

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. XI.T
3/12/2024

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Joint Resolution with the Oklahoma City Municipal Facilities Authority approving settlement of the subrogation claim related to payment of medical bills paid under the City's self-funded healthcare plan against the proceeds recovered on behalf of Kasey Gerber, arising out of injuries sustained in an automobile-pedestrian accident on December 19, 2021;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney concerning the above pending claim, as authorized by 25 O.S. (2023 Supp.) §307(B)(4), because disclosure would seriously impair the ability of the public body to conduct the pending claim in the public interest.

Background:

On or around December 19, 2021, Kasey Gerber was involved in an automobile-pedestrian accident that was caused by a third party and resulted in injuries to Ms. Gerber. As a result of the injuries sustained, Ms. Gerber and the City/OCMFA have incurred billed medical charges. The City/OCMFA has paid \$90,086.68, according to documentation provided by Blue Cross/Blue Shield.

Ms. Gerber retained James Belote, Esq. as legal counsel and through such representation claims have been filed against the third-party insurance carrier. Ms. Gerber has entered into a settlement agreement with the third-party's insurance carrier in the amount of \$100,000, which represents the third-party's insurance policy limits.

Ms. Gerber has requested the City/OCMFA agree to a settlement of the subrogation claim for approximately fifty-five percent (55%) of the City's interest, \$50,000. The other settlement monies available will be used for attorney's fees, satisfying other liens, and compensation for Ms. Gerber's additional damages. Ms. Gerber's attorney, James Belote, Esq., is also reducing his attorney fees by 50% to facilitate an expedient settlement.

This office has reviewed the file and based upon the facts of this case, and the related case law, it is the recommendation of this office that the City/OCMFA settle this subrogation claim for \$50,000.

By prior Joint Resolution of The City of Oklahoma City and the Oklahoma City Municipal Facilities Authority, the Municipal Counselor, or his designee, has been granted authority to settle and subrogate paid indemnity healthcare claims that are in the amount of \$40,000 or less. The City's subrogation interest in this claim exceeds this amount. Therefore, the City Council and OCMFA must vote whether to approve the settlement of subrogation.

If Council or OCMFA Trustees desire to further discuss the merits of this case, it is the recommendation and advice of the Municipal Counselor that the Council/Authority retire to executive session as permitted by 25 O.S. (2023 Supp.) § 307(B)(4), to discuss the issues and resolution of this case. However, if Council/Trustees agree with the recommendation of this office, a Resolution approving the settlement of the subrogation claim and authorizing the Municipal Counselor to take any appropriate action to settle the subrogation interest has been prepared for Council's consideration and approval.

Review:

Municipal Counselor's Office

Recommendation: Joint Resolution be adopted and/or Enter into Executive Session.