

Memorandum

To: Honorable Mayor and City Council

From: William E. Wilkins, City Manager *WEW*

Date: May 16, 2007

Re: Settlement of Riviera Beach v.
Pardo, Et Al., Case No. 502006CA014100XXXXMBAA

In accordance with the City Council's Directive at its Executive Session, please find enclosed a resolution authorizing the settlement in the matter of the City of Riviera Beach v. Pardo, Et Al, Case No. 502006CA014100XXXXMBAA. The settlement contemplated by this action resolves in total and serves as settlement of all counter claims against the City.

The Defendant will exercise a General Release in favor of the City as part of the settlement

WEW: dh

Enclosure

Cc: Gloria Shuttlesworth, Assistant City Manager
Pamala H. Ryan, City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE MATTER OF CITY OF RIVIERA BEACH V. PARDO, ET AL., CASE NO. 502006CA014100XXXXMBAA; AUTHORIZING THE TRANSFER OF \$45,214.72 FROM CONTINGENCY ACCOUNT NO. 001-0203-519-0-5999 TO LEGAL ACCOUNT NO. 001-0613-514-0-3101; AUTHORIZING PAYMENT TO THE LAW FIRM OF SCOTT, HARRIS, BRYAN, BARRA & JORGENSEN, P.A., IN THE AMOUNT OF \$45,214.72 AS SETTLEMENT OF ALL COUNTERCLAIMS AGAINST THE CITY AND FOR OTHER PURPOSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 4, 2006, the City Council passed Ordinance number 3016 which changed the maximum number of years from 50 to 99 that the City could enter into a lease agreement affecting municipal beach property; and

WHEREAS, citizens of the City, in accordance with certain charter provisions, circulated a referendum petition and gathered voter signatures, thereafter requesting that the City Council reconsider ordinance number 3016 and repeal it; and

WHEREAS, the City Council determined that the petition did not meet the provisions of the City Charter, and upon rejecting the petition, filed a declaratory action styled *City of Riviera Beach v. Pardo, Dimeo, Groover, Lindblom and Rowse*, case no. 502006CA014100XXXXMBAA, to allow the circuit court to make a final determination as to the sufficiency of the petition; and

WHEREAS, in addition to filing a separate Writ of Mandamus action, Case No. 50-2006CA014101XXXXMBAA, to compel the City to place two charter amendments on the ballot, Pardo, et al., filed a counterclaim against the City in the declaratory action; and

WHEREAS, the Court determined on February 8, 2007, that said petition limiting the number of years that the City could enter into a lease agreement affecting beach property could be submitted to the voters at the March 13, 2007 municipal election; and

WHEREAS, at the election the voters approved of the lease term limitation; and

WHEREAS, the City Council thereafter dismissed its declaratory action and repealed ordinance number 3016; and

RESOLUTION NO. _____

PAGE -2-

WHEREAS, the parties have indicated that they will settle their counterclaim against the City if the City agrees to pay the legal fees they incurred in litigating the referendum and ordinance issues; and

WHEREAS, the City Council finds that it is in the best interest of the City to settle this claim to avoid further litigation and legal fees.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

SECTION 1. That staff is authorized to settle the outstanding counterclaim in the case of *City of Riviera Beach v. Pardo, Dimeo, Groover, Lindblom and Rowse*, case no. 502006CA014100XXXXMBAA, in the amount of \$45,214.72, said payment to be made in exchange for the dismissal of the counterclaim and the execution of a general release in favor of the City.

SECTION 2. That the Finance Director is authorized to transfer \$45,214.72 from contingency account no. 001-0203-519-0-5999 to legal account no. 001-0613-514-0-3101; and make payment to the law firm of Scott, Harris, Bryan, Barra & Jorgensen, P.A., in the amount of \$45,214.72.

SECTION 3. That this resolution shall take effect upon its approval by City Council.

PASSED and APPROVED this _____ day of _____, 2007.

[The Remainder of this Page Intentionally Left Blank]