

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,)	CIVIL ACTION FILE
)	
Plaintiff,)	NO. 25CV04685
)	
vs.)	
)	
COBB-MARIETTA COLISEUM AND)	BOND VALIDATION
EXHIBIT HALL AUTHORITY; COBB)	
COUNTY, GEORGIA; CITY OF)	
AUSTELL, GEORGIA; CITY OF)	
KENNESAW, GEORGIA; CITY OF)	
POWDER SPRINGS, GEORGIA; and)	
CITY OF SMYRNA, GEORGIA,)	
)	
Defendants.)	

ACKNOWLEDGEMENT OF SERVICE

Due and legal service of the Answer of the City of Powder Springs, Georgia filed in this case is hereby acknowledged; copy received; process and service of process and any and all other and further notice and service waived, this _____, 2025.

District Attorney
Cobb Judicial Circuit

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

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Plaintiff,)	NO. 25CV04685
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vs.)	
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COBB-MARIETTA COLISEUM AND)	BOND VALIDATION
EXHIBIT HALL AUTHORITY; COBB)	
COUNTY, GEORGIA; CITY OF)	
AUSTELL, GEORGIA; CITY OF)	
KENNESAW, GEORGIA; CITY OF)	
POWDER SPRINGS, GEORGIA; and)	
CITY OF SMYRNA, GEORGIA,)	
)	
Defendants.)	

ACKNOWLEDGEMENT OF SERVICE

Due and legal service of the Petition and Complaint with exhibits and Order dated June 23, 2025, filed in this case, is hereby acknowledged; copy received; process and service of process and any and all other and further notice and service waived, this July ___, 2025.

**CITY OF POWDER SPRINGS,
GEORGIA**

Albert Thurman, Mayor

IN THE SUPERIOR COURT OF COBB COUNTY

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POWDER SPRINGS, GEORGIA; and)	
CITY OF SMYRNA, GEORGIA,)	
)	
Defendants.)	

ANSWER OF CITY OF POWDER SPRINGS, GEORGIA

COMES now the Defendant, City of Powder Springs, Georgia (the "City" or "Defendant City"), and having been duly served in the above-entitled cause, for answer to the Petition and Complaint and Order served on it, says:

1.

Defendant City admits paragraphs numbered 1 to 43, inclusive, of the Petition and Complaint filed in this case and each and every allegation contained in said paragraphs insofar as same are applicable to the Defendant City.

2.

Answering further, the Defendant City adopts each and every allegation in each and every paragraph of the Answer of Cobb-Marietta Coliseum and Exhibit Hall Authority (the "Authority") filed in these proceedings insofar as same are applicable to the Defendant City.

3.

Answering further, the Defendant City adopts each and every allegation and each and every paragraph of the answers of the City of Austell, Georgia; City of Kennesaw, Georgia; and City of Smyrna, Georgia filed in these proceedings insofar as same are applicable to the Defendant City.

4.

Answering further, the Defendant City adopts each and every allegation in each and every paragraph of the Answer of Cobb County, Georgia filed in these proceedings insofar as same are applicable to the Defendant City.

5.

All capitalized terms used in this Answer and not otherwise defined herein shall have the meanings assigned to such terms in the Petition and Complaint and the Indenture, as applicable.

6.

Answering further, the Defendant City admits that due and legal service was made upon it to show cause, if any exist, why the Cobb Marietta Coliseum and Exhibit Hall Authority Revenue Bonds (Cobb Galleria Centre Project), Series 2025, in the aggregate original amount of not to exceed \$215,000,000 (the "Series 2025 Bonds"), the security therefor, and the levy and collection of the Hotel/Motel Tax (as defined herein) described in said Petition and Complaint should not be confirmed and validated.

7.

Answering further, the Defendant City further admits that it is a political subdivision of the State of Georgia, located in Cobb County, legally created and validly existing.

