

## A RESOLUTION

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BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION  
COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF RICHARD P. CLARK, JR., AND WILLIAM APPEGARTH AND ALICE APPEGARTH V. CITY OF ATLANTA, GEORGIA, SUPERIOR COURT, FULTON COUNTY, CIVIL ACTION FILE NO. 2007-CV-138593, IN THE AMOUNT OF \$987,500.00; AUTHORIZING SAID PAYMENT TO BE CHARGED TO AND PAID AS FOLLOWS: \$691,250.00 FROM FUND 5051 (WATER AND WASTEWATER REVENUE FUND), 170201 (DWM WASTEWATER TREATMENT AND COLLECTIONS), 5750002 (PROPERTY/LIQUIDATION), 4310000 (SANITARY ADMINISTRATION); \$296,250.00 FROM FUND 1001 (GENERAL FUND), 200301 (NDP UNALLOCATED CITYWIDE EMPLOYEES EXPENSE), 5750002 (PROPERTY/LIQUIDATION), 1540000 (HUMAN RESOURCES), AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, *Richard P. Clark, Jr., et al. vs. City of Atlanta* is a case in which the Plaintiffs Richard Clark, Jr., William and Alice Applegarth, are suing for damages allegedly from the City's storm water and sanitary sewer drainage systems; and

WHEREAS, Plaintiffs allege that the City of Atlanta failed to adequately maintain its drainage systems, thereby causing their properties to flood from storm water runoff and sanitary sewer backups; and

WHEREAS, Plaintiffs alleges that their homes sustained damages due to continuous flooding on their properties; and

WHEREAS, Plaintiffs have agreed to accept \$987,500.00, in full settlement of all claims against the City of Atlanta including interest and attorney's fees; and

**WHEREAS**, the City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiffs' claims is in excess of the settlement amount; and

**WHEREAS**, the City Attorney considers it to be in the best interest of the City to pay the amount of \$987,500.00 to settle all claims against the City of Atlanta.

**THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA** hereby resolves as follows:

**SECTION 1.** The City Attorney is hereby authorized to settle and execute all documents in the case of *Richard P. Clark, Jr., William Applegarth and Alice Applegarth v. City of Atlanta* in the amount of Nine Hundred Eighty-Seven Thousand Five Hundred Dollars (\$987,500.00).

**SECTION 2.** Said payment is to be charged to and paid as follows: \$691,250.00 from Fund 5051 (Water & Wastewater Revenue Fund), 170201 (DWM Wastewater Treatment and Collections), 5750002 (Property/Liquidation), 4310000 (Sanitary Administration); \$296,250.00 from Fund 1001 (General Fund), 200301 (NDP Unallocated Citywide Employee Expense), 5750002 (Property/Liquidation), 1540000 (Human Resources). Payment shall be in the form of a check in the amount of \$987,500.00 payable to *JONES, MARTIN, PARRIS & TESSENER as attorneys for Richard Clark, William Applegarth and Alice Applegarth*. Such payment shall be in full consideration of the dismissal of all claims against the City of Atlanta, and its current and former officers and employees.