

PROCEEDINGS OF THE LAW ENFORCEMENT DISTRICT OF THE PARISH OF ST. MARY, STATE OF LOUISIANA, TAKEN AT A SPECIAL MEETING HELD ON THURSDAY, OCTOBER 30, 1997.

The Law Enforcement District of the Parish of St. Mary, State of Louisiana, met in special session on Thursday, October 30, 1997, at the regular meeting place, the Sheriff's Office in the Courthouse, Franklin, Louisiana, at four (4:00) o'clock p.m., pursuant to the following written notice duly posted in the manner required by law, viz:

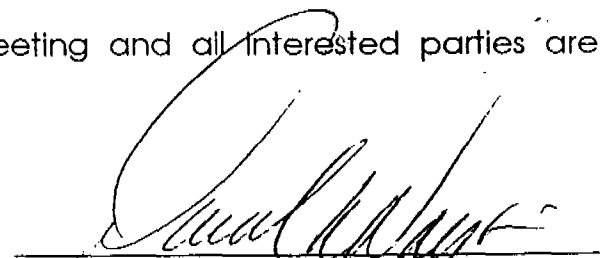
Franklin, Louisiana

### NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that a special meeting of the Law Enforcement District of the Parish of St. Mary, State of Louisiana, has been ordered and called and will be held at its regular meeting place, the Sheriff's Office in the Courthouse, Franklin, Louisiana, on October 30, 1997, at 4 o'clock (4:00) p.m. for the following purposes, to wit:

1. To consider and take action with respect to canvassing the results of a special election held on Saturday, October 18, 1997, in the Parish of St. Mary, to authorize the levy of a special tax therein, and providing for other matters in connection therewith.
2. To consider and transact any and all other business which may be properly brought before the Sheriff of the Parish of St. Mary, as the Chief Executive Officer of the Law Enforcement District.

This will be an important meeting and all interested parties are urged to attend.

  
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Sheriff and Chief Executive Officer  
of the Law Enforcement District of the  
Parish of St. Mary, State of Louisiana

Hon. David Naquin, St. Mary Parish Sheriff and ex-officio Chief Executive Officer of the Law Enforcement District of the Parish of St. Mary, State of Louisiana, called the meeting of the District to order. Present at the meeting were Roger Robinson, Marguerite Robinson, Brady Borel, Susan Crochet, Duval Arthur and Lonnie Bewley. Sheriff explained the purpose of the meeting was to declare the results of the election and also to adopt an ordinance levying the tax. There being no objections or comments from those in attendance, Sheriff signed the ordinance which follows.

**LAW ENFORCEMENT DISTRICT OF THE  
PARISH OF ST. MARY, STATE OF LOUISIANA**

**RESOLUTION**

A resolution providing for canvassing the returns and declaring the result of the special election held in the Law Enforcement District of the Parish of St. Mary, State of Louisiana, on Saturday, October 18, 1997, to authorize the levy of a sales and use tax therein.

I, DAVID NAQUIN, Sheriff of the Parish of St. Mary, State of Louisiana (the "Sheriff"), acting as the governing authority of the Law Enforcement District of the Parish of St. Mary, State of Louisiana (the "District"), hereby resolve that:

SECTION 1. Canvass. The Sheriff does now proceed in open and public session to examine the official tabulations of votes cast at the special election held by the District on **SATURDAY, OCTOBER 18, 1997**, to authorize the levy of a sales and use tax therein, and does further proceed to examine and canvass the returns and declare the result of the special election.

SECTION 2. Proces Verbal. A *Proces Verbal* of the canvass of the returns of said election shall be made and a certified copy thereof shall be forwarded to the Secretary of State, Baton Rouge, Louisiana, who shall record the same in his office; another certified copy thereof shall be forwarded to the Clerk of Court and *Ex-Officio* Recorder of Mortgages in and for the Parish of St. Mary, who shall record the same in the Mortgage Records of said Parish; and another copy thereof shall be retained in the archives of the District.

SECTION 3. Promulgation of Election Result. The result of said election shall be promulgated by publication in the manner provided by law.

Thus done, adopted and signed on this, the 30th day of October, 1997.

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/s/ David Naquin

Sheriff and Chief Executive Officer  
of the Law Enforcement District of the  
Parish of St. Mary, State of Louisiana

PROCES VERBAL AND PROCLAMATION OF THE CANVASS OF THE VOTES CAST AT THE SPECIAL ELECTION HELD BY THE LAW ENFORCEMENT DISTRICT OF THE PARISH OF ST. MARY, STATE OF LOUISIANA, ON SATURDAY, OCTOBER 18, 1997.

BE IT KNOWN AND REMEMBERED that on Thursday, October 30, 1997, at four (4:00) o'clock p.m., at his regular meeting place, the Sheriff's Office in the Courthouse, Franklin, Louisiana, the Hon. David Naquin (the "Sheriff"), the Sheriff of St. Mary Parish and *ex officio* the Chief Executive Officer of the Law Enforcement District of the Parish of St. Mary, State of Louisiana (the "District"), and being the authority ordering the special election held therein on Saturday, October 18, 1997, did, in open and public session, examine the official certified tabulations of votes cast at the said election, and did examine and canvass the returns of the said election, there having been submitted at said election the following proposition, to wit:

PROPOSITION

SUMMARY: 1/2% SALES AND USE TAX FOR LAW ENFORCEMENT PURPOSES IN ST. MARY PARISH; 50% FOR EMPLOYMENT OF DEPUTIES, TRAINING, SALARIES, BENEFITS, EQUIPMENT AND AUTOMOBILES; 50% TO BE USED BY THE PARISH AND THE MUNICIPALITIES OF THE PARISH ON A PER CAPITA BASIS FOR ANY LAWFUL LAW ENFORCEMENT PURPOSE DESCRIBED IN THE PROPOSITION.

Shall the Law Enforcement District of the Parish of St. Mary, State of Louisiana (the "District"), be authorized to levy and collect a tax of one-half of one percent (½%) (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, all as defined in La. R.S. 47:301 through La. R.S. 47:317, inclusive, with the net proceeds of the Tax to be dedicated and used to provide funds for law enforcement purposes in the Parish of St. Mary, as follows:

- (1) 50% of the proceeds of the Tax to be used by the District to provide an increased number of deputies on criminal patrol, upgrade equipment and automobiles, provide additional training, upgrade beginning salary levels, increase benefits and insurance, and acquire necessary equipment to enhance the inmate litter and work program; and
- (2) The remaining 50% of the Tax proceeds to be used pursuant to intergovernmental agreements (the "Agreements") to be

entered into by and between the District and the Parish of St. Mary (the "Parish") and the District and the municipalities of Morgan City, Franklin, Berwick, Patterson and Baldwin (the "Municipalities"), on a per capita basis, according to the last completed federal decennial census for the unincorporated area of the Parish and each of the municipalities; with the proceeds provided by Agreement to the Parish to be dedicated for the purposes of paying the cost of operating and maintaining jail facilities and minimum security facilities in the Parish, including the cost of feeding, transporting and clothing prisoners and providing medical care therefor; and the proceeds provided by Agreement to the Municipalities to be dedicated and used for any lawful law enforcement purposes?

