A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

01- R -0700

A RESOLUTION AUTHORIZING AN OFFER OF JUDGMENT ON ALL CLAIMS OF EDWARD MITCHELL AGAINST THE CITY OF ATLANTA IN THE CASE OF EDWARD MITCHELL V. THE CITY OF ATLANTA, CIVIL ACTION NUMBER: 1:99-CV-1859, FILED IN THE UNITED STATES DISTRICT COURT; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF FIFTEEN THOUSAND DOLLARS ($15,000); AND FOR OTHER PURPOSES.

WHEREAS, on July 20, 1999, Plaintiff Edward Mitchell initiated the case of Edward Mitchell v. City of Atlanta, pursuant to the Americans with Disabilities Act ("ADA), 42 U.S.C. Section 12101 et. seq.

WHEREAS, in September 1998 Edward Mitchell applied for a position as a corrections officer with the City of Atlanta; and

WHEREAS, in connection with his application, Mitchell was required to submit to a physical examination; and

WHEREAS, during his health screening it was confirmed that he suffered from insulin dependant diabetes; and

WHEREAS, on January 6, 1999, the Plaintiff was notified that he would not be hired for the position of corrections officer because of his insulin dependant diabetes condition; and

WHEREAS, the Plaintiff filed an EEO Complaint on January 11, 1999; and

WHEREAS, on February 24, 1999, the Plaintiff's filed was reactivated; and

WHEREAS, after months of trying to contact the Plaintiff, the Department of Corrections made a job offer to the Plaintiff on May 7, 1999; and

WHEREAS, the Plaintiff started working with the Department of Corrections as an officer on June 1, 1999; and

WHEREAS, the Plaintiff filed this lawsuit seeking reimbursement for lost wages, compensatory damages, costs, and attorneys' fees; and

WHEREAS, by Order dated February 27, 2001, United States District Court Judge Jack T. Camp granted summary judgment to Plaintiff; and

WHEREAS, as a result of the Order, the legal issue to be determined at trial is whether the Defendant regarded the Plaintiff as disabled; and

WHEREAS, Plaintiff has refused a settlement offer; and

WHEREAS, the City Attorney has determined that an offer of judgment should be made covering all claims in this matter for $15,000, not including reasonable attorneys' fees and costs, which will be determined by the court; and

WHEREAS, this offer of judgment is contingent upon approval of the Atlanta City Council and the Mayor; and

WHEREAS, by offer of judgment, Defendant admits no liability; and

WHEREAS, the offer of judgment acceptable to Plaintiff Mitchell is, in the opinion of the City Attorney, appropriate to settle all claims against Defendant arising out of the case of Edward Mitchell v. City of Atlanta.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES that the City Attorney be and is hereby authorized to conclude through the offer of judgment, settlement of all claims against the City of Atlanta, exclusive of fees and costs arising out of the lawsuit filed by Edward Mitchell in the United States District Court, as set forth in Civil Action Number: 1:99-CV-1859.

THE CITY COUNCIL FURTHER RESOLVES that the Chief Financial Officer is authorized to pay the total of Fifteen Thousand Dollars ($15,000) at the direction of the City Attorney from the account

of 1A01529017 T31001. Payment shall be in the form of a check in the amount of $15,000, payable to Plaintiff Edward Mitchell. Such payment will be in full consideration of the dismissal of all claims against Defendant City of Atlanta, exclusive of fees and costs.