Calcasieu Parish Recording Page

H. Lynn Jones II **Clerk of Court** P.O. Box 1030 Lake Charles, LA 70602 (337) 437-3550

Received From:

SULPHUR CITY OF

(113)

PO BOX 1309

SULPHUR, LA 70664-1309

First VENDOR

OPELRAM ECONOMIC DEVELOPMENT

First VENDEE

-RE: ORDN NO 1369 M-C SERIES PROVIDING THE LEVY AND COLLECTION OF A TWO PERCENT SALES AND USE TAX AND A TWO PERCENT HOTEL OCCUPANCY TAX

index Type:

CONVEYANCES

File Number: 3217383

Type of Document : ORDINANCE

Book: 4094

Page: 371

Recording Pages:

10

Recorded Information

I hereby certify that the attached document was filed for registry and recorded in the Clerk of Court's office for Calcasieu Parish, Louisiana

On (Recorded Date): 02/16/2016

At (Recorded Time): 10:10:13AM

Deputy Clerk

Doc ID - 031221010010

Return To: SULPHUR CITY OF

PO BOX 1309

SULPHUR, LA 70664-1309

(113)

STATE OF LOUISIANA

PARISH OF CALCASIEU

I, ARLENE BLANCHARD, certify that I am the duly qualified Clerk of the City Council of the City of Sulphur, Louisiana, the governing authority of said City.

I further certify that the foregoing is a true copy of <u>Ordinance No. 1369, M-C</u>

<u>Series</u> that was adopted by City Council on the <u>8th</u> day of <u>February, 2016</u>.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of the City of Sulphur, Louisiana, on this 10th day of February, 2016.

ARLENE BLANCHARD, CLERK

SEAL

OPELRAM ECONOMIC DEVELOPMENT DISTRICT

ORDINANCE NO. 1369 M-C SERIES

The following ordinance, which was previously introduced at a meeting of the Board of Directors of the Opelram Economic Development District on December 14, 2015 and the title thereof and notice of public hearing having been published twice in the official journal and delivered to each state senator and representative in whose district all or a portion of the District is located and the public hearing having been conducted, was brought up for final passage at a meeting of the Board of Directors of the Opelram Economic Development District on February 8, 2016 on motion of Mr. Moss and seconded by Mr. Faure:

PROVIDING FOR THE LEVY AND COLLECTION OF A TWO PERCENT (2%) SALES AND USE TAX (THE "SALES TAX") AND A TWO PERCENT (2%) HOTEL OCCUPANCY TAX (THE "HOTEL TAX") BY THE OPELRAM ECONOMIC DEVELOPMENT DISTRICT (THE "DISTRICT") FOR A PERIOD OF THIRTY (30) YEARS BEGINNING APRIL 1, 2016, IN ACCORDANCE WITH THE PROVISIONS AND TERMS OF CHAPTER 2D OF SUBTITLE II, SECTION 47 OF THE LOUISIANA REVISED STATUTES OF 1950, AS AMENDED (THE "UNIFORM LOCAL SALES TAX CODE"); AND PROVIDING FOR OTHER MATTERS WITH RESPECT THERETO.

WHEREAS, the Opelram Economic Development District (the "District") was created by the City of Sulphur (the "City") pursuant to an ordinance adopted by the City Council of the City of Sulphur, acting as the governing authority of the City, on December 14, 2015, as an economic development district pursuant to the provisions of Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 33:9038.31 through 33:9038.42, inclusive), and other constitutional and statutory authority (the "Act");

WHEREAS, the Act authorizes the District to levy up to two percent (2%) of sales and use taxes and up to two percent (2%) hotel occupancy taxes, or any combination thereof, within the boundaries of the District, above and in addition to any other sales taxes or hotel occupancy taxes, or combination of such taxes, then in existence or permitted to be in existence in the District and to pledge the collections of such taxes to assist in financing a project creating economic development;

