

Resolution

Version 2.3 released on 8/3/21

Use for all types of Resolutions



CITY COUNCIL USE ONLY

Date Received: _____
Committee Date: _____
1st Agenda Date: _____

Tracking #: _____

Committee: _____
Hearing Date: _____
2nd Agenda Date: _____

CITY CLERK USE ONLY

☐ Scanned Date: 08.24.2022
☐ Posted Item #: 2203.01788

All department items requiring Council approval must be submitted through the Mayor's Office.

Primary Details

Board Approval

Department: Legal
Contact Name: Michelle McGrew (tmd)

Other Board Name

Email: tmcgrew@cityoftulsa.org

City Council Approval

☒ Yes ☐ No

Resolution Type: Authorizing Sinking Fund Credit or Payment

Owner-Grantor: Ira Lee Wilkins

Phone: 9185967717

Amount: \$60,000.00
Case Number: 19-CV-69

TMAPC Number: _____
Council District: _____

Description (Subject): Payment of Lawsuit

Bid/Project Number: _____

Section: _____
Township: _____

Range: _____
Addition: _____

Lot: _____
Block: _____

Address: _____

Budget

Funding Source(s): _____

TOTAL:

Approvals

Department: _____
Legal: _____
Board: _____
Mayor: _____
Other: _____

Date: 8.18.22
Date: 8/17/2022
Date: AUG 24 2022
Date: _____

Policy Statement

Background Information

On July 27, 2022 Mayor Bynum approved settlement in the above lawsuit in the amount of \$60,000.00. The Journal Entry of Judgment was signed by the Judge and filed with the Court on August 8, 2022. (see attached JE)

Summation of the Requested Action

Request Mayor approve payment in the above lawsuit and direct Finance to issue a check in the amount of \$60,000.00 made payable to Ira Lee Wilkins, Plaintiff and Smolen & Roytman, PLLC, attorneys. Return to City Legal for further processing.

Emergency Clause?

☐ Yes
☐ No

Reason for Emergency Clause

Return executed RFA and Resolution to City Legal for further processing.

Processing Information for City Clerk's Office

Post Execution Processing

☐ Mail vendor copy (addtl signature copies attached)
☐ Must be filed with other governmental entity
☐ Addtl governmental entity approval(s) required

Additional Routing and Processing Details

(Published in the Tulsa World,
_____, 2022.)

RESOLUTION

A RESOLUTION AUTHORIZING PAYMENT IN FULL OF A JUDGMENT SETTLEMENT, FROM SURPLUS MONIES IN THE SINKING FUND; AND DECLARING AN EMERGENCY.

WHEREAS, on the 8th day of August, 2022, in Case No. 19-CV-00069, filed in the United States District Court for the Northern District of Oklahoma, judgment was entered based on a settlement agreed to by and between Ira Lee Wilkins, Plaintiff, and the City of Tulsa, Defendant, in the sum of Sixty Thousand Dollars and 00/100 (\$60,000.00), representing principal judgment, interest, costs and attorney fees, was entered against the City of Tulsa, which settlement has been approved by the Court; and

WHEREAS, it appears from a survey of the Sinking Fund that there is a surplus of cash and investments in said fund, over and above accrued liabilities and statutory obligations, which would allow the City of Tulsa to pay said judgment in full, including court costs and interest thereon; and

WHEREAS, it is desirable and in the best interest of the City of Tulsa to make such present payment out of the City's Sinking Fund, and thereafter reimburse the Sinking Fund from subsequent tax levies, as provided by 62 O.S. '435.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TULSA, OKLAHOMA:

Section 1. That the City Clerk and the City Treasurer of the City of Tulsa be, and the same hereby are, authorized to consummate and complete the payment of said judgment by drawing the following warrant on the City of Tulsa's Sinking Fund:

To the order of IRA LEE WILKINS, Plaintiff, and SMOLEN & ROYTMAN, PLLC Attorneys at Law, the sum of Sixty Thousand and 00/100 Dollars (\$60,000.00); the same representing the full amount of the judgment, interest, costs and attorney fees, now due and owing to the Plaintiff in the lawsuit identified above.

