

Calcasieu Parish Recording Page

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Clerk of Court
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AUG 22 2018

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CITY OF LAKE CHARLES (133)
P. O. BOX 3706
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First MORTGAGOR

CITY OF LAKE CHARLES STATE OF LOUISIANA

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-RE:ORDN# 18216 ADOPTION OF LEVING SALES TAX 1% IN LAKEFRONT ECONOMIC DEVELOPMENT DIST CITY OF LAKE CHARLES STATE OF LOUISIANA

Index Type : MORTGAGES
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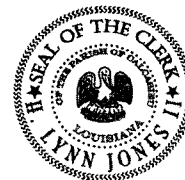
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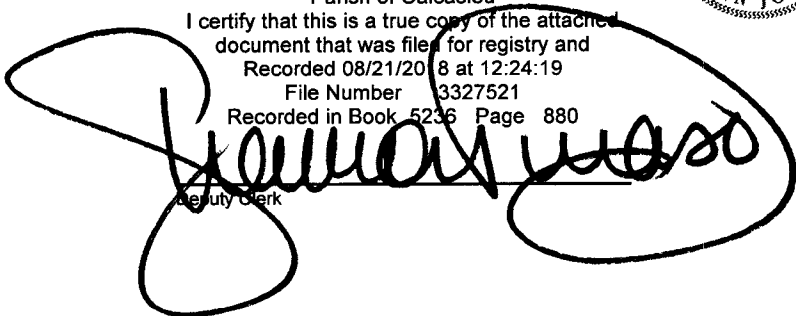
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CLERK OF COURT
H. LYNN JONES II
Parish of Calcasieu

I certify that this is a true copy of the attached document that was filed for registry and
Recorded 08/21/2018 at 12:24:19
File Number 3327521
Recorded in Book 5236 Page 880

Deputy Clerk



Return To : CITY OF LAKE CHARLES (133)
P. O. BOX 3706
LAKE CHARLES, LA 70602

AUG 22 2018

CITY OF LAKE CHARLES, STATE OF LOUISIANA
AUGUST 15, 2018

The following ordinance, having been previously introduced on July 18, 2018, Notice of Introduction having been published on July 11, 2018, and a public hearing held thereon on August 15, 2018, was offered for final adoption by Rodney Geyen and seconded by Luvertha August:

ORDINANCE NO. 18216

Public hearing for the consideration and adoption of an ordinance levying a sales tax of one percent (1%) in Lakefront Economic Development District of the City of Lake Charles, State of Louisiana; designating the full amount of such additional sales tax as the sales tax increment in said District from which the local and state sales tax increments will be determined and used to finance economic development projects in accordance with and as authorized by Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as amended; designating the initial annual baseline collection rate and establishing a monthly baseline collection rate for said District; pledging and dedicating such tax increment to economic development projects in or benefitting the District and providing for other matters in connection with the foregoing.

WHEREAS, Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as amended (*La. R.S. 33:9038.31, et seq.*) (the "Act") authorizes municipalities, parishes and certain other local governmental subdivisions to create economic development districts to carry out the purposes of the Act, which economic development districts are political subdivisions of the State of Louisiana and possess such power and authority and have such duties as provided by the Act and other law; and

WHEREAS, by ordinance adopted on June 20, 2018, this City Council, as governing authority of the City of Lake Charles, State of Louisiana (the "City") created the Lakefront Economic Development District of the City of Lake Charles, State of Louisiana (the "District"), in accordance with *La. R.S. 33:9038.32*; and

WHEREAS, *La. R.S. 33:9038.39* permits the District to levy a sales and use tax up to two percent (2%) for authorized purposes above and in addition to any other ad valorem taxes, sales taxes, or hotel occupancy taxes, or combination of such taxes, then in existence or permitted to be in existence within the District; and

WHEREAS, *La. R.S. 33:9038.34(O)* provides for the creation of a special trust fund for the furtherance of economic development projects, as defined in the Act, into which the incremental increases in sales taxes shall be deposited and loaned, granted, donated, or pledged in furtherance of economic development projects (each Project hereinafter approved being referred to herein as a "Project" or "Projects"); and

WHEREAS, in accordance with the Act, the governing authority of the City, in said ordinance creating the District did further create a special trust fund, named the "Lakefront Economic Development District of the City of Lake Charles Trust Fund" (the "Trust Fund") the purpose of which is to fund economic development projects as defined in the Act; and

