LYNNWOOD TRANSPORTATION BENEFIT DISTRICT

RESOLUTION NO. 1

A RESOLUTION OF THE CITY OF LYNNWOOD, WASHINGTON, TRANSPORTATION BENEFIT DISTRICT
APPROVING AND ADOPTING A CHARTER STATING OPERATING PROCEDURES FOR THE DISTRICT,
PROVIDING FOR THE INDEMNIFICATION OF DISTRICT OFFICERS, EMPLOYEES, AND AGENTS AS ALLOWED BY LAW, AND ESTABLISHING THE TIME AND PLACE FOR REGULAR MEETINGS OF THE DISTRICT'S BOARD.

WHEREAS, Chapter 36.73 RCW and RCW 35.21.255 authorize the City of Lynnwood City Council to establish a Transportation Benefit District within the City's jurisdiction for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, the City Council of the City of Lynnwood found it to be in the best interests of the City to establish a citywide Transportation Benefit District consistent with Chapter 36.73 RCW, to protect the City's long term investments in that infrastructure, to reduce the risk of transportation facility failures and improve safety, to continue optimal performance of the infrastructure over time, and to avoid more expensive infrastructure replacements in the future; and

WHEREAS, in Ordinance No. 2837, the City Council of the City of Lynnwood established a Transportation Benefit District as authorized by RCW 35.21.225 and subject to the provisions of RCW 36.73; and

WHEREAS, pursuant to RCW 36.73.030(3), the members of the City Council, acting ex officio and independently, constitute the governing body of the Transportation Benefit District; and

WHEREAS, the Board of the City of Lynnwood Transportation Benefit District has determined that a charter stating operating procedures for the District, providing for the indemnification of District officers, employees, and agents as authorized by Chapter 4.96 RCW, and establishing the time and place for regular meetings of the District's Board will be beneficial to the operations of the District; NOW, THEREFORE,

THE BOARD OF THE CITY OF LYNNWOOD, WASHINGTON, TRANSPORTATION BENEFIT DISTRICT, DOES HEREBY RESOLVE AS FOLLOWS:
ARTICLE I
NAME

Section 1.01 Name. The name of the Transportation Benefit District shall be the “Lynnwood Transportation Benefit District.”

ARTICLE II
NATURE AND PURPOSES

Section 2.01 Nature of the District. The District shall be a Transportation Benefit District organized pursuant to Chapter 12.14 LMC, Ordinance No. 2837 and Chapter 36.73 RCW. The boundaries of the District shall be coextensive with the boundaries of the City. The District shall be a municipal corporation, an independent taxing “authority” within the meaning of Article VII, Section I of the Constitution of the State of Washington (the “Constitution”), and a “taxing district” within the meaning of Article VII, Section 2 of the Constitution. The District shall be an entity independent of and separate from the City.

Section 2.02 Purposes. The purpose of the District shall be to provide a separate legal entity pursuant to Statute and Ordinance to exercise the powers available under the Statute, to, but only to the extent authorized by the Ordinance. The primary purpose of the District shall be the acquisition, construction, improvement, provision and/or funding of the maintenance of City streets and related infrastructure in a manner which is:

2.02.01 Consistent with state, regional, and local transportation plans;
2.02.02 Necessitated by reasonably foreseeable congestion levels attributable to economic growth; and
2.02.03 Funded by local government or private developer contributions or any combination thereof.

Section 2.03 Limitations on Liability. All debts, liabilities and other obligations incurred by the District (“Obligations”) shall be satisfied: (a) in the case of Obligations which, by their terms, are not payable from a special or limited source of funds, exclusively from the revenues, assets and properties of the District, and (b) in the case of Obligations which, by their terms, are payable from a special or limited source of funds, exclusively from such revenues, assets and properties of the District as shall be specifically pledged thereto or otherwise identified as being the source of payment thereof. No creditor, claimant or other person shall have any right of action against or recourse to the City or its revenues, assets or properties on account of or with respect to any such Obligations, or otherwise on account of or with respect to any acts or omissions of the District or its officers, employees or agents.

ARTICLE III
DISSOLUTION

Section 3.01 Dissolution. The District shall exist until dissolved in accordance with the requirements of RCW 36.73.050 and LMC 12.14.050. The retirement of debt, notice of dissolution and payment of creditors shall all comply with the provisions of the Statute. The
District shall be automatically dissolved when all indebtedness of the District has been retired, and when all the District’s anticipated responsibilities have been satisfied.

