



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission on the October 15, 2013 City Council Meeting Agenda

Item: Resolution for the City of Sandy Springs, Georgia, to Submit a Voluntarily Negotiated Certificate Filed with the Commissioner; Authorizing the Mayor, or Mayor Pro Tem, to Execute a Certificate of Distribution; and for Other Purposes.

City Attorney's Recommendation:

The City Attorney's Office recommends that Council approve the attached resolution regarding the distribution of LOST proceeds and attached Certificate of Distribution.

Background and Discussion:

At its September 13, 2013 regular meeting, Council adopted a resolution regarding settlement of the issue of distribution of LOST proceeds among Fulton County and the other municipalities within Fulton County, in accordance with the laws of Georgia ("Resolution"). In that connection, the Mayor executed the Certificate of Distribution attached to the adopted Resolution.

On October 7, 2013, subsequent to the adoption of the Resolution, the Supreme Court of Georgia, in the case of *Turner County v. Ashburn, et al.*, declared unconstitutional the provisions of OCGA § 48-8-89(d)(4) relating to baseball arbitration. As a result of this decision Andy Welch, counsel retained by the North Fulton cities (excluding Atlanta), conducted a telephone conference with representatives of the North Fulton cities and recommended the cities re-adopt the Resolution authorizing each of the cities to enter into the Certificate of Distribution to be filed with the Georgia Department of Revenue for distribution of LOST proceeds in Fulton County. This recommendation was made to remove any question regarding execution of the previous resolution adopting the Certificate of Distribution having been done under threat of litigation and to show that it was entered into and executed freely and voluntarily.

All distributions under the Certification of Distribution attached hereto are the same as those contained in the previously adopted Certificate of Distribution.

The attached resolution and Certificate of Distribution must be accomplished prior to the deadline for the filing of a motion for reconsideration of the Supreme Court's ruling, which is Thursday, October 17, 2013, making this a matter of urgency for Council's consideration.

Attachments:

Resolution with attached Certificate of Distribution.

RESOLUTION NO. 2013 - _____

STATE OF GEORGIA
COUNTY OF FULTON

A RESOLUTION FOR THE CITY OF SANDY SPRINGS, GEORGIA, TO SUBMIT A VOLUNTARILY NEGOTIATED CERTIFICATE FILED WITH THE COMMISSIONER; AUTHORIZING THE MAYOR, OR MAYOR PRO TEM, TO EXECUTE A CERTIFICATE OF DISTRIBUTION; AND FOR OTHER PURPOSES.

WHEREAS, the City of Sandy Springs ("City") along with other Cities and Fulton County voluntarily negotiated a certificate for distribution on LOST proceeds and filed the original and certified copies of Resolutions authorizing same with the Commissioner of the Georgia Department of Revenue ("DOR") on September 17, 2013;

WHEREAS, the Local Governments are aware of the Georgia Supreme Court's decision on October 7, 2013, in *Turner County v. Ashburn, et. al.*, which declared the provisions of O.C.G.A. § 48-8-89(d)(4) unconstitutional;

WHEREAS, given the language of the *Turner County* decision, the Local Governments are uncertain as to the status of the Certificates of Distribution filed with the Commissioner on September 17, 2013;

WHEREAS, the DOR issued on October 10th a bulletin asserting that the Turner County decision does not become final until after the passage of the 10-day period for filing motions for reconsideration with the Georgia Supreme Court and that the DOR will continue to collect and disburse the LOST revenues in accordance with the LOST statute;

WHEREAS, the Georgia Municipal Association has recommended that local governments file a post-*Turner County* decision certificate if possible before the expiration of said 10-day period;

WHEREAS, the City wishes again to submit a voluntarily negotiated certificate with the Commissioner of DOR as set forth in Exhibit "A" attached hereto and incorporated herein as the "Certificate";

WHEREAS, the City has voluntarily negotiated the Certificate 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 City Council authorizes and directs the Mayor, or Mayor Pro Tem, in the absence of the Mayor, to execute in a timely fashion a Certificate of Distribution consistent with this Resolution.