There was found by said count and canvass that the following votes had been cast at the said special election **IN FAVOR OF** and **AGAINST**, respectively, the proposition as hereinabove set forth at the following polling places, to-wit:

POLLING PLACE		VOTE TABULATION	
Precinct	Location	FOR	AGAINST
1	Cypremort Point Volunteer Fire Station, Cypremort Point	33	12
2	Thomas Gibbs Elementary School, Four Corners	17	8
3	Thomas Gibbs Elementary School, Four Corners	45	18
4	Immaculate Conception Catholic Church Hall, Charenton	75	53
4B	Louisiana Sugar Cane Products Building, Sorrell	35	14
5	Mary Hines Elementary School, Charenton	46	18
6	Baldwin Volunteer Fire Station, Baldwin	85	41
7	Sacred Heart Catholic Church Hall, Baldwin	85	29
8	Franklin Senior High School, Franklin	24	12
9	LaGrange Elementary School, Franklin	87	43
9A	LaGrange Elementary School, Franklin	21	23
10	Franklin Senior High School, Franklin	120	46

POLLING PLACE		VOTE TABULATION	
Precinct	Location	FOR	AGAINST
11	Office of Special Services (Iberia St.), Franklin	107	27
12	Hanson High School, Franklin	91	27
13	St. Mary Parish Courthouse, Franklin	127	42
14	Franklin Junior High School, Franklin	76	34
15	J. A. Hernandez Elementary School, Franklin	90	35
16	American Legion Home, Franklin	132	46
17	Centerville High School, Centerville	155	78
18	St. Mary Parish Alternative School, Verdunville	46	27
18A	St. Mary Parish Alternative School, Verdunville	17	14
19	Patterson Senior High School, Patterson	76	36
19A	Patterson Senior High School, Patterson	0	0
20	Patterson Junior High School, Patterson	89	60
21	Hattie Watts Elementary School, Patterson	64	23
22	Patterson City Hall, Patterson	72	29
23	Bayou Vista Elementary School, Bayou Vista	88	81
24	Bayou Vista Community Center, Bayou Vista	89	93
25	Berwick High School (A-J) Berwick	67	55
25A	Berwick Elementary School, Berwick	5	2
25B	Berwick High School (K-Z), Berwick	83	52
26	Berwick Elementary School, Berwick	51	30
27	Maitland Elementary School, Morgan City	36	78
28	Morgan City Senior High School, Morgan City	65	86
29	M. E. Norman Elementary School, Morgan City	104	84
30	School Board Building, Onstead St., Morgan City	60	66
31	M. D. Shannon Elementary School, Morgan City	35	40

POLLING PLACE		VOTE TABULATION	
Precinct	Location	FOR	AGAINST
32	Morgan City Junior High School, Morgan City	35	36
33	Pharr Chapel Methodist Church Hall, Morgan City	73	60
34A	Morgan City Recreation Center, Morgan City	12	14
35	City Court Building, Morgan City	70	56
36	Wyandotte Elementary School, Morgan City	92	61
37	St. Mary Parish Council Building, Morgan City	12	15
38	Wyandotte Elementary School, Morgan City	52	56
39	Siracusa Recreation Center, Morgan City	34	8
40	Aucoin Elementary School, Amelia	83	60
ABSENTEE VOTE		445	138
TOTAL		3,406	1,966
MAJORITY FOR		1,440	

The polling places above specified being the only polling places designated at which to hold the said election, it was therefore shown that there was a total of **3,406** votes cast **IN FAVOR OF** the Proposition and a total of **1,966** votes cast **AGAINST** the Proposition, as hereinabove set forth, and that there was a majority of **1,440** votes cast **IN FAVOR OF** the Proposition as hereinabove set forth.

Therefore, the Sheriff did declare and proclaim and does hereby declare and proclaim in open and public session that the Proposition as hereinabove set forth was duly **CARRIED** by a majority of the votes cast by the qualified electors voting at the said special election held in the District on Saturday, October 18, 1997.

THUS DONE AND SIGNED at Franklin, Louisiana, on this, the 30th day of October, 1997.

/s/ David Naquin

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Sheriff and Chief Executive Officer  
of the Law Enforcement District of the  
Parish of St. Mary, State of Louisiana

## PROCLAMATION

I, the undersigned Sheriff of St. Mary Parish and *ex officio* Chief Executive Officer of the Law Enforcement District of the Parish of St. Mary, State of Louisiana (the "District"), do hereby declare, proclaim and announce that the proposition submitted at the special election held in the on Saturday, October 18, 1997, was duly **CARRIED** by a majority of the votes cast at the said special election, all as described and set out in the above *Proces Verbal*.

THUS DONE AND SIGNED at Franklin, Louisiana, on this, the 30th day of October, 1997.

/s/ David Naquin

Sheriff and Chief Executive Officer  
of the Law Enforcement District of the  
Parish of St. Mary, State of Louisiana

## ORDINANCE

An ordinance levying within the Law Enforcement District of the Parish of St. Mary, State of Louisiana, a tax of one-half of one percent (1/2%) 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 upon the sale of services, all as defined herein; levying and providing for the assessment, collection, payment and dedication of such tax and the purposes for which the proceeds of said tax may be expended; providing for an adequate remedy at law, defining violations of the provisions of this ordinance and prescribing penalties therefor; providing for rules and regulations for the enforcement of the provisions of this ordinance and the collection of the tax levied thereby; providing that any part of this ordinance which may be held invalid or unconstitutional shall not affect or impair any other provision thereof; and repealing all resolutions and ordinances or parts thereof as may conflict herewith.

WHEREAS, under the authority conferred by Article VI, Section 30 of the Constitution of the State of Louisiana of 1974, Chapter 26 of Title 33 of the Louisiana Revised Statutes of 1950, as amended (the "Act"), and other constitutional and statutory authority, and an election held on October 18, 1997, the Law Enforcement District of the Parish of St. Mary, State of Louisiana, is authorized to levy and collect within the Law Enforcement District of the Parish of St. Mary, State of Louisiana (the "Authority") (the boundaries of which encompass all of St. Mary Parish, Louisiana), a tax of one-half of one percent (1/2%) 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 upon the sale of services, all as set forth in the proposition attached hereto as Exhibit "A", which proposition was duly approved by a majority of the qualified electors voting in said election; and

WHEREAS, in compliance with the aforesaid constitutional and statutory authority and said special election of October 18, 1997, it is the desire of the Sheriff of the Parish of St. Mary as the Chief Executive Officer and governing authority of the Authority (the "Governing Body") to levy said one-half of one percent (1/2%) sales and use tax in the Authority and provide for the collection and distribution of the proceeds thereof and other matters in connection therewith as hereinafter provided in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Sheriff of the Parish of St. Mary, State of Louisiana, acting as the governing authority of the Law Enforcement District of the Parish of St. Mary, State of Louisiana, that:

### 1. DEFINITIONS

SECTION 1.1. As used in this ordinance, the words, terms and phrases "business", "cost price", "dealer", "gross sales", "hotel", "lease or rental", "person", "purchaser", "retail sale", "sale at retail", "retailer", "sale", "sales price", "sales of services", "storage", "tangible personal property", "off-road vehicle", "use", "use tax" and "drugs" have the meanings ascribed to them in La.



R.S. 47:301, unless the context clearly indicates a different meaning. In addition, the following words have the meanings as hereinafter set forth unless the context clearly indicates a different meaning, to-wit:

(1) "Agricultural Commodity" means horticultural, viticultural, poultry, farm and livestock and livestock products.

(2) "Authority" means the Law Enforcement District of the Parish of St. Mary, State of Louisiana, as is appropriate in the context used and with the understanding that the tax will be levied throughout the Authority.

(3) "Collector" means and includes the Sheriff or his duly authorized assistant or assistants or such other person or persons, agency or instrumentality designated by this Governing Body to handle and accomplish the collection, enforcement and administration of sales and use taxes on behalf of the Authority.

## 2. IMPOSITION OF TAX

SECTION 2.1. There is hereby levied from and after January 1, 1998, for the purposes stated in the proposition attached hereto as Exhibit A, a 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 upon the sale of services within the District as defined herein; and the levy of such tax shall be as follows:

(1) At the rate of one-half of one percent (1/2%) of the sales price of each item or article of tangible personal property when sold at retail in the Authority, the tax to be computed on gross sales for the purpose of remitting the amount of tax due the Authority and to include each and every retail sale.