ARTICLE IV
POWERS; INDEMNIFICATION

Section 4.01 Powers. Except as otherwise provided herein, the District shall have and may exercise all lawful powers conferred upon a Transportation Benefit District as of the date hereof by the laws of the State of Washington, limited as provided in the Ordinance. Such powers shall include, but are not limited to, the following:

(a) To hire employees, staff, and services, to enter into contracts, to direct agents and services acquired pursuant to contract or interlocal agreement, and to sue and be sued. Public works contract limits applicable to the City of Lynnwood shall apply to any contract entered into by the District. In the event that City staff is utilized, the general fund of the City shall be reimbursed to, but only to the extent required by RCW 43.09.210. The annual plan of the District shall provide estimates of all such charges and the final cost of all projects shall indicate such charges.

(b) To authorize a vehicle tax of up to $20 per vehicle as provided for by RCW 82.80.140.

(c) When authorized by the voters pursuant to the requirements of Chapter 36.73, to authorize other taxes, fees, charges and tolls or increases in these revenue sources, and to use such funds assessed for the preservation, maintenance and operation of City streets in accordance with the provisions of a state or regional plan.

(d) The Board shall have and may exercise all powers and functions provided by the Statute to fulfill the functions of the District.

(e) Additional powers and authorities may be conferred upon the District only in accordance with the requirements of the Statute following a public hearing and other procedural requirements as set forth in the Statute.

(f) To issue its general obligation bonds and revenue bonds pursuant to the requirements of the Statute.

Section 4.02 Indemnification. To the extent permitted by law, the District shall protect, defend, hold harmless and indemnify any Board member, officer, employee or agent of the District who is a party or threatened to be made a party to a proceeding by reason related to that person's conduct as a director, officer, employee or agent of the District, against judgments, fines, penalties, settlements and reasonable expenses (including reasonable attorneys' fees) incurred by him or her in connection with such proceeding, if such person acted in good faith and reasonably believed his or her conduct to be in the District's best interests and if, in the case of any criminal proceedings, he or she had no reasonable cause to believe that his or her conduct was unlawful. The indemnification and protection provided herein shall not be deemed exclusive
of any other rights to which a person may be entitled as a matter of law, by City ordinance, or by contract or by vote of the Board. The District may purchase and maintain appropriate insurance covering such risks.

ARTICLE V
OFFICERS AND COMMITTEES

Section 5.01 Board Powers. All powers of the District shall be exercised by or in the name of the Board of Directors (the “Board”). The powers of the Board shall include, but are not limited to, the following:

(a) To establish and implement the policies and programs of the District, and the procedures for the management and administration of the District's affairs;

(b) To appoint and remove, at the pleasure of the Board, the District's officers, agents and employees, (except as expressly provided herein) and to prescribe their respective powers and duties consistent with the provisions hereof;

(c) To borrow money and incur indebtedness in accordance with the Act; and

(d) To provide for the investment of the District's funds.

Section 5.02 Board Composition. The Board shall be composed of the seven (7) members of the Lynnwood City Council, who shall serve in an ex-officio and independent capacity. A Board member may be removed only when removed from his or her office as a Council Member. Any vacancy shall be filled only by the appointment or election of a new City Council Member.

Section 5.03 Board Officers. The Board shall include two or more officers. The same person shall not occupy both the office of President and any office responsible for the custody of funds and maintenance of finances and accounts. The initial officers of the Board shall be the President and Vice President. Additional officers may be provided for as approved by the Board. The President shall be the agent of the District for purposes of receiving service of process; provided, that the Board may designate additional officers of the District as agents to receive or initiate process. The District may contract with the City of Lynnwood for such service as it may require.

Section 5.04 President. The President shall serve as the ceremonial head of the District and shall preside over all Board meetings. The President shall, subject to the control of the Board, exercise general supervision, direction, and control of the business and affairs of the District. On matters decided by the District, unless otherwise required under Interlocal Agreement or by this Charter, the signature of the President alone is sufficient to bind the District.
Section 5.05 Vice President. The Vice President shall serve in the absence of the President as the ceremonial head of the District and shall preside over Board meetings in the President’s absence and shall otherwise execute the President’s powers and duties.

Section 5.06 Treasurer. The Treasurer of the District shall be the City’s Finance Director. The Finance Director is required by the Statute to serve as Treasurer and is not subject to removal by the Board. 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.

Section 5.07 Attorney. The Board shall be represented by the City Attorney of the City of Lynnwood, provided, however, that the Board may, in the event of conflict, engage separate legal counsel of its choosing. Any potential conflicts of interest involving the City Attorney shall be determined and resolved by reference to Title 1 of the Rules of Professional Conduct, as that Title now exists or may be amended. Charges and fees of the attorney, as well as other services provided by City employees, shall be reimbursed in accordance with Section 4.01(b).

Section 5.08 Establishment of Committees. 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 this Charter 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.

Section 5.09 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.

