File #: RS2020-690, **Version:** 1

A resolution authorizing the Metropolitan Department of Law to compromise and settle the claims of Joseph Clara and Wyndee Clara against the Metropolitan Government of Nashville and Davidson County in the amount of $195,000.00, with said amount to be paid out of the Self-Insured Liability Fund.

WHEREAS, on November 14, 2018, Joseph Clara's vehicle was struck by a Metropolitan Nashville Public Works Department truck while driving on Korean Veterans Memorial Bridge, resulting in personal injuries to Joseph Clara; and,

WHEREAS, after investigation, the Metropolitan Department of Law believes that the settlement listed in Section 1 is fair and reasonable and in the best interest of the Metropolitan Government and recommends that any and all claims or causes of action brought or that could have been brought by Joseph Clara and Wyndee Clara related to the events detailed above, be compromised and settled for $195,000.00, and that this amount be paid from the Self-Insured Liability Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: The Metropolitan Department of Law is authorized to compromise and settle the claims of Joseph Clara and Wyndee Clara for the sum of $195,000.00, with said amount to be paid from the Self-Insured Liability Fund.

Section 2: This resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This resolution settles the person injury and loss of consortium claims of Joseph and Wyndee Clara against the Metropolitan Government for the amount of $195,000 to be paid from the self-insured liability fund. On November 14, 2018, Mr. Clara was traveling on Korean Veterans Memorial Bridge behind a Public Works truck. The truck had been deployed to pick up debris from the roadway. The Public Works truck driver noticed debris in the oncoming lane, so he attempted an improper U-turn to retrieve the debris striking Mr. Clara's vehicle.

Mr. Clara was transported from the scene by ambulance to the hospital for injuries to his shoulders. He required surgery in both shoulders plus extensive physical and occupational therapy, and has a 10% total body impairment rating. Mr. Clary's medical bills to date total $113,000, and are expected to increase. He also has $55,000 in lost wages. Mr. Clary's wife had to provide significant assistance during his recovery, resulting in her loss of consortium claim.

Since the court would likely find the Public Works driver to be mostly at fault, the Department of Law recommends settling these claims for a total of $195,000. Under the Governmental Tort Liability Act, both Mr.

and Mrs. Clary have individual claims with a cap of $300,000 each. Given the amount of existing and future medical bills, lost wages, and pain and suffering, a court would likely award more than the proposed settlement amount if the case went to trial.

The Public Works employee received disciplinary action consisting of a written reprimand.

Fiscal Note: This $195,000 settlement, along with the settlement per Resolution No. RS2020-687, would be the 20th and 21st payments from the Self-Insured Liability Fund in FY21 for a cumulative total of $1,400,369. The fund balance would be $1,644,859 after these payments.