



**TBD NO. 1  
AGENDA BILL**

<b>Agenda Subject:</b> Motion to approve Resolution No. 2, authorizing a vehicle license tab fee, approving an Interlocal agreement, and pledging vehicle license fees toward the payment of bonds issued by the City of Burien		<b>Meeting Date:</b> July 19, 2010
<b>Department:</b> Legal	<b>Attachments:</b> 1. <u>Proposed Resolution No. 2</u>	<b>Fund Source:</b> N/A <b>Activity Cost:</b> N/A <b>Amount Budgeted:</b> N/A <b>Unencumbered Budget Authority:</b> N/A
<b>Contact:</b> Craig Knutson, City Attorney		
<b>Telephone:</b> (206) 248-5535		
<b>Adopted Initiative:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Initiative Description:</b> Street Overlay Program	
<b>PURPOSE/REQUIRED ACTION:</b> The purpose of this agenda item is for the Transportation Benefit District Board to consider adopting proposed Resolution No. 2 which authorizes a vehicle license tab in the amount of \$ 10.00, approves an Interlocal Agreement between the City of Burien and the Transportation Benefit District, and pledges vehicle license fees toward the payment of bonds issued by the City of Burien in order to assist in funding the Street Overlay Program.		
<b>BACKGROUND (Include prior Council action &amp; discussion):</b> On April 26, 2010, the City Council approved a motion to advance the Street Overlay Program by imposing a \$ 10.00 car tab fee through a TBD to assist in supporting the program, along with approving issuance of 8.6 million in bonds to support the remainder of the program.  On June 21, 2010, the Council adopted Ordinance No. 542, which modified the boundaries of the Transportation Benefit District to comprise the corporate limits of the City and modified the functions of the District as they relate to funding the Street Overlay Program improvements.  The proposed Resolution No. 2 approves an interlocal agreement with the City of Burien, which establishes obligations and responsibilities of TBD No. 1 and the City in constructing and financing the Street Overlay Program.  The proposed Resolution No. 2 also imposes a \$ 10.00 car tab fee and pledges this revenue toward the payment of bonds for the Street Overlay Program.  Since it will take several months for the car tab revenue to be collected, staff is recommending that the TBD Board take action on Resolution No. 2 as soon as possible.		
<b>OPTIONS (including fiscal impacts):</b> 1. Adopt Resolution No. 2 as presented. 2. Do not adopt Resolution No. 2 as presented.		
<b>Administrative Recommendation:</b> Adopt Resolution No. 2 as presented.		
<b>Committee Recommendation:</b> N/A		
<b>Advisory Board Recommendation:</b> N/A		
<b>Suggested Motion:</b> Move to adopt Resolution No. 2, authorizing a vehicle license tab fee, approving an Interlocal agreement, and pledging vehicle license fees toward the payment of bonds issued by the City of Burien in order to support the City's Street Overlay Program.		
Submitted by: Craig Knutson <b>Administration</b> 	Mike Martin <b>City Manager</b> 	
<b>Today's Date:</b> July 14, 2010	<b>File Code:</b> \\File01\records\CC\TBD - 2009\Agenda Bills\071910Is-TBD Res 2.docx	



**BURIEN TRANSPORTATION BENEFIT DISTRICT NO. 1**

**RESOLUTION NO. 2**



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**A RESOLUTION OF THE BURIEN TRANSPORTATION BENEFIT DISTRICT BOARD AUTHORIZING A VEHICLE LICENSE FEE IN THE AMOUNT OF TEN DOLLARS; APPROVING AN INTERLOCAL AGREEMENT; AND PLEDGING VEHICLE LICENSE FEES TOWARD THE PAYMENT OF BONDS TO BE ISSUED BY THE CITY OF BURIEN**

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WHEREAS, chapter 36.73 RCW and RCW 35.21.255 authorize the City Council of the City of Burien (the "City") 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 any existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels, and