WHEREAS, on December 14, 2015, in accordance with the provisions of the Act, the Board of Directors of the District, acting as the governing authority of the District (the "Board") adopted a resolution giving notice of its intention (the "Notice of Intent Resolution") to levy and collect a sales tax of two percent (2%) (the "Sales Tax") and a hotel occupancy tax of two percent (2%) (the "Hotel Tax"), such Tax to be levied and collected for a duration of thirty (30) years from the year of first assessment;

WHEREAS, the Notice of Intent Resolution authorized the publication of an "Official Public Notice of the Intent to Levy Sales Taxes and Hotel Occupancy Taxes Within the Executive Economic Development District as Described Herein" (the "Public Notice"), which Public Notice included the date, time, and place of a public hearing on the intent to levy said taxes and was published in the Southwest Daily News, the official journal of the District, once a week for two consecutive weeks on December 20, 2015, and December 23, 2015, with the first publication occurring no more than sixty (60) days nor less than thirty (30) days before such public hearing prior to the consideration of this Ordinance by the District, all as required by the Act and other applicable statutory authority;

WHEREAS, the Public Notice was transmitted by email to each state senator and representative in whose district all or a portion of the District is located no more than sixty (60) days nor less than thirty (30) days before such public hearing prior to the consideration of this Ordinance by the District in accordance with Section 19.1(A)(1)(a) of Title 42 of the Louisiana Revised Statutes of 1950, as amended;

WHEREAS, Opelram, Inc. (the "Company"), owns property within the boundaries of the District and desires to develop the property through the construction of a development that will include hotels, retail, and general commercial developments but shall not include any residential development, and to thereby stimulate the local economy and facilitate the continuing effort to develop and revitalize the City (the "Project");

WHEREAS, the District has determined that the Project constitutes an economic development project under the Act and serves a public purpose;

WHEREAS, the City, the District, and the Company have entered into that certain Cooperative Endeavor Agreement dated as of January 1, 2016 (the "Agreement") whereby the District agreed to levy a new two percent (2%) sales and use tax and a new two percent (2%) hotel occupancy tax within the

District and pledge the revenues from the net avails and proceeds of such taxes for the benefit of the Company in completing and operating the Project;

WHEREAS, the Registrar of Voters of the Parish of Calcasieu has certified that no qualified electors reside within the boundaries of the District:

WHEREAS, the public hearing on the intent to levy the Sales Tax and the Hotel Tax was held on February 8, 2015 prior to the consideration of this Ordinance by the District in accordance with the Act;

WHEREAS, the District has all the powers of a political subdivision and special taxing district necessary or convenient for the carrying out of its objects and purposes; and

WHEREAS, pursuant to the provisions of the Act, the Board of Directors of the District, acting as governing authority for the District, now desires to levy of the Sales Tax and the Hotel Tax and to pledge the revenues from the net avails and proceeds of the Sales Tax and the Hotel Tax for the benefit of the Company in completing and operating the Project.

NOW THEREFORE, BE IT ORDAINED by the Board of Directors of the Opelram Economic Development District, City of Sulphur, State of Louisiana (the "District"), acting as the governing authority of the District that:

SECTION 1. District Sales Tax and Hotel Tax. The levy of the Sales Tax in favor of the District upon the sale at retail, the use, the lease or rental, the consumption, the distribution and storage for use or consumption, of tangible personal property, and upon the sale of services in the District, and the levy of the Hotel Tax in favor of the District upon the rent or fee of occupancy for any establishment, either public or private, engaged in the business of furnishing or providing rooms and overnight camping facilities intended or designed for dwelling, lodging, or sleeping purposes to transient guests where such establishment consists of two (2) or more guest rooms and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families, shall be assessed, imposed, collected, paid, and enforced, in the manner and subject to the terms and provisions of the Uniform Local Sales Tax Code, the provisions of which are incorporated by reference herein.

