

GENERAL

Ordinance Fact Sheet

140577

Ordinance Number

Brief Title: Approving settlement of *Marissa Hermsen, et al. v. City of Kansas City, Missouri*

Approval Deadline:

Reason: To approve settlement of the claim of *Marissa Hermsen, et al. v. Kansas City, Missouri*

Details

Positions / Recommendations

<p>Reason for Legislation To seek Council approval and authorization of \$1,975,000.00 in settlement of the lawsuit styled <i>Marissa Hermsen, et al. v. City of Kansas City, Missouri</i>, Case No. 11-CV-0753-BP</p>		<p>Sponsor(s) William Geary, City Attorney</p>						
		<p>Programs, Departments, or Groups Affected Fire Department</p>						
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Applicants/Proponents</td> <td style="width: 70%;">Applicant</td> </tr> <tr> <td></td> <td>City Department</td> </tr> <tr> <td></td> <td>Other</td> </tr> </table>	Applicants/Proponents	Applicant		City Department		Other
Applicants/Proponents	Applicant							
	City Department							
	Other							
<p>Discussion <i>(including relationship to other Council actions)</i></p> <p>This lawsuit was a class action lawsuit involving the consolidation of MAST with the City. Plaintiffs are former MAST paramedics and EMTs who have worked 24 hour shifts. The City provided some training and assigned these individuals as Fire Medics and Fire Techs to 24 hour static shifts, based in various fire stations. Plaintiffs sued, because they believed they should be paid overtime for any week they worked over 40 hours. The City believed the employees fell under the firefighter exemption in the Fair Labor Standards Act, and therefore should be paid overtime only after working more than 49 hours in a week.</p> <p>Both parties filed summary judgment motions, and the Court granted Plaintiffs' motion, and denied the City's motion. The parties agree that the amount of actual (wage) damages are \$1,300,000.00. Under the FLSA,</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Opponents</td> <td style="width: 70%;">Groups or Individuals</td> </tr> <tr> <td></td> <td>Basis of Opposition</td> </tr> </table>	Opponents	Groups or Individuals		Basis of Opposition		
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Discussion**Policy / Program Impact**

<p>the City could be subject to a doubling of the damages if the Court believes the City knowingly and willfully violated the FLSA in its denial of overtime wages to the employees. Plaintiffs' attorney's fees are currently estimated to be \$500,000.00, before a trial to determine final damages. Additionally, under the FLSA, the named plaintiffs (in this case, an EMT and a paramedic) are eligible for a premium in addition to their overtime wages.</p> <p>The Law Department recommends settling this case for the amount listed above because if the Court finds the City is liable for liquidated damages, the City could receive a judgment, including fees and the premium, in excess of \$3,200,000.00.</p>		Policy or Program Change	9 No 9 Yes
		Operational Impact Assessment	
	Finances		
		Cost and Revenue Projections	Cost of Legislation \$1,975,000.00 Increase/Decrease in Revenue Expected Annually
		Fund Sources	15-1010-131543-B

Applicable Dates:**Fact Sheet Prepared By:**

Saskia C.M. Jacobse, Assistant City Attorney

Reviewed By:

William Geary, City Attorney

Reference Numbers