



MEMORANDUM

Council Agenda
Item No. IX. AY
12/6/2022

The City of OKLAHOMA CITY

TO: Mayor and City Council

FROM: Craig Freeman, City Manager

Joint Resolution with the Oklahoma City Municipal Facilities Authority authorizing the Risk Manager and the Trust's legal counsel not to appeal and to comply with the Order of the Workers' Compensation Commission Claim No. CM-2014-10960Q styled: *Todd Custer, Claimant vs. The City of Oklahoma City, Respondent*, an Own Risk Carrier, and authorizing the Municipal Counselor to assist said counsel in the rendition of the award to Judgment as authorized by 85 O.S. §346, 62 O.S. §§365.1 *et seq.* and Article 10, Section 28 of the Oklahoma Constitution in the event the parties reach a Joint Petition Settlement or the award is commuted to a lump sum.

Background:

The Claimant, Todd Custer is a 61-year-old male and is a 31-year employee of The City of Oklahoma City. At the time of the injury, he was assigned in the Fire Department as a Major. The Claimant retired from the City on June 1, 2015.

Claimant sustained an undisputed accidental injury on October 19, 2014 to his left arm, back, left hip, neck, and left shoulder.

Claimant required surgery to repair his lower back on February 28, 2017. The Claimant also had surgery on October 12, 2020 to repair his left hip. The Claimant had a third surgery on September 23, 2021, to repair his neck.

Claimant was evaluated by Dr. Lance E. Rosson, on behalf of his attorney and found to have the following permanent partial impairment: 49% to the left hip, 0% to the left shoulder, 29% to the lower back, 28% to the neck, and 0% to the left arm.

Claimant was also evaluated by Dr. William D. Jones M.D., on behalf of the City and found to have the following permanent partial impairment: 10% to the left hip, 0% to the left shoulder, 7% to the lower back, 6% to the neck, and 0% to the left arm.

On November 22, 2022, Judge Michael Egan, of the Workers' Compensation Commission, awarded Claimant the following permanent partial disability: 25% to the left hip, 0% to the left shoulder, 20% to the lower back, 18% to the left neck, and 0% to the left arm, entitling Claimant to 220.5 weeks of compensation at \$323 per week, totaling \$71,221.50. 31 weeks have accrued and shall be paid in a lump sum of \$10,013.

The Commission further ordered \$14,244.30 or 20% of the PPD award be deducted from the award and paid in a lump sum to Claimant's attorney as a fair and reasonable fee. In addition, the City will pay Court costs of \$140, a Special Occupational Health and Safety Tax Fund, representing .75% of the permanent partial disability award in the sum of \$534.16 and the Workers' Compensation Administration Fund, representing 2% of the permanent partial disability award in the sum of \$1,424.43.

This item has been reviewed and approved by the City's contract attorney, Hornbeek, Krah, Vitali, law office located at 3711 North Classen Boulevard, Oklahoma City, Oklahoma 73118 and Claimant's attorney, Jeffrey Cooper, law office located at 415 Northwest 11th Street, Oklahoma City, Oklahoma 73103.

Permanent Partial Disability Payment	\$71,221.50
Special Occupational Health and Safety Fund Tax	\$534.16
Workers' Compensation Administration Fund	\$1,424.43
Workers' Compensation Court Costs	\$140.00
Total Cost of Award	\$73,320.09

Source of Funds:

OCMFA Services-Risk/Workers' Compensation-Risk Management MFA-Workers' Comp Claims (682-1451-2800750-52190061)

Review:

Risk Management

Recommendation: Joint Resolution be adopted.