



Staff Report

File #: 23-84

Version: 1

Date: 2/27/2023

Item #: 3.3b.

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Krishna Namburi, Deputy City Manager and Enterprise Services Director

SUBJECT:

Claim Settlement Authorization

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s):

SUMMARY:

A Workers' Compensation claim is pending. Through settlement negotiations, the City has agreed to enter into a CDA, DCS, and employment release (discussed below).

ISSUE:

Shall the City Council authorize the City Manager to resolve a workers' compensation claim for Brandon Howe with a payment of \$120,000.00 and other terms and conditions.

RECOMMENDATION:

Authorize the City Manager to resolve the matter of Brandon Howe's workers' compensation claim with a payment of \$120,000.00 and other terms and conditions. Payment will be made from the City's self-insurance claim fund.

FACTS AND FINDINGS:

The terms of the settlement constitute a full and final settlement of this workers' compensation claim. The Enterprise Services Director and the Risk Manager recommend the City Council authorize the City Manager to settle this claim and issue payment as outlined.

BACKGROUND:

This will be a global settlement including a Claim Disposition Agreement (which disposes of all indemnity (time loss, impairment, vocational rehabilitation, aggravation rights), a Disputed Claim Settlement (which disposes of medical treatment rights), and an Employment Release (waiver of all other claims and reemployment rights). Claimant will be giving up all workers' compensation and employment rights, claims, and future claims.

This global settlement is in exchange for the City paying \$120,000 plus waiving the overpayment of Temporary Partial Disability, currently in the amount of \$60,747.21, which will increase slightly before the global settlement is executed. The overpayment exists because we have been unable to close the claim after claimant was deemed medically stationary and claimant has permanent restrictions. All together, this is well under the monetary cap previously provided.

Overpayments occur as follows: (1) a claimant is deemed medically stationary and the statute says they are no longer entitled to time loss; (2) however, if the worker has permanent restrictions and has not returned to the job-at-injury, time loss continues until a Notice of Closure (NOC) is issued; (3) once the NOC is issued, that time loss paid between the medically stationary date and the NOC becomes a procedural overpayment; (4) if there is a permanent impairment award (PPD) the carrier can deduct the overpayment; and (4) if the claim is settled, the overpayment is commonly waived.

Michelle Teed
Risk Manager

Attachments:
None