

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 5659

ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: DEAN/BRISTER

PROVIDED BY: LEGAL DEPARTMENT

INTRODUCED BY: MR. BELLISARIO

SECONDED BY: MR. LORINO

ON THE 1 DAY OF SEPTEMBER, 2016

ORDINANCE LEVYING AN ADDITIONAL SALES TAX OF THREE-QUARTERS OF ONE PERCENT (0.75%) IN THE HWY. 59 ECONOMIC DEVELOPMENT DISTRICT; 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 ST. TAMMANY PARISH IN ACCORDANCE WITH AND AS AUTHORIZED BY PART II, CHAPTER 27, TITLE 33 OF THE LOUISIANA REVISED STATUTES OF 1950, AS AMENDED; ESTABLISHING AND CREATING AN ECONOMIC DEVELOPMENT TRUST FUND FOR THE DISTRICT; DESIGNATING THE INITIAL ANNUAL BASELINE COLLECTION RATE AND ESTABLISHING A MONTHLY BASELINE COLLECTION RATE FOR THE DISTRICT; PLEDGING AND DEDICATING SUCH TAX INCREMENTS TO REIMBURSE ECONOMIC DEVELOPMENT COSTS 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 "EDD Act") authorizes municipalities, parishes and certain other local governmental subdivisions to create economic development districts to carry out the purposes of the EDD 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 EDD Act and other law; and

WHEREAS, La. R.S. 33:9038.39 permits economic development districts to levy sales taxes up to two percent for authorized purposes in addition to any other sales taxes then in existence or permitted to be in existence therein, and provided that in the event there are no qualified electors in the district in question, as certified by the Registrar of Voters, no election shall be required prior to the levy of such sales taxes; and

WHEREAS, by Ordinance No. 14-3083 adopted on February 6, 2014, the governing authority of the Parish of St. Tammany, State of Louisiana (the "Parish") created the Hwy. 59 Economic Development District (the "District"), in accordance with La. R.S. 33:9038.32, with boundaries set forth in said Ordinance; 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 EDD 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 La. R.S. 33:9038.39, and in order to finance and fund certain Projects, the governing authority of the Parish, in its capacity as governing authority of the District, desires to levy an additional sales tax of three-quarters of one percent (0.75%) 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 to reimburse costs of economic development projects as defined in the EDD Act anywhere in St. Tammany Parish, and to establish a special trust fund for the furtherance of economic development projects.

NOW THEREFORE, in its capacity as governing authority of the Hwy. 59 Economic Development District,

THE PARISH COUNCIL OF THE PARISH OF ST. TAMMANY HEREBY ORDAINS in regular session convened:

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 and imposed in the District, effective January 1, 2017, a permanent sales tax of three-quarters of one percent (0.75%), 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 to pay the costs of 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, anywhere in St. Tammany Parish.

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 St. Tammany Parish Registrar of Voters by certification attached hereto as Exhibit A.

SECTION 3. Creation of Trust Fund. Under the authority of La. R.S. 33:9038.34(O), there is hereby created a special trust fund, to be named the "Hwy. 59 Economic Development District Trust Fund" (the "Trust Fund") the purpose of which will be to fund economic development projects selected by the District in the manner provided by the EDD Act. The Trust Fund shall be established by the Chief Financial Officer of the Parish and maintained as a separate fund, apart from other funds and accounts of the Parish or other entities, and shall be used strictly for the purposes set forth herein and in the EDD Act.

SECTION 4. 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 and one-tenth percent (1.10%) 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 5. 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 6. Tax Collector. The District Tax is authorized to be collected by a "Collector" which term shall mean the Sales Tax Department of the St. Tammany Parish Sheriff, 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 Parish are collected by the Collector.

With regard to the collection of the District Tax on any motor vehicle, automobile, truck, truck-trailer, trailer, semi-trailer, motor bus, home trailer, or any other vehicle subject to the vehicle registration license tax, this Governing Authority, acting through the Parish and on behalf of the District, for the collection of the District Tax on such vehicles, is authorized to enter into an agreement with the Vehicle Commissioner, Department of Public Safety and Corrections, as provided by La. R.S.47:303(B).

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 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 7. Penalty, Interest and Attorneys Fees. 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, interest upon said unpaid amount, at the rate of fifteen per cent (15%) per annum, or fractional part thereof, 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; and 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.

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, it 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 makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, 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.

