City Council is granted greater authority under ESSB 5974, it finds that is in the best interest of the community to renew at the same two-tenths of one percent (0.002) level.

The STIP identifies projects that constitute transportation improvements. Transportation improvements that may be funded by TBD tax receipts, include street preservation overlays, street reconstruction, traffic safety improvements, sidewalk/pedestrian repairs or construction, bike lanes, bridge and culvert repairs, and other transportation projects deemed appropriate and approved by the Board.

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 transportation projects shall be deemed a part of the cost of the TBD Projects.

The City Council shall determine the application of moneys available for TBD Projects. In the event that the proceeds of sales and use taxes authorized herein, plus any other money of the TBD legally available therefore, are insufficient to accomplish all of the TBD Projects, the TBD Board shall use the available funds to pay the cost of those portions of the TBD Projects deemed by the TBD Board most necessary and in the best interests of the inhabitants of the TBD. The City Council also reserves the discretion to use TBD funds as a match for other sources of funding for TBD Projects and to partially fund TBD Projects.

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

If the City Council, acting as the TBD 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 TBD Board shall not be required to acquire, construct, or implement such portions of a TBD Project. If all of the TBD Projects have been acquired, constructed, implemented or duly provided for, or found to be impractical, the TBD Board may either dissolve the TBD in accordance with RCW 36.73 or apply the sales and use tax proceeds (including earnings thereon) or any portion thereof to other transportation improvements then identified in the STIP in accordance with the

material change policy adopted by the TBD Board and the notice, hearing and other procedures described in Chapter 36.73 RCW, including RCW 36.73.050(2)(b), as necessary.

Section 2. Proposition

It is hereby found and declared to be in the best interests of the residents within the TBD to submit to the qualified electors of the TBD the proposition to continue to impose a sales and use tax within the limitations established in RCW 82.14.0455 for ratification or rejection at an election to be held on November 8, 2022. For the purpose of providing funds necessary to pay or finance local Transportation 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 TBD for approval or rejection, a proposition to impose a sales and use tax in the amount of two-tenths of one percent (.002)of the selling price (in the case of a sales tax), or value of the article used (in the case of a 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 TBD, for a period of ten years, or until the TBD is dissolved, whichever comes first.

Upon approval of the voters of the proposition hereinafter set forth, the TBD 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 City Clerk, serving as Secretary of the TBD Board (Lynden City Council), is hereby authorized and directed to certify said proposition to said official in the following form:

LYNDEN TRANSPORTATION BENEFIT DISTRICT

LYNDEN, WASHINGTON

RENEWAL OF SALES AND USE TAX FOR TRANSPORTATION IMPROVEMENTS

The City Council as the Board of the Lynden Transportation Benefit District, Lynden, Washington, adopted Resolution No. 1049 concerning a sales and use tax to fund certain transportation improvements. This proposition would renew the authorization of a sales and use tax of two tenths of one percent (0.002) to be collected from all taxable retail sales within the Transportation Benefit District in accordance with RCW 82.14.0455 for a term of ten years, or until such District is dissolved, whichever is earlier, for the purpose of paying or financing costs of necessary transportation improvement projects listed and identified in the City of Lynden Six-Year Transportation Improvement Plan:

Should this proposition be approved?

Yes?

No?

Section 3. Corrections

The City Clerk, serving as the Secretary of the TBD 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. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional.

PASSED by the Lynden City Council, Lynden, Washington, at a regular open meeting thereof held this _____ day of _____, 2022.

This resolution shall be in full force and effect on _____ 2022.

PASSED BY CITY COUNCIL BY AN AFFIRMATIVE VOTE _____ IN FAVOR AND _____ AGAINST, THIS _____ DAY OF _____, 2022.

Mayor Scott Korthuis

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY