

DeQuincy, Louisiana
December 13, 2010

The Council of the City of DeQuincy met in regular public session at 6:00 o'clock p.m. on December 13, 2010, at the regular meeting place of the Council of the City of DeQuincy, the City Hall, 300 Holly Street, DeQuincy, Louisiana, with Lynne Treme, Chair, presiding, and the following members present: Tracey Brown, Andrea Coleman, Judy Landry Denise Maddox, Lynne Treme

ABSENT: None

The meeting was called to order and the roll called with the above result.

The Chairman of the City Council stated that one of the purposes of the meeting was to adopt an ordinance which provides for the levying and collection of the continued and rededicated one percent (1%) sales and use tax approved by the electorate of the City of DeQuincy, Louisiana (the "City") on Tuesday, November 2, 2010; and, thereupon the following Ordinance was presented, having first been introduced on November 8, 2010, which was adopted by the following vote:

YEAS: Tracey Brown, Andrea Coleman, Judy Landry Denise Maddox, Lynne Treme

NAYS: None

The Ordinance was approved and signed by the Council Chair, attested by the Clerk of Council, approved and signed by the Mayor, attested by the City Clerk, and provides as follows:

ORDINANCE NO. _____

An Ordinance providing for the continuation of the levy and collection of a one-percent (1%) sales and use tax ("Tax") by City of DeQuincy, Louisiana ("City"), for an additional 25-year period beginning January 1, 2011, 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 ("Uniform Local Sales Tax Code").

WHEREAS, pursuant to the provisions of Section 2711(A) of Title 33 of the Louisiana Revised Statutes of 1950, as amended, and Article VI, Sections 7(A), 29(B), 30 and 32 of the Louisiana Constitution of 1974, and the authority granted at a special election held within City, on November 2, 2010, the City now continues and rededicates the levy and collection of the Tax for an additional 25-year period commencing January 1, 2011, the proceeds of which are to be

allocated, distributed, and used by the City, as set forth in the proposition submitted at the election, a copy of 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 CITY OF DEQUINCY, LOUISIANA, that:

SECTION 1. City Tax. The continuation of the Tax in favor of the City authorized at a special election held within the City, on November 2, 2010, 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 City, shall continue to be assessed, imposed, collected, paid and enforced, in the manner and subject to the terms and provisions of Uniform Local Sales Tax Code, the provisions of which are incorporated by reference herein.

Proceeds of the Tax, described in this section shall continue to be allocated, distributed and used by the City 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 City at an election held November 2, 2010.

SECTION 2. Integrated Bracket Schedule Applicable to Collection. The 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 City, the Sales and Use Tax Department of the Calcasieu Parish School Board ("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 collected in the City 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 Tax described in this Ordinance, each dealer shall be allowed one percent (1%) of the amount of the 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 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 City 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, 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 the unpaid Tax 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. Penalties on unpaid Tax as provided under 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 the delinquency continues, not to exceed twenty five percent (25%) in the aggregate.

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 Tax 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 Tax 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 in any dispute, contest, or other controversy involving the determination of sales and use tax due or other proceeding. 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 of the Uniform Local Sales Tax Code.

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 City.

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 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 Tax described herein shall be promptly deposited by the Collector for the account of the City, 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 is 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 City.

In compliance with the election authorizing the renewal of the levy and collection of the 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 expenditures by the City, solely for the purposes designated in the proposition authorizing the levy of the Tax.

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 City Tax, this Ordinance shall be considered as additional and supplemental to the ordinances heretofore adopted by the City, to provide that the Tax now authorized to be levied in the City 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 City relating to the levy, allocation, distribution and use of the proceeds of the Tax.

SECTION 19. Effective Date. The continuation and rededication of the Tax shall be effective on January 1, 2011.

SECTION 20. Term. The Tax shall remain in effect for twenty-five (25) years (January 1, 2011, through December 31, 2035).

SECTION 21. Publication and Recordation. A copy of this Ordinance shall be duly published in the “DeQuincy News”, official journal of the City, as soon as is reasonably possible. A certified copy of this Ordinance shall be recorded in the mortgage records of Calcasieu Parish, Louisiana.

SECTION 22. Cancellation of Existing Levy. The existing 1% sales tax authorized by the electorate on October 22, 1983 and levied pursuant to Commission Council Ordinance No. 726 is hereby terminated, cancelled and ended effective at 11:59 and 59 seconds p.m. on December 31, 2010 upon the imposition of the continued and rededicated tax herein levied.

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

YEAS: Tracey Brown, Andrea Coleman, Judy Landry Denise Maddox, Lynne Treme

NAYS: None

ABSENT: None

THUS DONE, PASSED AND ADOPTED on the 13th day of December, 2010.

LYNNE TREME, Chair of the City Council

ATTEST:

APPROVED:

Tammy Pinder,
Clerk of the Council

W. LAWRENCE HENAGAN
Mayor of DeQuincy

EXHIBIT “A”

SUMMARY: A CONTINUED AND REDEDICATED 1% SALES AND USE TAX, WITH AUTHORITY FOR THE CITY OF DEQUINCY, LOUISIANA (THE “CITY”) TO LEVY AND COLLECT A 1% SALE AND USE TAX FOR A PERIOD OF 25 YEARS BEGINNING JANUARY 1, 2011 (THE “TAX”) WITH COLLECTIONS FROM THE LEVY OF THE TAX ESTIMATED TO BE \$494,175 FOR ONE CALENDAR YEAR, DEDICATED AND USED FOR CONSTRUCTING, OPERATING, MAINTAINING, AND IMPROVING, SEWERAGE AND SEWERAGE DISPOSAL WORKS, WASTEWATER SYSTEMS, AND OTHER OPERATING EXPENSES OF AND WORKS OF PUBLIC IMPROVEMENT WITHIN THE CITY; AND AUTHORITY TO FUND THE TAX AVAILS INTO BONDS FOR SUCH PURPOSES; AND, CONTINGENT UPON SUCCESSFUL PASSAGE OF THIS PROPOSITION UPON FIRST LEVY OF THE TAX TO CANCEL AND TERMINATE THE EXISTING 1% SALES AND USE TAX CURRENTLY LEVIED AND COLLECTED BY THE CITY.

Shall The City of DeQuincy, Louisiana (the “City”) pursuant to Article VI, Sections 29 and 30 of the Louisiana Constitution of 1974, and other constitutional and statutory authority, be authorized to levy and collect a sales and use tax of one-percent (1%), for a period of 25 years beginning January 1, 2011, with collections from the levy of the tax estimated to be \$494,175 for one calendar year, upon the sale at retail, use, lease or rental, consumption and storage for use or consumption of tangible personal property and on sales of services within the City, all as presently or hereafter defined in La. R.S. 47:301 to 317, inclusive (the “Tax”), with the avails of the Tax (after paying reasonable and necessary costs of collecting and administering the Tax) dedicated and used for the purpose of constructing, acquiring, operating, maintaining, or improving sewerage and sewerage disposal works, wastewater systems, and other operating expenses of and works of public improvement within the City of DeQuincy, title to which shall be in the public; and, authorization to fund avails of the Tax into bonds in various series at various times, to be used to fund the capital costs of improvements within the City, as permitted by Louisiana law, including Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended; and, upon successful passage of this proposition and initial levy of the Tax to permanently cancel and terminate the existing 1% sales and use tax authorized by an election on October 22, 1983?

STATE OF LOUISIANA

PARISH OF CALCASIEU

I, **TAMMY PINDER**, certify that I am the duly qualified and acting Clerk of the City Council and City Clerk of the City of DeQuincy, Louisiana.

I further certify that the above and foregoing is a true and correct copy of an excerpt from the minutes of a public meeting of the City Council of the City of DeQuincy, Louisiana, held on December 13, 2010, insofar as said minutes pertain to the matters therein set out, and that the foregoing copy of an Ordinance adopted at said meeting is a true and correct copy of the original Ordinance, as adopted by the Council and approved by the Mayor and as it is officially of record in my possession.

IN WITNESS WHEREOF, I affix my official signature and the impress of the official seal of the City of DeQuincy, Louisiana on this 13th day of December, 2010.

TAMMY PINDER
City Clerk and Clerk of the Council

[SEAL]