



Legislation Details (With Text)

File #: 18-220 **Version:** 1 **Name:** Lawsuit Settlement - Stark Excavating
Type: Lawsuit **Status:** Approved
File created: 7/18/2018 **In control:** City Council
On agenda: 7/24/2018 **Final action:** 7/24/2018
Title: Communication from the City Manager and Corporation Counsel with a Request to APPROVE a SETTLEMENT with STARK EXCAVATING, in the Amount of \$197,500.00

Sponsors:

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|--------------------|--------|
| 7/24/2018 | 1 | City Council | received and filed | Pass |

ACTION REQUESTED:

Communication from the City Manager and Corporation Counsel with a Request to APPROVE a SETTLEMENT with STARK EXCAVATING, in the Amount of \$197,500.00

BACKGROUND: In 2016, Stark Excavating brought suit against the City alleging “changed conditions” relative to a City project, and sought \$900,000 from the City for alleged additional costs it incurred. The City denied the existence of “changed conditions” and asserted that Stark should have known about the condition of the ground they were working on. After Mediation the Mediator issued a non-binding ruling in Stark’s favor but left undecided the amount of damages. Subsequent to that decision, the parties renewed the settlement negotiations and Stark offered to accept \$197,500 from the City as well as \$197,500 from the Greater Peoria Sanitary and Sewage Disposal District who the City brought in as a third party in the case. The firm of Ancel Glink was retained by the City to defend this matter and recommends the City accept this offer. The opinion of Ancel Glink is that the cost of preparation and trial in this case would exceed \$250,000 even if the City entirely prevailed and Stark was awarded zero dollars.

FINANCIAL IMPACT: Potential to spend \$250,000 in legal expenses for preparation and trial with an unknown verdict award if the settlement is not approved. City will pay a defined sum of \$197,500 if the settlement is approved.

NEIGHBORHOOD CONCERNS: None

IMPACT IF APPROVED: City will pay a defined sum of \$197,500 if the settlement is approved.

IMPACT IF DENIED: Potential to spend \$250,000 in legal expenses for preparation and trial with an unknown verdict award if the settlement is not approved.

ALTERNATIVES: N/A

EEO CERTIFICATION NUMBER: N/A

WHICH OF THE GOALS IDENTIFIED IN THE COUNCIL'S 2017 - 2032 STRATEGIC PLAN DOES THIS RECOMMENDATION ADVANCE?

1. Financially Sound City
2. Choose an item.
3. Choose an item.

WHICH CRITICAL SUCCESS FACTOR(S) FROM THE COMPREHENSIVE PLAN DOES THIS RECOMMENDATION IMPLEMENT?

1. Have an efficient government.
2. Choose an item.
3. Choose an item.

DEPARTMENT: Legal