

AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF RICHMOND HEIGHTS, MISSOURI AND U. S. Cellular AND ASSIGNING A PERCENTAGE OF THE SETTLEMENT PROCEEDS TO THE ST. LOUIS COUNTY MUNICIPAL LEAGUE.

WHEREAS, the City of Richmond Heights, Missouri (the “City”) is entitled to recover unpaid Business License Taxes (as defined in the Settlement Agreement referenced below), which are the subject of a lawsuit styled *City of University City, Missouri, et al. v. United States Cellular Corporation., et al.*, No. 01-CC-004454, pending in the Circuit Court of St. Louis County, Missouri (the “Lawsuit”); and

WHEREAS, the City wishes to avoid the expense and uncertainty of continued litigation and desires to settle certain disputes related to the Lawsuit without further litigation; and

WHEREAS, a settlement agreement settling the Lawsuit was signed by the named plaintiffs (as class representatives) and U. S. Cellular (as defined in the Settlement Agreement), and was filed with and preliminarily approved by the Circuit Court of St. Louis County on October 30, 2007 (the “Settlement Agreement”); and

WHEREAS, the City has conducted an investigation and evaluation of the facts and the law relating to its claims against U. S. Cellular and believes that the Settlement Agreement is fair, reasonable, adequate and in the best interest of all parties; and

WHEREAS, pursuant to the Settlement Agreement, the City has received a Notice of Class Action Settlement and Approval Hearing, a copy of which is attached hereto and incorporated herein by reference, and a U. S. Cellular Municipal Tax Settlement Claim Form, a copy of which is attached hereto and 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 further desires to assign a portion of the proceeds to the St. Louis County Municipal League as provided therein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHMOND HEIGHTS AS FOLLOWS:

SECTION 1. The City Council hereby approves, accepts, and adopts all terms and provisions of the Settlement Agreement as a binding and enforceable agreement between the City of Richmond Heights, Missouri and U. S. Cellular, and as if the City was an original signatory thereto, subject to final court approval of the Settlement Agreement.

SECTION 2. The City Council further approves the Total Past Tax Consideration of \$3,667.50 as shown on the U. S. Cellular 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 against U. S. Cellular as provided for in the Settlement Agreement, subject to final court approval of the Settlement Agreement.

SECTION 3. The City further assigns to the St. Louis County Municipal League five per cent (5%) of its Total Past Tax Consideration, which amounts to approximately \$183.38, which amount shall be used for the public purpose of reimbursing the League for revenues expended in its legislative and settlement efforts relating to the Lawsuit and to fund future services performed on behalf of the League's member municipalities.]

SECTION 4. The Mayor is authorized and directed to execute the U. S. Cellular Municipal Tax Settlement Claim Form and any other documents necessary under the Settlement Agreement on behalf of the City and the City Clerk is authorized and directed to attest thereto. The documents as executed shall be in substantially the form hereby approved, with such changes therein as shall be approved by the officers of the City executing same, consistent with the provisions and intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The City Manager and her designated representatives are hereby authorized and directed to take any and all actions necessary, desirable, convenient or proper in order to carry out the intent of this Ordinance, the matters herein authorized, and the rights and duties of the City under the Settlement Agreement.

SECTION 5. The City reserves the right to conclude settlement agreements with other wireless telecommunications service providers in the Lawsuit or otherwise depending upon the circumstances of each claim and further reserves all rights against Verizon Wireless if the Settlement Agreement is not finally approved by the Court or in any way does not become or ceases to be effective.

SECTION 6. This ordinance shall be in full force and effect on the 31st day after its passage as provided by law.

PASSED and APPROVED this 7th day of January, 2008.

BETTY J. HUMPHREY
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First reading: December 3, 2007
Second reading: January 7, 2008