

AN INTERLOCAL AGREEMENT BETWEEN
THE CITY OF MERCER ISLAND, WASHINGTON, AND
THE MERCER ISLAND TRANSPORTATION BENEFIT DISTRICT

This agreement between the City of Mercer Island, Washington ("Mercer Island"), and the Mercer Island Transportation Benefit District ("TBD"), each of whom is organized as a Municipal Corporation under the laws of the state of Washington, is dated this 2nd day of March 2015.

WHEREAS, Chapter 39.34 RCW (Interlocal Cooperation Act) permits 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, Mercer Island 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 Ordinance No. 14C-11, Mercer Island established the TBD and authorized funding for any purpose allowed by law including to operate 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 Ordinance No. 1, the TBD has authorized a \$20 vehicle license fee; and

WHEREAS, Mercer Island and the 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 14C-11;

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.

1. Purpose and Interpretation. The City of Mercer Island is empowered by Title 35A 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 transportation improvements within the City limits of the City of Mercer Island. The TBD has no employees and its officers are either City Council Members 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 Charter of the TBD and 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.

2. Obligations of the TBD. In accordance with the requirements of Chapter 36.73 RCW, Mercer Island Ordinance No. 14C-11 and the Charter of the Mercer Island Transportation Benefit District, the TBD agrees to:

2.1 Provide to the City of Mercer Island all funding received from any and all lawful sources which the TBD in its sole discretion may levy for the purpose of completing the TBD's authorized projects.

2.2 Continue the annual provision of funding for the projects approved by the TBD, so long as the TBD remains in existence. Such funding shall be in accordance with and limited by the provisions of Ordinance No. 14C-11, the charter of the TBD and Chapter 36.73 RCW. By way of illustration and not limitation:

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

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

2.2.3 Pursuant to a material change policy adopted pursuant to the requirements of RCW 36.73.160, the 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 20%. The 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.

3. Undertakings of Mercer Island. Mercer Island shall:

3.1 Provide all staff and necessary related support to the TBD. The costs of such support shall be accounted for as a part of Mercer Island's annual report to the 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's Office, the City Clerk when serving as the Clerk of the TBD, the City's Finance Director when serving as its Treasurer, and other employees of Mercer Island 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 Mercer Island, overhead charges such as utilities, information technology, office supplies, and equipment shall be a contribution of Mercer Island to the parties' joint goals and objectives and need not be directly charged back to the TBD.

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 the TBD is used only for the projects authorized in accordance with law and ordinance.

3.3 Immediately alert the 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.

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

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

5. No Joint Board. No provision is made for a joint board. The TBD shall exercise its function in accordance with its charter, using staff as provided by the City of Mercer Island, pursuant law and to this agreement.

6. Insurance; Indemnity.

6.1 The parties agree to participate in the Washington Cities Insurance Authority (WCIA) insurance pool in accord with their respective interlocal agreements with the WCIA. The original charge or premium for the TBD will be borne by Mercer Island as a cost to be covered under Section 3.1 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 WCIA pool, the party or parties agree to obtain comparable coverage.

6.2 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 the other party's negligent, tortious or illegal actions under this agreement.

7. Termination. This agreement shall terminate or expire as follows:

7.1 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 Mercer Island within such period following the notice by either party.

7.2 Unless sooner terminated by either party, this agreement shall expire on the date when the District is automatically dissolved in accordance with provisions of 36.73 RCW and Ordinance No. 14C-11, as the same exists or is hereafter amended.

8. Effective Date. This agreement shall be effective upon the last authorizing signature affixed hereto and when listed by subject on the City of Mercer Island's website or other electronically retrievable public source as required by RCW 39.34.040.

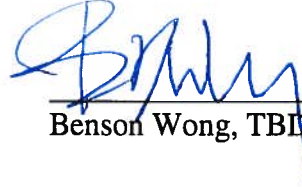
IN WITNESS WHEREOF, the parties have executed this agreement on the date first written above.

CITY OF MERCER ISLAND

MERCER ISLAND TRANSPORTATION
BENEFIT DISTRICT



Noel Treat, City Manager



Benson Wong, TBD President

APPROVED AS TO FORM



Christina M. Schuck,
Assistant City Attorney