

CITY OF OAKLAND



05 JUL -6 PM 2:32

ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney  
John A. Russo  
City Attorney

(510) 238-3601  
FAX: (510) 238-6500  
TTY/TDD: (510) 238-3254

July 19, 2005

**HONORABLE CITY COUNCIL**  
Oakland, California

**Subject: *International Association of Firefighters, Local 55 v. City of Oakland, et al, Alameda County Superior Court Case No. RG04156075, Our File No. X02282—Reimbursement to Retirees for Health Care Premiums Overpayments (Oakland Fire Department)***

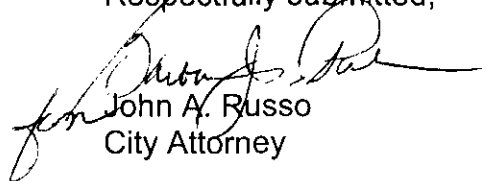
Dear President De La Fuente and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and recommends settlement of the above-entitled matter arising from claims of firefighter retirees that they were overcharged for their portion of health care premiums and are owed reimbursements. This matter was heard in closed session on June 7, 2005.

Due to the risk of an adverse verdict under the circumstances, settlement is recommended in the range of One Hundred Twenty Thousand Dollars and No Cents (\$120,000.00) to Two Hundred Thousand Dollars and No Cents (\$200,000.00), the exact amount to be calculated by Department of Personnel and paid to each individual retiree in the appropriate amount. Additionally, Six Thousand Dollars and No Cents (\$6,000.00) is to be paid to the law firm of Wylie, McBride, Jesinger, Platten & Renner, attorneys of record in this matter, as and toward attorney's fees incurred by Local 55. Further, this Office recommends amending the 1989 Resolution No. 66402 to permit proper notification to PERS and proper calculation of future premiums by PERS.

Attached are: 1) the resolution that authorizes the terms of the settlement agreement, and 2) redlined and clean copies of the 1989 resolution as amended to comply with the settlement agreement.

Respectfully submitted,

  
John A. Russo  
City Attorney

Attorney Assigned:  
Susan H. Mosk

**10.9CC**  
**ORA/COUNCIL**

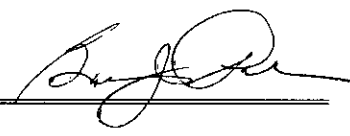
**JUL 19 2005**

05 JUL 2005 11:07 AM

05 JUL -7 PM 11:07

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.



**Resolution Authorizing and Directing the City Attorney to Compromise and Settle the Case of International Association of Firefighters, Local 55 v. City of Oakland, et al., Alameda County Superior Court Case No. RG04156075, as follows: (1) City Shall Pay An Amount in the Range of \$120,000.00 to \$200,000.00, to Reimburse Retirees for Health Care Premium Overpayments, Upon Final Calculation of the Actual Amounts Owed, (2) City Shall Pay \$6,000.00 in Attorneys' Fees and (3) City Shall Amend the 1989 Resolution No. 66402 that Authorizes Notification to Public Employees' Retirement System of the Health Care Premium Amounts to be Paid by Local 55 Members and the City to Reflect the Proper Amounts**

**WHEREAS:** Firefighter retirees have been overcharged for their portion of health care premiums, based on information provided to the City; and

**WHEREAS:** The City has directed the Personnel Department to calculate the appropriate amount to be reimbursed to each retiree; and

**WHEREAS:** The City has agreed to reimburse the retirees in the amounts calculated by the Personnel Department; and

**WHEREAS:** The City has agreed to pay \$6,000.00, toward attorney's fees incurred by Local 55 in this matter; and

**WHEREAS:** The 1989 Resolution Number 66402 must be amended to permit proper notification to PERS and proper calculation of health care premiums by PERS, now therefore be it

**RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the case of International Association of Firefighters, Local 55 v. City of Oakland, et al., Alameda County Superior Court Case No. RG04156075, City Attorney's File No. X02282, for a sum in the range of One Hundred Twenty Thousand Dollars and No Cents (\$120,000.00) to Two Hundred Thousand Dollars and No Cents (\$200,000.00), depending on calculations performed by the Personnel Department; and be it

**FURTHER RESOLVED:** That the City Attorney is authorized and directed to compromise and settle the amount of attorney's fees incurred by Local 55 in this matter, for a sum total of Six Thousand Dollars and No Cents (\$6,000.00); and be it

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**ORA/COUNCIL**

**JUL 19 2005**

**FURTHER RESOLVED:** That the amount of premium reimbursements sums, in the range of \$120,000.00 to \$200,000.00 be paid by the City to the individual retirees in the appropriate amounts; and be it

**FURTHER RESOLVED:** That the sum of Six Thousand Dollars and No Cents (\$6,000.00) be paid to the law firm of Wylie, McBride, Jesinger, Platten & Renner, attorneys of record for Local 55 in this matter, for attorney's fees incurred by Local 55; and be it

**FURTHER RESOLVED:** That the City Council's 1989 Resolution 66402 is amended as attached hereto, as part of the compromise and settlement of this matter; and be it

**FURTHER RESOLVED:** That the City Attorney is further authorized and directed to take whatever steps may be necessary to effect said settlement.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, REID, QUAN, AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

Attest: \_\_\_\_\_

LATONDA SIMMONS  
CITY CLERK AND CLERK OF THE COUNCIL  
OF THE CITY OF OAKLAND, CALIFORNIA

10.9CC  
COUNCIL

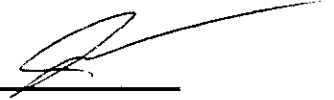
JUL 19 2005

05 JUL 2015 10:15 AM  
OAKLAND CITY CLERK  
015 1112

# OAKLAND CITY COUNCIL

05 JUL -5 PM 2:45

RESOLUTION No. \_\_\_\_\_ C.M.S.