Proceeds of the Sales Tax and the Hotel Tax described in this section, after payment of all reasonable and necessary costs and expenses of administering and collecting the Sales Tax and the Hotel Tax described herein and payment of all administrative costs of the City or the District in connection with the Project, shall be allocated, distributed, and used by the District in the manner and for the following purposes: (i) first, to pay the principal of and interest on the bonds issued by the District in connection with the Project, if any; (ii) second, to the Company solely to pay cost and obligations or to reimburse itself for such costs and obligations incurred in connection with the Project; and (iii) finally, for any lawful purpose of the District.

SECTION 2. Integrated Bracket Schedule Applicable to Collection. The Sales Tax and the Hotel Tax described in Section 1 shall be collected on the basis of the applicable integrated bracket schedule prescribed by the Collector of Revenue, State of Louisiana, pursuant to Section 304 of Title 47 of the Louisiana Revised Statutes of 1950, as amended (R.S. 47:304). The dealers shall remit to the sales tax collector of the District, the Sales and Use Tax Department of the Calcasieu Parish School Board (the "Collector") and comply with the Uniform Local Sales Tax Code, particularly La. R.S. 47:337.29., the proportionate part of the sales and use taxes and hotel occupancy taxes collected in the District in accordance with said integrated bracket schedule.

SECTION 3. <u>Vendor's Compensation</u>. For the purpose of compensating the dealer in accounting for and remitting the Sales Tax and the Hotel Tax described in this Ordinance, each dealer shall be allowed one percent (1%) of the amount of the Sales Tax and the Hotel Tax due and accounted for and remitted to the Collector in the form of a deduction in submitting his report and/or reports 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 and Exemptions. The Sales Tax and the Hotel Tax imposed under this Ordinance is subject to specific provisions under La. R.S. 47:305 of the Louisiana State sales and use tax laws and La. R.S. 47:337.9 of the Uniform Local Sales Tax Code. The District has not adopted the optional exclusions or exemptions allowed by Louisiana State sales and use tax law and codified under R.S. 47:337.10, nor shall it adopt any exclusions or exemptions which are not allowed as an exclusion or exemption from Louisiana State sales and use tax. Included within the tax base is every transaction, whether sales, use, lease or rental, or service, or hotel occupancy, as applicable, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana.

- SECTION 5. <u>Interest</u>. The interest on the unpaid Sales Tax and the unpaid Hotel Tax provided for by La. R.S. 47:337.69 shall be at the rate of one and one-fourth percent (1.25%) per month.
- SECTION 6. <u>Delinquency Penalty</u>. Penalty on the unpaid Sales Tax and the unpaid Hotel Tax as provided by La. R.S. 47:337.70 shall be five percent (5%) of the total tax due if delinquency is for not more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days or fraction thereof during which delinquency continues, not to exceed twenty-five percent (25%) in the aggregate.
- SECTION 7. <u>Penalty for False or Fraudulent Return</u>. Penalty as provided by La. R.S. 47:337.72 shall be fifty percent (50%) of the Sales Tax or the Hotel Tax found to be due.
- SECTION 8. <u>Negligence Penalty</u>. The penalty provided by La. R.S. 47:337.73 shall be five percent (5%) of the Sales Tax or the Hotel Tax or deficiencies found to be due, or ten dollars (\$10.00), whichever is greater.
- SECTION 9. <u>Penalty for Insufficient Funds Check</u>. The penalty provided in La. R.S. 47:337.74 shall be an amount equal to or greater of one percent (1%) of the check or twenty dollars (\$20.00).
- SECTION 10. Attorney Fees. The Collector is authorized to employ private counsel to assist in the collection of any Sales Tax and Hotel Tax, penalties or interest due under this Ordinance, or to represent him in any proceeding under this Ordinance. If any Sales Tax and Hotel Tax, penalties or interest due under this Ordinance are referred to an attorney at law for collection, an additional charge of attorney fees, in the amount of ten percent (10%) of the Sales Tax or the Hotel Tax penalties and interest due, shall be paid by the tax debtor. Additional provisions applicable to attorney fees, inclusive of prevailing party and waiver of such fees, are included under La. R.S. 47:337.13.1 the Uniform Local Sales Tax Code.
- SECTION 11. <u>Limits on Interest, Penalty and Attorney Fees</u>. Should the interest, penalties, or attorney fees herein, or the combined interest, penalties, and attorney fees be declared to be in excess of limits provided by other law, including relevant jurisprudence, then the maximum interest, penalties and attorney fees allowed by such other law shall apply.
- SECTION 12. <u>Collector</u>. All sales and use taxes and hotel occupancy taxes described in this Ordinance shall be collected by a "Collector" as provided by La. R.S. 47:301(2)(b) shall mean and include the Calcasieu Parish School Board Sales and Use Tax Department, the entity presently collecting sales and use taxes and hotel occupancy taxes on behalf of the District.
- SECTION 13. <u>Powers of Collector</u>. 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 in the performance of his duties, and in pursuance thereof to make and enforce such rules as he may deem necessary.
- SECTION 14. <u>Disposition of Revenues</u>. All Sales Tax and Hotel Tax revenues, funds, assessments, monies, 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 Sales Tax and the Hotel Tax described herein shall be promptly deposited by the Collector for the account of the District, 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.

