

The following ordinance having been introduced at a meeting held on October 25, 2011, notice of its introduction having been published in the official journal and a public hearing having been held in connection therewith on this date, was offered for final adoption by Mr. Manfre and seconded by Mr. Hymel :

ORDINANCE 11-09

An ordinance providing for the levy within the City of Morgan City, State of Louisiana, effective January 1, 2012, of a three-tenths of one percent (3/10%) sales and use tax (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 upon the sale of services in said City and for the assessment, collection, payment thereof and the dedication of the proceeds of said Tax and the purpose for which the proceeds of the Tax may be expended, said Tax having been authorized at a special election held in the City on November 19, 2011.

WHEREAS, under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority and an election held on November 19, 2011, the City of Morgan City, State of Louisiana (the "City"), acting through the Morgan City Council of the City of Morgan City, State of Louisiana, as its governing authority (the "Governing Authority"), is authorized to levy and collect within the City, a three-tenths of one percent (3/10%) sales and use tax (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 upon the sale of services defined in applicable statutory authority, pursuant to the following proposition which was approved at said election held on November 19, 2011:

SALES TAX PROPOSITION

Summary: 12 year, 3/10% sales and use tax to be used for paying the cost of constructing, improving, resurfacing, maintaining and providing street drainage for public streets, alleys, sidewalks and public wharves, and acquiring equipment therefor, and for making all necessary payments in connection with bonds or other obligations issued for the above stated purposes.

Shall the City of Morgan City, State of Louisiana (the "City"), under the provisions of Article VI, Section 29 of the Louisiana Constitution of 1974, and other constitutional and statutory authority, be authorized to levy a tax of three tenths of one percent (3/10 %) (the "Tax") (an estimated \$819,000 reasonably expected at this time to be collected from the levy of the tax for an entire year), for a period of twelve (12) years, beginning January 1, 2012, 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 City, as defined by law, with the avails or proceeds of the Tax, after paying the reasonable and necessary expenses of administering and collecting the Tax,

to be dedicated and used for the purpose of paying the cost of constructing, improving, resurfacing, maintaining and providing street drainage for public streets, alleys, sidewalks and public wharves, and acquiring equipment therefor, and for making all necessary payments in connection with bonds or other obligations issued for the above stated purposes?

WHEREAS, in compliance with the aforesaid constitutional and statutory authority and said special election of November 19, 2011, it is the desire of this Governing Authority to provide for the levy and collection of the Tax and to provide for distribution of the proceeds thereof and other matters in connection therewith as hereinafter provided in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Morgan City Council of the City of Morgan City, State of Louisiana, acting as the governing authority of the City of Morgan City, State of Louisiana, thereof, that:

SECTION 1. Imposition. Pursuant to the authority of a special election held in the City on November 19, 2011, the Tax is hereby levied 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 lease or rental of tangible personal property and on the sales of services in the City of Morgan City, State of Louisiana, as defined by law. The Uniform Local Sales Tax Code, as enacted by Act 73 of the 2003 Regular Session of the Louisiana Legislature and as it may be amended, shall apply in the assessment, collection, administration and enforcement of the Tax, the provisions of which are hereby incorporated by reference.

SECTION 2. Rate of Tax. The Tax is levied at the rate of three-tenths of one percent (3/10%) of the sales price of each item or article of tangible personal property when sold at retail in the City, the Tax to be computed on gross sales for the purpose of remitting the amount of tax due to the City, and to include each and every retail sale. The Tax is levied at the rate of three-tenths of one percent (3/10%) 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 City, provided there shall be no duplication of the Tax. The Tax is levied at the rate of three-tenths of one percent (3/10%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined by law, 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, or of the monthly lease or 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. The Tax is levied at the rate of three-tenths of one percent (3/10%) of the amount paid or charged for taxable services, as defined by law, performed in the City.

SECTION 3. Effective Date. The Tax shall be effective on January 1, 2012.

SECTION 4. Term. The Tax shall remain in effect for twelve (12) years (January 1, 2012 through December 31, 2023).