(2) At the rate of one-half of one percent (1/2%) of the cost price of each item or article of tangible personal property when the same is not sold, but is used, consumed, distributed, or stored for use or consumption in the Authority provided there shall be no duplication of the tax.

(3) At the rate of one-half of one percent (1/2%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein where the lease or rental of such property is an established business, or part of an established business or the same is incidental or germane to the said business.

(4) At the rate of one-half of one percent (1/2%) of the monthly lease rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property.

(5) At the rate of one-half of one percent (1/2%) of the gross proceeds derived from the sale of services, as defined herein.

SECTION 2.2. The tax shall be collected from the dealer, as defined herein, and paid at the time and in the manner hereinafter provided.

SECTION 2.3. The tax so levied is, and shall be in addition to, all other taxes, whether levied in form of sales, excise, or license, privilege or property taxes levied by any other ordinance or resolution of this Governing Body.

SECTION 2.4. The dealer shall collect the tax levied by this ordinance, together with all other applicable sales and use taxes, in accordance with the integrated bracket schedule or schedules prepared and furnished by the Collector of Revenue of the State of Louisiana under the authority of Section 304 of Title 47 of the Louisiana Revised Statutes of 1950, as amended (R.S. 47:304). Such schedule or schedules shall include, in addition to the tax hereby levied pursuant to the election held on October 18, 1997, all sales taxes levied by the State of Louisiana, any sales tax levied by the Authority and any sales taxes levied by any other political subdivision applicable in the Authority. The dealer will remit that portion of such total tax representing the tax levied by this ordinance to the Collector. Copies of said integrated bracket schedules are available to dealers on request to the Authority or the Collector.

SECTION 2.5. The collection of the tax herein levied shall be made in the name of the Authority by the Collector.

### 3. EXEMPTIONS AND EXCLUSIONS FROM TAX

SECTION 3.1. The levy of the tax imposed by this ordinance shall not apply to those transactions which are exempted or excluded from the levy of local sales and use taxes pursuant to the provisions of Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950, as amended, and other applicable statutory authority.

SECTION 3.2. It is not the intention of this ordinance to levy tax upon articles of tangible personal property imported into the Authority or produced or manufactured in the Authority for export; nor is it the intention of this ordinance to levy tax on a bona fide transaction in interstate commerce; however, nothing herein shall prevent the collection of the tax imposed by the use of catalogs and other means of sales promotion and for which federal legislation or federal jurisprudence enables the enforcement of this ordinance upon the conduct of such business. It is, however, the intention of this ordinance to levy tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in the Authority of tangible personal property after it has come to rest in the Authority and has become a part of the mass of property in the Authority. At such time as federal legislation or federal jurisprudence as to sales in interstate commerce promoted through the use of catalogs and other means of sale promotions enables the enforcement of this ordinance against vendors that have no nexus to the State of Louisiana or the Authority, the provisions of this ordinance shall apply to such sales on which sales and use tax would not otherwise be collected.

SECTION 3.3. No tax shall be due under this ordinance on the sale of any goods or personal tangible property delivered or services performed outside the territorial limits of the Authority.

SECTION 3.4. No tax shall be levied or collected on the storage of property which has been documented for use outside the Authority although the property may be stored within the Authority if the owners of such property which is to be stored for exclusive use outside the Authority have acquired a tax exemption certificate from the local tax collector. When a vendor is presented with a copy of a tax exemption certificate from a vendor, the vendor shall be relieved from liability for the collection of use tax on such property. If the property is removed from storage and is used within the Authority, the property shall be subject to taxation.

#### 4. COLLECTION OF TAX BY DEALER

SECTION 4.1. The tax levied by this ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section 4.6 of this ordinance. The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to non-payment of the tax by the purchaser, as if the tax were a part of the purchase price of the property, or charges for services and payable at the time of the sale; provided, however, that this Governing Body shall be joined as a party plaintiff in any action or proceeding brought by the dealer to collect the tax.

SECTION 4.2. Every dealer located outside the Authority making sales of tangible personal property for distribution, storage, use, or other consumption, in the Authority, shall, at the time of making sales, collect the tax imposed by this ordinance from the purchaser.

SECTION 4.3. The dealer shall, as far as practicable, add the exact amount of the tax imposed under this ordinance, or the average equivalent thereof, to the sale price or charge, which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law, in the same manner as other debts. Any dealer who neglects, fails or refuses to collect the tax herein provided, shall be liable for and pay the tax himself.

SECTION 4.4. In order to aid in the administration and enforcement of the provisions of this ordinance, and to collect all of the tax imposed by this ordinance, on or before January 1, 1998, or in the case of dealers commencing business after January 1, 1998, or opening new places of business after such date, within three (3) days after such commencement or opening, every dealer purchasing or importing tangible personal property for resale shall file with the Collector a certificate of registration in a form prescribed by the Collector, provided any dealer that has heretofore made such filing pursuant to any prior ordinance providing for the levy and collection of a sales and use tax is not required to make an additional filing hereunder. The Collector shall, within five (5) days after such registration, issue without charge to each dealer who purchases or imports for resale, a certificate of authority empowering such dealer to collect the tax from the purchaser, and duplicates therefor, for each additional place of business of such dealer. Each certificate or duplicate shall state the place of business to which it is applicable. Such certificate of authority shall be prominently displayed in all places of business of the dealer. A dealer who has no regular place of doing business

shall attach such certificate to his cart, stand, truck or other merchandising device. Such certificate shall be non-assignable and non-transferable and shall be surrendered immediately to the Collector upon the dealer's ceasing to do business at the place therein named.

SECTION 4.5. A manufacturer, wholesaler dealer, jobber or supplier shall refuse to accept a certificate that any property upon which tax is imposed by this ordinance is purchased for resale, and shall collect the tax imposed by this ordinance, unless the purchaser shall have filed a certificate of registration and received a certificate of authority to collect the tax imposed by this ordinance; provided, however, that the payment of the tax by such purchaser shall not relieve the purchaser of the duty herein imposed upon such purchaser to collect the tax upon any resale made by him; but such purchaser who shall thereafter file a certificate of registration and receive a certificate of authority to collect the tax may, upon application therefor, receive a refund of the tax paid by him upon property thereafter resold by him, and upon the receipts from which he shall have collected and paid over to this Governing Body the tax herein imposed.

SECTION 4.6. The tax imposed by this ordinance upon the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the Louisiana Vehicle Registration License Tax of the State of Louisiana shall be collected as provided in this Section.

(1) The tax levied by this ordinance on any such vehicle shall be paid to the Vehicle Commissioner as the agent of the Collector of Revenue of the State of Louisiana at the time of application for a certificate of title or vehicle registration license and no certificate of title or vehicle registration license shall be issued until the tax has been paid.

(a) The tax levied by this ordinance on the sale of any such vehicle shall be due at the time of registration or any transfer of registration is required by the Vehicle Registration License Tax Law of the State of Louisiana (R.S. 47:451, et seq.).

(b) The tax levied by this ordinance on the use of any such vehicle in the unincorporated area of the Authority shall be due at the time first registration in the Authority is required by the Vehicle Registration License Tax Law (R.S. 47:451, et seq.).

(2) Every vendor of such a vehicle shall furnish to the purchaser at the time of sale a sworn statement showing the serial number, motor number, type, year and model of the vehicle sold, the total sales price, any allowance for and description of any vehicle taken in trade, and the total cash difference paid or to be paid by the purchaser between the vehicles purchased and traded in and the sales or use tax to be paid, along with such other information as may be required. All labor, parts, accessories and other equipment which are attached to the vehicle at the time of the sale and which are included in the sale price are to be considered a part of the vehicle.

