



October 29, 2019

SENT VIA EMAIL

Fox Blackhorn
fdc@fdc.wa.gov
Compliance Coordinator 2
State of Washington
Public Disclosure Commission
P.O. Box 40908
Olympia, WA 98504-0908

Subject: PDC Case No. 59039 – City of Olympia Response to consolidated complaints

Dear Mx. Blackhorn:

The information and exhibits submitted with this letter are in response to PDC consolidated complaints (“Complaints”) by Charles Eakins, Glen Morgan, and John Wissler submitted on October 23, 2019. The three consolidated complaints allege violations of either RCW 42.17A.555 and/or RCW 42.17A.320 by the City of Olympia. The City of Olympia appreciates this opportunity to respond to the allegations.

The complaints relate to the City of Olympia’s single, one-time jurisdiction-wide mailer of objective and fair presentation of facts relating to I-976. (See, Exhibit A.) The City’s mailer was sent to about 15,000 households within Olympia at a cost of \$7,183.

By way of background, the City of Olympia created a transportation benefit district in accord with state law as provided in RCW Chapter 36.73. An annual \$40 car tab fee is collected for the purpose of raising funds to repair and maintain Olympia’s street system. This \$40 car tab fee makes up nearly half of the City of Olympia’s street reconstruction and repair budget, about \$1.5 million per year. Since I-976 would eliminate, among other things, the City’s ability to impose the \$40 car tab fee for street repair and maintenance, loss of this funding is detrimental to the City’s efforts to maintain its streets in a reasonably safe condition for the travelling public.

On October 8, 2019, the Olympia City Council had upon its business meeting agenda a special public hearing on a resolution expressing City Council opposition to I-976. (See, Exhibit B.) This hearing was offered to permit the public an opportunity to speak for or against the proposed Council resolution. Meeting Minutes of the Council indicate that Mayor Selby opened the public hearing at 7:10 p.m. (See, Exhibit C.) One person spoke on I-976. Mayor Selby closed the public hearing at 7:12 p.m. Councilmember Parshley moved to adopt the resolution expressing opposition of the Olympia City Council to I-976, which was seconded by Councilmember Cooper. The vote to adopt the resolution was unanimous. (See, Exhibit C.)

Resolution No. M-2055 of the Olympia City Council contained the language of I-976 and its official ballot title. The resolution acknowledged that if passed by voters, I-976 would repeal and eliminate the authority for city transportation benefit districts to impose a car tab fee for the purposes of acquiring, constructing, providing, and

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funding transportation improvement and repairs. The resolution further found that I-976, if passed by voters, would eliminate Olympia's authority under its transportation benefit district to impose its annual car tab fee of \$40, resulting in a funding loss of at least \$1.5 million annually. The Olympia City Council resolved that it opposed I-976 and the resolution became effective immediately. (See, Exhibit D.)

Following this action by the Olympia City Council, staff prepared one jurisdiction-wide objective and fair presentation of the facts relating to the impact of I-976 if approved by voters, and informing Olympia voters that the Olympia City Council urged a "no" vote on I-976. (See, Exhibit A.)

Olympia's position is that its I-976 mailer is appropriate and in keeping with PDC Interpretation No. 04-02. "Historically, the PDC has routinely advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate." (See, PDC Interpretation No. 04-02, ¶ 7.a.) In fact, "[t]he PDC will presume that every agency may distribute throughout its jurisdiction an objective and fair presentation of the facts for each ballot measure." (See, Id., ¶ 7.b.) The facts stated in Olympia's I-976 mailer are true, including informing voters that the Olympia City Council urged a "no" vote on I-976.

PDC Interpretation No. 04-02 specifically states that "[p]roviding an objective and fair presentation of facts to the public of ballot measures that directly impact a jurisdiction's maintenance and operation, even though the measure is not offered by the jurisdiction, may be considered part of the normal and regular conduct of the local agency." (See, Id., ¶ 9.) It is Olympia's position that its one jurisdiction-wide mailer was part of its normal and regular conduct to inform City voters of the implications posed by passage of I-976 and that measure's impact on funding for street repair and maintenance.

As a city organized under Washington's Optional Municipal Code (RCW Title 35A), the City of Olympia possesses all the powers possible for cities and towns under the Washington Constitution, unless expressly denied by law. (See, RCW Chapter 35A.11.) RCW 35A.11.020 states in relevant part: "The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition . . . improvement, maintenance, protection, restoration of public ways . . . Those powers include the authority to operate and maintain a street system for the public in reasonably safe condition for the travelling public."

