

*Clara Johnson*  
*Donna Johnson & McCarty*  
(Do Not Write Above This Line)

A RESOLUTION BY *Mark*  
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
A COST RECOVERY AND SHARING AGREEMENT WITH  
ARCHER-WESTERN CONTRACTORS LTD./CAPITAL CITY  
CONTRACTING CO., INC., A JOINT VENTURE, FOR  
CONTRACT NO. FC-5264-92, HEMPHILL PUMP  
STATION AND CLEARWELL IMPROVEMENTS: TO OUT-  
LINE THE ALLOCATION OF ANY FUNDS RECEIVED  
FROM THE BUILDER'S RISK INSURERS, DESIGNERS  
AND CONSTRUCTION MANAGERS FOR THE PROJECT  
IN SETTLEMENT OR LITIGATION OF THE MATTER:  
AUTHORIZING THE CITY ATTORNEY TO RETAIN THE  
LAW FIRMS OF GREENBERG TRAURIG, LLP AND  
THOMAS, MEANS, GILLIS, DEVLIN, ROBINSON  
AND SEAY, P.C. TO REPRESENT THE CITY IN  
SETTLEMENT AND TO INITIATE OR DEFEND LITI-  
GATION INVOLVING THE PROJECT AGAINST THE  
BUILDER'S RISK INSURERS, DESIGNERS AND  
CONSTRUCTION MANAGERS FOR THE PROJECT; AND  
FOR OTHER PURPOSES. *Donny Akshel*

*Substantive As Amended*  
**ADOPTED BY**  
**SEP 18 2000**  
 CONSENT REFER  
 REGULAR REPORT REFER  
 ADVERTISE & REFER  
 1st ADOPT 2nd READ & REFER COUNCIL  
 PERSONAL PAPER REFER

Date Referred *9/5/00*  
Referred To: *Finance/Executive*  
Date Referred  
Referred To:  
Date Referred  
Referred To:

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred to \_\_\_\_\_

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action: \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other: \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action: \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other: \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_

FINAL COUNCIL ACTION  
 2nd  
 1st & 2nd Readings  
 Consent  
 V Vote  
 RC Vote

CERTIFIED  
**CERTIFIED**  
SEP 18 2000  
*Donna M. Johnson*  
COUNCIL PRESIDENT PROTEM

**C**  
SEP 18 2000  
*Renee Douglas Johnson*  
MUNICIPAL CLERK

MAYOR'S ACTION  
**APPROVED**  
SEP 26 2000  
*[Signature]*

**A SUBSTITUTE RESOLUTION BY  
FINANCE/EXECUTIVE COMMITTEE**

DO-R-1431

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO RETAIN THE LAW FIRMS OF GREENBERG TRAUIG, LLP AND THOMAS, MEANS, GILLIS, DEVLIN, ROBINSON AND SEAY, P.C. TO REPRESENT THE CITY IN SETTLEMENT AND TO INITIATE OR DEFEND LITIGATION INVOLVING THE HEMPHILL PUMP STATION AND CLEARWELL IMPROVEMENTS AGAINST THE BUILDER'S RISK INSURERS, DESIGNERS AND CONSTRUCTION MANAGERS FOR THE PROJECT; AND FOR OTHER PURPOSES.**

**BACKGROUND**

**WHEREAS**, on September 26, 1994, the City entered into Contract No. FC-5264-92 (the "Contract"); Hemphill Pump Station and Clearwell Improvements (the "Project"), with Archer-Western Contractors LTD./Capital City Contracting Co., Inc., a joint venture (the "Contractor"); and

**WHEREAS**, the Scope of Work under the Contract included the construction of improvements to the City's Hemphill Water Treatment Plant, including a new clearwell with a storage capacity of 15 million gallons, transfer piping, butterfly valves and a new high service pump station; and

**WHEREAS**, during the construction of the Project, it was determined that the existing butterfly valves on the finished water main, which discharges into the new high service pump station, were inoperable; and

**WHEREAS**, subsequently, a dispute arose between the City, the Contractor, the design engineers for the Project, Jordan, Jones and Goulding, Inc./Delon Hampton and Associates, Chartered-JV, Williams-Russell and Johnson, Inc., and the construction managers for the Project, Mayes, Sudderth & Etheredge, Inc./Harrington, George & Dunn, P.C. and Construction Dynamics Group, as to the inoperability of the butterfly valves; and

**WHEREAS**, based upon an evaluation of the Water Treatment Plant and the various remediation alternatives available to the City, it was determined by the City, and its design consultant, Hartman & Associates, Inc, that the appropriate remediation was to replace the existing butterfly valves that failed with new valves, construct valve vaults, weld stiffener rings to the steel pipe used in the system and install the necessary appurtenances; and

**WHEREAS**, the City and the Contractor agreed to a remediation plan for the Project, based upon Hartman's remediation design proposal, and the Contractor agreed to construct the remediation and participate in the resolution of existing issues concerning the Project; and

**WHEREAS**, accordingly, the City and the Contractor entered into Change Order No. 3 to the Contract, which provided for the Contractor's construction of the remediation for the

Project; and

**WHEREAS**, at present, the City and the Contractor believe that each has valid claims against the designers and construction managers for the Project, as well as the builder's risk insurers that provided a policy for the Project; and

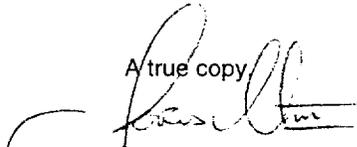
**WHEREAS**, the City Attorney further desires to retain the law firms of Greenberg Traurig, LLP and Thomas, Means, Gillis, Devlin, Robinson & Seay, P.C. to assist the Law Department in the resolution of all outstanding matters involving the builder's risk insurers, the designers and construction managers for the Project and, if necessary, to initiate or defend a lawsuit to recover under such claims;

**THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA RESOLVES**, that the City Attorney is authorized to retain the law firms of Greenberg Traurig, LLP and Thomas, Means, Gillis, Devlin, Robinson & Seay, P.C., in an amount not exceed \$450,000.00, to assist the Law Department in the resolution of all outstanding matters involving the builder's risk insurers, the designers and construction managers for the Hemphill Pump Station and Clearwell Improvements Project and, if necessary, to initiate or defend a lawsuit to recover under such claims.

**BE IT FURTHER RESOLVED** , that all expenses be charged to and paid from Fund Account and Center numbers 2J24 724001 Q24J02039999, 2J24724001 Q24J04019999 (1993 Water & Sewer Construction Fund).

Amendment Incorporated by tep 9/26/00

A true copy

  
Deputy Municipal Clerk

**ADOPTED** as amended  
**APPROVED** by the Mayor

September 18, 2000  
September 26, 2000

RCS# 2232  
9/18/00  
5:55 PM

Atlanta City Council

Regular Session

00-R-1431

Retain stated law firms to rep. City Re.  
Hemphill Pump Stat. & Clearwell Improvs.  
Adopt/Sub/Amend

YEAS: 9  
NAYS: 4  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

Y McCarty	Y Dorsey	N Moore	Y Thomas
NV Starnes	N Woolard	B Martin	Y Emmons
Y Bond	N Morris	Y Maddox	Y Alexander
Y Winslow	N Muller	Y Boazman	NV Pitts

00-R-1431