

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

Council Agenda
Item No. XI. U
9/10/2024

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Joint Resolution with the Oklahoma City Municipal Facilities Authority approving settlement of the 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 Paola Brown, arising out of injuries sustained in an automobile accident on March 15, 2020;

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. (2023 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 15, 2020, City of Oklahoma City employee, Paola Brown, received personal injuries while in the performance of her duties caused by an accident while driving a golf cart. The accident occurred when Ms. Brown over-corrected to miss a gravel pile left by Archer Western Construction Company. The City of Oklahoma City and the OCMFA have currently paid \$133,152.19 in Workers' Compensation medical and associated expenses as a result of Paola Brown's injuries.

The City of Oklahoma City and OCMFA are entitled, pursuant to 85A O.S. § 43, to seek recovery of Workers' Compensation expenses paid on behalf of Paola Brown 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 Paola Brown, Michael Hill, Esq., has entered into a settlement agreement with Archer Western Construction's insurance company in the amount of \$150,000. Paola Brown has requested the City/OCMFA agree to a settlement of the subrogation claim for the amount that the City/OCMFA is entitled by statute, 85A O.S. § 43 - \$57,606.08, as payment in full for its Workers' Compensation subrogation lien. The other monies available will be used for attorney's fees and compensation for Ms. Brown's additional damages.

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 City/OCMFA settle this subrogation claim for \$57,606.08.

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 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. (2022 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.

JJ