

RESOLUTION 2016-016

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPROVING THE SETTLEMENT AGREEMENT AND GENERAL RELEASE; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, on November 18, 2015, Juan Jose Leza filed a civil lawsuit (Cochise County Superior Court Case No. CV2015 00597) against the City, alleging damages arising out of a motor vehicle accident involving a City employee; and

WHEREAS, the Mr. Leza and the City have agreed to certain Terms of Settlement in the matter; and

WHEREAS, before the City Attorney and City Manager may finalize the Terms of the Settlement, the Mayor and Council must direct them to do so; and

WHEREAS, it is in the best interest of the citizens of Sierra Vista that such legal action be taken.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy, which directs the City Attorney and City Manager to finalize settlement terms in cases in which the City has been named as a defendant by specific action of the Mayor and City Council be, and hereby is reaffirmed.

SECTION 2

That the City Council approves the Settlement Agreement and General Release in Cochise County Superior Court Case No. CV2015 00597.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to finalize the Terms of Settlement and carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 24th DAY OF March 2016.



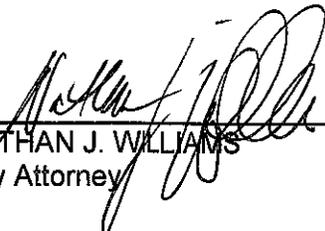
FREDERICK W. MUELLER
Mayor

ATTEST:



JILL ADAMS
City Clerk

APPROVED AS TO FORM:



NATHAN J. WILLIAMS
City Attorney

PREPARED BY:
Nathan J. Williams, City Attorney

RELEASE OF ALL CLAIMS

The undersigned, JUAN JOSE LEZA, a married man, for and in consideration of the sum of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), receipt of which is hereby acknowledged, does hereby release and discharge CITY OF SIERRA VISTA, a governmental entity, and ARIZONA MUNICIPAL RISK RETENTION POOL, their agents, employees and servants and all persons legally responsible for the acts or omissions of any of them, from any and all claims which he has or may have, asserted or not, arising out of or in any way connected with that certain accident or incident which occurred on or about December 19, 2014, in Cochise County, Arizona, as a result of which JUAN JOSE LEZA allegedly suffered damages, as more fully set forth in the Complaint, pleadings and Disclosure Statements in Cochise County Cause No. CV 2015-00597.

The undersigned hereby acknowledges that the above parties hereby released deny each dispute and deny all claimed liability for that certain incident as aforesaid and deny that they were responsible for same or for the damages allegedly resulting therefrom and acknowledge that the above-mentioned consideration is by way of compromise and in final settlement of a disputed claim.

The undersigned hereby represents and warrants that there are no claims or liens, asserted or unasserted, and without limiting the generality of the foregoing, the undersigned

specifically represents and warrants that there are no medical expenses, or hospital or health care provider liens of which the undersigned is aware, against the claim or cause of action which is hereby released or against the settlement thereof or the proceeds therefrom. In the alternative, if there are claims or liens, the undersigned hereby agrees to satisfy, compromise or otherwise resolve all such claims or liens and defend, indemnify and save harmless the releasees for any past, present or future liens or claims (including any suit), including costs (taxable and non-taxable), expenses, attorney fees and/or interest incurred because of any liens or claims against or in any way related to the claims hereby released and the settlement or proceeds of same, which comprise the consideration for this release.

The undersigned also warrants that no representation has been made to him by or on behalf of the parties herein released to induce or influence the execution of this Release of All Claims, but that he executes same upon independent advice of his own choosing, fully realizing that he hereby forever releases any and all claims which he may have or might hereafter have, whether or not any such claim is known to him.

The undersigned hereby agrees to cause that certain lawsuit entitled *JUAN JOSE LEZA, a married man, Plaintiffs vs. CITY OF SIERRA VISTA, a governmental entity; JOHN DOES 1-10; JANE DOES 1-10; ABC CORPORATIONS; XYZ PARTNERSHIPS; MNG ASSOCIATIONS; and GOVERNMENTAL ENTITIES RST, Defendants*, in the Superior Court

of the State of Arizona, in and for the County of Cochise, being Cause No. CV 2015-00597 to be dismissed with prejudice, each party to bear their own costs and attorney fees.

Further, no promise, inducement or agreement not herein contained or expressed has been made to him and this Release of All Claims contains the entire agreement between the parties and that its terms are contractual and not mere recitals.

Further, the provisions of this Release of All Claims shall be binding upon the successors, indemnitors, assigns, heirs, executors and administrators of the undersigned.

IN WITNESS WHEREOF, the undersigned has executed this Release of All Claims this ____ day of _____, 2016.

JUAN JOSE LEZA

STATE OF ARIZONA)
)§
COUNTY OF PIMA)

The foregoing Release of All Claims was executed before me this ____ day of _____, 2016 by JUAN JOSE LEZA, individually.

Notary Public

[Seal and Expiration Date]