WHEREAS, pursuant to chapter 36.73 RCW and City Ordinance No. 516 adopted on July 20, 2009, as amended by City Ordinance No. 542 adopted on June 21, 2010, the City established a citywide transportation benefit district known as the Burien Transportation Benefit District No. 1, or TBD No. 1 (the "District"), for the purpose of financing, constructing and otherwise facilitating asphalt overlays and other street related improvements throughout the City (the "Project"), and

WHEREAS, the City has determined that it is in the best interest of its inhabitants to issue limited tax general obligation bonds (the "Bonds") for the purpose of financing the Project; and

WHEREAS, the geographical boundaries of the District are comprised of the corporate limits of the City, as they exist upon the effective date of Ordinance No. 516, and as they may exist following future annexations, and

WHEREAS, pursuant to RCW 36.73.020(3), the members of the City Council, acting ex officio and independently, constitute the governing body of the District (the "Board"), and

WHEREAS, RCW 36.73.065 and RCW 82.80.140 authorizes the District to impose, by majority vote of the Board, an annual vehicle fee in an amount of not to exceed twenty dollars, to be collected by the Washington State Department of Licensing at the time of vehicle licensing renewal, and

WHEREAS, the Board finds it in the best interests of the District to impose an annual vehicle fee in the amount of ten dollars (\$10.00) (the "Vehicle Fee") on qualifying vehicles

registered within the District and to remit such fees to the City pursuant to an interlocal agreement for the purpose of paying all or a portion of the debt service on the Bonds;

NOW, THEREFORE, THE BOARD OF THE BURIEN TRANSPORTATION BENEFIT DISTRICT NO. 1 HEREBY RESOLVES AS FOLLOWS:

Section 1. Establishment of Annual Vehicle Fee. An annual vehicle fee in the amount of ten dollars (\$10.00) is hereby established, consistent with RCW 36.73.065, to be collected by the Washington Department of Licensing on qualifying vehicles, as set forth in RCW 82.80.140 and chapters 36.73 and 46.16 RCW (the "Vehicle Fee").

Section 2. Approval of Interlocal Agreement. The Interlocal Agreement between the City of Burien, Washington, and the Burien Transportation Benefit District No. 1 (the "Interlocal Agreement"), substantially in the form attached hereto as Exhibit A and incorporated herein by this reference, is hereby approved. The Chair of the District is hereby authorized to execute the Interlocal Agreement with such changes as determined to be necessary to carry out its purposes.

Section 3. Pledge of Vehicle Licensing Fee. The District hereby pledges the Vehicle Fee toward the payment of the Bonds issued by the City for the purpose of providing long-term financing for the Project. The District shall remit the Vehicle Fee to the City pursuant to the Interlocal Agreement. The District shall continue to impose and collect the Vehicle Fee so long as the Bonds are outstanding. The District acknowledges and agrees that the City will pledge the Vehicle Fee to the payment of the Bonds. Such pledge will be material to the offer and sale of the Bonds, and will be disclosed to potential purchasers and purchasers of the Bonds. Bondholders will rely on this pledge in purchasing the Bonds.

Section 4. Severability. Should any section, paragraph, or phrase of this resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this resolution be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this resolution or its application to other persons or circumstances.

Section 5. Effective date. This resolution shall take effect and be in full force immediately after its passage and approval.

ADOPTED BY THE BOARD OF THE BURIEN TRANSPORTATION BENEFIT DISTRICT NO. 1, AT A [REGULAR] MEETING THEREOF THIS \_\_\_\_ DAY OF JULY, 2010.

BURIEN TRANSPORTATION BENEFIT  
DISTRICT NO. 1

\_\_\_\_\_  
Joan McGilton, Chair

ATTEST/AUTHENTICATED:

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Monica Lusk, Clerk

Approved as to form:

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Craig Knutson, Attorney

Filed with the City Clerk:

Passed by TBD No. 1:

Resolution No. 2



## EXHIBIT A

### FORM OF INTERLOCAL AGREEMENT

#### AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF BURIEN, WASHINGTON, AND THE BURIEN TRANSPORTATION BENEFIT DISTRICT NO.1

This agreement between the City of Burien, Washington (“Burien”), and the Burien Transportation Benefit District No.1 (“TBD No. 1”), each of which is organized as a municipal corporation under the laws of the state of Washington, is dated this \_\_\_<sup>th</sup> day of \_\_\_\_, 2010

