



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 11/26/2024

**REQUESTER:** Jeanne Snider

**PRESENTER:** Jeanne Snider, Assistant City Attorney

**ITEM TITLE:** CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2425-65: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY JORDAN WEST UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *JORDAN WEST V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE 2024-03327 T; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COMMISSION, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COMMISSION JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

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### **BACKGROUND:**

Jordan West is a former Firefighter for the City of Norman's Suppression Division of the Fire Department. He was hired July 5, 2016 as a Firefighter Recruit, promoted July 5, 2017, and separated from employment July 26, 2024. Mr. West filed Workers Compensation Commission Case 2024-03327 T on June 18, 2024, alleging a single incident injury to the left knee when stepping down off a trailer on December 11, 2023. The case was accepted and proceeded through the normal litigation process.

Prior to a trial being held, Mr. West has agreed to a settlement in the total amount of \$21,780, which represents 22 percent permanent partial impairment (PPI) to the Left Knee. The settlement is recommended for consideration by the City Council.

### **DISCUSSION:**

Medical Treatment. Mr. West was seen at Norman Regional Occupational Medicine the day of his injury. He was treated conservatively and placed on modified duty. Due to continued symptomatology, he was placed at temporary total disability, sent for a magnetic resonance imaging (MRI), and referred for orthopedic evaluation. On January 4, 2024, Mr. West was seen by Dr. Wilson and due to MRI findings arthroscopic surgery was recommended. He underwent

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a left knee scope with chondroplasty and synovectomy on January 31, 2024 followed by physical therapy postoperatively. Mr. West continued to follow-up with Dr. Wilson until he was released at maximum medical improvement (MMI) without restrictions on April 12, 2024.

Issues for Trial. There is no question Mr. West injured his left knee in the course of his employment with the City. The primary issues to be tried before the Workers' Compensation Commission are the extent of his injury and whether the injury is permanent in nature. Permanent partial disability is a factual determination made by the Workers' Compensation Commission Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial impairment.

Evaluations. Mr. West was evaluated by Dr. Lonnie Litchfield on July 24, 2024, regarding the above claim and opined a rating of 36 percent (\$35,640) PPI to the Left Knee. In addition, Dr. Litchfield opined Mr. West should be given entitlement to continued care in the form of pain management and assigned a pain management specialist for treatment as well as prescription medications or any treatments his treating physician deemed necessary.

He was then rated on October 17, 2024 by Dr. William Jones, the medical expert for the City. Dr. Jones opined 7 percent (\$6,930) PPI to the Left Knee. The City's maximum exposure for total PPI would be \$35,640.

Trial. The case proceeded through the normal litigation process; however, Mr. West has agreed to a settlement of the case as outlined below. If a trial was held, the Judge could determine nature and extent to his injuries and award permanent partial disability.

Proposed Settlement. The proposed settlement closes Workers' Compensation Commission Case 2024-03327 T in a lump sum payment of \$21,780 (less attorney fee) representing the settlement amount discussed above. Pursuant to 85A O.S. § 31(7), for injuries occurring on or after July 1, 2019, a Multiple Injury Trust Fund assessment in the amount of \$653.40, representing (3%) of the permanent partial disability award shall be deducted and paid to the Oklahoma Tax Commission.

It is felt that the settlement is fair and reasonable. A settlement is beneficial to the City in that it is a full, final and complete settlement of any and all claims and closes out any continued medical treatment. This settlement is beneficial to Mr. West in that it provides certainty for an award and would be paid in a lump sum rather than at a weekly rate over a period of time.

Furthermore, if the case was settled in this manner, the City would incur additional costs and fees of:

Workers' Compensation Administration Fund Tax in the amount of \$435.60; Special Occupational Health & Safety Tax in the amount of \$163.35; and Workers Comp Commission Filing fee in the amount of \$140. In addition, the City would incur an additional cost and fee for the Cleveland County Court Filing Fee in the amount of \$154.14.

These additional costs and fees total \$893.09, which brings the total cost of this settlement to the City to \$21,780. Adequate funds are available in the Order/Settlements Account (43330102-42131).

**RECOMMENDATION:**

For the reasons outlined above, it is believed the settlement is fair, reasonable, and in the best interest of the City. Acceptance of the settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. West and his attorney in a lump sum. The settlement would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85A O.S. § 107, 51 O.S. § 159, and 62 O.S. § 361, *et seq* and 85 O.S. § 313, 51 O.S. § 159, and 62 O.S. § 361, *et seq*. Certifying the order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.