WHEREAS, in accordance with *La. R.S. 33:9038.39*, and in order to finance and fund certain Projects, the governing authority of the City, in its capacity as governing authority of the District, desires to levy an additional sales tax of one percent (1%) in the District and to designate such increase in sales tax as the sales tax increment, together with a like amount of State of Louisiana (the "State") sales tax, if approved by the State, which will be used for economic development projects, as defined in the EDD Act, particularly in *La. R.S. 33:9038.34(M)* and *La. R.S. 33:9038.36*, in or benefitting the District;

NOW THEREFORE, BE IT ORDAINED by the City Council, acting in its capacity as the governing authority of the District, that:

SECTION 1. Adoption of Findings. All of the above "Whereas" clauses are adopted as part of this ordinance.

SECTION 2. Levy of Sales and Use Tax. In accordance with *La. R.S. 33:9038.39* and other constitutional and statutory authority supplemental thereto, there is hereby levied in the District, effective October 1, 2018, and continuing in perpetuity an additional sales tax of one percent (1%), upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property, upon the lease or rental of tangible personal property and on the sales of services in the District, as defined by law (the "District Tax").

The proceeds of the District Tax shall be used for economic development projects, as defined in the EDD Act, particularly in *La. R.S. 33:9038.34(M)* and *La. R.S. 33:9038.36*, in or benefitting the District.

The Uniform Local Sales Tax Code, as enacted by Act No. 73 of the 2003 Regular Session of the Louisiana Legislature, and as it may be amended from time to time, shall apply in the assessment, collection, administration and enforcement of the District Tax, the provisions of which Uniform Local Sales Tax Code are hereby incorporated by reference.

As provided by *La. R.S. 33:9038.39*, no election shall be required in connection with the levy of the District Tax, since there are no qualified electors in the District, as certified by the Calcasieu Parish Registrar of Voters by certification attached hereto as Exhibit A.

SECTION 3. Vendor's Compensation. For the purpose of compensating the dealer in accounting for and remitting the District Tax levied by this ordinance, each dealer shall be allowed one percent (1%) of the amount of District Tax due and accounted for and remitted to the Tax collector in the form of a deduction in submitting his report and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.

SECTION 4. Exclusions or Exemptions. This governing authority adopts none of the optional exclusions or exemptions allowed by state sales tax law, nor does this governing authority adopt any exclusions or exemptions authorized by legislation enacted under Article VI, Section 29(D)(1) of the Constitution of the State of Louisiana of 1974 that are not allowed as an exclusion or exemption from state sales tax. Included within the tax base of the District tax is every transaction, whether sales, use, lease or rental, consumption, storage or service, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana.

SECTION 5. Tax Collector. The District Tax is authorized to be collected by a "Collector" which term shall mean the Calcasieu Parish School Board Sales and Use Tax Department, or its successor in the role of parish wide sales tax collector. The Collector is hereby authorized, empowered and directed to carry into effect the provisions of this ordinance, to appoint deputies, assistants or agents to assist it in the performance of its duties, and in pursuance thereof to make and enforce such rules as it may deem necessary.

The District Tax shall be collected in the same manner, under the same terms and conditions and with the same penalty, interest, collection and compensation arrangements as other sales taxes in the City are collected by the Collector.

All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the Collector under any provision or provisions of this ordinance relating to the District Tax shall first be used to pay all costs and expenses of administering and collecting the District Tax and shall be promptly deposited by the Collector for the account of the District in the Trust Fund, provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to a separate account established by the Collector with said fiscal agent pending the final determination of the protest or litigation.

SECTION 6. Penalty, Interest and Attorneys Fees. As provided by *La. R.S. 47:337.69*, if the amount of District Tax due by the dealer is not paid on or before the twentieth (20th) day of the month next following the month for which the District Tax is due, there shall be collected,

with said District Tax, then interest upon said unpaid amount shall be at the rate of one and twenty-five hundredths per cent (1.25%) per cent per month, to be computed from the first day of the month next following the month for which the District Tax is due until it is paid. As provided by *La. R.S. 47:337.70*, in addition to the interest that may be so due there shall also be collected a penalty equivalent to five per cent (5%) for each thirty (30) days, or fraction thereof, of delinquency, not to exceed twenty-five per cent (25%) in the aggregate, of the District Tax due, when such District Tax is not paid, within thirty (30) days of the date the District Tax first becomes due and payable, and in the event of suit, attorney's fees at the rate of ten per cent (10%) of the aggregate of District Tax, interest and penalty.

