

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120642

Amending Section 2-1685, Code of Ordinances, entitled “City legal expense fund” by expanding coverage of the fund to include the Metropolitan Ambulance Services Trust and its former, current and future trustees, officials and employees.

WHEREAS, the Metropolitan Ambulance Services Trust (“MAST”) has been designated, for governmental accounting standards board reporting purposes, a component unit of the City; and

WHEREAS, MAST has served a public purpose by providing ambulance services to City residents; and,

WHEREAS, the City has agreed to assume the liabilities and assets of MAST and of certain MAST Indemnitees; and

WHEREAS, MAST has requested and the City has agreed to provide specific authorization for the payment of claims against MAST; NOW THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That section 2-1685, Code of Ordinances, entitled “City legal expense fund” is amended to read as follows:

**Sec. 2-1685. City legal expense fund.**

(a) *Uninsured status of the city.* Except as required by statute, ordinance or contract, the city council hereby adopts the policy that the risk management of claims against the city shall be that the city is uninsured, not self-insured; provided, however, that liability coverage may be purchased from insurance companies for payment of claims which are not barred by sovereign, governmental, official immunity and the public duty doctrine.

(b) *Legal expense fund established.* There is hereby established a fund to be known as the city legal expense fund, the purpose of which is to enable the city to pay, in whole or in part, claims for various losses and liabilities incurred by the city, except that no payments from the fund are to be made for claims or lawsuits in which the city has immunity under section 537.600 RSMO, or other applicable law, either statutory or case law. Such immunities include, but are not limited to sovereign, governmental, official immunity and the public duty doctrine. However, claims and lawsuits against the city may be paid from the fund to the extent that a court of competent jurisdiction, in a final judgment, finds that no immunity is applicable, or that the public duty doctrine affords no defense.

(c) *Limitation on payments.* No payments of claims, made solely against the city, shall be paid from the fund in excess of any statutory cap on liability.

(d) *No expansion of liability.* Nothing in sections 2-1685 through 2-1688 shall be

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120642

construed to broaden the liability of the city beyond the provisions of sections 537.600 to 537.610 RSMO, or other applicable law, either statutory or case law, nor to abolish or waive any defense at law which might otherwise be available to the city, its agents, representatives, officials, officers, or employees.

(e) *Metropolitan Ambulance Services Trust*. Funds from the city legal expense fund shall be used for the payment, in whole or in part, of claims, judgments, expenses, fines, amounts paid in settlement actually and reasonably incurred as and when incurred, (including attorneys' fees and defense expenses), asserted against or incurred by the Metropolitan Ambulance Services Trust, MAST, or a past, present and future trustee, officer, employee and agent of MAST resulting from their service to MAST or one who is or was serving at the request of MAST and to MAST's benefit as a trustee, representative, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, as the Mayor of Kansas City, Missouri appoints the trustees of MAST, and MAST has served a public purpose by providing ambulance services to city residents. If a court of competent jurisdiction issues final judgment that the conduct of a past, present or future trustee, officer, employee or agent of MAST or one who is or was serving at the request of MAST and to MAST's benefit as a trustee, representative, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise was illegal, knowingly fraudulent or deliberately dishonest or was willful misconduct, the city shall make no payments to such person. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the past, present or future trustee, officer, employee or agent of MAST or one who is or was serving at the request of MAST and to MAST's benefit as a trustee, representative, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise is not entitled to payment from the city legal expense fund.

(f) *Sources of funding*. Such fund shall be composed of appropriated contributions from activity accounts within the general and other operating funds, which shall be appropriated annually on the basis of claim frequency, loss payments and claim reserves. The risk management committee shall have the sole authority to recommend the allocation of department contributions to the city manager for budgeting purposes.

(g) *Budget; nature of fund*. The city legal expense fund shall be operated under a budget adopted by the city council in the same manner as other city funds. This fund shall be used for the purposes set forth in this section, and no other, and shall continue from year to year, its surplus not reverting to the general fund surplus at the end of the fiscal year. The council may, upon the recommendation of the risk management committee, appropriate additional sums to this fund.

(h) *Use of the city legal expense fund*. Losses payable from the city legal expense fund shall be as follows:

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120642

- (1) Claims made against the fund by a city department for loss of, or damage to, city property.
- (2) Claims made by third parties based on liability of the city, its agents, representatives, officials, officers, or employees, if such claims are not barred by sovereign, governmental, official immunity, and the public duty doctrine, in accordance with section 537.600 RSMO, or other applicable law, either statutory or case law based on a final judgment of a court of competent jurisdiction.
- (3) Claims made against the fund by a city department or a third party as a result of the Asset Transfer Agreement with MAST.
- (4) Such payments shall be made only upon authorization by the risk management committee, the city attorney or the city council.

(i) *Investments.* All unexpended cash in the city legal expense fund for the payment of losses may be invested in securities of the type authorized by the city charter. Earnings from investments shall accrue to the credit of the fund.

---

Approved as to form and legality:

---

William Geary  
City Attorney