SECTION 8. 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 this Governing Authority to be used in determining the local sales tax increment pursuant to the EDD 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 9. CFO Certification. The Chief Financial Officer of the Parish 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 St. Tammany Farmer, the official journal of the Parish, 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 the Monthly Baseline Collection Rate.

SECTION 10. Designation of Sales Tax Increment. The Parish Council 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 special trust fund created herein for the furtherance of economic development projects through reimbursement of costs of economic development projects 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 EDD Act.

SECTION 11. Notice to Public. The Parish Council 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 St. Tammany Farmer, the official journal of the Parish, in the form of notice attached hereto as Exhibit C, the first publication having appeared at least fourteen days before the public hearing held pursuant thereto.

SECTION 12. Use of Sales Tax Increments. Notwithstanding anything to the contrary contained herein, sales tax increments within the District, if any, shall be used only for Projects that meet the definition of "economic development project" as that term is defined in La. R.S. La. R.S. 33: 9038.34(M) and La. R.S. 33:9038.36 located anywhere in St. Tammany Parish.

SECTION 13. Authorization of Officers. The Parish President, Council Chairman and Council Clerk are hereby authorized and empowered to do all acts, sign any and all instruments or documents, and do all things necessary and proper in order to carry out the purpose and provisions of this resolution.

SECTION 14. 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 15. Repealer. All ordinances or resolution, or parts thereof, in conflict herewith are hereby repealed.

SECTION 16. Publication; Effective Date. This ordinance shall be published one time in the St. Tammany Farmer, and pursuant to Section 2-12(C) of the St. Tammany Parish Home Rule Charter, this ordinance shall become effective immediately upon approval by the Parish President.

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 6 DAY OF OCTOBER , 2016 ; AND BECOMES ORDINANCE COUNCIL SERIES NO _____.

MARTY DEAN, COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

PATRICIA P. BRISTER, PARISH PRESIDENT

Published Introduction: AUGUST 25 , 2016

Published Adoption: _____, 2016

Delivered to Parish President: _____, 2016 at _____

Returned to Council Clerk: _____, 2016 at _____

**EXHIBIT A
to Sales Tax Ordinance**

STATE OF LOUISIANA

PARISH OF ST. TAMMANY

CERTIFICATE OF REGISTRAR OF VOTERS

I, M. Dwayne Wall, the duly appointed Registrar of Voters in and for the Parish of St. Tammany, State of Louisiana, do hereby certify to the St. Tammany Parish Council that there are no qualified electors in the boundaries of the economic development district known as the "Hwy. 59 Economic Development District," being a commercial tract of land in the vicinity of the intersection of I-12 and Hwy. 59, and having the geographical boundaries set forth in Ordinance No. 14-3083 adopted by the St. Tammany Parish Council on February 6, 2014, creating said District, and the map attached to said ordinance which is on file with my office.

IN FAITH WHEREOF, witness my signature and official seal of the Registrar of Voters of the Parish of St. Tammany, this ____ day of _____, 2016.

(SEAL)

/s/ M. Dwayne Wall
M. Dwayne Wall,
St. Tammany Parish Registrar of Voters

**[ORIGINAL ON FILE WITH THE COUNCIL CLERK
ST. TAMMANY PARISH COUNCIL AS
AN ATTACHMENT TO ORDINANCE NO 16 - _____]**

EXHIBIT B
to Sales Tax Ordinance

STATE OF LOUISIANA

PARISH OF ST. TAMMANY

I, Leslie Long, in my capacity as Chief Financial Officer of the Parish of St. Tammany, State of Louisiana (the "Parish"), certify that I am the chief financial officer of the Parish and do further certify that the initial annual baseline collection for the additional sales tax of three-quarters of one percent (0.75%) that has been proposed to be levied in the economic development district known as the "Hwy. 59 Economic Development District" (the "District"), which is the amount of such designated sales tax collected in the District during the fiscal year of the Parish most recently completed prior to the establishment of the District (i.e. the fiscal year ended December 31, 2015), is zero (\$0), as the proposed additional sales tax was not levied during the previous fiscal year. The monthly baseline collection rate of each of the proposed taxes, which is the annual baseline rate divided by twelve (12), is also zero (\$0).

IN FAITH WHEREOF, witness my signature on this ____ day of _____, 2016.

