

7-29-11

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY,
STATE OF OREGON

ORDER NO. :

11-5-24-7

(IN THE MATTER OF ENTERING INTO UPDATED
(INTERGOVERNMENTAL AGREEMENTS WITH
(LANE COUNTY SCHOOL DISTRICTS FOR THE
(COLLECTION AND REMITTANCE OF DISTRICT
(CONSTRUCTION EXCISE TAXES

WHEREAS, ORS 320.170-320.189, authorizes school districts, as defined in ORS 330.005, to impose construction excise taxes (CET) to fund planned capital improvements to school facilities; and

WHEREAS, ORS Chapter 190 allows units of local government to enter into agreements for performance of any or all functions and activities which such units have authority to perform and several school districts in Lane County have requested cooperation in collecting the CET established pursuant to ORS 320.170 through 320.189; and

WHEREAS, Section D of the Lane County Strategic Plan positions the County to identify and recover user fees and charges where appropriate. More specifically, Section D3 (b) advocates pursuing entrepreneurial opportunities for services it can offer that would potentially generate additional revenue; and

WHEREAS, under the terms of an updated intergovernmental agreement (IGA) with each school district that chooses to impose a CET within the District boundaries and also requests that Lane County collect and remit the tax on their behalf, Lane County will collect the District CET at the rate set by resolution by the District, not exceeding the maximum limitation set by ORS 320.176(2) and the County shall retain 4% of the gross amount of CET collected by the County as authorized by ORS 320.179(2)(c) toward County costs of collecting the District CETs.

NOW, THEREFORE, IT IS HEREBY ORDERED, that the County Administrator is authorized to enter into intergovernmental agreements with Lane County School Districts substantially in a form similar to the attached IGA for the collection and remittance of an established district CET in accordance with ORS 320.170 to 320.189 and the terms of this Board Order and that the County Administrator is authorized to execute those agreements.

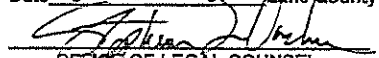
DATED this 24th day of May, 2011.



Faye Stewart, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5-17-2011 Lane County


OFFICE OF LEGAL COUNSEL

INTERGOVERNMENTAL AGREEMENT

TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX

This Intergovernmental Agreement is effective on the last date of signature below, and is by and between _____ School District No. _____, a school district organized under the laws of the State of Oregon, hereinafter referred to as **District**, and Lane County, a political subdivision of the State of Oregon, hereinafter referred to as **County**, collectively referred to as **Parties**.

WHEREAS, ORS Chapter 190 allows units of local government, such as **District** and **County**, to enter into written agreements for performance of any or all functions and activities which such units have authority to perform; and

WHEREAS, Chapter 829, Oregon Laws 2007 (Senate Bill 1036), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), [hereafter ORS 320.170-320.189] authorizes school districts, as defined in ORS 330.005, to impose construction excise taxes to fund capital improvements to school facilities; and

WHEREAS, **District** either has imposed or is contemplating imposing a construction excise tax within **District**'s boundaries and desires to enter into an intergovernmental agreement with **County** to collect the tax prior to the adoption of a construction excise tax; and

NOW, THEREFORE, the **Parties** hereto agree as follows:

1. **Information and Forms.** **District** shall create and provide to **County** all of the forms necessary to collect and remit the construction excise tax (CET), public information in the form of brochures or flyers and other assistance explaining the CET, public information explaining exemptions to the CET and the process for appeals, and any other forms or information necessary for implementation of the CET. All forms created by **District** shall be prepared in consultation with **County**, and shall be subject to review and approval by **County** prior to implementation of the CET. **District** shall consult with the **County** prior to any change in the CET and shall provide updated information, brochures, flyers and forms to **County** prior to the changes taking effect.
2. **Responsibility.** **County** agrees to collect the CET on behalf of **District** for those properties within both **District**'s boundaries and the **County**'s area of jurisdiction. **County** shall collect and remit the CET to the **District** as prescribed in this agreement. The **County** is not responsible for verifying the information on the CET forms, provided, however, that the **County** will review or calculate square footages in accordance with procedures used for building permits and will determine occupancy classifications for the purpose of calculating the amount of CET owed. In the event the **District** determines that a different CET amount is owed than that calculated and collected by the **County**, it shall be the **District** responsibility to collect that additional tax from, or refund any excess tax to, the permit applicant. As a condition of collection, the **County** shall not be responsible for verifying that the **District** has met legislative requirements for its capital improvement plans, or any other requirement of the **District** imposed by statute. The **County** shall not be responsible for collecting the CET for construction that does not require a building

permit. The **County** shall not be responsible for collecting the CET for construction that was carried out without required building permits, provided, however, if after-the-fact permits are applied for in such a case, the **County** will collect the CET as for any other type of building permit.