(3) It is not the intention of this Section to grant an exemption from the tax levied by this ordinance to any sale, use, item or transactions which has heretofore been taxable and this Section shall not be construed as so doing. It is the intention of this Section to transfer the collection of sales and use taxes on vehicles from the vendor to the Vehicle Commissioner as agent for the secretary of the Department of Revenue and Taxation of the State of Louisiana, and to provide a method of collection of the tax directly from the vendee or user by the Vehicle Commissioner as agent of said secretary of the Department of Revenue in accordance with an agreement by and between said secretary of the Department of Revenue or the Vehicle Commissioner as agent therefor and this Governing Body, the execution of which agreement is hereby authorized. Said tax so collected for said secretary of the Department of Revenue shall be paid to this Governing Body and sent to the Collector as soon as possible, and in any event at least once each quarter, all in accordance with the said agreement.

(4) The provision contained in R.S. 47:301(10) which excludes isolated or occasional sales from the definition of a sale at retail is not to apply to the sale of vehicles which are the subject to this subsection. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the tax.

SECTION 4.7. All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in this Governing Body. Such auctioneers or the company which they represent shall be responsible for the collection of the tax authorized herein and shall report and remit same as provided by this ordinance.

SECTION 4.8. Contracts for the membership in health and fitness clubs are subject to the tax authorized herein and shall be due and payable on a monthly basis computed on the amount paid each month less any actual imputed interest or collection fees or unpaid reserve amounts not received by a health and fitness club, provided no tax shall be due or payable on amounts collected on such contracts prior to the effective date of the tax.

SECTION 4.9. A person engaged in any business taxable under this ordinance shall not advertise or hold out to the public, in any manner directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser from the payment of all or any part of the tax. The dealer shall state and collect the tax separately from the price paid by the purchaser, but his failure to do so shall not be available as a defense to the purchaser in any proceedings brought under this ordinance.

SECTION 4.10. Where the tax collected for any period is in excess of a one percent (1%), the total collected must be paid over to the Collector, less the commission to be allowed the dealer as hereinafter set forth.

SECTION 4.11. Where the purchaser has failed to pay and a dealer has failed to collect a tax upon a sale, as imposed by this ordinance, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the purchaser directly to this Governing Body,

and it shall be the duty of this purchaser to file a return thereof with the Collector and to pay the tax imposed thereon to this Governing Body within fifteen (15) days after such sale was made or rendered.

SECTION 4.12. For the purpose of compensating the dealer in accounting for and remitting the tax levied by this ordinance, each dealer shall be allowed two percent (2%) of the amount of tax due and accounted for and remitted to the Collector in the form of a deduction in submitting his report and paying the amount due by him if the amount due was not delinquent at the time of payment.

## 5. COLLECTION OF TAX FROM DEALER

SECTION 5.1. The tax imposed by this ordinance shall be collectible by the Collector on behalf of this Governing Body from all persons engaged as dealers.

(1) The Collector is duly authorized and empowered to carry into effect the provisions of this ordinance, and in pursuance thereof to make and enforce such rules as he may deem necessary. Such regulations when promulgated shall have the full force and effect of law. Promulgation shall be accomplished by publication at least one time in the official journal of the Authority.

(2) The Collector may employ such personnel, including legal counsel on a fee or salary basis, as are necessary to assist in the collection of the tax imposed hereunder.

(3) Any duly authorized representative or deputy of the Collector, when acting under his authority and direction, shall have the same power as is conferred upon the Collector by this ordinance.

(4) The Collector may conduct hearings and administer oaths, and examine under oath, any dealer and the directors, officers, agents and employees of any dealer, and any other witness, relative to the business of such dealer in respect to any matter incident to the administration of this ordinance.

SECTION 5.2. On all tangible personal property imported, or caused to be imported, from other states or other political subdivisions of this State, or any foreign country, and used by him, the dealer shall pay the tax imposed by this ordinance on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption, in the Authority. For the purpose of this ordinance, use or consumption, or distribution, or storage to be used or consumed in the Authority of tangible personal property, shall each be equivalent to a sale at retail, and the tax shall thereupon immediately be levied and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

SECTION 5.3. A credit against the use tax imposed by this ordinance shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property

in another city or parish in the State of Louisiana, or city or county in a state other than Louisiana. The credit provided herein shall be granted only in the case where the city or parish in the State of Louisiana, or the city or county in a state other than Louisiana to which a similar tax has been paid, grants a similar credit as provided herein. The proof of payment of the similar tax to another city or parish in the state of Louisiana, or to a city or county in a state other than Louisiana, shall be made according to rules and regulations promulgated by the Collector. In no event shall the credit be greater than the tax imposed by this Governing Body upon the said tangible personal property which is the subject of the use tax imposed by this ordinance.

## **6. RETURNS AND PAYMENT OF TAX**

**SECTION 6.1.** The tax levied under this ordinance shall be due and payable by all dealers monthly on the first day of the month.

**SECTION 6.2.** For the purpose of ascertaining the amount of tax payable under this ordinance, it shall be the duty of all dealers on or before the twentieth (20th) day of the month following the month in which this tax shall become effective to transmit to the Collector, upon forms prescribed, prepared and furnished by the Collector, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payment for services, as the case may be, arising from all taxable transactions during the preceding calendar month or during the part of the preceding calendar month, running from the effective date of this ordinance to the end of such month. Thereafter, like returns shall be prepared and transmitted to the collector by all dealers, on or before the twentieth (20th) day of each month, for the preceding calendar month. Said returns shall show such further information as the Collector may require to enable him to correctly compute and collect the tax herein levied. Such returns shall be signed by the dealer filing the same, and his signature thereon shall constitute a warranty on the part of the dealer that he has read and examined the said returns and that, to the best of his knowledge and belief, the same are true, correct and complete. Every dealer at the time of making the return required hereunder shall compute and remit to this Governing Body the required tax due for the preceding calendar month.

**SECTION 6.3.** At the time of transmitting the return required hereunder to the Collector, the dealer shall remit to this Governing Body therewith, the amount of the tax due under the applicable provisions of this ordinance, and failure to so remit such tax shall cause said tax to become delinquent.

All tax, interest and penalties imposed under this ordinance shall be paid to this Governing Body in the form of remittance required by the Collector.

**SECTION 6.4.** Gross proceeds from rentals or leases of tangible personal property where the lease or rental is part of a regularly established business, or the same is incidental or germane thereto, shall be reported and the tax shall be paid with respect thereto, in accordance with such rules and regulations as the Collector may prescribe.

SECTION 6.5. The Collector, for good cause, may extend for not to exceed thirty (30) days the time for making any returns required under the provisions of this ordinance.

SECTION 6.6. For the purpose of collecting and remitting to this Governing Body the tax imposed herein, the dealer is hereby declared to be the agent of this Governing Body.

## 7. RECORDS AND INSPECTION THEREOF

SECTION 7.1. It shall be the duty of every dealer to make a report and pay any tax under this ordinance, to keep and preserve suitable records of the sales or purchases or sales of services, as the case may be, taxable under this ordinance, and such other books of account as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the Collector and it shall be the duty of every such dealer moreover, to keep and preserve, for the period provided in R.S. 47:309, all invoices and other records of goods, wares and merchandise or other subjects of taxation under this ordinance; and all such books, invoices, and other records shall be open to examination at all reasonable hours, by the Collector.

SECTION 7.2. Each dealer shall secure, maintain and keep, for the period provided in R.S. 47:309, a complete record of sales and services and tangible personal property received, used, sold at retail, distributed, or stored, leased or rented within the Authority by said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the Collector for the reasonable administration of this ordinance, and all such records shall be open for inspection to the Collector at all reasonable hours.