**WHEREAS**, Chapter 39.34 RCW (the “Interlocal Cooperation Act”) permits local governmental units to make the most efficient use of their powers by enabling them to enter into interlocal agreements in order to cooperate on the basis of mutual advantage; and

**WHEREAS**, Burien is empowered to operate, maintain, construct, and reconstruct, public street infrastructure within its city limits in accordance with the powers granted pursuant to RCW 35A.11.020 and Chapter 35A.47 RCW; and

**WHEREAS**, pursuant to chapter 36.73 RCW and Burien Ordinance No. 516 adopted on July 20, 2009, as amended by Burien Ordinance No. 542 adopted on June 21, 2010 (together, the “Enabling Ordinance”), Burien established TBD No. 1 for the purpose of financing and facilitating asphalt overlays and other street related improvements throughout Burien (the “Project”); and

**WHEREAS**, Burien intends to issue limited tax general obligation bonds (the “Bonds”) for the purpose of providing long-term financing for the Project; and

**WHEREAS**, pursuant to RCW 36.73.065 and RCW 82.80.140, TBD No. 1 has agreed to impose and collect annual vehicle fees in the amount of ten dollars (\$10.00) on qualifying vehicles registered in TBD No. 1 (the “Vehicle Fee”), and to remit such fees to Burien for the purpose of paying all or a portion of the debt service on the Bonds; and

**WHEREAS**, Burien and TBD No. 1 desire to better coordinate their efforts in order to pursue their individual, joint and mutual rights and obligations to construct and finance such transportation improvements;

**NOW THEREFORE**, the parties hereby agree to the following terms and agreements, in consideration of the mutual benefits to be derived and to coordinate their efforts through the structure provided by the Interlocal Cooperation Act.

**1. Purpose and Interpretation.** Burien is empowered by Title 35A RCW to construct, reconstruct, maintain and preserve City streets and other related public infrastructure either by contract or through the use of City forces. TBD No. 1 has been constituted in accordance with state law to provide a source of funding for the implementation of transportation improvements

described in the Enabling Ordinance. TBD No. 1 has no employees and its officers are either Burien Council Members serving in an ex officio capacity or are Burien 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 the provisions of the Enabling Ordinance, Chapter 36.73 RCW, RCW 82.80.140, the provisions of the Governmental Accounting Act, and RCW 43.09.210, as the same exist or shall hereafter be amended. In the event that any provision of this agreement is held to be in conflict with existing state statutes or any future amendment thereof, such provisions shall be severable, and the remaining provisions of this agreement shall remain in full force and effect.

**2. Obligations of TBD No. 1.** In accordance with the requirements of Chapter 36.73 RCW and the Enabling Ordinance, TBD No. 1 agrees to:

2.1 Impose funding charges for the transportation improvement projects described in the Enabling Ordinance, in the manner set forth in RCW 82.80.140 and Chapters 36.73 and 46.16 RCW. Such fees and charges shall include, but are not limited to, annual vehicle fees imposed by TBD No. 1 pursuant to TBD No. 1 Resolution No. \_\_\_\_\_ (the "Vehicle Fees"). Such Vehicle Fees shall be imposed and collected by TBD No. 1 so long as the limited tax general obligation bonds (the "Bonds") issued by Burien for the purpose of financing the Project remain outstanding.

2.2 Provide to Burien all funding received from any and all lawful sources, net administrative expenses, which TBD No. 1 may impose for the purposes described in the Enabling Ordinance.

2.3 Develop an annual work plan.

2.4 Pursuant to a material change policy adopted pursuant to the requirements of RCW 36.73.160(1), TBD No. 1 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 20%. TBD No. 1 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 this adopted policy.

