

ORDINANCE NO. 071110

Approving a settlement agreement with Verizon Wireless; authorizing the City Attorney to execute the necessary documents; and directing the City Manager to present to the Council a recommendation for a contribution to the Missouri Municipal League for continuing operations and lobbying efforts.

WHEREAS, the City of Kansas City, Missouri is a putative class member in a lawsuit to recover unpaid business license taxes, styled *City of University City, Missouri, et al. v. AT&T Wireless Services, Inc., et al.*, No. 01-CC-004454, pending in the Circuit Court of St. Louis County, Missouri (the "Lawsuit"); and

WHEREAS, the City and Verizon Wireless wish to avoid the expense and uncertainty of continued litigation and desire to settle their dispute without further litigation; and

WHEREAS, a Settlement Agreement settling the lawsuit was signed by the named plaintiffs (as class representatives) and Verizon Wireless, and was filed with and preliminarily approved by the Circuit Court of St. Louis County on August 30, 2007; and

WHEREAS, the City and Verizon Wireless have conducted an investigation and evaluation of the facts and the law relating to the claims in the lawsuit and believe that the Settlement Agreement is fair, reasonable, adequate and in the best interest of all the parties; and

WHEREAS, pursuant to the settlement agreement, the City has received a Notice of Class Action Settlement and Approval Hearing, incorporated herein by reference, and a Verizon Wireless Municipal Tax Settlement Claim Form, incorporated herein by reference, which identify the Total Past Tax Consideration (as defined in the Settlement Agreement) that will be paid and released to the City pursuant to the Settlement Agreement after the Settlement Agreement becomes Final (as defined in the Settlement Agreement); and

WHEREAS, the City desires to approve and accept the Settlement Agreement and the Total Past Tax Consideration; and

WHEREAS, in recognition of the requirement of Section 818 Charter of Kansas City that the settlement of tax claims in the manner proposed be authorized by law; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. The City of Kansas City, Missouri hereby approves, accepts, and adopts all terms and provisions of the Settlement Agreement as a binding and enforceable agreement between the City and Verizon Wireless, and as if the City was an original signatory thereto.

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Section 2. The City of Kansas City, Missouri further approves the Total Past Tax Consideration of up to \$6,728,450.21 as shown on the Verizon Wireless Municipal Tax Settlement Claim Form, along with the other relief provided in the Settlement Agreement, as adequate consideration for the release of claims by the City of Kansas City, Missouri against Verizon Wireless as provided for in the Settlement Agreement.

Section 3. The City Attorney, on behalf of the City, is authorized and directed to execute the Verizon Wireless Municipal Tax Settlement Claim Form and any other documents necessary under the Settlement Agreement.

Section 4. The City reserves the right to conclude settlement agreements with other wireless telecommunications service providers in the lawsuit depending upon the circumstances of each case.

Section 5. Upon completion of settlement agreements with the major wireless telephone providers the City Manager will present to the Council an ordinance providing for payment to the Missouri Municipal League of no more than 5% of the value of the settlement proceeds received by the City representing the City's contribution to the League for its operations and defense of municipal taxing authority.

Approved as to form and legality:

William Geary
Assistant City Attorney