SECTION 7.3. In order to aid in the administration and enforcement of the provisions of this ordinance, and to collect all of the tax imposed by this ordinance, all wholesale dealers and jobbers in the Authority are hereby required to keep a record of all sales of tangible personal property made in the Authority, whether such sales be for cash or on terms of credit. The record required to be kept by all wholesale dealers and jobbers shall contain and include the name and address of the purchaser, the date of the purchase, the article or articles purchased and the price at which the article is sold to the purchaser. These records shall be open to inspection of the Collector at all reasonable hours.

SECTION 7.4. For the purpose of administering this ordinance, the Collector, whenever he deems it expedient, may make or cause to be made by an employee of the department engaged in the administration of this ordinance, an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any dealer. It shall be the duty of every dealer and every director, official, agent, or employee of every dealer to exhibit to the Collector or to any such employee of his department charged with the collection of the tax imposed by this ordinance, hereafter referred to as a "deputy", the tangible personal property and all of the books, records, papers, vouchers, dossiers, and documents of the dealer and to facilitate any such examination or investigation as far as it may be in his or their power so to do.



SECTION 7.5. For the purpose of enforcing the collection of the tax levied herein, the Collector is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records, and other documents of all transportation companies, agencies or firms operating in the Authority whether said companies, agencies or firms conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers, as provided in this ordinance, are importing or are otherwise shipping articles of tangible personal property which are liable for said tax.

SECTION 7.6. The Collector shall keep a record of all of his official acts and shall preserve copies of all rules, decisions and orders made by him or by any deputy of his department in charge of the collection of the tax imposed by this ordinance. Copies of such rules, decisions or orders and of any paper or papers filed in any office maintained by him in the administration of this ordinance may be authenticated under his official signature, and when so authenticated, shall be evidence in all court of the state of the same weight and force as the original thereof.

SECTION 7.7. The records and files of the Collector respecting the administration of this ordinance shall be considered confidential and privileged and neither the Collector nor any employee engaged in the administration thereof or charged with the custody of any such records or files shall divulge or disclose any information obtained from such records or files or from any examination or inspection of the premises or property of any dealer except in the administration and enforcement of this ordinance and applicable tax laws, all as provided in R.S. 47:1508. Neither the Collector nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except: (a) in an action or proceeding under the provisions of this ordinance; and, (b) when the records or files or the facts shown thereby are directly involved in such action or proceedings.

SECTION 7.8. Nothing contained in this ordinance shall be construed to prevent:

- (1) the delivery to a dealer or his duly authorized representatives of a copy of any return, report or other paper filed by him pursuant to the provisions of this ordinance;
- (2) the publication of statistics so classified as to prevent the identification of any return or report and the items thereof;
- (3) the inspection by the legal representative of this Governing Body of the returns, reports or files relating to the claim of any dealer who shall have brought an action to review or set aside any tax imposed under this ordinance or against whom an action or proceeding has been instituted in accordance with the provisions hereof;
- (4) the examination of the records and files by the Collector; or
- (5) the furnishing, in the discretion of the Collector, of any information disclosed by the records or files to any official person or body of any other state or

of the United States who shall be concerned with the administration of any similar tax by that state or the United States.

## **8. IMPORTED GOODS - PERMITS**

SECTION 8.1. In order to prevent the illegal importation into the Authority of tangible personal property which is subject to the tax, and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by this ordinance, the Collector is hereby authorized and empowered to put into operation a system of permits whereby any person, or dealer, may import tangible personal property by truck, automobile, or other means of transportation other than a common carrier, without having said truck, automobile or other means of transportation seized and subjected to legal proceedings for its forfeiture. Such system of permits shall require the person, or dealer, who desires to import tangible personal property into the Authority, which property is subject to tax imposed by this ordinance, to apply to the Collector for a permit stating the kind of vehicle, to be used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the consignee, and such other information as the Collector may deem proper or necessary. Such permits shall be free of cost to the applicant and may be obtained at the office of the Collector.

## **9. REMEDIES FOR COLLECTION, INCLUDING INTEREST, PENALTIES, ETC.**

SECTION 9.1. For the purpose of the enforcement of this ordinance, and the collection of the tax levied hereunder, it is presumed that all tangible personal property, subject to the provisions of this ordinance, imported into the Authority or held in the Authority by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in the Authority, and is subject to the tax herein levied; provided that such presumption shall be prima facie only and subject to proof furnished to the Collector.

SECTION 9.2. Failure to pay any tax due as provided in this ordinance, shall ipso facto, without demand or putting in default, cause said tax, interest, penalties, and costs to become immediately delinquent, and this Governing Body is hereby vested with authority, on motion in a court of competent jurisdiction, to take a rule on the dealer, to show cause in not less than two (2) or more than ten (10) days, exclusive of holidays, after the service thereof, which may be tried out of term and in chambers, and shall always be tried by preference, why such dealer should not be ordered to cease from further pursuit of business as a dealer, and in case said rule is made absolute, the order thereon rendered shall be considered a judgement in favor of this Governing Body, prohibiting such dealer from the further pursuit of said business until such time as he has paid the said delinquent tax, interest, penalties, and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law.

SECTION 9.3. If the amount of 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 tax are due, there shall be collected, with said tax, interest upon said unpaid amount, at the rate as provided by R.S. 47:1601-1606; and in addition to the interest that may be so due there shall also be collected a penalty as

provided by R.S. 47:1601-1606; and in the event of suit, attorney's fees at the percentage as provided for in R.S. 47:1512 of the aggregate of tax, interest and penalty.

**SECTION 9.4.** In the event any dealer fails to make a report and pay the 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 Authority and assess and collect the 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 the dealer has imported tangible personal property and he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost price, then the Collector shall ascertain, in any manner feasible, the true cost price and assess and collect the tax with interest, plus penalties, if such have accrued, on the true cost price as assessed by him. The assessment so made shall be considered prima facie correct, and the burden shall be on the dealer to show the contrary.

In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not, in the judgement of the Collector, represent the true or actual consideration, then the Collector is authorized to fix the same and collect the tax thereon for this Governing Body in the same manner as above provided in the foregoing paragraph.

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. Such costs and penalties when collected shall be placed to the account of the "Law Enforcement District, 1/2% Sales Tax Account" in the same manner as is the tax collected under this ordinance.

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 as provided in R.S. 47:1604.1. 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 tax due and can be enforced either in a separate action or in the same action for the collection of the tax.

**SECTION 9.5.** If any dealer liable for any tax, interest or penalty hereunder shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such tax, interest and penalties due and unpaid until such time as the former owner shall produce a receipt from the Collector showing that they have been paid, or a certificate stating that no tax, interest, or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold purchase

money as provided, he shall be personally liable for the payment of the tax, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners, or assignors.

SECTION 9.6. In the event that any dealer is delinquent in the payment of the tax herein provided for, the Collector may give notice of the amount of such delinquency by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such dealer, or owing any debts to such dealer at the time of receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the Collector shall have consented to a transfer or disposition, or until thirty (30) days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five (5) days after receipt of such notice, advise the Collector of any and all such credits, other personal property, or debts, in their possession, under their control or owing by them, as the case may be.

SECTION 9.7. In the event any transportation company, agency, or firm shall refuse to permit examination of its books, records and other documents by the Collector, the Collector may proceed by rule, in term or in chambers, in any court of competent jurisdiction and require said transportation company, agency or firm to show cause why the Collector should not be permitted to examine its books, records or other documents, and in case said rule be made absolute, the same shall be considered a judgement of the Court and every violation of said judgement as a contempt thereof and punished according to law.

