

Resolution NO. _____

A RESOLUTION LEVYING AND ASSESSING A COUNTY EXCISE TAX (SALES TAX) OF ONE-QUARTER PERCENT (.25%) IN ADDITION TO ALL OTHER CITY, COUNTY, AND STATE EXCISE TAXES PRESENTLY BEING LEVIED OR ASSESSED; UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM ALL SALES TAXABLE UNDER OKLAHOMA SALES TAX CODE INCLUDING, BUT NOT LIMITED TO CERTAIN ENUMERATED SALES LISTED THEREIN FOR THE PURPOSE OF PROVIDING FUNDS FOR FIRE DEPARTMENTS IN LEFLORE COUNTY, BUT NOT LIMITED TO: PURCHASE OF EQUIPMENT AND MAINTENANCE, TRAINING, CONSTRUCTION OF NEW BUILDINGS OR IMPROVEMENTS MADE TO EXISTING BUILDINGS; AND THE PAYMENT OF EXISTING OR FUTURE LOANS; PROVIDING FOR EFFECTIVE DATE AND DURATION; PROVIDING FOR ADMINISTRATION AND COLLECTION REQUIRING THE FILING OF RETURNS AND PROVIDING FOR PENALTY; PROVIDING EXEMPTIONS; PROVIDING THE FORMATION OF A BOARD AND THE DIVISION OF FUNDS; REQUIRING TAXPAYER TO KEEP RECORDS: REQUIRING COLLECTION BY VEDORS AT TIME OF SALE; ESTABLISHING LIENS; AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS TO MAKE ADMINISTRATIVE AND TECHNICAL CHANGES AND ADDITIONS EXCEPT TAX RATE; MAKING CUMULATIVE; PROVIDING SEVERABILITY; REQUIRING APPROVAL BY MAJORITY OF REGISTERED VOTERS VOTING AT AN ELECTION HELD FOR SUCH PURPOSE AS PROVIDED BY LAW.

LEFLORE COUNTY, STATE OF OKLAHOMA

Section 1. Citation and Codification. "This Resolution shall be known and may be cited as the Leflore County, Oklahoma Special Sales Tax Resolution No. ____ of 2008 and is hereinafter referred to as the "Resolution."

Section 2. Subsisting State Permits. All valid and subsisting permits to do business by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code as set out in Title 68, Oklahoma statutes 1991, Section 1350, et seq., as amended from time to time (hereinafter referred to as the "Oklahoma Sales Tax Code") are, for the purpose of this Resolution hereby ratified, confirmed and adopted in lieu of any requirement for any additional permit for same purpose.

Section 3. Effective Date and Duration. The sales tax levied pursuant to this Resolution shall become permanent and be effective on and after, subject to approval of a majority of the registered voters of Leflore county, Oklahoma, voting on the same in the manner prescribed by law.

Section 4. Board Information. There shall be a seven member oversight committee formed with members in good standing elected by and representing the Leflore County Firefighter's Association representing the following Leflore county, Oklahoma Fire Departments:

Arkoma, BigCedar, Bokoshe, Cowlington, Fanshawe, Fort Coffee, Haw Creek, Heavener, Hogeye, Hodgen, Honobia, Howe, Latham-Dog Creek, Leflore, Monroe, Murray Spur, Octavia, Panama, Pocola, Post Mountain, Poteau, Reichert, Shady Point, Spiro, Stapp-Zoe, Summerfield, Talihina, Whitesboro, and Wister. The Leflore County Firefighter Association (LCFA) shall receive five (5%) of the one quarter percent sales tax and use the funds as deemed necessary for the improvement and enhancement of the operations and emergency response capabilities of the above listed Fire Departments subject to the approval by the oversight committee . Oversight committee members will be elected to a two year term, the oversight committee members will consist of four officers: Chair, Co-Chair, Secretary, Treasurer.

Section 5. Division of Funds. Ninety-Five percent (95%) of the one quarter percent sales tax shall be divided equally between the following fire departments: Arkoma, BigCedar, Bokoshe, Cowlington, Fanshawe, Fort Coffee, Haw Creek, Heavener, Hogeye, Hodgen, Honobia, Howe, Latham-Dog Creek, Leflore, Monroe, Murray Spur, Octavia, Panama, Pocola, Post Mountain, Poteau, Reichert, Shady Point, Spiro, Stapp-Zoe, Summerfield, Talihina, Whitesboro, and Wister. And placed in a cash fund account. The remaining (5%) shall be placed in a cash fund account for the LCFA , upon reaching \$50,000.00 further accruing LCFA funds shall be appropriated equally among all Leflore county fire departments.

SUBSECTIONS-MAIN PROJECTS

- (A) (1) To construct new fire stations or improve existing fire stations;
- (A) (2) To purchase communications equipment, and defray training and fire training and fire education costs;
- (A) (3) To purchase firefighting and other emergency response vehicles and equipment;
- (A) (4) For the general maintenance and operation of the above listed twenty-nine (29) fire departments in Section 4 and any other volunteer fire departments that come into existence in Leflore County during the existence of the levy and county excise tax, providing however, that no such tax proceeds shall be used for the payment of wages or salaries for any firefighter.

