

Mayor and Council Communication

DATE: 08/09/22

M&C FILE NUMBER: M&C 22-0564

LOG NAME: 14GARZA-MORALES LAWSUIT SETTLEMENT

SUBJECT

(ALL) Authorize Settlement and Payment in the Amount of \$210,000.00 to Artemio Garza-Morales and his Attorney, John Nohinek, of Witherite Law Group PLLC for Full and Final Settlement of All Claims Related to the Lawsuit Styled Artemio Garza-Morales and Berta Walle de Garza v. City of Fort Worth; Cause Number 067-323889-21 in the 67th District Court, Tarrant County, Texas, Adopt Appropriation Ordinance and Amend the Fiscal Year 2022 Adopted Budget

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize settlement and payment in the amount of \$210,000.00 to Artemio Garza-Morales and his Attorney, John Nohinek, of Witherite Law Group PLLC for full and final settlement of all claims related to the lawsuit styled Artemio Garza-Morales and Berta Walle de Garza v. City of Fort Worth; Cause Number 067-323889-21 in the 67th District Court, Tarrant County, Texas;
2. Authorize the appropriate City personnel to execute all releases and agreements necessary to complete the settlement;
3. Adopt the attached appropriation ordinance increasing estimated receipts and appropriations in the Risk Financing Fund, in the amount of \$210,000.00, from available Net Position, for the purpose of funding lawsuit expenses; and
4. Amend the Fiscal Year 2022 Adopted Budget.

DISCUSSION:

On August 28, 2019, a City of Fort Worth vehicle failed to yield the right of way while pulling from a stop sign and collided with a vehicle driven by Artemio Garza-Morales. Mr. Garza-Morales suffered extensive injuries due to the accident and incurred extensive medical bills. Consequently, a lawsuit entitled Artemio Garza-Morales and Berta Walle de Garza v. City of Fort Worth was filed. An agreement has been reached to settle Mr. Garza-Morales' lawsuit in the amount of \$210,000.00, subject to City Council approval.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

The action in this M&C will amend the Fiscal Year 2022 Adopted Budget as approved in connection with Ordinance 25073-09-2021, Section 5. Internal Service Funds, as listed on page 21.

Fund / Department	FY2022 Adopted Budget	M&C Authority	Budget Adjustment	Revised FY2022 Budget
Budget Category				
Risk Financing Fund	\$0.00	\$0.00	\$0.00	\$0.00
Revenues				
Use of Money and Property	\$399,990.00		\$0.00	\$399,990.00
Other Revenue	\$22,347,389.00		\$0.00	\$22,347,389.00
Use of Fund Balance/Net Position	\$30,352.00	M&C 21-0965	\$1,706,710.00	\$1,737,062.00
Use of Fund Balance/Net Position	\$0.00	M&C 22-0002	\$703,673.58	\$703,673.58
Use of Fund Balance/Net Position	\$0.00	M&C 22-0344	\$2,300,000.00	\$2,300,000.00

Use of Fund Balance/Net Position	\$0.00	M&C 22-0381	\$150,000.00	\$150,000.00
Use of Fund Balance/Net Position	\$0.00	M&C 22-0382	\$120,000.00	\$120,000.00
Use of Fund Balance/Net Position	\$0.00	This M&C	\$210,000.00	\$210,000.00
Total Revenues	\$22,777,731.00		\$5,190,383.58	\$27,968,114.58
Expenditures				
Human Resources	\$22,777,731.00	M&C 21-0965	\$1,706,710.00	\$24,484,441.00
Transfer to Capital Fund	\$0.00	M&C 22-0002	\$703,673.58	\$703,673.58
Transfer to Capital Fund	\$0.00	M&C 22-0344	\$2,300,000.00	\$2,300,000.00
Lawsuit Settlement	\$0.00	M&C 22-0381	\$150,000.00	\$150,000.00
Lawsuit Settlement	\$0.00	M&C 22-0382	\$120,000.00	\$120,000.00
Lawsuit Settlement	\$0.00	This M&C	\$210,000.00	\$210,000.00
Total Expenditures	\$22,777,731.00		\$5,190,383.58	\$27,968,114.58

Funding is available for appropriation in the net position of the Risk Financing Fund. Available balance is \$33,734,869.62 and after use of net position, the available balance will be \$33,524,869.62.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

Submitted for City Manager's Office by: Reginald Zeno 8517

Originating Business Unit Head: Dianna Giordanno 7783

Additional Information Contact: Yolanda Fouché 2493

Expedited