3. Facility Plan. **District** has adopted, or is currently developing a long term facilities plan as required by ORS 320.183. **District** agrees not to adopt the CET until such plan has been completed and adopted by resolution of **District's** Board of Directors.

4. Collection Start Date. **County** and **District** shall use their best efforts to coordinate implementation of the CET with other jurisdictions that will collect the CET, so that **County** begins collecting the CET at the same time as other jurisdictions. Notwithstanding the foregoing, **County** shall begin collecting the **District's** CET within 30 calendar days of **District's** giving written notice to **County** of the adoption of the CET, including a copy of **District's** resolution imposing the tax plus all the forms and public information materials required by Paragraph 1 of this Agreement. Alternatively, **County** may begin collecting the CET on a fixed date mutually agreed upon by **County** and **District**. **County** shall collect the **District's** CET until the CET expires, the underlying statutory authority is repealed, or this Agreement is terminated by either **District** or **County** upon 60 days written notice.

5. Collection Rate. **County** shall collect **District's** CET at the rate set by resolution by the **District**, but not to exceed the maximum limitations of ORS 320.176(2), adjusted annually as allowed by law. If **District** increases or otherwise modifies the tax, including annual adjustments, it shall send written notice to the **County** of the increase or other modification, including a copy of **District's** resolution adopting the change. **County** shall collect the tax at the new rate within 30 calendar days after notice is received by **County**, or upon the effective date of the change stated in **District's** resolution, or upon receipt of updated forms and information described in Paragraph 1, whichever occurs last. Alternatively, **County** may begin collecting the tax at the new rate on a fixed date mutually agreed upon by **County** and **District**.

6. Collection Methodology. The **District** shall be responsible for developing appropriate information and forms to enable the applicants for a building permit to determine the applicable CET rate (residential or non-residential) and to calculate the amount of CET due. The parties agree that the **County** shall have no responsibility to make the determination of the applicable rate or to perform the calculation. The **County** will consult and cooperate with the **District** to assist in the development of that information per Paragraph 1 above.

7. Exemptions. ORS 320.173 provides that **District's** CET may not be imposed on certain developments, as identified in Exhibit A to this Agreement. In addition, **District** and **County** agree that certain common construction activities will be exempt from the CET, as listed in Exhibit A, no exemption form will be required for these activities and **District** shall defer to **County** determinations in such cases. **District** shall provide **County** with all forms necessary for CET exemptions, rebates, and refunds, and any other forms or information necessary for implementation of the CET in accordance with Paragraph 1. 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, **County** shall grant the exemption. **County** shall provide **District** a copy of the completed exemption forms along with the semi-annual reports described in Paragraph 9. It shall be the **District's** responsibility to determine the validity of the exemption and to institute

collection procedures to obtain payment of the CET, if **District** determines the applicant was not entitled to the exemption.

8. Remittance. After the start date of this Agreement, **County** shall remit the collected CET according to the terms of Paragraph 12 of this agreement, to **District** on a semi-annual basis, by the 30th of the month following the end of the semi-annual period. The CET remittance and the CET Report shall be sent to **District** at _____.

9. CET Reports. **County** shall prepare and submit to **District** a report of the CETs collected and building permits issued by **County** for the previous semi-annual period's construction activities within the **District's** boundaries. The report shall include: the number of building permits issued each month; 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.

10. Failure to Pay CET / Appeals. **District's** CET shall be paid by the person applying for a building permit at the time that a permit authorizing construction is issued. If an applicant for a building permit refuses to pay the CET when due, **County** may not issue the requested building permit until such time as the CET is paid in full. Prior to that time, **County** will provide applicant with an appeal form to take to the **District** for filing. When an appeal has been filed, **District** shall notify **County** of the result within two (2) weeks of **District** receipt of the appeal to advise **County** of the appeal outcome and the amount of CET due. In any case, **County** may not issue the building permit unless the CET is paid or the applicant provides documentation from **District** approving the appeal and indicating the final amount of CET due. In no event shall **County** be liable for failure to collect **District's** CET when due. It shall be **District's** sole responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy **District** may have under law.

