



A SUBSTITUTE RESOLUTION

04-R-0545

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A SUBSTITUTE RESOLUTION AUTHORIZING THE CITY ATTORNEY TO CONTINUE THE RETAINER AGREEMENT WITH THE LAW FIRM OF SMITH, GAMBRELL & RUSSELL, LLP TO SERVE AS OUTSIDE COUNSEL TO THE CITY OF ATLANTA IN CONNECTION WITH MATTERS PERTAINING TO PROPERTY TAXES ASSESSED BY CLAYTON COUNTY, GEORGIA UPON PROPERTIES AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT LOCATED IN CLAYTON COUNTY; TO AUTHORIZE EXPENDITURE FOR THAT PURPOSE IN AN AMOUNT NOT TO EXCEED \$150,000.00, TO BE PAID FROM FUND, ACCOUNT AND CENTER NUMBER 2H01 524001 H11001; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (the “City”) owns and operates Hartsfield-Jackson Atlanta International Airport (the “Airport”), the majority of which is located in Clayton County, Georgia; and

WHEREAS, Clayton County has declared certain parcels at the Airport to be of a taxable nature and has assessed property taxes against these parcels. The City disagrees with Clayton County’s assessment and is in a genuine dispute with Clayton County regarding the taxable nature of these parcels; and

WHEREAS, a favorable resolution of this tax dispute by the City is important to the City on a financial and precedential basis; and

WHEREAS, tax law is a specialized and complex area of the law. No attorneys in the City’s Department of Law possess any expertise in the area of tax law; and

WHEREAS, Section 2-396 of the City of Atlanta Code of Ordinances vests the City Attorney “with complete and exclusive authority and jurisdiction in all matters of law;” and

WHEREAS, the City Attorney has determined that, in order to most effectively and efficiently represent the City in this tax dispute, the attorney(s) handling the dispute must continue to have expertise in the area of tax law; and

WHEREAS, the attorneys at Smith, Gambrell & Russell, LLP specialize in the area of tax law and have an excellent reputation; and



WHEREAS, on January 21, 2003, the Council of the City of Atlanta authorized the City Attorney to retain the Law Firm of Smith, Gambrell & Russell, LLP to serve as outside counsel representing the City in its dispute against Clayton County, Georgia regarding the taxability of parcels at the Airport located in Clayton County and related matters.

WHEREAS, the City Attorney recommends that the City continue to retain Smith, Gambrell & Russell, LLP to represent the City in this dispute; and

WHEREAS, Smith, Gambrell & Russell, LLP is not able at this time to estimate the total cost of continuing to handle this matter; and

WHEREAS, the City Attorney requests additional authorization to expend additional funds to compensate and reimburse Smith, Gambrell & Russell, LLP in an amount not to exceed one hundred fifty thousand dollars (\$150,000.00), with the understanding that the cost of handling this dispute may exceed this amount, and that, if necessary, the City Attorney will return to the City Council in the future with a status report on the matter and a request for authorization for additional funds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the City Attorney be and is hereby authorized to continue to retain the Law Firm of Smith, Gambrell & Russell, LLP to serve as outside counsel representing the City in its dispute against Clayton County, Georgia regarding the taxability of parcels at the Airport located in Clayton County and related matters.

AND BE IT FINALLY RESOLVED that the Chief Financial Officer is hereby authorized to continue to remit payment of all legal fees, expenses and costs due for legal services rendered by the Law Firm of Smith, Gambrell & Russell, LLP in connection with tax matters regarding Airport property located in Clayton County, that are approved for payment by the City Attorney, in an amount not to exceed one hundred fifty thousand dollars (\$150,000.00), to be paid from Fund, Account and Center Number 2H01 524001 H11001.

A true copy,
Rhonda Daughin Johnson
Municipal Clerk

ADOPTED by the Council
APPROVED by the Mayor

April 19, 2004
April 27, 2004



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WHEREAS, the City of Atlanta (the “**City**”) owns and operates Hartsfield-Jackson Atlanta International Airport (the “**Airport**”), the majority of which is located in Clayton County, Georgia; and

WHEREAS, Clayton County has declared certain parcels at the Airport to be of a taxable nature and has assessed property taxes against these parcels. The City disagrees with Clayton County’s assessment and is in a genuine dispute with Clayton County regarding the taxable nature of these parcels; and

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WHEREAS, the City Attorney recommends that the City continue to retain Smith, Gambrell & Russell, LLP to represent the City in this dispute; and

