

#13

11-R-1132

(Do Not Write Above This Line)

A RESOLUTION BY *Johnson*

COUNCIL MEMBERS NATALYN MOSBY ARCHIBONG & HOWARD SHOOK

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 PUNQUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

Subscribed BY

FEB 06 2012

- CONSENT REFER
- REGULAR REPORT REFER **COUNCIL**
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred *07/18/2001*
 Referred To: *City Affairs*
 Date Referred
 Referred To:
 Date Referred
 Referred To:

First Reading
 Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee *City Affairs*
 Date *July 26 2011*
 Chair *Natalyn Mosby*
 Action Fav, Adv, Hold (see rev. side) Other
 Members

Refer To _____
 Committee _____
 Date _____
 Chair _____
 Action Fav, Adv, Hold (see rev. side) Other
 Members

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 _____
 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

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Consent V Vote RC Vote

CERTIFIED
 FEB 06 2012
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 FEB 06 2012
Rodolph Douglas Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION
 APPROVED
 FEB 15 2012
 WITHOUT SIGNATURE
 BY OPERATION OF LAW

11-R-1132

A SUBSTITUTE RESOLUTION

BY CITY UTILITIES COMMITTEE

A RESOLUTION TO AUTHORIZE THE MAYOR OR HIS DESIGNEE TO ENTER INTO A CONSENT AGREEMENT WITH THE ENVIRONMENTAL PROTECTION DIVISION, DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA AND TO AUTHORIZE PAYMENT PURSUANT TO THE CONSENT ORDER IN THE AMOUNT OF FIVE THOUSAND DOLLARS AND NO CENTS (\$5,000.00) TO RESOLVE ALLEGED VIOLATIONS OF THE GEORGIA AIR QUALITY ACT, THE GEORGIA RULES FOR AIR QUALITY CONTROL AND PART 70 OPERATING PERMIT NO. 4952-121-0268-V-01-0; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (hereinafter called the "City") presently owns and operates a municipal sewage treatment facility (hereinafter called the "Facility") in Atlanta, Fulton County, Georgia; and

WHEREAS, such operation is subject to the provisions of the Georgia Air Quality Act, O.C.G.A. § 12-9-1, et seq., (hereinafter called the "Act") and the Georgia Rules for Air Quality Control, Chapter 391-3-1 (hereinafter called the "Rules"); and

WHEREAS, Title 40 Code of Federal Regulations Part 70 (hereinafter called "Part 70"), as adopted by reference in Rule 391-3-1-.03(10) of the Rules, requires all applicable requirements for all relevant emission units be included in a Part 70 Operating Permit; and

WHEREAS, the Director of the Georgia Environmental Protection Division (hereinafter called the "Division") issued Part 70 Operating Permit No. 4952-121-0268-V-01-0 (hereinafter called the "Permit") to the City on March 7, 2007; and

WHEREAS, Condition 8.5.1 of the Permit limits the term of the Permit to five (5) years and directs that the Permit shall become null and void after the expiration date unless a timely and complete renewal application has been submitted to the Division at least six (6) months, but no more than eighteen (18) months prior to the expiration date of the Permit; and

WHEREAS, the Permit required the City to submit a renewal application after September 7, 2010, but before September 7, 2011; and



WHEREAS, on June 1, 2011, the Division sent a Notice of Title V Permit Expiration and Renewal Deadline to the City; and

WHEREAS, the City submitted a complete permit renewal application (hereinafter called the "Application") on September 8, 2011; and

WHEREAS, the Division has determined that, upon the expiration of the current Permit, the City will not be in compliance with Rule 391-3-1-.03(10)(e)2. of the Rules; and

WHEREAS, the Division has determined that it is in the best interest of the State for the conditions of the current Permit to remain in effect during the interim period from expiration of the Permit until such time as a new Part 70 Operating Permit is issued to the City; and

WHEREAS, the City and the Division wish to cooperate fully, to resolve the City's alleged noncompliance with Rule 391-3-1-.03(10)(e) of the Rules and to ensure future compliance.

WHEREAS, the City and the Division enter into and execute the proposed Consent Order solely for the purpose of resolving and disposing of the allegations set forth therein and the Order shall not constitute any finding, determination or adjudication of a violation of any state laws, rules, standards or requirements, nor does it constitute a finding or adjudication of liability to a third party or parties.

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee, (the Commissioner of the Department of Watershed Management), acting on behalf of the City is authorized to enter a Consent Order that substantially conforms to the attached "Exhibit A."

