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MEMORANDUM

To: City Commission
From: Robert Jagger, City Attorney *RJ*
Date: June 5, 2017
Subject: Settlement of Litigation—
Otha Johnson V. City Of Daytona Beach, et al.
Case Number: 6:16-CV-941-ORL-40-TBS,
United State District Court, Middle District of Florida

Authority to settle the above referenced claim for \$170,000 is requested. The City's self-insurance plan provides that settlement of claims in excess of \$25,000 be submitted to the City Commission for approval.

On March 1, 2015, police officers responded to a call regarding a disturbance at an apartment complex at 900 South Peninsula Drive. Upon arrival, the officers encountered an intoxicated female in a car in the parking lot. While the officers were making contact with the female, the Plaintiff, Otha Johnson, contacted one of the officers to provide information regarding the female. During the course of the investigation, one of the officers detained Mr. Johnson and asked for his identification. Initially, Mr. Johnson refused to provide the identification, but eventually did provide his name. Mr. Johnson and the officer became involved in a verbal confrontation, and the officer placed Mr. Johnson under arrest for Resisting Arrest without Violence and Disorderly Conduct. Mr. Johnson spent 132 days in jail as a result of the arrest.

Plaintiff through his attorney, Jennifer Manyen of Halscott Megaro, P.A., filed suit against the City, Chief Chitwood, and three officers involved in the arrest, for alleged false arrest, excessive force, malicious prosecution, negligent supervision and retention, civil conspiracy, defamation, and violation of Fourth Amendment rights. Following mediation on May 11, 2017, Mr. Johnson and his attorney agreed to accept settlement in the amount of \$170,000, in exchange for a complete release of all claims, subject to City Commission approval. Trial is set to begin in federal court on October 2, 2017. The Incident Review Committee recommends approval of the proposed settlement. If this case is not settled, a jury verdict could result in an award substantially in excess of the settlement amount; accordingly, I concur with the recommendation of the Incident Review Committee.

This memorandum is prepared for the purpose of client consultation and does not constitute an admission against interest.

cc: James V. Chisholm, City Manager
Latisha LaMagna, City Clerk