

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE CASE OF FANE LOZMAN V. THE CITY OF RIVIERA BEACH, CASE NO. 9:08-CV-80134 FOR THE SOUTHERN DISTRICT OF FLORIDA; APPROVING THE SETTLEMENT AGREEMENT BETWEEN LOZMAN AND THE CITY; AUTHORIZING THE CHAIRPERSON TO EXECUTE A SETTLEMENT AGREEMENT AND RELEASE WITH ILLINOIS UNION INSURANCE COMPANY; AUTHORIZING ILLINOIS UNION INSURANCE COMPANY TO MAKE PAYMENT IN THE AMOUNT OF \$875,000.00 AS COMPLETE AND FINAL SETTLEMENT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about February 8, 2008, Fane Lozman (“Lozman”) filed a lawsuit against the City of Riviera Beach (“City”) and certain individual City employees and City Councilmembers in the United States District Court in and for the Southern District of Florida, Case Number 9:08-cv-80134 (“the Lawsuit”); and

WHEREAS, in the Lawsuit, Lozman alleged that the City violated his rights under the United States Constitution, specifically, his First Amendment, Fourth Amendment, and Fourteenth Amendment rights, and Lozman also made claims against the City under state law; and

WHEREAS, the Lawsuit was tried in the District Court and a verdict rendered in favor of the City as to all of Lozman’s claims, and a Final Judgment entered on December 2014; and

WHEREAS, thereafter, Lozman appealed part of the Judgment to the United States Supreme Court of Appeals for the Eleventh Circuit, which affirmed judgment in favor of the City; and

WHEREAS, Lozman filed a Petition for Writ of Certiorari to the Supreme Court of the United States, which was granted; and

WHEREAS, the Supreme Court of the United States entered an opinion vacating the Judgment of the Court of Appeals and remanded the Lawsuit for further proceedings to the Eleventh Circuit for determination as to whether Lozman was entitled to a new trial; and

WHEREAS, on remand, the United States Court of Appeals for the Eleventh Circuit issued an opinion remanding the Lawsuit back to the District Court for its determination as to whether Lozman was entitled to a new trial; and

WHEREAS, the Lawsuit is presently pending before the District Court and trial is set for April 27, 2020; and

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WHEREAS, the Parties mutually desire to resolve and settle the Lawsuit in its entirety, including all claims for attorney’s fees and costs and any potential post-judgment and appellate issues relating to the Lawsuit; and

WHEREAS, the Parties were ordered to mediation by the District Court and mediation was held on January 13, 2020 before Magistrate Judge Matthewman, and Counsel for the City, Counsel for Illinois Union Insurance Company, and the Plaintiff attended and all parties concurred that settlement according to the attached Settlement Agreement is in the best interest of the City; and

WHEREAS, as a condition of settlement, the Plaintiff and the City executed the attached Settlement Agreement subject to City Council approval; and

WHEREAS, as a condition of settlement, the Illinois Union Insurance Company, the City’s insurance carrier, will pay the sum of \$875,000.00 to the Plaintiff on behalf of the City, subject to City Council approval; and

WHEREAS, as a condition of full and final settlement, the City and Illinois Union Insurance Company will execute the attached Settlement Agreement and Release, subject to City Council approval.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

SECTION 1. That Settlement Agreement in the matter of Fane Lozman v. The City of Riviera Beach, Case Number: 9:08-cv-80134 is hereby approved.

SECTION 2. That Settlement Agreement and Release in the matter of Fane Lozman v. The City of Riviera Beach, Case Number: 9:08-cv-80134 is hereby approved.

SECTION 3. That Illinois Union Insurance Company, the City’s insurance carrier, is authorized to make payment on behalf of the City, after receiving appropriate releases from the Plaintiff.

SECTION 4. That this Resolution shall take effect immediately upon its passage and approval by the City Council.

PASSED and APPROVED this _____ day of FEBRUARY 2020.

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APPROVED:

RONNIE L. FELDER
MAYOR

KASHAMBA MILLER-ANDERSON
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

JULIA BOTEL, Ed.D
CHAIR PRO TEM

TRADRICK MCCOY
BOARD MEMBER

SHIRLEY D. LANIER
BOARD MEMBER

DOUGLAS A. LAWSON
BOARD MEMBER

MOTIONED BY: _____

SECONDED BY: _____

T. MCCOY _____

K. MILLER-ANDERSON _____

S. LANIER _____

J. BOTEL _____

D. LAWSON _____

REVIEWED AS TO LEGAL
SUFFICIENCY

Dawn S. Wynn
CITY ATTORNEY