



**Request for City Council Committee Action
From the City Attorney's Office**

Date: May 28, 2004

To: Ways & Means/Budget Committee
Referral to:

Subject: In the Matter of the Appeal of the Selection Process for the Position of Electrician
(Exam # 200)

Recommendation: That the City Council approve the payment of the Judgment awarding appellate costs in the sum of \$1,826 payable to Keith Anderson and his attorney, Mansfield, Tanick, Cohen, P.A., from fund/org. 6900 150 1500 8150.

Previous Directives: None

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Approved by: Jay M. Heffern
Jay M. Heffern
City Attorney

PHS Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

Action requires an appropriation increase to the Capital Budget

Action requires an appropriation increase to the Operating Budget

Action provides increased revenue for appropriation increase

Action requires use of contingency or reserves

Other financial impact (Explain):

Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:
City Goals: Build Community

Background/Supporting Information

Keith Anderson had worked for the City on a temporary basis as an Electrician. During his temporary employment with the City, Keith Anderson made complaints to the City about City equipment. When there was a reduction in force based on budgetary needs, he was released from his temporary employment with

the City. Keith Anderson made an OSHA complaint, alleging that he had been terminated from his employment in retaliation for his having filed complaints about City equipment.

In October 2002, Keith Anderson applied for a full-time position of Electrician in the Public Works Transportation Division. There were two vacancies for that position. The requirements listed in the job posting of the Electrician position included a successful completion of an apprenticeship program approved by the State Division of Apprenticeship and a Minnesota Class A Journeyman Electrician License. After applications were taken, the City decided not to require the completion of the apprenticeship. One of the candidates who had been hired into the Electrician position had not completed the apprenticeship program that had initially been required. Keith Anderson's application was rated, and he did not obtain a departmental interview and was not hired into one of the two Electrician positions.

Keith Anderson appealed the exam to the Minneapolis Civil Service Commission, alleging that the apprenticeship requirement that was stated in the job posting had not been followed and that a supervisor provided the departmental interview questions to a candidate in advance of the departmental interview. Keith Anderson also alleged that he was not given a reasonable score on his application in retaliation for his having filed a complaint with OSHA. After receiving written submissions from Keith Anderson and the City, and after hearing arguments from the attorneys for the parties, the Minneapolis Civil Service Commission rejected Keith Anderson's appeal.

Keith Anderson appealed the determination of the Minneapolis Civil Service Commission to the Minnesota Court of Appeals. The Court of Appeals found that the written job requirements were modified after applications were received without notice to the candidates for employment and that the application process was flawed. The Court ordered the City to reopen the application process and conduct the hiring process in accordance with appropriate civil service procedures. The City is in the process of reopening the application process for the two Electrician positions.

Because Keith Anderson was the prevailing party at the Minnesota Court of Appeals in this matter, he is entitled to costs and disbursements in the amount of \$1,826. The Court of Appeals has issued a Judgment for that amount. It is in the best interests of the City to pay the Judgment of \$1,826.