

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: March 14, 2017 [X] Consent [ ] Regular  
[ ] Ordinance [ ] Public Hearing

Submitted By: County Attorney's Office  
Submitted For: Risk Management, Property and Casualty Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Full and final settlement and release of all claims related to the personal injury claims of Patricia Brown and Thomas Brown for the sum of \$200,000.00

Summary: On July 28, 2014, a Palm Tran bus operator failed to stop at a red light in Palm Beach Gardens and struck a vehicle owned and occupied by Patricia Brown causing serious injuries. After much negotiation, Risk Management and their adjusters agreed to a settlement, which is reasonable and serves the best interest of Palm Beach County. **Countywide (HH)**

Background and Justification: Mrs. Brown sustained extensive injuries including two leg fractures and a torn biceps tendon. She underwent multiple surgeries as well as injections for knee, back and neck injuries. As a result, she incurred medical bills in excess of \$140,000.00. Additionally, her husband, Mr. Thomas Brown filed a loss of consortium claim, which is included in the settlement and accompanying release.

This full and final settlement is warranted based on the County's exposure for liability and damages, and the settlement eliminates the possibility of costly litigation.

- Attachments:
- 1. Settlement Agreement
  - 2. Release of All Claims
  - 3. Budget Availability Statement (BAS)

Recommended by: Denise Neenan Department Director Date 2/16/17

Approved By: N/A Assistant County Administrator Date \_\_\_\_\_

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures					
Operating Costs	\$200,000				
External Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>Net Fiscal Impact</b>	<b>\$200,000</b>				

**# ADDITIONAL FTE POSITIONS (Cumulative)**      0      0      0      0      0

Is Item Included In Current Budget?    Yes   X      No \_\_\_\_\_

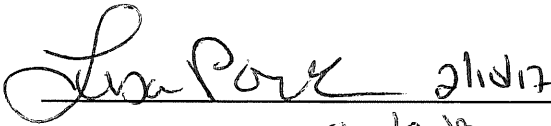
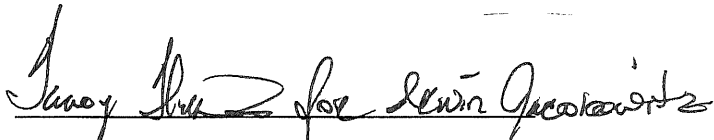
Budget Account Exp No: Fund 5010 Department 700 Unit 7130 Object 4511

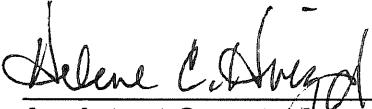
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**  
Palm Beach County Self Insured Fund


**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

<p> _____ OFMB    2/29/17           2/29/17</p>	<p> _____ Contract Administration 2/13/17</p>
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**B. Legal Sufficiency:**  
  
\_\_\_\_\_  
Assistant County Attorney

**C. Other Department Review:**  
  
\_\_\_\_\_  
Department Director

**SETTLEMENT AGREEMENT**

**THIS AGREEMENT** made and entered into this 26th day of January, 2017, by and between PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, ("COUNTY"), a political subdivision of the State of Florida, and PATRICIA BROWN AND THOMAS BROWN.

WHEREAS, Patricia Brown and Thomas Brown filed a claim against the COUNTY for damages arising from a motor vehicle accident that occurred on July 28, 2014, at the intersection of Alternate A1A and the PGA Pass in Palm Beach Gardens, Palm Beach County, Florida;

WHEREAS, the COUNTY has denied liability; and

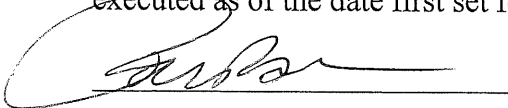
WHEREAS, the parties hereto wish to amicably resolve that portion of the Pending Claim that involves the COUNTY without further litigation of the claims made.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Within a reasonable time of full execution and receipt hereof, and subject to final approval by the Board of County Commissioners, the COUNTY shall pay to CLAIMANTS the amount of TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$200,000.00), by a check made payable to the Trust Account of Murray & Guari Trial Attorneys PL, Tax I.D. No. 47-0949166, Patricia Brown and Thomas Brown.
3. Within ten (10) days of receipt of the COUNTY'S payment, Scott C. Murray, Esq., shall execute and deliver to the Palm Beach County Attorney's Office a Release of All Claims in the form of the attached hereto as Exhibit A.
4. Scott C. Murray, Esq. shall not disburse, and Patricia Brown and Thomas Brown shall not accept, any proceeds from the settlement check described in paragraph 2 unless and until the Release of All Claims has been delivered to the COUNTY.
5. Patricia Brown and Thomas Brown acknowledge and agree that they are responsible for the payment of any liens against this settlement and that the COUNTY shall not be responsible for any portion of said liens, subrogation claims or rights of reimbursement. Patricia Brown and Thomas Brown, as well as any subrogation claims or rights of reimbursement, on behalf of CLAIMANTS and their officers, agents, employees, heirs, executors, administrators and assigns, further agrees to indemnify, defend, and hold the COUNTY, its officers, agents, elected officials, employees, their heirs, executors, administrators and assigns, harmless from and against all suits, actions, proceedings, claims, demands, and damages, including attorneys fees, arising out of or related to such liens or claims of liens, subrogation claims or rights of reimbursement.

