

A RESOLUTION

08-R-_____

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 JOHN D. MERLINO AND MELISSA MERLINO V. CITY OF ATLANTA, GEORGIA; JEFF JULIANO; LEIGH JULIANO; LEE DOYLE; MALINDA SNOW; STEVEN ROGERS; JODY A. RUTH; J. WILLIAM HALEY; AND GAY HALEY, SUPERIOR COURT, FULTON COUNTY, CIVIL ACTION FILE NO. 2003-CV-68609, IN THE AMOUNT OF \$5,000.00; AUTHORIZING SAID PAYMENT TO BE CHARGED TO FUND 1001 (GENERAL FUND), 200101 (NON-DEPARTMENTAL), 5212005 (LITIGATION EXPENSES), AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, *John D. Merlino, et al. vs. City of Atlanta* is a case in which the Plaintiffs John and Melissa Merlino, are suing for damages allegedly from the City's storm water drainage system; and

WHEREAS, Plaintiffs allege that the City of Atlanta allowed their neighbors Jeff and Leigh Juliano to close a storm pipe on their property, thereby causing the run off from the Julianos' property to flood the Merlino's property during rain events; and

WHEREAS, Plaintiffs alleges that their home sustained damages due to continuous flooding on their property; and

WHEREAS, Plaintiffs have agreed to accept \$5,000.00, 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 \$5,000.00 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 *John D. Merlino and Melissa Merlino v. City of Atlanta* in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 2. Said payment is to be charged to and paid from Fund 1001 (General Fund), 200101 (Non-Departmental), 5212005 (Litigation Expenses), Payment shall be in the form of a check in the amount of \$5,000.00 payable to *Carol Clark, Esq. as attorney for John D. Merlino and Melissa Merlino*. Such payment shall be in full consideration of the dismissal of all claims by all parties against the City of Atlanta, and its current and former officers and employees.