

#15.

16458

<p>16458</p> <p>18 R 4255</p> <p>(Do Not Write Above This Line)</p> <p>A RESOLUTION</p> <p>BY _____</p> <p>A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE AMOUNT OF TWO HUNDRED FIVE THOUSAND DOLLARS AND ZERO CENTS (\$205,000.00) (THE "SETTLEMENT AMOUNT") IN SETTLEMENT OF ALL CLAIMS AGAINST DEFENDANT IN THE CASE OF THE CITY OF ATLANTA V. MORGAN LEWIS &amp; BROCKIUS LLP, CIVIL ACTION FILE NO. 2018CV300948, PENDING IN FULTON COUNTY SUPERIOR COURT; AUTHORIZING THE SETTLEMENT AMOUNT TO BE PAID TO THE CITY ACCOUNT SET FORTH HEREIN; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE ONE HUNDRED TWENTY-ONE THOUSAND TWO HUNDRED EIGHTEEN DOLLARS AND THIRTY FIVE CENTS (\$121,218.35) OF THE SETTLEMENT AMOUNT TO THE GENERAL EMPLOYEES' PENSION FUND; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE EIGHTY THREE THOUSAND SEVEN HUNDRED EIGHTY ONE DOLLARS AND SIXTY FIVE CENTS (\$83,781.65) OF THE SETTLEMENT AMOUNT TO THE POLICE OFFICERS' PENSION FUND; AND FOR OTHER PURPOSES.</p> <p><i>Adopted 10/15/18</i></p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Referred To _____</p> <p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> <p>Refer To _____</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> <p>Refer To _____</p>	<p><b>FINAL COUNCIL ACTION</b></p> <p><input type="checkbox"/> 2nd <input type="checkbox"/> 1st &amp; 2nd <input checked="" type="checkbox"/> 3rd</p> <p>Readings</p> <p>Consent <input type="checkbox"/> V Vote <input checked="" type="checkbox"/> RC Vote</p> <p><b>CERTIFIED</b></p> <p><b>OCT 15 2018</b></p> <p>ATLANTA CITY COUNCIL PRESIDENT</p> <p><i>Elaine B. Moore</i></p> <p><b>CERTIFIED</b></p> <p><b>OCT 15 2018</b></p> <p>MUNICIPAL CLERK</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> <p>Refer To _____</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> <p>Refer To _____</p>	<p>MAYOR'S ACTION</p> <p><b>APPROVED</b></p> <p><b>OCT 24 2018</b></p> <p>WITHOUT SIGNATURE BY OPERATION OF LAW</p>	<p>Committee _____</p> <p>Date _____</p> <p>Chair _____</p> <p>Action _____</p> <p>Fav, Adv, Hold (see rev. side) _____</p> <p>Other _____</p> <p>Members _____</p> <p>Refer To _____</p>	<p><b>ADOPTED BY COUNCIL</b></p> <p><b>OCT 15 2018</b></p> <p>14Y ON</p> <p><input type="checkbox"/> CONSENT REFER</p> <p><input type="checkbox"/> REGULAR REPORT REFER</p> <p><input type="checkbox"/> ADVERTISE &amp; REFER</p> <p><input type="checkbox"/> 1ST ADOPT 2ND READ &amp; REFER</p> <p><input type="checkbox"/> PERSONAL PAPER REFER</p> <p>Date Referred _____</p> <p>Referred To: _____</p> <p>Date Referred _____</p> <p>Referred To: _____</p> <p>Date Referred: _____</p> <p>Referred To: _____</p>
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**A RESOLUTION**

BY \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE AMOUNT OF TWO HUNDRED FIVE THOUSAND DOLLARS AND ZERO CENTS (\$205,000.00) (THE "SETTLEMENT AMOUNT") IN SETTLEMENT OF ALL CLAIMS AGAINST DEFENDANT IN THE CASE OF THE CITY OF ATLANTA v. MORGAN LEWIS & BROCKIUS LLP, CIVIL ACTION FILE NO. 2018CV300948, PENDING IN FULTON COUNTY SUPERIOR COURT; AUTHORIZING THE SETTLEMENT AMOUNT TO BE PAID TO THE CITY ACCOUNT SET FORTH HEREIN; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE ONE HUNDRED TWENTY-ONE THOUSAND TWO HUNDRED EIGHTEEN DOLLARS AND THIRTY FIVE CENTS (\$121,218.35) OF THE SETTLEMENT AMOUNT TO THE GENERAL EMPLOYEES' PENSION FUND; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE EIGHTY THREE THOUSAND SEVEN HUNDRED EIGHTY ONE DOLLARS AND SIXTY FIVE CENTS (\$83,781.65) OF THE SETTLEMENT AMOUNT TO THE POLICE OFFICERS' PENSION FUND; AND FOR OTHER PURPOSES.**