6. Each party shall bear its respective attorneys fees and costs.
7. This Settlement Agreement does not constitute an admission of liability by any party.
8. In any litigation brought to enforce the terms or remedy a violation of this Settlement Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees in addition to any other recovery.
9. Patricia Brown and Thomas Brown declare and acknowledge that the terms of this Settlement Agreement have been completely read, fully understood, discussed with counsel, and voluntarily accepted as a full and final compromise of any and all claims they may have against the COUNTY arising out of or relating to the aforementioned motor vehicle accident.
10. This Settlement Agreement shall be binding on the parties hereto, their assigns, transferees, heirs, and other successors in interest.
11. The parties represent that no claim that has been, or could have been, raised in the Pending Claim, and no claim to which this Settlement Agreement applies, has been assigned or otherwise transferred to any other person or entity not a party hereto.

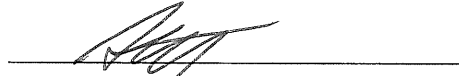
IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be executed as of the date first set forth above.



Patricia Brown, Claimant



Thomas Brown, Claimant



Scott Martin, Director  
Risk Management Department

ATTEST:  
Sharon R. Bock, Clerk and Comptroller

PALM BEACH COUNTY, a Political  
Subdivision of the State of Florida

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, MAYOR  
Board of County Commissioners

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:   
Assistant County Attorney

**RELEASE OF ALL CLAIMS**

**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, **PATRICIA BROWN AND THOMAS BROWN**, being of lawful age, for the sole consideration of **TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$200,000.00)**, to the undersigned in hand paid, the receipt and sufficiency whereof is hereby acknowledged, does hereby and for their executors, administrators, successors and assigns, release, acquit and forever discharge **PALM BEACH COUNTY**, (hereinafter referred to as the Releasees), and their officers, agents, employees, heirs, executors, administrators, successors and assigns, none of whom admit any liability to the undersigned, but all of whom expressly deny any such liability, from any and all claims, demands, rights, damages, costs, loss of service, expenses, compensation, actions, causes of action or suits of any kind or nature whatsoever, which the undersigned may now have or which may hereafter accrue or develop, particularly on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen, bodily and personal injuries, and property damages, and any and all consequences thereof, resulting or to result from an alleged incident that occurred on or about **JULY 28, 2014** occurred at the intersection of Alternate A1A and the PGA Pass in Palm Beach Gardens, Palm Beach County, Florida.

**FURTHERMORE**, the undersigned agree that each party shall bear their own costs and attorney's fees, and the undersigned shall bear sole responsibility for any and all hospital, physician, diagnostic, rehabilitation, training, maintenance, medical or pharmaceutical expenses, bills, statements, liens or subrogable interests, of any nature whatsoever, which are or may be outstanding and payable on the date of execution of this agreement, or which may be incurred and payable in the future. The undersigned further agree to indemnify and save harmless the Releasees from any requests for payment or attempts for collection therefrom. Should legal action be instituted against the Releasees for payment or collection of the aforementioned expenses, the undersigned agree to indemnify and save harmless the Releasees for any attorney's fees, costs and/or judgments which may be entered against the Releasees.

**FURTHERMORE**, the undersigned understand and agree that this settlement is the compromise of a doubtful and disputed claim, and that the payment made shall not be construed as an admission of liability on the part of the Releasees, and that the Releasees deny any liability therefor and merely intend to avoid further litigation and buy their peace.

**FURTHERMORE**, the undersigned hereby declare and represent that any injuries sustained are or may be permanent and progressive and that recovery therefrom is uncertain and indefinite and in making this Release the undersigned understand and agree that the undersigned relied wholly upon the undersigned's own judgment, belief and knowledge of the nature, extent, effect and duration of any injuries and liability therefore, without reliance upon any statement or representation by the Releasees, or by their representatives or by any physician or surgeon employed by them. The undersigned further declare and represent that no promise, inducement or agreement not herein expressed has been made to the undersigned, and that this Release contains the entire agreement between the parties hereto, and that the terms of this agreement are contractual and not merely a recital.

