

**CITY OF SAN ANTONIO
CITY ATTORNEY'S OFFICE**

CONSENT AGENDA
ITEM NO. 51

INTERDEPARTMENTAL CORRESPONDENCE

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

THROUGH: Terry M. Brechtel, City Manager

COPIES TO: Andrew Martin, City Attorney; Michael Hodge, Chief Litigation Division; Chief Albert Ortiz, Police Department; Michael Rich, Risk Manager; Don Lambert, Cambridge Integrated Services Group, Inc.; File

SUBJECT: Settlement of Michelle Trinidad Claim

DATE: June 26, 2002

SUMMARY AND RECOMMENDATION:

This ordinance authorizes payment in the amount of \$90,000.00 as the full and final settlement of the claim filed by Michelle Trinidad with the City of San Antonio.

Staff recommends approval of this ordinance.

BACKGROUND:

This case concerns a vehicle accident, which occurred on February 5, 2002. Michelle Trinidad was a passenger in the right front seat of a vehicle driven by James Hansler. Mr. Hansler was driving east on Ruiz approaching the intersection of NW 26th Street. San Antonio Police Officer Garret Hunter was driving north on NW 26th. Officer Hunter was looking at his MDT as he approached the intersection. He failed to see the stop sign and collided with the claimant vehicle in the intersection.

The Accident Review Board determined the accident was chargeable and Officer Hunter received a one-day suspension and was charged four points for the accident.

This request for settlement is for a claim made by Michelle Trinidad, a passenger in the Hansler vehicle.

Ms. Trinidad was five months pregnant at the time of the accident. She was removed from the floorboard of the vehicle by EMS and taken to University Hospital. She complained at the scene of neck and back pain, with a headache from lacerations to her head. University Hospital took X-rays and CT scans. The emergency room physician diagnosed the claimant with soft tissue injuries and sutured lacerations to the forehead, lip, left hand and leg. The medical reports from the University Hospital and Dr. Donald Dultra indicate sprains to her cervical spine, lumbar area and left knee.

She had contusions to the chest, abdomen and hip. The physical therapy had to be discontinued early due to the pregnancy.

Ms Trinidad, as a result of the accident, has permanent scarring on her face and is being treated for depression. In addition she exhibits other symptoms of post-traumatic stress syndrome. She has incurred medical expenses to date of \$11,445.74 and estimated future medical expenses of at least \$4,900.00.

Settlement of the claim for \$90,000 is recommended. A release of liability has been obtained from James Hensler, the driver of the automobile.

POLICY ANALYSIS:

Settlement is reasonable for the following reasons: A jury would place negligence on the City driver because he failed to control his speed and ran a traffic control device. The City employee received a one-day suspension as a result of the accident. Ms. Trinidad was a passenger in the vehicle and there is no evidence she contributed in any way to the accident. Ms Trinidad has permanent scarring from her injuries. Her plastic surgeon states that plastic surgery will improve the appearance of the scars, but the scarring will be permanent. Settlement of this claim was reached prior to suit being filed, saving the city the costs and uncertainty of litigation.

FISCAL ANALYSIS:

If this settlement is approved, funding for the settlement is available from the City's self-insured fund. If settlement is approved, a settlement check in the amount of \$90,000.00 payable to Michelle Trinidad and her attorney, Sandra Wadiche will be exchanged for a full and final release of all claims.


COORDINATION:

This case has been reviewed with Andrew Martin, City Attorney; Michael Hodge, Litigation Chief; Chief Albert Ortiz, Police Department; and Michael Rich, Risk Manager.



ANDREW MARTIN
City Attorney

APPROVED:



TERRY M. BRECHTEL
City Manager