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CITY OF OAKLAND



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Office of the City Attorney
John A. Russo
City Attorney

October 4, 2005

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HONORABLE CITY COUNCIL
Oakland, California

Subject: Steven Splendorio and Bruce Nielsen v. City of Oakland, U. S. District Court, Northern District of California, Case No. C04 4349 CW, Our File No. X02454—Reimbursement to Local 55 Members for incorrect FLSA Calculation (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 active firefighter employees that the City has not correctly calculated FLSA overtime for employees who qualify for FLSA overtime. Specifically, that the City has not included the "holiday-in-lieu" premium when calculating FLSA overtime. This matter was heard in closed session on June 7, 2005 and again in closed session on September 20, 2005.

Due to the risk of an adverse verdict under the circumstances, settlement is recommended in the amount of Four Hundred Eighteen Thousand Five Hundred Six Dollars and Nineteen Cents (\$418,506.19), with only One Hundred Fifty Thousand Nine Hundred Thirty Two Dollars and Forty Two Cents (\$150,932.42) remaining to be paid to qualifying Local 55 members. Additionally, Eight Thousand Dollars and No Cents (\$8,000.00) 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 members of Local 55.

Attached is the resolution that authorizes the terms of the settlement agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John A. Russo".

JOHN A. RUSSO
City Attorney

Assigned Attorney:
Susan H. Mosk

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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.



Resolution Authorizing and Directing the City Attorney to Compromise and Settle the Case of Steve Splendorio and Bruce Nielsen, and other employees similarly situated (Plaintiffs) v. City of Oakland, et al. (Defendants), United States District Court, Northern District of California, Case No. C044349-CW, as Follows: (1) City Shall Pay a Total Amount of \$418,506.19, as Compensation to Qualifying Members of Local 55 for Incorrect FLSA Overtime Calculations, of Which Sum Only \$150,932.42 Remains To Be Paid; and, (2) City Shall Pay \$8,000.00 in Attorneys' Fees.

WHEREAS: The City has incorrectly calculated FLSA overtime for members of Local 55; and

WHEREAS: The City has updated its payroll system to correctly calculate FLSA overtime; and

WHEREAS: The City has already paid all but \$150,932.42 of compensation owed to qualifying Local 55 members; and

WHEREAS: The City has agreed to pay the additional \$150,932.42 to qualifying Local 55 members; and

WHEREAS: The City has agreed to pay \$8,000.00, to the law firm of Wylie, McBride Jesinger, Platten and Renner, toward attorney's fees incurred by Local 55 in this matter; now therefore be it

RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Steve Splendorio and Bruce Nielsen, and other employees similarly situated v. City of Oakland, et al., United States District Court, Northern District of California, Case No. C044349-CW, City Attorney's File No. X02454, for a sum of \$418,506.19, with only \$150,932.19 remaining to be paid to qualifying Local 55 members; 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 Eight Thousand Dollars and No Cents (\$8,000.00); and be it

FURTHER RESOLVED: That the remaining amount of One Hundred Fifty Thousand Nine Hundred Thirty Two Dollars and Nineteen Cents (\$150,932.19) be paid by the City to the qualifying members of Local 55; and be it

FURTHER RESOLVED: That the sum of Eight Thousand Dollars and No Cents (\$8,000.00) 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 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