

**A SUBSTITUTE RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION TO AUTHORIZE THE MAYOR, OR HIS DESIGNEE, TO ENTER INTO AN EXPEDITED CONSENT ORDER 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 ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) TO RESOLVE A MONITORING VIOLATION OF UNDERGROUND STORAGE TANK STANDARDS PURSUANT TO THE GEORGIA RULES FOR UNDERGROUND STORAGE MANAGEMENT, CHAPTER 391-3-15 (GUST RULES); AND FOR OTHER PURPOSES.

WHEREAS, in February 2012, a representative of the Georgia Environmental Protection Division ("EPD") inspected the Underground Storage Tank located at City of Atlanta ("City") Fire Station No. 1 and documented a monitoring violation regarding daily inventory control records; and

WHEREAS, the City is subject to the provisions of the Georgia Rules for Underground Storage Tank Management, Chapter 391-3-15 (GUST Rules), which incorporate 391-3-15-.07, [40 CFR § 280.41 (a)]; and

WHEREAS, the EPD is offering to resolve the violation and settle the matter through an "Expedited Consent Order" that substantially conforms to the attached Exhibit "A"; and

WHEREAS, the City and the Office wish to cooperate fully, to resolve the City's noncompliance with the GUST Rules and to ensure future compliance; and

WHEREAS, the payment to the EPD does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City, by its consent, agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed negotiated settlement and to pay the penalty amount to the EPD.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES, that the Mayor, or his designee, is authorized to enter into an Expedited Consent Order with the Environmental Protection Division, Department of Natural Resources of the State of Georgia, 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 One Thousand Dollars and No Cents

(\$1,000.00) payable to the State of Georgia to resolve alleged violations pursuant to the Expedited Consent Order.

AND BE IT FINALLY RESOLVED, that said payment will be charged to and paid from FDOA: 6001 (Fleet Service Fund) 130402 (DPW-Fleet Services Operations) 5730009 (Fines) 1590000 (Customer Service).

**A RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES IN THE AMOUNT OF ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF MONITORING UNDERGROUND STORAGE TANK STANDARDS PURSUANT TO THE GEORGIA RULES FOR UNDERGROUND STORAGE MANAGEMENT, CHAPTER 391-3-15 (GUST RULES); TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) has experienced a violation of monitoring underground storage tanks as depicted in Exhibit “A” attached hereto; and

WHEREAS, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Division (“EPD”) of the Georgia Department of Natural Resources pursuant to the Georgia Rules for Underground Storage Tank Management, Chapter 391-3-15 (GUST Rules), which incorporate 391-3-15-.07, [40 CFR § 280.41 (a)]; and

WHEREAS, the Department of Public Works of the City does not dispute that this violation of failure to monitor tanks at least every 30 days did occur; and

WHEREAS, the payment to the EPD does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City, by its consent, agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for the payment of this penalty are available in FDOA: 6001 (Fleet Service Fund) 130402 (DPW-Fleet Services Operations) 5730009 (Property/Liquidation) 1590000 (Customer Service); and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed stipulated penalty and to pay the penalty amount to the EPD.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES, that the Chief Financial Officer of the City of Atlanta is authorized to issue a check in the amount of One Thousand Dollars and No Cents (\$1,000.00) payable to the Environmental Protection Division of the Georgia Department of Natural Resources as a stipulated penalty under the Underground Storage Tank Management Program for said violation of failure to monitor tanks at least every 30 days at Atlanta Fire Station No. 1 located at 71 Elliott Street, SW, Atlanta, Georgia.

AND BE IT FINALLY RESOLVED, that the said payments be charged to FDOA:
6001 (Fleet Service Fund) 130402 (DPW-Fleet Services Operations) 5222002 (Repair &
Maintenance – Equipment) 1590000 (Customer Service).

Georgia Department of Natural Resources

Environmental Protection Division
Petroleum Industry Regulatory Team
4244 International Parkway, Suite 104, Atlanta, Georgia 30354
Mark Williams, Commissioner
Judson H. Turner, Director
404/362-2687

March 6, 2012
CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0000 7202 3071

Ms. Tracey Woods
City of Atlanta/ OFS
23 Claire Drive
Atlanta, Georgia 30315

SUBJECT: **Notice of Violation:**
Proposed Expedited Consent Order (Consent Order)
Underground Storage Tank (UST) System
Atlanta Fire Station No. 1
71 Elliott Street SW
Atlanta, GA; Fulton County
Facility ID: # 600363 / Air Station Exempt

Dear Ms. Woods:

