

# Mayor and Council Communication

DATE: 05/24/22

M&C FILE NUMBER: M&C 22-0382

LOG NAME: 14WALLE DE GARZA LAWSUIT

**SUBJECT**

(ALL) Authorize Settlement of the Claims of Berta Walle de Garza Related to the Lawsuit Entitled 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 Attached 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 \$120,000.00 to Berta Walle de Garza and her attorney 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 amount of \$120,000.00, transferred from fund balance within the Risk Financing Fund, 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 that Ms. Berta Walle de Garza was a passenger. Ms. Walle de Garza 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 Ms. Walle de Garza's lawsuit in the amount of \$120,000.00, subject to City Council approval.

This Mayor and Council Communication is to authorize settlement and payment in the amount of \$120,000.00 to Berta Walle de Garza and her attorneys 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.

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
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 142021HAILSTORM	\$2,300,000.00	\$2,300,000.00
Use of Fund Balance/Net Position	\$0.00	M&C 14KEYS LAWSUIT SETTLEMENT	\$150,000.00	\$150,000.00
Use of Fund Balance/Net Position	\$0.00	This M&C	\$120,000.00	\$120,000.00
<b>Total Revenues</b>	<b>\$22,777,731.00</b>		<b>\$4,980,383.58</b>	<b>\$27,758,114.58</b>

Expenditures

Human Resources	\$22,770,503.00	M&C 21-0965	\$1,706,710.00	\$24,477,213.00
Transfer to Capital Fund	\$0.00	M&C 22-0002	\$703,673.58	\$703,673.58
Transfer to Capital Fund	\$0.00	M&C 142021HAILSTORM	\$2,300,000.00	\$2,300,000.00
Lawsuit Settlement	\$0.00	M&C 14KEYS LAWSUIT SETTLEMENT	\$150,000.00	\$150,000.00
Lawsuit Settlement	\$0.00	This M&C	\$120,000.00	\$120,000.00
<b>Total Expenditures</b>	<b>\$22,777,731.00</b>		<b>\$4,980,383.58</b>	<b>\$27,758,114.58</b>

Funding is available for appropriation in the fund balance of the Risk Financing Fund.

Available fund balance is \$35,030,378.37 and after use of fund balance, the available balance will be \$32,460,378.37.

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

**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that funds are currently available in fund balance within the Risk Financing Fund and upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available in the Risk Financing Fund. Prior to an expenditure being incurred, the Human Resources Department has the responsibility of verifying the availability of funds.

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

**Originating Business Unit Head:** Dianna Giordanno 7783

**Additional Information Contact:** Yolanda Fouche 2493

Expedited