

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>AB15- Ordinance forming a Transportation Benefit District coincident with the City limits of Black Diamond</b>	<b>Agenda Date:</b> <span style="float: right;"><b>AB15-</b></span>	
	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	X
Cost Impact (see also Fiscal Note): \$	Court – Stephanie Metcalf	
Fund Source: --		
Timeline: August / September		
<b>Agenda Placement:</b> <input checked="" type="checkbox"/> Mayor <input checked="" type="checkbox"/> Two Councilmembers <input checked="" type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
<b>Attachments:</b>		
<p><b>SUMMARY STATEMENT:</b>            While gas tax and Yarrow Bay funding revenues have decreased in recent years, expenses have increased. The City has considered alternate revenue sources to address the continuing annual deficit in adequate funding for the Street department.</p> <p>The City has been able to utilize City staff to plan, find grant funds, design, manage and oversee many capital projects over the last 6 years improving many city streets and sidewalks. However the success in finding grants and using capital funding efficiently has only slightly and indirectly assisted the funding for street maintenance and operations by keeping the patching budget under control.</p> <p>The formation of Transportation Benefit District provides the City with wide equitable options for funding assistance for the street maintenance and operation activities. For an example of potential activities that could be funded see the attached proposed budget for the TBD. The Transportation Benefit District will need to make funding and budget decisions once formed.</p>		
<b>FISCAL NOTE (Finance Department):</b>		
<b>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: MOTION to</b>		
<b>RECORD OF COUNCIL ACTION</b>		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
, 2015		

BLACK DIAMOND, WASHINGTON  
TRANSPORTATION BENEFIT DISTRICT  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE BLACK DIAMOND, WASHINGTON, TRANSPORTATION BENEFIT DISTRICT, ADOPTING THE ANNUAL BUDGET OF THE TRANSPORTATION BENEFIT DISTRICT FOR THE YEAR 2016 AND AUTHORIZING FUNDING FOR TRANSPORTATION OPERATION AND MAINTENANCE OF THE CITY STREET SYSTEM.

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WHEREAS, the Black Diamond City Council created the Black Diamond Transportation Benefit District in Ordinance No. \_\_\_\_\_; and

WHEREAS, chapter 36.73 RCW requires that the Transportation Benefit District adopt an annual budget; and

WHEREAS, the Black Diamond Transportation Benefit District deliberated on the proposed budget for the fiscal year 2015 and 2016; and

WHEREAS, the SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as an action relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

WHEREAS, A public hearing was held on August 6, 2015 considering the formation of the Black Diamond Transportation Benefit District, vehicle license fees and the proposed budget;

Now, Therefore,

IT IS HEREBY ORDAINED BY THE BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT AS FOLLOWS:

Section 1. Budget Adopted. The 2016 Budget for the Black Diamond Transportation Benefit District for the period January 1 2016 through December 31, 2016, totaling \$67,000, is hereby adopted.

Section 2. Summary of Revenue and Expenditures. The budget sets forth totals of estimated revenues and estimated expenditures of the Transportation Benefit District, and the aggregate totals for the District's general fund, as summarized below:

<b>2015 Estimated Revenues:</b>	
Use of Fund Balance.	\$0
TBD Vehicle Fees	\$67,000
Investment Interest	\$300
<b>Total 2015 TBD Estimated Revenues:</b>	<b>\$67,300</b>

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**2015 Estimated Expenditures :**

Insurance (AWC RMSA)	\$0
City of Black Diamond 2016 Annual Road Maintenance Program *	\$58,000
Administrative and Legal	\$9000
<b>Total 2015 TBD Appropriations, General Fund Budget:</b>	<b>\$67,000</b>

\* See attached TBD Funded Street Maintenance Activities

Section 3. Expenditures Authorized. The Treasurer is authorized to reimburse the City of Black Diamond for payments made to contractors or for force account expenditures on the transportation improvements included in Section 2 from available revenues of the District, not to exceed the total District General Fund Budget.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 Ordinance.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the Black Diamond Transportation Benefit District this 20<sup>th</sup> day of August, 2015.

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Chairperson, Carol Benson

AUTHENTICATED:

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City Clerk

APPROVED AS TO FORM:

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Carol A. Morris, City Attorney

PUBLISHED:  
EFFECTIVE DATE:

**Black Diamond Transportation Benefit District  
Proposed 2016 Street Maintenance Activities**

Activity	Planned Expenditures	
Striping & pavement Markings	\$6,000	
Roadside mowing	\$17,000	
Patching & Crack Sealing	\$2,000	
Traffic Signal Maint & Op.	\$2,000	
Sidewalk Maintenance	\$2,000	
Snow / Ice Control	\$2,000	
Street Lighting	\$25,000	
Dangerous Tree removal	\$2,000	
TBD Admin & set up	\$9,000	
<b>TOTAL</b>	<b>\$67,000</b>	

1. Authority of the district: (a) impose a sales and use tax under RCW 82.14.0455 (requires vote of voters in TBD area); (b) impose a fee on the construction or reconstruction of commercial and industrial buildings under RCW 36.73.120; (c) a vehicle fee in accordance with RCW 82.80.140; (d) vehicle tolls on state routes, city streets or county roads within the boundaries of the district.

2. Vehicle fee under RCW 82.80.140. The TBD can fix and impose an annual vehicle fee not to exceed \$100 per vehicle registered in the district for each vehicle subject to vehicle license fees. If more than \$20.00 is imposed, the process in RCW 36.73.065 is followed -- which requires an approval of the majority of voters in the TBD.

The TBD can impose by majority vote of the governing board of the TBD up to \$20.00 of the vehicle fee authorized under RCW 82.80.140.

If the TBD is county-wide, the revenues of the fee shall be distributed to each city within the county by interlocal agreement.

The Department of Licensing shall administer and collect the fee. A percentage will be deducted for administration and collection expenses incurred by the Department, not to exceed one percent of the fees collected.

