Supt. Office
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WLWVSD

# CONSTRUCTION EXCISE TAX INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT TAX BETWEEN WEST LINN-WILSONVILLE SCHOOL DISTRICT AND THE CITY OF WEST LINN

THIS CONSTRUCTION EXCISE TAX INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by the West Linn–Wilsonville School District, a school district organized under the laws of the state of Oregon (hereinafter "District") and the City of West Linn, an Oregon municipal corporation (hereafter "City"). District and City are jointly referred to herein as "the Parties."

## RECITALS

A. Senate Bill 1036, which was adopted by the 2007 Legislature and which became effective on September 27, 2007, authorizes school districts, as defined in ORS 330.005, to impose construction excise taxes ("CET") to fund capital improvements to school facilities; and

B. District was organized under ORS 330.005 and is eligible to impose construction excise taxes to fund capital improvements to school facilities.

C. Section 5 of Senate Bill 1036 provides that the construction excise tax shall be collected by local jurisdictions and remitted pursuant to intergovernmental agreements; and

D. District is contemplating imposing a CET within the District and Section 5 of Senate Bill 1036 also requires a school district imposing such a tax to enter into an intergovernmental agreement with any local government or special district that would collect the tax prior to the adoption of a construction excise tax; and

E. City is willing to establish and carry out administrative procedures to collect CET payments on behalf of District, and

F. The Parties desire to agree to certain procedures needed to collect the CET and remit the tax to District; and

G. The Parties desire that this Agreement be effective on the latest day of signatures below.

NOW THEREFORE, the Parties hereto agree as follows:

**1. Information, Forms, and Reports.** City shall develop and provide all of the forms and reports necessary to collect the CET, and 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 along with the collection of other permit fees. District shall provide sufficient staff to implement the CET program.

**3. Collection; Start Date.** City agrees to collect the CET on behalf of District for those properties that are both within the District boundaries and within the City boundaries. City shall begin collecting the CET on (month/day), 2007, and shall continue collection until the CET expires or is terminated by District.

**4. Amount of Fee.** District shall set the amount of the construction excise tax by resolution in compliance with the restrictions set forth in Senate Bill 1036. District shall establish the effective date of any rate change allowing for sufficient time for City to provide no less than 20 days notice to consumers. The parties acknowledge that notice of the rate and future increases require advance notice to consumers.

**5. Exemptions.** 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. When changes are made to rates, District shall provide updated forms at least ten days before the effective date of the rate change. If a person or entity asserts that it is exempt from the CET and files a District CET Exemption Form at the time the CET would otherwise be due, City shall grant the exemption. It shall be District's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as to invoke any other remedy District may have under law, if the person was not entitled to the exemption.

**6. Remittance.** City shall remit the collected CET to District. Remittance shall be quarterly, unless a city prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on March 31, June 30, September 30, and December 31, of each year. CET remittance shall be sent to West Linn-Wilsonville School District, at P.O. Box 35, West Linn, OR 97068-0035.

**7. CET Reports.** Along with the CET remittance, City shall prepare and submit to the District a report of the CET'S and building permits issued for the previous quarters' construction activities. The report shall include: the number of building permits issued that quarter; the aggregate square footage of residential construction; the aggregate square footage of non-residential construction; the number of building permits for which CET exemptions were given; the aggregate square footage of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by City pursuant to this Agreement.

**8. Failure to Pay CET.** Upon a person's refusal to or failure to pay the CET when due, the City shall notify District in writing within five (5) business days of such failure, with information adequate for District to begin collection procedures against that person, including the person's name, address, phone numbers, construction project, square footage of new construction, and building permit number. Upon a person's refusal or failure to pay the CET, it shall be District's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy West Linn-Wilsonville School District may have under law.

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

**10. Administrative Fee.** As consideration for the above described services, City shall retain 4 percent of the CET collected by City as authorized by Section 5 of Senate Bill 1036 as amended. Prior to submitting the CET to District, City shall deduct this administrative fee directly from the CET collected. The amounts deducted and retained as administrative fees shall be identified on the report submitted to District.

**11. Defense and Indemnification.** 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.

**12. Changes.** Notice of any changes to the amount of the fee or policies for considering exemptions or any other substantive change in the CET shall be provided to City by the District in writing at least 20 days prior to the effective date of the change. Along with the notice, District shall be responsible for providing City with documentation of any change in the amount of fees in order that City may post and distribute the information to consumers.

**13. Amendment.** This Agreement may be amended by mutual written agreement of the Parties.

**14. Other Agreements.** This Agreement does not affect or alter any other agreements between District and City.

West Linn-Wilsonville School District

By: Roger L. Woehl
Title: West Linn-Wilsonville Superintendent
Date: 2/22/10

City of West Linn

By:
Title: City Manager of West Linn
Date: 1/14/2010

STATE OF OREGON )
) ss.
County of Clackamas )

On this 22 day of February, ~~2009~~ 2010, before me Tara Lynn DuBois, the undersigned Notary Public, personally appeared Roger Woehl, as West Linn-Wilsonville Superintendent, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

OFFICIAL SEAL
TARA LYNN DU BOIS
NOTARY PUBLIC - OREGON
COMMISSION NO. 433598
MY COMMISSION EXPIRES OCT. 20, 2012

Tara DuBois
Notary Public for Oregon
My Commission Expires: 2/22/10

STATE OF OREGON )
) ss.
County of Clackamas )

On this 14th day of January, ~~2009~~ 2010, before me Tina Lynch, the undersigned Notary Public, personally appeared Chris Jordan, as City Manager of West Linn, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

OFFICIAL SEAL
TINA MARIE LYNCH
NOTARY PUBLIC - OREGON
COMMISSION NO. 435436
MY COMMISSION EXPIRES JANUARY 6, 2013

Notary Public for Oregon
My Commission Expires: January 6, 2013