

12-<sup>p</sup>-0807

(Do Not Write Above This Line)

A RESOLUTION  
BY CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING THE  
MAYOR TO ENTER INTO  
AGREEMENTS WITH THE GEORGIA  
ENVIRONMENTAL  
AUTHORITY AND THE CITY OF  
ATLANTA; AND FOR OTHER  
PURPOSES.

ADOPTED BY  
JUN 1 8 2012  
COUNCIL

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

Date Referred \_\_\_\_\_

Referred To: \_\_\_\_\_

Date Referred \_\_\_\_\_

Referred To: \_\_\_\_\_

Date Referred \_\_\_\_\_

Referred To: \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Referred To \_\_\_\_\_

First Reading

Committee City Utilities

Date June 22 2012

Chair Michael C. Kelly

Action Fav, Adv, Hold (see rev. side)

Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action \_\_\_\_\_

Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

Second Reading

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action \_\_\_\_\_

Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

Committee \_\_\_\_\_

Date \_\_\_\_\_

Chair \_\_\_\_\_

Action \_\_\_\_\_

Other \_\_\_\_\_

Members \_\_\_\_\_

Refer To \_\_\_\_\_

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

CERTIFIED

JUN 1 8 2012

ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED  
JUN 1 8 2012

*Rachel Doughton*  
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

JUN 27 2012

WITHOUT SIGNATURE  
BY OPERATION OF LAW



CITY COUNCIL  
ATLANTA, GEORGIA

A RESOLUTION BY  
CITY UTILITIES COMMITTEE

12- R -0807

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS WITH THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY TO MODIFY LOAN AGREEMENTS BETWEEN THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY AND THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") borrowed a total of Forty Seven Million Dollars (\$47,000,000) from the Clean Water State Revolving Fund ("CWSRF") administered by Georgia Environmental Finance Authority ("GEFA"); and

**WHEREAS**, the City borrowed said CWSRF monies in two loan agreements numbered CWSRF 09-092 (March 1, 2011) and CWSRF 10-002 (March 1, 2011) as authorized by the Atlanta City Council in Ordinance 10-O-1822; and

**WHEREAS**, loan CWSRF 09-092 in its original amount totaled \$7,000,000 and repayments were to be amortized over twenty (20) years beginning February 1, 2012 and loan CWSRF 10-002 in its original amount totaled \$40,000,000 and repayments were to be amortized over twenty (20) years beginning March 1, 2013; and

**WHEREAS**, it is in the best interests of the City to modify the loan agreements numbered CWSRF 09-092 and CWSRF 10-002 to change the Amortization Commencement Dates to November 1, 2012 and June 1, 2014, respectfully, to give the City more time to begin making payments on these loans.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES**, that the Mayor, or his authorized designee, is authorized to enter into loan agreements ("Agreements") with GEFA for the purpose of modifying loan agreements CWSRF 09-092 (March 1, 2011) and CWSRF 10-002 (March 1, 2011) that were entered into between GEFA and the City.

**BE IT FURTHER RESOLVED**, that the Mayor, or his authorized designee, is authorized to execute and deliver to GEFA certain modifications to loan agreements, in substantial form as the agreement attached as Exhibit A, which shall pledge the full faith and credit of the City to repay the loans and which documents will be approved as to form by the City Attorney and as to intent by the Chief Financial Officer.

**BE IT FURTHER RESOLVED**, that the Mayor, or his authorized designee, is authorized to execute any and all other documents necessary to consummate and effectuate the modifications to the loan agreements.

**BE IT FINALLY RESOLVED**, that the Agreements will not become binding on the City and the City will incur no obligation nor liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved as to form by the City Attorney and delivered to GEFA.

A true copy,

Deputy Municipal Clerk

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

June 18, 2012  
June 27, 2012



Exhibit A



MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

**THIS MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT** (this "**Modification**") dated \_\_\_\_\_, 20\_\_\_\_, by and between CITY OF ATLANTA, Georgia, a Georgia public body corporate and politic (the "Borrower"), and the CLEAN WATER STATE REVOLVING FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, a Georgia public corporation (the "Lender").

**Statement of Facts**

A. The Lender and the Borrower are parties to that certain Contract for Financing Environmental Facilities and for Other Services, dated **MARCH 1, 2011**, as amended prior to the date hereof (as so amended, the "Loan Agreement"; all capitalized terms used in this Modification but not defined herein have the meanings given in the Loan Agreement), pursuant to which the Lender made a loan to the Borrower in accordance with the terms and conditions thereof. The Borrower's obligation to repay such loan is evidenced by that certain Promissory Note, dated **MARCH 1, 2011**, as amended prior to the date hereof (as so amended, the "Note").

