

**A RESOLUTION BY THE  
PUBLIC SAFETY AND LEGAL  
ADMINISTRATION COMMITTEE**

05-R-  
05-R-1237

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO EXTEND A RETAINER AGREEMENT WITH THE LAW FIRM OF KILPATRICK STOCKTON, LLP TO SERVE AS OUTSIDE COUNSEL TO THE CITY OF ATLANTA IN CONNECTION WITH THE MATTERS OF GSC ATLANTA, INC. VS. THE CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. 2005CV99011, GSC ATLANTA, INC. VS. THE CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. 2005CV101691, AND THE APPEAL OF GSC ATLANTA, INC. BEFORE THE PROCUREMENT HEARING OFFICER OF THE CITY OF ATLANTA; TO AUTHORIZE EXPENDITURES FOR THOSE PURPOSES IN AN AMOUNT NOT TO EXCEED \$100,000 TO BE CHARGED TO AND PAID FROM FUND ACCOUNT AND CENTER NUMBER 2J01 (WATERSHED) 524001 (CONSULTANT SERVICES) H11001 (CITY ATTORNEY); AND FOR OTHER PURPOSES.**

**WHEREAS**, the City entered into a Consent Decree with the United States Environmental Protection Agency ("EPA"), the Georgia Environmental Protection Division ("EPD") and other plaintiffs committing the City to remedy water quality violations caused by combined sewer overflows ("CSOs"); and

**WHEREAS**, the Consent Decree required the City to develop and implement a Remedial Action Plan to bring its Combined Sewer Overflow ("CSO") Control Facilities into compliance with the Clean Water Act and other current regulations; and



**WHEREAS**, the Custer Avenue CSO Storage and Dechlorination Facility Project (hereinafter “Custer Avenue Project”) is one of the CSO projects of the Consent Decree and Remedial Action Plan; and

**WHEREAS**, the Custer Avenue Project has interim milestones and deadlines pursuant to the Consent Decree and the Remedial Action Plan; and

**WHEREAS**, GSC Atlanta, Inc. (hereinafter “GSC”) submitted a bid in response to the City’s invitation to bid on the contract for the Custer Avenue Project; and

**WHEREAS**, the City determined that GSC’s bid was noncompliant with the requirements of the City’s Equal Business Opportunity Ordinance and GSC filed an administrative appeal of that determination; and

**WHEREAS**, the City’s decision concerning GSC’s bid was affirmed by the City’s Office of Contract Compliance Hearing Officer; and

**WHEREAS**, GSC initiated a Petition for Certiorari in the Fulton County Superior Court to appeal the Hearing Officer’s decision; and

**WHEREAS**, to comply with milestones and deadlines established in the Consent Decree and the Remedial Action Plan, the City accepted the bid of Gunther-Nash, Inc. (hereinafter “Gunther-Nash”) and awarded the contract for the Custer Avenue Project to Gunther-Nash; and

**WHEREAS**, GSC filed a protest with the City’s Chief Procurement Officer concerning the award of the Custer Avenue Project contract to Gunther-Nash; and

**WHEREAS**, the Chief Procurement Officer denied GSC’s protest and GSC has filed an administrative appeal; and

**WHEREAS**, GSC also initiated a Complaint for Temporary Restraining Order and Other Declaratory and Injunctive Relief against the City in Fulton County Superior Court seeking to enjoin the City’s contract with Gunther-Nash; and



**WHEREAS**, the City Attorney has determined that a court order enjoining the City's contract with Gunther-Nash would cause the City to fail to meet the milestones and deadlines established in the Consent Decree and the Remedial Action Plan, thereby subjecting the City to stipulated penalties, including substantial fines; and

**WHEREAS**, the City Attorney has determined it appropriate and necessary to engage the legal services of the law firm of Kilpatrick Stockton, LLP as outside counsel in defense of GSC's Administrative Appeal of the Chief Procurement Officer's denial of its protest, Complaint for Temporary Restraining Order and Other Declaratory and Injunctive Relief, and Petition for Certiorari as provided in Section 2-407 of the Code of Ordinances; and

**WHEREAS**, Kilpatrick Stockton, LLP has successfully assisted the City Law Department in defending the aforementioned matters to date; and

**WHEREAS**, Kilpatrick Stockton, LLP has incurred fees and expenses totaling \$50,000 in defense of these matters; and

**WHEREAS**, the aforementioned matters are still pending, and thus require Kilpatrick Stockton, LLP's continued assistance to the City Law Department; and

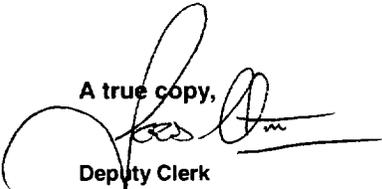
**WHEREAS**, the City Attorney has determined that the law firm of Kilpatrick Stockton, LLP has both the litigation expertise as well as considerable legal resources necessary to augment the expertise in the City Law Department.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES** that the City Attorney be and is authorized to extend its retention agreement with the law firm of Kilpatrick Stockton, LLP to serve as outside counsel to the City Attorney on the matters of GSC Atlanta, Inc. v. City of Atlanta, Civil Action File No. 2005CV99011, GSC Atlanta, Inc. v. City of Atlanta, Civil Action File No. 2005CV101691, and The Appeal of GSC Atlanta, Inc. before the Procurement Hearing Officer of the City of Atlanta.



