

RESOLUTION R 13-554

A RESOLUTION TO MAINTAIN LOCAL OPTION SALES TAX

W I T N E S S E T H:

WHEREAS, the City of Stockbridge, the City of McDonough, the City of Hampton, the City of Locust Grove, and Henry County (the "Local Governments") jointly authorized a local option sales tax pursuant to O.C.G.A. § 48-8-80, *et. seq*;

WHEREAS, prior to 2012, the Local Governments were receiving proceeds of the local option sales tax pursuant to the certificate of distribution on file with the Commissioner of the Department of Revenue, specifying the following percentage distributions: Henry County 65.00%; Stockbridge 11.03%; McDonough 9.61%; Hampton 8.84%; and Locust Grove 5.52%;

WHEREAS, in 2012, the Local Governments participated in the renegotiation process following the decennial census as contemplated by O.C.G.A. § 48-8-89(d);

WHEREAS, the Local Governments were unable to reach an agreement within sixty (60) days of the beginning of negotiations;

WHEREAS, the Local Governments submitted the dispute to nonbinding arbitration;

WHEREAS, the Local Governments failed to reach an agreement within sixty (60) days of submitting the dispute to nonbinding arbitration;

WHEREAS, because it was the next step required of them by law, Henry County petitioned the superior court of the county to seek resolution of the dispute as required by O.C.G.A. § 48-8-89(d)(4);

WHEREAS, by petitioning the superior court of the county to resolve the dispute and participating in the litigation, the Local Governments all intended to maintain the levy of the local option sales tax, but desired only a resolution as to the appropriate distribution of the tax;

WHEREAS, pursuant to the requirements of O.C.G.A. § 48-8-89(d)(4) and prior to a hearing by the Superior Court of Henry County, the Local Governments came to an agreement by and among themselves, and without any judicial determination, to distribute the proceeds of the local option sales tax as follows:

2013: Henry County 65.00%; Stockbridge 11.03%; McDonough 9.61%;
Hampton 8.84%; and Locust Grove 5.52%;

2014: Henry County 65.00%; Stockbridge 11.14%; McDonough 9.72%;
Hampton 8.42%; and Locust Grove 5.72%;

2015: Henry County 66.00%; Stockbridge 11.25%; McDonough 9.83%;
Hampton 7.40%; and Locust Grove 5.52%;
2016-2022: Henry County 66.00%; Stockbridge 11.36%; McDonough 10.00%;
Hampton 6.70%; and Locust Grove 5.94%;

WHEREAS, on December 20, 2012, as required by statute, the Superior Court of Henry County entered a Settlement Order adopting the agreement of the Local Governments;

WHEREAS, certificates of distribution reflecting the same were filed with the Commissioner of the Department of Revenue by the Superior Court of Henry County as required by O.C.G.A. § 48-8-89(d)(4) prior to December 30, 2012;

WHEREAS, appeal was not taken from that order by any of the parties involved;

WHEREAS, the Local Governments are aware of the Georgia Supreme Court's decision in *Turner County v. Ashburn, et. al.*, which declared the provisions of O.C.G.A. § 48-8-89(d)(4) unconstitutional;

WHEREAS, the Local Governments only petitioned the Superior Court of Henry County so as to follow the procedures then proscribed by law;

WHEREAS, the local option sales tax generates approximately \$28,728,000.00 in tax revenue per year which is used to pay for essential governmental services and thereby roll back property taxes county-wide;

WHEREAS, the Local Governments will be unable to meet their budgets without the local option sales tax revenues or a substantial increase in property taxes or a severe cut in essential governmental services;

WHEREAS, the Local Governments do not desire for their taxpayers to be penalized for following the mandates of the legislature codified in O.C.G.A. § 48-8-89(d)(4);

WHEREAS, given the language of the *Turner County* decision, the Local Governments are uncertain as to the status of the certificates of distribution filed as part of the Settlement Order or the preceding certificate of distribution;

WHEREAS, in light of the foregoing, the Local Governments have agreed to renegotiate the distribution certificates as authorized by O.C.G.A. § 48-8-89(d)(8) and in so doing considered the purpose and intent of the LOST statute, the interest of the City and its citizens and taxpayers, and the eight (8) criteria specified under O.C.G.A. § 48-8-89(b);

WHEREAS, the Local Governments intend for this renegotiated certificate to have the full force and effect of a certificate filed as of a date preceding December 30, 2012, without the involvement of the Superior Court of Henry County;

WHEREAS, the Mayor and City Council in the exercise of their sound judgment and discretion, after giving thorough thought to all implications involved, and keeping in mind the public interest and welfare of the citizens and taxpayers of the City, have determined it to be in the best interest of the citizens of the City, that this Resolution be adopted.

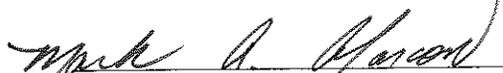
NOW, THEREFORE, open motion being duly made and seconded, the following resolutions are hereby adopted:

1. Authorization of Mayor. The Mayor is hereby authorized to continue the local option sales tax with the City of McDonough, the City of Hampton, the City of Locust Grove, and Henry County, by signing a certificate of distribution so that the tax will continue and be distributed at the following percentages:

2013: Henry County 65.00%; Stockbridge 11.03%; McDonough 9.61%; Hampton 8.84%; and Locust Grove 5.52%;
2014: Henry County 65.00%; Stockbridge 11.14%; McDonough 9.72%; Hampton 8.42%; and Locust Grove 5.72%;
2015: Henry County 66.00%; Stockbridge 11.25%; McDonough 9.83%; Hampton 7.40%; and Locust Grove 5.52%;
2016-2022: Henry County 66.00%; Stockbridge 11.36%; McDonough 10.00%; Hampton 6.70%; and Locust Grove 5.94%;
2. Additional Documents. The Mayor is hereby authorized to execute any documents which may be necessary to effectuate this Resolution.
3. Attestation. The City Council does hereby authorize and direct the City Clerk to attest the signature of the Mayor appearing on this Resolution and any related documents, to affix the official seal of the City thereto, as necessary, and to place this Resolution and an executed copy of any related documents among the official records of the City for future reference.
4. Transmittal to County. The City Council does hereby authorize and direct the City Attorney to transmit the certificate of distribution to Toombs County for execution.
5. Filing. The City Council does hereby authorize and direct the City Attorney to file the certificate of distribution with the Commissioner of the Department of Revenue.

6. Severability. To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.
7. Repeal of Conflicting Provisions. All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
8. Effective Date. This Resolution shall take effect immediately.

SO RESOLVED THIS 15th DAY OF October, 2013.



Mark Alarcon, Mayor

ATTEST:



Rhonda Blackmon, City Clerk

(Seal)