**WHEREAS, City of Atlanta v. Morgan Lewis & Brockius LLP** (the "Lawsuit") is a lawsuit filed by the City of Atlanta (the "City") seeking reimbursement from a law firm that accepted City pension assets to pay their attorneys' fees for litigation challenging two City pension modification ordinances passed in December 2017; and

**WHEREAS,** the City provides a defined benefit pension ("Pension") to eligible sworn members of the Atlanta Police Department, eligible sworn members of the Atlanta Fire Rescue Department, and certain other eligible City employees; and

**WHEREAS,** the City's Pension retirement program is divided into three different plans (collectively, the "Plans"), and each of the Plans has its own fund containing the Plan's assets: the Police Officers' Pension Fund, the Firefighters' Pension Fund, and the General Employees' Pension Fund; and

**WHEREAS,** each of the Plans is a tax qualified defined benefit plan subject to the requirements of the Internal Revenue Code § 401(a) (the "IRS Code"). Pursuant to the IRS Code,



Plan assets may be utilized solely to provide Pension benefits to participants and their beneficiaries, and to defray reasonable expenses of administering the Plan; and

**WHEREAS**, prior to February 14, 2018, each of the Plans was administered by its own Board of Trustees, and each of the three Boards managed its respective Plan's investments separately and independently from the other two Plans; and

**WHEREAS**, in September of 2017, the City of Atlanta introduced legislation to create one Investment Board of Trustees for the three Plans (17-O-1589, the "Governance Ordinance"). The proposed Investment Board would include representatives from each of the three Plans, but would eliminate the three separate Boards of Trustees; and

**WHEREAS**, in 2015, the former Board of Trustees of the General Employees' Pension Fund hired the law firm Morgan Lewis & Brockius LLP (the "Defendant") to advise on legal issues related to pension fund investments. The IRS deems such legal services to be an expense of administering the Plan, and the Board's use of Fund assets to pay legal fees was compliant with the IRS Code; and

**WHEREAS**, upon the City's introduction of the Governance Ordinance, the former Board of Trustees of the General Employees' Pension Fund expanded the scope of Defendant's legal services to include opposing the Governance Ordinance, and paid for the expanded scope of legal services from the assets of the General Employees' Pension Plan; and

**WHEREAS**, on December 27, 2017, the Defendant, on behalf of the former Board of Trustees of the General Employees' Pension Fund and the former Board of Trustees of the Police Officers' Pension Fund, filed suit against the City in the Fulton County Superior Court (the "Trustees' Litigation") challenging the Governance Ordinance and a second ordinance that allowed a narrowly-defined group of long-term City employees to buy into the General Employees' Pension Plan (17-O-1826); and

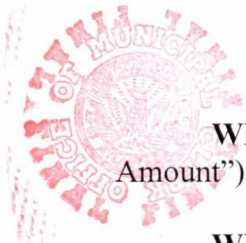
**WHEREAS**, the Defendant's attorneys' fees and costs arising from the Trustees' Litigation were paid from the assets of the General Employees' Pension Plan and the Police Officers' Pension Plan; and

**WHEREAS**, of the Plan assets paid to Defendant, \$83,781.65 was paid from the Police Officers' Pension Fund, and the remainder was paid from the General Employees' Pension Fund; and

**WHEREAS**, the City asserts that use of Pension Plan assets to pay the Trustees' Litigation attorneys' fees violated the IRS Code, jeopardized the tax-exempt status of the Pension Funds, and caused harm to Pension Plan participants and their beneficiaries, and to the City; and

**WHEREAS**, Defendant ceased acceptance of additional payment from Plan assets in February of 2018, and the Trustees' Litigation was voluntarily dismissed without prejudice on July 23, 2018; and





**WHEREAS**, the Defendant has agreed to repay the Plans \$205,000 (“Settlement Amount”) in full settlement of the Lawsuit brought by the City; and

**WHEREAS**, the City Attorney has done an extensive review of the applicable facts and law and considers it to be in the best interest of the City to accept this Settlement Amount for full and final settlement of the Lawsuit.

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

**SECTION 1.** The City Attorney is hereby authorized to settle the case of **City of Atlanta v. Morgan Lewis & Brockius LLP, et al., Superior Court of Fulton County, Georgia, Case No. 2018CV300948**, for the amount of Two Hundred Five Thousand Dollars and Zero Cents (\$205,000.00), and to execute all documents needed to effectuate the settlement.

**SECTION 2.** The Chief Financial Officer is authorized to accept payment of the Settlement Amount, which shall be deposited into Fund, Center and Account number 7751.200601.3890007 (Recoveries). Such payment shall be in full consideration of the City’s dismissal of the Lawsuit.