**RESOLUTION AMENDING RESOLUTION No. 66402, ELECTING TO BE SUBJECT TO PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT ONLY WITH RESPECT TO SWORN FIRE UNIT EMPLOYEES BELONGING TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND FIXING THE CITY'S CONTRIBUTION FOR EMPLOYEES AND THE CITY'S CONTRIBUTION FOR ANNUITANTS AT DIFFERENT AMOUNTS**

**WHEREAS**, Government Code Section 22850.3 provides that a contracting agency may elect upon proper application to participate under the Public Employees' Medical and Hospital Care Act (hereinafter "The Act") with respect to a recognized employee organization only; and

**WHEREAS**, Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and

**WHEREAS**, The City of Oakland (hereinafter referred to as "Public Agency") is a local agency contracting with the Public Employees' Retirement System; and

**WHEREAS**, The Public Agency desires to obtain for the sworn Fire Unit employees belonging to the Public Employees' Retirement System who are employees and annuitants of the agency, the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now therefore be it

**RESOLVED**, That the Public Agency elects, and it does hereby elect, to be subject to the provisions of the Act; and be it further

**RESOLVED**, That the premium for the sworn Fire Unit employees shall be the second highest premium, as selected by the City of Oakland; and be it further

**RESOLVED**, That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his enrollment, including the enrollment of his family members in a health benefits plan up to the following maximums:

Employee only:	\$195.68/month;
Employee plus one:	\$390.56/month;
Employee plus two or more:	\$475.40/month;

and be it further

**RESOLVED**, That the employer's contribution for each annuitant shall be the amount necessary to pay the cost of his/her enrollment, including the enrollment of his/her family members, if any, in a health benefits plan up to a maximum of one dollar (\$1.00) per month; and be it further

**RESOLVED**, That the employer's contribution for each annuitant shall be increased annually by 5 percent of the monthly contribution for employees, until such time as the contributions are equal; and that the contributions for employees and annuitants shall be in addition to those amounts contributed by the Public Agency for administrative fees and to the Contingency Reserve Fund; and be it further

**RESOLVED**, That the City Council, as the executive body, appoints and directs, and does hereby appoint and direct the City Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution and to notify the Public Employee's Retirement System, no later than December 1<sup>st</sup> of every year, of the correct amount of the second highest premium, and to perform on behalf of said Public Agency all functions required of it under the Act and Regulations of the Board Administration; and be it further

**RESOLVED**, That coverage under the Act be effective on August 1, 1989.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, REID, QUAN,  
AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

*D. GCC*  
OAKLAND COUNCIL

JUL 19 2005

DATE RECEIVED: CLERK  
CITY OF OAKLAND

05 JUL -5 PM 2:45

# OAKLAND CITY COUNCIL

**RESOLUTION No. 66402** \_\_\_\_\_ **C.M.S.**

**RESOLUTION AMENDING RESOLUTION No. 66402,**  
**RESOLUTION ELECTING TO BE SUBJECT TO PUBLIC**  
**EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**  
**ONLY WITH RESPECT TO SWORN FIRE UNIT**  
**EMPLOYEES BELONGING TO THE PUBLIC**  
**EMPLOYEES' RETIREMENT SYSTEM AND FIXING THE**  
**CITY'S CONTRIBUTION FOR EMPLOYEES AND THE**  
**CITY'S CONTRIBUTION FOR ANNUITANTS AT**  
**DIFFERENT AMOUNTS**

**WHEREAS,** Government Code Section 22850.3 provides that a contracting agency may elect upon proper application to participate under the Public Employees' Medical and Hospital Care Act (hereinafter "The Act") with respect to a recognized employee organization only; and

**WHEREAS,** Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and

**WHEREAS,** The City of Oakland (hereinafter referred to as "Public Agency") is a local agency contracting with the Public Employees' Retirement System; and

**WHEREAS,** The Public Agency desires to obtain for the sworn Fire Unit employees belonging to the Public Employees' Retirement System who are employees and annuitants of the agency, the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now therefore be it

**RESOLVED,** That the Public Agency elects, and it does hereby elect, to be subject to the provisions of the Act; and be it further

**RESOLVED,- That the premium for the sworn Fire Unit employees shall be the second highest premium, as selected by the City of Oakland; and be it further**

**RESOLVED**, That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his enrollment, including the enrollment of his family members in a health benefits plan up to the following maximums:

Employee only:	\$195.68/month;
Employee plus one:	\$390.56/month;
Employee plus two or more:	\$475.40/month;

and be it further

**RESOLVED**, That the employer's contribution for each annuitant shall be the amount necessary to pay the cost of his/her enrollment, including the enrollment of his/her family members, if any, in a health benefits plan up to a maximum of one dollar (\$1.00) per month; and be it further

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**RESOLVED**, That the City Council, as the executive body, appoints and directs, and does hereby appoint and direct the City Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution and to notify the Public Employee's Retirement System, no later than December 1<sup>st</sup> of every year, of the correct amount of the second highest premium, and to perform on behalf of said Public Agency all functions required of it under the Act and Regulations of the Board Administration; and be it further

**RESOLVED**, That coverage under the Act be effective on August 1, 1989.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, REID, QUAN,  
AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

*10.900*  
**ORA/COUNCIL**