(SEAL)

/s/ Leslie Long
Chief Financial Officer

**[ORIGINAL ON FILE WITH THE COUNCIL CLERK
ST. TAMMANY PARISH COUNCIL AS
AN ATTACHMENT TO THIS ORDINANCE]**

EXHIBIT C
to Sales Tax Ordinance

NOTICE OF INTENTION
TO LEVY 0.75% SALES AND USE TAXES IN THE
AIRPORT ROAD ECONOMIC DEVELOPMENT DISTRICT,
HWY. 59 ECONOMIC DEVELOPMENT DISTRICT,
HWY. 1077 ECONOMIC DEVELOPMENT DISTRICT,
HWY. 434 ECONOMIC DEVELOPMENT DISTRICT, AND
HWY. 1088 ECONOMIC DEVELOPMENT DISTRICT,
STATE OF LOUISIANA

NOTICE IS HEREBY GIVEN that the St. Tammany Parish Council, acting as the governing authority of (i) Airport Road Economic Development District, (ii) Hwy. 59 Economic Development District, (iii) Hwy. 1077 Economic Development District, (iv) Hwy 434 Economic Development District, and (v) Hwy. 1088 Economic Development District, State of Louisiana (collectively, the "Districts"), proposes to consider the adoption of ordinance(s) pursuant to La. R.S. 33:9038.39, levying in each of the aforesaid Districts a sales and use tax of three-quarters of one percent (0.75%), for the purpose of financing economic development projects, as defined in La. R.S. 33: 9038.34(M) and La. R.S. 33:9038.36, anywhere in St. Tammany Parish. The proceeds of the sales taxes collected in each of the Districts will be deposited in special trust funds to be established for each of the Districts, to fund economic development projects anywhere in St. Tammany Parish in the manner provided by Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 33:9038.31, *et seq.*).

NOTICE IS HEREBY FURTHER GIVEN that the St. Tammany Parish Council will meet in open and public session on October 6, 2016 at six o'clock (6:00) p.m., at Council Chambers, 21490 Koop Dr., Mandeville, Louisiana, to hear any objections to the levy of sales taxes in each of the Districts for the purposes and as described above.

Maps showing the boundaries of each of the Districts follow:

BOUNDARIES & MAPS WERE INCLUDED IN PUBLICATION
BUT ARE NOT REPRODUCED HEREIN

STATE OF LOUISIANA

PARISH OF ST. TAMMANY

I, the undersigned Clerk of the St. Tammany Parish Council (the "Parish Council"), do hereby certify that the foregoing _____ (___) pages constitute a true and correct copy of an ordinance adopted by the Parish Council on October 6, 2016, levying an additional sales tax of three-quarters of one percent (0.75%) in the Hwy. 59 Economic Development District (the "District"); 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 St. Tammany Parish in accordance with and as authorized by Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as Amended; establishing and creating an economic development trust fund for the District; designating the initial annual baseline collection rate and establishing a monthly baseline collection rate for the District; pledging and dedicating such tax increments to reimburse economic development costs 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 Parish on this the 6th day of October, 2016.

(SEAL)

COUNCIL CLERK

Ordinance Administrative Comment

ORDINANCE LEVYING AN ADDITIONAL SALES TAX OF THREE-QUARTERS OF ONE PERCENT (0.75%) IN THE HWY. 59 ECONOMIC DEVELOPMENT DISTRICT; 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 ST. TAMMANY PARISH IN ACCORDANCE WITH AND AS AUTHORIZED BY PART II, CHAPTER 27, TITLE 33 OF THE LOUISIANA REVISED STATUTES OF 1950, AS AMENDED; ESTABLISHING AND CREATING AN ECONOMIC DEVELOPMENT TRUST FUND FOR THE DISTRICT; DESIGNATING THE INITIAL ANNUAL BASELINE COLLECTION RATE AND ESTABLISHING A MONTHLY BASELINE COLLECTION RATE FOR THE DISTRICT; PLEDGING AND DEDICATING SUCH TAX INCREMENTS TO REIMBURSE ECONOMIC DEVELOPMENT COSTS AND PROVIDING FOR OTHER MATTERS IN CONNECTION WITH THE FOREGOING.

Parish seeks to levy a sales and use tax in the presently-existing Hwy. 59 Economic Development District in accordance with, and as authorized by, Part II, Chapter 27, Title 33 of the Louisiana Revised Statutes of 1950, as amended. All sales and use tax proceeds collected within said district pursuant to this ordinance shall be used to finance economic development projects within St. Tammany Parish.