SECTION 5. Purposes. The proceeds of the Tax shall be used for the purposes set forth in the proposition approved by the voters in the special election held in the City on November 19, 2011, authorizing the Tax, which proposition is set forth in the preamble hereto.

SECTION 6. Vendor's Compensation. 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 City's collector in the form of a deduction in submitting its report and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.

SECTION 7. Exclusions and Exemptions. The Governing Authority adopts none of the optional exclusions or exemptions allowed by State sales and use tax law, nor does this Governing Authority adopt any exclusions or exemptions authorized by legislation enacted under Article VI, Section 29 (D)(1) of the Constitution of the State of Louisiana of 1974, that are not allowed as an exclusion or exemption from State sales and use tax. Included within the base of the Tax is every transaction, whether sales, use, lease or rental, consumption, storage or service, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana, including the Act.

SECTION 8. Interest on Unpaid Amount of Tax Due. As authorized by La. R.S. 47:337.69, the interest on unpaid amounts of the Tax which are due shall be at the rate of one percent (1%) per month.

SECTION 9. Delinquency Penalty. The delinquency penalty, as provided by La. R.S. 47:337.70, shall be five percent (5%) per month on the unpaid amount of the Tax due for each thirty-day period, not to exceed five thirty-day periods.

SECTION 10. Penalty for False, Fraudulent or Grossly Incorrect Return. The penalty as authorized by La. R.S. 47:337.72 shall be fifty percent (50%) of the amount of the Tax found to be due.

SECTION 11. Negligence Penalty. The penalty as authorized by La. R.S. 47:337.73 shall be five percent (5%) of the unpaid amount of the Tax found to be due, or ten dollars (\$10.00), whichever is greater.

SECTION 12. Penalty for Insufficient Funds Check. The penalty as authorized by La. R.S. 47:337.74 shall be an amount of twenty dollars (\$20.00).

SECTION 13. Attorney Fees. The collector is authorized to employ private counsel to assist in the collection of any taxes, penalties or interest due under this ordinance, or to represent him in any proceeding under this ordinance. If any taxes, penalties or interest due under this ordinance are referred to an attorney at law for collection, an additional charge of attorney fees, in the amount of ten per centum (10%) of the taxes, penalties and interest due, shall be paid by the tax debtor.

SECTION 14. Penalty for Costs Incurred. As provided by R.S. 47:337.75, and under the circumstances set forth therein, a penalty shall be added to the amount of Tax due in an amount as itemized by the Collector to compensate for all costs incurred in making an examination of books, records or documents, or an audit thereof, or in the holding of hearings or the subpoenaing and compensating of witnesses.

SECTION 15. Distraint Penalty. The penalty as provided by R.S. 47:337.76 in cases where the distraint procedure is used in the collection of the Tax shall be ten dollars (\$10.00).

SECTION 16. Limits on Interest, Penalty and Attorney Fees. Should the interest, penalties or attorney fees herein, or the combined interest, penalties and attorney fees be declared to be in excess of limits provided by other law, including relevant jurisprudence, then the maximum interest, penalties and attorney fees allowed by such other law shall apply.

SECTION 17. Collector. The Tax levied by this ordinance is authorized to be collected by a "Collector" which term shall mean the St. Mary Parish Sales and Use Tax Department.

SECTION 18. Powers of Collector. The Collector is hereby authorized, empowered and directed to carry into effect the provisions of this ordinance, to appoint deputies, assistants or agents to assist it in the performance of its duties, and in pursuance thereof to make and enforce such rules as it may deem necessary.

SECTION 19. Agreement to Collect Tax on Vehicles. With regard to the collection of the Tax on any motor vehicle, automobile, truck, truck-trailer, trailer, semi-trailer, motor bus, home trailer, or any other vehicle subject to the vehicle registration license tax, the City, acting through its Mayor, is authorized to enter into an agreement or agreements on behalf of the City with the Vehicle Commissioner, Department of Public Safety and Corrections, for the collection of the Tax on such vehicles, as provided by R.S.47:303(B).

