A RESOLUTION

01- R-1391

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF $1,903.10 IN SETTLEMENT OF THE CLAIM OF WILLIE F. LITTLE AGAINST THE CITY OF ATLANTA

WHEREAS, Willie F. Little has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups to his property located at 3840 Branch Drive, SW; and

WHEREAS, the property owned by Willie F. Little has been damaged due to several occurrences of sewer back ups due to a blockage in the mainline which the City had knowledge of prior to the overflows which occurred on March 25, 2001, specifically; and

WHEREAS, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of $1,903.10 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of Willie F. Little be settled for the sum of $1,903.10.

THEREFORE, BE IT RESOLVED by the Council of the City of Atlanta, Georgia that $1,903.10 be paid by the City of Atlanta in satisfaction of any and all claims Willie F. Little owner of property located at 3840 Branch Drive, SW may have stemming from damages sustained to his property on or about March 10 and 25, 2001.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0232 Date: August 16, 2001

Claimant /Victim WILLIE F. LITTLE
BY: (Atty)(Ins. Co.)
Address: 3840 Branch Drive, SW, Atlanta, Georgia 30331
Subrogation: _____ Claim for Property damage $ 1,903.10 Bodily Injury $ _____
Date of Notice: 04/16/01 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 03/10 & 25/01 Place: 3840 Branch Drive, SW
Department Public Works Division: Sewer Operations
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant's property was damaged due to a series of sewer back ups into his property. The City was on notice of a problem with the sewer line prior to the incident of March 25, 2001.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable X
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,

INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay $ 1,903.10 Adverse Account charged: 1A01 _____ 2J01 X 2H01 _____
Claims Manager: _____ Concur/date 08-20-01
Committee Action: _____ Council Action _____

FORM 23-61

M Pickell
04/16/01

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 4-10-01

Dear Municipal Clerk:

ENTERED - 4-17-01 - SB
01L0232 - DIANNE MITCHELL

This is to notify the City of Atlanta that I have suffered damages in the amount sum of $ 12.00 property and/or $ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 3-10-01 3-25-01 (month/day/ year) 2. Time of Incident: _____ 3. Police called: _____ Yes _____ No

4. Location of incident (including street address): 3840 Branch Dr. S.W.

5. Name of your insurance company: All State Policy No. 031392813

6. State what and how incident occurred: Sewer line Back up Water Damage in Base, To Carpet and Linoleum Damage

7. **ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!**

8. **The registered owner must make the claim for vehicle damages,** complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. **This claim should be mailed immediately to the address shown above.**

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Willie F Little
Signature of Claimant

_____
(Print Claimant's Name)

WILLIE F LITTLE
(Address)

3840 BRANCH DR. S.W.
(City , State and Zip Code)

ATL GA 30331
(Work Number) (Home Number)

404-346 6900 404 696 1314
6900 x 7575

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 01L0232 $ 1,903.10

IN CONSIDERATION of the sum of ONE THOUSAND NINE HUNDRED THREE AND 10/100 DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged, I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City, its officers and employees, from any and all claims, demands, actions, causes of action, suits, damages, loss and expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly for or on account of property damage due to sewer back up

which occurred on or about the 10th and 25th days of March, 2001,

at or near 3840 Branch Drive, SW.

It is further understood and agreed that the payment of the above named sum is not to be considered as an admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents, servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers, agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

And I now state that the only consideration for my signing this release and indemnification is the payment of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this instrument.

WITNESS my hand and seal this 22nd day of August, 2001.

Willie F. Little (LS)
WILLIE F. LITTLE

The above release was read and explained to, and signed by the said Willie F. Little

_____ in our presence on the date above written.

Synethia Simmons
Carolyn P. Dallas
WITNESSES