B. The Lender and the Borrower desire to modify the Loan Agreement and Note in certain respects in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the premises, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Lender and the Borrower further agree as follows:

**Statement of Terms**

**1. Amendments of Note.** Subject to the fulfillment of the conditions precedent to the effectiveness of this Modification that are set forth below, the Note is hereby amended as follows:

- a. Accrued interest on this Note shall be payable monthly on the first day of each calendar month until the first day of the calendar month following the earlier of (1) the Completion Date (as defined in the hereinafter defined Loan Agreement), (2) **NOVEMBER 1, 2012**, or (3) the date that the loan evidenced by this Note is fully disbursed (the "**Amortization Commencement Date**"). Principal of and interest on this Note shall be payable in TWO HUNDRED THIRTY-NINE (239) consecutive monthly installments equal to the Installment Amount (as hereinafter defined), commencing on the first day of the calendar month following the Amortization Commencement Date, and continuing to be due on the first day of each succeeding calendar month thereafter, together with a final installment equal to the entire remaining unpaid principal balance of and all accrued interest



on this Note, which shall be due and payable on the date that is 20 years from the Amortization Commencement Date (the "**Maturity Date**").

**2. Amendments of Loan Agreement.** Subject to the fulfillment of the conditions precedent to the effectiveness of this Modification that are set forth below, the Loan Agreement is hereby amended as follows:

Section 2 (a) of the Loan Agreement is hereby amended and restated to read as follows: "The Lender agrees to advance to the Borrower, on or prior to the earlier of (1) the Completion Date (as hereinafter defined), (2) **NOVEMBER 1, 2012**, or (3) the date that the loan evidenced by this Note is fully disbursed, the Loan in a principal amount of up to **\$7,000,000** which Loan may be disbursed in one or more advances but each such disbursement shall reduce the Lender's loan commitment hereunder and any sums advanced hereunder may not be repaid and then re-borrowed."

Exhibit A is amended and restated to read as written in the attached Exhibit A.

**3. No Other Waivers or Amendments.** Except for the amendments expressly set forth and referred to in Section 1 and 2 above, the Note and the Loan Agreement shall remain unchanged and in full force and effect. Nothing in this Modification is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of the obligations created by the Note.

**4. Representations and Warranties.** To induce the Lender to enter into this Modification, the Borrower does hereby warrant, represent, and covenant to the Lender that: (a) each representation or warranty of the Borrower set forth in the Loan Agreement is hereby restated and reaffirmed as true and correct on and as of the date hereof as if such representation or warranty were made on and as of the date hereof (except to the extent that any such representation or warranty expressly relates to a prior specific date or period), and no Event of Default has occurred and is continuing as of this date under the Loan Agreement; and (b) the Borrower has the power and is duly authorized to enter into, deliver, and perform this Modification, and this Modification is the legal, valid, and binding obligation of the Borrower enforceable against it in accordance with its terms.

**5. Conditions Precedent to Effectiveness of this Modification.** The effectiveness of this Modification is subject to the truth and accuracy in all material respects of the representations and warranties of the Borrower contained in Section 4 above and to the fulfillment of the following additional conditions precedent:

a. the Lender shall have received one or more counterparts of this Modification duly executed and delivered by the Borrower; and

b. the Lender shall have received (1) a certified copy of the resolution adopted by the Borrower's governing body, substantially in the form of Exhibit E attached hereto, and (2) a signed opinion of counsel to the Borrower, substantially in the form of Exhibit F attached hereto.



**6. Counterparts.** This Modification may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this Modification to be duly executed and delivered as of the date specified at the beginning hereof

**CITY OF ATLANTA**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved As to Form:

(SEAL)



Attest: \_\_\_\_\_

\_\_\_\_\_  
Borrower's Attorney

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CLEAN WATER STATE REVOLVING  
FUND, ADMINISTERED BY GEORGIA  
ENVIRONMENTAL FINANCE  
AUTHORITY**

By: \_\_\_\_\_

Kevin Clark  
Executive Director

(SEAL)