BE IT FURTHER RESOLVED, that the Chief Financial Officer of the City is authorized to issue a check in the amount of Five Thousand Dollars and No Cents (\$5,000.00) payable to the State of Georgia to resolve alleged violations pursuant to the Consent Order.

AND FINALLY BE IT RESOLVED, that said payment will be charged to and paid from Fund, Department Organization and Account Number 5051 (Water and Wastewater Revenue Fund) 5750002 (Property Liquidation) 170201 (Treatment and Collections).

A true copy,

**ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403**

**Feb. 06, 2012
Feb. 15, 2012**

Deputy Municipal Clerk



EXHIBIT A

**STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

CONSENT ORDER

**CITY OF ATLANTA
ATLANTA, GEORGIA
FULTON COUNTY**

ORDER NO. EPD-AQC-

WHEREAS, the City of Atlanta (hereinafter called the "City") presently owns and operates a municipal sewage treatment facility (hereinafter called the "Facility") in Atlanta, Fulton County, Georgia; and

WHEREAS, such operation is subject to the provisions of the Georgia Air Quality Act, O.C.G.A. Section 12-9-1, et seq., (hereinafter called the "Act") and the Georgia Rules for Air Quality Control, Chapter 391-3-1 (hereinafter called the "Rules"); and

WHEREAS, Title 40 Code of Federal Regulations Part 70 (hereinafter called "Part 70"), as adopted by reference in Rule 391-3-1-.03(10) of the Rules, requires all applicable requirements for all relevant emission units be included in a Part 70 Operating Permit; and

WHEREAS, the Director of the Georgia Environmental Protection Division (hereinafter called the "Division") issued Part 70 Operating Permit No. 4952-121-0268-V-01-0 (hereinafter called the "Permit") to the City on March 7, 2007; and

WHEREAS, Condition 8.5.1 of the Permit limits the term of the Permit to five (5) years and directs that the Permit shall become null and void after the expiration date unless a timely and complete renewal application has been submitted to the Division at least six (6) months, but no more than eighteen (18) months prior to the expiration date of the Permit; and

WHEREAS, the Permit required the City to submit a renewal application after September 7, 2010, but before September 7, 2011; and

WHEREAS, on June 1, 2011, the Division sent a Notice of Title V Permit Expiration and Renewal Deadline to the City; and

WHEREAS, the City submitted a complete permit renewal application (hereinafter called the "Application") on September 8, 2011; and

WHEREAS, the Division has determined that, upon the expiration of the current Permit, the City will not be in compliance with Rule 391-3-1-.03(10)(e)2. of the Rules; and



WHEREAS, the Division has determined that it is in the best interest of the State for the conditions of the current Permit to remain in effect during the interim period from expiration of the Permit until such time as a new Part 70 Operating Permit is issued to the City; and

WHEREAS, the City and the Division wish to cooperate fully, to resolve the City's pending noncompliance with Rule 391-3-1-.03(10)(e) of the Rules and to ensure future compliance.

NOW, THEREFORE, before taking any testimony and without adjudicating the merits of the parties' positions in this matter, the parties hereby resolve the issues in this case by agreement and upon the order of the Director and the consent of the City as follows:

1. The City shall pay to the State of Georgia the sum of \$5,000 for the violations alleged in this Order.
2. The City shall adhere to all conditions and requirements of Part 70 Operating Permit No. 4952-121-0268-V-01-0 as issued on March 7, 2007, and as amended, until such time as a new permit is issued to the City by the Division for the continued operation of the Facility.
3. Failure of the City to comply with any provisions of this Order may result in additional enforcement action by the Division.
4. The parties enter into and execute this Consent Order solely for the purpose of resolving and disposing of the allegations set forth herein. This Order shall not constitute any finding, determination or adjudication of a violation of any state laws, rules, standards or requirements, nor does it constitute a finding or adjudication of liability to a third party or parties.
5. By agreement of the parties, this Order shall be final and effective immediately and shall not be appealable by the parties, and Respondent does hereby waive all administrative and judicial hearings on the terms and conditions of same.

It is so **ORDERED** and **AGREED** to this ____ day of _____, 2012.

JUDSON H. TURNER, DIRECTOR
ENVIRONMENTAL PROTECTION DIVISION

CITY OF ATLANTA

Jo Ann J. Macrina, P.E., Commissioner
Department of Watershed Management

DATE: _____