

ORDINANCE NO. 13-742

**AN ORDINANCE of the City of Federal Way, Washington, imposing a local sales and use tax to be Credited against the State Sales and Use Tax for purposes of utilizing Local Infrastructure Financing under Chapter 39.102 of the RCW; and providing for other matters properly relating thereto.**

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WHEREAS, in 2006 the State Legislature authorized a Local Infrastructure Financing Tool (“LIFT Tax”) program as set forth in Chapter 39.102 of the RCW which authorizes the imposition of local sales and use tax to be credited against the taxes otherwise due to the State under Chapters 82.08 and 82.12 of the RCW, resulting in no net change in tax rate to the taxpayer;

WHEREAS, on June 19, 2007 the City Council the adopted Ordinance No. 07-555 establishing a Revenue Development Area (“RDA”) as required under RCW 39.102.060, for the purpose of financing public improvements located within the RDA; and

WHEREAS, on September 13, 2007 Community Economic Revitalization Board (the “Board”) approved the City’s application granting a project award of up to \$1 million annually in State contribution of sales and use tax for up to 25 years; and

WHEREAS, on August 4, 2009 the City Council adopted Resolution No. 09-552 selecting 0.094% as the rate of sales and use tax to be imposed under RCW 82.14.475; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FEDERAL WAY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Definitions. Capitalized terms not otherwise defined in this ordinance have the meanings given in RCW 39.102.020, or as hereafter amended.

Section 2. Findings. The City Council of the City of Federal Way, Washington (the “City”), hereby makes the following findings and determinations:

2.1 Based on an analysis of the businesses in the RDA, the City has determined that State Excise Tax Allocation Revenues are \$1,534,594 and the State Property Tax Allocation Revenues for 2012 are estimated at \$15,000.

2.2 The City Council finds that the City has satisfied all prerequisites for imposing the LIFT Tax and for receiving the State Contribution, including without limitation, the conditions set forth in RCW 39.102.040 and RCW 82.14.475.

2.3 Prior to June 30, 2018, the City may incur indebtedness via general obligation bonds, pursuant to RCW 39.102.150 to finance the Public Improvements.

Section 3. State-Shared Sales and Use Tax ("LIFT Tax") imposed as of July 1, 2013.

The sales and use tax authorized under RCW 82.14.475 is imposed as of July 1, 2013 as follows:

3.1 Effective Date and Duration. The sales and use tax authorized by this ordinance shall be imposed and become effective as of July 1, 2013. It shall expire when all indebtedness issued under the authority of RCW 39.102.150 is retired and all other contractual obligations relating to the financing of public improvements under RCW 39.102 are satisfied, but not later than July 1, 2038, which is twenty-five years after the date the LIFT Tax is first imposed.

3.2 Rate. The tax rate shall initially be set at 0.094% of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The tax rate may be adjusted by resolution of the City Council from time to time so that it is set at the rate reasonably necessary to receive the state contribution over ten months, in accordance with RCW 82.14.475(3)(b), but shall not exceed the rate of 0.094% established by Resolution No. 09-552.

3.3 Use of LIFT Tax Receipts. Subject to RCW 39.102.195, receipts of the

LIFT Tax may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the City or to pay public improvement costs on a pay-as-you-go basis, or both.

3.4 Other Statutory Requirements.

- 1) In accordance with RCW 82.14.475(7):
  - a) The LIFT Tax authorized by this ordinance shall first be imposed on July 1, 2013, which is the first day of the State fiscal year.
  - b) The cumulative amount of LIFT Tax distributions received by the City in any fiscal year shall not exceed the amount of the State contribution.
  - c) The LIFT Tax shall cease to be distributed to the City for the remainder of any State fiscal year in which either:
    - i. The amount of tax received by the City equals \$1 Million, or the amount of State Contribution as defined in RCW 39.102.020(28).
    - ii. The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or
    - iii. The amount of tax received by the sponsoring local government equals the amount of project awarded granted in the approval notice described in RCW 39.102.040;
  - d) Neither the Local Excise Tax Allocation Revenues nor the Local Property Tax allocation revenues may constitute more than 80% of the total local funds as described in RCW 39.102.020(28)(b). This

requirement applies beginning January 1, 2018, which is the fifth calendar year after the calendar year in which the sponsoring local government begins allocating local excise tax allocation revenues under RCW 39.102.110.

- 2) The LIFT Tax shall be distributed again, should it cease to be distributed for any reason provided in (c) of this subsection 3.4, at the beginning of July 1<sup>st</sup>, the next State fiscal year, subject to the restrictions in RCW 82.14.475.
- 3) Any revenue generated by the LIFT Tax in excess of the amounts specified in (1)(c) of this subsection 3.4 shall belong to the State of Washington.
- 4) In accordance with RCW 82.14.475 (11), if the City fails to comply with RCW 39.102.140, no tax will be distributed in the subsequent State fiscal year until such time as the City complies and the Department calculates the state contribution amount for such State's fiscal year.
- 5) In accordance with RCW 82.14.475(16), the LIFT Tax shall cease to be imposed if the City fails to issue indebtedness pursuant to RCW 39.102.150, or fails to commence construction on public improvements, by June 30, 2018, which is the fifth fiscal year in which the LIFT Tax is imposed.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this chapter, or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of

this chapter or its application to any other person or situation. The City Council of the City of Federal Way hereby declares that it would have adopted this chapter and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

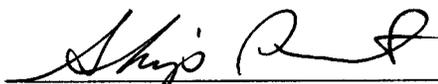
Section 5. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 7. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage and publication, as provided by law.

PASSED by the City Council of the City of Federal Way this 21st day of May, 2013.

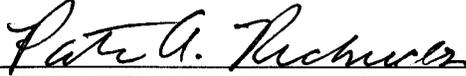
CITY OF FEDERAL WAY

  
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MAYOR, SKIP PRIEST

ATTEST:

  
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CITY CLERK, CAROL MCNEILLY, CMC

APPROVED AS TO FORM:

  
CITY ATTORNEY, PATRICIA A. RICHARDSON

FILED WITH THE CITY CLERK: 04-30-2013

PASSED BY THE CITY COUNCIL: 05-21-2013

PUBLISHED: 05-24-2013

EFFECTIVE DATE: 06-23-2013

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