

RESOLUTION NO. 2022-40

A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE PAYMENT OF A \$25,000 DEDUCTIBLE TO THE FLORIDA MUNICIPAL INSURANCE TRUST RELATING TO A CLAIM IN THE MATTER OF *ROBINSON V. VILLAGE OF EL PORTAL AND NORTH BAY VILLAGE* (MIAMI-DADE CASE NO. 2019-31278-CA-01); AMENDING THE BUDGET FOR FISCAL YEAR 2021-2022 TO PROVIDE FOR THE DEDUCTIBLE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 22, 2019, Amanda Robinson (the “Plaintiff”) filed a lawsuit styled *Amanda Robinson v. Village of El Portal; North Bay Village* in the Circuit Court of Miami-Dade County, Florida under case number 2019-31278-CA-01, seeking damages relating to an alleged accident on August 16, 2017 (the “Claim”); and

WHEREAS, on April 25, 2022, North Bay Village’s (the “Village”) insurer, the Florida Municipal Insurance Trust (“FMIT”), reached a mediated settlement with the Plaintiff, whereby the Plaintiff will settle all of her claims that were or could have been brought against the defendants, FMIT, and the Florida League of Cities pertaining to the Claim, including all costs and attorney’s fees incurred, and release them of any liability, in exchange for a lump-sum payment of \$45,000, which will be paid by the Village’s insurer, all as more fully set forth in the General Release and Indemnification Agreement attached hereto as Exhibit “A” (the “Agreement and Release”); and

WHEREAS, pursuant to the Village’s insurance policy with FMIT, the Village is required to pay a \$25,000 deductible (the “Deductible”) for the Claim; and

WHEREAS, the Village Commission desires to approve payment of the Deductible to FMIT and approve a corresponding budget amendment for the Deductible; and

WHEREAS, on September 29, 2021, the Village Commission adopted Resolution No. 2021-54 approving the budget for fiscal year 2021-2022 (the “Budget”); and

WHEREAS, pursuant to Section 166.241(5), Florida Statutes, the Village Commission may amend a budget at any time within a fiscal year; and

WHEREAS, pursuant to Section 35.21 of the Village Code of Ordinances and Florida Law, the Village Commission desires to amend the Budget to allocate the \$25,000 Deductible, which was previously not in the Budget; and

WHEREAS, the Village Commission finds that this Resolution is in the best interest and welfare of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. Approval. That the Village Commission hereby approves payment of the Deductible to FMIT.

Section 3. Amending Budget. That the Village Commission hereby approves an amendment to the budget to allocate the Deductible by authorizing the line item transfers as further provided in Exhibit "B" attached hereto and incorporated herein.

Section 4. Implementation. That the Village Manager, Village Clerk, and Village Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution and settlement of the Claim.

Section 5. Effective Date. That this Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner Chervony who moved its adoption. The motion was seconded by Commissioner Streitfeld and upon being put to a vote, the vote was as follows:

Mayor Brent Latham	Yes
Vice Mayor Marvin Wilmoth	Yes
Commissioner Richard Chervony	Yes
Commissioner Rachel Streitfeld	Yes
Commissioner Julianna Strout	Yes

PASSED AND ADOPTED on this 20th day of June, 2022.



Brent Latham, Mayor

ATTEST:



Carla Maglio Gomez
Interim Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



Weiss Serota Helfman Cole & Bierman, PL
Village Attorney



NORTH BAY VILLAGE
HEART OF THE BAY

Budget Amendment Form

Department	General Government Department	Date	6/21/2022
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Fund(s) to be changed: General Fund

GL Account	GL Line Item	Transfer to:	Transfer from:
001.00.389.3891	Appropriation of Unreserved Fund Balance	\$ -	\$ 25,000.00
001.19.519.3185	Legal Settlement	\$ 25,000.00	\$ -
TOTAL (Columns must be equal)		\$ 25,000.00	\$ 25,000.00

Description:

ALLOCATE FUND BALANCE TO PAY THE DEDUCTIBLE TO THE FLORIDA MUNICIPAL INSURANCE TRUST RELATING TO A CLAIM IN THE MATTER OF ROBINSON V. VILLAGE OF EL PORTAL AND NORTH BAY VILLAGE (MIAMI-DADE CASE NO. 2019-31278-CA-01); AMENDING THE BUDGET FOR FISCAL YEAR 2021-2022.



NORTH BAY VILLAGE
EST. 1945

ITEM NO. 11C.

