

# MEMORANDUM

Office of the City Attorney

070930  
Phone: 334-5011/Fax 334-2229  
Box 46

CONSENT

**TO:** Mayor and City Commissioners  
**FROM:** City Attorney  
**SUBJECT:** Claim against AIG Insurance Company

**DATE:** February 25, 2008

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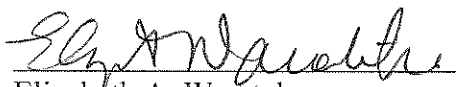
Recommendation: The City Commission 1) approve the terms of the settlement agreement that awards the City payment of a claim against AIG Insurance Company; and 2) authorize the City Attorney to settle the claim on behalf of the City.

In September 2004, Watson Construction Company provided the City notice of its intent to pursue a claim for damages against the City as a result of a moratorium the City enacted in 2001. The City immediately put National American Fire Insurance Company of Pittsburgh (AIG) on notice of Watson's intent to sue and request for damages.


In April, 2005, Watson filed a Second Amended Complaint alleging four civil rights counts, two counts of "takings" and a state tort count. The City forwarded the complaint to AIG and requested coverage under the City's policy with AIG. AIG denied coverage on several occasions.

On January 8, 2007, the City Attorney's office received authorization from the City Commission to retain special insurance counsel to file suit against AIG for wrongfully denying insurance coverage to the City. Prior to the filing of a lawsuit, the parties mediated the claim that resulted in a settlement agreement. The parties negotiated the settlement of \$575,000. This amount reflects the approximate amount of money AIG would have paid in the defense of this case. It is the recommendation of outside counsel, the City Attorney's office and the Risk Management Department that the case be settled as described above.

Prepared by:

  
Elizabeth A. Waratuke,  
Litigation Attorney

Submitted by:

  
Marion J. Radson,  
City Attorney

EAW/klm

IN RE: PRE-SUIT MEDIATION OF

CITY OF GAINESVILLE

ADV.

AIG (WATSON CONSTRUCTION CO.)

(NATIONAL UNION FIRE INS. CO.)

**SETTLEMENT AGREEMENT AT MEDIATION**

The parties hereto have reached the following agreements in full and complete resolution of the above-styled matter: \* SEE PARAGRAPH 4(A)

1. NATIONAL UNION FIRE INS. CO. agrees to pay

City of Gainesville the total sum of \$ ~~550,000~~ <sup>\$575,000</sup>

within 30 days of the date of this agreement. \* SEE PARAGRAPH 4(B)

2. City of Gainesville shall:

(a) Execute a full and complete release, indemnification and hold harmless agreement in favor of the NATIONAL UNION FIRE INS. CO. and all other persons, firms, corporations or other entities in privity with the NATIONAL UNION FIRE INS. CO. <sup>FOR ALL CLAIMS ARISING OUT OF</sup> THE WATSON V. CITY OF GAINESVILLE MATTER.

(b) Agree to pay, satisfy and extinguish any and all claims or liens of any nature that may attach to the settlement proceeds.

3. All parties agree to bear their own costs and fees.

4. Other agreement: (A) THIS Agreement is SUBJECT

TO BEING APPROVED BY THE CITY OF GAINESVILLE  
CITY COMMISSION

(B) PAYMENT WITHIN 30 DAYS OF APPROVAL

BY THE CITY COMMISSION.

(C) RELEASE REFERENCED IN PARAGRAPH 2(A) TO  
INCLUDE A RELEASE OF ALL POTENTIAL CLAIMS INCLUDING BAD FAITH  
CLAIMS

ARISING OUT OF THE WATSON V. CITY OF  
GAINESVILLE MATTER.

AND  
ALL OTHER CLAIMS ARISING OUT OF  
THE WATSON V. CITY OF GAINESVILLE MATTER.

PSI  
ABC

UNION FIRE INS. CO.  
FOR ALL CLAIMS ARISING OUT OF PSN  
ABC

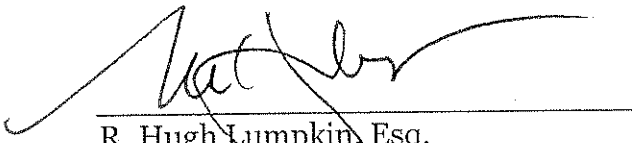
AND  
ABC

(D) City Attorney to recommend settlement to the  
City Commission. *RSN full*

Executed by the parties this 5 day of February, 2007, at  
Gainesville, Alachua County, Florida.

CITY OF GAINESVILLE

By: Michael Huber (print name)

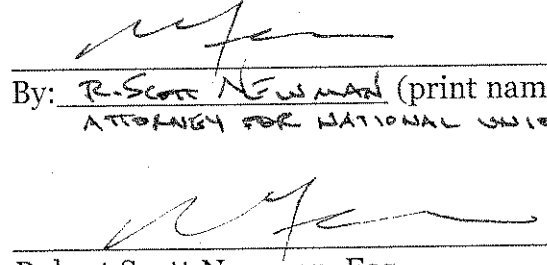


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Michael Huber, Esq.  
Ver Ploeg & Lumpkin, P.A.  
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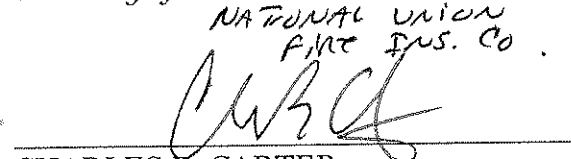
*Elizabeth Waratuke*  
*Elizabeth Waratuke*  
Attorney, City of  
Gainesville

~~NATIONAL UNION FIRE INS. CO.~~  
~~WATSON CONSTRUCTION CO./AIG~~

By: R. Scott Newman (print name)  
ATTORNEY FOR NATIONAL UNION



Robert Scott Newman, Esq.  
Marlow, Connell, Valerius, Abrams,  
Adler, Newman & Lewis  
4000 Ponce de Leon Blvd., Ste 570  
Coral Gables, Florida 33146  
Attorneys for ~~Watson Construction Co.~~

*NATIONAL UNION  
FIRE INS. CO.*  


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Copies furnished to:

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