Out of the funds on deposit in such special funds, the Collector shall first pay all reasonable and necessary costs and expenses of administering and collecting the Tax described herein and administering the provisions of this Ordinance, as well as the various administrative and enforcement procedures. Such costs and expenses shall be reported by the Collector monthly to the District.

In compliance with the levy and collection of the Sales Tax and the Hotel Tax described herein, after all reasonable and necessary costs and expenses of collecting and administration of the Tax have been paid as provided for above, the remaining balance in such special funds shall be available for appropriation and expenditure by the District, solely for the purposes designated herein.

- SECTION 15. <u>Accounting for Funds</u>. All funds or accounts described herein may be separate funds or accounts or may be a separate accounting with a general or "sweep" fund or account containing monies from multiple sources so long as separate accounting of such monies is sustained.
- SECTION 16. <u>Severability</u>. If any one or more of the provisions of this Ordinance shall for any reason 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 17. <u>Uniform Local Sales Tax Code is Controlling</u>. If any provision of this Ordinance shall be in conflict with the provisions of the Uniform Local Sales Tax Code, the provisions of the Uniform Local Sales Tax Code shall be controlling.

SECTION 18. Effective Date. The levy of the Sales Tax and the Hotel Tax shall be effective on April 1, 2016.

SECTION 19. <u>Term</u>. The Sales Tax and the Hotel Tax shall remain in effect for thirty (30) years (April 1, 2016 through March 31, 2046).

SECTION 20. <u>Publication and Recordation</u>. A copy of this Ordinance shall be duly published in the Southwest Daily News, the official journal of the District, as soon as is reasonably possible. A certified copy of this Ordinance shall be recorded in the mortgage records of Calcasieu Parish, Louisiana.

CHRISTOPHER LIDUNCAN - MAYOR

APPROVED AND ADOPTED by the City Council of the City of L. Sulphur, Louisiana, on this day of ________, 2016.

Lu lludy

DRU ELLENDER, Chairman

I HEREBY CERTIFY that the foregoing Ordinance has been presented to the Mayor on this other day of Authory, 2016, at 9:00 o'clock a l.m.

APIENE DI ANCHARD CILI

ARLENE BLANCHARD, Clerk

I HEREBY CERTIFY that I have received from the Mayor at 7:30 o'clock a.m. on this \(\begin{array}{c} \dots \\ \dots \end{array} \) day of \(\frac{\dots \cdots \c

ARLENE BLANCHARD, Clerk

The Ordinance was put to a vote as follows:

Board Member	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	Abstaining -
Veronica Allison Dennis Bergeron Dru Ellender Randy Favre				
Stuart Moss				

And the Ordinance was declared adopted on this, the 8th day of February, 2016.