SECTION 20. Revenues of Tax. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the Collector under any provision or provisions of this ordinance relating to the Tax shall be promptly deposited by the Collector into a fund established by the Collector, which fund shall be a bank account established by the Collector; provided, however, any amount which is paid under protest or which is subject to litigation shall be transferred to a separate account established by the Collector pending the final determination of the protest or litigation.

In compliance with the said special election of November 19, 2011, authorizing the Tax, after all reasonable and necessary costs and expenses of collecting and administration of the Tax have been paid as provided for above, the Collector shall disburse to the City the remaining balance monthly to be used solely for the purposes designated in the proposition authorizing the levy of the Tax.

SECTION 21. Severability. If any or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid or legal, shall be deemed to apply to this ordinance.

SECTION 22. Uniform Sales Tax Controlling. If any provision of this ordinance shall be in conflict with the provisions of the Uniform Local Sales Tax Code, the provisions of the Uniform Local Sales Tax Code shall be controlling.

SECTION 23. Effective Date of Ordinance. This ordinance shall be in full force and effect immediately upon its adoption, being an ordinance affecting the public peace, health and safety.

SECTION 24. Publication and Recordation. This ordinance shall be published in one issue of the official journal of this Governing Authority as soon as is reasonably possible. A certified copy of this ordinance shall be recorded in the mortgage records of the Parish of St. Mary, State of Louisiana.

The final adoption of the foregoing ordinance having been duly moved and seconded, the roll was called and the following vote was taken and recorded:

YEAS: Manfre, Hymel, Bergeron, Bias, Tamporello

NAYS: None

ABSENT: None

And the resolution was declared adopted on this, the 22nd day of November, 2011.

/s/ Debbie Harrington

Clerk of the Council



/s/ Tim Matte


Mayor

STATE OF LOUISIANA

PARISH OF ST. MARY

I, the undersigned Clerk of the Council of the Morgan City Council (the "Governing Authority"), the governing authority of the City of Morgan City, State of Louisiana (the "City"), do hereby certify that the foregoing pages constitute a true and correct copy of an ordinance adopted by the Governing Authority on November 22, 2011, providing for the levy within the City of Morgan City, State of Louisiana, effective January 1, 2012, of a three-tenths of one percent (3/10%) sales and use tax (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 upon the sale of services in said City and for the assessment, collection, payment thereof and the dedication of the proceeds of said Tax and the purpose for which the proceeds of the Tax may be expended, said Tax having been authorized at a special election held in the City on November 19, 2011.

IN FAITH WHEREOF, witness my official signature of said City at Morgan City, Louisiana, on this, the 22nd day of November, 2011.


Clerk of the Council

FOLEY & JUDELL, L.L.P.

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OUR FILE NO.
20,671

December 14, 2011

Mr. Barry Dufrene, Director
St. Mary Parish Sales and Use Tax Department
P.O. Drawer 1279
Morgan City, Louisiana 70381-1279

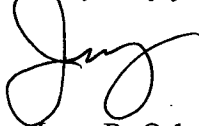
Re: Sales Tax Election (Saturday, November 19,
2011) for the City of Morgan City, State of
Louisiana

Dear Mr. Dufrene:

On behalf of the City Council of the City of Morgan City, State of Louisiana, we are enclosing herewith a certified copy of an ordinance providing for the levy of a three-tenths of one percent (3/10%) sales and use tax within said City, commencing January 1, 2012, as authorized by the above-captioned election.

Also attached please find the Certification of Sales and Use Tax on Motor Vehicles and Factory Build Homes/Detail for Renewal Tax, Tax Rate Change or New Tax which took the place of the Agreement to Collect Tax Due Parishes or Municipalities on Sales or Use of Motor Vehicles.

Very truly yours,



Jerry R. Osborne

JRO/mm
enclosure

cc: Hon. Tim Matte, Mayor
Ms. Debbie Harrington, Clerk of the Council
Ms. Lorrie C. Braus, CAO
Mr. Gregory Aucoin, City Attorney
Ms. Genie G. Bonner, Administrative Secretary