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To: Honorable Mayor and City Commissioners

From: George A. Helm III, Esquire, Workers' Compensation Counsel

Date: November 7, 2012

Re : Settlement of claim regarding Raymond Casamayor

Introduction:

This is a request for city commission approval of a workers' compensation settlement proposal in the total amount of \$141,350. This amount includes \$3000 to resolve a past attorneys fee lien to the claimant's former attorney and \$138,350 to resolve the workers' compensation claim, including all attorneys fees and costs.

Background:

The claimant is a firefighter first employed with the City of Key West on July 14, 1976. He was born on March 24, 1956. He retired from the City in 2004. On March 22, 2002, while he was working for the City as a fire inspector, the claimant filed a claim for workers' compensation benefits under Section 112.18, Florida Statutes, commonly referred to as The Heart and Lung Bill. Since the inception of his claim the claimant primarily treated with Dr. Bruce Boros, a Key West cardiologist. Since the claimant retired from the City of Key West he has worked only part-time.

We are concerned about potential exposure for permanent total disability benefits primarily because despite significant effort made on behalf of the employer to find full-time employment for the claimant, including putting the claimant back to work in a dispatcher position, Dr. Boros indicated the claimant was not capable of performing this type of work. While we do not consider the claimant a rock solid PTD candidate, we must consider the potential PTD exposure. The present value of such exposure using a 4% discount factor is approximately \$527,000. Using a 6% discount factor the present value is approximately \$453,000. A solid PTD case will typically settle for 50% to 60% of 4% exposure. In this case I suggested we consider the settlement value at approximately 25% of the 4% exposure because I think we have at least a 50% chance of defeating any PTD claim. The 25% figure is approximately \$125,000.

We also face significant medical exposure for treating the claimant's hypertension condition. Over the past several years we've been spending at the rate of \$6000 per year. This figure does not include potential complications including stroke. All it takes is one catastrophic event and our medical exposure can double or triple. Regardless, assuming routine care over a life expectancy of approximately 20 years, we're looking at a figure of approximately \$120,000.

We attended a mediation on this case back in June and reached a tentative agreement for the aforementioned figure of \$141,350. However, at the end of the mediation the claimant would not sign the paperwork because he wanted to return to Dr. Boros for additional testing. For this mediation I suggested we be prepared to pay as much as \$200,000 to get this case settled.

I believe almost all of this money will be reimbursed by the City's excess insurers. Apparently, there are two layers of excess insurance. The first layer, United National, agreed to the settlement, as did the second layer, Midwest Employers Casualty.

Budget Impact:

While we will need to pay the total sum of \$141,350 within seven days of settlement approval, I believe this amount will be reimbursed by the excess insurers pretty quickly, probably within 60 days.

Recommendation:

That the City Commission approve a total settlement of the Raymond Casamayor workers' compensation claim in the sum of \$141,350.