

A RESOLUTION

09-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 ANDREW M. CAPRON and KIRSTEN VALENTINO v. THE CITY OF ATLANTA, GEORGIA CIVIL ACTION FILE NO. 2007CV144123, IN THE AMOUNT OF \$1,250,000.00; AUTHORIZING SAID PAYMENT TO BE CHARGED TO AND PAID FROM FUND 5051 (WATERSHED & WASTEWATER FUND) ACCOUNT 170201 (DWM WASTEWATER TREATMENT & COLLECTIONS) 5750002 (PROPERTY/LIQUIDATION) 4310000 (SANITARY ADMINISTRATION); AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS *Andrew M. Capron and Kirsten Valentino v. The City of Atlanta, Georgia*, is a case in which the Plaintiff sued for damages for trespass, inverse condemnation and attorney fees related to a sewer overflow;

WHEREAS, Plaintiff has agreed to accept \$1,250,000.00, (One Million, Two Hundred and Fifty Thousand Dollar and Zero Cents) 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 Plaintiff's 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 \$1,250,000.00 (One Million, Two Hundred and Fifty Thousand Dollar and Zero Cents) 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 *Andrew M. Capron and Kirsten Valentino v. The City of Atlanta, Georgia* in the amount of One Million, Two Hundred and Fifty Thousand Dollars and Zero Cents (\$1,250,000.00).

SECTION 2. Said payment is to be charged to and paid from Fund 5051 (Water & Wastewater Revenue Fund), Account 170201 (DWM Wastewater Treatment & Collections) 5750002 (Property/Liquidation) 431000 (Sanitary Administration). Payments will be made as follows: \$700,000.00 (Seven Hundred Thousand Dollars and Zero Cents) in fiscal year 2008 and \$550,000.00 (Five Hundred and Fifty Thousand Dollars and Zero Cents) within 60 days of July 1, 2009. The fiscal year 2008 payment shall be in the form of two checks. The first check shall be payable to Jim Altman in the amount of \$233,333.33 (Two Hundred and Thirty-Three Thousand, Three-Hundred and Thirty-Three Dollars and Thirty-Three Cents; the second check shall be payable to Andrew Capron and Kristen Valentino in the amount of \$466,666.67 (Four Hundred and Sixty-Six Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents). The first check payable within 60 days of July 1, 2009 shall be payable to Jim Altman in the amount of \$183,333.33 (One Hundred and Eighty-Three Thousand, Three Hundred and Thirty-Three Dollars and Thirty-Three Cents). The second check payable within 60 days of July 1, 2009 shall be payable to Andrew Capron and Kristen Valentino in the amount of \$366,666.67 (Three-Hundred and Sixty-Six Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents). 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.