



A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE

03-R-0782

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS OF CAPRICORN CONSTRUCTION COMPANY, INC., AGAINST THE CITY OF ATLANTA, IN THE CASE OF CAPRICORN CONSTRUCTION COMPANY, INC., V. THE CITY OF ATLANTA, CIVIL ACTION NUMBER: 2002-CV-52481, FILED IN THE SUPERIOR COURT OF FULTON COUNTY; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00); AND FOR OTHER PURPOSES.

WHEREAS, on April 29, 2002, Plaintiff Capricorn Construction Company initiated the case of Capricorn Construction Company v. City of Atlanta, in the Superior Court of Fulton County, claiming that it should have been awarded the Bitsy Grant Tennis Center Park Erosion Center contract instead of another company; and

WHEREAS, on or about November 28, 2001, Capricorn Construction company submitted a bid to the City of Atlanta for the FC-6958-98, Bitsy Grant Tennis Center Park Erosion Center contract; and

WHEREAS, Capricorn Construction was the second lowest bidder; and

WHEREAS, the company who was awarded the contract was the lowest bidder; and

WHEREAS, under the *City of Atlanta Code of Ordinances*, Section 2-1449(a), a potential bidder must demonstrate that the process for contracting or utilizing individuals or businesses as subcontractors or suppliers for work on projects undertaken by the potential bidder is open to individuals or businesses regardless of race, gender, or ethnicity, by fulfilling one of the three following requirements: (A) documentation of prior MBE or FBE participation, (B) documentation of prior outreach efforts, or (C) commitment to future good faith efforts; and



WHEREAS, the company who was awarded the contract did not choose a category under Section 2-1449(a), when it submitted its bid to the city; and

WHEREAS, on April 29, 2002, Plaintiff filed a Petition for Temporary and Permanent Injunctive Relief; and

WHEREAS, the Court denied the petition, but ordered the parties to mediate on the issue of bid prep costs; and

WHEREAS, the appropriate relief for Capricorn Construction Company would be its reasonable costs of bid preparation; and

WHEREAS, Plaintiff's bid was \$1,118,000.00 and its bid prep costs were \$10,000.00; and

WHEREAS, Plaintiff, through its attorney, has agreed to settle all claims of Plaintiff against the City of Atlanta for the sum TEN THOUSAND DOLLARS (\$10,000.00); and

WHEREAS, the City Attorney considers it to be the best interest of the City to resolve this matter and recommends that the above settlement be entered into; and

WHEREAS, by this settlement, Defendant City of Atlanta admits no liability; and

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES that the City Attorney be and is hereby authorized to conclude the settlement of all claims against the City of Atlanta, as set forth in Civil Action No.: 2002-CV-52481, Superior Court of Fulton County, for the aggregate amount of TEN THOUSAND DOLLARS (\$10,000.00).

THE CITY COUNCIL FURTHER RESOLVES that the Chief Financial Officer is authorized to pay the total of TEN THOUSAND DOLLARS (\$10,000.00) at the direction of the City Attorney from the account of 1A01529017T31001. Payment shall be in the form of a check in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable to Plaintiff Capricorn Construction Company and its attorney Victor Alan McLemore.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

MAY 19, 2003
MAY 27, 2003

5/19/03 FULL COUNCIL MEETING

Items Adopted on the Consent Agenda

1. 03-O-0601
2. 03-O-0551
3. 03-O-0552
4. 03-O-0600
5. 03-O-0554
6. 03-O-0617
7. 03-O-0632
8. 03-O-0633
9. 03-O-0660
10. 03-O-0772
11. 03-O-0628
12. 03-O-0759
13. 03-R-0655
14. 03-R-0700
15. 03-R-0701
16. 03-R-0704
17. 03-R-0784
18. 03-R-0785
19. 03-R-0707
20. 03-R-0708
21. 03-R-0709
22. 03-R-0718
23. 03-R-0782
24. 03-R-0713
25. 03-R-0714
26. 03-R-0716
27. 03-R-0760
28. 03-R-0768
29. 03-R-0774
30. 03-R-0776
31. 03-R-0779
32. 03-R-0722
33. 03-R-0723
34. 03-R-0724
35. 03-R-0725

**Items Adversed on the
Consent Agenda**

36. 03-R-0726
37. 03-R-0727
38. 03-R-0728
39. 03-R-0729
40. 03-R-0730
41. 03-R-0731
42. 03-R-0732
43. 03-R-0733
44. 03-R-0734
45. 03-R-0735
46. 03-R-0736
47. 03-R-0737
48. 03-R-0738
49. 03-R-0739
50. 03-R-0740
51. 03-R-0741
52. 03-R-0742
53. 03-R-0743
54. 03-R-0744
55. 03-R-0745
56. 03-R-0746
57. 03-R-0747
58. 03-R-0748
59. 03-R-0749
60. 03-R-0750
61. 03-R-0783

Consent I Vote: 13 Yeas; 0 Nays: (See RCS #4717)

Items Removed from the Consent Agenda: 03-O-0456; 03-R-0598; 03-R-0703; 03-R-0773; 03-R-0788

(Do not write above 0782e)

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APPROVED BY:

Linda K. Disantis
LINDA K. DISANTIS
CITY ATTORNEY

ADOPTED BY

MAY 19 2003

- 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: _____

First Reading

Committee _____

Date _____

Chair _____

Referred To _____

PLA Committee

5-13-03

Chair _____

Action _____

Fav, Adv, Hold (see rev. side)

Other _____

Members

[Signatures]

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

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

Refer To

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

CERTIFIED

CERTIFIED

MAY 19 2003

[Signature]

CERTIFIED

MAY 19 2003

Ronald D. [Signature]

MUNICIPAL CLERK

MAYOR'S ACTION

MAY 27 2003

[Signature]

MAYOR