

ORDINANCE NO. TGT-3295

AN ORDINANCE LEVYING A TRANSIENT GUEST TAX OF NINE PERCENT (9%) UPON THE GROSS RECEIPTS DERIVED FROM OR PAID BY TRANSIENT GUESTS FOR SLEEPING ACCOMMODATIONS WITHIN THE CITY OF OVERLAND PARK, KANSAS; ESTABLISHING FUNDS AND ACCOUNTS TO ACCOUNT FOR SAID TAX; AUTHORIZING THE APPORTIONMENT AND EXPENDITURE OF SAID TAX; AND REPEALING ORDINANCE NO. TGT-2705 AND ORDINANCE NO. TGT-2705, A.

WHEREAS, pursuant to the authority of Charter Ordinance No. Ninety-Nine, the City of Overland Park, Kansas ("the City") is authorized to levy a transient guest tax ("TGT") at a rate not to exceed nine percent (9%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court within the City; and

WHEREAS, the City adopted Resolution No. 4533 (the "Resolution") on May 20, 2019, which authorized, among other things, the annual budgeting and appropriation of TGT to support the payment of the principal of and the interest on certain revenue bonds issued on behalf of the City by the Overland Park Development Corporation (the "Corporation") for the purpose of paying the costs of a Project, as defined in said Resolution, to be utilized to promote activities related to conventions and tourism; and

WHEREAS, pursuant to the Resolution, the City has entered into the Debt Service Support Agreement (the "Debt Service Support Agreement") by and between the City and the Corporation and this Ordinance is enacted *inter alia*, to provide authority for the City to carry out its obligations thereunder; and

WHEREAS, it is hereby found appropriate and in the public interest to levy TGT as authorized by Charter Ordinance No. Ninety-Nine for the purposes recited herein.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, AS FOLLOWS:

SECTION 1. There is hereby levied a transient guest tax of nine percent (9%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services and facilities, in any hotel, motel or tourist court located within the City as authorized by Charter Ordinance No. Ninety-Nine and any amendments thereto.

SECTION 2. The tax hereby levied shall be administered and collected by the Kansas Department of Revenue and the revenue therefrom shall be distributed in accordance with the provisions of K.S.A. 1999 Supp. 12-1696 et seq. and any amendments thereto and Charter Ordinance No. Ninety-Nine and any amendments thereto.

SECTION 3. There are hereby created the following funds and accounts into which the TGT revenues received by the City shall be deposited as set forth in Section 4 below:

- (a) Transient Guest Tax Fund, which shall include the TGT Holding Account; and
- (b) Transient Guest Tax Operating Fund which shall include the Operating Fund Unallocated Reserve Account; and
- (c) Transient Guest Tax Capital Project Fund, which shall include the Capital Project, Fund Unallocated Reserve Account.

SECTION 4. TGT revenues, when received by the City, shall be deposited as follows:

- (a) Two-thirds (2/3) of the TGT revenues shall be deposited in the Transient Guest Tax Fund and disbursed, if authorized and required, pursuant to the terms of the Debt Service Support Agreement. Thereafter, one-third (1/3) of the TGT revenues remaining in the Transient Guest Tax Fund, excluding those revenues required to be held in said fund, shall be credited to the Transient Guest Tax Operating Fund and two-thirds (2/3) of the TGT revenues remaining in said fund shall be credited to the Transient Guest Tax Capital Project Fund.
- (b) One-third (1/3) of the TGT revenues shall be deposited in the Transient Guest Tax Capital Project Fund.

SECTION 5. TRANSIENT GUEST TAX OPERATING FUND

- (a) TGT revenues in the Transient Guest Tax Operating Fund shall be appropriated to pay the costs of the tourism and convention activities of the Visit Overland Park, Inc., and shall be contained in the annual budget proposed by Visit Overland Park. The annual budget proposed by Visit Overland Park shall be reviewed by the Finance, Administration, and Economic Development Committee, and shall be approved by the Governing Body of the City.
- (b) Visit Overland Park, Inc. shall maintain an Operating Reserve Account. The Operating Reserve Account shall be used either to assist Visit Overland Park in the event of an unanticipated failure to receive expected revenue or to provide funding for unanticipated projects which are unable to be funded in said Visit Overland Park's operational budget and which materially promote tourism and convention activities.

SECTION 6. TRANSIENT GUEST TAX CAPITAL PROJECT FUND

- (a) TGT revenues in the Transient Guest Tax Capital Project Fund shall be used to pay the cost of capital projects relating to tourism and convention activities, including but not limited to, the cost of constructing, improving, maintaining or operating a convention or exposition hall or center or public auditorium, a

soccer/recreation complex, and an entertainment district and to pay the principal and interest due on any bonds issued to finance the cost of such capital projects.

- (b) TGT revenues in the Transient Guest Tax Capital Project Fund which remain after having met the above obligations shall be credited to the Capital Project Fund Unallocated Reserve Account.
- (c) In the event that there are insufficient TGT revenues in the Transient Guest Tax Operating Fund to pay the costs of the tourism and convention activities of the Visit Overland Park, Inc., as contained in the annual budget proposed by Visit Overland Park and approved by the Governing Body of the City, TGT revenues in the Transient Guest Tax Capital Project Fund may also be used to credit the Transient Guest Tax Operating Fund in order to pay such costs.

SECTION 7. TGT revenues, when received by the City, may be used at any time to comply with the obligations set out in the Debt Service Support Agreement, notwithstanding that said revenues have previously been credited to another fund or account established herein.

SECTION 8. Ordinance No. TGT-2705 and Ordinance No. TGT-2705, A are hereby repealed.

SECTION 9. This Ordinance shall take effect and be in force from and after its publication in an official City newspaper, and upon the effective date of Charter Ordinance No. Ninety-Nine.

[Signatures on the following page.]

PASSED by the City Council on this 20th day of July, 2020.

APPROVED by the Mayor on this 20th day of July, 2020.

(s) Carl Gerlach
Carl Gerlach, Mayor

ATTEST:

(s) Elizabeth Kelley
Elizabeth Kelley, City Clerk

APPROVED AS TO FORM:

(s) Michael Koss
Michael Koss
Senior Assistant City Attorney