



Jackson County Missouri

Jackson County Courthouse
415 E.12th Street, 2nd floor
Kansas City, Missouri 64106
(816)881-3242

Legislation Details (With Text)

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On agenda: **Final action:** 9/26/2016
Title: CLOSED RECORD pursuant to Section 610.021(1)
Sponsors:
Indexes:
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Attachments:

Date	Ver.	Action By	Action	Result
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IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the County Counselor to execute a Memorandum of Understanding relating to the settlement of the case of *E/sea v. Jackson County*, No. 1016-CV159756, now pending in the Circuit Court of Jackson County, Missouri, at no cost to the County.

RESOLUTION NO. 19272, September 26, 2016

INTRODUCED BY Dennis Waits, County Legislator

WHEREAS, there is now pending in the Circuit Court of Jackson County, Missouri, the case of *E/sea v. Jackson County*, No. 1016-CV159756, in which the plaintiffs, a class of persons who spent at least a defined period of time in the Jackson County Courthouse in Kansas City, MO, prior to 2007, are seeking relief, including medical monitoring, against the County and other named defendants, for possible exposure to asbestos in the courthouse; and,

WHEREAS, the other defendant is U.S Engineering, which performed a retrofit project at the courthouse during the 1980's that is alleged to have released asbestos into the courthouse's air

handling system that has caused damage to class members; and,

WHEREAS, U.S. Engineering's work on this project was covered by one or more insurance policies which included Jackson County as an additional or named insured; and,

WHEREAS, the parties to this matter have agreed upon a settlement of the claims against Jackson County only, that will eliminate the County's risk of financial exposure; and,

WHEREAS, the County Counselor recommends that he be authorized to execute a Memorandum of Understanding regarding this settlement as in the best interests of the health, welfare, and safety of the citizens of Jackson County; now therefore,

BE IT RESOLVED BY the County Legislature of Jackson County, Missouri, that the County Counselor be and hereby is authorized to execute a Memorandum of Understanding, and any other necessary documents, relating to the settlement of the case of *Elsa v. Jackson County*, No. 1016-CV159756, now pending in the Circuit Court of Jackson County, Missouri, which will resolve Jackson County's financial liability in this suit at no cost to the County; and

BE IT FURTHER RESOLVED that this Memorandum of Understanding will feature the following terms, in a form subject to the final approval of the County Counselor:

a. The Memorandum of Understanding will authorize a settlement agreement under § 537.065, RSMo, to resolve the Elsa Class plaintiffs' claims against the County in Case No. 1016-CV15976; and,

b. No judgment will be entered in this case against Jackson County pursuant to § 537.065 unless plaintiffs proceed to trial against U.S. Engineering in *E/sea*; Any such judgment shall comport with the Memorandum of Understanding and shall be in a form that can be recorded with the Jackson County Recorder of Deeds Department as provided in § 537.065; and,

c. In the event that a judgment is ultimately entered against Jackson County, the parties will agree that it shall not become a lien against any Jackson County assets, and cannot be enforced against any County assets, as will be set out in the Memorandum of Understanding; and,

d. In the event that U.S. Engineering and its insurer(s) reach a settlement in the *E/sea* medical monitoring class action, the settlement agreement between Jackson County and the plaintiffs under § 537.065 will be null and void; and,

BE IT FURTHER RESOLVED that, pursuant to § 610.021(1), RSMo, this Resolution and all associated documents shall be a closed record and shall not become an open record and made public until the final disposition of the *E/sea* lawsuit.

..Enacted and Approved

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:

Chief Deputy County Counselor

County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No.19272, of September 26, 2016, was duly passed on _____, 2016 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of Legislature