



AN ORDINANCE

04-O-04-0-1795

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA, POLICE CHIEF RICHARD J. PENNINGTON, AND JASON H. TEAGUE IN THE CASE OF YLIA LAVENDER V. CITY OF ATLANTA, ET AL., UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NO. 1:02-CV-2716-GET, IN THE AMOUNT OF \$25,000.00; AUTHORIZING SAID PAYMENT TO BE CHARGED TO AND PAID FROM FUND 1A01 (GENERAL FUND), ACCOUNT 529017 (PROPERTY LIQUIDATION) AND CENTER NUMBER T31001 (NON-DEPARTMENTAL); AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; WAIVING CITY OF ATLANTA CODE OF ORDINANCES SECTION 2-783(h) FOR THIS INSTANCE ONLY; AND FOR OTHER PURPOSES.

WHEREAS *Ylia Lavender v. City Of Atlanta, et al.* is a case in which the Plaintiff, Ylia Lavender, is suing for damages she allegedly incurred when she was apprehended and arrested by City of Atlanta Police Officers Raymond S. Bunn and Jason Teague; and

WHEREAS, Plaintiff alleges that she was subjected to unnecessary, unreasonable and excessive force during the course of her arrest, and that she was deprived of her constitutionally and federally protected rights secured under 42 USC § 1983; and

WHEREAS, Plaintiff asserts claims for assault and battery, negligence, false arrest, malicious prosecution, false imprisonment, intentional infliction of



emotional distress, negligent hiring, negligent training and negligent supervision; and

WHEREAS, Officers Bunn and Teague maintain that Plaintiff's apprehension and arrest occurred after Plaintiff attacked Officer Bunn, Plaintiff used profane language directed toward and in the presence of Officer Bunn, and that Plaintiff was combative and resistant to Officer Bunn's attempt to effect a lawful arrest; and

WHEREAS, Officer Bunn is represented by private counsel in this action and has asserted a counterclaim against Plaintiff for injuries he alleges he sustained during the course of Plaintiff's arrest; and

WHEREAS, Plaintiff alleges that as a result of the physical struggle with Officers Bunn she suffered significant injuries, including a broken eye socket; and

WHEREAS, the parties have engaged in extensive discovery, as a result of which it was determined that Plaintiff has endured severe pain and suffering and will continue to receive medical care and attention; and

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

WHEREAS, Plaintiff has agreed to accept \$25,000.00 in full settlement of all claims against the City of Atlanta, Chief Pennington and Officer Teague, 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 claims is in excess of the settlement amount; and

WHEREAS, the settlement of the case of *Ylia Lavender v. City of Atlanta, et al.* shall not be deemed to be an admission of liability or wrongdoing on the part of the City of Atlanta, Chief Pennington, Officer Bunn, Officer Teague 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 \$25,000.00 to settle all claims against the City of Atlanta, Chief Pennington and Officer Teague.

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 *Ylia Lavender v. City of Atlanta, et al.* in the amount of Twenty Five Thousand Dollars (\$25,000.00).

SECTION 2. Said payment is to be charged to and paid from Fund 1A01 (General Fund), Account 529017 (Property Liquidation) and Center Number T31001 (Non-Departmental). Payment shall be in the form of a check in the amount of \$25,000.00, payable to Attorney Tony L. Axam of Axam, Adams & Secret, P.A. on behalf of Ylia Lavender. Such payment shall be in full consideration of the dismissal of all claims against the City of Atlanta, and its current and former officers and employees, with the sole exception of Plaintiff's claims against former Officer Raymond S. Bunn.

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 \$25,000.00 on behalf of Chief Pennington and Officer Teague.

A true copy,

Rhonda Doughton Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

NOV 01, 2004
NOV 05, 2004

RCS# 6199
11/01/04
1:42 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 3-15

ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 3

Y Smith	B Archibong	Y Moore	Y Mitchell
Y Starnes	B Fauver	B Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	NV Sheperd	NV Borders

CONSENT I

		11-01-04 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 04-O-1626	38. 04-R-1878	48. 04-R-1162
2. 04-O-1795	39. 04-R-1940	49. 04-R-1172
3. 04-O-1796	40. 04-R-1908	50. 04-R-1178
4. 04-O-1828	41. 04-R-1909	51. 04-R-1782
5. 04-O-1819	42. 04-R-1910	52. 04-R-1900
6. 04-O-1929	43. 04-R-1911	53. 04-R-1901
7. 04-O-1758	44. 04-R-1912	54. 04-R-1902
8. 04-O-1932	45. 04-R-1913	55. 04-R-1903
9. 04-O-1430	46. 04-R-1914	56. 04-R-1904
10. 04-O-1926	47. 04-R-1915	57. 04-R-1905
11. 04-O-1885		58. 04-R-1906
12. 04-O-1937		59. 04-R-1907
13. 04-O-1941		
14. 04-R-1893		
15. 04-R-1894		
16. 04-R-1895		
17. 04-R-1916		
18. 04-R-1917		
19. 04-R-1918		
20. 04-R-1920		
21. 04-R-1896		
22. 04-R-1897		
23. 04-R-1898		
24. 04-R-1899		
25. 04-R-1930		
26. 04-R-1884		
27. 04-R-1886		
28. 04-R-1888		
29. 04-R-1889		
30. 04-R-1890		
31. 04-R-1891		
32. 04-R-1928		
33. 04-R-1938		
34. 04-R-1870		
35. 04-R-1871		
36. 04-R-1874		
37. 04-R-1945		

04-0-1795

(Do Not Write Above This Line)

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ADOPTED BY
NOV 01 2004

Jerry L. DeLoach, Deputy City **COUNCIL**

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 10-18-2004

Referred To: PS 414

Date Referred

Referred To:

Date Referred

Referred To:

First Reading
PSLA
Date 10/21/04
Chair PSLA
Referred To PSLA

PSLA Committee

Date 10/21/04

Chair [Signature]

Action

Fav, Adv, Hold (see rev. side)

Other

Members

[Signatures]

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Refer To

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

CERTIFIED
NOV 01 2004

[Signature]

CERTIFIED
NOV 01 2004

[Signature]
MUNICIPAL CLERK

MAYOR'S ACTION

[Signature]
NOV 05 2004

MAYOR