



Office of the Mayor-President

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Mayor Dustin Yates
City of St. George
14100 Arline Hwy
Baton Rouge, LA 70817

Andrew Murrell
Chairman, St. George
Transition District
1955 Carolyn Sue Drive
Baton Rouge, LA 70815

RE: St. George Transition Matters

Dear Mayor Yates and Chairman Murrell,

As Mayor-President of the Parish of East Baton Rouge and the City of Baton Rouge I write in an effort to promote a smooth transition of the remittance of tax collections and the provision of essential governmental services from the City Parish to the St. George Transition District and ultimately to the City of St. George. This letter has been put together with tremendous input from the Parish Attorney's office and several City Parish departments all of whom are working very hard to make this transition go well. As you know, there are a number of complexities which we must address together to ensure that this transition is as seamless as possible so that our communities do not experience a disruption in essential services. You have my personal commitment to working collaboratively with you in a diligent and good faith manner to address any and all challenges as quickly as possible. This letter will attempt to outline the challenges of which I hope we are all aware and present to you issues on which we need your urgent attention and decision to accomplish our common goal. It is my hope that by putting this in writing, we will be able to more clearly and effectively focus our efforts.

First and foremost, we need to reach agreement as to the effective date of the incorporation of the City of St. George and the boundaries of the new city. Unfortunately, when the Louisiana Supreme Court reversed the decisions of the trial court and the First Circuit Court of Appeal, it did not, as required by La. R.S. 33:4(E), fix an effective date, set the boundaries of the city or remand the case to the trial court for a determination of these key issues.

In order to implement a transition, it is essential that St. George and the City Parish agree on an effective date and the procedural means to legally fix the agreed upon effective date. This will require approval of the governing bodies. From the St. George side, we have heard of proposed dates ranging from 2019 to April 26, 2024. While these dates have been posited, we do not have a definite position on the date from either of you.

In our view, the most prudent effective date would be July 1, 2024. There are several reasons for this. First, it allows St. George to ensure the continuation of the transition district until the proposed St. George municipal sales tax is passed, whether the election date is in December 2024 or March 2025 which is obviously essential to the budget process for both St. George and the City Parish. Second, this effective date will allow for St. George to more effectively plan for its delivery of city services, and this would likewise allow for the City Parish to effectively plan for the transition of those services. A July 1, 2024 effective date would also delay the date on which St. George is required to begin funding legacy retirement costs and thereby provide some financial cushion to enhance the chances that St. George will be successful. I commit to seek Metro Council approval to continue to provide governmental services through the transition period in accordance with an intergovernmental agreement. The City Parish and the citizens of St. George desperately need to reach agreement as to the effective date and a process to have that date fixed in law.

Effective dates that are in the past present several legal and practical challenges. The biggest of these is the authorization of temporary tax levies which could potentially expire in accordance with the authorizing statutes before a municipal tax can be properly levied. Absent the authority to collect any taxes by either the City Parish or the St. George Transition District, there will be no funding to pay for any services provided by either entity.

Overlaying the uncertainty as to the effective date is the boundaries of the City of St. George. As you know, there are a number of parcels where the property owners elected to annex their property into the city limits of Baton Rouge prior to the incorporation of St. George. The incorporators of St. George filed several suits contesting the annexations and these suits remain pending. These annexations were approved by the Metro Council and, subject to a resolution of this litigations, these parcels are now in the city limits of Baton Rouge. Among the issues presented by the uncertainty of the boundaries, is the ability of the City of St. George to call an election to approve a city sales tax without knowing who is entitled to vote on that tax. In addition, the property owners who elected to be annexed into the City of Baton Rouge rather than the City of St. George have property rights, but they have not been joined in the suit challenging their desired annexation. Echoing the position of the incorporators in the incorporation litigation that persons should have a right of self-determination, it would be my hope that the proponents of St. George would honor the decision of those who choose to be part of the City of Baton Rouge.

Practically speaking, to properly calculate the accurate amount of sales and use tax collected in the St. George Transition District or the City of St. George, a column or "field" must be added to the current EBR Sales and Use Tax Report. This technical process is lengthy and requires not only internal programming changes, but notifications to multiple state agencies which must make changes to their systems as well. East Baton Rouge Parish, as the Collector, is legally required to notify the Louisiana Uniform Local Sales and Use Tax Board, the Louisiana Sales and Use Tax Commission for Remote Sellers, and the Louisiana Department of Public Safety of all taxing changes within each parish. Without the legally certified incorporation date and a final boundary, this process cannot even begin. It is our hope to have these determinations final in time to provide adequate notice to all entities and

have the column added by April 1, 2025 to coincide with the effective date of the municipal tax levy in accordance with La. R.S. 47:337.5.

I think we can all agree that whatever taxes are to be collected in the area to become St. George, those tax collections must conform with law. The St. George Transition Bill, La. R.S. 33:3079, vests with the St. George Transition District certain powers with regard to levying sales taxes. There are several responsibilities of the Transition District under the authorizing statute that have not been met. We have been advised that the Transition District approved a resolution attempting to levy a 2% sales tax which the City Parish finance department will be responsible to collect. Unfortunately, despite our requests, we have not been provided with an official notice of this resolution as required under La. R.S. 47:337.5 sixty days prior to the effective date of any tax levy. In addition, the unsigned, draft resolution which we were able to obtain on our own does not include an effective date of the levy in Section 3 with the language purporting to levy the tax. Under La. R.S. 33:3079, both a properly approved collection agreement and an intergovernmental agreement to document the transfer of taxes and the provision of services within the district are required. Additionally, it does not appear that the meeting of the St. George Transition District was properly noticed in accordance with the requirements of the open meetings law, La. R.S. 44:11, *et seq.* In short, it does not appear that this resolution conforms with the legal requirements for levying this tax. Also, referring to the above discussion of the effective date, the draft resolution simply provides that it is “effective in accordance with law.” The absence of a specific legal citation makes it unclear which law is being referenced.