As provided by *La. R.S. 47:337.72*, in the event any dealer fails to make a report and pay the District Tax as provided by this ordinance, or in case the dealer makes a grossly incorrect report, or a report that is false or fraudulent then the penalty shall be fifty per cent (50%) of the District Tax due and shall be the duty of the Collector to make an estimate for the taxable period of the retail sales, or sales of services, of such dealer, or of the gross proceeds from rentals or leases of tangible personal property by the dealer, and an estimate of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the District, and to assess and collect the District Tax and interest, plus penalty, if such have accrued, on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the dealer. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the Collector shall add to the assessment the cost of such examination, together with any penalties accruing thereon.

If any dealer fails to make any return required by this ordinance or make an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, then as provided by *La. R.S. 47:337.73* there shall be imposed, in addition to any other penalties provided herein, a specific penalty of five per cent (5%) of the District Tax or deficiency found to be due, or Ten Dollars (\$10.00), whichever is greater. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the District Tax due and can be enforced either in a separate action or in the same action for the collection of the District Tax.

As provided by *La. R.S. 47:337.74*, in the event a check used to make payment of a tax, interest, penalty, or other charges due is returned unpaid by the bank on which it is drawn for any reason related to the account on which the check is written, such shall constitute a failure to pay the tax, interest, penalty, or other charges due and a specific penalty shall be imposed on the taxpayer in addition to all other penalties provided by law; however, upon sufficient proof being furnished to the collector by the bank that the bank was at fault for the nonpayment of the check, the collector shall waive the penalty provided for in this ordinance. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax, interest, penalty, or other charges that is due in payment of which the check was given and may be enforced in a separate action or in any action instituted for the collection of the tax, interest, penalty, or other charges, and shall be an amount equal to the greater of one per cent (1%) of the check or twenty dollars (\$20.00).

The Collector is authorized to employ private counsel to assist in the collection of any District Tax, penalties or interest due under this ordinance, or to represent him/her in any proceeding under this ordinance. If any District Tax, penalties or interest due under this ordinance are referred to any attorney at law for collection, an additional charge of attorney fees, in the amount of ten per cent (10%) of the District Tax, penalties and interest due, shall be paid by the tax debtor.

As provided by *La. R.S. 47:337.75*, a penalty shall be added to the amount of District Tax due in an amount as itemized by the Collector to compensate for all costs incurred in making an examination of books, records or documents, or an audit thereof, or in the holding of hearings or the subpoenaing and compensating of witnesses.

As provided by *La. R.S. 47:337.76*, in the event the Collector uses the distraint procedure to enforce the collection of any tax there shall be imposed with respect to the tax for the collection of which the distraint procedure is used, a specific penalty of ten dollars (\$10.00) to compensate for the costs of the distraint procedure. This specific penalty shall be in addition to any penalty assessed as provided by law and shall be an obligation to be collected and accounted

for in the same manner as it were part of the tax due, and may be enforced either in a separate action or in the same action for the collection of the tax.

SECTION 7. Designation of Baseline Collection Rate. The District Tax levied pursuant to Section 2, above, is a new sales tax and the full amount thereof is hereby designated by the governing authority of the Lakefront Economic Development District of the City of Lake Charles to be used in determining the local sales tax increment pursuant to the Act. The initial annual baseline collection rate for the District, which is the amount of the District Tax collected in the District in the most recent completed fiscal year prior to the establishment of the District, is hereby designated to be zero (\$0) (the "Initial Baseline Collection Rate"), as the District Tax was not levied during the most recently completed fiscal year of this governing authority prior to the establishment of the District. The monthly baseline collection rate, which is the initial annual baseline collection rate divided by twelve (12), is hereby designated to be zero (\$0) (the "Monthly Baseline Collection Rate").

SECTION 8. DOF Certification. The Director of Finance for the City has furnished the certification in the form attached hereto as Exhibit B, as to the accuracy of the Initial Annual Baseline Collection Rate and Monthly Baseline Collection Rate and is authorized and directed to publish such certification in the official journal of the City, one time, as required by *La. R.S. 33:9038.34(C)*. If the amounts of the Initial Annual Baseline Collection Rate and Monthly Baseline Collection Rate are not contested within thirty days after the said publication, then such amounts shall be conclusively presumed to be valid, and no court shall have any jurisdiction to alter or invalidate the designation of the amount of either the Initial Annual Baseline Collection Rate and Monthly Baseline Collection Rate.

