




TO: Mayor Linda Gorton  
Urban County Council

FROM:   
Charles H. Martin, P.E., Director,  
Division of Water Quality

DATE: November 21, 2023

SUBJECT: Stipulated Penalty Assessment - \$99,000.00  
Consent Decree #5:06-cv-386  
Sanitary Sewer Overflows (SSOs) - Post CMOM Approval

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### **Request**

Authorizing and directing the Mayor to authorize payment of \$49,500 each to the Kentucky State Treasurer and the U.S. Department of Justice for Sanitary Sewer Overflows (SSOs) in accordance with the provisions of Paragraph 44(ii) of the Consent Decree between LFUCG, the Commonwealth of Kentucky (State) and the U.S. Environmental Protection Agency (EPA).

### **Purpose of Request**

In the Consent Decree, LFUCG agreed to pay stipulated penalties of \$2,000 per SSO for any SSO that occurs more than two (2) years after approval of the required Capacity, Management, Operations and Maintenance (CMOM) Self-Assessment submittal. The CMOM Self-Assessment submittal was approved by the state and EPA on August 16, 2012. The Consent Decree also allows for 1) a \$3,000 stipulated penalty for any reported wet-weather treatment plant bypasses and 2) a \$5,000 stipulated penalty for any reported wet-weather SSO that was previously abated by a completed Remedial Measures Plan (RMP) project.

### **What is the cost in this budget year and future budget years?**

The current cost for FY24 is \$99,000 and covers SSOs for calendar year 2022. The historical summary of penalties is provided below:



<b>Penalty Period</b>	<b>Penalty Amount</b>	<b>Council Action</b>
Aug 17, 2015 – Dec. 31, 2016	\$102,000	Res. 45-2017
Calendar Year 2016	\$28,000	Res. 126-2018
Calendar Year 2017	\$59,000	Res. 728-2019
Calendar Year 2018	\$97,000	Res. 362-2020
Calendar Year 2019	\$129,000	Res. 293-2021
Calendar Year 2020	\$81,000	Res. 227-2022
Calendar Year 2021	\$50,000	Res. 007-2023
Calendar Year 2022	\$99,000	Pending

**Are the funds budgeted?**

Funds are available in 4002-303401-3401-78321

**Director/Commissioner:** Martin/Albright

