

20-01150

ORDINANCE

AN ORDINANCE LEVYING AND PROVIDING FOR THE COLLECTION OF SALES AND HOTEL OCCUPANCY TAXES WITHIN THE BOUNDARIES OF THE HARVESTON ECONOMIC DEVELOPMENT DISTRICT; PROVIDING FOR THE ASSESSMENT, COLLECTION, PAYMENT, AND DEDICATION OF SUCH TAXES AND THE PURPOSES FOR WHICH THE PROCEEDS OF SAID TAXES MAY BE EXPENDED; PROVIDING FOR THE EFFECTIVE DATE OF SUCH TAXES PURSUANT TO SECTION 9038.39 OF TITLE 33 OF THE LOUISIANA REVISED STATUTES OF 1950, AS AMENDED; AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

BE IT ORDAINED by the Metropolitan Council of the Parish of East Baton Rouge and the City of Baton Rouge that:

Section 1. The District was formed by the Metropolitan Council, acting as the governing authority of the Parish of East Baton Rouge, State of Louisiana (the "Parish"), pursuant to Metropolitan Council Ordinance 17212 adopted on December 11, 2019 (the "Creation Ordinance"); and

Section 2. The purpose of the District is to provide for cooperative economic development among the City of Baton Rouge/Parish of East Baton Rouge, State of Louisiana (the "City/Parish"), SLP Development LLC, a Louisiana limited liability company and the developer of property within the District (the "Developer"), and the District, in order to provide for the development of, and dramatic improvement to, the property within the District into a pedestrian-friendly, mixed-use development and related infrastructure in one or more phases (the "Project") as set forth on the site and economic development plan (the "Development Plan") and as authorized by Section 30 of Article VI and Section 14(C) of Article VII of the Louisiana Constitution of 1974, as amended, and Chapter 27 of Title 33 of the Louisiana

Revised Statutes of 1950 (La. R.S. 33:9020 through 33:9040, inclusive), as amended (the "Act"); and

Section 3. Pursuant to the Act, the District has and exercises all the powers and authority of a political subdivision necessary or convenient for the carrying out of its objects and purposes; and

Section 4. Pursuant to the Act, the District is authorized to levy and collect up to two percent (2%) of sales taxes and up to two percent (2%) of hotel occupancy taxes within the District; and

Section 5. Pursuant to the Act, the taxes authorized thereunder shall be imposed by ordinance adopted by the District, acting by and through its governing authority, the Metropolitan Council; and

Section 6. In compliance with the aforesaid statutory authority, it is the desire of the Metropolitan Council acting as the governing authority of the District to levy the taxes authorized under the Act within the boundaries of the District and provide for the collection thereof and other matters in connection therewith as hereinafter provided in this ordinance; and

Section 7. Definitions. Capitalized terms not otherwise defined herein shall have the following prescribed meanings:

"City/Parish" shall mean the City of Baton Rouge/Parish of East Baton Rouge, State of Louisiana.

"Collection Agreement" shall mean that certain Collection Agreement by and between the City/Parish and the District providing for the collection of the Taxes within the District Boundaries and disposition of proceeds thereof.

"Cooperative Endeavor Agreement" shall mean that certain Cooperative Endeavor Agreement by and between the District, City/Parish, and Developer.

"Creation Ordinance" shall mean Metropolitan Council Ordinance 17212 adopted on December 11, 2019.

"Developer" means SLP Development LLC, a Louisiana limited liability company, and any one or more former or subsequent developer of all or a portion of the Development Property, and its or their respective successors and assigns.

"Development Property" shall mean the property located within the District Boundaries that is to be developed by the Developer.

"District Boundaries" shall be as described in the Creation Ordinance.

"District Occupancy Tax" shall mean a tax upon the occupancy of hotel and motel rooms located within the District.

"District Sales Tax" shall mean a tax upon the sale at retail, the use, the consumption, the distribution and storage, and the lease or rental of tangible personal property and the sale of services within the District.

"Person" shall have the same definition as that contained in Section 301(8) of Chapter 2 of Title 47 of the La. Revised Statutes of 1950, as amended.

"Project" shall mean the development and construction of a pedestrian-friendly, mixed-use development and related infrastructure in one or more phases.

"Project Costs" shall mean all costs incurred by Developer in connection with the acquisition, renovation, expansion, restoration, development, operation and equipping of the Development Property, including but not limited to costs related

to planning, financing, constructing, furnishing, operating and equipping of the Development Property and all professional fees, hard costs, soft costs and expenses incurred from time to time in connection with the same, whether past, present or future costs and expenses, which costs and expenses shall include those incurred by Developer in connection with the Project.

"Project Obligations" shall mean bonds, notes, debentures, assignments, certificates, debt instruments, costs, expenses, receipts, leases or other obligations issued, paid or incurred by or on behalf of Developer or the District to finance or refinance all or a portion of the Project Costs, including, but not limited to, interim financing, permanent financing, one or more refinancing, senior and subordinated liens and various series of such obligations.

"Taxes" shall mean, collectively, the District Sales Tax and the District Occupancy Tax levied and collected within the District Boundaries pursuant to this Ordinance in order to provide funds for the purposes of the District.

"Tax Collector" shall mean the Tax Administrator of the City/Parish.

Section 8. Levy.

Pursuant to the Act, there be, and there is hereby levied, the Taxes within the District beginning on the date of adoption of this Ordinance and terminating on the earlier to occur of either the (i) date that is one year after the date all Project Obligations and all loans, bonds, notes, or other evidences of indebtedness of the District, including, but not limited to, refunding bonds, secured in whole or part by the Taxes are paid in full as to both principal and interest (but not with respect to

any one or more refinancings), or (ii) date that is forty (40) years from the date on which the Taxes are first levied and collected within the District Boundaries, for the aforementioned purposes, all in the manner and subject to the provisions and terms of those provisions of the Act applicable to the District, which Taxes shall be levied and collected at the rates set forth in Section 3, below.

Section 9. Tax Rates.

(a) District Sales Tax Rate. The District Sales Tax is hereby levied at a rate of two percent (2%). The District Sales Tax is levied under the authority of Louisiana Revised Statute 33:9038.39 and is to be collected in addition to any other sales taxes in existence or permitted to be in existence within the District.

(b) District Occupancy Tax Rate. The District Occupancy Tax is hereby at a rate of two percent (2%). The District Occupancy Tax is levied under the authority of Louisiana Revised Statute 33:9038.39 and is to be collected in addition to any other sales taxes in existence or permitted to be in existence within the District.

Section 10. Collection.

- I. The Taxes shall be paid to the Developer or its agent(s) or designee(s) by the persons who pay taxes within the District Boundaries.
- II. Pursuant to the Collection Agreement, the proceeds of the Taxes collected within the District Boundaries shall be paid by the Developer to the Tax Collector, upon forms prescribed, prepared and furnished by the Tax Collector, and the District's portion of the proceeds of the Taxes

shall thereafter be remitted to the Developer or its designee, all in accordance with and subject to the terms and provisions of the Collection Agreement, as it may be amended from time to time.

Section 11. Duties of Tax Collector.

Pursuant to the Collection Agreement, the Tax Collector shall prepare and furnish the necessary forms for the collection of the proceeds of the Taxes collected within the District Boundaries attributable to the District and shall have the duty to collect such portion of the Taxes from the Developer or its designee and remit the proceeds thereof as directed therein, and may use all statutory provisions available to collect taxes.

Section 12. Tax Financing.

The District may pledge and assign up to the full amount of the Taxes to which it is entitled as payment of, and/or security for, Project Obligations, provided that the proceeds of such Taxes pledged and collaterally assigned as payment of, and/or security for, Project Obligations shall consist of the net proceeds after payment of collection expenses to the City/Parish pursuant to the Collection Agreement.

Section 13. Cooperative Endeavor Agreement and Pledge and Collateral Assignment Agreement.

Pursuant to Section 14(C) of Article VII of the Louisiana Constitution of 1974, as amended, and Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950 (R.S. 33:9020 through 33:9040, inclusive), as amended, the District shall enter into one or more cooperative endeavor agreements with the City/Parish and the Developer in order to provide for the proceeds of the Taxes to be pledged and assigned as payment of, and/or security for, the

Project Obligations. The District may also enter into a Pledge and Collateral Assignment Agreement with the Developer in order to provide for the proceeds of the Taxes to be pledged and assigned as security and/or payment for the Project Obligations.

Section 14. Powers of Secretary-Treasurer of District.

The Secretary-Treasurer of the Metropolitan Council is hereby authorized, empowered and directed to take any and all such action as may be necessary to carry into effect the provisions of this Ordinance.

Section 15. Effect of Ordinance.

This Ordinance shall be in full force and effect immediately upon its adoption, being an ordinance affecting the public peace, health and safety.

Section 16. Effect of Invalidity of Provision.

If any 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. The taxes levied under this ordinance shall be effective on the 1st day of the quarter beginning at least 30 days following adoption by the Metropolitan Council.

Section 18. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or

the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.