



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri

SUBJECT: SEE BELOW

DATE: October 15, 2020

Approved

Date

10/16/2020

SUBJECT: APPROVAL OF THE TERMS OF THE SETTLEMENT AGREEMENT CONCERNING ATTORNEY FEES WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 230, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, AND OPERATING ENGINEERS, LOCAL 3.

RECOMMENDATION

Approve a settlement in the total amount of \$110,000 to the International Association of Firefighters, Local 230 (IAFF), International Federation of Professional and Technical Engineers, Local 21 (IFPTE), and Operating Engineers, Local 3 (OE#3) for attorney's fees related to the Alternative Pension Reform Framework Agreement and authorize the Director of Human Resources/City Manager's Office of Employee Relations to execute a Settlement Agreement.

OUTCOME

Settle potential arbitration with the International Association of Firefighters, Local 230 (IAFF), International Federation of Professional and Technical Engineers, Local 21 (IFPTE), and Operating Engineers, Local 3 (OE#3) with a payment by the City of \$110,000 for attorney's fees related to the settlement of Measure B and the Alternative Pension Reform Framework Agreement.

BACKGROUND

In the 2015 Alternative Pension Reform Settlement Framework Agreement (Framework Agreement), the City and the eleven bargaining units agreed to move forward with binding arbitration if there were additional claims for attorney's fees and expenses related to the litigation and resolution of Measure B.

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The City and the above parties were scheduled to participate in an arbitration hearing in December 2019 regarding additional attorney's fees claimed by the bargaining groups for various activities that occurred before and after the parties reached the Framework Agreement. These activities included actions before the California Public Employment Relations Board (PERB) and negotiating and implementing the Framework Agreement through Municipal Code changes and side letters.

The City, IAFF, IFPTE, and OE#3 agreed to attempt to settle this matter before the arbitration hearings occurred. The arbitration was placed on hold while the parties could negotiate a settlement.

ANALYSIS

As both parties wish to avoid the potential uncertainty, expense, and delays that are inherent to arbitration proceedings, the City and the three bargaining groups agreed to settle the disputed attorney's fees for a total of \$110,000 through a settlement agreement. Each group will receive the amount indicated below:

- IAFF - \$80,000
- IFPTE - \$20,000
- OE#3 - \$10,000

A release of claims is also included in the settlement agreement with regard to additional attorneys' fees and expenses related to the litigations and resolution of Measure B. The Settlement Agreement is attached to this memo (Attachment A).

EVALUATION AND FOLLOW-UP

Approval of the Settlement Agreement between the City and the three bargaining groups will settle outstanding claims for attorney's fees and costs.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

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PUBLIC OUTREACH

This memo and the Settlement Agreement have been posted on the City's website for the October 27, 2020 agenda.

COORDINATION

This memo has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The recommended actions in this memorandum will be funded by the General Liability Claims appropriation in the General Fund.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the settlement as recommended as part of this memorandum.

Fund #	Appn #	Appn. Name	Current Total Appn	Amt for Settlement	2020-2021 Proposed Operating Budget Page*	Last Budget Action (Date, Ord No.)
001	0018	General Liability Claims	\$14,500,000	\$110,000	VIII - 24	06/23/2020, Ord. No. 30437

* The 2020-2021 Adopted Operating Budget was approved on June 16, 2020 and adopted on June 23, 2020 by the City Council.

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CEQA

Not a Project; File No. PP17-003, Settlement Agreement resulting in no physical changes to the environment.



JENNIFER SCHEMBRI

Director of the City Manager's Office of
Employee Relations/Director of Human
Resources

For questions, please contact Cheryl Parkman, Assistant to the City Manager at (408) 535-8152.

Attachment A – Settlement Agreement