Section 2. That the City Clerk and the City Treasurer of the City of Tulsa be, and the same hereby are, authorized and directed to properly advise the Tulsa County Excise Board by appropriate reports, of the prepayment of said judgment in order that said Board may include said prepaid judgment as a necessary and lawful expense of the Sinking Fund of the City of Tulsa, Oklahoma, for which appropriate tax levies may be made to replenish said Sinking Fund, as provided by the provisions of Title 62 of the Statutes of the State of Oklahoma.

Section 3. That an emergency exists for the preservation of the public peace, health and safety, by reason whereof this Resolution shall take effect immediately from and after its passage, approval, and publication.

ADOPTED by the Council: _____ (Date)

ADOPTED as an emergency measure: _____ (Date)

Chairman of the Council

OFFICE OF THE MAYOR

Received by the Mayor: _____, at _____
Date Time

G.T. Bynum, Mayor

By _____
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: _____,
Date

_____.
Time

Mayor

(Seal)
ATTEST:

City Clerk

APPROVED:

City Attorney

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) IRA LEE WILKINS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 19-cv-00069-TCK-JFJ
)	
(1) CITY OF TULSA, OKLAHOMA,)	
(2) OFFICER WILL MORTENSON,)	
(3) OFFICER ANGELA EMBERTON, and)	
(4) OFFICER RANGEL,)	
)	
Defendants.)	

JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT

NOW ON this 8th day of August 2022, this matter comes before the undersigned Judge. Plaintiff Ira Lee Wilkins appears by and through their attorneys of record, Robert M. Blakemore, Daniel E. Smolen, and Bryon D. Helm and Defendant City of Tulsa appears by and through its attorneys of record, T. Michelle McGrew, Senior Assistant City Attorney and Kristina L. Gray, Litigation Division Manager for City of Tulsa Legal Department. This Court has been advised that the parties have reached a settlement of Plaintiff's claims. The parties have filed a Joint Motion To Enter Journal Entry of Judgment Upon Agreed Settlement [Doc. No.96]. This Court hereby grants the Motion and enters the following Journal Entry of Judgment Upon Agreed Settlement:

The Court, having reviewed the allegations set forth in Plaintiff's Complaint [Dkt. #1], has been advised that the judgment proceeds being paid on behalf of the Defendant City of Tulsa to the Plaintiff herein shall be paid from the City of Tulsa's pooled cash and investment portfolio which has sufficient funds available to pay said judgment. The Court has further been advised that the City's Mayor has authorized a compromise settlement in a lump sum

of Sixty Thousand Dollars and 00/100 (\$60,000.00) and the Court being satisfied that Plaintiff fully understands the nature of this action with regard to its finality which precludes additional or further compensation for damages arising from the events identified in Plaintiff's Complaint and, upon being further advised by Plaintiff that it is his desire to settle the entirety of all claims and causes of action relating to the events identified in the Complaint, including costs, fees, interest, and attorney fees, upon payment in the sum of Sixty Thousand Dollars and 00/100 (\$60,000.00), the Court finds:

1. That the Court has jurisdiction over the subject matter of this lawsuit and the parties hereto;

2. That Plaintiff is fully aware of his rights in this matter and it is Plaintiff's desire to compromise his right to trial by jury;

3. That Plaintiff desires to accept as full, final and complete settlement the one-time payment of the sum of Sixty Thousand Dollars and 00/100 (\$60,000.00), for any and all damages, losses, fees, attorney fees, interest, and expenses sustained as a result of the events identified in Plaintiff's Complaint;

4. That this settlement is not an admission that the City of Tulsa or its employees were negligent or violated the Plaintiffs' constitutional rights, but is only recognition of the uncertainty of trial;

5. The Plaintiff has agreed to dismiss with prejudice and/or forgo any and all claims against the City of Tulsa and its employees individually;

6. That the Defendant, City of Tulsa, has agreed to settle Plaintiff's lawsuit in the lump sum of Sixty Thousand Dollars and 00/100 (\$60,000.00);