SECTION 9. Designation of Sales Tax Increment. This governing authority hereby designates the entire amount of the District Tax as the local sales tax increment, which is to be deposited, together with a like amount of State sales tax to the extent approved by the State, in the Trust Fund for economic development purposes in and directly benefitting properties in the district and hereby pledges and dedicates to such purpose the local sales tax increment, and a like amount of State sales tax increment to the extent approved by the State, in the manner provided by the Act.

SECTION 10. Notice to Public. This governing authority hereby acknowledges and affirms the prior publication of a notice describing the levy of the District Tax and informing the citizens of the date of consideration of this ordinance, said notice having been published once a week for two weeks in the official journal of the City, in the form of notice attached hereto as Exhibit C, and further acknowledges that the notices required by *La. R.S. 42:19.1* were properly and timely given.

SECTION 11. Use of Sales Tax Increments. Notwithstanding anything to the contrary contained herein, sales tax increments within the District, if any, and shall be used only for Projects that meet the definition of "economic development project" as that term is defined in *La. R.S. 33:9038.34(M)*.

SECTION 12. Authorization of Officers. The Mayor, Council President and Council Clerk are hereby authorized, empowered and directed to do any and all things necessary and incidental to carry out the provisions of this ordinance.

SECTION 13. Severability. If any provision of this ordinance shall be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid or legal, shall be deemed to apply to this ordinance.

SECTION 14. Repealer. All ordinances or resolution, or parts thereof, in conflict herewith are hereby repealed.

SECTION 15. Publication; Effective Date. This ordinance shall be published one time in the official journal of the City, and shall become effective immediately.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: Rodney Geyen, Luvertha August, Mark Eckard, Mary Morris, Johnnie Thibodeaux and Stuart Weatherford

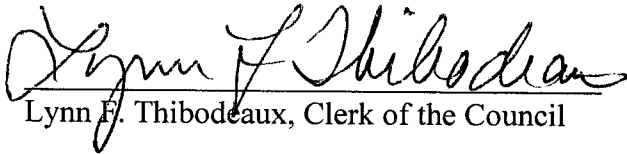
NAYS: None

ABSENT: John Ieyoub

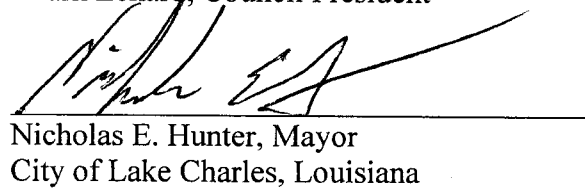
ABSTAINING: None

NOT VOTING: None

THUS DONE, APPROVED AND ADOPTED by the City Council, at a meeting of said public body duly held and conducted on August 15, 2018 in the City Council Chambers at 326 Pujoe Street in the City of Lake Charles.


Lynn F. Thibodeaux, Clerk of the Council


Mark Eckard, Council President


Nicholas E. Hunter, Mayor
City of Lake Charles, Louisiana

STATE OF LOUISIANA
PARISH OF CALCASIEU

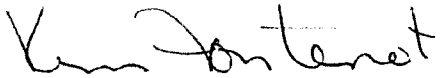
EXHIBIT A
to SALES TAX ORDINANCE

CERTIFICATE OF REGISTRAR OF VOTERS

I, Kim Fontenot, the Chief Deputy and Acting Registrar of Voters in and for the Parish of Calcasieu, State of Louisiana, do hereby certify to the City of Lake Charles, State of Louisiana (the "City"), that there are no qualified electors located in the economic development district known as the "Lakefront Economic Development District of the City of Lake Charles, State of Louisiana," having the specific geographical boundaries set forth in the ordinance adopted by the Council on June 20, 2018, creating said District.

IN FAITH WHEREOF, witness my signature and official seal of the Registrar of Voters of the Parish of Calcasieu, this 6th day of August, 2018.

(SEAL)



Chief Deputy and Acting Registrar of Voters

STATE OF LOUISIANA
PARISH OF CALCASIEU

EXHIBIT B
to SALES TAX ORDINANCE

I, Karen Harrell, in my capacity as Director of Finance of the City of Lake Charles, State of Louisiana (the "City"), and do hereby certify that the initial annual baseline collection for the additional sales tax of one percent (1%) proposed to be levied in the economic development district known as the "Lakefront Economic Development District of the City of Lake Charles, State of Louisiana," (the "District"), which is the amount of such designated sales tax collected in the District during the fiscal year of the City of Lake Charles, State of Louisiana, most recently completed prior to the establishment of the District (*i.e.* the fiscal year ended September 30, 2017), is zero (\$0), as the proposed additional sales tax was not levied during the previous fiscal year. The monthly baseline collection rate of the proposed tax, which is the annual baseline rate divided by twelve (12), is also zero (\$0).

