A RESOLUTION BY Carla Smith

COUNCILMEMBER CARLA SMITH

08-R-1445

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF $_____ AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS _____ PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS,** the City has experience a violation to the CSO Consent Decree set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

**WHEREAS,** the Department of Watershed Management of the City does not dispute the fact this violation did occur; and

**WHEREAS,** the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS,** funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q31001; and

**WHEREAS,** the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS,** it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD).

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

**Section 1:** That the Chief Financial Officer of the City of Atlanta is authorized to issue checks payable in the amount of $_____ to the **State of Georgia** and in the amount of $_____ to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental

Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

**Section 2:** That said payments shall be charged to and paid from Fund, Account and Center Number 2J01 529017 Q30001.

**Section 3:** That all resolutions and parts of resolutions in conflict herewith be and are hereby waived in this instance only.

# EXHIBIT A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, per Section_____ as follows:

**CSO Consent Decree Section**

| Date | Facility | Colonies/100 ml | Penalty | Comment |
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