

A SUBSTITUE RESOLUTION BY THE  
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

03-R-0962

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE LAWSUIT STYLED "BC ATLANTA, LLC V. UNITED WATER SERVICES UNLIMITED ATLANTA, LLC AND THE CITY OF ATLANTA"; CIVIL ACTION NO. 2002CV61581; SUPERIOR COURT; FULTON COUNTY, GEORGIA", TO EXECUTE A SETTLEMENT AGREEMENT TO EFFECTUATE THE SETTLEMENT AND FOR OTHER PURPOSES.**

**BACKGROUND:**

On November 14, 2002, BC Atlanta, LLC ("BC") filed a lawsuit against United Water Services Unlimited Atlanta, LLC ("United Water") and the City of Atlanta arising out of certain billings for water services;

Specifically, BC alleged it acquired title to certain real property by virtue of a foreclosure sale that occurred on or about April 2, 2002;

Upon taking title to the real property, BC avers that it discovered that the prior owner, Bent Tree Holding Corporation, had failed to pay certain water bills for water service to the real property prior to the foreclosure sale;

Further, subsequent to the foreclosure sale, BC alleges that, despite a request by a representative of BC that United Water cease supplying water to the property for the account of the prior owner, Bent Tree Holding Corporation, additional water was provided and further bills were incurred in the name of the prior owner;

As a result, it appears that a total of \$106,043.47 was billed to the Bent Tree Holding Corporation account, for which United Water asserted BC was responsible for paying;

Upon filing of its lawsuit, BC tendered into the registry of the Court the total amount of \$106,043.47 for unpaid water bills until the responsibility for payment of the Bent Tree Holding Corporation bills could be determined by the Court;

BC, the City and United Water have negotiated a settlement of the lawsuit pursuant to which certain amounts of the Bent Tree Holding Corporation bills will be satisfied by BC and BC will be relieved on any obligation to pay the remainder;

Specifically, BC has agreed to tender to the City from the funds in the registry of the Court the total amount of \$33,550.29; BC will further entitled to the sum of \$72,493.18 from the funds tendered into the Court's registry;



The City has determined that it is desirable and in the best interests of the City to accept this settlement and execute a Settlement Agreement with BC and United Water, as well as any Consent Orders with the Court to effectuate the settlement;

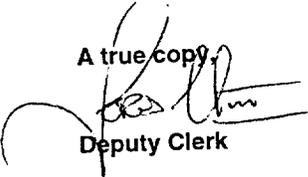
**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,** that the City Attorney is authorized to settle the case of BC Atlanta, LLC v. United Water Services Unlimited Atlanta, LLC and the City of Atlanta; Case No. 2002CV61581; Superior Court of Fulton County, Georgia, for a payment to the City in the total amount of \$33,550.29, to be paid to the City out of funds deposited in the Court's registry;

**BE IT FURTHER RESOLVED THAT** the City Attorney is authorized to execute a Settlement Agreement with BC and United Water and any Consent Order with the Court necessary to effectuate the terms of the settlement; provided, however, that BC executes and files with the Court a Dismissal With Prejudice, dismissing the lawsuit and delivers such Dismissal With;

**BE IT FURTHER RESOLVED THAT** upon receipt of the \$33,550.29 by the City, the Chief Financial Officer is authorized to deposit that check in Account No. 2J01 445101 B00001.

**BE IT FURTHER RESOLVED THAT** the Settlement Agreement will not be binding upon the City and the City will incur no liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form, duly executed by BC and United Water and delivered to the parties.

A true copy,

  
Deputy Clerk

**ADOPTED** by the Council  
**APPROVED** by the Mayor

JULY 07, 2003  
JULY 12, 2003

RCS# 4853  
7/07/03  
4:05 PM

Atlanta City Council

Regular Session

\*\*\*\*\*

CONS AGEN I Pgs 1 - 14 except:0715,0976  
0852, 0950, 0946, 0963, 0926, 0975  
ADOPT

YEAS: 15  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 0  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	B Woolard

\*\*\*\*\*

		7/07/03 Full Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 03-O-0850	38. 03-R-0989	49. 03-R-1002
2. 03-O-0949	39. 03-R-0991	50. 03-R-1004
3. 03-O-0955	40. 03-R-0992	51. 03-R-1005
4. 03-O-0909	41. 03-R-0994	52. 03-R-1006
5. 03-O-0961	42. 03-R-0995	53. 03-R-1007
6. 03-O-0553	43. 03-R-0996	54. 03-R-1008
7. 03-O-0925	44. 03-R-0997	55. 03-R-1009
8. 03-R-0981	45. 03-R-0998	56. 03-R-1010
9. 03-R-0956	46. 03-R-0999	57. 03-R-1011
10. 03-R-0965	47. 03-R-1000	58. 03-R-1012
11. 03-R-1033	48. 03-R-1001	59. 03-R-1013
12. 03-R-0920		60. 03-R-1014
13. 03-R-0945		61. 03-R-1015
14. 03-R-0966		62. 03-R-1016
15. 03-R-0967		63. 03-R-1017
16. 03-R-0968		64. 03-R-1018
17. 03-R-0969		65. 03-R-1019
18. 03-R-0977		66. 03-R-1020
19. 03-R-0978		67. 03-R-1021
20. 03-R-0979		68. 03-R-1022
21. 03-R-0889		69. 03-R-1023
22. 03-R-0940		70. 03-R-1024
23. 03-R-0941		71. 03-R-1025
24. 03-R-0942		72. 03-R-1026
25. 03-R-0943		73. 03-R-1027
26. 03-R-0944		74. 03-R-1028
27. 03-R-0962		
28. 03-R-0983		
29. 03-R-0984		
30. 03-R-0985		
31. 03-R-0986		
32. 03-R-0987		
33. 03-R-0988		
34. 03-R-0989		
35. 03-R-0991		
36. 03-R-0992		
37. 03-R-0994		

Consent I Vote: 15 Yeas; 0Nays: (See RCS #4853)

Items Removed from the Consent Agenda: 03-O-0852; 03-O-0926; 03-O-0950; 03-R-0715; 03-R-0946; 03-R-963; 03-R-0975; 03-R-0976

(Do Not Remove)

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE LAWSUIT STYLED "BC ATLANTA, LLC V. UNITED WATER SERVICES UNLIMITED ATLANTA, LLC AND THE CITY OF ATLANTA; CIVIL ACTION NO. 2002CV61581; SUPERIOR COURT; FULTON COUNTY, GEORGIA", TO EXECUTE A SETTLEMENT AGREEMENT TO EFFECTUATE THE SETTLEMENT AND FOR OTHER PURPOSES.

ADOPTED BY

JUL 07 2003

Substitute  
AS Amended 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: \_\_\_\_\_

First Reading

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Referred To \_\_\_\_\_

3/1/03  
Committee

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

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
  - 3rd
  - Consent
  - V Vote
  - RC Vote

CERTIFIED

CERTIFIED  
 JUL 07 2003

*Debra A. Moore*  
 COUNCIL PRESIDENT PROTTEM

CERTIFIED  
 JUL 07 2003

*Paula B. Johnson*  
 MUNICIPAL CLERK

MAYOR'S ACTION

*Paula B. Johnson*  
 JUL 12 2003

MAYOR