ORDINANCE NO. 2967

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, ASSUMING THE RIGHTS, POWERS, FUNCTIONS, AND OBLIGATIONS OF THE ANACORTES TRANSPORTATION BENEFIT DISTRICT NUMBER 1; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Anacortes passed Ordinance 2926 on July 21, 2014, which established the Anacortes Transportation Benefit District Number 1 and specified that the District’s boundaries coincide with City boundaries; and

WHEREAS, the 2015 Washington Legislature adopted Second Engrossed Substitute Senate Bill ("2ESSB") 5987, the majority of which became effective July 15, 2015; and

WHEREAS, Section 301 of 2ESSB 5987 authorizes any city in which a transportation benefit district ("TBD") has been established pursuant to Chapter 36.73 RCW with boundaries that coincide with the boundaries of the city to assume the rights, powers, functions, and obligations of the TBD by adoption of an ordinance or resolution of the city legislative authority; and

WHEREAS, Section 302 of 2ESSB 5987 requires any city wishing to assume the rights, powers, functions, and obligations of the TBD to set a public hearing by ordinance or resolution at which all interested parties may appear and be heard and at which the city considers the proposed assumption of rights, powers, functions, and obligations of the TBD; and

WHEREAS, on December 7, 2015, the Anacortes City Council adopted Resolution number 193 7, which declared the City Council's intention to consider the assumption of the rights, powers, functions, and obligations of the Anacortes TBD, and set a public hearing for January 4, 2016; and

WHEREAS, pursuant to section 3.70.070 AMC, all indebtedness of the Anacortes Transportation Benefit District Number 1 has been retired and all of responsibilities of the Anacortes Transportation Benefit District Number 1 have been satisfied; and

WHEREAS, on January 4, 2016, the City Council held a public hearing at which all interested parties were invited to appear and be heard; and

WHEREAS, following the conclusion of the public hearing, the City Council determined that the public interest and welfare would be satisfied by the City’s assumption of the rights, powers, functions, and Obligations of the TBD, because such assumption would provide for more efficient administration of transportation maintenance and improvement funds previously authorized to be collected and expended by the TBD;
NOW THEREFORE, BE IT HEREBY ORDAINED, by the City Council of the City of Anacortes, Washington, as follows:

Section 1. Assumption of the Anacortes Transportation Benefit District Number 1.

Pursuant to Section 303, subsection (1) of 2ESSB 5987, the City of Anacortes does hereby assume all the rights, powers, immunities, functions, and obligations of the Anacortes Transportation Benefit District Number 1, and the City of Anacortes is hereby vested with each and every right, power, immunity, function and obligation currently granted to or possessed by the Anacortes Transportation Benefit District Number 1 as of the effective date of this Ordinance. The rights, powers, functions, and obligations previously exercised and/or performed by the governing body of the Anacortes Transportation Benefit District Number 1 are hereby assumed by and transferred to the City of Anacortes City Council.

Section 2. New Section 3.70.025 AMC Adopted.

Section 3.70.025. Assumption of ATBD No. 1.

From and after the effective date of this Ordinance, the City of Anacortes assumes all the rights, powers, immunities, functions, and obligations of the Anacortes Transportation Benefit District Number 1 previously established in this Chapter, and the City of Anacortes is hereby vested with each and every right, power, immunity, function, and obligation granted to or possessed by the Anacortes Transportation Benefit District Number 1 under Chapter 36.73 RCW, this Chapter, and/or any other applicable law as of the effective date of this Ordinance. The rights, powers, functions and obligations previously exercised and/or performed by the governing body of the Anacortes Transportation Benefit District pursuant to Section 3.70.030 of this Chapter are hereby assumed by and transferred to the City of Anacortes City Council.

Section 3. Section 3.70.030 AMC Amended.

Section 3.70.030 of the Anacortes Municipal Code is hereby abolished, and Section 3.70.030 of the Anacortes Municipal Code is hereby adopted to read as follows:

3.70.030 Powers and operations.

A. The city council shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation, the power to request voter approval of, and thereafter impose and collect, a sales and use tax in
accordance with RCW 82.14.0455, and a vehicle fee in excess of twenty dollars up to one hundred dollars as allowed by RCW 82.80.140. The city may impose an ad valorem tax pursuant to RCW 36.73.060, issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070 and form a local improvement district and impose assessments therefor, take those actions allowed, and subject to the limitations of, RCW 36.73.0810, contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the city and accept and use gifts and grants.

B. Consistent with RCW 36.73.020(4), the secretary/treasurer shall be the city finance director. As such, the finance director shall establish those funds and accounts on behalf of the city council as required and shall disburse funds and pay claims as approved by the city council and prepare and maintain such accounts as are appropriate and/or required by state or federal law.

C. The city attorney will serve as legal advisor to city council, except where separate counsel is engaged.

D. Other city employees shall carry out the operations of city council in exercising the rights, powers, functions, and obligations authorized in this Chapter as agreed by city council and the city. Such employees and the contracts of city council hereunder shall be overseen and administered by the manor and/or her/his designee.

Section 4. Section 3.70.040 AMC Amended.