**FURTHERMORE**, the undersigned state that while they hereby release any and all claims against the Releasees, and their officers, agents, employees, heirs, executors, administrators, successors and assigns, for both past and future losses, including medical expenses, health care expenses and related expenses, the necessity for future medical treatment and expenses incurred is speculative and unknown at this time and therefore, as a result, the undersigned reserve the right to pursue and recover all future medical expenses, health care expenses and related expenses, from any person, firm, or organization who may be responsible for payment of such expenses, including any first-party health or automobile insurance coverage, but such reservation specifically does not include the Releasees.

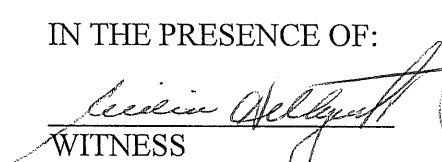

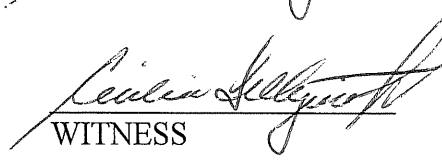

**FURTHERMORE**, notwithstanding the language contained in this Release, this release shall not be construed as releasing any medical providers for potential claims which may arise based upon treatment and care rendered as a result of the accident which is the subject of this Release. Moreover, this Release shall not be construed as releasing any health insurance carrier or other insurer from medical and lost wage benefits to which the Releasers are entitled.

**THE UNDERSIGNED** hereby declare that the undersigned have completely read, fully understood and voluntarily accepted the foregoing Release of All Claims for the purpose of making a full and final compromise settlement and adjustment of any and all claims, disputed or otherwise, on account of the injuries and damages set forth above, and for the express purpose of precluding forever any further or additional claims against the Releasees arising out of the aforementioned incident.

**THE UNDERSIGNED** hereby accept the tendered settlement draft as final payment of the consideration set forth above.

IN WITNESS HEREOF, I, PATRICIA BROWN AND THOMAS BROWN, have hereunto set my hand and seal this 26<sup>th</sup> day of January, 2017.

IN THE PRESENCE OF:

 WITNESS	 PATRICIA BROWN
 WITNESS	 THOMAS BROWN

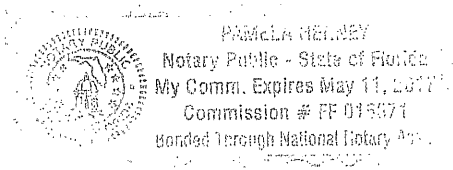
STATE OF FLORIDA )  
 ) ss.  
COUNTY OF PALM BEACH )

The foregoing Release of All Claims was acknowledged before me, an officer duly authorized in the State and County aforesaid, to take acknowledgments, this 26 day of Jan, 2017, by Patricia Brown, who:

- is personally known to me; OR
- has produced \_\_\_\_\_, as identification; and who
- did take an oath; OR
- did not take an oath.

and who executed the within Release of All Claims, and who acknowledged the within Release of All Claims to be freely and voluntarily executed for the purposes therein recited.

[seal]



Pamela Henney

Notary Public in and for Palm Beach County, Florida

My commission expires: 5/11/17

STATE OF FLORIDA )  
 ) ss.  
COUNTY OF PALM BEACH )

The foregoing Release of All Claims was acknowledged before me, an officer duly authorized in the State and County aforesaid, to take acknowledgments, this 26 day of Jan, 2017, by Thomas Brown, who:

- is personally known to me; OR
- has produced \_\_\_\_\_, as identification; and who
- did take an oath; OR
- did not take an oath.

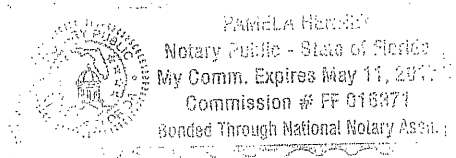
and who executed the within Release of All Claims, and who acknowledged the within Release of All Claims to be freely and voluntarily executed for the purposes therein recited.

[seal]

Patricia Henny

Notary Public in and for Palm Beach County, Florida

My commission expires: 5/11/17





BUDGET AVAILABILITY STATEMENT  
RISK MANAGEMENT

REQUEST DATE: 1/30/17

REQUESTED BY: County Attorney

REQUESTED FOR: Patricia Brown v. Palm Beach County

REQUESTED AMOUNT: \$200,000

AGENDA DATE: March 14, 2017

BUDGET ACCOUNT NUMBER:

FUND: 5010 DEPT: 700 UNIT: 7130 OBJ: 4511

BAS APPROVED BY:   
Brian Palacios, Fiscal Manager

DATE: 1/30/2017

ATTACHMENT 3