AM NO. 13-196 (C9)

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: November 19, 2013

SUBJECT: **ORDINANCE: AMENDING PORTIONS OF RMC 5.44.040, 5.44.050, 5.44.100, AND 5.44.110 TO REPEAL THE UTILITY BUSINESS AND OCCUPATION TAX ON THE CITY OF REDMOND'S PUBLIC WATER UTILITY**

ORDINANCE: 2013-2014 BUDGET ADJUSTMENT

I. RECOMMENDED ACTION:

Approve an Ordinance amending portions of RMC 5.44.040, 5.44.050, 5.44.100, and 5.44.110 in order to repeal the Utility Business and Occupation Tax imposed on the City of Redmond's Public Water Utility. In addition, approve a second ordinance to decrease the 2013-2014 Biennial Budget to accommodate accounting changes necessary for the repeal of the tax beginning in 2014.

II. DEPARTMENT CONTACT PERSONS:

Ron Grant, Interim Director of Public Works	425-556-2742
Scott Thomasson, Water/Wastewater Engineering Manager	425-556-2829
Kelley Cochran, Management Analyst	425-556-2748
Malisa Files, Deputy Finance Director	425-556-2166

III. DESCRIPTION:

In March 2010, staff presented to Council potential solutions to the Washington State Supreme Court decision in the Lane vs. Seattle case. Council supported the proposal that allowed the water utility fund to bill the general fund for fire protection services with the general fund creating a utility tax on the water revenues collected from properties within the city service area. The fee and the tax were to be the same amount so that the transaction was revenue neutral for both the general fund and the utility fund. In October 2010, Council approved Ordinance No. 2545 imposing a business and occupation tax of 9.229% on the city's public water utility, effective January 2011. In December 2012, Ordinance No. 2673 was approved by Council which decreased that tax from 9.229% to 8.53%.

Recently the Washington State Legislature enacted Chapter 127, Laws of 2013 addressing how water utilities can charge for fire protection services. Water utilities can again incorporate the cost of fire protection service within the normal utility rates and charges.

The proposed ordinances amend the Business and Occupation provisions in the municipal code by removing the provisions that had been added in 2010 to create the utility tax on water sales and decrease the 2013-2014 Budget to accommodate the change. It is recommended that Redmond return to including the costs for fire protection within the normal utility rates and charges. This will eliminate the staff time required to generate invoices for fire protection services, for processing tax reports, and for moving money between the city funds.

IV. IMPACT:

Fiscal

The repeal ordinance amends portions of RMC 5.44.040, 5.44.050, 5.44.100, and 5.44.110, of the Occupation Tax Chapter in the Redmond Municipal Code and eliminates the tax on water utility revenues. The budget adjustment ordinance will decrease the 2013-2014 Biennial Budget by $1,929,570 from $603,479,784 to $601,550,214 to reflect the changes necessary to account for the costs of fire protection services within the normal utility rates and charges. Both ordinances will be effective on January 1, 2014. The water utility will stop billing the general fund for fire protection services after January 1, 2014.

V. ALTERNATIVE:

The City Council could choose to continue the water utility tax and charges to the general fund for fire protection services which would make the budget adjustment ordinance unnecessary.

VI. TIME CONSTRAINTS:

This change is proposed to take place January 1, 2014.

VII. LIST OF ATTACHMENTS:

A. Proposed Ordinance
B. Proposed Ordinance

/s/ 11/14/2013
Ronald D. Grant, Interim Director of Public Works Date

Approved for Council Agenda /s/ 11/14/2013
John Marchione, Mayor Date

ATTACHMENT A

NON-CODE

CITY OF REDMOND
ORDINANCE NO.2714

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, AMENDING ORDINANCE NO. 2676 AS AMENDED BY ORDINANCE NO. 2686 BY MAKING ADJUSTMENTS TO THE CITY'S 2013-2014 BIENNIAL BUDGET IN EXHIBIT 1.

WHEREAS, changes in the Occupation Tax Chapter in the Redmond Municipal Code would repeal the tax on water utility revenues; and

WHEREAS, the Finance Director has identified the need to make certain revisions to the 2013-2014 biennial budget to accommodate the change; and

WHEREAS, the City Council has reviewed the proposed adjustments to the budget and has determined that they should be made.

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

Section 1. Ordinance No. 2676 adopting the 2013-2014 biennial budget, passed by the City Council on December 4, 2012, and as amended by Ordinance No. 2686, is hereby amended to recognize the amendment of portions of the Redmond Municipal Code sections 5.44.040, 5.44.050, 5.44.100, and 5.44.110 and incorporation of the cost of fire protection service within the normal utility rates and charges.

Section 2. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 3. Effective date. This ordinance shall take effect on January 1, 2014, and after publication of an approved summary thereof consisting of the title.

ADOPTED by the Redmond City Council this ____ day of _____, 2013.

CITY OF REDMOND

_____
JOHN MARCHIONE, MAYOR

ATTEST:

_____
MICHELLE M. HART, MMC, CITY CLERK (SEAL)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.: _____

EXHIBIT 1

Summary of 2013-2014 Budget Adjustments

Fund Number	Fund Name	2013-2014 Adopted Budget (Ord 2676)	Amendment 1 to Budget (Ord 2686)	Amendment 2 to Budget (Ord__)	Revised 2013-2014 Budget
100	General Fund	$ 159,397,119		$ (964,785)	$ 158,432,334
011	Arts Activity	581,981	105,801		687,782
012	Parks Maintenance and Operations	3,260,317	425,841		3,686,158
013	Special Events	875,855	(87,072)		788,783
019	Human Services	1,572,373	141,121		1,713,494
020	Fire Equipment Reserves	4,980,455	191,690		5,172,145
021	Operating Reserves	8,062,368	(129,583)		7,932,785
027	Capital Equipment Reserve	4,450,947	655,549		5,106,496
030	Business Tax	9,348,677	(956,871)		8,391,806
035	Fire Levy Fund	7,417,919	(99,308)		7,318,611
036	Police Levy Fund	8,634,689	200,091		8,834,780
037	Parks Levy Fund	1,111,528	19,686		1,131,214
095	Parks CIP Maintenance	1,969,906	104,586		2,074,492
096	Transportation CIP Maintenance	7,041,984	(171,071)		6,870,913
099	General Government CIP Maintenance	12,596,634	101,187		12,697,821
110	Recreation Activity	5,784,333	(32,161)		5,752,172
117	Cable Access	1,519,262	509		1,519,771
118	Operating Grants	3,640,010	(30,980)		3,609,030
122	Advanced Life Support	13,495,004	(524,157)		12,970,847
124	Aid Car Donation	467,109	(22,648)		444,461
125	Real Estate Excise Tax	6,792,525	1,105,107		7,897,632
126	Drug Enforcement	96,071	(47,932)		48,139
131	Hotel Motel Tax	965,818	16,910		982,728
140	Solid Waste and Recycling	1,727,633	58,907		1,786,540
230	Excess Levy	285,815	1,997		287,812
233	Debt Service	7,093,785	29,922		7,123,707
314	Council CIP	280,247	-		280,247
315	Parks CIP	9,568,616	1,039,984		10,608,600
316	Transportation CIP	50,709,493	(3,044,157)		47,665,336
317	Fire CIP	2,300,000			2,300,000
318	Police CIP	150,958			150,958
319	General Government CIP	6,092,902	156,871		6,249,773
401	Water/Wastewater Operations	73,693,275	3,741,699	(964,785)	76,470,189
402	Novelty Hill Water/Wastewater Op	13,362,350	340,708		13,703,058
403	Water CIP	9,595,892	181,718		9,777,610
404	Wastewater CIP	9,136,068	1,912,073		11,048,141
405	Stormwater Management Op	28,545,447	435,823		28,981,270
406	Stormwater Management CIP	41,191,763	12,473,715		53,665,478
407	Novelty Hill Water CIP	6,345,079	(66,402)		6,278,677
408	Novelty Hill Wastewater CIP	6,457,963	233,888		6,691,851
501	Fleet Maintenance	7,674,821	1,301,539		8,976,360
510	Insurance Claims and Reserves	2,604,817	(39,132)		2,565,685
511	Medical Self Insurance	28,935,281	1,796,884		30,732,165
512	Worker's Compensation Insurance	2,522,533	(265,144)		2,257,389
520	Information Technology	9,290,830	594,144		9,884,974
	Total	**$ 581,628,452**	**$ 21,851,332**	**$ (1,929,570)**	**$ 601,550,214**

Notes: Ordinance #2676 establishing the 2013-2014 budget was approved by Council on December 4, 2012.
Ordinance #2686 adjusted the budget for beginning fund balances and house keeping changes on May 7, 2013.

ATTACHMENT B

CODE

CITY OF REDMOND
ORDINANCE NO. 2716

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING PORTIONS OF RMC 5.44.040, 5.44.050, 5.44.100, 5.44.110, REPEALING UTILITY BUSINESS AND OCCUPATION TAX ON THE CITY OF REDMOND WATER UTILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Washington State Legislature enacted Chapter 127, Laws of 2013 addressing how utilities can charge for fire protection services within the normal utility rates and charges; and

WHEREAS, the legal changes allow the City of Redmond to remove certain Business and Occupation provisions in the municipal code that had been added in 2010; and

WHEREAS, changes are required to portions of the Redmond Municipal Code in order to repeal the Utility Business and Occupation Tax imposed on the City's Water Utility.

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

Section 1. Amendment of Sections. RMC 5.44.040, 5.44.050, 5.44.100, and 5.44.110, are hereby amended to read as follows:

5.44.040 Monthly periods.

[~~EXCEPT AS PROVIDED IN SECTION 5.44.050(A)(4),~~] **On** and after January 1, 1982, there is levied upon and shall be collected from, and paid by as hereinafter provided, every person on account of transacting, carrying on, or engaging in such business activities within the city limits as are described in Section 5.44.050, an occupation tax (sometimes herein referred to as "tax") against the gross monthly income of the business.

5.44.050 Occupations subject - Rate

(A) There are levied and shall be collected annual license fees and occupation taxes against the persons designated on account of the business activities, and in the amounts to be determined by the application of the respective rates against gross income [~~OR SALES INCOME~~] as follows:

(1) Telephone Business. Upon every person engaged in or carrying on any telephone business within the city, a fee or tax equal to six percent of the total gross income, including revenues from intrastate long distance toll service, from such

business in the city during the current calendar year for which a license is required.

(2) Electric Light and Power. Upon every person engaged in or carrying on the business of furnishing electric light and power within the city, a fee or tax equal to six percent of the total gross income from such business in the city during the current calendar year for which a license is required.

(3) Natural or Manufactured Gas. Upon every person engaged in or carrying on the business of transmitting, distributing, selling and furnishing natural and/or manufactured gas, a tax equal to six percent of the total gross income from such business derived from the sale of gas within the city during the calendar year for which a license is required.

[~~(4) WATER. UPON THE CITY OF REDMOND PUBLIC WATER UTILITY, WHICH ENGAGES IN AND CARRIES ON THE BUSINESS OF FURNISHING WATER, A TAX EQUAL TO 9.229 PERCENT OF THE TOTAL INCOME DERIVED FROM THE SALE OF WATER TO PROPERTIES LOCATED WITHIN THE REDMOND SERVICE AREA AS PROVIDED IN RMC 13.16 DURING THE CALENDAR YEAR IN WHICH SERVICE IS FURNISHED. THE TAXABLE INCOME DERIVED FROM THE SALE OF WATER TO PROPERTIES LOCATED~~

~~WITHIN THE REDMOND SERVICE AREA INCLUDES REVENUES GENERATED FROM ALL FIXED MONTHLY CHARGES AND VOLUME CHARGES IMPOSED FOR WATER SERVICE AND REPORTABLE TO THE WASHINGTON STATE DEPARTMENT OF REVENUE AS WATER DISTRIBUTION REVENUES UNDER RCW 82.16.020. THE TAXABLE INCOME DOES NOT INCLUDE REVENUE DERIVED FROM THE SALE OF WATER FOR IRRIGATION PURPOSES, CONNECTION FEES, ACCRUED INTEREST, OR OTHER SOURCES NOT DIRECTLY ATTRIBUTABLE TO THE QUANTITY OF WATER SOLD DURING THE MONTHLY PERIOD DESCRIBED IN SECTION 5.44.040.]~~

5.44.100 Exceptions and deductions.

(A) There shall be excepted and deducted from the total gross income [~~OR SALES INCOME~~] upon which the license fee or tax is computed the following:

(1) That portion of the gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services.

(2) Charges by a taxpayer engaging in a telephone business or to a telecommunications company,

as defined in RCW 80.04.010, for telephone service that the purchaser buys for the purpose of resale.

(3) Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was not properly a debt of a customer.

(4) There shall be excepted and deducted from the total gross income [~~OR SALES INCOME~~] upon which the tax is computed all cash discounts allowed and actually granted to customers of the taxpayer during the tax year.

(5) So much thereof as is derived from the transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents in their official capacity, and any amount paid by the taxpayer to the United States, the state of Washington, as excise taxes levied or imposed on the sale or distribution of property or service.

(B) There shall be excepted and deducted from the total gross income ~~[OR SALES INCOME]~~ upon which the

tax is computed all bad debts for services incurred, rendered or charged for during the tax year. Debts shall be deemed bad and uncollectible when they have been written off the books of the taxpayer. In the event debts are subsequently collected, the income shall be reported in the return for the quarter in which the debts are collected and at the rate prevailing in the tax year when collected.

(C) Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States or which would not be consistent with the Constitution or laws of the State of Washington.

5.44.110 Books and records required — Returns confidential.

It shall be the duty of each taxpayer taxed upon his/her or its gross income [~~OR SALES INCOME~~] to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of his/her or its gross income [~~OR SALES INCOME~~], which account shall always be open at the principal

place of business to the inspection of the finance director, and from which the finance director may verify the return made by the taxpayer. Such records shall be preserved for a period of five years.

The finance director shall not publicly reveal any facts or information contained in any return filed by any taxpayer or disclosed in any investigation or examination of the taxpayer's books and records, provided, the finance director can disclose such information pursuant to those exceptions authorized under state law, RCW 82.32.330 and 42.17.310(1)(C).

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect on and after the 1st day January, 2014, and after publication of an approved summary thereof consisting of the title.

ADOPTED by the Redmond City Council this 19th day of November, 2013.

APPROVED:

_____
JOHN MARCHIONE, MAYOR

ATTEST:

_____ (SEAL)
MICHELLE M. HART, MMC, CITY CLERK

APPROVED AS TO FORM:

_____
JAMES E. HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.