Pursuant to Section 303, subsection (2) of 2ESSB 5987, the governing body of the Anacortes Transportation Benefit District Number 1 established in Section 3.70.040 of the Anacortes Municipal Code is hereby abolished, and Section 3.70.040 of the Anacortes Municipal Code is hereby adopted to read as follows:

3.70.040 Governing Board.

A. The Anacortes city council shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this Chapter.

B. To carry out the purposes of this Chapter, and subject to the provisions of RCW 36.73.065, the city is authorized to impose the following taxes, fees, charges, and tolls:

1. A sales and use tax in accordance with RCW 82.14.0455;
2. A vehicle fee in accordance with RCW 82.80.140;
3. A fee or charge in accordance with RCW 36.73.120. Developments consisting of less than twenty residences would be exempt from the fee or charge under RCW 36.73.120; and
4. An ad valorem property tax as provided in RCW 36.73.060.
C. The city may authorize and issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070.
D. The city may form a local improvement district and impose assessments therefor and take those actions allowed, and subject to the limitations of RCW 36.73.0810.
E. As required by RCW 36.73.160(1), as the same may be amended from time to time, the city shall adopt the material change policy previously adopted by the Anacortes Transportation Benefit District No. 1 to address major plan changes that affect project delivery of the ability to finance the plan.

Section 5. Section 3.70.050 AMC Amended.

Section 3.70.050 of the Anacortes Municipal Code is hereby abolished, and Section 3.70.050 of the Anacortes Municipal Code is hereby adopted to read as follows:

3.70.050 Transportation improvements funded.

The funds generated by exercise of the powers granted in Section 3.70.040 and/or Chapter 36.73 RCW shall be used for the transportation project described in this Chapter and/or allowed by state law. The projects may be amended in accordance with the material change policy described in subsection 3.70.040(E) of this Chapter and in accordance with the notice, hearing and other procedures described in Chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

Section 6. Section 3.70.060 AMC Amended.

Section 3.70.060 of the Anacortes Municipal Code is hereby abolished, and Section 3.70.060 of the Anacortes Municipal Code is hereby adopted to read as follows:

3.70.060 Annual report to public.

As required by RCW 36.73.160(2), as the same may be amended from time to time, the city council shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the city.

Section 7. Section 3.70.070 AMC Deleted.

Section 3.70.070 of the Anacortes Municipal Code is hereby abolished.
Section 8. No Existing Right Impaired.

Pursuant to Section 304 of 2ESSB 5987, nothing in this Ordinance shall be construed as impairing or altering any existing rights acquired by the Anacortes TBD under Chapter 36.73 RCW, this Chapter or any other provision of law applicable to transportation benefit districts. Nor does this assumption impair or alter any actions, activities, or proceedings validated thereunder; any civil or criminal proceedings instituted thereunder; any rule, regulation, or order promulgated thereunder; any administrative action taken thereunder; nor the validity of any act performed by the Anacortes TBD or division thereof or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by the City hereunder.


Pursuant to Section 305, subsection (1) of 2ESSB 5987, all rules and regulations and all pending business before the board of the Anacortes Transportation Benefit District Number 1 shall be continued and acted upon by the Anacortes City Council. In addition, pursuant to subsection (2) of Section 305, all existing contracts and obligations of the Anacortes Transportation Benefit District Number 1 remain in full force and effect, and will be performed by the City. The assumption does not affect the validity of any official act performed by any official or employee prior to the assumption authorized in Section 1 and 2 of this Ordinance.

Section 10. Records of the Anacortes Transportation Benefit District Number 1.

Pursuant to Section 306, subsection (1) of 2ESSB 5987, all reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions available to the Anacortes Transportation Benefit District Number 1 shall be made available to the City.

Section 11. Funds, Credits, Appropriations, Federal Grants, or Other Assets.

Pursuant to Section 306, subsection (2) of 2ESSB 5987, all funds, credits, or other assets held in connection with rights, powers, duties, and functions of the Anacortes Transportation Benefit District assumed hereunder shall be assigned to the City. Further, pursuant to Section 306, subsection (3) of 2ESSB 5987, any appropriations or federal grant made to the Anacortes Transportation Benefit District for the purposes of carrying out the rights, powers, functions, and obligations authorized to be assumed by the City must, on the effective date of the assumption,
be credited to the City for the purpose of carrying out such assumed rights, powers, functions, and obligations.

**Section 12. Assumption of Indebtedness.**

Pursuant to Section 307 of 2ESSB 5987, the City assumes and agrees to provide for the payment of all of the indebtedness of the Anacortes Transportation Benefit District, including the payment and retirement of outstanding general obligation and revenue bonds (if any) issued by the Anacortes Transportation Benefit District Number 1.

**Section 13. Effective Date.**

This ordinance shall be effective following the expiration of five (5) days following passage and publication as provided by law.

INTRODUCED, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ANACORTES on this 5 day of January, 2016.

Laurie M. Gere, Mayor

Approved as to form and legality:               ATTEST:

Darcy Swetnam, WSBA #40530                       Steve D. Hoglund, City Clerk Treasurer
City Attorney