

STATE OF GEORGIA  
CITY OF MORROW  
COUNTY OF CLAYTON

RESOLUTION NO. 2018 – 05

A RESOLUTION AUTHORIZING CITY OF MORROW TO ACCEPT GRANT OR OTHER FUNDS FROM THE STATE OF GEORGIA TO COMPENSATE THE CITY FOR THE LOSS OF REVENUE DUE TO THE SUSPENSION BY THE GOVERNOR OF THE COLLECTION OF THE LOCAL OPTION SALES TAX ON AVIATION FUEL AT HARTSFIELD JACKSON INTERNATIONAL AIRPORT OR LEGISLATIVE ACTION BY THE GENERAL ASSEMBLY RESULTING IN THE LOSS OF THIS REVENUE AND FURTHER TO EVIDENCE THE CITY'S INTENT NOT TO CHALLENGE THE GOVERNOR'S RIGHT TO IMPOSE SUCH A SUSPENSION AND FURTHER NOT TO APPEAL THE DECISION OF THE 11<sup>TH</sup> CIRCUIT COURT OF APPEALS IN THE CASE OF CLAYTON COUNTY, GA. ET.AL. VS. FAA, FILE NUMBER; TO AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT; TO AUTHORIZE THE CITY MANAGER TO AMEND THE BUDGET WHERE NECESSARY TO REFLECT AN APPROPRIATE REVENUE SOURCE AND EXPENSE RELATING THERETO; TO PROVIDE AN EFFECTIVE DATE OF THIS RESOLUTION; AND FOR OTHER PURPOSES.

**WHEREAS**, City of Morrow (“the City”) approved the collection of a local option sales tax pursuant to O.C.G.A. §48-8-110 et. seq. (L.O.S.T.); and

**WHEREAS**, pursuant to said section, L.O.S.T. applies to aviation fuel collected at Hartsfield Jackson Atlanta International Airport (“HJIAI”); and

**WHEREAS**, as a result of an interpretation of the Federal Aviation Administration (“FAA”), a dispute exists regarding whether, under federal law, taxes on aviation fuel must be used exclusively for aviation purposes by a local government entity that does not own an airport and cannot receive federal airport grant funds; and

**WHEREAS**, the City is not the owner or operator of HJAIA or any other airport and is not able to use tax revenue for aviation purposes; and

**WHEREAS**, the City has been notified by the office of the Governor that the Governor intends to suspend the collection of all taxes on aviation fuel that are not exempt under the FAA interpretation effective July 1, 2018; and

**WHEREAS**, the Governor proposed to the Georgia General Assembly in the 2018 budget and the General Assembly approved \$27,000,000.00 to be used to offset any loss in revenue by the City as a result of the loss of the tax on aviation fuel at Hartsfield; and

**WHEREAS**, the aforementioned budgetary funds will be transferred to the Clayton County Board of Commissioners (“Clayton County”) from the Georgia Department of Community Affairs (“DCA”); and

**WHEREAS**, pursuant to Clayton County Resolution 2018-54, the City shall receive a share of those funds in an amount equal to the City’s existing L.O.S.T. distribution percentage. Transfer of the funds to the City from the County shall occur within forty-five (45) days of the County’s receipt of the funds from DCA.

**WHEREAS**, the City, in light of the decision by the Governor, and in exchange for the payment of the money set aside in the budget for this purpose is willing to forego any challenge to the authority of the Governor to take such action and further not to appeal further the decision of the 11<sup>th</sup> Circuit Court of Appeals in the case of Clayton County, Ga., et. al. v. FAA, File Number 17-10210.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF CITY OF MORROW, GEORGIA THAT:**

Section 1. The Mayor and Council hereby resolves and agrees that in exchange for the payment of the City’s L.O.S.T. distribution percentage of the funds set aside in the 2018 State of Georgia budget to offset the loss of the L.O.S.T. aviation fuel revenue from HJAIA, the Mayor and Council will not take any action to challenge the Governor’s right to suspend the collection of said taxes. Further, , the Mayor and Council will not appeal the decision of the 11<sup>th</sup> Circuit Court of Appeals in the above referenced matter. The foregoing

agreement is contingent upon the City's receipt of the City's L.O.S.T. percentage of the State funds from Clayton County within a reasonable timeframe, not to exceed forty-five (45) days from the date Clayton County receives said funds from DCA.

Section 2. The Mayor and Council authorizes the Mayor to execute agreements in the form of grants, contracts, agreements, or otherwise and perform other actions necessary to facilitate the receipt of the funds. The Mayor and Council further authorizes the City Manager to amend the Budget where necessary to reflect the receipt of said funds into the general fund of the City.

Section 3. This Resolution shall be effective on the date of its approval by the Mayor and Council of the City of Morrow.

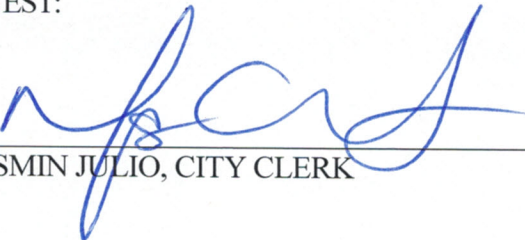
**SO RESOLVED**, this 12<sup>th</sup> day of June, 2018.

(SIGNATURES ON FOLLOWING PAGE)

CITY OF MORROW

  
\_\_\_\_\_  
JEFFREY A. DETAR, MAYOR

ATTEST:

  
\_\_\_\_\_  
YASMIN JULIO, CITY CLERK



APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY