

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

<b>Meeting Date:</b>	November 20, 2018	<input checked="" type="checkbox"/> <b>Consent</b>	<input type="checkbox"/> <b>Regular</b>
<b>Department:</b>	Risk Management	<input type="checkbox"/> <b>Ordinance</b>	<input type="checkbox"/> <b>Public Hearing</b>
<b>Submitted By:</b>	County Attorney's Office		

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve a settlement in the amount of \$95,000 including attorneys' fees and costs for a personal injury claim resulting from a motor vehicle accident involving a Palm Tran bus and Claimant, Paulette Allen's vehicle, which occurred on July 20, 2017.

**Summary:** On July 20, 2017, a Palm Tran bus operator was driving eastbound in the right lane on State Road 80, approaching the intersection of Sugar House Road, in Belle Glade, Florida, when he crossed into the left lane to make a left turn at the intersection and collided with Claimant's vehicle. Claimant sustained serious bodily injuries as a result of the accident. Countywide (DO)

**Background and Justification:** On July 20, 2017, a Palm Tran bus operator was driving eastbound in the right lane on State Road 80, approaching the intersection of Sugar House Road, in Belle Glade, Florida, when he crossed into the left lane to make a left turn at the intersection and collided with Claimant Paulette Allen's vehicle. Claimant's vehicle was also traveling eastbound in the left lane, when the bus made contact with her car. Claimant's car was deemed a total loss.

The claimant allegedly sustained injuries to her knees, neck, back, ribs, and abdomen and was transported by emergency medical services to Lakeside Medical Center from the accident scene. Following months of physical therapy and conservative treatment with no reduction of symptoms, Claimant had an MRI of the right knee and the lumbar spine. The right knee MRI revealed a joint effusion with contusion, complete or near complete ACL tear, and Grade I signal in the posterior horn of the medial meniscus. The MRI of the lumbar spine revealed a midline disc herniation and extrusion with annular tear. The claimant underwent more physical therapy, medial branch blocks to the lumbar spine with facet joint injections, epidural steroid injections to the lumbar spine, endoscopic surgery to the lumbar spine, and arthroscopic surgery to the right knee. The claimant incurred over \$190,000.00 in medical costs as a result of this accident.

After lengthy negotiations with the Claimant's attorney, the Risk Management Department and its third-party administrator reached a settlement that is reasonable and serves the best interest of Palm Beach County.

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

Recommended By: Denise Numan Department Director 10/29/2018 Date

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

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2019				
Capital Expenditures					
Operating Costs	\$95,000.00				
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	\$95,000.00				
# ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

Is Item included in current budget? Yes No

Does this Item include the use of federal funds? Yes No

Budget Account No.: Fund 5010 Agency 700 Organization 7130 Object 4511

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

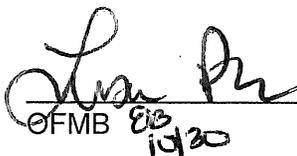
Palm Beach County Self Insured Fund

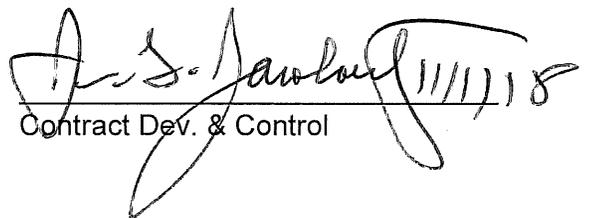
**C. Departmental Fiscal Review:**

\_\_\_\_\_

**III. REVIEW COMMENTS**

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

  
 OFMB <sup>8/3</sup> <sub>1/20</sub> 143110 2/10/30

  
 Contract Dev. & Control 11/11/18

**B. Legal Sufficiency**

  
 Assistant County Attorney

**C. Other Department Review**

\_\_\_\_\_  
 Department Director

**SETTLEMENT AGREEMENT**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of October 2018, by and between PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, ("COUNTY"), a political subdivision of the State of Florida, and PAULETTE ALLEN ("CLAIMANT").

**WHEREAS**, CLAIMANT filed a claim against the COUNTY for damages arising from a motor vehicle accident that occurred on July 20, 2017, near the intersection of State Road 80 and Sugar House Road, 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:

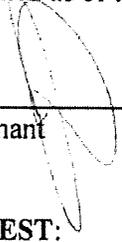
1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Within a reasonable time of full execution and receipt hereof, and subject to final approval by the Board of County Commissioners, the COUNTY shall pay to CLAIMANT the amount of NINETY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$95,000.00), by a check made payable to the Trust Account of Rosenberg & Rosenberg, P.A., and Paulette Allen; Tax ID No. 65-0783837.
3. CLAIMANT acknowledges and agrees that she is 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. CLAIMANT, as well as any subrogation claims or rights of reimbursement, on behalf of CLAIMANT and her officers, agents, employees, heirs, executors, administrators, and assigns, further agree 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.
4. Each party shall bear its respective attorneys' fees and costs.
5. This Settlement Agreement does not constitute an admission of liability by any party.
6. 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 attorneys' fees in addition to any other recovery.

