



Council Report

776 N.E. 125 Street, North Miami, Florida 33161

To: The Honorable Mayor and City Council

From: Karen Muir, Risk Manager

Date: July 14, 2015

**RE: DISCUSSION REGARDING BRYNWOOD CONDOMINIUM LIFT STATION
LOCATED AT 1330 NE 105th STREET FORCE MAIN INCIDENT – R/M CASE# GL-15-
W-37-PW AND RECOMMENDATION FOR SETTLEMENT IN THE AMOUNT OF
\$9,500.**

RECOMMENDATION

It is recommended that the Mayor and the City Council of the City of North Miami, Florida approve settlement of Risk Management Case #GL-15-W-37-PW, Brynwood Condominium, in the amount of \$9,500.00. Funds are available to cover this settlement in Risk Management Claims' Account.

BACKGROUND

This claim arises from damage that occurred at the Brynwood Condominium located at 1330 NE 105th Street. The damage occurred when the City upgraded its force main and the Contractor (hired by City) attempted to tie in private lift stations to the upgraded City station in November 2014. Brynwood has submitted a claim to recover \$18,500 in total (refer to cost breakdown attached). Risk Management initially provided insurance information for both the engineering firm and contractor hired by the City, namely: EAC Consulting Inc. and JVA Engineering Contractors Inc., since their undertaking of this project meant that the risk was transferred to them. However, Mr. Greg Lebowitz (representative of Brynwood Condo) reported that this process did not work adequately for the Association.

Since the claim persisted with no amicable resolution, in May 2015 Risk Management directed Mr. Lebowitz to provide all documentation of damages along with invoices and paid bills to substantiate the condominium's claim. The intent was to move for an amicable resolution with Brynwood and later subrogate on the City's behalf to recover funds from the contractor's insurer.

Documents were provided to Risk by Brynwood Condo and a meeting convened. In attendance were Public Works' management team and EAC's representatives. Discussions commenced and negotiations ensued. A settlement offer of \$7,000 was extended to Mr. Lebowitz (it should be noted that EAC offered to contribute \$2,650 towards settlement to purchase the rental pump in use by Brynwood). While

Page /2

Mr. Lebowitz did not decline this offer, he informed the group that Brynwood needed time extension to meet regulatory compliance beyond the October 12, 2015 official date for the City's tie-in of all lines to its upgraded system. It was agreed to research further and respond to the request. Mr. Lebowitz later informed Risk Management that the Association found the City's offer of \$7,000 unacceptable. Additionally, they needed an extension of time for compliance.

Another meeting occurred between the City Manager and Risk Management wherein a plausible solution was sought to conclude this claim. Risk recommended extending an additional \$2,500 as reimbursement for Brynwood's rebuilt suction pump, damaged after six (6) months of use from the upgrade/tie-in. This brought the settlement to \$9,500. Another offer was extended to Mr. Lebowitz who agreed to discuss same with the Association. He also reiterated their demand for time extension in an effort to comply with regulatory requirements. Mr. Lebowitz was subsequently informed that the City had no jurisdiction over time extensions to meet regulatory compliance. The Department of Environmental Resource Management (DERM) oversees this process.

The claim remains unresolved primarily because the Association seeks time extension (beyond October 12, 2015) for upgrades in accordance with regulatory requirements. Risk Management recommends that the City Council authorize settlement of \$9,500 as full and final resolution of this matter since the time extension requested is beyond the City's jurisdiction.

Attachment

Cost itemization submitted by Brynwood for reimbursement

Brynwood Condominium Lift Station Damage and Restoration Costs as of 06/16/15

Revised: 06/17/2015.

Rebuilt Suction Pump Damaged After 6 Months Use:.....	\$ 2,500.00
Emergency Tank Pump Outs:.....	\$ 250.00
Cost To Install Temporary Rental Pump.....	\$ 945.00
Pump Rental Charges:.....	\$ 4,920.00
Cost of One New Pump (Installed):.....	\$ 1,926.00
Installation of First New Pump:.....	\$ 385.20
Cost of Second Pump (Required):.....	\$ 1,926.00
Installation of Second New Pump (Required):.....	\$ 385.20
Cost For Correct Control/Monitor/Alarm Panel (Required):.....	\$ 3,463.00
Installation of Control Panel and Electrical Work (Required):.....	\$ 1,500.00 (Estimate)
Total Claim Amount:.....	\$ 18,200.40

Notes:

- 1) Both of our suction pumps were damaged to the point of failure during this occurrence. One was rebuilt 6 months prior to the incident at a cost of \$2,500.00.
- 2) The estimate for the installation portion of the control/monitor/alarm panel and related electrical work has not yet been confirmed.
- 3) Permit costs are not included.
- 4) This claim is submitted in good faith based on the information available to the Brynwood Condominium Association on this date and assumes no further errors, omissions or miscalculations of future force main pressures as represented by The City of North Miami Public Works Department. The association lacks the expertise to predict whether the new equipment will function properly once it is connected to the new force main. The equipment upgrades began as a result of the emergency nature of the incident without formal consulting due to the limited information provided by North Miami Public Works Department, lack of available funds and failure of the city and its agents to act in a timely manner. Consequently, any settlement should remain open ended pending confirmation of successful function of the new equipment for a minimum of one year after connection to the new force main.