Answering further, the Defendant City further admits that pursuant to the Cobb-Marietta Coliseum and Exhibit Hall Authority Act (Ga. L. 1980, p. 4091, *et seq.*, as amended) (the "Act"), Article IX, Section III, Paragraph I of the State Constitution (the "Intergovernmental Contracts Clause"), other applicable provisions of State law, an ordinance adopted by the City on November 18, 1991 (the "City Ordinance") and a resolution adopted by the City on March 20, 2023 (the "City Approval"), the Authority and the Defendant City entered into an Amended and Restated Galleria Convention Funding Agreement with an effective date of October 1, 2023 (the "Participating City Convention Funding Agreement"), with a term expiring on the first date on which no Bonds remain outstanding under the Indenture but in no event beyond October 1, 2053, which amended and restated in its entirety the City Convention Funding Agreement, dated as of December 1, 1991, as amended by an Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, pursuant to which the Authority agreed, among other things, to design, construct, operate, and maintain the Project and the Defendant City, among other things, agreed to pay the Authority the percentage of the excise tax authorized to be imposed upon the furnishing of public accommodations (the "Hotel/Motel Tax") which the Defendant City levies and collects pursuant to O.C.G.A. § 48-13-51, as amended (the "Hotel/Motel Tax Law"), that is specified in the Participating City Convention Funding Agreement, and, the Defendant City agreed so long as any Bonds remain outstanding under the Indenture not to cease to levy and collect, or reduce the rate of, the Hotel/Motel Tax in any manner that will impair the interest and rights of the holders of the outstanding Series 1993 Bonds, the outstanding Series 2005 Bonds, and any Additional Parity Bonds. The Defendant City has in the Participating City Convention Funding Agreement, agreed to the issuance by the Authority of Additional Parity Bonds. The City Ordinance was amended by

an ordinance adopted by the City on June 2, 2025 (the "Amending Ordinance"). A certified copy of the City Ordinance forms a part of the 1991 Validation Proceedings, and the City Ordinance is by this reference incorporated herein and made a part hereof. A certified copy of the City Approval is attached as Exhibit "G" to and forms a part of the Notice, which Notice with acknowledgment of service thereon is attached to the Petition and Complaint as "Exhibit "A." By this reference thereto the City Approval is hereby incorporated herein and made a part hereof. A certified copy of the Participating City Convention Funding Agreement is attached to the Petition and Complaint as Exhibit "E," and the Participating City Convention Funding Agreement is by this reference incorporated herein and made a part hereof. A certified copy of the Amending Ordinance is attached as Exhibit "F" to and forms a part of the Notice, which Notice with acknowledgment of service thereon is attached to the Petition and Complaint as Exhibit "A." By this reference thereto the Amending Ordinance is hereby incorporated herein and made a part hereof.

9.

Answering further, the Defendant City admits, in accordance with, among other things, the provisions of the Hotel/Motel Tax Law, the City Ordinance, as amended by the Amending Ordinance, and the City Approval, it has authorized the levy and collection of the Hotel/Motel Tax at the rate of eight percent. Pursuant to the terms of the Participating City Convention Funding Agreement, the Defendant City has agreed that so long as the Bonds and any Additional Parity Bonds are Outstanding, it will not cease to levy and collect, or reduce the rate of the Hotel/Motel Tax in any manner which would impair the interest and rights of the owners of any Bonds then Outstanding. Additionally, the Defendant City has covenanted not to impose, levy or collect taxes within its respective corporate limits in a manner which would cause the 13 percent limit contained in the Hotel/Motel Tax Law to reduce the rate of the Hotel/Motel Tax below eight percent, which

eight percent levy is required to be collected and paid pursuant to the Participating City Convention Funding Agreement. Furthermore, the Defendant City has agreed that in the event its corporate limits are expanded, the Hotel/Motel Tax, required by the Participating City Convention Funding Agreement (the "City Tax Payments") shall include the amount of Hotel/Motel Tax collections within such expanded corporate limits, all as more fully described in each of the Participating City Convention Funding Agreements. The Defendant City shall pay an amount equal to 62.5 percent of the Hotel/Motel Tax collected since the preceding payment under the Participating City Convention Funding Agreement. The Defendant City has pledged its City Tax Payments required under the Participating City Convention Funding Agreement and such pledge is effective without physical delivery of such payments and constitutes a first and prior lien superior to any and all other claims, whether such claim arises in contract, tort or otherwise and is superior to any lien that may be made after the date of the Participating City Convention Funding Agreement. Pursuant to the Participating City Convention Funding Agreement, the City Tax Payments are to be made directly to the Trustee for the account of the Authority. The obligations of the Defendant City to make its City Tax Payments and to perform and observe any and all of the other covenants and agreements on its part contained under the Participating City Convention Funding Agreement are absolute and unconditional irrespective of any defense or rights of setoff, recoupment or counterclaim against the Authority, and the Defendant City has covenanted not to suspend, abate, reduce, abrogate, diminish, postpone, modify or discontinue its City Tax Payments.