SECTION 9.8. If any dealer, subject to make and file a return required by any of the provisions of this ordinance, fails to render such return within the time required, or renders a return which is false or fraudulent in that it contains statements which differ from the true gross sales, purchases, leases, or rentals, or other transactions, taxable under this ordinance, or otherwise fails to comply with the provisions of this ordinance, for the taxable period for which said return is made, the Collector shall give such dealer fifteen (15) days notice, in writing, requiring such dealer to appear before him or his assistant, with such books, records and papers as he may require, relating to the business of such dealer, for such taxable period; and the Collector may require such dealer, or other agents or employees of such dealer, to give testimony or to answer interrogatories, under oath administered by the Collector, respecting the sale at retail, the use, or consumption, or distribution, or storage for use or consumption, in the Authority, or lease or rental of tangible personal property, or other transactions, subject to tax, or the failure to make report thereof, as provided in this ordinance.

SECTION 9.9. If any dealer fails to make a return, or refuses to permit an examination of his (the dealer's) books, records, or papers, or to appear and answer questions within the scope of such investigation relating to the sale, use, consumption, distribution, storage, lease or rental of tangible personal property, or sale of services, the Collector may apply to any Court of competent jurisdiction, for an order requiring such dealer to make such return or requiring the dealer, or his agents or employees, to appear and answer any such questions or permit such examination, and the court or any judge thereof, shall thereupon issue an order, upon such reasonable notice as shall be prescribed therein, to be served upon said dealer or the agents or employees of such dealer,

directing him or them to so appear and testify, and to produce such books, records and papers as may be required. Any person, or any member of any firm, co-partnership, joint venture, association or corporation, or any agent or employee thereof, failing to comply with any such order shall be guilty of contempt, and shall be punished as provided by law in cases of contempt.

SECTION 9.10. The importation into the authority of tangible personal property which is subject to the tax, by truck, automobile, or other means of transportation other than a common carrier, without having first obtained a permit as described in Section 8.1 (if the tax imposed by this ordinance on said tangible personal property has not been paid), shall be construed as an attempt to evade payment of said tax and the same is hereby prohibited, and the said truck, automobile, or means of transportation other than a common carrier, and said taxable property may be seized by this Governing Body in order to secure the same as evidence in a trial and the same shall be subject to forfeiture and sale in the manner provided for in this ordinance.

SECTION 9.11. The failure of any dealer who imports tangible personal property from outside the Authority into the Authority for use or consumption or distribution or storage to be used or consumed in the Authority, or who imports for lease or rental any tangible personal property subject to the provisions of this ordinance, to pay the required tax on such transactions, shall ipso facto make the said tax, interest, penalties and costs delinquent and shall be construed as an attempt to avoid the payment of same which shall be sufficient grounds for attachment of such tangible personal property wherever the same may be located or found, whether said delinquent dealer be a resident or non-resident of the Authority, and whether said tangible personal property is in the possession of said delinquent dealer or in the possession of other persons, firms, corporations or association of persons; provided that it is the intention of this ordinance to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by this ordinance, together with interest, penalties, and costs, and authority to attach is hereby specifically authorized and granted to this Governing Body.

In addition to the penalties prescribed in this and the preceding section (Section 9.10), any person, or dealer, who shall violate the provisions thereof, upon conviction shall be fined and/or imprisoned as provided in R.S. 33:2845 and 2846, in the discretion of the Court. And, each importation or shipment by truck, automobile, or other means of transportation, other than a common carrier, found to be in violation of the provisions of these sections shall constitute a separate offense.

SECTION 9.12. The liability of any person or dealer arising from any tax, interest and penalty, or any of them, imposed by this ordinance, from the time they are due, shall be a personal debt of such person, or dealer, to this Governing Body recoverable in any court of competent jurisdiction in an action at law by this Governing Body. Such debts, whether sued upon or not, shall be a lien on all the property of such delinquent person, or dealer, except as against an innocent purchaser for value without notice in the actual course of business, and shall have preference in any distribution of the assets of the person, or dealer, whether in bankruptcy, insolvency, or otherwise. The proceeds of any judgement or order obtained hereunder shall be paid to this Governing Body.

SECTION 9.13. This Governing Body may require a bond or other security satisfactory to the Collector for the payment of any tax, fees, interest and penalties, or any of them,

imposed pursuant to this ordinance when he shall find that the collection thereof may be prejudiced without such security.

SECTION 9.14. If any person, or dealer, shall fail to make a return or report as required by this ordinance, the Collector, subject to the prescriptive period set forth in R.S. 33:2718.4, may make an estimate of the amount of tax such person, or dealer, is liable to pay under the terms of this ordinance, from any information he is able to conveniently obtain, and according to such estimate so made by him, assess the taxes, fees, penalties and interest due this Governing Body from such person, or dealer, give notice of such assessment to such person, or dealer, and must make demand upon him for payment, or otherwise the said claim shall prescribe.

SECTION 9.15. After a return or report is filed under the provisions of this ordinance, the Collector shall cause to be examined and make such further audit or investigation as he may deem necessary, and if there from, he shall determine that there is a deficiency with respect to the payment of any tax due under this ordinance, he shall assess the additional amount of tax, and any penalties and interest, or either of them due this Governing Body from such person, or dealer, and make demand upon him for payment.

SECTION 9.16. If the Collector finds that any person, or dealer liable for the payment of any tax under this ordinance designs quickly to depart from the Authority or to remove therefrom his or its property, subject to any lien under the provisions of this ordinance, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual any proceedings that might be instituted to collect such tax, whereby it shall have become important that such proceedings be instituted without delay, the Collector may make an arbitrary assessment as herein provided, whether or not any return or report is then due by law, and may proceed under such arbitrary assessment to collect the tax, or demand security for it, and thereafter shall cause notice of such findings to be given to such a dealer, together with a demand for an immediate return or report, and immediate payment of such tax.

All tax, penalties and interest assessed pursuant to the provisions of the last three preceding sections, shall be paid within fifteen (15) days after notice and demand shall have been mailed to the dealer liable therefor by this Governing Body. If such tax, penalties and interest so assessed shall not be paid within such fifteen (15) days, there shall be added to the amount assessed, in addition to interest as hereinabove provided, and any other penalties provided by this ordinance, a sum equivalent to five percent (5%) of the tax.

SECTION 9.17. If any dealer against whom tax have been assessed under the provisions of this ordinance shall refuse or neglect to pay such tax within the time prescribed in this ordinance, it shall be lawful for the Collector, or his duly authorized representative, who is charged with the enforcement of collection of such tax, to enforce collection of such tax, together with such interest and other additional amounts as are added by law, by distraint and sale of any property or rights to property belonging to the delinquent dealer.

SECTION 9.18. Any dealer who shall neglect, fail or refuse to collect the tax as provided in Sections 4.1 through 4.10 of this ordinance, upon any, every and all retail sales made by him, or his agent, or employee, which is subject to tax, shall be liable for and pay the tax himself.

SECTION 9.19. For any one of the following violations, in addition to being liable for the other penalties provided herein, the party named shall be guilty of a misdemeanor and upon conviction be punished as provided for in R.S. 33:2845, in the discretion of the court:

(1) any person who as a purchaser is obligated to report and pay the tax imposed upon any purchase made by him under Sections 4.1 through 4.10 of this ordinance and who fails, neglects, and refuses to file a return thereof with the Collector and pay the tax imposed thereon, within the time stated after such sale is made;

(2) any dealer who shall fail, neglect, or refuse to collect the tax as provided in Sections 4.1 through 4.10 of this ordinance, whether by himself or through his agents or employees;

(3) any dealer violating the provisions of Sections 9.5 and 9.6 of this ordinance;

(4) any dealer who fails to permit an inspection of records by the Collector as provided in Section 7.1 of this ordinance;

(5) any wholesale dealer or jobber in the Authority who fails to keep records, or fails to permit an inspection thereof by the Collector as provided in Section 7.3 of this ordinance;

(6) any dealer, wholesale dealer or jobber who violates the provisions of Sections 4.4 and 4.5 of this ordinance;

(7) any dealer who violates the provisions of Section 7.2 of this ordinance;

(8) any dealer failing or refusing to furnish any return as provided in Sections 6.1 through 6.6 of this ordinance, or failing or refusing to furnish a supplemental return, or other data required by the Collector;

(9) any dealer required to make, render, sign or verify any return as provided in Sections 6.1 through 6.6 of this ordinance, who makes a false or fraudulent return, with intent to evade a tax hereby levied;

(10) the president, executive officers, managers and directors of any corporation, who shall violate the provisions of Section 9.20 of this ordinance; provided that such fine and imprisonment shall not prevent other action against the

corporation as otherwise provided in this ordinance for the recovery of the tax, interest and penalties that may be due; and

(11) any person who shall violate any other provisions of this ordinance, punishment for which is not otherwise herein provided.