**SECTION 3.** Once the Settlement Amount is received, the Chief Financial Officer is authorized to transfer One Hundred Twenty-One Thousand Two Hundred Eighteen Dollars and Thirty-Five Cents (\$121,218.35) of the Settlement Amount from Fund, Center and Account number 7751.200601.3890007 (Recoveries) to the General Employees’ Pension Fund. The Chief Financial Officer is further authorized to transfer Eighty-Three Thousand Seven Hundred Eighty-One Dollars and Sixty-Five Cents (\$83,781.65) of the Settlement Amount from from Fund, Center and Account number 7751.200601.3890007 (Recoveries) to the Police Officers’ Pension Fund.

A true copy,

Municipal Clerk

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

**OCT 15, 2018  
OCT 24, 2018**

A RESOLUTION BY COUNCILMEMBER ANDREA BOONE AUTHORIZING THE ACCEPTANCE OF THE AMOUNT OF TWO HUNDRED FIVE THOUSAND DOLLARS AND ZERO CENTS (\$205,000.00) (THE "SETTLEMENT AMOUNT") IN SETTLEMENT OF ALL CLAIMS AGAINST DEFENDANT IN THE CASE OF THE CITY OF ATLANTA v. MORGAN LEWIS & BROCKIUS LLP, CIVIL ACTION FILE NO. 2018CV300948, PENDING IN FULTON COUNTY SUPERIOR COURT; AUTHORIZING THE SETTLEMENT AMOUNT TO BE PAID TO THE CITY ACCOUNT SET FORTH HEREIN; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE ONE HUNDRED TWENTY-ONE THOUSAND TWO HUNDRED EIGHTEEN DOLLARS AND THIRTY FIVE CENTS (\$121,218.35) OF THE SETTLEMENT AMOUNT TO THE GENERAL EMPLOYEES' PENSION FUND; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE EIGHTY THREE THOUSAND SEVEN HUNDRED EIGHTY ONE DOLLARS AND SIXTY FIVE CENTS (\$83,781.65) OF THE SETTLEMENT AMOUNT TO THE POLICE OFFICERS' PENSION FUND; AND FOR OTHER PURPOSES.

**☛ VOTE RECORD - RESOLUTION 18-R-4255**

<input checked="" type="checkbox"/> ADOPTED <input type="checkbox"/> ADVERSED <input type="checkbox"/> FAVORABLE <input type="checkbox"/> ACCEPTED AND FILED <input type="checkbox"/> REFERRED TO COMMITTEE <input type="checkbox"/> HELD IN COMMITTEE <input type="checkbox"/> TABLED <input type="checkbox"/> DEFERRED <input type="checkbox"/> RECONSIDERED <input type="checkbox"/> FILED <input type="checkbox"/> FILED BY COMMITTEE <input type="checkbox"/> FAVORABLE ON SUBSTITUTE <input type="checkbox"/> FAVORABLE AS AMENDED <input type="checkbox"/> QUESTION CALLED <input type="checkbox"/> SUBSTITUTED <input type="checkbox"/> AMENDED <input type="checkbox"/> REFERRED TO ZRB AND ZC <input type="checkbox"/> REFERRED WITHOUT OBJECTION <input type="checkbox"/> ADOPTED AS AMENDED <input type="checkbox"/> ADOPTED SUBSTITUTE <input type="checkbox"/> ADOPTED SUBSTITUTE AS AMENDED <input type="checkbox"/> FORWARDED <input type="checkbox"/> REFERRED TO SC <input type="checkbox"/> FILED WITHOUT OBJECTION <input type="checkbox"/> FAILED <input type="checkbox"/> ADVERSED IN COMMITTEE <input type="checkbox"/> QUADRENNIALY TERMINATED <input type="checkbox"/> FORWARDED W/NO						
			YES/AYE	NO/NAY	ABSTAIN	ABSENT
	MICHAEL JULIAN BOND	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	MATT WESTMORELAND	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	ANDRE DICKENS	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	CARLA SMITH	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	AMIR R FAROKHI	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	IVORY LEE YOUNG JR.	VOTER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	CLETA WINSLOW	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	NATALYN MOSBY ARCHIBONG	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	JENNIFER N IDE	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	HOWARD SHOOK	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	JP MATZIGKEIT	SECONDER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	DUSTIN HILLIS	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	ANDREA L BOONE	MOVER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	MARCI COLLIER OVERSTREET	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	JOYCE M SHEPERD	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>





**18-R-4255**

**Adopted by the Atlanta City Council  
October 15, 2018**

**APPROVED**

**OCT 24 2018**

**WITHOUT SIGNATURE  
BY OPERATION OF LAW**

**MAYOR'S ACTION**