On February 13, 2012, a representative of the Environmental Protection Division (EPD), conducted an inspection of your facility and has determined that the subject UST facility has violated the Georgia Rules for Underground Storage Tank Management, Chapter 391-3-15 (GUST Rules), which incorporate Title 40 of the Code of Federal Regulations, Part 280 (40 CFR § 280). During the inspection the following violations were documented:

- **GUST Rule 391-3-15-.07, [40 CFR § 280.41 (a)]; Failure to monitor tanks at least every 30 days:** The tanks must be monitored at least every thirty (30) days for releases using one of the following methods: Daily inventory control records, automatic tank gauging (ATG), Statistical Inventory Reconciliation (SIR) or vapor or groundwater monitoring. Please submit thirty-six (36) months of monitoring records to EPD immediately.

EPD is offering to resolve these violations and settle this matter through the enclosed "Expedited Consent Order" (Order). If you agree to the terms of the Order, please correct the violations immediately. Within thirty (30) days of receipt of this Notice of Violation, submit the signed Order and remit payment of the settlement amount, according to the instructions on Page Two of the Order. Additionally, please submit records documenting the immediate correction of the violations cited. If you choose not to accept the terms of this Consent Order, EPD may choose to address this matter through other formal enforcement methods.

If you have any questions, please call Shaheer Muhanna at (404) 362-2687.

Sincerely,

Charles B. Williams
Mark Smith, Chief *for MS*
Land Protection Branch

MS:ma
Enclosure
File (PIRT/RC): Fulton County; Facility ID # 600363 / Air Station # Exempt

GEORGIA ENVIRONMENTAL PROTECTION DIVISION
UNDERGROUND STORAGE TANK MANAGEMENT PROGRAM

4244 INTERNATIONAL PKWY, SUITE 104
ATLANTA, GA 30354

EXPEDITED CONSENT ORDER

PART I: CONSENT ORDER

PART II: SETTLEMENT AGREEMENT

Facility ID: 600363 Air Station No.: Exempt

Atlanta Fire Station No. 1

(Name of Facility)

71 Elliott Street SW

(Address of Facility)

Atlanta, Georgia 30313 Fulton

(City, State, Zip Code, County)

Name of Responsible Party (Owner/Operator/Supplier):

City of Atlanta/ OFS

(Company)

Tracey Woods

(Contact)

23 Claire Drive

(Mailing Address)

Atlanta, Georgia 30315

(City, State, Zip Code)

On February 13, 2012, an authorized representative of the Georgia Environmental Protection Division (EPD) inspected this facility to determine its compliance with the Georgia Underground Storage Tank Act, 12-13-1 et seq., of the Official Code of Georgia Annotated (GUSTA) and with the Georgia Rules for Underground Storage Tank Management, Chapter 391-3-15 (GUST Rules), which incorporate Title 40 of the Code of Federal Regulations Part 280 (40 CFR 280). During the inspection, the following violations were documented and the conditions for achieving compliance are established on the attached Notice of Violation letter. Consistent with section 12-13-19 of the GUSTA, a corresponding negotiated settlement amount for each violation is proposed as follows:

GUST Rule 391-3-15-.07, [40 CFR § 280.41 (a)]; Settlement \$1,000.00
Nature of Violation: Failure to monitor tanks at least every 30 days.

TOTAL SETTLEMENT AMOUNT \$1,000.00

The Responsible Party of the above facility is hereby ordered to correct the violations and pay the settlement described above.

This Consent Order is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the Responsible Party within 30 days of receipt, this Consent Order can be withdrawn without prejudice to EPD's ability to file additional enforcement actions for the above-cited violations or any other violations.

The Georgia Environmental Protection Division (EPD) offers this Expedited Consent Order (Consent Order) as an enforcement procedure to settle the violations listed in Part I of this form subject to the following terms and conditions:

The Responsible Party, by signing below certifies under penalty of law that: a) the information submitted in this and all attached documents have been personally examined, and the Responsible Party is familiar with the information; b) the cited violations will be corrected immediately; c) the Responsible Party will provide to EPD immediately upon completion of the corrective actions, but no later than thirty (30) days of receipt of the Consent Order, documentation of compliance completion and d) payment of the negotiated settlement amount in the form of a check or money order is enclosed for \$1,000.00.

Certain violations may result in imposition of product delivery prohibition to those that are found non-compliant. These particular violations will be duly noted in Part I of this form in the violation section. Any facility found to be in violation of any law or rule resulting in delivery prohibition, shall not be allowed to receive any product deliveries for the tank(s) in question until compliance has been achieved and approved, in writing, by EPD. It is a violation of federal law to deliver to and receive product for a non-compliant tank. All violators will be subject to enforcement.

