

PARISH OF  CALCASIEU

State of Louisiana

ORDINANCE

ORDINANCE NO. 4700

An ordinance providing for the renewal of the levy and collection of a one-percent (1%) sales and use tax by Sales Tax District No. One of Calcasieu Parish, Louisiana, for an additional 20-year period beginning September 1, 2004, in accordance with the provisions and terms of Chapter 2D of Subtitle II, Title 47 of the Louisiana Revised Statutes of 1950, as it may be amended (the "Uniform Local Sales Tax Code").

WHEREAS, pursuant to the provisions of Section 2721.4 of Title 33 of the Louisiana Revised Statutes of 1950 and Article VI, Sections 7(A), 29(A), 30 and 32 of the Louisiana Constitution of 1974, and the authority granted at a special election held within the Parish on March 9, 2004, the Parish now renews the levy and collection of a one-percent (1%) sales and use tax for an additional 20-year period beginning September 1, 2004, the proceeds of which are to be allocated, distributed, and used by Sales Tax District No. One of Calcasieu Parish, Louisiana, as set forth in the proposition submitted at said election, which proposition is attached hereto as Exhibit "A" and made a part of this ordinance as if fully set forth herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE POLICE JURY OF CALCASIEU PARISH, LOUISIANA, acting as the governing authority of the Parish of Calcasieu, State of Louisiana (the "Parish") and the governing authority of Sales Tax District No. One of Calcasieu Parish, Louisiana (the "District") that:

SECTION 1. District 1% Tax. The renewal of a one-percent (1%) sales and use tax of the District authorized at a special election held in the District on March 9, 2004, 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, shall continue to be assessed, imposed, collected, paid and enforced, in the manner and subject to the terms and provisions of Chapter 2D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 as amended (hereinafter, the "Uniform Local Sales Tax Code"), the provisions of which are incorporated by reference herein.

The proceeds of the one-percent (1%) sales and use tax, described in this section shall continue to be allocated, distributed and used by the District in the manner and for the purposes described and provided for in Exhibit "A" hereto which is the proposition approved by the electorate of the District at an election held March 9, 2004.

SECTION 2. Integrated Bracket Schedule Applicable to Collection. The sales and use 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 (R.S. 47:304). The dealers shall remit to the sales tax collector for the Parish and comply with the Uniform Local Sales Tax Code, particularly R. S. 47:337.29, the proportionate part of the sales and use taxes collected in the District in accordance with said integrated bracket schedule.

SECTION 3. Vendor's Compensation. For the purpose of compensating the dealer in accounting for and remitting the sales and use tax described in this ordinance, each dealer shall be allowed one percent (1%) of the amount of the sales and use taxes due and accounted for and remitted to the Collector for the Parish and the District 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 taxes imposed under this ordinance are subject to specific provisions under La. R.S. 47:305 of the State sales and use tax laws and La. R.S. 47:337.9 of the Uniform Local Sales Tax Code. Notwithstanding these provisions, certain additional exemptions are applicable to the taxes imposed herein due to the statutory authority under which the District's sales and use tax was authorized (La. R.S. 33:2721.4). These additional exemptions, which are only applicable to the taxes imposed by Sales Tax District No. One are enumerated as follows: La. R.S. 47:305 (D) (1) (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (u); and La. R.S. 47:305 (D) (4) (a). Neither the Parish or the District has adopted the optional exclusions or exemptions allowed by State sales and use tax law and codified under R.S. 47:337.10, nor do they plan to adopt any exclusions or exemptions that are not allowed as an exclusion or exemption from State sales and use tax. Included within the tax base is every transaction, whether sales, use, lease or rental, 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. Interest. The interest on unpaid taxes provided for by La. R.S. 47:337.69 shall be at the rate of one and one-fourth percent (1-1/4%) per month.

SECTION 6. Delinquency Penalty. Penalty as provided by La. R. S. 47:337.70 shall be five percent (5%) per month.

SECTION 7. Penalty for False or Fraudulent Return. Penalty as provided by La. R.S. 47:337.72 shall be fifty percent (50%) of the particular sales and use taxes found to be due.

SECTION 8. Negligence Penalty. The penalty provided by La. R.S. 47:337.73 shall be five percent (5%) of the particular sales and use taxes or deficiencies found to be due, or ten dollars (\$10.00), whichever is greater.

SECTION 9. Penalty for Insufficient Funds Check. The penalty provided in La. R.S. 47:337.74 shall be an amount equal to the 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 taxes, penalties or interest due under this ordinance, or to represent him in any proceeding under this ordinance. If any taxes, 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 taxes, penalties and interest due, shall be paid by the tax debtor.

SECTION 11. Limits on Interest, Penalty and Attorney Fees. 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. Collector. All sales and use taxes described in this ordinance shall be collected by a "Collector" as provided by La. R.S. 47:301.(2)(b) which shall mean and include the Calcasieu Parish School Board Sales and Use Tax Department, the entity presently collecting sales and use taxes on behalf of the Parish and the District.