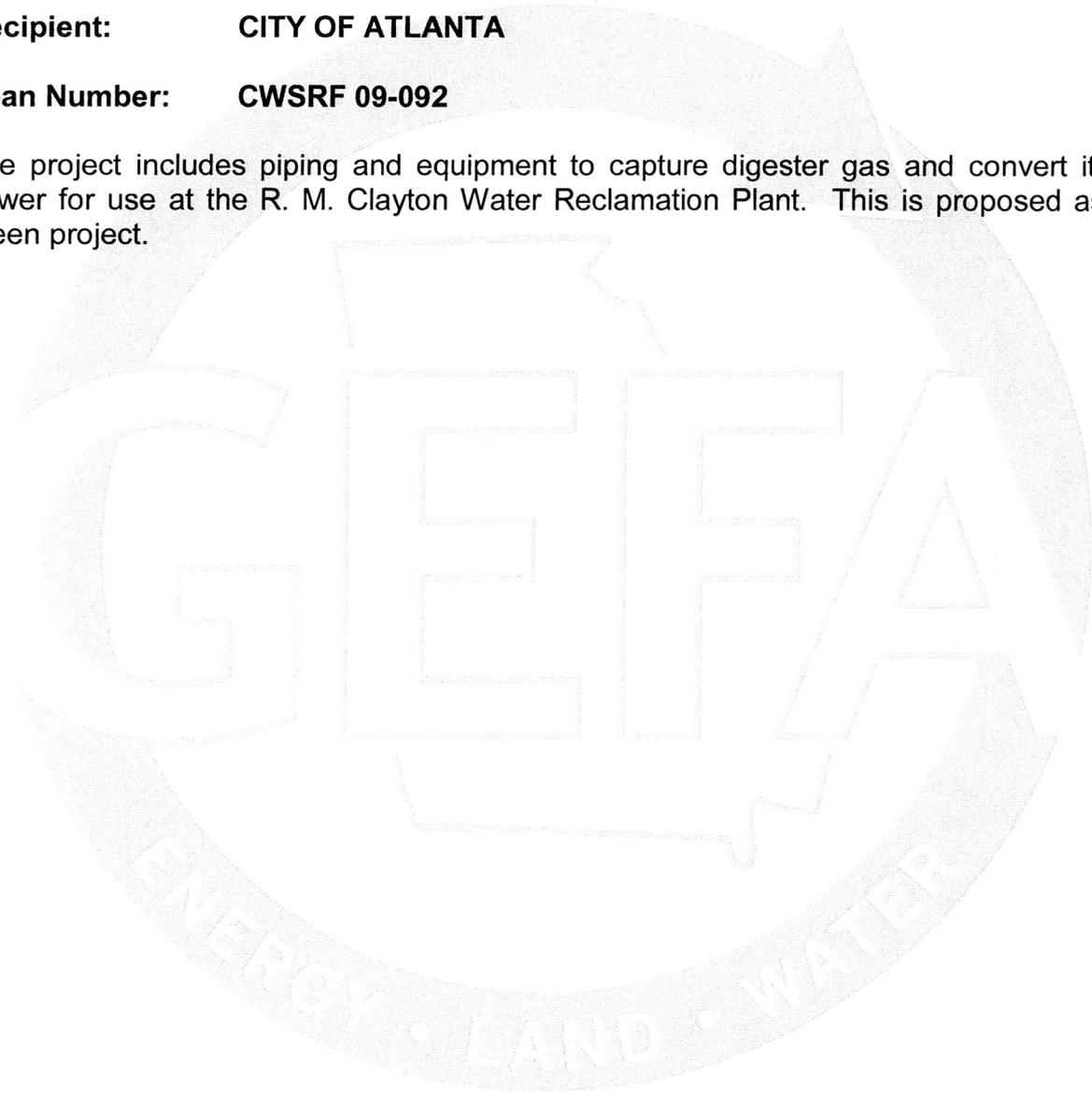
**DESCRIPTION OF THE PROJECT**

**PROJECT SCHEDULE**

**Recipient:** CITY OF ATLANTA

**Loan Number:** CWSRF 09-092

The project includes piping and equipment to capture digester gas and convert it to power for use at the R. M. Clayton Water Reclamation Plant. This is proposed as a green project.





DESCRIPTION OF THE PROJECT

PROJECT BUDGET

Recipient: CITY OF ATLANTA

Loan Number: CWSRF 09-092

ITEM	TOTAL	CWSRF LOAN FUNDS	LOCAL FUNDS
Construction	7,694,000	7,000,000	694,000
Contingency			
Engineering & Inspection			
Administrative/Legal			
TOTAL	7,694,000	7,000,000	694,000

NOTE: City of Atlanta will be charged a 2% closing fee of \$140,000.



DESCRIPTION OF THE PROJECT

PROJECT SCHEDULE

Recipient: CITY OF ATLANTA

Loan Number: CWSRF 09-092

ACTION	DATE
Complete Project Planning	June 15, 2009
Initiated Design	June 15, 2009
Plans and Specifications submitted to EPD	October 28, 2010
Bid Opening	September 15, 2009
Notice of Award	October 15, 2009
Notice to Proceed with Construction	December 31, 2010
Initiation of Construction	January 31, 2011
Completion of Construction	October 31, 2012



**OPINION OF BORROWER'S COUNSEL**  
(Please furnish this form on Attorneys Letterhead)

DATE

CLEAN WATER STATE REVOLVING FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FINANCE AUTHORITY  
233 Peachtree Street, N.E.  
Harris Tower, Suite 900  
Atlanta, Georgia 30303

