

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: 11.09.2022
☐ Posted Item #: 2211.02541

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

Primary Details

Board Approval

Department: Legal
Contact Name: T. Michelle McGrew (tmd)

Resolution Type:
Authorizing Sinking Fund Credit or Payment

Amount: \$110,000.00
Case Number: CJ-2016-4521

Description (Subject):
Payment of Lawsuit

Section: _____
Township: _____

Lot: _____
Block: _____

Other Board Name

Email: mmcgrew@cityoftulsa.org

Owner-Grantor:
Sharae Heather McMinn

TMAPC Number: _____

Bid/Project Number: _____

Range: _____

Address: _____

City Council Approval

☒ Yes ☐ No

Phone: 9185967717

Council District: _____

Addition: _____

Budget

Funding Source(s): _____

TOTAL:

Approvals

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

Date: 11-3-22
Date: 11-3-2022
Date: NOV 09 2022
Date: _____

Policy Statement

Background Information

On November 2, 2022 Mayor Bynum approved settlement of the above lawsuit in the amount of \$110,000.00. The Journal Entry of Judgment Upon Agreed Settlement was signed by the Judge and filed with the Court on November 3, 2022. (see attached JE)

Summation of the Requested Action

Upon Council approval, request that the Mayor direct finance to issue a check in the amount of \$110,000.00 payable to: Sharae Heather McMinn, Plaintiff; Rogers & Ritzhaupt, PLLC and Stanley D. Monroe, PC, attorneys at law and forward to the Legal Department for further processing.

Emergency Clause?

☐ Yes
☐ No

Reason for Emergency Clause

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

(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 3rd day of November, 2022, in Case No. CJ-2016-4521, filed in the District Court of Tulsa County, State of Oklahoma, judgment was entered based on a settlement agreed to by and between Sharae Heather McMinn, Plaintiff, and the City of Tulsa, Defendant, in the sum of One Hundred Ten Thousand and 00/100 Dollars (\$110,000.00), 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 SHARAE HEATHER MCMINN, Plaintiff, and ROGERS & RITZHAUPT, PLLC and STANLEY D. MONROE, PC Attorneys at Law, the sum of One Hundred Ten Thousand and 00/100 Dollars (\$110,000.00); 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 DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA**

SHARAE HEATHER MCMINN,)

Plaintiff,)

vs.)

JOHNIE DWAYNE HUNTER,)
and the CITY OF TULSA, OKLAHOMA,)
a Municipal Corporation,)

Defendants.)

Case No. CJ-2016-4521
Judge Nightingale

**DISTRICT COURT
FILED**

NOV 03 2022

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT

NOW ON this 2 day of Nov, 2022, this matter comes before the undersigned judge. Plaintiff, Sharae Heather McMinn, appears by and through her attorneys of record, Lori K. Rogers and Stanley D. Monroe, and Defendant City of Tulsa, appears by and through its attorney of record, T. Michelle McGrew, Senior Assistant City Attorney.

The Court, having reviewed the allegations set forth in Plaintiff's Petition, having reviewed the Defendant's *Offer of Proof* filed herein on the 2 day of Nov, 2022 evidencing that the statutory requirements pursuant to 62 O.S. § 362 have been met and that the judgment proceeds being paid by the Defendant to the Plaintiff herein shall be paid from the City of Tulsa's Sinking Fund which has sufficient funds available to pay said judgment as evidenced by the Affidavit of Chad Becker attached as Exhibit "A" to the Defendant's *Offer of Proof*, and the Court being advised that the City's Mayor has authorized a compromise settlement in the sum of One Hundred Ten Thousand Dollars and 00/100 (\$110,000.00) 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 occurrence of the event identified in Plaintiff's Petition and, upon being further advised by Plaintiff that it is her

desire to settle the entirety of all claims and causes of action relating to the events identified in their Petition, including costs and fees, upon payment in the sum of One Hundred Ten Thousand Dollars and 00/100 (\$110,000.00), the Court finds:

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

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

3. That Plaintiff desires to accept as full, final and complete settlement the sum of One Hundred Ten Thousand Dollars and 00/100 (\$110,000.00), for any and all damages, losses, fees and expenses sustained as a result of the events identified in Plaintiff's Petition;

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

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

6. That by agreement of the parties, Defendant's payment to her will stand as full compensation to Plaintiff in her personal and representative capacity and preclude any further or separate action by Plaintiff or those she represents against City of Tulsa, a municipal corporation, or any of its employees, arising from or relating to the events described in Plaintiff's Petition;

7. That the City has agreed to settle Plaintiff's lawsuit in the sum of One Hundred Ten Thousand Dollars and 00/100 (\$110,000.00);

8. That the City shall pay the Plaintiff from the City of Tulsa's Sinking Fund which has sufficient funds available to pay said judgment; and

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

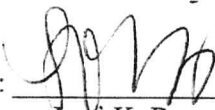
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that Plaintiff for herself and in her representative capacity has and will recover from the Defendant City of Tulsa, Oklahoma, damages in the total sum of One Hundred Ten Thousand Dollars and 00/100 (\$110,000.00), as full, final and complete compensation for any and all damages, losses, fees, and expenses incurred or sustained incident to the events described in Plaintiff's Petition and that said damages shall be paid from the City of Tulsa's Sinking Fund which has sufficient funds available to pay said judgment; and

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

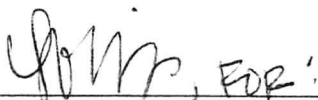
REBECCA NIGHTINGALE

JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

By: 
Lofi K. Rogers, OBA #21542
Kameran R. Ritzhaupt
Rogers & Ritzhaupt, PLLC
4520 South Harvard. Suite 200B
Tulsa, OK 74135