3. The TBD can be established by the city or a county under RCW 36.73.020. The district may include area within more than one county, city, port district, etc., if the legislative authority of each participating jurisdiction has agreed to the inclusion in an interlocal agreement. RCW 36.73.020(2).

If there is a TBD with a county and city, then the governing board of the TBD shall be established by interlocal agreement. Otherwise, the governing board of a city is the city council. RCW 36.73.020(3).

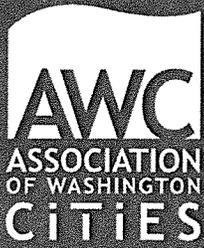
4. The first step is to hold a public hearing for the adoption of an ordinance establishing the district. RCW 36.73.050.

5. The notice of the public hearing is supposed to specify the functions or activities to be provided or funded by the TBD. RCW 36.73.050(1).

6. The ordinance establishing the TBD must specify the functions and transportation improvements to be exercised or funded and establish the boundaries of the TBD. RCW 36.73.050.

No fee can be collected until six months after approval under RCW 36.73.065.

Certain vehicles are exempt from the fee, such as campers, farm tractors, mopeds, etc. (See, RCW 82.40.140(6).)



# Transportation Benefit Districts (RCW 36.73)

## What is a Transportation Benefit District (TBD)?

A TBD is a quasi-municipal corporation and independent taxing district created for the sole purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district. A TBD is an independent taxing district that can impose specific taxes or fees, either through a vote of the people or through district board action. TBDs are flexible - they allow cities and counties to work independently or cooperatively to address both local and regional transportation challenges.

## Who may create a TBD?

The legislative authority of a county or city may create a TBD. The county or city proposing to create a TBD may include other counties, cities, port districts, or transit districts through interlocal agreements.

## Who governs the TBD?

The members of the legislative authority (county or city) proposing to establish a TBD serve as the governing body of the TBD. The legislative authority is acting ex officio and independently as the TBD governing body. If a TBD includes additional jurisdictions through interlocal agreements, then the governing body must have at least five members, including at least one elected official from each of the participating jurisdictions.

## Why create a TBD if the county or city legislative authority is the governing board?

TBDs have more flexibility to solve specific transportation issues. For example, more than one type of jurisdiction can be part of a TBD and the boundaries can be less than countywide or citywide.

## What transportation improvements can be funded by a TBD?

The definition of transportation improvements is fairly broad. This can include maintenance and improvements to city streets, county roads, state highways, public transportation, transportation demand management, and other transportation projects identified in a local, regional or state plan.

## What revenue options do TBDs have?

TBDs have several revenue options subject to voter approval:

- Property taxes - a 1-year excess levy or an excess levy for capital purposes;
- Up to 0.2% sales and use tax;
- Up to \$100 annual vehicle fee per vehicle registered in the district; and
- Vehicle tolls.

TBDs have two revenue options that do not require voter approval, but are subject to additional conditions. To impose either fee, the TBD's boundaries must be countywide or citywide, or if applicable, in the unincorporated county. Foregoing a vote is an option. A county or city still has the option of placing either fee to the vote of the people as an advisory vote or an actual requirement of imposition. The two options are:

1. **Annual vehicle fee up to \$20.** This fee is collected at the time of vehicle renewal and cannot be used to fund passenger-only ferry service improvements. (HB 1485 increases this option up to \$40.)
2. **Transportation impact fees on commercial and industrial buildings.** Residential buildings are excluded. In addition, a county or city must provide a credit for a commercial or industrial transportation impact if the respective county or city has already imposed a transportation impact fee.

Jurisdiction	Vehicle License Fee	Sales Tax
<b>Transportation Benefit Districts passed in 2012</b>		
Bainbridge Island	\$20 (passed 01/09/2012)	
Castle Rock		\$0.002 sales tax (passed, election 11/6/2012)
Eatonville	\$20 (effective 03/01/2013)	
Kelso	\$20 (passed 12/04/2012)	
Kenmore - Has not passed funding provision		
Maple Valley	\$20 (passed 12/10/2012)	
Kittitas	\$20 (effective 12/01/2012)	
Lynden		\$0.002 sales tax (passed, election 11/6/2012)
Royal City	\$20 (effective 11/01/2012)	
Stanwood		\$0.002 sales tax (passed, election 2/12/2013)
Tacoma	\$20	
Toppenish	\$20 (effective 12/01/2012)	
Waitsburg		\$0.002 sales tax (passed, election 4/17/2012)
Wapato	\$20 (effective 04/01/2013)	
Yakima - Has not passed funding provision		
<b>Transportation Benefit Districts passed in 2011</b>		
Auburn - Has not passed funding provision		
Ferndale		\$0.002 sales tax (passed, election 2/14/2012)
Grandview	\$20 (02/01/2012)	
Mabton	\$20 (12/01/2011)	
Mountlake Terrace	\$20 (effective 08/01/2012)	
North Bend		\$0.002 sales tax (passed, election 11/8/2011)
Orting	\$20 (effective 02/01/2013 - 01/31/2015)	
Snohomish County		\$0.002 sales tax (passed 8/16/2011)

Jurisdiction	Vehicle License Fee	Sales Tax
<b>Transportation Benefit Districts passed in 2011</b> <i>(con't)</i>		
Spokane	\$20 (09/01/2011)	
Walla Walla		\$0.002 sales tax (passed, election 2/14/2012)
Wenatchee	\$20 (effective 08/01/2012)	
Zillah	\$20 (effective 7/12/2012)	
<b>Transportation Benefit Districts passed in 2010</b>		
Bellingham		\$0.002 sales tax (4/01/2011)
King County - No funding designated		
Leavenworth		\$0.002 sales tax (04/01/2011)
Lynnwood	\$20 (07/01/2011)	
Seattle	\$20 (05/01/2011)	
Snohomish		\$0.002 sales tax (01/01/2012)
Snoqualmie	\$20 (03/01/2011)	
<b>Transportation Benefit Districts passed in 2009</b>		
Bremerton	\$20 (12/07/2011 passed, effective 07/01/2012)	
Burien	\$10 (02/01/2010)	
Prosser	\$20 (11/01/2009)	
Shoreline	\$20 (02/01/2010)	
University Place - No funding designated		
<b>Transportation Benefit Districts passed in 2008</b>		
Des Moines	\$20 (09/01/2009)	
Edmonds	\$20 (09/01/2009)	
Lake Forest Park	\$20 (09/01/2009)	
Olympia	\$20 (10/01/2009)	
Ridgefield		Sales tax repealed effective 10/01/2012 - \$0.002 sales tax (04/01/2009)
Sequim		\$0.002 sales tax (04/01/2010)
<b>Transportation Benefit Districts passed prior to 2008</b>		
Liberty Lake (2002)		
Point Roberts, Whatcom County (1992)		Special gas tax \$0.01/gallon (1992)

