



Legislation Text

File #: 22-1244, Version: 1

Dept/ Agency: Law

Action: () Ratifying (X) Authorizing () Amending

Purpose: Settlement of Civil Litigation

Docket No.: ESX-L-3972-18

Claimant: Jamileth T. Yanez, an infant, and her guardian, Diana Yanez

Claimant's Attorney: Steven Shakhnevich (Shakhnevich Law Group, P.C., and William P. Mikita, Jr., Mikita and Rocanova, LLC

Settlement Amount: \$1,200,000.00

Funding Source: Insurance Trust Fund

Additional Comments:

WHEREAS, Plaintiff, Jamileth T. Yanez, an infant, and her guardian, Diana Yanez, instituted a suit in the Superior Court of New Jersey captioned Jamileth T. Yanez, an infant, and her guardian, Diana Yanez v. City of Newark and Arthur Skinner, Docket No. ESX-L-3972-18, in which the Plaintiff sought recovery for damages allegedly sustained in 2016, as a result of an automobile accident caused by the alleged negligence of a City of Newark employee; and

WHEREAS, a settlement proposal has been made to resolve this litigation in its entirety by payment in the total amount of One Million, Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.00) (the "Settlement Sum"), and execution of a Settlement Agreement and Release; and

WHEREAS, to avoid the costly expense of litigation, the Parties and the City's Corporation Counsel desire to amicably resolve this matter with payment by the City of Newark of the Settlement Sum, in exchange for Plaintiff's execution of the Settlement Agreement and Release (attached) as a full and complete release of the matter; and

WHEREAS, the Corporation Counsel, based upon all facts and circumstances presented, deems it is in the best interest of the City of Newark to resolve said matter by payment of the proposed Settlement Sum and execution of the Settlement Agreement and Release.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Corporation Counsel is hereby authorized on behalf of the City of Newark to enter into, execute and accept the terms of the Settlement Agreement and Release, attached hereto.
2. Upon receipt by the Corporation Counsel of all documents deemed necessary, the Director of the Department of Finance is hereby authorized and directed to issue payment in the amount of Eight Hundred Fifty Thousand, Six Hundred and Twenty-Seven Dollars and Fifty Seven Cents (\$850,627.57) which payment will be made

payable to: "Surrogate of Essex County Intermingled Trust Fund F/B/O Jamileth Tanesaca Yanez, a minor," and mailed to: William P. Mikita, Jr., Esq., Mikita and Rocanova, LLC, 1301 Highway 36, Building 1, Suite 105, Hazlet, New Jersey 07730.

3. The Director of the Department of Finance is hereby authorized and further directed to issue payment in the amount of Three Hundred Forty-Nine Thousand, Three Hundred and Seventy-Two Dollars and Forty-Three Cents (\$349,372.43) which payment will be made jointly payable to: "Mikita and Rocanova Attorney Trust Account and Diana Yanez," and mailed to: William P. Mikita, Jr., Esq., Mikita and Rocanova, LLC, 1301 Highway 36, Building 1, Suite 105, Hazlet, New Jersey 07730.
4. Annexed hereto is the Certification(s) of Funds issued by the City's Director of the Department of Finance, which states that there are available sufficient legally-appropriate funds from Business Unit NW025, Dept. ID 25T, Division/Project 5T25 and Account #96320, in the amount of One Million, Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.00), in total, for the purpose set forth herein.
5. A copy of the Comptroller's Certification shall be filed in the Office of the City Clerk along with this Resolution by the Corporation Counsel.
6. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.
7. This Resolution shall be effective upon adoption in accordance with applicable State Law.
8. The Settlement Agreement and Release and Resolution does not admit, nor should it be construed as an admission of liability or violation of any law, statute or regulation or a breach of any duty by the City of Newark, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of the Corporation Counsel and to eliminate all risks and future litigation costs.

STATEMENT

This Resolution authorizes the Corporation Counsel, on behalf of the City of Newark to enter into and execute a Settlement Agreement and Release to settle civil litigation captioned Jamileth T. Yanez, an infant, and her guardian, Diana Yanez v. City of Newark and Arthur Skinner, Docket No. ESX-L-3972-18, in the amount of \$1,200,000.00 in exchange for Plaintiff's dismissal of any and all claims against the City of Newark and its employees, and a complete release.