The PDC has expressly recognized that "it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies." (See, PDC Interpretation No. 04-02, ¶ 2.) Olympia submits that this responsibility includes informing voters of the position of their elected legislative body when a ballot measure threatens funding necessary to safely maintain its street system in a reasonably safe condition.

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Although minds may differ, the City of Olympia believes that its mailer's statement to "Vote No on I-976" is a fair conclusion based on objective facts, keeping with the Olympia City Council's resolution following a properly noticed public hearing.

Thank you for the opportunity to respond to the allegations in the consolidated complaints. The City of Olympia will assist the PDC in its investigation in any possible manner. If you have questions, please contact me at (360) 753-8223 or mbarber@ci.olympia.wa.us. I will be out of my office after Monday, November 4, and I will return on Monday, November 18.

Very truly yours,



Mark Barber
City Attorney

Enclosures: Exhibits A through D
cc: Olympia City Council
Steven R. Hall, City Manager
Jay Burney, Assistant City Manager
Kellie Purce Braseth, Strategic Communications Director

Vote NO

Initiative 976

The Olympia City Council urges a "NO" vote on I-976.

Why Vote No?

- This measure would result in a major funding loss for City street improvements and repairs.
- Pavement conditions would suffer and planned projects would not be completed.
- The safety and performance of our transportation system would be at risk.

Loss of funding from car tab fees limits our ability to repair streets like the examples below.



Local Funds for Local Streets

The purpose of the \$40 car tab fee is to raise funds at the local level to address our community's specific street repair needs.



What is Initiative 976?

Initiative 976 concerns motor vehicle taxes and fees. If enacted, it would repeal, reduce or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.

Street repair is the single largest transportation expense in our City.

Your \$40 car tab fee makes up nearly half the City's street reconstruction and repair budget, about \$1.5M/year. If the measure passes, that funding would go away.

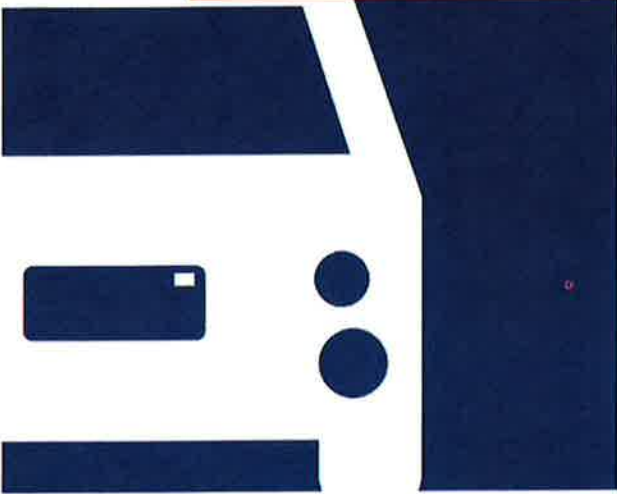
Typical Total Street Repair Budget:
\$3,750,000/yr





City of Olympia
PO Box 1967
Olympia, WA 98507-1967

Vote NO
Initiative 976



Car tab fees help repair our streets.



Repairing Olympia streets
with your \$40 car tab fee

Initiative 976

EXHIBIT B



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, October 8, 2019

7:00 PM

Council Chambers

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL PUBLIC HEARINGS

- 2.A** [19-0899](#) Public Hearing on a Resolution Expressing City Council Opposition to Initiative Measure No. 976 (I-976) Related to Motor Vehicle Taxes and Fees

Attachments: [Resolution](#)

The public will be given an opportunity to speak for or against this resolution.

- 2.B** [19-0902](#) Public Hearing on a Resolution Expressing City Council Support for the Thurston County 911 Emergency Communications Systems and Facilities Levy

Attachments: [Resolution](#)

The public will be given an opportunity to speak for or against this resolution.

- 2.C** [19-0908](#) Public Hearing on a Resolution Expressing City Council Approval of Referendum No. 88 Concerning Affirmative Action

Attachments: [Resolution](#)

The public will be given an opportunity to speak for or against this resolution.

3. SPECIAL RECOGNITION

- 3.A** [19-0910](#) Special Recognition - The Bridge Music Project Partnership

- 3.B** [19-0913](#) Special Recognition - Olympia Dragon Mural

- 3.C** [19-0912](#) Special Recognition - Proclamation Declaring Support for the Land and Water Conservation Fund

Attachments: [Proclamation](#)

4. PUBLIC COMMENT

(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)

EXHIBIT B

During this portion of the meeting, citizens may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.

Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.

COUNCIL RESPONSE TO PUBLIC COMMENT (Optional)

5. CONSENT CALENDAR

(Items of a Routine Nature)

- 5.A [19-0916](#) Approval of September 24, 2019 City Council Meeting Minutes
Attachments: [Minutes](#)
- 5.B [19-0816](#) Approval of Annual Comprehensive Plan Amendment Schedule for 2020
- 5.C [19-0757](#) Approval of Bid Award for the 26th Avenue Shared Use Pathway and Water Main Replacement Project
Attachments: [Summary of Bids](#)
[Vicinity Map](#)
- 5.D [19-0905](#) Approval of Bid Award for LBA Park Field #3 Americans with Disabilities Act Access Project
Attachments: [Summary of Bids](#)

5. SECOND READINGS (Ordinances)

- 5.E [19-0860](#) Approval of an Ordinance Amending Ordinance 7197 (Special Funds)
Attachments: [Ordinance](#)
- 5.F [19-0869](#) Approval of an Ordinance Amending Ordinance 7196 (Capital Budget)
Attachments: [Ordinance](#)
- 5.G [19-0870](#) Approval of an Ordinance Amending Ordinance 7195 (Operating Budget)
Attachments: [Ordinance](#)
- 5.H [19-0871](#) Approval of an Ordinance to Repeal Ordinance 7200 that Imposed the Maximum Sales and Use Tax for Affordable Housing Permitted by SHB

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Attachments: [Ordinance](#)
[Ordinance 7200](#)

5. FIRST READINGS (Ordinances)

- 5.I [19-0818](#) Approval of an Ordinance Amending Multiple Chapters of the Unified Development Code
Attachments: [Ordinance](#)
- 5.J [19-0884](#) Approval of an Ordinance Amending Final Plat Approval Process (per RCW 58.17.100)
Attachments: [Ordinance](#)
6. PUBLIC HEARING - None
7. OTHER BUSINESS - None
8. CONTINUED PUBLIC COMMENT
(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)
9. REPORTS AND REFERRALS
- 9.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS
- 9.B CITY MANAGER'S REPORT AND REFERRALS
10. EXECUTIVE SESSION
- 10.A [19-0914](#) Executive Session Pursuant to RCW 42.30.110(1)(b); RCW 42.30.110 (1)(c) - Real Estate Matter
10. CLOSED SESSION
- 10.B [19-0915](#) Closed Session Pursuant to RCW 42.30.140 (4)(b) - Labor Negotiations
10. ADJOURNMENT

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.

EXHIBIT C



Meeting Minutes City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, October 8, 2019

7:00 PM

Council Chambers

1. ROLL CALL

Present: 7 - Mayor Cheryl Selby, Mayor Pro Tem Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Nathaniel Jones, Councilmember Lisa Parshley and Councilmember Renata Rollins

1.A ANNOUNCEMENTS

Home Fund Manager Cary Retlin gave an update on City Council efforts to address affordable housing issues.

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL PUBLIC HEARINGS

- 2.A [19-0899](#) Public Hearing on a Resolution Expressing City Council Opposition to Initiative Measure No. 976 (I-976) Related to Motor Vehicle Taxes and Fees

Mayor Selby opened the public hearing at 7:10 p.m. Puget Sound Energy representative Kelsey Hulse spoke. Mayor Selby closed the public hearing at 7:12 p.m.

Councilmember Parshley moved, seconded by Councilmember Cooper, to adopt the resolution expressing City Council opposition to Initiative Measure No. 976 related to motor vehicle taxes and fees. The motion carried by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

- 2.B [19-0902](#) Public Hearing on a Resolution Expressing City Council Support for the Thurston County 911 Emergency Communications Systems and Facilities Levy

Mayor Selby opened the public hearing at 7:13 p.m. Puget Sound Energy representative Kelsey Hulse and Doug Mah spoke. Mayor Selby closed the public hearing at 7:15 p.m.

Councilmember Gilman moved, seconded by Mayor Pro Tem Bateman, to

EXHIBIT C

adopt the resolution expressing City Council support for Thurston County emergency communications systems and facilities Proposition No. 1 levy.

