



# MEMORANDUM

To: Mayor and Councilmembers  
Through: Joseph Scorcio, City Manager  
From: Cindy Corsilles, Assistant City Attorney  
Date: October 10, 2017  
Re: Staff Report regarding K&S Lawsuits Settlement Agreements

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**Purpose:** The proposed ordinance authorizes the settlement of pending lawsuits between the City and K&S Development LLC, St. Paul Fire and Marine Insurance Company, Travelers, The Charter Oak Fire Insurance Company (collectively "Travelers") and Cities Insurance Association of Washington (CIAW). The proposed ordinance also increases 2017 General Fund expenditures to fund the settlement agreement.

**Analysis:**

- In 2012, the plaintiff (K&S) filed a suit against the City alleging several causes of action involving the City's acquisition of the SeaTac Center property. In January 2016, after a three-month trial, a superior court jury found the City liable for inverse condemnation, interference with a business expectancy, and misrepresentation. The jury awarded K&S \$9,589,703.00 in damages.
- Additionally, the trial court added monetary award for post taking interest (post judgment) in the amount of \$7.5 million dollars.
- The total judgment against the City (including attorney's fees and interest) was approximately \$18,361,057.28.
- The City appealed the decision and the appeal is currently scheduled for oral arguments in the Washington Court of Appeals on November 6, 2017.
- On June 13, 2017, K&S also filed a lawsuit in Federal Court alleging civil right violations. The Federal case was stayed (no actions taken) pending the outcome of the case in the State Court of Appeals.
- Legal counsels representing the City and City's insurance carriers have been engaged in mediation with K&S, and have weighed both the advantages and disadvantages of continued litigation versus settlement.
- The parties, through legal counsels reached proposed settlement agreements with K&S which is presented before the Council for review (\$13 million total).
- As part of the settlement agreements, the City will agree to pay \$4.25 million with the remainder covered by the City's insurance carriers (Travelers and CIAW). K&S will agree to dismiss all pending, future, known and unknown lawsuits against the City and all of its representatives, and also agree to dismiss its voluminous public records requests.
- The agreements will resolve outstanding disputes and claims between the City and its insurance carriers.
- Acceptance of the settlement agreements requires that the City adopt an amendment to the City's current budget in order to authorize the expenditure.

**Budget Significance:** The Ordinance increases expenditures in the General Fund by \$4.25 million in order to fund the settlement.

**Committee Review(s) and Recommendations(s):** These items (authorization to settle and budget amendment) were not presented to any Committee because these matters involve pending litigation and the settlements are appropriate for consideration by the Council as a whole.

No staff recommendation is made as this is solely a Council decision.

**Alternative(s):** Do not adopt the Ordinance which means all pending lawsuits will continue on their current course.

**ORDINANCE NO. 17-\_\_\_\_\_**

AN ORDINANCE of the City Council of the City of SeaTac, Washington authorizing the City Manager to execute settlement agreements with K&S Developments, LLC, and insurance carriers: St. Paul Fire and Marine Insurance Company, Travelers, The Charter Oaks Fire Insurance Company (collectively "Travelers"), and Cities Insurance Association of Washington (CIAW) amending the City's 2017-2018 Biennial Budget, and directing additional fiscal actions.

**WHEREAS**, the City of SeaTac is currently involved in litigation in both federal and state court related to the acquisition of property located at 15247 International Boulevard, SeaTac, King County, Washington; and

**WHEREAS**, the City of SeaTac is currently involved in litigation with: St. Paul Fire and Marine Insurance Company, Travelers, The Charter Oak Fire Insurance Company (collectively "Travelers") and Cities Insurance Association of Washington (CIAW) related to associated insurance coverage issues; and

**WHEREAS**, the City Council has been fully apprised by legal counsel of the facts and circumstances of this case, the legal issues involved, and the positions of the respective parties; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City of SeaTac to enter a mutually-satisfactory resolution of all pending disputes and avoid further costly litigation; and

**WHEREAS**, and it is necessary to provide additional appropriation authority in the amount of \$4.25 million in order to execute this settlement agreement; and

**WHEREAS**, an amendment to the City's 2017-2018 Biennial Budget is necessary to provide additional appropriation authority for the purpose of settling any pending, future, and all litigation related to K&S Development LLC;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:**

**Section 1.** The City Manager is authorized to execute a settlement agreement with K&S Developments, LLC and insurance carriers: Travelers and CIAW that will resolve all disputes and terminate all pending litigation and claims as well as any prospective claims involving the aforementioned property in dispute.

