



**A RESOLUTION
BY PUBLIC SAFETY COMMITTEE**

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE ALL CLAIMS ARISING OUT OF THE CASE OF WALTON C. BRYDE V. CITY OF ATLANTA AND HEAVY CONSTRUCTORS, INC., CIVIL ACTION FILE NUMBER 2000-CV-18640 IN THE SUPERIOR COURT OF FULTON COUNTY, GEORGIA FOR \$35,166.67; AND FOR OTHER PURPOSES.

WHEREAS, Plaintiff Walton Bryde has filed a civil action claiming damage to real and personal property; and

WHEREAS, said property damage allegedly resulted from the work conducted by Heavy Constructors, Inc. ("HCI") in conjunction with the Nancy Creek Streambed Rehabilitation project for which HCI was the general contractor; and

WHEREAS, HCI entered Mr. Bryde's property pursuant to a Right of Entry Agreement dated June 25, 1998 and a letter agreement dated October 15, 1998; and

WHEREAS, in the course of performing work on the stream bank, HCI used Mr. Bryde's property for ingress and egress and caused disruption to landscaping, paving, and a fence located on Mr. Bryde's property, which damage was anticipated and contemplated by the contract; and

WHEREAS, pursuant to its contract with the City, HCI presented estimates to the City for the cost of repair and restoration of Mr. Bryde's property, and City engineers approved the estimates in the approximate amount of \$33,500.00, and authorized HCI to proceed with the restorative work; and

WHEREAS, HCI sought to restore Mr. Bryde's property, but HCI and Mr. Bryde were unable to agree on the terms of the restoration of his to its original condition; and

WHEREAS, Mr. Bryde filed this action against HCI and the City of Atlanta in the Superior Court of Fulton County, styled as Walton C. Bryde V. City Of Atlanta And Heavy Constructors, Inc., Civil Action File Number 2000-cv-18640, seeking recovery against all defendants jointly and severally; and

WHEREAS, the attorney for HCI's insurer and the Law Department have conducted discovery and a thorough investigation of the case and have participated with Plaintiff Bryde and HCI in mediation; and

WHEREAS, the Law Department recommends settlement with Plaintiff Bryde for \$35,166.67 from the City of Atlanta in lieu of any obligation to repair or fund the repair of Mr. Bryde's property, with additional sums to be paid by HCI and its insurer, Grange Mutual Casualty Company to total \$55,000.00; and



WHEREAS, Plaintiff Bryde, by and through his attorney of record, has agreed to accept \$35,000.00 as full settlement of his claim against HCI and the City of Atlanta and thereafter shall dismiss his claim against the City of Atlanta; and

WHEREAS, in the opinion of the City Attorney, it is in the best interests of the City to settle this action pursuant to such terms;

NOW THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1. The City attorney is hereby authorized to settle the case of Walton C. Bryde V. City Of Atlanta And Heavy Constructors, Inc., Civil Action File Number 2000-Ccv-18640, and the City's portion of the settlement shall consist of the sum of THIRTY-FIVE THOUSAND ONE HUNDRED SIXTY SIX DOLLARS AND SIXTY SEVEN CENTS (\$35,166.67) in exchange for the dismissal with prejudice of the suit against the city of Atlanta and an executed release to be prepared by the Law Department.

Section 2. The Chief Financial Officer is hereby authorized to pay a total sum of \$35,166.67 to Plaintiff Walton Bryde and his attorney, Johannes S. Kingma, Esq., from Account Number 1C37 524001 M24I012792BB.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

JUL 02, 2001

JUL 11, 2001

RCS# 2970
7/02/01
3:45 PM

Atlanta City Council

Regular Session

01-R-0994

Settle all claims in Walton C. Bryde v.
Atlanta & Heavy Constructors/\$35,155.67
ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

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

01-R-0994

01-R-0994

(Do Not Write Above This Line)

A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION AUTHORIZING THE CITY ATTORNEY TO SETTLE ALL CLAIMS ARISING OUT OF THE CASE OF WALTON C. BRYDE V. CITY OF ATLANTA AND HEAVY CONSTRUCTORS, INC., CIVIL ACTION FILE NUMBER 2000-CV-18640 IN THE SUPERIOR COURT OF FULTON COUNTY, GEORGIA FOR \$35,155.67; AND FOR OTHER PURPOSES.

ADOPTED BY JUL 0 2 2001 COUNCIL

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

Date Referred
Referred To:
Date Referred
Referred To:
Date Referred
Referred To:

Committee
Date
Chair
Referred to

PS & LA

6/26/01

C. T. Martin

Fav, Adv, Hold (see rev. side)
Other:

Members
C. T. Martin

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)
Other:

Members

Refer To

First Reading

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 JUL 2 2001 ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED JUL 0 2 2001

Municipal Clerk

MAYOR'S ACTION

APPROVED

JUL 1 1 2001

WITHOUT SIGNATURE BY OPERATION OF LAW