

CITY OF SOUTH FULTON, GEORGIA
SPECIAL CALLED MEETING - City Hall, 5440 Fulton Industrial Blvd., South Fulton, GA
30336
Monday, July 11, 2022, 4:00 PM



The Honorable khalid kamau, Mayor
The Honorable Catherine F. Rowell, District 1 Councilmember
The Honorable Carmalitha Gumbs , District 2 Councilmember
The Honorable Helen Z. Willis, District 3 Councilmember
The Honorable Jaceey Sebastian, District 4 Councilmember
The Honorable Corey A. Reeves, District 5 Councilmember
The Honorable Natasha Williams, District 6 Councilmember
Vacant, District 7 Councilmember

SPECIAL CALLED MEETING AGENDA

1. Meeting Called to Order
2. Roll Call
3. Agenda Items
 1. LOST Negotiation Discussion including Selection of Consultants to Assist the City of South Fulton
 2. Request Council Approval of An Emergency Ordinance Declaring A State Of Emergency In The City Of South Fulton; Providing For City Meetings To Be Held Virtually; Providing For An Effective Date And For Other Lawful Purposes
4. Adjournment of Meeting



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL SPECIAL MEETING

SUBJECT: LOST Negotiation Discussion including Selection of Consultants to Assist the City of South Fulton

DATE OF MEETING: 7/11/2022

DEPARTMENT: City Manager

ATTACHMENTS:

Description	Type	Upload Date
Res2022 COSF LOST Representation Resolution With Fulton & Cities Final	Cover Memo	7/11/2022
Cities of Fulton LOST Proposal for Services June 13 2022	Cover Memo	7/11/2022

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

RES-2022-

A RESOLUTION APPOINTING AND AUTHORIZING SPECIAL COUNSEL TO REPRESENT THE CITY OF SOUTH FULTON, GEORGIA TO NEGOTIATE A LOCAL OPTION SALES TAX ("L.O.S.T.") DISTRIBUTION CERTIFICATION AS REQUIRED UNDER THE LAWS OF THE STATE OF GEORGIA; TO AUTHORIZE SAID COUNSEL TO ASSIST IN THE PREPARATION, NEGOTIATION, MEDIATION, OR ARBITRATION OF THE CITY'S L.O.S.T.; REPEAL INCONSISTENT PROVISIONS; AND FOR OTHER PURPOSES.

W I T N E S S E T H:

WHEREAS, the City of South Fulton, Georgia ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia, and is charged with providing public services to its residents; and

WHEREAS, pursuant to § 1.12 (a) of the City Charter, the City is vested with all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter; and

WHEREAS, the duly elected governing authority of the City is the Mayor and Council thereof ("City Council");

WHEREAS, pursuant to § 3.10 (A) of the City Charter, the General Assembly through this Charter has established a City Council – City Manager form of government with the full and complete legislative and policy making authority of the City resides in its part-time city council and full-time city manager

WHEREAS, pursuant to § 3.10 (b) of the City Charter, the City Council has the authority to adopt and provide for the execution of ordinances, resolutions, rules and/or regulations that are not inconsistent with the Charter and Constitution of the State of Georgia; and

WHEREAS, the City is authorized to enter into contracts and agreements with other governments and entities and with private persons, firms, and corporations (See § 1.12 (b)(7)); and

WHEREAS, the City wishes to cooperate with its fellow Cities of Alpharetta, Chattahoochee Hills, College Park, East Point, Fairburn, Hapeville, Johns Creek, Milton, Mountain Park, Palmetto, Roswell, Sandy Springs, South Fulton, and Union City in mediation and litigation and work jointly with and

through Special Counsel to achieve a fair distribution of L.O.S.T. proceeds in accordance with the L.O.S.T. enactment; and

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 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, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:

