

# Resolution

Version 2.3 released on 8/3/21  
Use for all types of Resolutions



## CITY COUNCIL USE ONLY

Date Received: \_\_\_\_\_  
Committee Date: \_\_\_\_\_  
1<sup>st</sup> Agenda Date: \_\_\_\_\_

Tracking #: \_\_\_\_\_  
Committee: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_  
2<sup>nd</sup> Agenda Date: \_\_\_\_\_

## CITY CLERK USE ONLY

☐ Scanned

Date: 03.22.2023

☐ Posted

Item #: 2303\_00508

*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

Phone: 9185967717

### Resolution Type

Authorizing Sinking Fund Credit or Payment

### Owner-Grantor

Amount: \$40,000.00  
Case Number: CJ-2022-1110

### 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: T. Michelle McGrew  
Board: \_\_\_\_\_  
Mayor: [Signature]  
Other: \_\_\_\_\_

Date: 3.20.23  
Date: 3.14.2023  
Date: \_\_\_\_\_  
Date: MAR 22 2023  
Date: \_\_\_\_\_

## Policy Statement

### Background Information

On January 18, 2023 Mayor Bynum approved settlement of the above lawsuit in the amount of \$40,000.00. The Journal Entry of Judgment was signed by the Judge and filed with the court on March 8, 2023. (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 \$40,000.00 payable to: Ruben Cabrera, Alma Rivas, Celeste Monroy, Tulsa Diagnostic Imaging, Cate Chiropractic, Heritage Med Cntr, Alliance Chiropractic, OK PT, OK Med Ser Supply, Dr. Fielding, Dr. Sparks, Phy Rehab Cntr of Tulsa, and Gregory Copeland.

### Emergency Clause?

☐ Yes  
☐ No

### Reason for Emergency Clause

\_\_\_\_\_

## 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 and Resolution to City Legal for further processing

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(Published in the Tulsa World,  
\_\_\_\_\_, 2023.)

## **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 March, 2023, in Case No. CJ-2022-1110, filed in the District Court of Tulsa County, State of Oklahoma, judgment was entered based on a settlement agreed to by and between Ruben Diaz Cabrera, Alma Rivas, and Celeste Kay Monroy, Plaintiffs, and the City of Tulsa, Defendant, in the sum of Forty Thousand and 00/100 Dollars (\$40,000.00), (to be distributed as follows: Ruben Diaz Cabrera the sum of \$15,000.00; Alma Rivas the sum of \$20,000.00 and Celeste Kay Monroy the sum of \$5,000.00) 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 RUBEN DIAZ CABRERA, ALMA RIVAS, and CELESTE KAY MONROY, Plaintiffs, TULSA DIAGNOSTIC IMAGING, CATE CHIROPRACTIC, ALLIANCE CHIROPRACTIC, HERITAGE MEDICAL CLINIC, OK PHYSICAL THERAPY, OK MEDICAL SERVICES SUPPLY, DR. ALLAN FIELDING, DR. JASON SPARKS, Lien Holders, and GREGORY COPELAND, Attorney at Law, the sum of Forty Thousand and 00/100 Dollars (\$40,000.00); the same representing the full amount of the judgment, interest, costs and attorney fees, now due and owing to the Plaintiffs in the lawsuit identified above

as outlined 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:

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City Clerk

APPROVED:

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City Attorney

**IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA**

RUBEN DIAZ CABRERA, individually and )  
ALMA RIVAS, individually, and As Next Friend )  
to CELESTE KAY MONROY, )

Plaintiffs, )

vs. )

THE CITY OF TULSA, )

Defendant. )

Case No. CJ-2022-01110  
Judge Caroline Wall

**JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT**

NOW ON this 7 day of March 2023, this matter comes before the undersigned judge. Plaintiffs, Ruben Diaz Cabrera, Alma Rivas and Celeste Kay Monroy, appear by and through their attorney of record, Gregory V. Copeland, 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 Plaintiffs' Petition, having reviewed the Defendant's *Offer of Proof* filed herein on the 3 day of March, 2023 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 Plaintiffs 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 Forty Thousand Dollars and 00/100 (\$40,000.00) and the Court being satisfied that Plaintiffs fully understand 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 Plaintiffs' Petition and, upon being further advised by Plaintiffs that it is their

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 Forty Thousand Dollars and 00/100 (\$40,000.00), the Court finds:

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

2. That Plaintiffs for themselves and in their representative capacity are fully aware of their rights in this matter and it is Plaintiffs' desire to compromise their right to trial by jury;

3. That Plaintiffs desire to accept as full, final and complete settlement the sum of Forty Thousand Dollars and 00/100 (\$40,000.00), for any and all damages, losses, fees and expenses sustained as a result of the events identified in Plaintiffs' Petition to be distributed as follows: Ruben Diaz Cabrera the sum of Fifteen Thousand Dollars and 00/100 (\$15,000.00); Alma Rivas the sum of Twenty Thousand Dollars and 00/100 (\$20,000.00) and Celeste Kay Monroy the sum of Five Thousand Dollars and 00/100 (\$5,000.00);

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 Plaintiffs have 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 them will stand as full compensation to Plaintiffs in their personal and representative capacity and preclude any further or separate action by Plaintiffs or those they represent against City of Tulsa, a municipal corporation, or any of its employees, arising from or relating to the events described in Plaintiffs' Petition;

