

October 24, 2024

MEMORANDUM TO: Honorable Mayor and City Council
THRU: Charles P. Potucek, City Manager
FROM: Nathan J. Williams, City Attorney
SUBJECT: Request for Agenda Item Placement
Resolution 2024-079, Authorization to Approve
Settlement Agreement

Recommendation:

The City manager recommends approval.

Background:

On October 15, 2024, the City Council of the City of Sierra Vista met in executive session to discuss settlement negotiations which have occurred in the matter of the City of Sierra Vista vs. Travelers Casualty and Surety Company of America (Travelers).

The City Attorney and City Manager may finalize the settlement as discussed but only if the Mayor and Council give direction to take such action. This resolution is intended to authorize the City Attorney to take the necessary action to finalize the settlement.

Budget Appropriation:

Attorney's fees paid to date in the amount of \$4,286.86

RESOLUTION 2024-079

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPROVING THE TERMS OF SETTLEMENT IN THE MATTER OF THE CITY OF SIERRA VISTA VS. TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, in early 2023, staff members in the City's finance department discovered a series of fraudulent checks written and cashed on City bank accounts resulting in a loss to the City; and

WHEREAS, in late 2023, after an unsuccessful criminal investigation into the matter, the City submitted an insurance claim with its primary carrier, Travelers Casualty and Surety Company of America ("Travelers"), to cover the loss to the City. Travelers denied the claim; and

WHEREAS, the City retained the services of outside counsel to pursue a bad faith insurance claim against Travelers;

WHEREAS, as a result of several months of negotiation, Travelers and the City have agreed to certain Terms of Settlement in the matter; and

WHEREAS, before the City Attorney and City Manager may finalize the Terms of the Settlement, the Mayor and Council must direct them to do so; and

WHEREAS, to avoid the uncertainty and additional cost of pursuing this matter through litigation, it is in the best interest of the citizens of Sierra Vista that the settlement be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy, which directs the City Attorney and City Manager to finalize settlement terms in cases in which the City has claims against a third party by specific action of the Mayor and City Council be, and hereby is reaffirmed.

SECTION 2

That the City Council approves the Terms of Settlement in the matter of the City of Sierra Vista vs. Travelers Casualty and Surety Company of America.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to finalize the Terms of Settlement and carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 24TH DAY OF OCTOBER, 2024.

Clea McCaa, II
Mayor

ATTEST:

JILL ADAMS
City Clerk

APPROVED AS TO FORM:

NATHAN J. WILLIAMS
City Attorney

PREPARED BY:
Nathan J. Williams, City Attorney

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