By:



Stanley D. Monroe, OBA #6305
15 West 6th Street, Suite 2800
Tulsa, OK 74119

By:



T. Michelle McGrew, OBA #20279
Senior Assistant City Attorney
City of Tulsa
175 East Second Street, Suite 685
Tulsa, Oklahoma 74103
(918) 596-7717
(918) 596-9700 Facsimile

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: _____

CITY CLERK USE ONLY

☐ Scanned Date: _____
☐ Posted Item #: _____

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

Primary Details

Legal Action Type

Lawsuit - Settlement

Court Order Date

Council Approval

☐ Yes ☒ No

Department

Legal

Contact Name

Michelle McGrew (tmd)

Email

tmcgrew@cityoftulsa.org

Phone

9185967717

Incident Date

11/16/16

Legal Case No.

CJ-2016-4521

Amount

\$110,000.00

Name

Sharae McMinn

Originating Department

Police

Date Filed City Clerk

Budget/Payments

Funding Source(s) / Checks to be Issued

TOTAL:

Approvals

Department: _____

Legal: _____

Board: _____

Mayor: _____

Other: _____

APPROVED BY MAYOR
CITY OF TULSA

NOV 02 2022

Date: _____

Date: 10-27-22

Date: 10-27-2020

Date: _____

Date: _____

Date: _____

Summary

Background Information

Sharae McMinn filed suit seeking damages for injuries she sustained in a motor vehicle accident involving a drunk driver and two TPD officers. Ms. McMinn was pulled over by an Officer-In-Training and his Field Training Officer for a faulty tail light. She was asked to exit her vehicle while the officers searched it as they smelled the odor of marijuana when she rolled down her window. She was instructed to stand behind her car as the officers believed that was the safest place for her given the location of the stop. This placed her between her car and the officers' vehicle. While she was standing between the two vehicles, the patrol car was rear-ended by a drunk driver, causing Ms. McMinn to be pinned between the two vehicles. She suffered significant injuries and has residual health issues from this accident. On October 19, 2022, the parties participated in mediation wherein the City was able to negotiate a settlement in the amount of \$110,000.00 with no admission of liability. The Legal Department recommends approval of this settlement. (see attached memo)

Summation of the Requested Action

Request the Mayor approve settlement of this matter in the amount of \$110,000.00.

Other Pertinent Information

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

Please return executed RFA to City Legal for further processing.

INTEROFFICE CORRESPONDENCE

To: Mayor GT Bynum
From: T. Michelle McGrew, Senior Assistant City Attorney
Date: October 25, 2022
Subject: Settlement Approval, Sharae McMinn v. City of Tulsa,
Case No. CJ: 2016-4521 (Judge Rebecca Nightingale)

This case involves a November 13, 2016 motor vehicle accident involving a drunk driver (Johnie Hunter), two TPD officers and the Plaintiff Sharae McMinn, who suffered extensive injuries including a pelvic fracture, tibia fracture, multiple surgeries and bladder incontinence secondary to a crush injury to her pelvis. Ms. McMinn has significant residual health issues from this accident.

On that Sunday night, at about 10:15 p.m., an Officer-in-Training and his FTO (Field Training Officer) had pulled over Ms. McMinn on East Skelly Dr. (runs parallel to Interstate 44) for driving with a faulty tail light. The officers pulled their vehicle behind Ms. McMinn's vehicle, leaving approximately a car length between the vehicles. When officers approached Ms. McMinn they smelled the odor of marijuana when she rolled down her window.

The FTO asked the Officer-in-Training to have Ms. McMinn exit her vehicle and stand behind it while they conducted a search. She consented to the search. The FTO believed standing between the two vehicles was the safest place for her because if she stood to the left, she would be in the traffic lane. If she stood too close to the guard rail on the right, she would be exposed to potential debris from traffic or a blowout on I-44.

When the Officer-in-Training went to his patrol car to check Ms. McMinn's information, the FTO and Ms. McMinn stood in between the two vehicles. Suddenly, without warning, a large pick-up truck, pulling a large trailer with an industrial-sized karaoke machine crashed into the rear of the patrol car. Even though the officer immediately jammed his foot on the brake, the force of the impact was so great, it pushed the patrol 46 feet into Ms. McMinn and then pushed her vehicle another 56 feet. Ms. McMinn was crushed between the two vehicles.

The driver of the pick-up fled the scene. Officers immediately radioed for EMSA and for backup giving a description of the truck and the direction it was headed. Defendant Johnie Dewayne Hunter (a Defendant in this case) was subsequently arrested. He later plead guilty to felony Leaving the Scene of Collision and a misdemeanor charge of Failure to Yield for Emergency Vehicle. He spent two years in prison for his crimes.

Ms. McMinn timely filed a Notice of Tort Claim and then filed suit in Tulsa County January 18, 2028. She alleged that Hunter, and the City were negligent because the two officers allowed

Ms. McMinn to stand between the two vehicles.

We filed a Motion for Summary Judgment on the grounds that as a matter of law, Hunter's actions were a supervening cause of the accident, and his criminal actions absolve the City from any negligence. Judge Nightingale denied the City's Motion for Summary Judgment.

On October 19, 2022, the parties attended a Mediation and after protracted negotiations, the City Legal Department secured a settlement between the City and Plaintiff in the amount of \$110,000.00 (plus costs of the Mediation), with no admission of liability. The Legal Department recommends approval of this settlement in the amount of \$110,000.00.

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", written over the word "Respectfully,".

T. Michelle McGrew
Senior Assistant City Attorney