North Bay Village Recommendation Memorandum

DATE: June 20, 2022

TO: Honorable Mayor, Vice Mayor and Members of the Village Commission

FROM: Haydee Sera, Weiss Serota Helfman Cole & Bierman, P.L., Village Attorney

SPONSORED BY: n/a

SUBJECT: Resolution Approving the Payment of Insurance Deductible and Budget Amendment related to *Amanda Robinson v. Village of El Portal and North Bay Village*

RECOMMENDATION

A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVIING THE PAYMENT OF A \$25,000 DEDUCTIBLE TO THE FLORIDA MUNICIPAL INSURANCE TRUST RELATING TO A CLAIM IN THE MATTER OF *ROBINSON V. VILLAGE OF EL PORTAL AND NORTH BAY VILLAGE* (MIAMI-DADE CASE NO. 2019-31278-CA-01); AMENDING THE BUDGET FOR FISCAL YEAR 2021-2022 TO PROVIDE FOR THE DEDUCTIBLE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Adopt resolution approving payment of a \$25,000 insurance deductible to Florida Municipal Insurance Trust, the Village's insurer and a corresponding budget amendment.

BACKGROUND AND ANALYSIS

On October 22, 2019, Amanda Robinson filed a negligence lawsuit styled *Amanda Robinson v. Village of El Portal; North Bay Village* in the Circuit Court of Miami-Dade County, Florida under case number 2019-31278-CA-01 seeking damages against the Village of El Portal and North Bay Village stemming from an alleged accident on August 16, 2017. The Plaintiff claimed that while a Village police officer was engaged in a criminal chase, the officer caused the criminal to strike the Plaintiff.

The Village is represented in the lawsuit by insurance defense counsel, Michael R. Piper, Esq. of Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A. through its insurer, the Florida Municipal Insurance Trust (“FMIT”).

During a mediation on April 25, 2022, the Village’s insurer, FMIT, which has authority to settle this matter on behalf of the Village, reached a settlement with the Plaintiff, whereby the Plaintiff will settle all of her claims that were or could have been brought against the defendants, FMIT, and the Florida League of Cities pertaining to the claim, including all costs and attorney’s fees incurred, and release the Village of any liability, in exchange for a lump-sum payment of \$45,000, which will be paid by the Village’s insurer, all as more fully set forth in the General Release and Indemnification Agreement attached to the Resolution as Exhibit “A” (the “Agreement and Release”).

Pursuant to the Village’s insurance policy with FMIT, the Village is required to pay a deductible in the amount of \$25,000 (the “Deductible”) to FMIT for the claim.

The proposed Resolution provides for approval of the payment of the Deductible to FMIT and a corresponding budget amendment.

BUDGETARY/FINANCIAL IMPACT (Finance Dept.)

Transfer from Appropriation of Unreserved Fund Balance (001.00.389.3891) \$25,000 and Transfer to Legal Settlements (001.19.519.3185)

PERSONNEL IMPACT

n/a

GENERAL RELEASE
AND INDEMNIFICATION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

That **Amanda Robinson**, hereinafter referred to as “first party,” for and in consideration of the sum of **Forty-Five Thousand and no/100 Dollars (\$45,000.00)**, or other valuable consideration, received from or on behalf of the **Village of El Portal**, the **City of North Bay Village**, the **Florida League of Cities**, and the **Florida Municipal Insurance Trust**, hereinafter referred to as “second parties,” the receipt of which hereby is acknowledged,

HEREBY irrevocably remises, releases, acquits, satisfies, and forever discharges said second parties, and their agents, servants, and employees, of and from all, and all manner of action and actions, cause or causes of action, suits, attorney’s fees and costs, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which said first party ever had, now has, or which any personal representative, successor, heir or assign of said first party, hereafter can, shall or may have, against said second parties, for, upon or by reason of any matter, cause of thing whatsoever, from the beginning of the world to the day of these presents. This General Release includes but is not limited to any cause of action raised in, that could have been raised in, or arising out of the filing and prosecution of the litigation described as ***Amanda Robinson v. Village of El Portal and North Bay Village.***, Case No. **2019-031278-CA-08** filed in the 11th Judicial Circuit in and for Miami-Dade County, Florida, and/or an incident which occurred on August 16, 2017 in Miami, Miami-Dade County, Florida.

It is understood and agreed that the settlement memorialized in this Release is the compromise of a doubtful and disputed claim, that the payment made is not to be construed as an admission of liability on the part of second parties, and that the parties being released deny liability and intend merely to avoid litigation and buy their peace.

FIRST PARTY SPECIFICALLY UNDERTAKES AND AGREES TO INDEMNIFY the second parties for any claims, demands, or liens relating to the medical care, diagnosis, or treatment of the first party, any workers’ compensation claims, demands, or liens, and any claims, demands, or liens relating to any attorney’s fees and litigation costs.

First party has carefully read this General Release and understands its terms, operation, and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2022.

Signed, sealed and delivered
in the presence of:

Amanda Robinson

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____ and to me known to be the person described in this instrument or who has produced _____ as identification and who executed the foregoing instrument, and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the State and County last aforesaid this day of _____, 2022.

NOTARY PUBLIC
STATE OF FLORIDA

My Commission Expires:
Commission No. _____

This instrument prepared by:

Michael R. Piper, Esq.
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Burke, Piper & Hochman, P.A.
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