1. Retention of Special Counsel. The City hereby retains Andrew J. (Andy) Welch, III, Brandon Palmer, and Averiel Jackson of the law firm of Smith Welch Webb & White (“Special Counsel”) to represent the City jointly with other cities which adopt a like Resolution. Special Counsel may be asked by the Mayor or by a majority of the City Council to appear and provide an update on the status of the mediation and litigation to the City Council as a whole in accordance with the Open Meetings Act.
2. Authorization to Special Counsel. The City hereby authorizes Special Counsel to acknowledge service of the on behalf of the City; to represent the City jointly with other cities to negotiate, mediate or arbitrate, and secure a L.O.S.T. distribution certificate with the County in accordance with the laws of the State of Georgia, and if necessary, to conduct corresponding litigation.
3. Scope of Representation Limited. The City acknowledges that the scope of the representation and the corresponding attorney-client relationship shall extent to obtaining a L.O.S.T. distribution certificate with the County. Special Counsel shall not be deemed to represent the City for any other purpose unless or until a separate engagement agreement is entered into. Additionally, the City agrees that it will not raise a conflict of interest with respect to Special Counsel’s representation adverse to the City in other contexts (such as eminent domain proceedings). If requested by Special Counsel, the City shall also sign any reasonable request for a waiver of any conflict of interest.
4. Representation of City to Special Counsel. The City represents that it will pay or authorize the payment of its portion of legal fees, expert witness fees, including consultant fees for the services of Michael B. Brown of Brown Pelican Consulting LLC, and all other costs and expenses incurred by Special Counsel. See Michael B. Brown Proposal for Services – Exhibit B.
5. Designated Representation of the City. The Mayor, or the City Council’s designee is hereby designated and authorized to serve as the City’s

designated representative for L.O.S.T. negotiations, mediation or arbitration and will be the City's point of contact for all communications between Special Counsel and the City.

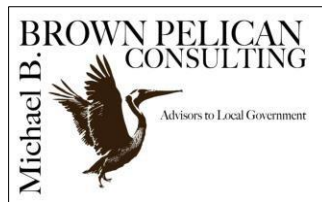
6. Authority to Approve LOST Certificate. Approving a L.O.S.T. distribution certificate with the County requires approval by the majority vote of the respective Mayor(s) and City Council(s) unless the City is treated as an absent municipality.
7. Joint Representation and Waiver of Confidentiality. The City acknowledges that Special Counsel will represent it jointly with other cities which likewise retain Special Counsel to represent their interest in negotiations, mediation and arbitration (and litigation if necessary) of a L.O.S.T. distribution certificate with the County. The City warrants that its governing body has read the joint-representation letter dated June 7, 2022 and attached hereto and incorporated herein as Exhibit "A" and no conflict of interest exists at this time between the City and any other of said cities with respect to the joint representation contemplated in this Resolution. Should a conflict of interest arise, the City agrees to promptly notify Special Counsel in writing and allow Special Counsel to continue representation so long as continued representation does not violate the Georgia Rules of Professional Conduct. The City has had the opportunity to discuss the terms of this Resolution and said letter with its attorney of choice and hereby waives its right to confidentiality with Special Counsel and the other jointly represented Cities with respect to Special Counsel performing the representation contemplated in this Resolution. The Mayor is hereby authorized to execute the Acknowledgment of joint representation which includes, among other things, a waiver of confidentiality and nondisclosure agreement.
8. Additional Documents. The City Council authorizes the Mayor or City Manager and/or other authorized City Council designee to execute any documents, including those necessary for negotiation, mediation, arbitration (and litigation), which may be necessary to effectuate this Resolution.
9. Attestation. The City Council does hereby authorize the City Clerk to attest the signature of the Mayor or City Manager or other authorized City Council designee 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.
10. Severability. In the event that or to the extent that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional, nonbinding or otherwise unenforceable by the valid judgment or decree of any court of competent

jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution.

11. Repeal of Conflicting Provisions. All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
12. Presumption of Lawful Enactment. It is hereby declared to be the intention of the City Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
13. Non-Substantive Editing. The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Resolution for proofing, codification, and supplementation purposes. The final version of all resolutions shall be filed with the City Clerk.
14. Effective Date. This Resolution shall take effect immediately.

THIS RESOLUTION adopted this _____ day of _____, 2022.

[Voting tabulation and signatures appear on following page]



June 14, 2022

City Managers or Responsible City Officials
Municipalities of Fulton County GA

Dear City Officials:

Please accept this Proposal for Services by Brown Pelican Consulting LLC [the “Firm”] for the Cities of Fulton County in their renegotiation of the Local Option Sales Tax Agreement with the Board of Commissioners of Fulton GA.

Services will include a review, analysis, and presentation of data in support of the criteria set forth in the LOST statute [O.C.C.G.A. §48-8-89 et seq.] for the determination of justified shares of LOST revenues for Fulton County and for the municipalities located wholly or partially within Fulton County.

Sources of information will include official Federal, State, County, and municipal data including current LOST shares and revenues, population, property tax rates and digests, financial reports, services and service expenditures, employment and employment commuting, debt, location and sources of sales tax revenues, intergovernmental agreements, and municipal taxpayers’ subsidies of unincorporated area and county-wide services, and other factors in support of the criteria enumerated in the LOST and other relevant state statutes.

