AN ORDINANCE 04-O-04-O-0352

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE AUTHORIZING THE SETTLEMENT OF ALL CLAIMS IN THE CASE OF CARRIE N. YOUNG V. CITY OF ATLANTA, ET AL., UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NO. 1:02-CV-1180-JTC, IN THE AMOUNT OF $65,000.00; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETLLEMENT AMOUNT; WAIVING CITY OF ATLANTA CODE OF ORDINANCES SECTION 2-783(h) FOR THIS INSTANCE ONLY; AND FOR OTHER PURPOSES.

WHEREAS, *Carrie N. Young v. City Of Atlanta, et al.* is a case in which the Plaintiff, Carrie Young, is suing for personal injuries received when she was apprehended and arrested by City of Atlanta Police Officer Bridgette L. Porter, and for deprivation of her constitutionally and federally protected rights under 42.U.S.C. § 1983; and

WHEREAS, Plaintiff alleges that she was subjected to unnecessary, unreasonable and excessive force, and that she was deprived of her rights secured by the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution; and

WHEREAS, Officer Porter maintains that Plaintiff's apprehension and arrest occurred after Plaintiff refused to provide a driver's license and insurance information to Officer Porter so that she could complete a traffic citation for Plaintiff, Plaintiff used profane language directed toward and in the presence of Officer Porter, and that Plaintiff was combative and resistant to Officer Porter's attempt to effect a lawful arrest; and

WHEREAS, Plaintiff Carrie Young alleges that, as a result of the physical struggle with Officer Porter during the course of her arrest, she suffered a broken ankle, resulting in surgery in order to repair the break in Plaintiff's ankle; and

WHEREAS, the parties have engaged in extensive discovery, as a result of which it was determined that Plaintiff has endured considerable pain and suffering and has incurred, and will continue to incur, significant medical expenses; and

WHEREAS, a Motion for Summary Judgment was filed on behalf of all the named Defendants, requesting that the Court dismiss all Defendants as a matter of law; and

WHEREAS, the City of Atlanta and Chief Richard Pennington were dismissed by order of the District Court dated December 9, 2003, partially granting the Motion for Summary Judgment filed on behalf of the named Defendants; and

WHEREAS, the Court in denying partial summary judgment determined that there was an issue of disputed material facts which require resolution by a jury; and

WHEREAS, Bridgette Porter remains the sole Defendant in this action; and

WHEREAS, pursuant to 42 U.S.C. §§ 1983 and 1988, if Plaintiff should be awarded compensatory damages, Officer Porter would be required to pay reasonable costs and attorney's fees of the Plaintiff which would likely total more tens of thousands of dollars; and

WHEREAS, the Plaintiff has agreed to $65,000.00 as full settlement of all claims against Bridgette Porter, including attorney's fees; and

WHEREAS, the City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiff's claim is in excess of the settlement amount; and

WHEREAS, the settlement of the case of *Carrie N. Young v. City of Atlanta, et al.* shall not be deemed to be an admission of liability or wrongdoing on the part of Bridgette Porter, the City of Atlanta, or any current or former employee or agent of the City of Atlanta; and

WHEREAS, the City Attorney considers it to be in the best interest of the City to pay the amount of $65,000.00 to settle all claims.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby ordains as follows:

SECTION 1. The City Attorney is hereby authorized to settle the case of *Carrie M. Young v. City of Atlanta, et al.* in the amount of Sixty Five Thousand Dollars ($65,000.00).

SECTION 2. That the Chief Financial Officer is authorized to pay to Attorney Timothy R. Walmsley of Lowther & Walmsley, on behalf of Carrie Young, the sum of $65,000.00, and to charge such sum to Account No. 1A01-529017-T31001.

SECTION 3. To the extent that Section 2-783(h) of the Code of Ordinances of the City of Atlanta is in conflict herewith, that subsection is waived for this instance only to permit the payment of $65,000.00 on behalf of Bridgette Porter.