10.

Answering further, the Defendant City admits, pursuant to the Act, the Intergovernmental Contracts Clause, other applicable provisions of State law, the City Ordinance, and the City Approval, the Authority and the Defendant City entered into the Amended and Restated Galleria

Operating Agreement with an effective date of October 1, 2023 (the "Participating City Operating Agreement" and together with the Participating City Convention Funding Agreement, the "City Agreements"), with a term expiring on the first date on which no Bonds remain outstanding under the Indenture but in no event beyond October 1, 2053, which amended and restated in its entirety the Operating Agreement, dated as of December 1, 1991, as amended by an Amendment No. One to Operating Agreement, dated as of October 1, 1996, pursuant to which the Authority agreed to, among other things operate and maintain the Project in accordance with the Act. A certified copy of the Participating City Operating Agreement is attached to the Petition and Complaint as Exhibit "G," and the Participating City Operating Agreement is by this reference incorporated herein and made a part hereof.

11.

Answering further, the Defendant City admits, the Series 2025 Bonds shall not constitute or be deemed to constitute a debt or a pledge of the faith and credit of the Defendant City, nor shall the Defendant City subject to any pecuniary liability thereon. The issuance of the Series 2025 Bonds shall not directly, indirectly, or contingently obligate the Defendant City to levy or to pledge any form of taxation whatever therefor (other than its City Tax Payments) or to make any appropriation for the payment of the Series 2025 Bonds (other than from its City Tax Payments). The Series 2025 Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Defendant City.

12.

Answering further, the Defendant City, pursuant to the laws of the State, including in particular O.C.G.A. § 9-11-52, waives the requirement that separate findings of fact and conclusions of law be entered in this action.

Defendant City submits that it has in every way complied with the Constitution and the laws of the State of Georgia (including specifically the Hotel/Motel Tax Law) governing the levy and collection of the Hotel/Motel Tax and the execution and delivery of the City Agreements and the performance thereunder.

WHEREFORE, having fully answered, Defendant City prays judgment of this Honorable Court in favor of the issuance of the Series 2025 Bonds, finding that all necessary requirements as a matter of fact and as a matter of law have been met. Defendant City further prays that this Honorable Court inquire into the terms and conditions pertaining to the levy and collection of the Hotel/Motel Tax and prays that all actions of the City authorizing the levy and collection of the Hotel/Motel Tax be confirmed and validated in all respects. Defendant City further prays that this Honorable Court inquire into the terms and conditions of the City Agreements and the making of the related City Tax Payments by the City to the Trustee for the account of the Authority under the Participating City Convention Funding Agreement and prays that the City Agreements be confirmed and validated and adjudicated as being in full force and effect as of the applicable effective date thereof and to be constitutional, valid and binding enforceable legal obligations of the parties thereto.

Julie K. Livingston, Esq.
(Georgia Bar No. 004340)

**GREGORY DOYLE CALHOUN &
ROGERS LLC**

49 Atlanta Street
Marietta, Georgia 30060
(770) 422-1776

City Attorney to the City of Powder Springs,
Georgia

VERIFICATION

GEORGIA, COBB COUNTY

Personally appeared before the undersigned attesting officer in the afore said State and County, Al Thurman, who on oath depose and say that he is the duly appointed, qualified, and acting Mayor of the City of Powder Springs, Georgia, and that he has read the above and foregoing Answer of the City of Powder Springs, Georgia, and that the same is true and correct.

CITY OF POWDER SPRINGS, GEORGIA

Albert Thurman, Mayor

Sworn to and subscribed
before me and executed
by me, this ____ day
of _____, 2025

Notary Public

My Commission expires