Section 6. Tax Rate-Sales Subject to Tax. There is hereby imposed an additional sales tax of one-quarter percent (.25%) to be levied upon the gross proceeds or gross receipts derived from all sales of services in the County taxable under the Oklahoma Sales Tax Code, as set out therein.

Section 7. Exemptions. There is hereby specifically exempt from the tax levied by this Resolution the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code, as set out therein.

Section 8. Other Exempt Transfers. Also there is hereby specifically exempted from the tax levied by this Resolution the transfer of tangible personal property exempted from the Oklahoma Sales Tax Code, as set out therein.

Section 9. Tax Due When- Returns- Records. The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of then state sales tax under the Oklahoma Sales Tax code

Section 10. Payment of Tax. The tax herein levied shall be paid to the Tax Collector at the time in form and manner provided payment of state sales tax under the Oklahoma Sales Tax Code.

Section 11. Tax Constitutes Debt. Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

Section 12. Classification of Taxpayers. For the purpose of this Resolution, the classification of taxpayers hereunder shall be as prescribed by State Law for the purpose of Oklahoma Sales Tax Code.

Section 13. Vendor's Duty to Collect Tax

(a) The tax levied hereunder shall be paid by the consumer or user to the vendor, or user to the vendor, and it shall be the duty of each and every vendor in this county to collect from the consumer or user, the full amount of the tax levied by this Resolution, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed hereunder to the average equivalent thereof, to the sales price, charge, consideration, gross receipts or gross proceeds of the sale of tangible personal property or services taxed by this Resolution, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer of user to the vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A vendor who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied herein, or willfully or intentionally Omits, neglects or refuses to comply with the provisions hereunder, or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax levied by this Resolution, or makes in any form of advertising, verbally or otherwise, any statement which implied that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of price or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than One Hundred Dollars (\$100.00), and upon conviction for a second or other subsequent offense shall be fined not more than Five Hundred Dollars (\$500.00), or incarcerated for not more than sixty (60) days or both. Provided sales by vending machines may be made a stated price which includes state and any municipal tax.

(d) Any sum or sums collected or required to be collected hereunder shall be deemed to be held in trust for the State of Oklahoma, and as trustee the collecting vendor shall have a fiduciary duty to the State of Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by this articles was collected from the consumer or user, and appropriates the tax held in trust to his own use, or to the use of any person not entitles thereto, without authority of law, shall be guilty of embezzlements.

Section 14. Returns and Remittances-Discounts. Returns and the remittances of the tax levied herein collected shall be made to the tax collector at the time, and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of state sales taxes.

Section 15. Tax Collector Defined. The term "Tax Collector" as used herein means the department of the County government or the official agency of the State duly designated according to law by contract and authorized by law to administer the collection of the tax herein levied.

Section 16. Definitions. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes 1991, Section 1352, as amended, are hereby adopted by reference and made apart of this resolution.

Section 17. Interest and Penalties-Delinquency. Section 217 of Title 68, Oklahoma Statues 1991, as amended, is hereby adopted and made part of this resolution and interest and penalties at the rate and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Resolution. Proved, that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Resolution shall cause such tax to be delinquent.

Section 18. Waiver of Interest and Penalties. The interest or penalty or any portion thereof accruing by reason of taxpayer's failure to pay the tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of state sales tax provided in Title 68, Oklahoma Statutes 1991, Section 22, as amended and to accomplish the purposes of this sections the applicable provisions of said Section 220 are hereby adopted by reference and made part of this resolution.

Section 19. Erroneous Payments-Claims for Refund. Refund for erroneous payment of the sales tax herein levied may be made to any taxpayer making such erroneous payment in the manner and the pursuant to the procedures, and under the same limitations of time, as provided for administration of the state sales tax as set fourth in Title 68, Oklahoma Statutes 1991, Section 227, as amended , and to accomplish the purposes of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Resolution.

Section 20. Fraudulent Returns. In addition to all civil penalties provided by this Resolution. The willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false or fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Resolution shall be an offense, and upon conviction thereof, the offending taxpayer shall be subject to such fines as set out under Title 68, Oklahoma Statutes 1991, Section 241, as amended.

Section 21. Record Confidential. The confidential and privileged nature of the records and files concerning the administration of this sales tax is legislatively recognized and declared, and to protect the same, the provisions of Title 68, Oklahoma Statutes 1991, Section 241, as amended.

Section 22. Provisions Severable. The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Resolution is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof.

Section 23. Amendments. The people of Leflore County, Oklahoma, by their approval of this Resolution at the election herein above provided for, hereby authorize the board of County Commissioners of Leflore County, Oklahoma by Resolutions duly enacted to make such administration and enforcing this Resolution as may be necessary or proper for efficiency and fairness, except that the rate of tax herein provided shall not be changed without approval of the qualified electors of the county as provided by law.

Section 24. Provisions Cumulative. The provision hereof shall be cumulative and in addition to any and all other taxing provisions adopted by Leflore County Oklahoma.

Section 25. Date of Election. The special election shall be held (insert appropriate time date) and said special election shall be held at the same place and in the same manner prescribed for conduct of state and county elections, and polling places shall open from 7:00am to 7:00 pm

PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS
OF LEFLORE COUNTY, OKLAHOMA THIS _____ DAY OF

2008.

CHAIRMAN

MEMBER

MEMBER

(SEAL)

ATTEST

COUNTY CLERK