

RESOLUTION NO. 12-2015

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE EXECUTION OF A LITIGATION SETTLEMENT AGREEMENT BY
THE INTERIM CITY MANAGER.**

WHEREAS, in the course of preparing the fiscal year 2010 budget (for the period October 1, 2009 through September 30, 2010), the management team determined that the economic environment and nationwide recession were causing significant budget shortfalls for the City of Abilene of approximately \$4 million; and,

WHEREAS, it was clear that personnel reductions would need to occur as personnel costs comprise approximately 75% of the budget; and,

WHEREAS, in June 2009 the City began implementing a Voluntary Retirement Incentive Program (VRIP) designed to provide a monetary incentive to City employees who were already eligible to retire to voluntarily choose to retire; and,

WHEREAS, VRIP retirees received their accrued vacation balance, their accrued sick leave balance up to 720 hours, plus the incentive pay while the positions of those employees who retired would not be re-filled, thus saving the City costs of salary plus benefits; and,

WHEREAS, on July 6, 2010, some of the employees who accepted the VRIP incentive pay and had retired by July 31, 2009, filed a lawsuit against the City claiming that they had been forced to retire due their ages; and,

WHEREAS, on November 17, 2011, the District Court granted the City's Motion for Summary Judgment, and dismissed the Plaintiffs' lawsuit in its entirety, on December 31, 2013, the 11th Court of Appeals reversed the trial court's Order and remanded the case back to the trial court for further proceedings, the City sought an appeal with the Texas Supreme Court, but the Supreme Court denied appeal. On July 8, 2014, 5 years after the initial retirement of the employees, the case was again before the trial court for trial proceedings; and,

WHEREAS, on January 28, 2015, the parties, under order of the trial court, mediated the above referenced lawsuit, but no mediated settlement agreement under the authorized limit was reached necessitating City Council approval of any settlement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

Part 1. The City Council of the City of Abilene, Texas, having been fully briefed of the advantages, disadvantages and potential outcomes of continuing the subject lawsuit through a jury trial and subsequent appeals finds that it is in the best interest of the City of Abilene to approve a mediated settlement.

Part 2. The Interim City Manager is authorized to execute all necessary settlement documents and make payment in settlement of all disputed claims in an amount not to exceed \$20,000.00 per plaintiff for a cumulative total not to exceed \$180,000.00.

Part 3. This resolution is effective upon adoption.

ADOPTED this 12th day of February, 2015.

ATTEST:

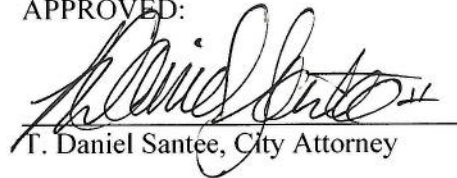


Danette Dunlap, City Secretary



Norman Archibald, Mayor

APPROVED:



T. Daniel Santee, City Attorney