BYLAWS OF THE  
BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT

ARTICLE 1 – MEMBERSHIP

Section 1.1 Membership. Each member of the Black Diamond City Council shall be an ex officio member of the Board of the District.

ARTICLE 2 – OFFICERS, APPOINTEES AND COMMITTEES

Section 2.1 Officers Designated. The officers of the Board shall be a Chairperson, Vice Chairperson, Treasurer and the Executive Director. The Mayor of Black Diamond shall serve as the ex officio Chairperson. The \_\_\_\_\_ City of Black Diamond Mayor Pro-Tem shall serve as the ex officio Vice Chairperson. The City of Black Diamond Finance Director shall serve as the ex officio Treasurer. The \_\_\_\_\_ Chair of the City of Black Diamond Public Works Committee shall serve as the ex-officio Executive Director. No person may simultaneously hold more than one office. In addition to the powers and duties specified below, the officers shall have such powers and perform such duties as the Board may prescribe. The Black Diamond City Clerk, shall be the appointed ex officio Clerk of the Board shall be the District’s registered agents for purposes of service of process.

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Section 2.2 Election, Qualification and Term of Office. The Vice Chairperson shall be elected by the Board from among its members at the first regular meeting each year, for a \_\_\_\_\_ year term, and each officer shall hold office during said \_\_\_\_\_ year term until his or her successor is elected. The first officers of the Board shall be elected by the Board at its first meeting. Officers may, at the discretion of the Board, hold their respective offices for successive terms.

Comment [SB1]: 2.1 is offices by designation and this is by election. Are these options that the council will need to decide?

Section 2.3 Powers and Duties. The officers of the Black Diamond Transportation Benefit District (“TBD” or “District”) shall have the following duties:

A. Chairperson. The Chairperson shall serve as the ceremonial head of the District and shall preside over all Board meetings. On matters decided by the District, unless otherwise required under Interlocal Agreement or these Bylaws, the signature of the Chairperson alone or the \_\_\_\_\_, as authorized by the Board, is sufficient to bind the District. The City Clerk, as ex officio Clerk of the Board shall be the District’s registered agents for purposes of service of process.

Comment [SB2]: I moved the clerk stuff up to 2.1

B. Vice Chairperson. The Vice Chairperson shall serve in the absence of the Chairperson as the ceremonial head of the District and shall preside over Board meetings in the Chairperson’s absence and shall otherwise execute the Chairperson’s powers and duties.

C. Treasurer. The Treasurer shall receive and faithfully keep all funds of the District and deposit the same in such bank or banks as may be designated by the District Board of Directors. The Treasurer shall also discharge such other duties as may be prescribed by the District board of Directors.

D. Executive Director. The Executive Director shall, subject to the lawful control of the Board, exercise general supervision, direction and control of the business and affairs of the District.

**Comment [SB3]:** If the Chair runs meetings and signs documents is this position needed?

#### Section 2.4 Establishment of Committees.

A. Committees of the Board. The Board may, by resolution, designate from among its members one or more committees, each consisting of at least two members, to represent the Board and, where consistent with these bylaws, and chapter 36.73 RCW, act for and on behalf of the Board. The designation of any such committee and the delegation thereto of authority shall not operate to relieve any member of the Board from any responsibility imposed by law. All actions of the District require the vote of the Board.

B. Citizen Committees. The Board may, by resolution, designate from outside its membership one or more committees, each consisting of at least two members, to advise the Board.

Section 2.5 Removal from Office. Upon reasonable prior notice to all Board members of the alleged reasons for dismissal, the Board, by an affirmative vote of the majority of the quorum, may remove any officer of the Board from his or her office whenever in its judgment the best interests of the District will be served thereby. An officer so removed shall continue to serve on the Board.

### ARTICLE 3 – MEETINGS

Section 3.1 Regular Board Meetings. Beginning in its second year, regular Board meetings shall be scheduled by the Board through a resolution in January of each year. At any regular meeting of the Board, any business may be transacted and the Board may exercise all of its powers.

Section 3.2 Special Board Meetings. Special meetings of the Board may be held at any place and at any time whenever called by the Chairperson or by a majority of the members of the Board.

Section 3.3 Notice of Regular Board Meetings. Notice of meetings shall be given in a manner consistent with the Open Public Meetings Act, chapter 42.30 RCW. In addition, the District shall provide reasonable notice of meetings to any individual specifically requesting it in writing.

Section 3.4. Notice of Special Board Meetings. Notice of all special meetings of the Board shall be given by the \_\_\_\_\_ or by the person(s) calling the special meeting by following the procedure set forth in RCW 42.30.080. In addition, the TBD shall provide notice of special meetings to any individual specifically requesting such notice in writing. The time and place of the special meeting and the business to be transacted shall be specified in the notice. Final disposition shall not be taken at a special meeting on any matter not referenced in the notice.

Section 3.5 Waiver of Notice. Notice as provided in Sections 3.3 and 3.4 hereof may be dispensed with as to any member of the Board who, at or prior to the time the meeting convenes, files with the Board of the TBD a written waiver of notice or who is actually present at the meeting at the time it convenes. Such notice may also be dispensed with when a meeting is called to address an emergency. Notice concerning proposed amendments to the Bylaws and votes on such amendments, may not be waived.