7. That the City has agreed to settle Plaintiffs' lawsuit in the sum of Forty Thousand

Dollars and 00/100 (\$40,000.00) to be distributed as outlined in Paragraph 3;

8. That the City shall pay the Plaintiffs 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 Plaintiffs for themselves and in their representative capacity have and will recover from the Defendant City of Tulsa, Oklahoma, damages in the total sum of Forty Thousand Dollars and 00/100 (\$40,000.00), as full, final and complete compensation for any and all damages, losses, fees, and expenses incurred or sustained incident to the events described in Plaintiffs' 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 Plaintiffs' claims against Defendant City of Tulsa are dismissed with prejudice and that payment to Plaintiffs by Defendant City of Tulsa will preclude any further or separate action by Plaintiffs against Defendant City of Tulsa or any employee of Defendant City of Tulsa arising from or pertaining to the events described in Plaintiffs' Petition.

**Caroline Wall**

JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

By: 

Gregory V. Copeland  
Copeland Law Offices, PLLC  
6450 South Lewis Avenue, Suite 200  
Tulsa, OK 74136

I, Don Newberry, Court Clerk, for Tulsa County, Oklahoma,  
hereby certify that the foregoing is a true, correct and  
copy of the instrument herewith set out and filed for record  
in the Court Clerk's Office of Tulsa County, Oklahoma.

MAR 08 2023  
By:  Deputy



By: T. Michelle McGrew  
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

1/27/17

### Legal Case No.

CJ-2022-1110

### Amount

\$40,000.00

### Name

Ruben Cabrera, Alma Rivas, Celeste Monroy

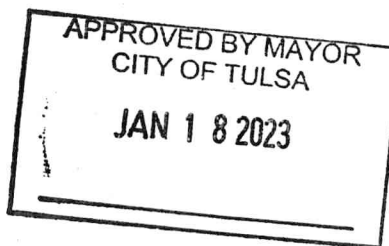
### Originating Department

Working in Neighborhoods

### Date Filed City Clerk

## Budget/Payments

### Funding Source(s) / Checks to be Issued



TOTAL:

## Approvals

### Department:

### Legal:

### Board:

### Mayor:

### Other:

Date: 1-17-23

Date: 1-17-2023

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Summary

### Background Information

Ruben Cabrera, Alma Rivas and Celeste Monroy filed suit seeking both property damages and personal injury resulting from an admitted liability accident that occurred on January 27, 2017. This incident involved Ms. Rivas' vehicle and a city vehicle driven by an employee in Working in Neighborhoods. (See attached Memo) On July 13, 2018 the parties attended a court-ordered settlement conference but the case did not settle. On January 5, 2021 the City offered to allow judgment to be entered in the following amounts: Ruben Cabrera \$15,000.00; Alma Rivas \$20,000.00 and Celeste Monroy \$5,000.00. The offer was rejected. Plaintiffs are now willing to accept the City's initial offers.

### Summation of the Requested Action

Request the Mayor approve settlement in this matter as outlined above and return to City Legal for further processing.

### 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

Please return executed RFA to City Legal for further processing.

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*INTEROFFICE CORRESPONDENCE*

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**To:** Mayor G.T. Bynum  
**From:** T. Michelle McGrew, Senior Assistant City Attorney  
**Date:** January 17, 2023  
**Subject:** Settlement Approval for Case No. CJ-2022-1110 Cabrera et al v. City of Tulsa

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This admitted liability motor vehicle accident case arises from an incident that occurred on January 27, 2017. Plaintiff Ruben Cabrera, 35 years of age, was driving a 1996 Chevrolet S10 pickup eastbound on East 6<sup>th</sup> Street. His wife, plaintiff Alma Rivas, 31 years of age, and their 12 year old daughter, Celeste Monroy were passengers.

As Ruben Cabrera entered the intersection of East 6<sup>th</sup> Street and South Franklin, his truck was struck by a 2002 Ford F150 pickup truck, owned by the City of Tulsa and driven by a City employee. The City of Tulsa has admitted liability for the occurrence of the accident. Plaintiff's timely filed tort claim but failed to claim any property damage.

On July 13, 2018, attorney Gregory Copeland filed a Petition on Plaintiff's behalf, seeking "in excess of \$10,000.00". The parties completed discovery and attended a court-ordered Settlement Conference but the case did not settle. On January 5, 2021, the City offered to allow judgment to be entered in the following amounts: Ruben Cabrera \$15,000.00; Alma Rivas \$20,000.00 and Alma Rivas as Next Friend and parent of Celeste Monroy \$5,000. The City offered these amounts at the Settlement Conference. Plaintiff's again rejected the offers.

Ruben Cabrera claimed nearly \$15,000.00 in past medical bills for his alleged soft tissue injuries. Alma Rivas claimed over \$20,000.00 in medical bills for her alleged injuries to her neck, knees and back. Plaintiffs' claimed over \$5,000.00 in medical bills for Celeste's soft tissue injuries.

Just before the Pretrial Conference, Attorney Copeland dismissed Plaintiffs' lawsuit without prejudice. He refiled it exactly one year later. Now, Plaintiffs are willing to accept the City's initial offers of \$15,000 for Ruben Cabrera, \$20,000 for Alma Rivas and \$5,000 for the minor. The Legal Department recommends approval of these settlements.

Respectfully,

T. Michelle McGrew, Senior Assistant City Attorney