RBOVED other matters not pertinent hereto are omitted)

CERTIFIED TO BE A TRUE COPY.

CHRISTOPHER J. DUNCAN - MAYOR

DATE 2/15/2016

Dru Ellender Chairman

ATTEST:

Secretary-Treasurer

STATE OF LOUISIANA

PARISH OF CALCASIEU

I, the undersigned Secretary-Treasurer of the Opelram Economic Development District (the "District"), do hereby certify that the foregoing constitutes a true and correct copy of the proceedings taken by the District Board of the District, the governing authority of the District on February 8, 2016, captioned as follows:

PROVIDING FOR THE LEVY AND COLLECTION OF A TWO PERCENT (2%) SALES AND USE TAX (THE "SALES TAX") AND A TWO PERCENT (2%) HOTEL OCCUPANCY TAX (THE "HOTEL TAX") BY THE OPELRAM ECONOMIC DEVELOPMENT DISTRICT (THE "DISTRICT") FOR A PERIOD OF THIRTY (30) YEARS BEGINNING APRIL 1, 2016, IN ACCORDANCE WITH THE PROVISIONS AND TERMS OF CHAPTER 2D OF SUBTITLE II, SECTION 47 OF THE LOUISIANA REVISED STATUTES OF 1950, AS AMENDED (THE "UNIFORM LOCAL SALES TAX CODE"); AND PROVIDING FOR OTHER MATTERS WITH RESPECT THERETO.

IN FAITH WHEREOF, witness my official signature on this, the 10th day of February 2016.

Secretary-Treasurer

EXHIBIT A

OPELRAM ECONOMIC DEVELOPMENT DISTRICT LEGAL BOUNDARIES

The Opelram Economic Development District (the "District") encompasses approximately 10.37 acres in the City of Sulphur, Calcasieu Parish, Louisiana, generally described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SE/4 OF SW/4) OF SECTION 3, TOWNSHIP 10 SOUTH, RANGE 10 WEST, OF CALCASIEU PARISH, LOUISIANA; THENCE N0°14'58"E 140.40 FEET, MORE OR LESS, TO THE SOUTH LINE OF A 50.00 FOOT ROAD THENCE S89°32'56"E 372.66 FEET, THENCE S0°40'19"W 310.00 FEET, THENCE S89°32'56"E 150.00 FEET, THENCE N0°40'19"E 85.00 FEET, THENCE S89°32'56"E 255.00 FEET, THENCE S0°40'19"W 489.30 FEET, MORE OR LESS, TO THE NORTH LINE OF A ROAD, THENCE N89°38'21"E 778.39 FEET, THENCE N0°50'49"W 575.14 FEET TO THE POINT OF COMMENCEMENT; CONTAINING 451,925.12 SQUARE FEET OR 10.37 ACRES, MORE OR LESS.