11. Refunds. If any person that paid a CET believes an error has been made in the methodology calculation or otherwise modifies the original building permit in a way that could result in a lower CET, **County** will provide the person that paid the CET a refund request form for filing with **District**, upon request. **District** will be solely responsible for review and payment of all refunds from the remitted CET collections, regardless of the time of collection by **County**.

12. Records. **County** shall make all records related to building permit activity, CET collections, and CET exemptions available to **District**, or its designated auditors, as necessary for **District** to audit CET collections. Records shall be stored, maintained and destroyed in accordance with the Secretary of State's General Records Retention Schedule for counties. **County** shall not be responsible for the storage or provision of records after they have been destroyed.

13. Administrative Fee. **County** shall retain 4% of the gross amount of CET collected by **County** as authorized by ORS 320.179(2)(c) to recoup **County's** actual cost of collecting **District's** CET. Prior to remitting the CET to **District**, **County** shall deduct this amount and remit to the Oregon Department of Consumer and Business Services the administrative fee, if any, established under ORS 320.179(3); the amount retained or remitted to the state shall be

identified on the report submitted to **District**. The administrative fee retained by **County** will not be subject to any refund request filed with **District**.

14 Re-tooling Costs. In the future, **County** may upgrade, re-tool or replace its building permit software or other systems used in the collection of CET for school districts pursuant to ORS 320.170 through 320.189. This may necessitate reprogramming or other system changes in order for **County** to continue collecting **District's** CET. In such a case, **County** will notify **District** of the necessary changes and the pro-rata share of costs attributable to collection of **District's** CET based on the number of school districts who then have agreements with **County** for the collection of a CET. Within thirty (30) days of that notification, **District** will advise **County** of its willingness to pay its share of the **County** costs. When mutual written agreement is reached, **District** agrees to pay its pro-rata share of the costs of such reprogramming or other system changes within thirty (30) days following receipt of an invoice from **County**.

15. Interest Waiver. **District** waives any and all claims to any interest which may be earned on CET funds prior to **County's** remittance of collected CET funds to **District** pursuant to Paragraph 7 of this Agreement.

16. Amendment. This Agreement may be amended by mutual written agreement of the **Parties**. If there is legislative change which affects the responsibilities or costs for either party with respect to the CET, the parties will negotiate in good faith towards an amendment of this agreement.

17. Other Agreements. This Agreement does not affect or alter any other agreements between **District** and **County**, if any.

18. Defense and Indemnification. To the extent allowed by the Oregon Constitution and the Oregon Tort Claims Act, **District** agrees to defend, indemnify and hold harmless **County**, its officers, agents and employees, against all claims and actions, and all damages and expenses related thereto, arising from the performance of this agreement, or relating to the subject of this Agreement, except for those caused by the sole negligence of the **County** or its officers and employees.

19. Contact Persons. **District** and **County** hereby designate the following persons as the individuals having primary responsibility for administration of this Agreement, and as the person designated to receive notice provided for herein. Either party may change its designated contact person by written notice to the other party.

District:

Name
Title
Address

Telephone
Email

County:

Name: Matt Laird
Title: Land Management Manager
Address: 125 E. 8th Avenue
Eugene, Oregon 97401
Telephone: 541-682-4349
Email: matt.laird@co.lane.or.us

20. Notice. Whenever notice is required to be given under this Agreement, the notice shall be given in writing to the other party's contact person by US Mail, first class postage prepaid. In addition, notice may be given by email or personal delivery.

21. General Provisions. This Agreement is binding on and inures to the benefit of **Parties** and their successors and assigns. Except with the other party's prior written consent, a party may not assign any rights or delegate any duties under this Agreement. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement. This Agreement sets forth the entire understanding of **Parties** with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between **Parties** with respect to such subject matter. A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision. From time to time, each of the parties shall execute, acknowledge, and deliver any instruments or documents necessary to carry out the purposes of this Agreement. Time is of the essence for each and every provision of this Agreement. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties to this Agreement, any right or remedy of any nature whatsoever. Each party shall bear its own expenses in connection with this Agreement and the transactions contemplated by this Agreement.