The work product will be a report containing a set of tables and explanations presenting justifiable shares of LOST revenues for the County and for the municipalities based on the statutory criteria. The work will be performed by Michael B. Brown, as principal of the Firm, but may performed by other persons in the Firm under Brown’s direct supervision. The cost of the work performed will be \$175 per hour plus direct expenses such as travel, printing, transmission of documents, etc.

Work will commence within two weeks of acceptance of this proposal, and work is expected to be completed within six weeks of commencement. Payment for services by the cities will be upon the completion and presentation of a report to the city managers or city representatives with apportionment of payments as determined by the cities. Requests for payment will include a listing of tasks performed, hours and dates of work, and receipts for expenses incurred.

Michael B. Brown, co-owner of the Firm, has served as a city manager or assistant city manager for 30+ years in Georgia and he has achieved court designation as an expert and an expert witness in local government administration in Georgia. As a consultant, Brown has performed LOST, Service Delivery, SPLOST, TSPLOST, litigation defense, fiscal planning, and a range of analyses for over 150 Georgia cities. A more detailed statement of qualifications is attached.

Brown Pelican Consulting LLC is registered with the GA Secretary of State and with E-Verify and is licensed to do business in the City of Savannah GA.

Thank you very much for your consideration. I look forward to hearing from you.

Sincerely,

A rectangular box containing a handwritten signature in cursive script. The text reads "Brown Pelican Consulting LLC" on the first line and "by Michael B. Brown" on the second line.

Michael B. Brown

Brown Pelican Consulting LLC

P.O. Box 14314

Savannah GA 31316

912-308-9669

mbrown@brownpelicanconsulting.com

Accepted by the Enumerated Municipalities

Name, Title, Date

Michael B. Brown

Michael Brown has over 45 years of local government service and leadership in city and county management and consulting.

Brown is co-owner of Brown Pelican Consulting LLC which, in the past twelve years, has served over 150 Georgia cities as well as the Georgia Municipal Association and the UGA Carl Vinson Institute. The firm focuses on LOST, Service Delivery, SPLOST, TSPLOST, city-county fiscal equity, fiscal planning, tax and service analysis, and expert witness court testimony.

Brown was the City Manager of Savannah GA for fifteen years and Assistant City Manager for nine years. He recently served as Interim City Manager helping the City hire a permanent City Manager, complete the new arena, manage City response to COVID, and adopt a long-range fiscal plan. During his tenures, Savannah has had a renaissance of its downtown and neighborhoods gaining national recognition for planning, development, redevelopment, housing vitality, preservation, and tourism. His work included the revitalization of City Market, Ellis Square, the eastern Riverfront, Hutchinson Island, Trustees Garden, Rail Shops/Battlefield Park, and numerous residential neighborhoods. Brown planned and directed over \$300 million in construction and land acquisition to substantially reduce flooding risks throughout the city.

Brown served for five years as City Manager of the Columbus GA City/County Government. He led the planning and implementation of a city renaissance including roadway construction and landscaping, the civic center, public safety headquarters, theater arts center, Chattahoochee River Walk, city-wide parks and recreation expansion, Oxbow Meadows environmental park, and the National Civil War Naval Museum.

Brown has managed essentially every type of local government service including public safety, transportation and traffic, community and economic development, courts, utilities, code enforcement, social services, employment, healthcare, housing, recreation, culture, historic preservation, environmental conservation, and intergovernmental and media relations. This involved complex capital and community projects including financing, design, esthetics, citizen participation, environmental justice, litigation, and operations in center-cities, low-and high-income neighborhoods, and waterfronts.

Brown has also served as city manager in Stratford CT, and Mt. Pleasant TN. He assisted cities in Haiti, Indonesia, and Zimbabwe on needs including governance and development.

Education: Master of Arts, Public Administration, University of Virginia; Bachelor of Arts in Government with High Distinction, University of Virginia. Academic Honors: Phi Beta Kappa.