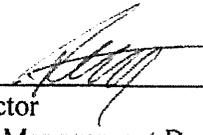
7. CLAIMANT declares and acknowledges that the terms of this Settlement Agreement have been completely read, fully understood, discussed with counsel, and voluntarily accepted as a full and final compromise of any and all claims she may have against the COUNTY, arising out of or relating to the aforementioned motor vehicle accident.

8. This Settlement Agreement shall be binding on the parties hereto, their assigns, transferees, heirs, and other successors in interest.

9. 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.

  
\_\_\_\_\_  
Claimant

  
\_\_\_\_\_  
Director  
Risk Management Department

**ATTEST:**

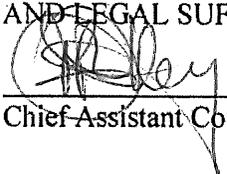
SHARON R. BOCK,  
Clerk and Comptroller

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

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Mayor  
Board of County Commissioners

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

  
\_\_\_\_\_  
Chief Assistant County Attorney

## RELEASE OF ALL CLAIMS

Claim No.: 000103-010985-AB-01

This Indenture Witnesseth that I, **PAULETTE ALLEN**, in consideration of the sum of **NINETY FIVE THOUSAND DOLLARS AND 00/100 (\$95,000.00)**, do hereby for my heirs, personal representatives and assigns, release and forever discharge **PALM BEACH COUNTY BOCC, DRIVER PATRICK BANTON, GALLAGHER BASSETT SERVICES, INC.**, and any other person, firm or corporation charged or chargeable with responsibility or liability, their heirs, representatives or assigns, from any and all claims, demands, damages, costs, expenses, loss of services, actions and causes of action arising from any act or occurrence up to the present time, and particularly on account of all personal injury, disability, property damages, loss or damages of any kind sustained or that I may hereafter sustain in consequence of an accident that occurred on or about the 20<sup>TH</sup> day of July, 2017, at or near SR 98 East, Belle Glade, Florida 33493.

In reaching agreement on the terms of this Release, the parties acknowledge Releasor's possible entitlement to Social Security disability benefits pursuant to 42 U.S.C. § 423, and receipt of Medicare or Medicaid benefits under 42 U.S.C § 1395y, as well as the entitlement of the Centers for Medicare and Medicaid Services ("CMS") to subrogation and intervention, pursuant to 42 U.S.C. § 1395y(b)(2) to recover any overpayment made by CMS. The parties to this Release agree that this Release is not intended to shift to CMS the responsibility for payment of medical expenses for the treatment of injury related conditions. The parties agree that this settlement is intended to provide Releasor a lump sum payment which will foreclose Releasees' responsibility for future payment of all injury related medical expenses.

The parties to this Release understand that many common medical expenses are not payable or reimbursable under the Medicare program. These medical expenses, not covered by Medicare but necessary in the ongoing treatment of the Releasor's injury, and without an admission of liability on the part of the Releasees, have been taken into consideration in the calculation and settlement of Releasor's future medical expenses. Funds for these non-Medicare covered medical expenses have been included in the lump sum settlement amount and shall not be paid from any Medicare allocation amount. Inclusive of the Medicare Lien.

Releasor acknowledges that any decision regarding entitlement to Social Security benefits or Medicare or Medicaid benefits, including the amount and duration of payments and offset reimbursement for prior payments is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the U.S. Federal Courts, and is determined by Federal law and regulations. As such, the United States Government is not bound by any of the terms of this Release.

Releasor has been apprised of his/her right to seek assistance from legal counsel of his/ her choosing or directly from the Social Security Administration or other government agencies regarding the impact this Release may have on Releasor's current or future entitlement to Social Security or other governmental benefits. Releasor acknowledges that acceptance of these settlement funds may affect Releasor's rights to other governmental benefits, insurance benefits, disability benefits, or pension benefits. Notwithstanding this possibility, Releasor desires to enter into this Release agreement to settle her injury claim according to the terms set forth in this Release.

To procure payment of the said sum, I hereby declare: that I am more than 18 years of age; that no representation about the nature and extent of said injuries, disabilities or damages made by any physician, attorney or agent of any party hereby released, nor any representations regarding the nature and extent of legal liability or financial responsibility of any of the parties released, have induced me to make this settlement; that in determining said sum there has been taken into consideration not only the ascertained injuries, disabilities and damages, but also the possibility that the injuries sustained may be permanent and progressive and recovery therefrom uncertain and indefinite, so that consequences not now anticipated may result from the said accident; all information I have provided, including but not limited to name, date of birth, gender and social security number. In order to procure payment and set forth in this release has been true and accurate.

The Undersigned Agree(s), as a further consideration and inducement for this compromise settlement, that it shall apply to all unknown and unanticipated injuries and damages resulting from said accident, casualty or event, as well as to those now disclosed.



BUDGET AVAILABILITY STATEMENT  
RISK MANAGEMENT

REQUEST DATE: 09/26/2018

REQUESTED BY: County Attorney

REQUESTED FOR: Paulette Allen v. Palm Beach County

REQUESTED AMOUNT: \$95,000

AGENDA DATE: November 20, 2018

BUDGET ACCOUNT NUMBER:

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

BAS APPROVED BY:

  
Brian Palacios, Fiscal Manager

DATE: 09/26/2018