Section 3.6 Procedure. *Robert's Rules of Order* as applied to public governing bodies, shall be considered on all questions of procedure and parliamentary law not otherwise provided for by ordinance, statute or these Bylaws; PROVIDED that with the concurrence of a majority of those members present at a meeting, such rules may be waived or modified. PROVIDED FURTHER, that failure to follow such rules will not in itself constitute grounds for invalidating any Board action. Where consistent with state law, the procedures of the City of Black Diamond City Council will govern as the procedures of the Board.

Section 3.7 Public Comment. Opportunity for public comment at Board meetings shall be required through public hearing when the Board considers adoption of (1) its annual plan for service; (2) material change policy; (3) imposition of any tax, charge or fee, and (4) response to a material change; PROVIDED, that the Board may, from time to time, in its sole discretion, permit public comment regarding additional topics.

Section 3.8 Proxies Prohibited. Votes may be cast at Board meetings only by members of the Board in attendance at the meeting, either in person or by electronic means. Voting by proxy shall be prohibited.

#### ARTICLE 4 – AMENDMENTS TO BYLAWS

Section 4.1 Proposals to Amend Bylaws. Any Board member may introduce a proposed amendment to the Bylaws (which may consist of new Bylaws) at any regular meeting, or at any special meeting for which thirty (30) days' advance notice has been given.

Section 4.2 Board Consideration of Proposed Amendments. If notice of a proposed amendment to the Bylaws, and information including the text of the proposed amendment and a statement of its purpose and effect, is provided to members of the Board fifteen (15) days prior to any regular Board meeting or any special meeting of

which thirty (30) days' advance notice has been given, then the Board may vote on the proposed amendment at the same meeting as the one at which the amendment is introduced. If such notice and information is not so provided, the Board may not vote on the proposed amendment until the next regular Board meeting or special meeting of which thirty (30) days' advance notice has been given and at least fifteen (15) days prior to which meeting such notice and information is provided to Board members. Changes to the proposed amendment that are within the scope of the original amendment will be permitted at the meeting at which the vote is taken.

#### ARTICLE 5 – ADMINISTRATIVE PROVISIONS

Section 5.1 Books and Records. The TBD shall keep current and complete books and records of account and shall keep minutes of the proceedings of its Board and its committees. The TBD shall maintain all public records according to the schedule adopted by the State Archivist, to ensure compliance with chapter 42.56 RCW, the Public Records Act.

Section 5.2 Principal Office. ~~The principal office and mailing address of the Black Diamond Transportation Benefit District shall be located at Black Diamond City Hall at \_\_\_\_\_ P.O. 599, Black Diamond, WA 98010. The principal office of the Black Diamond Transportation Benefit District shall be 24301 Roberts Drive, Suite B, Black Diamond, WA 98010~~

Section 5.3 Fiscal Year. The Fiscal Year of the TBD shall begin January 1 and end December 31 of each year, except the first fiscal year which shall run from the date the Bylaws were adopted to December 31, 2015.

Section 5.4 Policies Applicable to Board Members and Employees. The administrative policies of the City of Black Diamond shall be the policies of the Board.

#### ARTICLE 6 – APPROVAL OF BYLAWS

Adopted by the Black Diamond Transportation Benefit District on the \_\_\_ day of \_\_\_\_\_, 2015.

#### **BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT**

\_\_\_\_\_  
By: Carol Benson, Chairperson

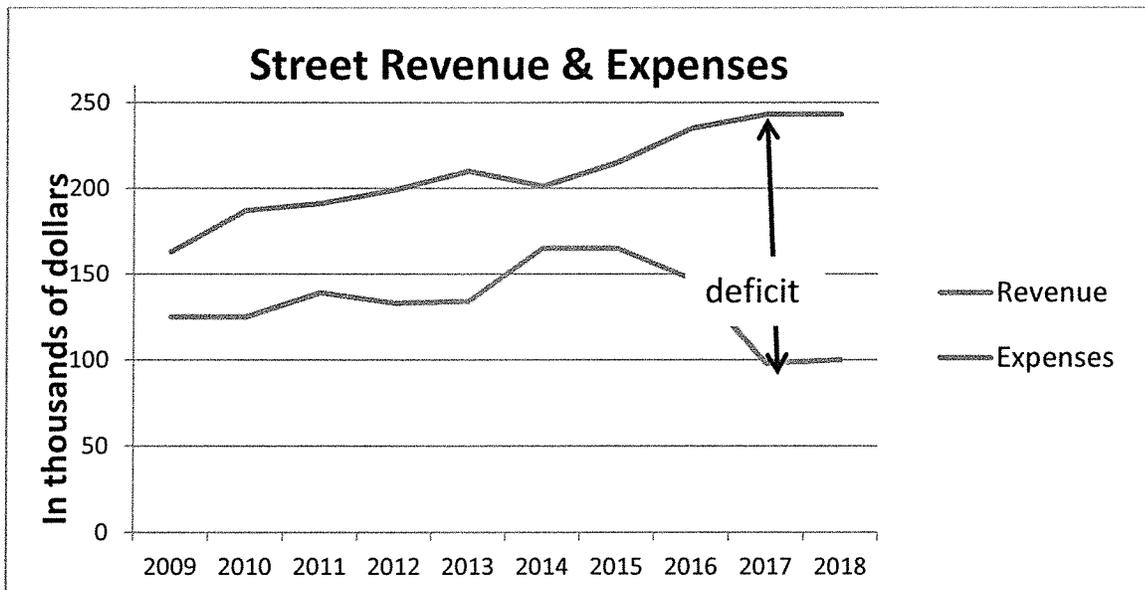
ATTEST:

\_\_\_\_\_  
City Clerk Brenda Martinez, Clerk of the Board,



## Council Considering Funding options for Streets

**Street Fund Deficit** In the graph below you will note that the City Street department has been operating in the red for over 6 years. This is primarily due to an approximate 20% decrease in gas tax revenue distributed by the state. Larger Cities typically direct a significant portion of sales and or property tax to fund their street departments, but Black Diamond has had to direct sales and property tax to address the needs in public safety. Because of the difficulties in funding streets since 2008 the state legislature as an interim funding measure has allowed the use of Real Estate Excise tax to fund streets. Note that the boost in the revenue line in 2013 is due to the temporary infusion of Real Estate Excise tax. The funding gap is now widening due to the expected sunset of the use of REET and the continued low level of gas tax distribution. The street fund cash reserves will be completely depleted by the end of 2016 without some additional revenue.



