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THE CITY OF KEY WEST

1300 WHITE STREET
KEY WEST, FLORIDA 33040

To: The City Commission for the City of Key West

From: George Helm, Esq. through Ron Ramsingh, Chief Assistant City Attorney

Re: Settlement of Daniel Galvan workers' compensation claim

Date: February 16, 2022

**The following is drafted by George Helm, Esq., outside counsel
for the City of Key West on worker's compensation presumption claims:**

Background:

The claimant, Daniel Galvan, is a 48-year-old retired firefighter born on June 1, 1973. He was hired on September 22, 1998, and he retired on March 29, 2019. He is 5'7" and approximately 208 pounds.

Galvan has a claim for essential hypertension, hyperlipidemia and paroxysmal atrial fibrillation which has been deemed compensable pursuant to F.S. 112.18 (commonly referred to as the "Heart & Lung Bill" or "Presumption Law" for First Responders) The date of onset/accident is June 13, 2002. He was eventually returned to full duty work status and continued working full duty as a firefighter until retirement.

Galvan initially treated with Dr. Bruce Boros and then followed with Dr. Roger Steinfeld.

Analysis:

As of January 12, 2022, the city has spent a total of approximately \$95,160.00 on this claim. When we analyzed this case for settlement in August 2021, we were spending approximately \$1,174.75 per month or approximately \$14,100.00 per year on medical treatment, primarily medications.

At 48 years of age, the Claimant has an average life expectancy of approximately 31 years. At the rate of \$14,100 per year, if the Claimant lives to his life expectancy, we will spend approximately \$437,000.00. Please note heart/hypertension claims tend to get more expensive with age. This figure does not also include exposure for potential catastrophic events. Hypertension and atrial fibrillation both have a significant risk of stroke, which would increase this exposure dramatically.

We attended a private mediation on January 11, 2022. Prior to that mediation, we obtained authority to negotiate settlement up to \$125,000.00 contingent on final city commission approval. However, after 3 hours of mediation, the Claimant rejected our final offer of \$125,000.00 and gave us a bottom-line figure of \$165,000.00.

The self-insured retention on this claim is \$175,000.00. That means that as of the date of the mediation, we had approximately \$80,000.00 remaining before reaching excess insurance.

Because the city's liability is essentially capped at the additional \$80,000.00, we brought this matter to the excess insurance carrier to see if they had any interest in settling for more than \$125,000.00. They granted authority for us to settle for \$165,000.00 inclusive, if necessary.

We were able to settle the claim for \$145,000.00, inclusive of attorney's fees and costs at mediation which took place on January 11, 2022. The City of Key West should be reimbursed for all amounts in excess of approximately \$80,000.00.

Options:

1. To decline to enter into this mediation agreement to resolve this workers' compensation claim involving a firefighter presumption claim. This will likely result in exposing the excess insurance carrier and the City to spending at least \$437,000.00 administering this

claim, assuming that the Claimant does not suffer a catastrophic event such as a stroke, which will increase this exposure dramatically.

2. To accept the terms of the mediation agreement and for \$145,000.00 inclusive of all attorney's fees and costs. The City's responsibility will be \$80,000.00 with the balance being paid by the excess insurance carrier.

Recommendation:

We believe this settlement is in the city's best interests especially since excess is responsible for all amounts in excess of \$80,000.