SECTION 9.20. No corporation organized under the laws of this state shall hereafter be dissolved, or effect a merger, reorganization, or consolidation under any law of this State by the action of the stockholders or by the decree of any Court until all tax, fees, penalties an interest imposed on the corporation in accordance with provisions of this ordinance shall have been paid in full. No foreign corporation which has obtained authority from this State to transact business in the Authority may surrender such authority and withdraw from this State until all tax, fees, penalties, interest, and other charges imposed upon said corporation in accordance with the provisions of this ordinance shall have been fully paid.

SECTION 9.21. Any person or dealer who shall fail to pay any tax levied by this ordinance on or before the day when such tax shall be required by this ordinance to be paid, shall pay in addition to the tax, interest on the tax at the rate specified in Section 9.3 of this ordinance, for each month or fraction thereof that the tax remain unpaid, to be calculated from the date the tax were originally due to the date of actual payment.

In addition, such person or dealer shall pay any special penalty or penalties provided by this ordinance.

SECTION 9.22. All penalties and interest imposed by this ordinance shall be payable to and recoverable by this Governing Body in the same manner as if they were part of the tax imposed. If the failure to pay any such tax when due is explained to the satisfaction of the Collector, he may remit or waive payment of the whole or any part of any such penalty.

## 10. REFUNDS AND REIMBURSEMENTS

SECTION 10.1. In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this ordinance has been collected or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the Collector and in case the taxes have not been remitted by the dealer to this Governing Body, the dealer may deduct the same in submitting his return. Upon receipt of a sworn statement of the dealer as to the gross amount of such refunds during the period covered by such sworn statement, which period shall be as provided in R.S. 33:2718.1, this Governing Body, through the Collector, shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected. Such memorandum shall be accepted by this Governing Body at full face value from the dealer to whom it is issued, in the remittance for subsequent tax accrued under the provisions of this ordinance.

SECTION 10.2. If any dealer shall have given to the Collector notice within the time provided in Section 10.1 of this ordinance, such dealer thereafter, within the period provided by R.S.



33:2718.1, may file with the Collector a claim under oath for refund, in such form as the Collector may prescribe, stating the grounds thereof. However, no claim for refund shall be required or permitted to be filed with respect to a tax paid, after protest has been filed with the Collector as hereinafter provided, or after proceeding on appeal has been finally determined.

SECTION 10.3. If, upon examination of such claim for refund, it shall be determined by the Collector that there has been an overpayment of tax, the amount of such overpayment shall be credited against any liability of any dealer under this ordinance, and if there be no such liability, said dealer shall be entitled to a refund of the tax so overpaid. If the Collector shall reject the claim for refund in whole or in part he shall make an order accordingly and serve notice upon such dealer.

SECTION 10.4. Where no question of fact or law is involved, and it appears that the records of this Governing Body that any moneys have been erroneously or illegally collected from any dealer, or have been paid by any dealer under a mistake of fact or law, the Collector may, at any time within prescriptive period provided by R.S. 33:2718.1, upon making a record in writing of his reasons therefor, certify that any dealer is entitled to such refund and thereupon the Collector shall authorize the payment thereof from any appropriation available for such purposes.

SECTION 10.5. When, to secure compliance with any of the provisions of this ordinance any moneys shall have been deposited with this Governing Body by any dealer, and shall have been paid over to this Governing Body and the Collector shall be satisfied that such dealer has fully complied with all such provisions, the Collector shall so certify and authorize repayment from any appropriations available for such purpose to such dealer of such moneys, or such part thereof as the Collector shall certify has not been applied by him to the satisfaction of any indebtedness arising under this ordinance.

## 11. REMEDIES OF THE DEALER

SECTION 11.1. A right of action is hereby created to afford a remedy at law for any dealer aggrieved by the provisions of this ordinance; and in case of any such dealer resisting the payment of any amount found due, or the enforcement of any provisions of such laws in relation thereto, such dealer shall pay the amount found due by the Collector and shall give the Collector notice, at the time, of his intention to file suit for the recovery of the same; and upon receipt of such notice the amount so paid shall be segregated and held by the Collector for a period as provided in R.S. 47:1576; and if suit be filed within such time for recovery of such amount, such funds so segregated shall be further held, pending the outcome of such suit. If the dealer prevails, the Collector shall refund the amount to the claimant, with interest at the rate as provided in R.S. 47:1576; covering the period from the date the said funds were received by this Governing Body to the date of refund.

SECTION 11.2. This section shall afford a legal remedy and right of action in any State, Municipal or Federal Court, having jurisdiction of the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of this ordinance, as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such actions service shall be upon the Collector.

SECTION 11.3. This section shall be construed to provide a legal remedy in the State, Municipal or Federal Courts, by action of law, in case such tax is claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any Act of Congress or the United States Constitution, or in any case where jurisdiction is vested in any of the courts of the United States; provided that upon request of the dealer and upon proper showing by such dealer that the principal of law involved in an additional assessment is already pending before the courts for judicial determination, the said dealer, upon agreement to abide by the decision of the courts may pay the additional suit. In such cases the tax so paid under protest shall be segregated and held by the Collector until the question of law involved has been determined by the courts and shall then be disposed of as therein provided.

SECTION 11.4. If any dealer shall be aggrieved by any finding or assessment of the Collector, he may, within the period provided in R.S. 47:1563, file a protest in writing signed by him or his duly authorized agent, which shall be under oath and shall set forth the reasons therefor, and he may request a hearing. Thereafter, the Collector shall grant a hearing to such dealer, if a hearing has been requested, and may make an order confirming, modifying or vacating any such finding or assessment. The filing of any such protest shall not abate any penalty for non-payment, nor shall it stay the right of the Collector to collect the tax in any manner herein provided unless the dealer shall furnish security of a kind and in an amount satisfactory to the Collector. Appeals from the decision of the Collector shall be direct to any State, Municipal or Federal Court of competent jurisdiction as provided for in Section 11.2.

## 12. OTHER ADMINISTRATIVE PROVISIONS

SECTION 12.1. The Collector is hereby authorized and empowered to carry into effect the provisions of this ordinance and in pursuance thereof to make and enforce such rules as he may deem necessary in administering the provisions of this ordinance and other policies or procedures established by this Governing Body.

SECTION 12.2. The Collector shall have the power to make and publish reasonable rules and regulations, not inconsistent with this ordinance or the laws and the Constitution of this State or of the United States, for the enforcement of the provisions of this ordinance and the collection of the revenues and penalties imposed by this ordinance.

SECTION 12.3. The Collector shall design, prepare, print and furnish to all dealers or make available to said dealers, all necessary forms for filing returns, and instructions to insure a full collection from dealers and an accounting for the tax due, but failure of any dealer to secure such forms shall not relieve such dealer from the payment of said tax at the time and in the manner herein provided.

SECTION 12.4. The cost of preparing and distributing the report forms and paraphernalia for the collection of said tax, and of the inspection and enforcement duties required herein, shall be borne by the Collector.