**3. Undertakings of Burien.** Burien shall:

3.1 Provide all staff and necessary related support to TBD No. 1. The costs of such support shall be accounted for as a part of Burien's annual report to TBD No. 1. Funding imposed by TBD No. 1 and remitted to Burien pursuant to Section 2.2 hereof shall first be applied to the reasonable charges incurred in establishing and staffing TBD No. 1. Annual services provided may include the services provided by the City Attorney, or designee, the City Clerk, or designee, when serving as the Clerk of TBD No. 1, the City's Finance Director, or designee, when serving as its Treasurer, the Public Works Director, or designee, when managing and/or administering a transportation improvement, and any associated costs, including but not

limited to the preparation of an annual work plan, reporting, advertising, design, contracting, construction management and administration, accounting, and any and all other actual charges associated with the proper application of TBD No. 1 funding to the transportation improvements set forth in the Enabling Ordinance. In consideration of the benefits derived by Burien, overhead charges such as utilities, information technology, office supplies and equipment shall be a contribution of Burien to the parties' joint goals and objectives and need not be directly charged to TBD No. 1.

3.2 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 TBD No. 1 is used only for the maintenance and preservation of City streets and infrastructure in accordance with law and ordinance.

3.3 Utilize all funding provided, for the transportation improvements described in the Enabling Ordinance and deposit Vehicle Fees, after the payment of administrative costs described in Section 3.1, if any, into the debt service fund established for the Bonds for the purpose of paying principal of or interest on the Bonds.

**4. Provisions Relating to Bonds.** TBD No. 1 hereby pledges the Vehicle Fees to the payment of debt service on the Bonds. The obligation of TBD No. 1 to collect such Vehicle Fees, remit such fees to Burien, and to perform and observe the other obligations on its part contained herein shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise. TBD No. 1's obligations under this agreement to collect and remit such revenue to Burien for such purpose shall continue until the Bonds are no longer outstanding.

The parties hereto acknowledge and agree that Burien will pledge the Vehicle Fee revenue to the payment of the Bonds. Such pledge will be material to the offer and sale of the Bonds, and will be disclosed to potential purchasers and purchasers of the Bonds. Bondholders will rely on this pledge in purchasing the Bonds. So long as the Bonds are outstanding, without the prior written consent of Burien, TBD No. 1 shall not issue bonds, or incur any other obligation(s), secured by the Vehicle Fees.

**5. Ownership.** Streets and related transportation infrastructure constructed and installed with TBD No. 1 funds are and shall remain the property of Burien. No joint property ownership is contemplated under the terms of this agreement.

**6. No Joint Board.** No provision is made for a joint board. TBD No. 1 shall exercise its function in accordance with the applicable statutes, using staff as provided by Burien, pursuant to this agreement.

**7. No Indemnity.** No indemnification is provided by this agreement. The parties agree to bear their respective liability for any acts or omissions resulting under this agreement as the same shall be determined under the laws of the state of Washington or any mutually approved settlement agreement.

**8. Termination.** This agreement shall terminate or expire as follows:

8.1 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 Burien within such period following the notice by either party.

8.2 Unless sooner terminated by either party, this agreement shall expire on the date when the District is automatically dissolved in accordance with provisions of the Enabling Ordinance, as the same exists or is hereafter amended; provided that, a final reconciliation of costs, payment and a current report of completed activities shall be completed by Burien and TBD No. 1 prior to dissolution.

8.3 Notwithstanding anything to the contrary in this agreement, this agreement may not be terminated by the parties hereto so long as the Bonds remain outstanding.

**9. Filing of Agreement.** Upon execution, this agreement shall be filed or posted as required in RCW 39.34.040.

**10. Effective Date.** This agreement shall take effect and be in full force after approval and execution by both parties.

IN WITNESS WHEREOF, the City of Burien and Burien Transportation Benefit District No.1 have executed this agreement effective as of the date set forth above.

CITY OF BURIEN

BURIEN TRANSPORTATION BENEFIT  
DISTRICT No.1

\_\_\_\_\_  
Joan McGilton, Mayor

\_\_\_\_\_  
Joan McGilton, Chair

ATTEST/AUTHENTICATED:

ATTEST/AUTHENTICATED:

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Monica Lusk, City Clerk

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Monica Lusk, Clerk

Approved as to form:

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Craig D. Knutson  
City Attorney

Approved as to form:

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Craig D. Knutson  
Attorney