Section 5.10 Conflict of Interest. Board members shall comply in all respects with the conflict of interest guidelines and prohibitions of Chapter 42.23 RCW as the same exists or is hereafter amended.

ARTICLE VI
MEETINGS

Section 6.01 Board Meetings. Regular Board meetings shall be held on the second Monday of February and the second Monday of August of each year, at 6:00 p.m., at the Lynnwood City Council Chambers, City Hall, 19100 44th Avenue West, Lynnwood, WA 98036. Special Board meetings shall be held from time to time pursuant to 42.30.080 RCW.

Section 6.02 Board Quorum and Concurrence. A quorum to commence a Board meeting shall be no fewer than four (4) members. The District may prescribe Board quorum restrictions that equal or exceed the quorum restrictions imposed in this Section. Board members
present at a duly convened meeting may continue to transact business notwithstanding the withdrawal of enough members to leave less than a quorum; provided, any action shall be approved by at least three (3) members. Board concurrence may be obtained at any regular or special meeting by an affirmative vote of a majority of the Board members voting on the issue; provided that such majority shall include not less than four (4) votes.

Voting by proxy shall not be permitted. Electronic meetings or participation are authorized so long as the meeting, notice and opportunity for public participation comply with state law.

Section 6.03 Open Public Meetings. Notice of meetings shall be given in a manner consistent with the Open Public Meetings Act, Chapter 42.30 RCW, as supplemented and amended. The District shall provide the opportunity for public comment to be permitted at Board meetings.

Section 6.04 Procedure. Robert’s Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by ordinance, statute, or this Charter; PROVIDED, that with the concurrence of four (4) members, such rules may be waived or modified. PROVIDED FURTHER, that failure to follow said rules will not in itself constitute sufficient grounds for invalidating any Board actions.

Section 6.05 Minutes. Copies of the minutes of all regular or special meetings of the Board shall be available to any person or organization that requests them as required by State law; provided, however, that minutes with respect to closed executive sessions need not be made available.

Section 6.06 Material Change Policy and Annual Report. The Board shall develop a material change policy to address major Plan changes that affect project delivery or the ability to finance the adopted Plan. At the date of adoption of a plan to execute the functions of the District, the Board shall adopt a material change plan which addresses material changes to cost, scope, and schedule, the level of change that will require Board involvement and how the Board will address those changes. At a minimum, in the event that a transportation improvement cost exceeds its original cost estimate by more than twenty percent (20%) as identified in the District’s original finance plan, the governing body shall hold a public hearing to solicit comment from the public regarding how the cost change should be resolved. In addition, the District, upon approval by the Board, shall issue an annual report, indicating the status of transportation improvement costs, transportation improved expenditures, revenues, and construction schedules, to the public and the newspapers of record in the District (the “Plan”). “Newspapers of record in the District” shall include all newspapers which have filed a request for public notice of meetings with the District.

ARTICLE VII
AMENDMENT TO CHARTER

Section 7.01 Proposals to Amend Charter. Any Board member may introduce a proposal to amend the Charter at any regular meeting or special meeting of the Board, provided,
however, that all amendments shall comply with the minimum requirements and provisions of RCW 36.73 and Chapter 12.14 LMC.

Section 7.02 Vote Required for Proposals to Amend the Charter. Resolutions of the Board approving proposals to amend the Charter shall require an affirmative vote of a majority of the Board members voting on the issue; provided, that the total number of Board members voting on any such proposal shall equal at least four.

Section 7.03 Public Hearings. Certain amendments of the Charter may require action of the Lynnwood City Council and a public hearing pursuant to the requirements of the Statute. No consideration of any charter amendment may occur until the City complies with such requirements.

ARTICLE VIII

COMMENCEMENT

Section 8.01 Commencement. The District shall commence its existence effective upon the adoption of the Ordinance. This Charter shall become effective upon its approval by the Board.

ARTICLE IX

MISCELLANEOUS

Section 9.01 Liberal Construction and Severability. This Charter shall be liberally construed in order to affect its purposes. If any section or part of this Charter is ultimately ruled invalid or illegal by a court of competent jurisdiction, such invalidity or illegality shall not affect the remaining sections or parts of this Charter.

PASSED this 12th day of July, 2010 and signed in authentication of its passage this 14th day of July, 2010.

Loren Simmonds
TBD President

ATTEST:

APPROVED AS TO FORM:

Patrick L. Dugan
Interim Finance Director, acting as District Treasurer

Rosemary Larson
City Attorney, acting as District Attorney

FILED WITH ADMINISTRATIVE SERVICES: 7-12-10
PASSED BY THE TRANSPORTATION BENEFIT DISTRICT BOARD: 7-12-10
RESOLUTION NUMBER: 1