WHEREAS, Smith, Gambrell & Russell, LLP is not able at this time to estimate the total cost of continuing to handle this matter; and

WHEREAS, the City requests additional authorization to expend additional funds to compensate and reimburse Smith, Gambrell & Russell, LLP in an amount not to exceed three hundred thousand dollars (\$300,000.00), with the understanding that the cost of handling this dispute may exceed this amount, and that, if necessary, the City Attorney will return to the City Council in the future with a status report on the matter and a request for authorization for additional funds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the City Attorney be and is hereby authorized to continue to retain the law firm of Smith, Gambrell & Russell, LLP to serve as outside counsel representing the City in its dispute against Clayton County, Georgia regarding the taxability of parcels at the Airport located in Clayton County and related matters.

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TRANSMITTAL FORM FOR LEGISLATION

To Mayor's Office: Greg Pridgeon

From: Originating Dept. Law
Committee of Purview: Public Safety
Committee Meetings: 3/30/04

Contact: Jennifer Tetrick, 404-209-4128
Committee Deadline: 3/26/04
City Council Meeting: 4/19/04

CAPTION:

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO CONTINUE THE RETAINER AGREEMENT WITH THE LAW FIRM OF SMITH, GAMBRELL & RUSSELL, LLP TO SERVE AS OUTSIDE COUNSEL TO THE CITY OF ATLANTA IN CONNECTION WITH MATTERS PERTAINING TO PROPERTY TAXES ASSESSED BY CLAYTON COUNTY, GEORGIA UPON PROPERTIES AT HARTSFIELD ATLANTA INTERNATIONAL AIRPORT LOCATED IN CLAYTON COUNTY; TO AUTHORIZE EXPENDITURE FOR THAT PURPOSE IN AN AMOUNT NOT TO EXCEED \$300,000.00, TO BE PAID FROM FUND ACCOUNT AND CENTER NUMBER 2H01 524001 H11001; AND FOR OTHER PURPOSES.

BACKGROUND/DISCUSSION: The City is in dispute with Clayton County, Georgia regarding Clayton the taxable nature of certain parcels at Hartsfield-Jackson Atlanta International Airport and Clayton County's assessment of taxes on these parcels. Tax law is a specialized area of the law and no attorneys in the Law Department possess an expertise in the area of tax law. The law firm of Smith, Gambrell & Russell, LLP employs attorneys who specialize in the area of tax law. The most efficient and effective way to represent the City in this dispute is for the attorneys handling the matter to have an expertise in the area of tax law.

FINANCIAL IMPACT:

SOURCE:

Mayor's Staff Only:

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Received by Mayor's Office: \_\_\_\_\_ Reviewed: \_\_\_\_\_  
(Date) (Initials) (Date)

Submitted to Council: \_\_\_\_\_

Action by Committee: \_\_\_\_\_ Approved \_\_\_\_\_ Adversed \_\_\_\_\_ Held \_\_\_\_\_ Amended  
\_\_\_\_\_ Substitute \_\_\_\_\_ Referred \_\_\_\_\_ Other

(Do **04** write Room **0545**)

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BY PUBLIC SAFETY AND LEGAL  
ADMINISTRATION COMMITTEE

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*Judith K. DePaulis*  
SIGNATURE LINE

**ADOPTED BY**

APR 19 2004

- CONSENT REFER
- REGULAR REPORT REFER **COUNCIL**
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred \_\_\_\_\_

Referred To: \_\_\_\_\_

Date Referred \_\_\_\_\_

Referred To: \_\_\_\_\_

Date Referred \_\_\_\_\_

Referred To: \_\_\_\_\_

First Reading

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair *H. Linn Mills*

Referred To \_\_\_\_\_

*Public Safety*

*Chair Date: 2/24*

*Chair: [Signature]*

*Fav, Adv, Hold (see rev. side)*

*Members: [Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

Refer To \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action \_\_\_\_\_

Fav, Adv, Hold (see rev. side)

Members \_\_\_\_\_

Refer To \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action \_\_\_\_\_

Fav, Adv, Hold (see rev. side)

Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

- FINAL COUNCIL ACTION
- 2nd
  - 1st & 2nd
  - 3rd
  - Consent
  - V Vote
  - RC Vote

CERTIFIED

*[Signature]*

APR 19 2004

COUNCIL PRESIDENT PROTEM

**CERTIFIED**

APR 19 2004

*[Signature]*  
MAYOR'S ACTION

MAYOR'S ACTION

**APPROVED**

APR 27 2004

MAYOR