



MEMORANDUM

OCMFA Agenda
Item No. MFA. F
8/15/2023

The City of OKLAHOMA CITY

TO: Chairman and Trustees of the Oklahoma City Municipal Facilities Authority

FROM: Kenneth D. Jordan, Municipal Counselor

1. Joint Resolution with the Central Oklahoma Transportation and Parking Authority approving settlement of the Workers' Compensation subrogation claim related to payment of medical bills paid pursuant to state law under Workers' Compensation against any proceeds recovered on behalf of Maetta Wilson, arising out of injuries sustained in an automobile accident on March 22, 2022;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney concerning the above pending litigation, as authorized by 25 O.S. (2022 Supp.) §307(B)(4), because disclosure would seriously impair the ability of the public body to conduct the pending litigation in the public interest.

On or about March 22, 2022, Maetta Wilson, an Embark bus driver who is employed by the Central Oklahoma Transportation and Parking Authority, received personal injuries due to an automobile collision. The injuries occurred when Alberto Cardona attempted to change lanes to avoid striking a stopped vehicle in the inside lane, striking both the Embark bus in the outside lane and the stopped vehicle that was in the inside lane.

COTPA, doing business as Embark, is a public trust included on the City's own risk certificate for workers compensation coverage. COTPA and the OCMFA have currently paid \$44,964.89 in Workers' Compensation medical and associated expenses as a result of Maetta Wilson's injuries.

COTPA and the OCMFA are entitled, pursuant to 85A O.S. § 43, to seek recovery of Workers' Compensation expenses paid on behalf of Maetta Wilson which resulted from this incident, and that are claims paid as the result of injuries caused by the negligent acts of third parties.

Counsel for Maetta Wilson, Peter J. Ram, Esq., has entered into a settlement agreement with Alberto Cardona's insurance company in the amount of \$25,000, which represents Mr. Cardona's insurance policy limits, and Maetta Wilson has requested the COTPA/OCMFA agree to a settlement of the subrogation claim for medical expenses, in the amount that the COTPA/OCMFA is entitled by statute, 85A O.S. § 43 - \$10,000, as payment in full for its Workers' Compensation subrogation lien, and the other monies available will be used for attorney's fees and compensation for Ms. Wilson's additional damages. COTPA/OCMFA will reserve all rights under 85A O.S. § 43 for recoupment before the Workers' Compensation Commission.

The Municipal Counselor's 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 COTPA/OCMFA settle this subrogation claim for \$10,000.

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 Workers' Compensation Subrogation claims that are in the amount of \$40,000 or less. The subrogation interest in this claim exceeds this amount. Therefore, COTPA and the OCMFA must vote whether to approve the settlement of subrogation.

If COTPA or OCMFA Trustees desire to further discuss the merits of this case, it is the recommendation and advice of the Municipal Counselor that the Authority retire to executive session as permitted by 25 O.S. (2022 Supp.) § 307(B)(4), to discuss the issues and resolution of this case. However, if the 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 the Authority's consideration and approval.

Review:

Municipal Counselor's Office

Recommendation: Joint Resolution be adopted.