SECTION 12.5. In any case where tangible personal property is sold at retail under a contract providing for such retail sale, made and entered into prior to the effective date of this ordinance and containing the sale price, and delivery is made after the effective date of this ordinance, and such sale is taxable under this ordinance, the seller shall add the tax imposed by said ordinance to said sale price, and collect it from the buyer.

The provisions of this section shall also apply where such tangible personal property is not sold, but is used, consumed, distributed, stored, leased or rented, and where services taxable hereunder are contracted for before the effective date hereof, except no new or additional sales or use tax shall be applicable to sales of materials or services involved in lump sum or unit price construction contracts entered into and reduced to writing prior to the effective date of this ordinance or to sales or services involved in such contracts entered into and reduced to writing within ninety days thereafter, if such contracts involve contractual obligations undertaken prior to such effective date and were computed and bid on the basis of sales tax at the rates effective and existing prior to such effective date.

The provisions of this section shall not apply to tangible personal property actually imported or caused to be imported into, or stored within, the territorial limits of the unincorporated area of the Authority prior to the effective date of this ordinance, if the said tangible personal property is actually used or consumed by the person who imported and stored said tangible personal property.

SECTION 12.6. It shall be lawful for the Collector, or any deputy by him duly designated, to receive the written oath of any person signing any application, disposition, statement, or report required by the Collector in the administration of this ordinance.

SECTION 12.7. The Collector, or any deputy by him duly designated, may conduct hearings and have administered and examined under oath, any dealer and the directors, officers, agents and employees of any dealer, and any other witnesses, relative to the business of such dealer in respect to any matter incident to the administration of this ordinance. Such examinations or hearings shall be at a time convenient to the dealer within fourteen (14) days after requested by the Collector in writing.

SECTION 12.8. Any notice required to be given by the Collector pursuant to this ordinance, may be given by personal service on the dealer for whom it is intended, or be mailed to the dealer for whom it is intended, addressed to such dealer at the address given in the last report filed by him pursuant to the provisions of this ordinance, or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of its receipt by the dealer to whom it is addressed.

SECTION 12.9. The Collector shall keep a record of all of the official acts, and shall preserve copies of all rules, decisions, and orders made by him and by any deputy of his department in charge of the collection of the tax imposed by this ordinance. Copies of such rules, decisions, or orders and of any paper or papers filed in any office maintained by him in the administration of this ordinance, may be authenticated under his official signature, and when so authenticated, shall be

evidence in all Courts of the State of the same weight and force as the original thereof. For authenticating any such copy, the Collector shall be paid a fee to be established from time to time by him which shall be deposited in the appropriate sales tax fund.

SECTION 12.10. Nothing in this ordinance shall be construed to deprive the dealer of any remedy in the review of any tax, or in any proceedings to collect the tax given such dealer by any other law, or to deprive this Governing Body of any remedy for the enforcement of this ordinance through any procedure or remedies expressly provided in this ordinance imposing the tax herein levied or in any other law, nor shall this ordinance be construed as repealing or altering any such laws, ordinances, or resolutions.

SECTION 12.11. If any section, subsection, sentence, clause, or phrase of this ordinance be held invalid, such decisions shall not affect the validity of the remaining portions of this ordinance. This Governing Body hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases may be so declared invalid.

SECTION 12.12. The tax levied herein is declared to be supplemental and in addition to all other tax levied by and under the authority of this Governing Body of any kind or nature.

### 13. DISPOSITION OF TAX PROCEEDS AND REVENUES

SECTION 13.1. All tax, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into possession of the Collector as an agent of this Governing Body under any provision or provisions of this ordinance shall be promptly deposited by the Collector for the account of this Governing Body in a special fund designated the "Law Enforcement District, 1/2% Sales Tax Account", which funds shall be established and maintained as sacred funds of this Governing Body, provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to another account established by the Collector pending final determination of the protest or litigation.

SECTION 13.2. Out of the funds on deposit in said 1/2% Sales Tax Account, the Collector shall first pay all reasonable and necessary expenses of collecting and administering the respective tax levied hereby and administering the provisions of this ordinance as well as the various administrative procedures established herein.

SECTION 13.3. In compliance with the said special election of October 18, 1997, authorizing said tax, after all reasonable and necessary costs and expenses of collecting and administering the tax have been paid as provided in Section 13.2, the remaining balance of the sales tax proceeds shall be available for appropriation and expenditure by this Governing Body, solely for the purposes designated in the proposition authorizing the levy of the tax (annexed hereto as Exhibit "A"), as approved by a majority of the qualified electors of the Authority voting in said special election.

#### 14. COLLECTOR AS AGENT AND TRUSTEE FOR GOVERNING BODY

SECTION 14.1. It is hereby recognized that the tax herein levied is being levied by and on behalf of this Governing Body as herein provided and that the Collector is acting as agent for this Governing Body for the purpose of administration and collection of the tax.

#### 15. MISCELLANEOUS

SECTION 15.1. The provisions of Chapter 2 of Title 47 of the Louisiana Revised Statutes, as amended, and any other statutory authority are hereby made applicable to the levy and collection of the sales and use tax levied by this ordinance, and to the extent, if any, that the provisions set forth herein conflict with any statutory authority, the statutory authority shall be controlling.

SECTION 15.2. This ordinance shall be published in one issue of the official journal of this Governing Body as soon as possible.

SECTION 15.3. A certified copy of this ordinance shall be recorded as soon as possible in the Mortgage Records of the Parish of St. Mary, State of Louisiana.

SECTION 15.4 This ordinance shall be in full force and effect immediately upon its adoption, being an ordinance affecting the public peace, health and safety.

Thus done, adopted and signed on this, the 30th day of October, 1997.

/s/ David Naquin

Sheriff and Chief Executive Officer  
of the Law Enforcement District of  
the Parish of St. Mary, State of Louisiana

**PROPOSITION**

**SUMMARY:** 1/2% SALES AND USE TAX FOR LAW ENFORCEMENT PURPOSES IN ST. MARY PARISH; 50% FOR EMPLOYMENT OF DEPUTIES, TRAINING, SALARIES, BENEFITS, EQUIPMENT AND AUTOMOBILES; 50% TO BE USED BY THE PARISH AND THE MUNICIPALITIES OF THE PARISH ON A PER CAPITA BASIS FOR ANY LAWFUL LAW ENFORCEMENT PURPOSE DESCRIBED IN THE PROPOSITION.

Shall the Law Enforcement District of the Parish of St. Mary, State of Louisiana (the "District"), be authorized to levy and collect a tax of one-half of one percent (1/2%) (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, all as defined in La. R.S. 47:301 through La. R.S. 47:317, inclusive, with the net proceeds of the Tax to be dedicated and used to provide funds for law enforcement purposes in the Parish of St. Mary, as follows:

- (1) 50% of the proceeds of the Tax to be used by the District to provide an increased number of deputies on criminal patrol, upgrade equipment and automobiles, provide additional training, upgrade beginning salary levels, increase benefits and insurance, and acquire necessary equipment to enhance the inmate litter and work program; and
- (2) The remaining 50% of the Tax proceeds to be used pursuant to intergovernmental agreements (the "Agreements") to be entered into by and between the District and the Parish of St. Mary (the "Parish") and the District and the municipalities of Morgan City, Franklin, Berwick, Patterson and Baldwin (the "Municipalities"), on a per capita basis, according to the last completed federal decennial census for the unincorporated area of the Parish and each of the municipalities; with the proceeds provided by Agreement to the Parish to be dedicated for the purposes of paying the cost of operating and maintaining jail facilities and minimum security facilities in the Parish, including the cost of feeding, transporting and clothing prisoners and providing medical care therefor; and the proceeds provided by Agreement to the Municipalities to be dedicated and used for any lawful law enforcement purposes?