**One Solution under consideration** The Administration and Council is investigating implementing a Transportation Benefit District (TBD). This is a taxing district for the support of local streets with several tax and revenue options. The main option under consideration is a car tab fee starting at \$20 per vehicle which then increases to \$40 per vehicle after two years. The plan for the use of the TBD funds under consideration right now is to split the funds between general city wide asphalt overlay, chip seal program and general street maintenance activities. A Transportation Benefit District (TBD) would help close the funding gap the City

is facing right now in the street department. A TBD would be expected to raise \$60,000 to \$70,000 per year for street maintenance. If this funding option moves forward there will be workshops and public hearings before any decision is made.

**How will a Transportation Benefit District benefit citizens?** The additional revenue will help balance the fund so that the City can continue to provide maintenance, planning and upgrading public streets and sidewalks. Major maintenance activities include maintaining the street signs, pavement stripes and markings, roadside brush, trees and grass, street lights, pavement, signals, sidewalks and shoulders and addressing safety issues.

Transportation Benefit Districts can also fund road improvement projects. However the City has had good success in finding grant funding for street improvement projects. What is needed is additional funding to continue to provide basic maintenance and operation activities to safely manage the City street system.

**Below are some other options**

OPTIONS	ADVANTAGES	DISADVANTAGES
Redistribute property and sales tax	Would provide a long term revenue source; No increase in taxes	The general fund would have to make substantial cuts in the general fund (probably public safety) to provide more revenue for streets.
Transp. Benefit Dist.	Council approved	City wide equity
Business and Occupation tax	Council approved	This option comes with administration costs; Unpopular and hard on small businesses
Increase utility tax to fund streets	Council approved	Might be difficult to raise Stormwater Utility Tax further as the rate is already at 18%. Water and Sewer have the city wide inequity problem.
Direct utility taxes from Covington Water district to Streets.	Ordinance already in place	This would help but would not be near enough money
TBD sales tax		Voter approved; The City does not have a very big sales tax base so this might not raise much.

DRAFT – June 8, 2015

**INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF BLACK DIAMOND AND  
THE CITY OF BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT**

**This Agreement** between the City of Black Diamond, Washington (the “City”) and the Black Diamond Transportation Benefit District (“BD TBD”), each of whom is organized as a municipal corporation under the laws of the State of Washington, is dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

WHEREAS, chapter 39.34 RCW (the Interlocal Cooperation Act) allows local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage; and

WHEREAS, the City is empowered to operate, maintain, construct and reconstruct, public street infrastructure within its city limits in accordance with its powers granted pursuant to RCW 35.22.440(33) and chapter \_\_\_\_\_; and

WHEREAS, pursuant to Ordinance No. \_\_\_\_\_, ~~pending~~, the City established the BD TBD and authorized funding for any purpose allowed by law, including but not limited to, the operation of the District and to make transportation improvements consistent with existing state, regional and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to chapter 36.73 RCW; and

WHEREAS, pursuant to Resolution \_\_\_\_\_, ~~pending~~, the BD TBD has authorized a vehicle license fee to be imposed by the Department of Licensing; and

WHEREAS, the City and the BD TBD desire to better coordinate their efforts in order to pursue their individual, joint and mutual rights and obligations to fulfill the intent of Ordinance No. \_\_\_\_\_; ~~pending~~; Now, Therefore,

The parties have entered into this Agreement in consideration of the mutual benefits to be derived and to coordinate their efforts through the structure provided by the Interlocal Cooperation Act.

Section 1. Purpose and Interpretation. The City is empowered by Title 35 RCW to construct, reconstruct, maintain and preserve City streets and other related public infrastructure, either by contract or through the use of City forces. The TBD has been constituted in accordance with state law to provide a source of funding for the maintenance and preservation of street and related infrastructure within the City limits of the City of Black Diamond. The BD TBD has no employees and its officers are either City Council Members and the Mayor, serving in an ex officio capacity or are City employees designated to serve under the provisions of state law. In order to make the most efficient use of public monies, to avoid duplication of effort and to coordinate their

efforts, the parties have entered into this Agreement. In the event of ambiguity or the need for guidance arises, this Agreement shall be interpreted in accordance with chapter 36.73 RCW, the Bylaws of the BD TBD, the provisions of the Governmental Accounting Act and RCW 43.09.210, as the same exists or shall hereafter be amended. In the event that any provision of this Agreement is held to be in conflict with existing state statute or any future amendment thereof, such provisions shall be severable, and the remaining provisions of this Agreement shall remain in full force and effect.

Section 2. Obligations of the BD TBD. In accordance with the requirements of chapter 36.73 RCW, Black Diamond Ordinance No. \_\_\_\_ and Resolutions \_\_\_\_ and the TBD Bylaws, the BD TBD agrees to:

- A. Provide to the City all funding received from any and all lawful sources with the BD TBD in its sole discretion may levy for the purpose of completing the BD TBD's authorized street maintenance and operation activities.
- B. Continue the annual provision of funding for the activities approved by the BD TBD, so long as the TBD remains in existence. Such funding shall be in accordance with and limited by the provisions of Ordinance No. \_\_\_\_\_pending and Resolutions \_\_\_\_\_, Pending, the BD TBD Bylaws and chapter 36.73 RCW. By way of illustration and not limitation:

1. The BD TBD shall hold public hearings as required by law prior to levying any charge, tax or fee and shall levy any charge, tax or fee only in accordance with law and ordinance.