22. Termination of Agreement. This Agreement may be terminated by either **District** or **County** upon sixty (60) days written notice of intent to terminate. If a notice of intent to terminate is issued, **District** and **County** agree to meet and discuss the concerns leading to the notice of termination upon receipt of a request to do so from the other party.

District

_____ School District No. _____

By: _____

Date: _____

Title: Superintendent

County

Lane County

By: _____

Date: _____

Title: County Administrator

APPROVED AS TO FORM

Date _____ Lane County

EXHIBIT A

EXEMPTIONS

The following improvements are exempt from the Construction Excise Tax (CET) pursuant to ORS 320.173.

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 of the residential housing.
4. Public or Private hospital improvements.
5. Improvements to religious facilities primarily used for worship or education associated with worship.
6. Agricultural buildings as defined in ORS 455.315(2)(a).
7. Facilities that are operated by a not-for-profit corporation and that are:
 - (a) Long term care facilities, as defined in ORS 442.015;
 - (b) Residential care facilities, as defined in ORS 443.400; or
 - (c) Continuing care retirement communities, as defined in ORS 101.020.

For purposes of clarity, **District** and **County** agree that the following construction-related activities are also exempt from the CET. This list is not necessarily exhaustive and, pursuant to the agreement between **District** and **County** and Attachment 1 to this exhibit, **District** agrees to the **County** determination of whether and at which rate any construction activity shall be taxed.

- A. Mechanical, electrical and plumbing permits.
- B. Land use approvals.
- C. Structures not required to obtain building permits due to square-footage exemptions.
- D. Interior remodels with no additional square footage.
- E. Residential or non-residential additions and alterations.
- F. A manufactured home that replaces an existing manufactured home in a manufactured home park.
- G. A moved building, if it is being moved to another location on the same property.
- H. Temporary hardship dwellings.
- I. Accessory structures.

**CONSTRUCTION EXCISE TAX
Collection Methodology**

1. For purposes of calculating the Construction Excise Tax, residential uses shall include:
 - single-unit houses
 - multiple-unit houses
 - non-transient boarding houses
 - adult foster care homes and congregate living facilities
 - dormitories (as defined in State Building Code)
 - manufactured dwellings
 - a residential building moving from one property to another

2. Residential square footage measurements shall be made in accordance with guidelines established by the State of Oregon Building Codes Division. Square footage shall include the gross floor area of the structure including unfinished basements or bonus rooms. Gross floor area shall not include:
 - Garages
 - Carports
 - Covered walkways
 - Exterior decks
 - Covered porches and patios
 - Sunrooms
 - Accessory structures such as garden sheds, shops, ramadas and other similar out buildings

3. Residential and non-residential additions and alterations are exempt.

4. Hotels, motels, and transient boarding houses shall be considered nonresidential uses.

5. Square footage of non-residential use shall include the gross floor area of the building or addition, measured in accordance with guidelines established by the State of Oregon Building Codes Division. When measurements refer to an interior or exterior wall and no wall exists, measurements shall include the useable area under the horizontal projection of the roof or floor above.

6. A manufactured home that replaces an existing manufactured home in a manufactured home park is exempt.

7. A moved building, if it is being moved to another location on the same property, is exempt.

8. Where an existing residential or non-residential use is removed from a property (in part or in total) within one year of applying for the building permit, a credit towards the CET for the new use shall be applied based on the square footage and use of existing building. No CET credit shall be applied if there is no record of the square footage of the existing use or if the existing use was not lawfully established. CET credits are non-transferable

to other properties beyond the subject tract of land.

9. The CET shall be applicable to building permit applications received on or after the effective date of the Intergovernmental Agreement (IGA) between the District and County for collecting the CET. Should an increase in the CET be authorized, the new rate shall be applicable to building permit applications received on or after the effective date of the increase.
10. The CET shall not apply to communication towers, water tanks, retaining walls, swimming pools, private bridges, covered play structures, or structures that do not require a building permit.
11. Requests for refunds must be in writing and submitted to the District not more than 12 months from the date the CET was paid.

LOCAL CONSTRUCTION TAXES

320.170 Construction taxes imposed by school district. (1) Construction taxes may be imposed by a school district, as defined in ORS 330.005, in accordance with ORS 320.170 to 320.189.