8. That the Defendant City of Tulsa shall pay the Sixty Thousand Dollars and

00/100 (\$60,000.00) lump sum to the Plaintiff from the City of Tulsa's pooled cash and investment portfolio which has sufficient funds available to pay said judgment within forty-five (45) days of the filing of this Journal Entry by the Court;

9. That all parties request this Court to approve and finalize their mutual settlement;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that Plaintiff will recover from the Defendant City of Tulsa damages in the total sum of Sixty Thousand Dollars and 00/100 (\$60,000.00) for any and all damages, losses, fees, attorney fees, interest, and expenses incurred or sustained incident to the events described in Plaintiff's Complaint and that the Sixty Thousand Dollars and 00/100 (\$60,000.00) lump sum shall be paid from the City of Tulsa's pooled cash and investment portfolio which has sufficient funds available to pay said judgment within forty-five (45) days of the filing of this Journal Entry by the Court;

IT IS FURTHER ORDERED BY THE COURT that Plaintiff's claim against Defendant City of Tulsa and any of its employees is dismissed with prejudice and that payment to Plaintiff by the City of Tulsa on behalf of Defendant City of Tulsa will preclude any further or separate action by Plaintiff against Defendant City of Tulsa or any employees of the City of Tulsa arising from or pertaining to the events described in Plaintiff's Complaint.


TERENCE KERN
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

/s/ Bryon D. Helm

Robert M. Blakemore, OBA #18656

Daniel E. Smolen, OBA # 19943

Bryon D. Helm, OBA # 33003

SMOLEN & ROYTMAN, PLLC

701 S. Cincinnati Ave.

Tulsa, OK 74119

Telephone: (918) 5852667

Facsimile: (918) 585-2669

BobBlakemore@SSROK.com

DanielSmolen@SSROK.com

BryonHelm@SSROK.com

ATTORNEYS FOR PLAINTIFFS

ATTORNEYS FOR DEFENDANT

/s/ T. Michelle McGrew

T. Michelle McGrew, OBA #20279

Senior Assistant City Attorney

Kristina L. Gray, OBA #21685

Litigation Division Manager

City Hall, One Technology Center

175 East Second Street, Suite 685

Tulsa, OK 74103

mmcgrew@cityoftulsa.org

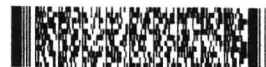
kgray@cityoftulsa.org

Legal Records

Version 2.6 released on 8/3/21

For torts, lawsuits, settlements, and other legal actions. Use other more specified RFAs for other record types including Contracts, MOUs, Election Actions, Worker's Compensation Orders and Miscellaneous

Legal



CITY COUNCIL USE ONLY

Date Received: _____
Committee Date: _____
1st Agenda Date: _____

Tracking #: _____
Committee: _____
Hearing Date: _____
2nd Agenda Date: _____

☐ Scanned
☐ Posted

CITY CLERK USE ONLY
Date: _____
Item #: _____

All department items requiring Council approval must be submitted through the Mayor's Office.

Primary Details

Legal Action Type

Lawsuit - Settlement

Department

Legal

Incident Date

Name

Ira Lee Wilkins

Contact Name

Michelle McGrew (tmd)

Legal Case No.

19-CV-00060

Court Order Date

Email

tmcgrew@cityoftulsa.org

Amount

\$60,000.00

Originating Department

Police

Council Approval

☐ Yes ☒ No

Phone

9185967717

Date Filed City Clerk

6/10/19

Budget/Payments

Funding Source(s) / Checks to be Issued

TOTAL:

Approvals

Department: _____

Legal: _____

Board: _____

Mayor: _____

Other: _____

Date: _____

Date: _____

Date: _____

Date: _____

Date: _____

Summary

Background Information

On February 5, 2017 Ira Lee Wilkins was arrested by three Tulsa Police Officers. On February 5, 2019 Mr. Wilkins filed suit against the arresting officers for excessive force. On June 21, 2021 Judge Kem of the Northern District granted the defendants' Motion for Summary Judgment, finding the officers were entitled to Qualified Immunity. The trial court found the officers' use of force reasonable. On May 3, 2022 the 10th Circuit reversed, finding a jury could find a constitutional violation and remanded the case for the trial court to rule on Mr. Wilkin's municipal liability claim. On July 15, 2022, the parties attended a court mandated settlement conference. After protracted negotiations, the City Legal Department secured a dismissal with prejudice as to all three officers an settlement between the City and Plaintiff in the amount of \$60,000.00. (see attached Memo)