2. Develop an annual work plan and designate projects within its jurisdiction for funding.

3. Pursuant to the Material Change Policy adopted in Resolution No. \_\_\_\_\_, as required by RCW 36.73.160(1), the BD TBD shall consider, at a minimum, the impacts and appropriate remedies if transportation improvements contained in its annual plan exceed its original cost by more than twenty percent (20%). The BD TBD shall consider the input from public hearings and other sources as it determines how such cost changes should be resolved. The obligations of this Agreement shall be interpreted and applied in a manner consistent with adopted policy.

4. Annual Budget Preparation. The steps and timing of the process of annual budget preparation by the BD TBD is as follows:

<u>Steps</u>	<u>Timing</u>
Preliminary budget is prepared by chief ensuing Administrative officer	At least <del>60</del> <u>120</u> days before the <del>fiscal year.</del>
Administrative officer-	<del>fiscal year.</del>

Steps, continued.

Clerk publishes notice of filing of the Preliminary budget with City Clerk and Publishes notice of public hearing on it Once a week for two consecutive weeks.

The legislative body must schedule hearings On the budget

Copies of the preliminary budget are made Available to citizens upon request.

Final hearing on budget.

Adoption of the budget for next fiscal year. Send copies of the final budget to the State Auditor's Office.

Timing, continued.

Published during the first two weeks of \_\_\_\_\_September.

Prior to the final adoption of the budget

No later than six weeks before \_\_\_\_\_October 20th

On or before the first Monday of \_\_\_\_\_

Adopt by ordinance after the public hearing and prior to the beginning of The ensuing fiscal year.

Section 3. Undertakings of the City. The City shall:

A. Provide all staff and necessary related support to the BD TBD. The costs of such support shall be accounted for as a part of the City's annual report to the BD TBD. TBD funding shall first be applied to the reasonable charges incurred in establishing and staffing the TBD. Annual services provided may include the services provided by the City Attorney, the City Clerk when serving as the Clerk of the TBD, the City's Finance Director/Treasurer when serving as the Treasurer of the TBD, and other employees of the City that serve the TBD and any associated costs, including but not limited to the preparation of an annual work plan, reporting, advertising, design, contracting, construction management, accounting and any and all other actual charges or agreed upon percentage of charges associated with the proper application of TBD funding in accordance with law and ordinance. In consideration of the benefits derived by the City, overhead charges such as utilities, information technology, office supplies and equipment shall be a contribution of the City to the parties' joint goals and objectives and need not be directly charged back to the TBD.

B. Maintain for the period established by the State Archivist retention schedule, financial records, kept in accordance with generally accepted accounting practice and governmental accounting requirements, as necessary to document that any and all funding received through the BD TBD is used only for the projects authorized in accordance with law and ordinance.

C. Immediately alert the BD TBD of any material changes in scope, schedule or cost increases of 20% or greater to improvements funded in part or whole with TBD funds.

D. Utilize funding provided for projects shown on the TBC's annual work plan in accordance with the TBD's material change policy, law and ordinance.

Section 4. Ownership. Streets and related transportation infrastructure preserved and maintained with TBD funds are and shall remain the property of the City of Black Diamond. No joint property ownership is contemplated under the terms of this Agreement.

Section 5. No Joint Board. No provision is made for a joint board. The TBD shall exercise its function in accordance with its Bylaws, using staff as provided by the City of Black Diamond, pursuant to law and this Agreement.

Section 6. Insurance, Indemnity.

A. The parties agree to participate in the Association of Washington Cities Risk Management Services Agency (RMSA) insurance pool in accord with their respective interlocal agreements with the RMSA and AWC. The original charge or premium for the TBD will be borne by the City of Black Diamond as a cost to be covered under Section 3 and shall be paid for with funds received from or through the TBD. In the event that either or both cease to participate in the RMSA pool, each party or parties agree to obtain comparable coverage.

B. Each party agrees to indemnify and hold harmless the other party, its officers, agents and employees from any claim, loss or liability arising from or out of the other party's negligent, tortious or illegal actions under this Agreement.

Section 7. Termination. This Agreement shall terminate or expire as follows:

A. This Agreement may be terminated by either party upon the provision of one hundred and eighty (180) calendar days' notice. A final reconciliation of costs, payment and a current report of completed activities shall be completed by the City within such period following the notice by either party.

B. Unless sooner terminated by either party, this Agreement shall expire on the date when the District is automatically dissolved in accordance with the provisions of RCW 36.73.170 and Ordinances \_\_\_\_\_ and Resolution \_\_\_\_\_, as the same exist or are hereafter amended.

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Section 8. Effective Date. This Agreement shall be effective upon the last authorizing signature affixed hereto and when listed by subject on the website of the City of Black Diamond or other electronically retrievable public source as required by RCW 39.34.040.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

THE CITY OF BLACK DIAMOND

BLACK DIAMOND TRANSPORTATION  
BENEFIT DISTRICT

\_\_\_\_\_  
Carol Benson, Mayor

\_\_\_\_\_  
Carol Benson, Chairperson

Attested:

| Brenda Martinez, City-Clerk of the Board

Approved as to Form:

\_\_\_\_\_  
City Attorney

BLACK DIAMOND, WASHINGTON  
TRANSPORTATION BENEFIT DISTRICT  
RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE BLACK DIAMOND, WASHINGTON,  
TRANSPORTATION BENEFIT DISTRICT, AUTHORIZING A  
TWENTY DOLLAR (\$20.00) VEHICLE LICENSE FEE PURSUANT  
TO RCW 36.73.065 and RCW 82.80.140.