NOW THEREFORE IT BE SO RESOLVED, the preamble is incorporated herein; and accordingly the City voluntarily accepts the Certificate distributing LOST proceeds in the percentages specified in Exhibit "A" attached hereto and incorporated herein and authorizes execution of said Certificate in accordance with this resolution.

This ____ day of October, 2013.

Approved:

Eva Galambos, Mayor

Attest:

Michael Casey, City Clerk

(Seal)

EXHIBIT "A"

CERTIFICATE OF DISTRIBUTION



CERTIFICATE OF DISTRIBUTION

TO: State Revenue Commissioner

Pursuant to an Act of the Georgia General Assembly, effective January 1, 1980, relating to Local Sales & Use Taxes, the governing authorities for the qualifying municipalities and the county located within the special district coterminous with the boundaries of Fulton County hereby certify that the proceeds of the combination city/county local sales and use tax generated in such district shall be distributed by the State Revenue Commissioner as follows:

City of Alpharetta _____	shall receive	5.8367 _____	%
City of Johns Creek _____	shall receive	7.7815 _____	%
City of Milton _____	shall receive	3.3124 _____	%
City of Mountain Park _____	shall receive	0.0550 _____	%
City of Roswell _____	shall receive	8.9598 _____	%
County of Fulton _____	shall receive	14 _____	%

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are 'qualified municipalities,' as that term is used in the Act, and that all municipalities listed herein as recipients are 'qualified' and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this _____ day of _____ 20 ____.

MAYOR OF THE CITY OF Alpharetta

MAYOR OF THE CITY OF Johns Creek

MAYOR OF THE CITY OF Milton

MAYOR OF THE CITY OF Mountain Park

MAYOR OF THE CITY OF Roswell

CHAIRMAN BOARD OF COMMISSIONERS OF
Fulton COUNTY



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City of Sandy Springs _____	shall receive	9.5183 _____	%
City of Chattahoochee Hills _____	shall receive	0.2672 _____	%
City of College Park _____	shall receive	1.3079 _____	%
City of East Point _____	shall receive	3.9590 _____	%
City of Hapeville _____	shall receive	0.6856 _____	%
County of Fulton _____	shall receive	14 _____	%

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are 'qualified municipalities,' as that term is used in the Act, and that all municipalities listed herein as recipients are 'qualified' and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this _____ day of _____ 20 ____.

MAYOR OF THE CITY OF Sandy Springs

MAYOR OF THE CITY OF Chattahoochee Hills

MAYOR OF THE CITY OF College Park

MAYOR OF THE CITY OF East Point

MAYOR OF THE CITY OF Hapeville

CHAIRMAN BOARD OF COMMISSIONERS OF
Fulton COUNTY



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TO: State Revenue Commissioner

Pursuant to an Act of the Georgia General Assembly, effective January 1, 1980, relating to Local Sales & Use Taxes, the governing authorities for the qualifying municipalities and the county located within the special district coterminous with the boundaries of Fulton County hereby certify that the proceeds of the combination city/county local sales and use tax generated in such district shall be distributed by the State Revenue Commissioner as follows:

City of Palmetto _____	shall receive	0.4247 _____	%
City of Union City _____	shall receive	1.9732 _____	%
City of Atlanta _____	shall receive	40.4358 _____	%
City of Fairburn _____	shall receive	1.4829 _____	%
City of _____	shall receive	_____	%
County of Fulton _____	shall receive	14 _____	%

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are 'qualified municipalities,' as that term is used in the Act, and that all municipalities listed herein as recipients are 'qualified' and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this _____ day of _____ 20 ____.

MAYOR OF THE CITY OF Palmetto

MAYOR OF THE CITY OF Union City

MAYOR OF THE CITY OF Atlanta

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

CHAIRMAN BOARD OF COMMISSIONERS OF
Fulton COUNTY