

Resolution

Version 2.5 released on 6/29/23

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: 09.13.2023

☐ Posted

Item #: 2309-02086

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

Primary Details

Board Approval

Department

Legal

Contact Name

Komron Takmil (tmd)

Other Board Name

Email

ktakmil@cityoftulsa.org

City Council Approval

☒ Yes ☐ No

Phone

9185967717

Resolution Type

Authorizing Sinking Fund Credit or Payment

Owner-Grantor

Summer Schrag

Amount

\$150,000.00

Case Number

CJ-2022-1215

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: 9.11.23

Date: 9/11/23

Date: _____

Date: SEP 13 2023

Date: _____

Policy Statement

Background Information

On August 16, 2023 the Mayor approved settlement in this case in the amount of \$150,000.00. The Journal Entry was signed by the Judge and filed with the Court on September 8, 2023. (See attached JE)

Summation of the Requested Action

Request Council approve Resolution and Mayor approve payment in this lawsuit and direct Finance to issue a check in the amount of \$150,000.00 made payable to Summer Schrag, Plaintiff and Ryan Fulda, Attorney at Law and forward to City Legal for further processing.

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

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

(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 August, 2023, in Case No. CJ-2022-1215, filed in the District Court for Tulsa County, State of Oklahoma, judgment was entered based on a settlement agreed to by and between Summer Schrag, Plaintiff, and the City of Tulsa, Defendant, in the sum of One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00), 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 SUMMER SCHRAG, Plaintiff, and RYAN FULDA, Counsel for Plaintiff, the sum of One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00); 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

DISTRICT COURT
FILED

SEP 08 2023

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

SUMMER SCHRAG,
Plaintiff,

vs.

CITY OF TULSA,
Defendants.

Case No. CJ-2022-1215
Judge Priddy

JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT

NOW ON this 7 day of September 2023, this matter comes before the undersigned Judge. Plaintiff, Summer Schrag, appears by and through her attorney of record, Ryan Fulda, and Defendant City of Tulsa, appears by and through its attorney of record, Komron Takmil, 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 7 day of September, 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 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 D. 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 compromised settlement in the sum of One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00) 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 its Petition, including costs and fees, upon payment in the sum of One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00), 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 Fifty Thousand and 00/100 (\$150,000.00), 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 any employees of the City of Tulsa individually;

6. That by agreement of the parties, Defendant's payment to Plaintiff 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 Fifty Thousand Dollars and 00/100 (\$150,000.00);

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 recovers from the Defendant City of Tulsa, Oklahoma, damages in the total sum of One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00), 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.


JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

By: 

Ryan J. Fulda
Fulda Law, PLLC
1800 South Baltimore Avenue, Suite 420
Tulsa, OK 74119

By:



Komron Takmil, OBA #33282

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 2.8 released on 6/29/23

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

Sege



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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

Komron Takmil (tmd)

Email

ktakmil@cityoftulsa.org

Phone

918-596-7717

Incident Date

12/26/21

Legal Case No.

CJ-2022-1215

Amount

\$150,000.00

Name

Summer Schrag

Originating Department

Water and Sewer

Date Filed City Clerk

1/10/22

Budget/Payments

Funding Source(s) / Checks to be Issued

TOTAL:

Approvals

Department: _____

Legal: _____

Board: _____

Mayor: _____

Other: _____

Date: 8.14.23

Date: 8/19/23

Date: _____

Date: _____

Date: _____

APPROVED BY MAYOR
CITY OF TULSA

AUG 16 2023

Summary

Background Information

On December 26, 2021 Ms. Schrag injured her left knee when she fell into a water meter can that was not properly secured. After investigating the incident, it was determined that the meter can was a hazard and the City had notice of the hazard prior to Ms. Schrag's incident. Ms. Schrag underwent surgery on her left knee and followed up with physical therapy thereafter. The City has negotiated a settlement to resolve this matter for \$150,000.00. (See attached Memo)

Summation of the Requested Action

Request Mayor approve settlement of this lawsuit in the amount of \$150,000.00 and return to the Legal Department 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

Return Executed RFA to City Legal for further processing.

INTER-OFFICE CORRESPONDENCE

To: Mayor G.T. Bynum
From: Komron Takmil, Assistant City Attorney
Date: August 10, 2023
Subject: Settlement Approval, Case No. CJ-2022-01215

On December 26, 2021, at approximately 6:30 p.m., the Plaintiff, Summer Schrag, was injured leaving Amazon Laundry at the Fontana Shopping Center at 51st and Memorial Dr. Plaintiff states that as she was leaving the laundromat walking to her car, she stepped on a City of Tulsa water meter can in the footpath from the laundromat to the parking lot that was not properly secured. Plaintiff's left leg fell into the meter can causing a tibial plateau fracture and injury to her left knee.

After investigating the incident, the City bears responsibility for the occurrence of the incident. The City Water and Sewer Department had created a work order on December 26, 2021, at 11:18 a.m. as a result of a citizen saying they fell into a water meter can in front of Amazon Laundry before Plaintiff's incident. The City Emergency Man responded to the Amazon Laundry at the Fontana Shopping Center at 51st and Memorial Dr. the same day and noted that that the meter can was solid and not a hazard. Further investigation of the meter can revealed that the meter can was a hazard and the City had notice of the hazard prior to Plaintiff's incident.

Plaintiff's Medical Bills and Medical Prognosis

Plaintiff's medical bills total \$61,237.92. She was taken to St. Francis Hospital South Emergency room the evening of her fall and examined by Dr. Kathryn Rouse. Dr. Rouse evaluated the x-rays taken and referred Plaintiff to Dr. Blake Shockley at Advanced Orthopedics of Oklahoma. Dr. Shockley reviewed Plaintiff's CT Scan and x-rays and transferred her to Dr. Robert Marsh who had more experience with her type of injury and needed surgery. Dr. Marsh performed the surgery at Oklahoma Surgical Hospital. After surgery, Dr. Marsh prescribed physical therapy at Advanced Orthopedics. Plaintiff started physical therapy on March 7, 2022, and participated until July 21, 2022, when she was discharged.

The Plaintiff is not claiming any need for future surgery related to this incident at this time but will release the City from any liability for future surgery if one arises.

Settlement

In her lawsuit, the Plaintiff is seeking damages for reimbursement of her medical bills as well as pain and suffering.

Using the authority you previously provided for \$150,000.00, we have negotiated a settlement with the Plaintiff to resolve this matter for \$150,000.00. The negotiated settlement will include

execution of a Release and Settlement of all claims by the Plaintiff as well as a Dismissal With Prejudice of the pending lawsuit against the City.

The City Legal Department recommends that you approve settlement for \$150,000.00.

Respectfully,

Komron Takmil
Assistant City Attorney