



Legislation Text

File #: 17-1387, Version: 1

Dept/ Agency: Law Department

Action: () Ratifying (X) Authorizing () Amending

Purpose: Settlement of Civil Litigation

Docket No.: ESX-L-7839-15

Claimants: Robert Ferrell, Tanya Fraser, Martha Duque, Tessa Samuels, Lowella Hardy, Abraham Sissoko, Gessy Theodore and Berlyne Vilcant

Claimant's Attorney: Zazzali, Fagella, Nowak, Kleinbaum and Friedman

Attorney's Address: One Riverfront Plaza, Suite 320, Newark, New Jersey, 07102

Settlement Amount: Amount not to exceed \$275,000.00

Funding Source: Insurance Trust Fund

Additional Comments:

Invitation: Corporation Counsel, August 1, 2017

WHEREAS, Plaintiffs Robert Ferrell, Tanya Fraser, Martha Duque, Tessa Samuels, Lowella Hardy, Abraham Sissoko, Gessy Theodore and Berlyne Vilcant ("AFSCME Plaintiffs") instituted a suit in Essex County Superior Court AFSCME Council 52, Local 2299, Robert Ferrell, Tanya Fraser, Martha Duque, Tessa Samuels, Lowella Hardy, Abraham Sissoko, Gessy Theodore and Berlyne Vilcant v. City of Newark, Docket No. ESX-L-7839-15 seeking, among other things, payment at the maximum salary within the applicable salary range within five years of their respective appointments to the position of Registered Environmental Health Specialist ("REHS") in accordance with N.J.S.A. 26:3-25.1; and

WHEREAS, a settlement proposal has been made, in the form of a Settlement Agreement and Release ("Agreement") to resolve this litigation in its entirety for seven of the eight Plaintiffs ("Released Plaintiffs") by the following payments: (a) Tanya Fraser: Twenty-Nine Thousand, Eight Hundred Sixty Five Dollars and Zero Cents (\$29,865.00); (b) Martha Duque: Forty-One Thousand, Four Hundred Ninety Seven Dollars and Zero Cents (\$41,497.00); (c) Tessa Samuels: Twenty-Eight Thousand, Four Hundred Thirty Five Dollars and Zero Cents (\$28,435.00); (d) Lowella Hardy: Forty-Two Thousand, Two Hundred Ninety-Five Dollars and Zero Cents (\$42,295.00); (e) Abraham Sissoko: Twenty-Eight Thousand, Four Hundred Thirty-Five Dollars and Zero Cents (\$28,435.00); (f) Berlyne Vilcant: Thirty-One Thousand, Forty- Seven Dollars and Zero Cents (\$31,047.00); and, (g) Robert Ferrell: Forty-Four Thousand, Nine Hundred Ninety Dollars and Zero Cents (\$44,990.00); and

WHEREAS, the settlement requires that each of the Released Plaintiffs be placed at the top step of the salary guide for the position of Registered Environmental Health Specialist, effective June 1, 2017, in accordance with N.J.S.A. 26:3-25.1.

WHEREAS, a settlement has not been reached with the remaining Plaintiff, Gessy Theodore, but if the Parties are successful in resolving her claims, there are sufficient funds to resolve her claims in accordance with the Settlement Agreement; and

WHEREAS, if the Acting Corporation Counsel is unable to settle Ms. Theodore's claims, then the matter will proceed to trial as to this Plaintiff only, without affecting the Settlement Agreement reached with the other seven Released Plaintiffs; and

WHEREAS, the Acting Corporation Counsel based upon all facts and circumstances presented, deems it is in the best interest of the City of Newark to resolve this consolidated litigation by payment of the proposed Settlement Sum.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Acting Corporation Counsel is hereby authorized on behalf of the City of Newark to execute and accept the terms of the Settlement Agreements and Releases, attached hereto.

2. Upon receipt by the Acting Corporation Counsel of all documents deemed necessary, the Director of Finance is hereby authorized and directed to issue payroll checks in the following amounts with all the usual and customary deductions, including deductions for the employees' pension contributions, as follows:

- Tanya Fraser: Twenty-Nine Thousand, Eight Hundred Sixty- Five Dollars and Zero Cents (\$29,865.00);
- Martha Duque: Forty-One Thousand, Four Hundred Ninety- Seven Dollars and Zero Cents (\$41,497.00);
- Tessa Samuels: Twenty-Eight Thousand, Four Hundred Thirty- Five Dollars and Zero Cents (\$28,435.00);
- Lowella Hardy: Forty-Two Thousand, Two Hundred Ninety- Five Dollars and Zero Cents (\$42,295.00);
- Abraham Sissoko: Twenty-Eight Thousand, Four Hundred Thirty- Five Dollars and Zero Cents (\$28,435.00);
- Berlyne Vilcant: Thirty-One Thousand, Forty Seven Dollars and Zero Cents (\$31,047.00); and,
- Robert Ferrell: Forty-Four Thousand, Nine Hundred Ninety Dollars and Zero Cents (\$44,990.00).

3. The Acting Corporation Counsel is authorized to resolve the matter with Gessy Theodore for Twenty-Eight Thousand, Four Hundred Thirty-Five Dollars and Zero Cents (\$28,435.00) and with her being placed at the top step of the salary guide for the position of Registered Environmental Health Specialist, effective June 1, 2017, in accordance with N.J.S.A. 26:3-25.1. Once the Acting Corporation Counsel is in receipt of all documents deemed necessary to resolve Ms. Theodore's claims, then the Director of Finance is hereby authorized and directed to issue a payroll check to Ms. Theodore for the above amount with all the usual and customary deductions, including deductions for her pension contributions.

4. Attached hereto are the Certifications of Funds issued by the Director of Finance, City of Newark, which states that there are available sufficient legally, appropriated funds from Business Unit NW025, Dept. 25T,

Div./Project 7T25 and Account# 96340, in the amount of Two Hundred Seventy Five Thousand Dollars and Zero Cents (\$275,000.00) for the purpose set forth herein.

5. Pursuant to the Settlement Agreement, payment to the Released Plaintiffs is to be made within 60 days from June 21, 2017.
6. The Acting Corporation Counsel shall file a copy of the Comptroller's Certification and this resolution in the Office of the City Clerk.
7. The Acting Corporation Counsel shall file a fully executed copy of the Settlement Agreement in the Office of the City Clerk.
8. This resolution shall be effective upon adoption in accordance with applicable State Law.

STATEMENT

This Resolution authorizes the Acting Corporation Counsel, on behalf of the City of Newark, to enter into a Settlement Agreement and Release to settle consolidated civil litigation captioned AFSCME Council 52, Local 2299, Robert Ferrell, Tanya Fraser, Martha Duque, Tessa Samuels, Lowella Hardy, Abraham Sissoko, Gessy Theodore and Berlyne Vilcant v. City of Newark, Docket No. ESX-L-7839-15, in the combined amount not to exceed Two Hundred Seventy-Five Thousand Dollars and Zero Cents (\$275,000.00), in exchange for Plaintiffs' full dismissal of any and all claims against the City of Newark and its employees, and a complete release.