Summation of the Requested Action

Request the Mayor approve settlement of this case in the amount of \$60,000.00

Other Pertinent Information

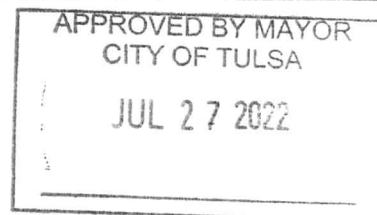
Processing Information for City Clerk's Office

Post Execution Processing

- ☐ Mail vendor copy (add'l signature copies attached)
☐ Must be filed with other governmental entity
☐ Add'l governmental entity approval(s) required

Additional Routing and Processing Details

Return executed RFA to City Legal for further processing.



INTEROFFICE CORRESPONDENCE

To: Mayor GT Bynum
From: T. Michelle McGrew, Senior Assistant City Attorney
Date: July 21, 2022
Subject: Settlement Approval, Earnest Joe Fields v. City of Tulsa,
Case No. 19-cv-00060-TCK-JFJ

On February 5, 2017, convicted felon Ira Wilkins was arrested for Felony Assault and Battery of a Police Officer, Felony Actual Physical Control of a Motor Vehicle While Under the Influence of Alcohol (Second Offense), and misdemeanor resisting arrest. Wilkins was arrested by Tulsa police officers who responded to a call from a security guard that a man was sleeping in his vehicle, with the motor running and loud music blaring, while parked at Jackie Cooper Imports at approximately midnight. The security guard was unable to wake the man.

When the officers arrived at the scene, they found Wilkins still asleep in his vehicle with the vehicle motor running and loud music blaring, just as the Security Guard had reported. Two of the three responding officers observed an empty bottle of alcohol on the floorboard of Wilkins' vehicle. All three officers noted the smell of alcoholic beverage on Wilkins' breath.

When one of the officers tried to conduct a pat down search, Wilkins, who was handcuffed, resisted, grabbed the officer's hand and refused commands. Wilkins resisted the officer's attempt to search his right rear pocket. In order to neutralize the threat to the officers and to complete the search of Wilkins, officers took Wilkins to the ground. He continued to resist so officers used an intermediate use of force to gain compliance. One officer deployed a one second spray of O.C. (commonly called "Pepper Spray"). Only then were officers able to complete the search of Wilkins.

On February 5, 2019, Ira Wilkins filed a 42 U.S.C. § 1983 action against the three officers and the City of Tulsa, alleging the officers used excessive force during his arrest and violated his Fourth Amendment Constitutional rights. Wilkins also alleged a Municipal Liability claim against the City.

After conducting discovery, City Legal filed a Motion for Summary Judgment on behalf of the officers and the City. On June 21, 2021, Judge Kern of the Northern District of Oklahoma granted defendants' Motion for Summary Judgment, finding all three officers were entitled to the complete defense of Qualified Immunity. The trial court specifically found the officers' use of force was reasonable and Wilkins failed to prove a constitutional violation.

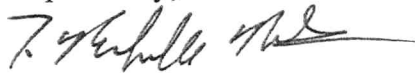
On May 3, 2022, the Tenth Circuit reversed, finding a jury could find a constitutional

violation. The Tenth Circuit remanded the case for the trial court to rule on Wilkins' municipal liability claim.

On July 15, 2022, the parties attended a Court-mandated Settlement Conference. After protracted negotiations, the City Legal Department secured a dismissal with prejudice as to all three officers and settlement between the City and Plaintiff in the amount of \$60,000.00 which includes all damages, fees, attorney fees, interest, and costs. The Legal Department recommends approval of this settlement in the amount of \$60,000.00.

If you have any questions or need any additional information, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "T. Michelle McGrew", with a long horizontal flourish extending to the right.

T. Michelle McGrew
Senior Assistant City Attorney