EXHIBIT B

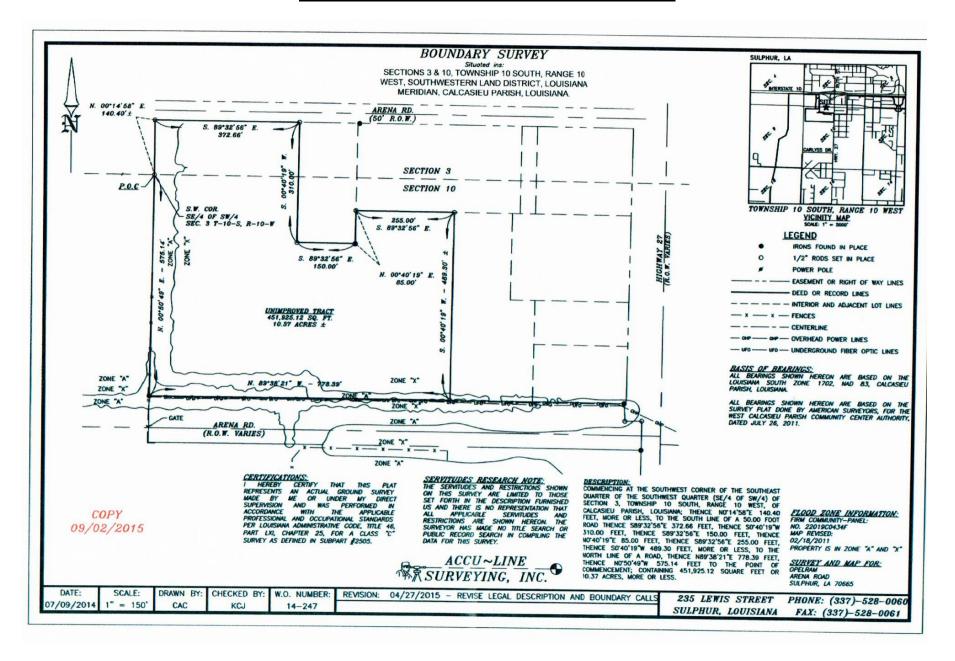
OFFICIAL PUBLIC NOTICE OF THE INTENT TO LEVY SALES TAXES AND HOTEL OCCUPANCY TAXES WITHIN THE OPELRAM ECONOMIC DEVELOPMENT DISTRICT AS DESCRIBED HEREIN

NOTICE IS HEREBY GIVEN to all citizens and to all other interested persons of the intention of the Opelram Economic Development District, an economic development district created by the adoption of an ordinance by the City Council of the City of Sulphur (the "City") on December 14, 2015 with the boundaries set forth below (the "District"), to levy a two percent (2%) sales and use tax upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and on sales of services in the District (the "Sales Tax") and a two percent (2%) hotel occupancy tax on the occupancy of hotel rooms, motel rooms, and overnight camping facilities within the boundaries of the District (the "Hotel Tax"), all as presently defined in La. R.S. 47:301 through 316, inclusive, and La. R.S. 33:4574.1(1)(C), within the District as authorized by La. R.S. 33:9038.39 to be used by the District or Opelram, Inc., in order to finance a development that will include hotels, retail, and general commercial developments but shall not include any residential development, and to thereby stimulate the local economy and facilitate the continuing effort to develop the City (the "Project"), including paying the principal of and interest on the bonds issued by the District, if any, to finance the Project. The boundaries of the District encompass will encompass approximately 10.37 acres in the City of Sulphur, Calcasieu Parish, Louisiana, generally described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SE/4 OF SW/4) OF SECTION 3, TOWNSHIP 10 SOUTH, RANGE 10 WEST, OF CALCASIEU PARISH, LOUISIANA; THENCE N0°14'58"E 140.40 FEET, MORE OR LESS, TO THE SOUTH LINE OF A 50.00 FOOT ROAD THENCE S89°32'56"E 372.66 FEET, THENCE S0°40'19"W 310.00 FEET, THENCE S89°32'56"E 150.00 FEET, THENCE N0°40'19"E 85.00 FEET, THENCE S89°32'56"E 255.00 FEET, THENCE S0°40'19"W 489.30 FEET, MORE OR LESS, TO THE NORTH LINE OF A ROAD, THENCE N89°38'21"E 778.39 FEET, THENCE N0°50'49"W 575.14 FEET TO THE POINT OF COMMENCEMENT; CONTAINING 451,925.12 SQUARE FEET OR 10.37 ACRES, MORE OR LESS.

The governing authority of the District will meet in open and public session at City Hall, 500 N. Huntington St., Sulphur, Louisiana 70663, on Monday, February 8, 2016 beginning at 5:30 p.m. to hear any objections to the proposed levy of the Sales Tax and the Hotel Tax.

Opelram Economic Development District



The district is located on Arena Rd in Sulphur, LA. The orange arrow below indicates the land that is included in the district.