IN FAITH WHEREOF, witness my signature on this 24 day of July, 2018.

(SEAL)

Karen D. Harrell
Director of Finance

[ORIGINAL ON FILE WITH THE CITY CLERK
AS AN ATTACHMENT TO ORIGINAL ORDINANCE]

**NOTICE OF INTENTION
TO LEVY NOT EXCEEDING
1% SALES AND USE TAX IN
LAKEFRONT ECONOMIC DEVELOPMENT DISTRICT
OF THE CITY OF LAKE CHARLES, STATE OF LOUISIANA**

NOTICE IS HEREBY GIVEN that the City Council of the City of Lake Charles, State of Louisiana (the "Council"), acting as the governing authority of Lakefront Economic Development District of the City of Lake Charles, State of Louisiana (the "District"), proposes to consider the adoption of an ordinance pursuant to *La. R.S. 33:9038.39*, levying in the District a sales and use tax of up to one percent (1%) for economic development projects, as defined in *La. R.S. 33:9038.34(M)* and *La. R.S. 33:9038.36*, in or benefitting the District. The proceeds of the sales tax collected in the District will be deposited in a special trust fund previously established for the District and used for economic development projects, as defined in *La. R.S. 33:9038.34(M)* and *La. R.S. 33:9038.36*, in or benefitting the District, in the manner provided by Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as amended (*La. R.S. 33:9038.33, et seq.*).

NOTICE IS HEREBY FURTHER GIVEN that the Council will meet in open and public session on August 15, 2018 at five-thirty o'clock (5:30) p.m., at City Council Chambers, 326 Pujoe Street, Lake Charles, Louisiana, to hear any objections to the levy of the aforesaid sales tax in the District for the purposes and as described above and to consider the adoption of the ordinance levying same. The District is the only area in which the EDD Taxes will be levied, as described and shown on the map as follows:

Commencing at the point where eastbound I-10 crosses the shoreline immediately north and east of the Lake Charles Yacht Club, proceed due east to the centerline of the I-10 Service Rd. and continuing (south of I-10) east along said centerline to the intersection of Veterans Memorial Blvd/N. Lakeshore Dr., then following the centerline of the southbound side of Veterans Memorial Blvd/N. Lakeshore Dr. to the intersection of Lakeshore Dr., then following the centerline of the southbound side of Lakeshore Dr. to the shoreline of the drainage canal/coulee immediately south of Clarence St., then following the shoreline of Lake Charles west and north around Millennium Park and the Lake Charles Civic Center, and continuing along said shoreline north and west to the Lake Charles Yacht Club, then following said shoreline around the west and north sides of the Lake Charles Yacht Club to the point of beginning.



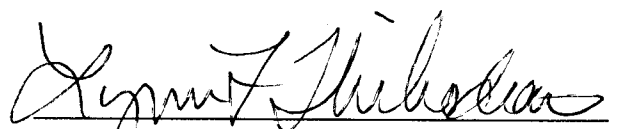
STATE OF LOUISIANA

PARISH OF CALCASIEU

I, Lynn F. Thibodeaux, the undersigned Clerk of the Council of the City of Lake Charles, State of Louisiana (the "City"), do hereby certify that the foregoing Ordinance (5) pages constitute a true and correct copy of an ordinance adopted by the governing authority of the City on August 15, 2018, levying an additional sales tax of one percent (1%) in the Lakefront Economic Development District of the City of Lake Charles, State of Louisiana; designating the full amount of such additional sales tax as the sales tax increments in the District from which the local and state sales tax increments will be determined and used to finance economic development projects in the District in accordance with and as authorized by Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as amended; designating the initial annual baseline collection rate and establishing a monthly baseline collection rate for the District; pledging and dedicating such tax for economic development projects, as defined in the EDD Act, particularly in *La. R.S. 33:9038.34(M)* and *La. R.S. 33:9038.36*, in or benefitting the District, and providing for other matters in connection with the foregoing.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of the City on this the 15th day of August, 2018.

(SEAL)


Lynn F. Thibodeaux, Clerk of the Council