Ladies and Gentlemen:

A legal opinion of CATHY D. HAMPTON, CITY ATTORNEY was delivered to you, dated DECEMBER 27, 2010 (the "Closing Opinion), relating to the Contract for Financing Environmental Facilities and for Other Services (the "Loan Agreement"), dated MARCH 1, 2011 between CITY OF ATLANTA (the "Borrower") and the Georgia Environmental Finance Authority (the "Lender"), and the Promissory Note (the "Note"), dated MARCH 1, 2011, of the Borrower. As counsel for the Borrower, I have examined the original of the Modification of Promissory Note and Loan Agreement (the "Modification"), between the Borrower and the Lender, the proceedings taken by the Borrower to authorize the Modification, the Closing Opinion, and such other documents, records, and proceedings as I have deemed relevant or material to render this opinion. Based upon such examination, I hereby reconfirm as of the date hereof the opinions contained in the Closing Opinion, subject to the modification that all references to the Note and the Loan Agreement (as defined in the Closing Opinion) shall be deemed to include a reference to the Modification. Nothing has come to my attention, after due investigation, that in any way might question the continuing validity and accuracy of the Closing Opinion, as modified above.

Very truly yours,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date



EXTRACT OF MINUTES  
RESOLUTION OF GOVERNING BODY

Recipient: CITY OF ATLANTA

Loan Number: CWSRF 09-092

DATE

At a duly called meeting of the governing body of the Borrower identified above (the "Borrower") held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the following resolution was introduced and adopted.

**WHEREAS**, the Borrower has borrowed **\$7,000,000** from the Georgia Environmental Finance Authority (the "Lender"), pursuant to the terms of a Contract for Financing Environmental Facilities and for Other Services (the "Loan Agreement"), dated **MARCH 1, 2011**, between the Borrower and the Lender; and

**WHEREAS**, the Borrower's obligation to repay the loan made pursuant to the Loan Agreement is evidenced by a Promissory Note (the "Note"), dated **MARCH 1, 2011**, of the Borrower; and

**WHEREAS**, the Borrower and the Lender have determined to amend and modify the Note and the Loan Agreement, pursuant to the terms of a Modification of Promissory Note and Loan Agreement (the "Modification") between the Borrower and the Lender, the form of which has been presented to this meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Borrower that the form, terms, and conditions and the execution, delivery, and performance of the Modification are hereby approved and authorized.

**BE IT FURTHER RESOLVED** by the governing body of the Borrower that the terms of the Modification are in the best interests of the Borrower, and the governing body of the Borrower designates and authorizes the following persons to execute and deliver, and to attest, respectively, the Modification, and any related documents necessary to the consummation of the transactions contemplated by the Modification.

\_\_\_\_\_  
(Name of Person to Execute Documents) (Title)

\_\_\_\_\_  
(Name of Person to Attest Documents) (Title)

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect.

Date: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Secretary/Clerk

(SEAL)



RCS# 2072  
6/18/12  
3:28 PM

Atlanta City Council

CONSENT I

CONSENT AGENDA SECTION I: 6/18/2012  
REGULAR MEETING OF ATLANTA CITY COUNCIL  
ADOPT

YEAS: 10  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 6  
EXCUSED: 0  
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Bond
NV Hall	Y Wan	Y Martin	NV Watson
Y Young	NV Shook	NV Bottoms	Y Willis
Y Winslow	NV Adrean	Y Sheperd	NV Mitchell

CONSENT I

		06-18-12
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	
1. 12-O-0635	38. 12-R-0794	
2. 12-O-0714	39. 12-R-0795	
3. 12-O-0715	40. 12-R-0796	
4. 12-O-0716	41. 12-R-0797	
5. 12-O-0841	42. 12-R-0798	
6. 12-O-0775	43. 12-R-0799	
7. 12-O-0840	44. 12-R-0800	
8. 12-O-0842	45. 12-R-0801	
9. 12-O-0838	46. 12-R-0802	
10. 12-O-0725	47. 12-R-0803	
11. 12-O-0726		
12. 12-O-0717		
13. 12-O-0724		
14. 12-R-0509		
15. 12-R-0817		
16. 12-R-0815		
17. 12-R-0831		
19. 12-R-0835		
20. 12-R-0829		
21. 12-R-0823		
22. 12-R-0825		
23. 12-R-0826		
24. 12-R-0827		
25. 12-R-0828		
26. 12-R-0804		
27. 12-R-0805		
28. 12-R-0807		
29. 12-R-0808		
30. 12-R-0787		
31. 12-R-0788		
32. 12-R-0789		
33. 12-R-0790		
34. 12-R-0791		
35. 12-R-0792		
36. 12-R-0793		
37. 12-R-0844		