(2) Construction taxes imposed by a school district must be collected, subject to ORS 320.179, by a local government, local service district, special government body, state agency or state official that issues a permit for structural improvements regulated by the state building code. [2007 c.829 §2; 2009 c.534 §1]

Note: Sections 1 and 9, chapter 829, Oregon Laws 2007, provide:

Sec. 1. (1) A local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing improvements to real property except as provided in sections 2 to 8 of this 2007 Act [320.170 to 320.189].

(2) Subsection (1) of this section does not apply to:

(a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;

(b) A tax on which a public hearing was held before May 1, 2007; or

(c) The amendment or increase of a tax adopted by a county for transportation purposes prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

(3) For purposes of this section and sections 2 to 8 of this 2007 Act, construction taxes are limited to privilege taxes imposed under sections 2 to 8 of this 2007 Act and do not include any other financial obligations such as building permit fees, financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or financial obligations imposed on the basis of factors such as income. [2007 c.829 §1]

Sec. 9. Section 1 of this 2007 Act is repealed on January 2, 2018. [2007 c.829 §9]

320.173 Exemptions. Construction taxes may not be imposed on the following:

(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 percent 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 of the residential housing.

(4) Public or private hospital improvements.

(5) Improvements to religious facilities primarily used for worship or education associated with worship.

(6) Agricultural buildings, as defined in ORS 455.315 (2)(a).

(7) Facilities that are operated by a not-for-profit corporation and that are:

(a) Long term care facilities, as defined in ORS 442.015;

(b) Residential care facilities, as defined in ORS 443.400; or

(c) Continuing care retirement communities, as defined in ORS 101.020. [2007 c.829 §3; 2009 c.534 §2]

Note: See note under 320.170.

320.176 Rates; limitations; adjustment by Department of Revenue. (1) Construction taxes imposed under ORS 320.170 to 320.189 may be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure and may not exceed:

(a) \$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) \$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 to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed \$25,000 per building permit or \$25,000 per structure, whichever is less.

(3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The Department of Revenue shall determine the adjusted limitations under this section and shall report those limitations to entities imposing construction taxes. The department shall round the adjusted limitation under subsection (2) of this section to the nearest multiple of \$100.

(c) As used in this subsection, "construction cost index" means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule. [2007 c.829 §4]

Note: See note under 320.170.

320.179 School district resolutions; collections; requirements; rules. (1) A school district imposing a construction tax shall impose the tax by a resolution adopted by the district board of the school district. The resolution shall state the rates of tax, subject to ORS 320.176.

(2) Prior to collecting a construction tax, a school district shall enter into an intergovernmental agreement with each local government, local service district, special government body, state agency or state official collecting the tax that includes:

(a) Collection duties and responsibilities;

(b) The specific school district accounts into which construction tax revenues are to be deposited and the frequency of such deposits; and

(c) The amount of the administrative fee that the entity or official collecting the tax may use to recoup expenses incurred in collecting the construction tax, either through retention or reimbursement. An administrative fee under this paragraph may not exceed four percent of tax revenues and shall be reduced by the amount of the administrative fee, if any, established under subsection (3) of this section.

(3) The Department of Consumer and Business Services may establish by rule an administrative fee of 0.25 percent of tax revenues. The administrative fee shall be collected and remitted to the department by the entity or official collecting the construction tax. [2007 c.829 §5; 2009 c.534 §3]

Note: The amendments to 320.179 by section 4, chapter 534, Oregon Laws 2009, apply to collection of construction taxes on or after June 30, 2011. See section 7, chapter 534, Oregon Laws 2009. The text that applies to collection of construction taxes on or after June 30, 2011, is set forth for the user's convenience.

320.179. (1) A school district imposing a construction tax shall impose the tax by a resolution adopted by the district board of the school district. The resolution shall state the rates of tax, subject to ORS 320.176.

(2) Prior to collecting a construction tax, a school district shall enter into an intergovernmental agreement with each local government, local service district, special government body, state agency or state official collecting the tax that includes:

(a) Collection duties and responsibilities;

(b) The specific school district accounts into which construction tax revenues are to be deposited and the frequency of such deposits; and

(c) The amount of the administrative fee that the entity or official collecting the tax may use to recoup expenses incurred in collecting the construction tax, either through retention or reimbursement.

An administrative fee under this paragraph may not exceed four percent of tax revenues.

Note: See note under 320.170.

320.183 Long-term facilities plan for capital improvements. (1) After deducting the costs of administering a construction tax and payment of refunds of such taxes, a school district shall use net revenues only for capital improvements.