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WHEREAS, the City Council of the City of Black Diamond has the responsibility under the Constitution of the State of Washington for the improvement, maintenance and protection of public ways within the corporate limits of the City of Black Diamond, pursuant to RCW 35.23.440(33) and chapter 35.77 RCW; and

WHEREAS, chapter 36.73 RCW provides for the establishment of transportation benefit districts (TBD) by cities and counties and authorization to levy and impose various taxes and fees to generate revenue to support transportation improvements within the district that are consistent with state, regional or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, the City’s Transportation Improvement Plan (TIP), the transportation element of the City’s Comprehensive Plan, and the \_\_\_\_\_, all outline the key strategies, objectives and investments for improving safety, mobility, modal connectivity and access through providing effective transportation choices; and

WHEREAS, the Black Diamond City Council created the Black Diamond Transportation Benefit District in Ordinance No. \_\_\_\_\_; and

WHEREAS, RCW 36.73.040(3)(b) authorizes a transportation benefit district to impose a vehicle fee in accordance with RCW 82.80.140; and

WHEREAS, RCW 36.73.065(4)(a)(i) allows a transportation district that includes all of the territory within the boundaries of the jurisdiction establishing the district to impose, by majority vote of the governing board of the district, a vehicle fee of up to \$20.00, as authorized in RCW 82.80.140; and

WHEREAS, since 2009, the City of Black Diamond’s street revenues from the State Gas Tax and other sources have declined by nearly \$50,000, the General Fund has declined by \_\_\_\_\_ and Real Estate Excise Tax has declined by \_\_\_\_\_, the cost of operations and maintenance has gone up by approximately \$70,000; and

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Comment [SB1]: May I need help here
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WHEREAS, the Governing Board of the Black Diamond Transportation Benefit District finds that it is appropriate to establish a twenty-dollar annual vehicle license fee that will generate an estimated \$\_\_\_\_\_ \$81,000 annually and make investments to enhance pedestrian, bicycle and vehicle mobility within the District boundaries; and

WHEREAS, in accordance with RCW 82.80.140(4), the TBD may fix and impose an annual \$20.00 vehicle license fee, but no fee may be collected until six months after approval under RCW 36.73.065; and

WHEREAS, it is the expectation of the Black Diamond Transportation Benefit District to contract with the City of Black Diamond to utilize revenues for transportation purposes; and

WHEREAS, the Black Diamond Transportation Benefit District considered the adoption of this Resolution during its first regular-meeting of \_\_\_\_\_, August 20, 2016; Now, Therefore,

IT IS HEREBY RESOLVED BY THE BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT AS FOLLOWS:

Section 1. Fee Imposed. An annual vehicle license fee in the amount of twenty dollars (\$20.00) is established consistent with RCW 36.73.065, to be collected by the Washington State Department of Licensing on qualifying vehicles, as set forth in RCW 82.80.140 and chapters 36.73 and 46.16 RCW.

Section 2. Use of Revenues. The revenues generated by the license fee shall be used in accordance with the purposes set forth in ~~POMC-BDMC~~\_\_\_\_\_. The District plans to contract with the City of Black Diamond to utilize the revenues generated from the annual vehicle license fee as follows, after accounting for costs associated with the collection and disbursement of revenues for and administering the Black Diamond Transportation Benefit District:

- A. Preservation, Operations and maintenance of the District's transportation infrastructure;
  - B. Enhancing bicycle and pedestrian safety and mobility within the District;
- and
- C. Improving mobility and safety for people with disabilities.

Section 3. Implementation. The Black Diamond Transportation Benefit District requests that the City Clerk for the City of Black Diamond notify the Washington State Department of Licensing of the vehicle license fee established in Section 1 of this Resolution and to request that the Department of Licensing take all the steps necessary to implement collection of this fee no later than \_\_\_\_\_, in accordance with RCW 82.80.140.

Comment [SB2]: May I need help here

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PASSED by the Black Diamond Transportation Benefit District this \_\_\_\_<sup>nd</sup> day of  
\_\_\_\_, 2015.

\_\_\_\_\_  
Chairperson, Carol Benson

AUTHENTICATED:

\_\_\_\_\_  
City Brenda Martinez Clerk of the  
Board

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol A. Morris, City Attorney

BLACK DIAMOND, WASHINGTON  
TRANSPORTATION BENEFIT DISTRICT  
RESOLUTION NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, TRANSPORTATION BENEFIT DISTRICT,  
ADOPTING THE MATERIAL CHANGE POLICY AS REQUIRED BY  
RCW 36.73.160(1).

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WHEREAS, the Black Diamond City Council created the Black Diamond  
Transportation Benefit District in Ordinance No. \_\_\_\_\_; and

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WHEREAS, chapter 36.73 RCW requires that the Transportation Benefit District  
adopt a Material Change Policy; and

WHEREAS, the Black Diamond Transportation Benefit District considered the  
adoption of this Resolution during its regular meeting of \_\_\_\_\_, 2015;  
Now, Therefore,

IT IS HEREBY RESOLVED BY THE BLACK DIAMOND TRANSPORTATION  
BENEFIT DISTRICT AS FOLLOWS:

Section 1. Material Change Policy.

A. *Material Change to Cost.* In the event an approved transportation  
improvement exceeds the adopted budget by more than twenty per cent (20%) as  
approved annually by the Governing Board, the Board shall hold a public hearing to  
solicit comments from the public regarding the manner in which the cost change should  
be resolved. TBD Staff shall consult with the Board Chair prior to setting the public  
hearing.

B. *Material Change Scope.* In the event that the scope of a transportation  
improvement materially changes from that originally anticipated at the time of the  
annually adopted budget by the TBD Board, the TBD Staff shall determine whether or  
not to convene a meeting of the Board for discussion.

C. *Material Change to Schedule.* In the event that the schedule of a  
transportation improvement materially changes in a way that significantly impacts other  
TBD budget levels or the schedule changes exceed ninety (90) days, the TBD staff shall  
consult with and review such changes with the Board Chair. The Board Chair shall  
determine whether or not to convene a meeting of the Board for discussion.

PASSED by the Black Diamond Transportation Benefit District this \_\_\_\_<sup>nd</sup> day of  
\_\_\_\_, 2015.