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL SPECIAL MEETING

SUBJECT:

Request Council Approval of An Emergency Ordinance Declaring A State Of
Emergency In The City Of South Fulton; Providing For City Meetings To Be
Held Virtually; Providing For An Effective Date And For Other Lawful
Purposes

DATE OF MEETING: 7/11/2022

DEPARTMENT: City Council

ATTACHMENTS:

Description	Type	Upload Date
Ord2021 State of Emergency Ordinance Virtual Meetings vdh edits 051822	Cover Memo	7/1/2022

AN ORDINANCE DECLARING A STATE OF EMERGENCY IN THE CITY OF SOUTH FULTON; PROVIDING FOR CITY MEETINGS TO BE HELD VIRTUALLY; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER LAWFUL PURPOSES.

(Sponsored by Councilmember Catherine Rowell - District 1)

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

WHEREAS, the duly elected governing authority of the City is the Mayor and Council thereof ("City Council"); and

WHEREAS, the World Health Organization has declared the COVID-19 Virus, commonly referred to as the Coronavirus, as a world health emergency and global pandemic; and

WHEREAS, the Coronavirus has various mutations and/or variants that continue to effect vaccinated and unvaccinated individuals across the nation, including Georgia and its surrounding counties and cities; and

WHEREAS, the Centers of Disease Control ("CDC") and the Georgia Department of Public Health ("DPH") collects, analyzes and tracks Covid-19 data in various categories, e.g., confirmed cases, hospitalizations, deaths by race and ethnicity,

WHEREAS, it is known that the COVID-19 Virus and its variants can have a disproportionate impact on certain races and ages than other race or age groups; and

WHEREAS, the global pandemic caused by the spread of COVID-19 persists with the new variants (e.g., Omicron) of the virus currently infecting Georgians; and

WHEREAS, according to the Georgia Department of Public Health, a large portion of Georgians are not fully vaccinated; and

WHEREAS, it is essential for the City to continue to act in order to minimize the spread of COVID-19 and its variants so as to prevent or minimize sickness, injury, or death, to people and damage to property resulting from this continued public health crisis;

WHEREAS, the City is authorized to declare an emergency and take measures to protect the life, health, property, or public peace of its citizens pursuant to Section 3.18 of its Charter; and

WHEREAS, O.C.G.A. §38-3-28 provides the City with the authority to make, amend, and rescind such orders, rules, and regulations as necessary for emergency

management purposes to preserve the health, safety, and welfare of the residents of the City; and

WHEREAS, the Open Meetings Act, O.C.G.A. § 51-14-1 *et seq*, allows public agencies, such as the City, to conduct their meetings, via, teleconference in the event of an emergency; and

WHEREAS, the COVID-19 as a previously recognized pandemic or epidemic still constitutes an emergency within the meaning of the Open Meetings Act; and

WHEREAS, The state of Georgia Governor's executive order declaring a Public Health State of Emergency which provided for City Meetings to be conducted virtually has expired; and

WHEREAS, the City had previously adopted an emergency ordinance that only remains in effect for only 30 days; and

WHEREAS, the City Council desires to adopt this emergency ordinance to continue to provide for City Meetings to remain virtual to aid in the prevention and the potential spread of the COVID-19 and its variants (e.g., Omicron) at City meetings, which are staffed and attended by its elected officials, employees, and citizens; and

WHEREAS, this Ordinance is in the best interests of the health and general welfare of the City, its residents and general public.

THE CITY COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

Section 1. Declaration of Emergency. The City Council hereby declares that a public health state of emergency remains in the City of South Fulton due to a pandemic or epidemic.

Section 2. City Meetings. All meetings of any Board, Commission, Authority, or the City Council shall continue to be held by virtual means, to include the use of the Zoom platform with concurrent live streaming of the proceedings on YouTube. Public comments will be received through Zoom in addition to written comments submitted to the City as provided on the City's website. In all other respects, the meetings will be conducted as though they were in person and held at City Hall.

Section 3. Effective Date. This Ordinance shall take effect upon passage by the City Council and shall expire by its own terms 30 days after its adoption, unless extended by further action of the City Council.

Section 4. It is hereby declared to be the intention of the City Council that: (a) All sections, paragraphs, sentences, clauses, and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable, and constitutional.

(b) To the greatest extent allowed by law, every section, paragraph, sentence, clause, or phrase of this Ordinance is severable from every other section, paragraph, sentence,

clause, or phrase of this Ordinance. No section, paragraph, sentence, clause, or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

Section 5. All Ordinances and parts of Ordinances in conflict herewith are hereby expressly repealed.

Section 6. The City Attorney, City Clerk are authorized to make non-substantive formatting and renumbering edits to this ordinance for proofing, codification, and supplementation purposes. The final version of all ordinances shall be filed with the clerk.

[signatures and voting tabulations appear on the following page]