SECTION 13. Powers of 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 in the performance of his duties, and in pursuance thereof to make and enforce such rules as he may deem necessary.

SECTION 14. Disposition of Revenues. All taxes, 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 and use tax described herein shall be promptly deposited by the Collector for the account of the Parish and/or 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 sales and use 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 governing authority of the Parish, acting as the governing authority of the District.

In compliance with the special election authorizing the renewal of the levy and collection of the sales and use tax described herein, after all reasonable and necessary costs and expenses of collecting and administration of the sales and use tax have been paid as provided for above, the remaining balance in such special funds shall be available for appropriation and expenditure by the governing authority of the Parish, as governing authority of the District, solely for the purposes designated in the proposition authorizing the levy of the sales and use tax described herein.

SECTION 15. Accounting for Funds. 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 maintained.

SECTION 16. Severability. 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. Uniform Local Sales Tax Code is Controlling. 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. Effect Upon Prior Sales Tax Ordinances. With respect to the Parish sales and use tax herein described and the sales and use tax of the District, this ordinance shall be considered as additional and supplemental to the ordinances heretofore adopted by this Police Jury as governing authority of the District, to provide that the sales and use tax now authorized to be levied in the Parish and the District shall hereinafter be collected, administered and enforced in the manner provided by the Uniform Local Sales Tax Code and shall not be construed to rescind and repeal any prior resolutions or ordinances of the Parish or the District relating to the levy, allocation, distribution and use of the proceeds of the sales and use tax described herein.

SECTION 19. Effective Date. The renewal of the Tax shall be effective on September 1, 2004.

SECTION 20. Term. The Tax shall remain in effect for twenty (20) years (September 1, 2004, through August 31, 2024).

SECTION 21. Publication and Recordation. A copy of this ordinance shall be duly published in the "Lake Charles American Press", official journal of the Parish and the District, as soon as is reasonably possible. A certified copy of this ordinance shall be recorded in the mortgage records of the Parish of Calcasieu, State of Louisiana.

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

EXHIBIT "A"

ROAD AND BRIDGE SALES AND USE TAX RENEWAL PROPOSITION

SUMMARY: Renewal of a twenty (20) year one-percent (1%) sales and use tax by Sales Tax District No. One of Calcasieu Parish, Louisiana, beginning September 1, 2004, for acquiring, constructing, improving, maintaining, operating, equipping, repairing and draining public roads, highways, bridges and parks, and purchasing, operating and maintaining equipment and supplies therefor.

"Shall Sales Tax District No. One of Calcasieu Parish, Louisiana (the "District"), and under the provisions of Article VI, Sections 7(A), 29(A), 30 and 32 of the Constitution of the State of Louisiana of 1974 and other constitutional and statutory authority supplemental thereto, be authorized to levy and collect and adopt an ordinance providing for such levy and collection, a tax of one percent (1%) (the "Tax") upon the sale at retail, the use, the lease or rental, the consumption and the storage for use or consumption of tangible personal property and on sales of services in the District to run for a period not to exceed twenty (20) years beginning September 1, 2004, all as defined in L.R.S. 47:301 through L.R.S. 47:317, inclusive, with the avails, proceeds and revenues of the said Tax, after paying reasonable and necessary costs and expenses of collecting and administering the Tax, to be dedicated and used for acquiring, constructing, improving, maintaining, operating, equipping, repairing and draining public roads, highways, bridges and parks, and purchasing, operating and maintaining equipment and supplies therefor, with not less than one-third (1/3) of the avails, proceeds and revenues of the Tax to be used for the purchase of materials, equipment and services for the repair, maintenance and overlaying of Parish roads?"

YEAS: Mesdames Elizabeth Conway Griffin and Sandra J. Treme; and Messrs. Francis Andrepont, Mike Danahay, Tony Guillory, Chuck Kleckley, Chris Landry, Charles S. Mackey, D.D.S., Don Manuel, Hal McMillin, Cornelius "Cornie" Moon, Tony Stelly, and Alvin Stevens

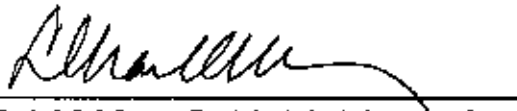
NAYS: None

ABSENT: Mr. Calvin Collins

NOT VOTING: President Clement

THUS DONE, PASSED AND ADOPTED on the 18th day of March, 2004.


Brent Clement, President


S. Mark McMurry, Parish Administrator &
Ex-Officio Parish Secretary

STATE OF LOUISIANA
PARISH OF CALCASIEU

I HEREBY CERTIFY that the foregoing is a true and correct copy of the original ordinance as adopted by the Calcasieu Parish Police Jury in regular session convened on the 18th day of March, 2004.

IN TESTIMONY WHEREOF, witness my official signature and the seal of the Parish of Calcasieu, Louisiana, on this the 14th day of June, 2006.


Kathy P. Smith, Recording Secretary