

A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF VERGE COURT, LLC V. CITY OF ATLANTA, CIVIL ACTION FILE NO. 2012CV220847, PENDING IN FULTON COUNTY SUPERIOR COURT; AND FOR OTHER PURPOSES.

Review List:

Peter Andrews	Completed	05/21/2013 10:07 AM
Office of Research and Policy Analysis	Completed	05/21/2013 11:01 AM
Public Safety & Legal Administration Committee	Pending	
Atlanta City Council	Pending	
Mayor's Office	Pending	

Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

**RESOLUTION
BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE
AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE
CASE OF VERGE COURT, LLC V. CITY OF ATLANTA, CIVIL ACTION FILE NO. 2012CV220847,
PENDING IN FULTON COUNTY SUPERIOR COURT; AND FOR OTHER PURPOSES.**

WHEREAS, Verge Court, LLC (“Plaintiff”) owns certain property, having an address of 3669 Martin Luther King, Jr. Drive, Atlanta, Georgia 30331 (“Property”), which property is developed for use as a multi-family residential apartment complex known as “Verge Court Apartments;” and

WHEREAS, Plaintiff is the account holder for water and sewer services for the Property, having two accounts with the City of Atlanta (the “City”), Account Nos. 020-6515.300 and 011-7927.304 (“Accounts”); and

WHEREAS, Plaintiff filed a civil suit in the Superior Court of Fulton County, Civil Action File No. 2012CV220847 (the “Action”), styled Verge Court, LLC v. City of Atlanta disputing certain water and sewer charges associated with the Accounts, which charges were incurred during Plaintiff’s ownership of said Property; and

WHEREAS, the Parties agree that Plaintiff owes a total amount for both accounts of \$92,592.00 (“Outstanding Balance”) for water and sewer charges incurred prior to its sale of the Property on October 15, 2012; and

WHEREAS, Plaintiff has made substantial curative renovations to the Property to repair and replace leaks associated with underground and above ground plumbing, toilets and other plumbing fixtures, which were the cause of substantial water leaks, resulting in large water and sewer charges associated with the water leaks within the Property; and

WHEREAS, the City recognizes that the improvements made to the property constitute substantial improvements to the community and public benefits, including without limitation, the removal of blight, the provision of additional affordable housing, and significant water efficiency improvements so that the water consumption is based upon actual consumption rather than substantial water leaks; and

WHEREAS, the City replaced the water meter servicing the Property in May of 2010, and subsequent readings indicate that it is in active, working condition; and

WHEREAS, the parties hereto desire to resolve their disputes without the necessity of further litigation or expense; and the City Attorney considers it to be in the best interests of the City to settle the disputes between the parties, whereby the City, will adjust the Accounts, reducing the Outstanding Balance by \$27,592.00, leaving a balance due of \$65,000.00; and

WHEREAS, Plaintiff shall pay the remaining balance of \$65,000.00 by first making a lump sum payment of \$55,000.00 within fifteen (15) days of the approval by the Mayor of a resolution authorizing the settlement provided in this Settlement Agreement, and by paying the remaining \$10,000.00 in twenty-four (24) monthly installment payments of \$416.00, starting on the 15th day of the month following the month the lump sum payment is made; and

WHEREAS, if Plaintiff fails to comply with the payments outlined herein, any remaining portion of the Outstanding Balance will become immediately due and payable and will become a lien on the Property. Furthermore, the City specifically reserves all rights and remedies at law and equity to collect the total amount of Outstanding Balance, less any payments made on the Accounts toward the same, including but not limited to, reinstating and enforcing the liens that previously existing on the Property.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby resolves as follows:

BE IT RESOLVED that the City Attorney is hereby authorized to settle and execute all documents in the case of Verge Court, LLC v. City of Atlanta to settle all claims related to Civil Action File No. 2012CV220847.

BE IT FURTHER RESOLVED that a Settlement Agreement substantially in the form attached hereto as Exhibit A is authorized to be executed by the proper parties.

BE IT FINALLY RESOLVED that the Commissioner of the Department of Watershed Management is authorized to adjust Plaintiff's Accounts in the amount of Twenty Seven Thousand Five Hundred and Ninety-two and 00/100 Dollars (\$27,592.00), and release all liens associated with the Outstanding Balance on the Account. Such shall be in full consideration of and conditioned upon of receipt of payment from Plaintiff in the total amount of \$65,000.00, for dismissal of all claims against the City of Atlanta and its current and former officers and employees, as more fully set forth in the attached Settlement Agreement.