

To: The Honorable Mayor and City Council

From: Karen Muir, Risk Manager



Date: February 23, 2016

**RE: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE SETTLEMENT OF RISK MANAGEMENT CASE #AL-11-W-52-PW, A/K/A THE LITIGATION MATTER OF 'JOSE TRIANA V/S CITY OF NORTH MIAMI' FILED IN THE CIRCUIT COURT OF THE 11<sup>TH</sup> JUDICIAL CIRCUIT, MIAMI-DADE COUNTY, FLORIDA. CASE NO. 13-39348-CA-32, FOR THE TOTAL SUM OF THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500.00); FURTHER AUTHORIZING THE INTERIM CITY MANAGER AND INTERIM CITY ATTORNEY TO DO ALL THINGS NECESSARY TO EFFECTUATE THE SETTLEMENT; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

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**RECOMMENDATION**

It is recommended that the Mayor and City Council of the City of North Miami, Florida approve settlement of Risk Management Case #AL-11-W-52-PW, Jose Triana v/s City of North Miami in the amount of \$37,500.00. Funds are available to cover this settlement in Risk Management's claims payment account.

**BACKGROUND**

On July 25, 2011, Mr. Jose Tiana suffered property damage and personal injury when his personal vehicle was impacted by a North Miami Public Works pick-up truck, during a lane change.

Through his attorney, Michael B. Feiler, Esq., Mr. Triana pursued recovery for damages and injuries (necessitating medical intervention) against the City. His initial demand was \$100,000. Since a resolution was not attained during pre-litigation, the matter proceeded to litigation and discovery ensued. Mediation occurred in November 2015 but resulted in an impasse due to disparity between the sum demand and settlement proposed by City. Nevertheless, settlement discussions continued beyond mediation. Approximately two weeks subsequent to mediation, Attorney Kertch Conze, representing the City, succeeded in negotiating the lowest demand proffered to date, \$37,500. The Risk Management Committee convened in December 2015; after discussing and evaluating this case, it was agreed that settlement for \$37,500 was in the City's best economic interest. Furthermore, the cost to defend and continue litigation could easily exceed the proposed settlement. On January 26, 2016 an executive session was convened in accordance with Section 286.011, Florida Statutes (2015) for discussion relating to settlement negotiations. The Mayor and Council believe it's in the best economic interest of the City to authorize this settlement.

**Attachment**

Resolution

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE SETTLEMENT OF RISK MANAGEMENT CASE #AL-11-W-52-PW, A/K/A THE LITIGATION MATTER OF ‘JOSE TRIANA V. CITY OF NORTH MIAMI’, FILED IN THE CIRCUIT COURT OF THE 11<sup>TH</sup> JUDICIAL CIRCUIT, MIAMI-DADE COUNTY, FLORIDA, CASE NO. 13-39348-CA-32, FOR THE TOTAL SUM OF THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500.00); FURTHER AUTHORIZING THE INTERIM CITY MANAGER AND INTERIM CITY ATTORNEY TO DO ALL THINGS NECESSARY TO EFFECTUATE THE SETTLEMENT; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, the Plaintiff, Mr. Jose Triana suffered property damage and personal injury when his personal vehicle was impacted by a City of North Miami (“City”) Public Works pick-up truck during a lane change; and

**WHEREAS**, Mr. Triana, through his attorney, pursued recovery for damages and injuries against the City by filing an initial demand in the amount of One Hundred Thousand Dollars (\$100,000.00); and

**WHEREAS**, mediation occurred in November 2015, but resulted in an impasse due to the disparity between the sum demanded by Mr. Triana and the amount offered by the City in mediation; and

**WHEREAS**, negotiation talks continued beyond mediation when outside counsel, Kertch Conze, was able to negotiate a proposed settlement in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00), the lowest demand proffered to date; and

**WHEREAS**, in December 2015, the Risk Management Committee met and evaluated the proposed claim, and agreed that settlement in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00), was in the City’s best interest; and

**WHEREAS**, the costs to defend and continue to litigate this action could easily exceed the proposed settlement amount; and

**WHEREAS**, on January 26, 2016, an executive session was convened in accordance with Section 286.011, Florida Statutes (2015), for discussion relating to settlement negotiations; and

**WHEREAS**, the Mayor and City Council believe that it is in the best economic interest of the City to authorize the settlement of the claim with Mr. Triana.

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1.**     **Authority to Settle.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the settlement of Risk Management Case #AL-11-W-52-PW, a/k/a the litigation matter of ‘Jose Triana v. City of North Miami’, filed in the Circuit Court of the 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Florida, Case No. 13-39348-CA-32, for the total sum of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00); further authorizing the Interim City Manager and Interim City Attorney to do all things necessary to effectuate the settlement.

**Section 2.**     **Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
DR. SMITH JOSEPH  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
ROLAND C. GALDOS, ESQ.  
INTERIM CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Vice Mayor Alix Desulme

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Scott Galvin

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilwoman Carol Keys, Esq.

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Philippe Bien-Aime

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)