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THE CITY OF KEY WEST

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EXECUTIVE SUMMARY

To: The City Commission for the City of Key West
From: Ron Ramsingh, Chief Assistant City Attorney
Date: September 6, 2016
RE: Settlement of Robert and Joan Kocher v. City of Key West
Sponsor: City Attorney

Action statement:

A Resolution to approve the settlement agreement in Robert and Joan Kocher vs The City of Key West for \$98,000.00.

Background:

On February 17, 2013 Robert Kocher and his wife of 65 years, Joan were visiting family in Key West. Robert is an 86-year old man from Cedar Rapids, Iowa. He is a retired college professor who taught sculpture and other arts at the local community college in Cedar Rapids for over 30 years. Joan Kocher has mainly been a housewife and raised their 3 children. The Kochers and their hosts went to Little Hamaca Park to walk on the boardwalk. When they got to the end of the boardwalk, where there is a deck on the Riviera Canal, Robert took one step back with his right foot and fell through a rotten wooden plank. Robert fell in the hole all the way up to his upper thigh. Robert was helped out of the hole by friends and could not bear any weight on his right leg. His friends called 911 and a KWPD officer arrived, as well as an ambulance. Robert was taken on a stretcher to the ambulance and then to Lower Keys Medical Center. At the hospital,

he was stabilized and diagnosed with a fracture to his leg. The doctors at the hospital recommended that he return to Cedar Rapids and seek medical care there, which would likely involve surgery. Robert and Joan returned immediately to IA and sought treatment with their orthopedic doctor, who conducted various medical procedures. Subsequently, Robert brought suit against the City of Key West for negligence as well as a loss of consortium claim filed by Joan Kocher. After completion of the depositions, I estimated the case to have a settlement value of approximately \$130,000.00, based largely on the amount of medical bills and both plaintiffs' credibility at deposition. At trial, a jury can easily award a verdict up to the statutory cap of \$200,000.00. Both plaintiffs will present well at trial and have the relevant medical records and treatment to justify the evaluation.¹ The demand prior to mediation was for \$650,000.00, well above the statutory cap. A mediation was conducted by Retired Judge Taylor on Friday, September 2, 2016 where a settlement for \$98,000.00 was reached, pending approval by the City Commission. For purposes of mediation only, liability and causation were not in dispute. It is also important to note that for this particular date of loss, the city had in place a stop-loss aggregate insurance policy wherein the city will be fully reimbursed for this settlement.

Options:

1. To approve the proposed settlement in the amount of \$98,000.00, authorizing the City Manager to execute settlement documents with the advice and consent of the City Attorney. The city will be fully reimbursed for the settlement.
2. To defeat the proposed settlement. This personal injury case will proceed to trial in October before Judge Jones with a potential exposure of slightly more than double the current settlement amount.

Recommendation: To approve the proposed settlement in the amount of \$98,000.00, for which the city will be fully reimbursed.

¹ Due to health information privacy laws, a more detailed summary of the medical history of Mr. Kocher will be provided to the City Commissioners privately.