**Section 2.** The City Manager is authorized to execute a settlement agreement with Travelers and CIAW that will resolve all disputes and terminate all pending litigation and claims as well as any prospective claims involving the insurance coverage dispute related to K&S Development, LLC.

**Section 3.** The 2017-2018 Biennial Budget for the City of SeaTac, covering the period from January 1, 2017, through December 31, 2018, is hereby amended with a 2018 ending fund balance in the amount of \$52.1 million for all budgeted funds. The City's amended 2017-2018 biennial budget is attached as Exhibit A, and includes budgeted revenues and expenditures for the 2017-2018 biennium in the amounts, and for the purpose shown separately in the aggregate totals for all such funds as displayed.

**Section 4.** The City Manager is directed to prepare and present an Ordinance documenting procedures and policies to initiate an inter-fund loan for all or part of the amount paid from the General Fund per Section 3 above in order to maintain appropriate balances across all City's Funds.

**Section 5.** The City Council designates this Ordinance as a public emergency Ordinance necessary for the protection of public health, public safety, public property, or the public peace, and therefore the effective date of this Ordinance shall be effective upon adoption.

**ADOPTED** this \_\_\_\_\_ day of October, 2017, and signed in authentication thereof on this \_\_\_\_\_ day of October, 2017.

**CITY OF SEATAC**

\_\_\_\_\_  
Michael Siefkes, Mayor

ATTEST:

\_\_\_\_\_  
Kristina Gregg, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Cindy Corsilles, Assistant City Attorney

[Effective Date: \_\_\_\_\_]

[Settlement]

**CITY OF SEATAC, WASHINGTON**  
**2017-2018 BIENNIAL BUDGET: EXHIBIT A**

10/10/2017

**2017-2018 BIENNIAL BUDGET (EXPENDITURES + ENDING BALANCES) = \$ 189,855,333**

FUND		BEGINNING BALANCE 2017-2018	REVENUES & OTHER SOURCES 2017-2018	EXPENDITURE APPROPRIATION 2017-2018	ENDING BALANCE 2017-2018
001	General Fund	\$ 17,471,668	\$ 73,040,757	\$ 77,547,715	\$ 12,964,708
102	Street Fund	11,176,559	17,708,396	15,429,105	13,455,850
105	Port ILA	1,270,323	5,000	495,470	779,853
106	Transit Planning	214,981	-	184,315	-
107	Hotel/Motel Tax	7,315,221	2,996,200	2,334,334	7,977,087
108	Building Management	2,547,333	2,460,680	1,475,303	3,532,710
110	Facility Repair & Replacement	330,191	-	276,879	-
111	Des Moines Creek Basin ILA	1,873,484	664,000	651,616	1,885,868
206	2009 LTGO Bond Fund	12,974	689,200	689,200	12,974
207	SCORE Bond Servicing	258,636	419,459	419,459	258,636
301	Municipal Capital Improvements	6,622,676	3,789,699	8,006,522	2,405,853
306	Municipal Facilities CIP	1,364,518	5,200	282,495	1,087,223
307	Transportation CIP	3,836,481	19,296,100	19,973,747	3,158,834
308	Light Rail Station Areas CIP	1,873,520	5,000	1,750,000	128,520
403	SWM Utility	3,354,416	6,080,964	6,157,207	3,278,173
404	Solid Waste & Environmental	-	550,200	545,096	5,104
501	Equipment Rental	1,291,408	1,414,069	1,492,072	1,213,405
<b>TOTAL BIENNIAL BUDGET</b>		<b>\$ 60,814,387</b>	<b>\$ 129,124,924</b>	<b>\$ 137,710,535</b>	<b>\$ 52,144,797</b>