Upon EPD execution of and Responsible Party's compliance with this Consent Order, EPD will take no further action against the Responsible Party for the specific violations cited in this Consent Order. EPD does not waive any enforcement action by EPD, the State, or any local agencies for any other past, present or future violations of the underground storage tank and/or Air Rule requirements or any other violations under any other statute not specifically described in this Consent Order. This Consent Order does not constitute a determination that the Responsible Party is an eligible Georgia Underground Storage Tank Trust Fund participant, nor does it resolve whether the Responsible Party will be eligible currently or in the future for Georgia Underground Storage Tank Trust Fund coverage for a release at the Site after the violations noted are corrected.

This Consent Order is binding on EPD and the Responsible Party signing below. This Consent Order is effective upon EPD's final approval below. Upon final approval, EPD shall mail a copy of the executed Consent Order to the Responsible Party signing below.

Execution of the Consent Order is in the sole discretion of the Director of EPD, or authorized delegate.

By: City of Atlanta/ OFS

Name: Tracey Woods

Title (print) _____

Signature _____

Date _____

FINAL ORDER BY EPD this _____ day of _____, 2012.

Judson H. Turner, Director

CONSENT ORDER NO: EPD-PIRT _____ - _____

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Caption:

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES IN THE AMOUNT OF ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF MONITORING UNDERGROUND STORAGE TANK STANDARDS PURSUANT TO THE GEORGIA RULES FOR UNDERGROUND STORAGE MANAGEMENT, CHAPTER 391-3-15 (GUST RULES); TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

Committee of Purview: City Utilities Committee

Committee Meeting Date: March 27, 2013

Council Meeting Date: April 15, 2013

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

This purpose of this legislation is to authorize payment for an Expedited Consent Order to settle \$1,000 fine for violation of the Georgia Environmental Protection Division (EPD) GUST rule 391-3-15-07,[40 CFR 280.41 9A0], for failure to monitor the underground storage tanks at Fire Station#1 located at 71 Elliott Street SW, Atlanta, Ga.

2. Please provide background information regarding this legislation.

The Department of Public Works - Office of Fleet Services manages all of the fuel distribution for the City of Atlanta. This includes diesel fuel sites located at the City of Atlanta Fire Stations to provide expeditious access to diesel fuel for the pumper and ladder trucks housed at the fire stations. The underground storage tanks at these sites are inspected annually by the Georgia Environmental Protection Division (EPD). On February, 13, 2012, a representative for the Georgia Environmental Protection Division (EPD) conducted an inspection of the underground storage tank at Fire Station#1 located at 71 Elliott Street SW, Atlanta, Ga. At the time of the inspection, the Incon Fuel Monitor system which provides daily printouts detailing the tank activity was inoperable preventing access to the required printouts. As a result, the site was considered in violation of GUST rule 391-3-15-07,[40 CFR 280.41 9A0], for failure to provide adequate proof that the underground storage tank was being monitored every thirty (30) days. This violation requires a settlement of \$1,000.

Consequently, the system was repaired and the required information was provided to EPD, however, it was not completed within the stipulated time granted by EPD.

3. If Applicable/Known:

(a) Contract Type:

(b) Source Selection:

(c) Bids/Proposals Due:

(d) Invitations Issued:

(e) Number of Bids:

(f) Proposals Received:

(g) Bidders/Proponents:

(h) Term of Contract:

4. Fund Department Account Center: 6001/130402/5730009/1590000

5. Source of Funds:

6. Fiscal Impact: \$1,000.00

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By: Tracey Woods

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Santana Kempson Wright

Contact Number: (404) 330-6579

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: March 8, 2013

Anticipated Committee Meeting Date(s): March 26, 2013

Anticipated Full Council Date: April 15, 2013

Legislative Counsel's Signature: Saul Schultz

Commissioner's Signature: [Signature]

Chief Information Officer Signature (for IT Procurements): [Signature]

Chief Procurement Officer Signature: _____

CAPTION

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES IN THE AMOUNT OF ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF MONITORING UNDERGROUND STORAGE TANK STANDARDS PURSUANT TO THE GEORGIA RULES FOR UNDERGROUND STORAGE MANAGEMENT, CHAPTER 391-3-15 (GUST RULES); TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: \$1,000.00

Mayor's Staff Only

Received by CPO: _____
(date)

Received by LC from CPO: _____
(date)

Received by Mayor's Office: Adiag 3-8-13
(date)

Reviewed by: [Signature]
(date)

Submitted to Council: _____ (date)