(2) A construction tax may not be imposed under ORS 320.170 to 320.189 unless the school district imposing the tax develops a long-term facilities plan for making capital improvements. The plan shall be adopted by resolution of the district board of the school district.

(3) As used in this section, "capital improvements":

(a) Means:

(A) The acquisition of land;

(B) The construction, reconstruction or improvement of school facilities;

(C) The acquisition or installation of equipment, furnishings or other tangible property;

(D) The expenditure of funds for architectural, engineering, legal or similar costs related to capital improvements and any other expenditures for assets that have a useful life of more than one year; or

(E) The payment of obligations and related costs of issuance that are issued to finance or refinance capital improvements.

(b) Does not include operating costs or costs of routine maintenance. [2007 c.829 §6]

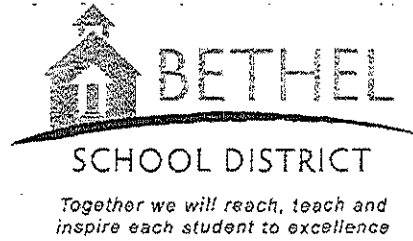
Note: See note under 320.170.

320.186 Payment of obligations. A school district may pledge construction taxes to the payment of obligations issued to finance or refinance capital improvements as defined in ORS 320.183. [2007 c.829 §7]

Note: See note under 320.170.

320.189 Payment of taxes. Construction taxes must be paid by the person undertaking the construction at the time that a permit authorizing the construction or the expansion of square footage of a facility or building is issued. [2007 c.829 §8; 2009 c.534 §5]

Note: See note under 320.170.



REVISED: March 14, 2011

FEBRUARY 28, 2011

RESOLUTION NO. 10-11: 34

WHEREAS, the District has a need to plan for future growth and build new facilities and improve existing school facilities; and,

WHEREAS, the Oregon Legislative Assembly passed Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the 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 (2007), the District shall enter into an intergovernmental agreement with the City of Eugene and Lane County; and,

WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the Bethel School District Number 52 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 4% that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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 \$26,400 per building permit or \$26,400 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 (2007); as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014).
5. This resolution takes effect on confirmed date of intergovernmental agreements.

ATTEST /s/ Colt Gill
Clerk

/s/ Alan L. Laisure
Chair

MOVED BY Debi Farr

SECONDED BY Wayne Watkins

DATE 3/14/2011

RESOLUTION: Passed / Failed

BOARD MEMBERS	AYE	NAY	ABSTAIN	ABSENT
Debi Farr	✓			
Dawnja Johnson				✓
Paul Jorgensen	✓			
Alan Laisure	✓			
Greg Nelson	✓			
Ginger Poage				✓
Wayne Watkins	✓			

South Lane School District Construction Excise Tax

August 9, 2010

WHEREAS, the District has a need to plan for future growth and build new facilities and 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District shall enter into an intergovernmental agreement with the City of Cottage Grove and Lane County; and,


WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the South Lane School District #45J3 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 4% that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014).
5. This resolution takes effect on August 9, 2010 and upon effective date of intergovernmental agreements.



Board Chair, Judy Cunningham



Superintendent, Krista Parent

Oakridge School District 76

Construction Excise Tax IGA

Resolution No. 11-04

August 16, 2010

WHEREAS, the District has a need to plan for future growth and build new facilities and 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District shall enter into an intergovernmental agreement with the City of Oakridge and Lane County; and,

WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the Oakridge School District 76 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 ~~1%~~ 4% that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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 (2007).
5. This resolution takes effect on August 16, 2010 and upon effective date of intergovernmental agreements.

Adopted this ^{20th} ~~16th~~ day of ^{September} ~~August~~, 2010

By: 
Chairman


Superintendent

CRESWELL SCHOOL DISTRICT #40
RESOLUTION NO. 1011-4

COPY

WHEREAS, the District has a need to plan for future growth and build new facilities and 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District shall enter into an intergovernmental agreement with the City of Creswell and Lane County; and,

WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the Creswell School District #40 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 4% that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014).
5. This resolution takes effect on upon effective date of intergovernmental agreements.



