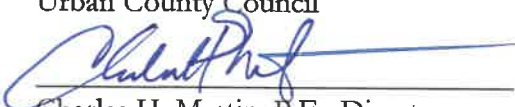




TO: Mayor Linda Gorton
Urban County Council

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

DATE: March 11, 2021

SUBJECT: Stipulated Penalty Assessment - \$129,000.00
Consent Decree #5:06-cv-386
Sanitary Sewer Overflows (SSOs) - Post CMOM Approval

Request

Authorizing and directing the Mayor to authorize payment of \$64,500 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?

In prior calendar years, the State and EPA fell behind in their assessment of the annual stipulated penalty assessment. They have focused on catching up during FY21, which has resulted in both the



CY2018 and the CY2019 penalties being posted in LFUCG's fiscal year 2021. The historical summary of penalties is provided below:

Penalty Period	Penalty Amount	Council Action
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	Pending

Are the funds budgeted?

Funds are available in 4002-303401-3401-78321

Director/Commissioner: Martin/Albright

