

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

CONSENT AGENDA

ITEM NO. 16

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

THROUGH: Terry M. Brechtel, City Manager

COPIES TO: Martha Sepeda, Acting Chief, Litigation; Milo Nitschke, Director, Finance; Daniel Cardenas, Director, Environmental Services; Michael Rich, Risk Manager; Don Lambert, Cambridge ISG; file

SUBJECT: Settlement of the lawsuit styled Niki C. Hunt v. Jesse Patino, Jr. and City of San Antonio

DATE: August 26, 2004

SUMMARY AND RECOMMENDATION

This ordinance authorizes payment of \$160,000.00 as full and final settlement in the lawsuit styled Hunt, Niki C. v. Jesse Patino, Jr. and City of San Antonio. Staff recommends approval of this ordinance.

BACKGROUND

The Plaintiff was driving a van behind a City recycling truck on Uhr Lane at Pebble Hill on February 11, 2002. The City driver stopped, backed up and collided with the Plaintiff's van. The police accident report identified the City driver's Inattention and Failing to Back-up Safely as factors causing the accident. The Public Works Accident Investigation Review Board determined the accident was preventable. The City paid for the van's damages.

Both the plaintiff's specialist and the City's independent medical examiner concluded that the accident was the likely cause of Plaintiff's symptoms, that she will require surgery and that she will be unable to continue working as a massage therapist. Settlement discussions through various stages of this lawsuit culminated in the mediation of this case on July 30, 2004. The parties agreed to a settlement amount of \$160,000.00, subject to City Council approval.

POLICY ANALYSIS

Staff believes settlement is reasonable because a jury likely will determine the City driver was negligent and responsible for the accident. The Plaintiff's injuries, prognosis, past and future medical expenses and lost wages are well documented and the \$160,000 settlement is appropriate. Damages are limited to \$250,000 under the Texas Tort Claims Act.

FISCAL ANALYSIS

If this settlement is approved, funding for the settlement is available from the City's self-insured fund. Payment should be made to Niki C. Hunt and her attorneys, Gostomski & Hecker, P.C.

COORDINATION:

This case has been reviewed with Andrew Martin, City Attorney; Martha Sepeda, First Assistant City Attorney and Acting Deputy Chief, Litigation; Daniel Cardenas, Director, Environmental Services; and Michael Rich, Risk Manager.

RESPECTFULLY SUBMITTED:

A handwritten signature in cursive script, reading "Andrew Martin", written over a horizontal line.

ANDREW MARTIN
City Attorney

RECOMMENDED APPROVAL:

A handwritten signature in cursive script, reading "Terry M. Brechtel", written over a horizontal line.

TERRY BRECHTEL
City Manager