The City Parish cannot legally collect a tax until it is validly passed. Until an alternative tax is validly levied, the City Parish will continue to collect the parish sales tax in the area to become St. George under the authorization of La. R.S. 33:3078. This tax will be eligible for distribution to the St. George Transition District per the terms of an intergovernmental agreement from the effective date of incorporation through the expiration of the authorization. Preempting further discussion of the effective date, the City Parish specifically requests that the levy of any tax by the Transition District be made in conformity with law such that the City Parish is in a position to legally collect the taxes sought. You should also take note that the documentation that the City Parish has obtained in respect of the December election for approval of the municipal tax by the City of St. George cites to the wrong legislation. I bring this to your attention as there is still time to correct this error.

Furthermore, we have some threshold concerns about whether the Transition District’s statutory authority complies with the restrictions set forth in La. Const. Art. VI, § 29. To wit, a political subdivision has the authority to levy a sales tax only where (1) authorized by a home rule charter; or (2) where authorized by the legislature **and** approved by the voters. See *Reed v. City of New Orleans*, 493 So.2d 368 (1992). The Transition District has no home rule charter. Accordingly, it can exercise only those powers granted to it in the Constitution or via legislation (or via a vote of the electorate). See *American Waste and Pollution Control Co. v. St. Martin Parish Police Jury*, 609 So.2d 201, 203 (La. 1992). While statutory authority exists for the imposition of the tax without election by the Transition District, it is unclear how it can be reconciled with the Constitution, Article VI, Section 29. Our attorneys are looking at this issue, and suggest that yours should do the same, as both the City Parish and St. George would be implicated in the event that we collect an unconstitutional sales tax on behalf of the Transition District.

We have also obtained a copy of an undated letter from Mayor Yates to the council members of the City of St. George with a proposed budget. It is stated in the letter that the proposed budget “reflects revenues and expenses for the portion of the 2024 calendar year

beginning on April 26, 2024...and ending on December 31.” Referring to our discussion below as to the entity with whom the City Parish is dealing, it appears that this budget should be a budget for the Transition District, *not* the city of St. George, as the Transition District exists until the municipal tax is approved by the voters. Has the Transition District taken any action to approve a budget? Is this the budget that is being proposed? Has this been properly noticed and approved?

It appears that the proposed budget for the City of St. George contemplates sales tax collections of \$3.5 million per month in the area to become St. George. When the effective date and the boundaries are fixed, this amount may need to be reevaluated. Several other revenue items - the insurance premium tax, occupational license tax, contractor licensing fees, building permits and fees, planning and zoning fees and miscellaneous fee, are included in the budget revenue projection. None of these taxes or fees may be collected by the City Parish on behalf of St. George because they are not authorized by the transition district statutes.

It is noted that the proposed budget includes \$200,000 per year for General Liability Insurance. Since it is anticipated the City Parish will be providing some services in St. George, we respectfully request a copy of your insurance policy and that the City Parish be listed as an additional insured.

While a more fulsome discussion of the continuation of services requested by the Transition District and/or the City of St. George is needed, you have included approximately \$8 million for intergovernmental agreement expenses with the City Parish for the continuation of some services. There is no detail for how this amount was derived. Absent an intergovernmental agreement specifically defining the services and the time frame over which they will be performed on behalf of Transition District and/or the City of St. George, the City Parish is not able to easily quantify the value of services to be provided. Because budgeted expenses are not accounted for based on geographical area where they are performed, but rather by the total function of each department, the value of services performed in St. George must be determined by other means. The City Parish Finance Department is working diligently to make this very complicated analysis but are severely limited in their ability to do so until the services to be delivered are defined.

One of the most important issues which must be resolved is the services the Transition District and/or the City of St. George wish for the City Parish to continue to provide, and the period of time you wish the services to be provided. We have made numerous requests for this information, however, what responses we have received are unofficial and have varied widely. As you might imagine it is impossible for the City Parish to develop a cost-estimate for the provision of services if the services are not identified and the time period during which the services will be provided is undetermined. In order to negotiate any transition that is fair to the citizens of St. George as well as those in the parish living outside of St. George, we request that you provide, in writing, specific listing of services and the dates for which those services would be provided so that the finance department can prepare a cost estimate. We understand that this list and duration of services may change over the course of our discussions, however, we must at least have a starting point. Your assistance in providing this information is crucial and will be most appreciated.

In addition to questions about the dates and boundaries, the City Parish, and in particular, the office of the parish attorney, requests that you provide some clarity to us as to with whom the City Parish should be dealing. While we have had constructive meetings with both of you, our primary point of contact has been Mrs. Sherri Morris, the city attorney for

the city of St. George. It is our understanding, however, that Mrs. Morris does not represent the Transition District. Of course, we understand any decisions which are made will ultimately have to be approved by the Transition District board and by the St. George City Council. While we assume that the decisions and directions that will be given by the Transition District and the city council will be the same, it would be much appreciated if you could confirm that we should continue to deal with Mrs. Morris as the primary point of contact or if there are other persons who should be included in our discussions.

As stated at the outset, it is a strong desire of my office and the City Parish staff to make this transition as smooth as possible. I am certain that, in addition to the discussion above, additional issues may likely arise, and you may identify additional issues as well. For the transition to occur in the manner which we all desire, it is essential that the Transition District and the City of St. George respond specifically and in writing to the items set forth herein. Upon receipt of this information, we will be in a position to address the substantive issues more fully.

Very truly yours,



Sharon Weston Broome
Mayor-President