**BE IT FURTHER RESOLVED** that the City Attorney be and is hereby authorized to incur legal fees, costs and expenses related to this matter in an amount not to exceed \$100,000.

**BE IT FINALLY RESOLVED** that the Chief Financial Officer is hereby authorized to remit payment of all legal fees, expenses and costs due for legal services rendered by the law firm of Kilpatrick Stockton, LLP in connection with the foregoing matters, once approved for payment by the City Attorney, in an amount not to exceed \$100,000.00 to be paid from Fund Account and Center Number 2J01 (WATERSHED) 524001 (CONSULTANT SERVICES) H11001 (CITY ATTORNEY).

A true copy,  
  
Deputy Clerk

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

**JUL 05, 2005**  
**JUL 12, 2005**

RCS# 6810  
7/05/05  
3:03 PM

Atlanta City Council

Regular Session

CONSENT I                      CONSENT I PG(S) 5-19 EXCEPT 05-R-1140

ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 0

Y Smith	NV Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	NV Muller	Y Sheperd	NV Borders

CONSENT I

		7/05/05
<b>ITEMS ADOPTED ON CONSENT</b>	<b>ITEMS ADOPTED ON CONSENT</b>	<b>ITEMS ADVERSED ON CONSENT</b>
1. 05-O-1198	31. 05-R-1142	43. 05-R-1153
2. 05-O-1071	32. 05-R-1143	44. 05-R-1154
3. 05-O-1050	33. 05-R-1144	45. 05-R-1155
4. 05-O-1051	34. 05-R-1145	46. 05-R-1156
5. 05-O-1206	35. 05-R-1146	47. 05-R-1157
6. 04-O-1364	36. 05-R-1147	48. 05-R-1158
7. 05-O-1058	37. 05-R-1148	49. 05-R-1159
8. 05-O-1059	38. 05-R-1149	50. 05-R-1160
9. 05-O-1083	39. 05-R-1150	51. 05-R-1161
10. 05-O-1092	40. 05-R-1151	52. 05-R-1162
11. 05-R-0113	41. 05-R-1152	53. 05-R-1163
12. 05-R-1213	42. 05-R-1238	54. 05-R-1164
13. 05-R-1007		55. 05-R-1165
14. 05-R-1046		56. 05-R-1166
15. 05-R-1048		57. 05-R-1167
16. 05-R-1088		58. 05-R-1168
17. 05-R-1137		59. 05-R-1169
18. 05-R-1138		60. 05-R-1170
19. 05-R-1139		61. 05-R-1171
20. 05-R-1141		62. 05-R-1172
21. 05-R-1196		63. 05-R-1173
22. 05-R-1239		64. 05-R-1174
23. 05-R-1136		65. 05-R-1175
24. 05-R-1124		66. 05-R-1176
25. 05-R-1125		67. 05-R-1177
26. 05-R-1130		68. 05-R-1178
27. 05-R-1193		69. 05-R-1179
28. 05-R-1197		70. 05-R-1180
29. 05-R-1212		71. 05-R-1181
30. 05-R-1237		72. 05-R-1182
		73. 05-R-1183
		74. 05-R-1184
		75. 05-R-1185
		76. 05-R-1186
		77. 05-R-1187
		78. 05-R-1188
		79. 05-R-1189
		80. 05-R-1190
		81. 05-R-1191

05-1237  
 (Do Not Write Above This Line)

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO EXTEND A RETAINER AGREEMENT WITH THE LAW FIRM OF KILPATRICK STOCKTON, LLP TO SERVE AS OUTSIDE COUNSEL TO THE CITY OF ATLANTA IN CONNECTION WITH THE MATTERS OF GSC ATLANTA, INC. VS. THE CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. 2005CV99011, GSC ATLANTA, INC. VS. THE CITY OF ATLANTA, FULTON COUNTY SUPERIOR COURT, CIVIL ACTION FILE NO. 2005CV101691, AND THE APPEAL OF GSC ATLANTA, INC. BEFORE THE PROCUREMENT HEARING OFFICER OF THE CITY OF ATLANTA; TO AUTHORIZE EXPENDITURES FOR THOSE PURPOSES IN AN AMOUNT NOT TO EXCEED \$100,000 TO BE CHARGED TO AND PAID FROM FUND ACCOUNT AND CENTER NUMBER 2J01 (WATERSHED) 524001 (CONSULTANT SERVICES) H11001 (CITY ATTORNEY); AND FOR OTHER PURPOSES.

*Serena L. Sparks*  
 Serena L. Sparks, Deputy City Attorney

ADOPTED BY

- 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 \_\_\_\_\_

PSLA Committee

Date \_\_\_\_\_  
 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  
 JUL 05 2005

CERTIFIED  
 JUL 05 2005  
*Renee Dunbar Johnson*  
 MUNICIPAL CLERK

MAYOR'S ACTION  
*Murley Sparks*  
 MAYOR