\_\_\_\_\_  
Chairperson, Carol Benson

AUTHENTICATED:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol A. Morris, City Attorney

PUBLISHED:  
EFFECTIVE DATE:

CITY OF BLACK DIAMOND, WASHINGTON  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF BLACK DIAMOND, WASHINGTON, RELATING TO THE ESTABLISHMENT OF THE BLACK DIAMOND TRANSPORTATION BENEFIT DISTRICT, IDENTIFYING THE GOVERNING BOARD, DESCRIBING THE FUNCTIONS OF THE DISTRICT, DESCRIBING THE MANNER IN WHICH TRANSPORTATION IMPROVEMENTS SHALL BE FUNDED AND DISSOLUTION OF THE DISTRICT, ALL AS ALLOWED BY CHAPTER 36.73 RCW, ADDING A NEW CHAPTER 12.06 TO THE BLACK DIAMOND MUNICIPAL CODE.

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WHEREAS, the City Council desires to respond to the need for transportation funding for the maintenance and operation of city streets by establishing a transportation benefit district, as authorized by chapter 36.73 RCW; and

WHEREAS, the SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as a program relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

WHEREAS, notice of a public hearing on this Ordinance establishing a transportation benefit district was provided according to RCW 36.73.050(1), including, but not limited to, publication of such notice in a newspaper in general circulation in the City, not less than ten days before the hearing; and

WHEREAS, the public hearing was held on the establishment of a transportation benefit district by the Black Diamond City Council on August 6<sup>th</sup>, 2014; and

WHEREAS, the City Council considered the adoption of this ordinance during its regular meeting of August 20, 2015 and determined that the establishment of a transportation benefit district is in the public interest; Now, Therefore,

IT IS HEREBY ORDAINED BY THE BLACK DIAMOND CITY COUNCIL AS FOLLOWS:

Section 1. A new chapter 12.06 shall be added to the Black Diamond Municipal Code, which shall read as follows:

**CHAPTER 12.06  
TRANSPORTATION BENEFIT DISTRICT**

**Sections:**

- 12.06.010 Purpose.**
  - 12.06.020 Establishing the Transportation Benefit District**
  - 12.06.030 Governing Board**
  - 12.06.040 Functions of the District**
  - 12.06.050 Transportation Improvements Funded**
  - 12.06.060 Dissolution of District**
  - 12.06.070 Liberal Construction.**
- 

**12.06.010 Purpose.** The purpose of this chapter is to establish a transportation benefit district (TBD) pursuant to RCW 35.21.225 and chapter 36.73 RCW, consistent with the public interest, to provide adequate levels of funding for the preservation, maintenance and operations of the street transportation system of the City of Black Diamond.

**Comment [SB1]:** I revised this to include the council's intent as directed. Note that the purpose now does not include road improvement projects.

**12.06.020 Establishing the Transportation Benefit District.** There is created a transportation benefit district to be known as the Black Diamond Transportation Benefit District or "District" with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

**12.06.030 Governing Board.**

A. The governing board of the Black Diamond Transportation Benefit District shall be the Black Diamond City Council, acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in chapter 36.73 RCW.

B. The treasurer of the Transportation Benefit District shall be the City Finance Director.

C. The Board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1). The policy must at least address material changes to cost, scope and schedule, the level of change that will require governing body involvement and how the governing body will address those changes. At a minimum, if the District funding participation in a transportation improvement exceeds its original cost by more than twenty percent (20%) as identified in the District's original plan, a public hearing shall be held to solicit public comment regarding how the cost change should be resolved.

D. The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

**12.06.040 Functions of the District.**

A. The District, by a majority vote of its governing board, may authorize a motor vehicle license fee of up to twenty dollars as provided in RCW 82.80.140 for the purposes set forth in this chapter and as may be subsequently authorized according to law.

B. The District may impose additional taxes, fees or charges authorized by RCW 36.73.040 or ad valorem property taxes authorized by RCW 36.73.060, only if approved by District voters pursuant to RCW 36.73.065.

C. The District shall have all powers and functions provided by chapter 36.73 RCW to fulfill the functions of the District, including the power to issue general obligation bonds and revenue bonds as provided in RCW 36.73.070, or form a local improvement district as provided in RCW 36.73.080.

**12.06.050 Transportation improvements funded.** The funds generated by the Transportation Benefit District may be used for transportation improvements that preserve, maintain, operate, construct and reconstruct the existing transportation infrastructure of the City, consistent with chapter 36.73 RCW, as it now exists or is hereafter amended. In addition to the foregoing, the funds generated may be used for any purpose allowed by law, including to operate the District and to make transportation improvements that are consistent with state, regional and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, pursuant to chapter 36.73 RCW. The District shall select to the extent practicable projects for funding that reduce the risk of transportation facility failure and improve safety, decrease travel time, increase daily and peak period trip capacity, improve modal connectivity, provide for economic development, improve accessibility for persons with special transportation needs, and preserve and maintain optimal performance of the infrastructure over time to avoid expensive infrastructure construction and replacement in the future.

**Comment [SB2]:** This is what we are doing.

**Comment [SB3]:** The yellow highlight is what we are doing.

All funds raised through the District shall be expended only for such construction, reconstruction, preservation, maintenance and operation in accordance with the provisions of chapter 36.73 RCW as it now exists or is hereafter amended. The funds expended by the District shall preserve, maintain, operate and improve the City's investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost effectiveness of the City's infrastructure investments, provide for economic development and continue the optimal performance of the transportation system.

Additional transportation improvement projects may be funded only after compliance with the provisions of RCW 36.73.050(2)(b) following notice, public hearing and enactment of an authorizing ordinance.

**12.06.060 Dissolution of District.** The District shall be automatically dissolved when all indebtedness of the District has been retired and when all of the District's anticipated responsibilities have been satisfied.

**12.06.070 Liberal Construction.** This chapter is to be liberally construed to accomplish the purpose of establishing a transportation benefit district with the broadest possible authority under chapter 36.73 RCW, as it now exists or is hereafter amended.

**Section 4. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 Ordinance.

**Section 5. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**Section 6. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of \_\_\_\_\_ this \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

AUTHENTICATED:

\_\_\_\_\_  
City Clerk.

APPROVED AS TO FORM:

\_\_\_\_\_  
Carol A. Morris, City Attorney

PUBLISHED:  
EFFECTIVE DATE: