



## Lake Oswego School District

Office of the Superintendent

2455 SW Country Club Road

P.O. Box 70

Lake Oswego, Oregon 97034-0070

503-534-2000

March 23, 2010

Re: Construction Excise Tax (CET) Implementation

Chris Jordan  
City Manager  
City of West Linn  
22500 Salamo Road  
West Linn, OR 97068

Dear City Manager Jordan:

Please find enclosed an executed IGA for our CET and a copy of our Board's resolution implementing this tax. A small supply of the list of exemptions and the exemption form are also enclosed. Please note that it includes all the statutory exemptions plus one more for a non-insured casualty loss of an owner-occupied dwelling.

As noted in our resolution, this tax will be effective for any permits issued on or after April 1, 2010. Please advise me if you are the specific person within your agency we give our Oregon Local Government Investment Pool information to or whether it needs to be transmitted to your accounting department.

We appreciate your assistance in the implementation of this new tax. Please contact me if any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart Ketzler", is written over a light blue horizontal line.

Stuart Ketzler  
Executive Director of Finance  
Lake Oswego School District  
(503) 534-2308 Dir

SK:blh

Enclosures: Executed IGA Form  
District Resolution  
CET Exemption List  
CET Exemption Form

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
LAKE OSWEGO SCHOOL DISTRICT NO. 7J AND  
THE CITY OF WEST LINN TO  
COLLECT AND REMIT CONSTRUCTION EXCISE TAX.**

This Construction Excise Tax Intergovernmental Agreement to collect and remit Tax ("CET Collection IGA") is effective on the last date of signature below, and is by and between Lake Oswego School District No. 7J, a school district organized under the laws of the state of Oregon ("School District"), and City of West Linn ("City"), collectively referred to as "Parties."

**RECITALS:**

A. ORS Chapter 190 authorizes governmental entities such as City and School District to enter into written agreements for the performance of any or all functions and activities that either entity has the authority to perform on its own.

B. Senate Bill 1036, which was adopted by the 2007 Legislature and became effective on September 27, 2007, authorizes school districts, as defined in ORS 330.005, to impose a Construction Excise Tax ("CET") to fund capital improvements to school facilities.

C. Pursuant to Chapter 829, Oregon Laws 2007 (SB 1036), School District will adopt a Resolution establishing a Construction Excise Tax ("CET") throughout its regional jurisdiction. The Resolution will provide that a Construction Excise Tax be collected by the City and remitted to School District pursuant to an Intergovernmental Agreement. The Parties desire to agree to certain procedures needed to collect the Construction Excise Tax and remit the tax to School District.

**AGREEMENT:**

In consideration of the mutual covenants of the School District and City, each to the other giving, the School District and City do hereby agree as follows:

1. Information and Forms. City shall provide all of the forms and information necessary to collect the CET and the School District will provide all necessary information to assist City in doing so.

2. Staffing. City shall provide sufficient staff to calculate and collect the CET. School District shall provide sufficient staff to implement the CET program.

3. Collection; Start date. City agrees to collect the CET on behalf of School District for those properties within School District and within the City. City shall begin collecting the CET upon adoption of a resolution establishing the CET by the School District and shall continue collection until the CET expires, the underlying statutory authority is repealed, the program is terminated by School District, or this CET Collection IGA is terminated by either the School District or the City. City agrees to collect the CET in conjunction with the collection of other building permit fees.

4. Refunds. School District agrees to process and issue any required refunds of CET.

5. Exemptions. School District shall provide City with all forms necessary for CET exemptions, rebates, and refunds, and any other forms or information necessary for implementation of the CET. If a Person or entity asserts that it is exempt from the CET and files a School District CET Exemption Form at

the time the CET would otherwise be due, City shall grant the exemption. It shall be School District's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy School District may have under law, if the Person was not entitled to the exemption.

6. Remittance. City shall remit the collected CET to School District. Remittance shall be quarterly by the 30th of the month following the end of each quarter. Quarters end on March 31, June 30, September 30, and December 31 of each year. CET remittance shall be deposited directly into School District's LGIP account via electronic funds transfer.

7. CET Reports. Along with the CET remittance, City shall prepare and submit to the School District a report of the CETs to include: the aggregate amount of CET paid, the amount of CET administrative fee retained by City pursuant to this CET Collection IGA and a list or copy of forms for all persons that were given an exemption from paying the CET.

8. Failure to Pay CET. Construction taxes shall be paid by the person undertaking construction at the time that the permit authorizing the construction is issued. Upon a person's refusal to or failure to pay the CET when due, the City will not issue the permit. In no event shall the City be liable for failure to collect CET when due.

9. Records. City shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to School District, or its designated auditors, as necessary for School District to audit Construction Excise Tax collections.

10. Administrative Fee. As consideration for the above described services, City shall retain 4% of the CET collected by the City as authorized by Section 5 of Senate Bill 1036, as amended. Prior to submitting the CET to School District, City shall deduct this administrative fee directly from the CET collected, and the amounts deducted and retained shall be reported to School District. The Administrative Fee is based on gross CET collected and shall not be reduced by CET refunds or any checks returned for insufficient funds. Any fees or charges levied against City for such items as returned checks, etc. shall be paid to City from collected CET in addition to the above Administrative fee.

11. Amendment. This CET Collection IGA may be amended by mutual written agreement of the Parties. The parties further agree to negotiate in good faith to amend this agreement should Senate Bill 1036 be amended by subsequent legislation or judicial proceedings so that this agreement is consistent with the most current legislation.

12. Other Agreements. This CET Collection IGA does not affect or alter any other agreements between School District and City.

13. Defense and Indemnification. School District agrees to defend, indemnify and hold harmless the City, and its officers, agents and employees, against all claims and actions, and all damages and expenses related thereto, arising from the City's performance of this agreement, except for those caused by the sole negligence of the City or its officers and employees.

14. Termination. Either party may terminate this agreement for cause upon 90 days written notice to the other party. This agreement will expire upon the termination of the enabling legislation, provided that all sums collected prior to termination have been paid to the School District.



A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LAKE OSWEGO SCHOOL DISTRICT  
NO. 7J ENACTING A CONSTRUCTION EXCISE TAX; AND, AUTHORIZING  
INTERGOVERNMENTAL AGREEMENTS TO IMPOSE AND COLLECT SAID TAX.

**WHEREAS**, the District has a critical need to improve existing school facilities; and

**WHEREAS**, the Oregon Legislative Assembly passed Senate Bill 1036, authorizing school districts to impose construction excise taxes to fund capital improvements to school facilities; and

**WHEREAS**, pursuant to Section 5 of Senate Bill 1036, the District has entered into an intergovernmental agreement with [local government, local service district or special government body collecting the tax]; and

**WHEREAS**, pursuant to Section 5 of Senate Bill 1036, this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the [specific school district] account into which construction tax revenues are to be deposited and the frequency of such deposits; and (c) the amount of the administrative fee of [no more than 4%] that the entity collecting the tax may retain to recoup its expenses in collecting the tax.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. The rates of tax, imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure, with the exemptions outlined in Senate Bill 1036, are:
  - (a) [Amount not exceeding \$1 per square foot] on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and
  - (b) [Amount not exceeding \$0.50 per square foot] on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.
2. In addition, a construction tax imposed on structures intended for nonresidential use will not exceed \$25,000 per building permit or \$25,000 per structure, whichever is less.
3. For years beginning on or after June 30, 2009, the tax rates stated in this resolution shall be adjusted for changes in construction costs. The Oregon Department of Revenue will determine the adjusted rate limitations and report to the District.
4. The construction excise tax shall be assessed and collected pursuant to the provisions of Senate Bill 1036.
5. This resolution takes effect on April 1, 2010.

Adopted this 8th day of March, 2010.

  
\_\_\_\_\_  
Bill Swindells, School Board Chair  
Lake Oswego School District

  
\_\_\_\_\_  
Bill Korach, Superintendent  
Lake Oswego School District

Clackamas County, Oregon

Date: 3-8-10



## Lake Oswego School District Construction Excise Tax Exemptions

The following improvements are exempt from the Construction Excise Tax by statute:

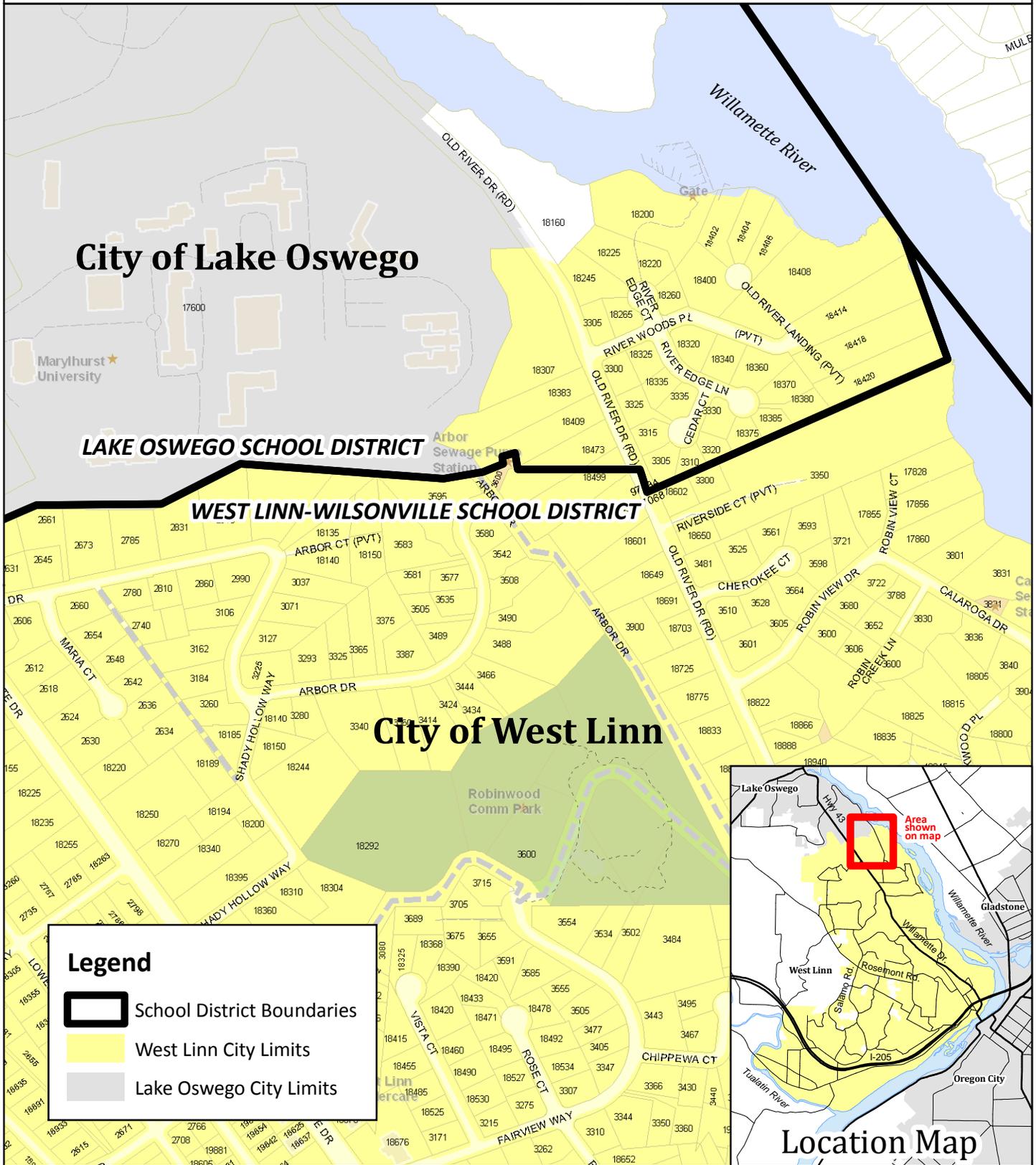
1. Private school improvements
2. Public improvements as defined in ORS 279A.010
3. Residential housing that is guaranteed to be affordable (under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80% of the median household income for the area in which the construction tax is imposed, for a period of at least 60 years following the date of construction for residential house)
4. Public or private hospital improvements
5. Improvements to religious facilities primarily used for worship or education associated to worship
6. Agricultural buildings as defined by ORS 455.315(2)(a)
7. Nonprofit long-term or residential care facilities or nonprofit continuing care retirement communities

The Lake Oswego School District has approved an additional exemption for reconstruction up to the original square footage due to a casualty loss of an owner-occupied home where the cost of the Construction Excise Tax is not covered by insurance.

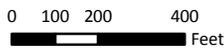




# School District Map



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.  
 Taxlot Base Source: Metro RLIS



SCHOOLS/LOSINWESTLINN.MXD / AHA / 10-16-09