Superintendent



Board Chair



Date



Date

FERN RIDGE SCHOOL DISTRICT 28J
RESOLUTION NO. 10-11/15

CONSTRUCTION EXCISE TAX

WHEREAS, the District has need to plan for future growth and build new facilities and 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 (2007), the District shall enter into an intergovernmental agreement with the City of Veneta and Lane County; and,

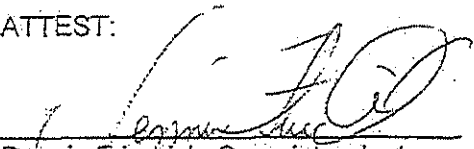
WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the District 28J account into which construction tax revenues are to be deposited and the frequency of such deposits; and (c) the amount of the administrative fee that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, are:
 - a. \$1.05 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. \$0.53 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 (2007).
5. This resolution takes effect on September 20, 2010 and upon effective date of intergovernmental agreements.

Adopted by a vote of 5 for and 0 against.

ATTEST:


Dennis Friedrich, Superintendent


Sterling Pew, Chairperson
Board of Directors

J.C.

**RESOLUTION CONSTRUCTION EXCISE
TAX INCREASE
Resolution 2010-11 #14**

WHEREAS, the District has a need to plan for future growth and build new facilities and 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District shall enter into an intergovernmental agreement with the City of Junction City and Lane County; and,

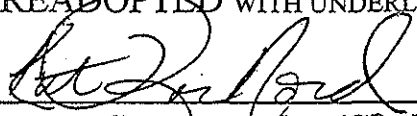
WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the Junction City School District #69 account into which construction tax revenues are to be deposited and the frequency of such deposits; and (c) the amount of the administrative fee of 4% that the entity collecting the tax may retain from *collections* to recoup its expenses in collecting the tax.

NOW, THEREFORE, BE IT RESOLVED as follows:

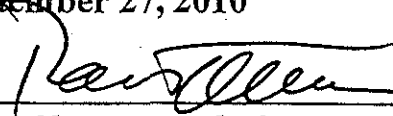
1. The rates of tax, imposed only on improvements to real property that result in a new structure, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014).
5. This resolution takes effect on August 23, 2010 and upon effective date of intergovernmental agreements.

ORIGINALLY ADOPTED: August 23, 2010

READOPTED WITH UNDERLINED CHANGES: September 27, 2010



Superintendent/Clerk

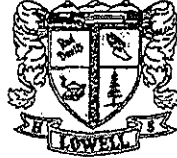


Chair, Board of Directors

LANE COUNTY SCHOOL DISTRICT 71

Lowell/Fall Creek

65 S. Pioneer, Lowell OR 97452
Phone (541) 937-8405/ FAX 937-2112
www.lowell.k12.or.us



Aaron Brown
Superintendent/
Jr./Sr. Principal
abrown@lowell.k12.or.us

Lowell Jr./Sr. High
65 South Pioneer Street
541-937-2124 FAX 937-2112

Randy Doan
Transportation/Maintenance
Coordinator

Christina Cox
Elementary Principal
ccox@lowell.k12.or.us

Lundy Elementary
45 South Moss Street
541-937-2105 FAX 937-8709

Amber Hansen
Special Education
Coordinator

Resolution No. 2010-01

November 22, 2010

WHEREAS, the District has a need to plan for future growth and build new facilities and improve existing school facilities; and,

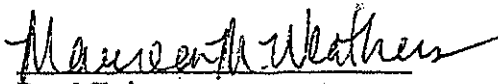
WHEREAS, the Oregon Legislative Assembly passed Senate Bill 1036, authorizing school districts to impose construction excise taxes to fund capital improvements to school facilities; and,


WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District shall enter into an intergovernmental agreement with the City of Lowell and Lane County; and,

WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the Lowell School District #71 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 4% that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014).
5. This resolution takes effect on November 22, 2010 and upon effective date of intergovernmental agreements.


Board Chair


Superintendent

McKENZIE SCHOOL DISTRICT

No. 68

51187 Blue River Drive - Finn Rock, Oregon 97488

RESOLUTION 10-4

Imposition of Construction Excise Tax

WHEREAS, the District has a need to plan for future growth and build new facilities and 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District shall enter into an intergovernmental agreement with the City of Finn Rock and Lane County; and,

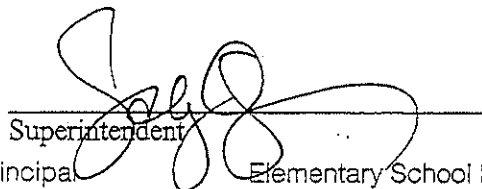
WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the McKenzie School District # 68 account into which construction tax revenues are to be deposited and the frequency of such deposits; and (c) the amount of the administrative fee of 4% that the entity collecting the tax may retain from *collections* 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - a. \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and,
 - b. \$.53 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, 2010, 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 (2007), as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014).
5. This resolution takes effect on 20th day of October, 2010 and upon effective date of intergovernmental agreements.