The motion carried by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

- 2.C** [19-0908](#) Public Hearing on a Resolution Expressing City Council Approval of Referendum No. 88 Concerning Affirmative Action

Mayor Selby opened the public hearing at 7:16 p.m. The following people spoke: Puget Sound Energy representative Kelsey Hulse, C. Davis, Larry Watkinson, Allison Spector, Tim Eyman, and Emanuel Flores. Mayor Selby closed the public hearing at 7:26 p.m.

Mayor Pro Tem Bateman moved, seconded by Councilmember Jones, to adopt the resolution expressing City Council approval of Referendum No. 88 concerning Affirmative Action. The motion carried by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

3. SPECIAL RECOGNITION

- 3.A** [19-0910](#) Special Recognition - The Bridge Music Project Partnership

Parks Recreation Program Specialist Luke Burns and The Bridge Music Project Executive Director Bobby Williams gave a presentation on The Bridge Music Project.

The recognition was received.

- 3.B** [19-0913](#) Special Recognition - Olympia Dragon Mural

Former Mayor Doug Mah spoke about the Dragon Mural project and presented the City Council with a limited edition print of the mural as thanks for appreciating Olympia arts and culture.

The recognition was received.

- 3.C** [19-0912](#) Special Recognition - Proclamation Declaring Support for the Land and Water Conservation Fund

Mayor Selby invited Environment America Representative Joshua Chaney to discuss the Land and Water Conservation Fund. Councilmembers read a proclamation to support the Land and Water Conservation Fund. Mr. Chaney accepted the proclamation.

The recognition was received.

4. PUBLIC COMMENT

EXHIBIT C

The following people spoke: Larry Watkinson, Mary Watt, Allison Spector, Callie Owens, Esther Sievert, Becky Hays, Emily Evans, Jennifer Wulf, Danae Rosen, Linda Ann Moniz, Sarah Stockholm, and Jubert Berrios.

COUNCIL RESPONSE TO PUBLIC COMMENT (Optional)

Councilmembers thanked people who spoke and discussed the housing crisis. The Land Use and Environment Committee agreed to forward certain rental protections to the full City Council for consideration. Councilmember Jones noted he will bring a referral forward next week for the General Government Committee.

5. CONSENT CALENDAR

Mayor Selby noted Item 5J is pulled from this evening's agenda.

- 5.A [19-0916](#) Approval of September 24, 2019 City Council Meeting Minutes

The minutes were adopted.

- 5.B [19-0816](#) Approval of Annual Comprehensive Plan Amendment Schedule for 2020

The decision was adopted.

- 5.C [19-0757](#) Approval of Bid Award for the 26th Avenue Shared Use Pathway and Water Main Replacement Project

The contract was adopted.

- 5.D [19-0905](#) Approval of Bid Award for LBA Park Field #3 Americans with Disabilities Act Access Project

The contract was adopted.

5. SECOND READINGS (Ordinances)

- 5.E [19-0860](#) Approval of an Ordinance Amending Ordinance 7197 (Special Funds)

The ordinance was adopted on second reading.

- 5.F [19-0869](#) Approval of an Ordinance Amending Ordinance 7196 (Capital Budget)

The ordinance was adopted on second reading.

- 5.G [19-0870](#) Approval of an Ordinance Amending Ordinance 7195 (Operating Budget)

The ordinance was adopted on second reading.

- 5.H [19-0871](#) Approval of an Ordinance to Repeal Ordinance 7200 that Imposed the Maximum Sales and Use Tax for Affordable Housing Permitted by SHB

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The ordinance was adopted on second reading.

5. FIRST READINGS (Ordinances)

- 5.I** 19-0818 Approval of an Ordinance Amending Multiple Chapters of the Unified Development Code

The ordinance was approved on first reading and moved to second reading.

Approval of the Consent Agenda

Mayor Pro Tem Bateman moved, seconded by Councilmember Parshley, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

PULLED FROM CONSENT CALENDAR

- 5.J** 19-0884 Approval of an Ordinance Amending Final Plat Approval Process

Item 5J was pulled and will come back for consideration at a future meeting.

6. PUBLIC HEARING - None

7. OTHER BUSINESS - None

8. CONTINUED PUBLIC COMMENT - None

9. REPORTS AND REFERRALS

9.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmembers reported on meetings and events attended.

Councilmember Gilman reported Intercity Transit will be coming to neighboring jurisdictions soon for financial assistance to support the Amtrak Centennial Station.

