

OFFICE OF THE MAYOR  
Telephone: (716) 286-4310

May 10, 2019

The City Council  
Niagara Falls, New York

*RE: Settlement of the matter of City of Niagara Falls v Man O'Trees, Inc.  
and Hanover Insurance Company*

Council Members:

During the reconstruction of Lewiston Road, the contractor, Man O'Trees, Inc. was removed due to various issues with their performance. Subsequently the City commenced a law suit against Man O'Trees and its bonding company the Hanover Insurance Company, seeking damages related to the construction project.

Man O'Trees then filed a lawsuit against the City seeking several forms of damage including a preliminary injunction all of which was defeated and that litigation dismissed.

The City's litigation has been handled by its outside counsel Hodgson Russ LLP who have negotiated a proposed settlement with Hanover Insurance Company as the bonding company to Man O'Trees which has ceased operations. The proposed settlement would have Hanover pay the City \$150,000.00 in full settlement of the claims. It is recommended that Council approve this proposed settlement as it represents a significant portion of the City's damages and eliminates the continued expense of prosecuting the litigation and expenses of a trial and the possibilities of differing results in a trial.

Will the Council so approve?

Respectfully submitted,

CRAIG H. JOHNSON  
Corporation Counsel

Kennedy\_\_\_\_\_ Scott\_\_\_\_\_ Tompkins\_\_\_\_\_ Voccio\_\_\_\_\_ Touma\_\_\_\_\_