 Kathryn Keable
 School Board Chair

District Superintendent
 541-822-3338


 Superintendent

High School Principal
 541-822-3313

Elementary School Principal
 541-822-3315

**Resolution No. 1011-001
Monroe School District #1J**

Imposition of Construction Excise Tax

WHEREAS, the District has a critical need to build new facilities and 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

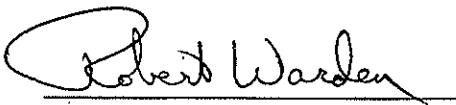
WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007) as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), the District has entered into an intergovernmental agreement with Lane County; and


WHEREAS, pursuant to Section 5 of Senate Bill 1036 (2007) as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), this intergovernmental agreement establishes: (A) collection duties and responsibilities; (B) the Monroe School District #1J account into which construction tax revenues are to be deposited and the frequency of such deposits; and (C) the account of the administrative fees of 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, with the exemptions outlined in Senate Bill 1036, as amended by Chapter 534, Oregon Laws 2009 (House Bill 2014), are:
 - (a) \$1.05 on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and
 - (b) \$.53 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 (2007).
5. This resolution takes effect on November 1, 2010 and upon effective date of intergovernmental agreements.

Adopted this 11th day of October, 2010


Robert Warden, Board Chair


Randall Crowson, Superintendent

Siuslaw School District 97J
2111 Oak Street
Florence, OR 97439

Presented to the Board of Directors:

Subject: Intergovernmental Agreement (IGA) with Lane County for the Construction Excise Tax (CET) Collection	Item No: 090810-7(a)
	Attachment: Yes
Reason: New Business	From: Mr. Smith
	Date: September 8, 2010

Background:

Collection of Construction Excise Tax was approved at the April 9, 2008 board mtg. Since that time, Siuslaw School District has entered into Intergovernmental Agreements (IGA) with Lane County, City of Florence, and Dunes City for collection of CET taxes.

Lane County and Lane ESD (acting on behalf of Lane County School Districts) have revised the IGA allowing continued collection of CET taxes by Lane County. Attached are the revised IGA, exemption form, and collection methodology form.

Changes in the IGA include:

- Administration Fee charged by Lane County increased from 1% to 4%.
- Collection Cost charged by Lane County decreased from 2% to 0%.
- Timing/method of admin fee changed
- Remittance of tax by Lane County to school district changed from quarterly to semi-annually.

Changes to the exemptions include adding the following (required by the State)

1. Facilities that are operated by a not-for-profit corporation and that are:
 - (a) Long term care facilities, as defined in ORS 442.015;
 - (b) Residential care facilities, as defined in ORS 443.400; or
 - (c) Continuing care retirement communities, as defined in ORS 101.020

Recommendation:

Administration recommends approval of the Intergovernmental Agreement with Lane County.

Resolution # 090810-7(a) – Approve IGA with Lane County

Be it Resolved that the Siuslaw School District Board approve the Intergovernmental Agreement with Lane County to collect funds for the Construction Excise Tax as presented.

Tammy Butler

Tammy Butler, Board Chair

Derek Smith

Derek Smith, Deputy Clerk/Business Manager

97J

Siuslaw School District 97J

2111 Oak Street . Florence, Oregon 97439
Phone 541-997-2651 . Fax 541-997-6748

September 20, 2010

Matt Laird
Land Management Manager
125 E. 8th Avenue
Eugene, OR 97401

Mr. Laird,

Enclosed is the Intergovernmental Agreement to Collect and Remit Construction Excise Tax signed by Superintendent Davis which was approved by Siuslaw School District Board of Directors at the September 8, 2010 School Board Meeting.

The board was not supportive of increasing the Construction Excise Tax rates at this time. The board passed a motion to maintain the current rates, those being \$1.00 per square foot for residential and \$.50 per square foot for commercial.

Sincerely,



Derek Smith
Business Manager