Councilmember Cooper requested Council consensus for \$25,000 from Council goal money to enter into a contract for a survey to validate Engage Olympia participation. Councilmembers discussed the need for measurable representation from renters from the survey firm. The Council agreed to the expenditure.

9.B CITY MANAGER'S REPORT AND REFERRALS

City Manager Steve Hall reported Keylee Marineau will speak to City Council next week about Thurston County's 5-year plan to address homelessness, as well as an update about the Hazardous Weather Task Force.

10. EXECUTIVE SESSION

- 10.A** [19-0914](#) Executive Session Pursuant to RCW 42.30.110(1)(b); RCW 42.30.110(1)(c) - Real Estate Matter

Following the Closed Session, Mayor Selby recessed the meeting to Executive Session at 9:29 p.m. pursuant to RCW 42.30.110(1)(b) and RCW 42.30.110(1)(c) to discuss a real estate matter, litigation, and potential litigation. She announced no decisions would be made, the meeting was expected to last no longer than 45 minutes, and the Council would adjourn immediately following the Executive Session. The City Attorney was present at the Executive Session.

The executive session was held and no decisions were made.

10. CLOSED SESSION

- 10.B** [19-0915](#) Closed Session Pursuant to RCW 42.30.140 (4)(b) - Labor Negotiations

Mayor Selby recessed the business meeting at 9:14 p.m. pursuant to RCW 42.30.140(4)(b) to discuss labor negotiations. She announced the Council would meet no more than 15 minutes and no decisions would be made. Following the Closed Session the City Council will recess to Executive Session. The City Attorney was present at the Closed Session.

The Closed Session was held and no decisions were made.

10. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

EXHIBIT D

RESOLUTION NO. M-2055

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, EXPRESSING OPPOSITION TO INITIATIVE MEASURE NO. 976 (I-976) WHICH SEEKS TO REPEAL AUTHORITY TO IMPOSE CERTAIN MOTOR VEHICLE TAXES AND FEES, CHANGE VEHICLE VALUATION LAWS, AND TO LIMIT MOTOR VEHICLE LICENSE FEES TO \$30.00.

WHEREAS, Washington Initiative Measure No. 976 (I-976) will be presented to the voters at the General Election on November 5, 2019, with the following official Ballot title:

Initiative Measure No. 976 concerns motor vehicle taxes and fees.

This measure would repeal, reduce, or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.

Should this measure be enacted into law?

- Yes
- No

and

WHEREAS, I-976 would reduce funding for state and local transportation projects by repealing, reducing, or removing state and local authority to impose certain vehicle taxes and fees; and

WHEREAS, the fiscal impact statement for I-976, prepared by the Washington Office of Financial Management, estimates that the initiative would result in a revenue loss to the state of \$1.9 billion and a loss to local governments of \$2.3 billion over the next six years following implementation; and

WHEREAS, as provided in Chapter 36.73 RCW, the City of Olympia formed a city-wide transportation benefit district (TBD) in 2009 to protect the City's long-term investments in its street infrastructure, reduce the risk of transportation facility failures and improve safety, continue optimal performance of the street infrastructure over time, and to avoid more expensive street infrastructure replacements or repairs in the future; and

WHEREAS, I-976 if passed by the voters at the November 2019 General Election would repeal and eliminate the authority for city transportation benefit districts to impose a car tab fee for the purposes of acquiring, constructing, providing, and funding transportation improvements and repairs; and

EXHIBIT D

WHEREAS, if passed by the voters in the November 2019 General Election, I-976 would eliminate the Olympia TBD's authority to impose vehicle license fees and repeal the vehicle license fees already imposed by the Olympia TBD of \$40.00 per year, resulting in a funding loss of at least \$1.5 million annually; and

WHEREAS, in addition to the adverse financial impact to the City, I-976 would reduce state transportation funding along with voter-approved funding for Sound Transit; and

WHEREAS, RCW 42.17A.555 permits the City Council to take a position on a ballot measure at an open public meeting so long as notice of the meeting includes the ballot title and number of the ballot measure, and that those expressing an opposing view are afforded an approximately equal opportunity to express an opinion at a public hearing prior to action by the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OLYMPIA, WASHINGTON DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Olympia City Council hereby expresses its opposition to Initiative No. 976, concerning the repeal of certain motor vehicle taxes and fees, to be presented to the electorate at the General Election on November 5, 2019.

Section 2. This Resolution shall take effect and be in full force immediately upon passage by the City Council.

PASSED BY THE OLYMPIA CITY COUNCIL this 8th day of October 2019.



MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY