

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: _____

☐ Posted

Item #: _____

02.28.2024
2402.00514

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

Primary Details

Board Approval

Other Board Name

City Council Approval

☒ Yes ☐ No

Department

Legal

Contact Name

Hayes T. Martin (zee)

Email

hmartin@cityoftulsa.org

Phone

918-596-7717

Resolution Type

Authorizing Sinking Fund Credit or Payment

Owner-Grantor

Phillip Duane Bruch and Robert Lowell Burch III

Amount

\$25,326.00

Case Number

CJ-2022-234

TMAPC Number

Council District

Description (Subject)

Bid/Project Number

Section

Township

Range

Addition

Lot

Block

Address

Budget

Funding Source(s)

TOTAL:

Enter the funding source(s) using the appropriate Munis funding format: Org (Allocation Code)-Object-Amount (1001211-531401-\$10.00) or Project String-Amount (144104.AbstTitle5413102.6001-4043122-541102-\$30,000.01)

Approvals

Department: _____

Legal: _____

Board: _____

Mayor: _____

Other: _____

Date: _____

Date: _____

Date: _____

Date: _____

Date: _____

Policy Statement

Background Information

On January 31, 2024, Mayor Bynum approved settlement in this matter in the amount of \$25, 326.00. The Journal Entry was signed by the Judge on February 20, 2024, and filed with the Court on February 20, 2024. (See attached JE)

Provide background information on the requested action.

Summation of the Requested Action

Request Council approve Resolution and Mayor approve payment of this lawsuit and direct Finance to issue a check in the amount of \$25,326.00 made payable to Phillip Duane Burch and Robert Lowell Burch III, Plaintiffs, and Lawter & Associates, PLLC, Attorneys for Plaintiff, and forward to City Legal for further processing.

Summarize the pertinent details of the requested action.

Emergency Clause?

☐ Yes

☐ No

Reason for Emergency Clause

Explain why you are requesting that the City Council approve the action with an 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 forward executed RFA and Resolution to City Legal for further processing.

DISTRICT COURT
FILED
FEB 20 2024
DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

PHILLIP DUANE BURCH and ROBERT)
LOWELL BURCH III,)

Plaintiffs,)

vs.)

THE CITY OF TULSA)

Defendant.)

Case No. CJ-2022-234
Judge Kelly Greenough

JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT

NOW ON this 20 day of Feb 2024 this matter comes before the undersigned Judge. Plaintiffs Phillip and Robert Burch appear by and through their attorneys of record, Matthew Reinstein, Jason S. Bolitho, and Michael J. Moore, and Defendant City of Tulsa appears by and through its attorney of record, Hayes T. Martin, Assistant City Attorney.

The Court, having reviewed the allegations set forth in Plaintiff's Petition, has been advised that the judgment proceeds being paid by 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. The Court has further been advised that the City's Mayor has authorized a compromised settlement in the sum of Twenty Five Thousand, Three Hundred and Twenty Six Dollars and 00/100 (\$25,326.00) 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 against Defendant City of Tulsa 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 against the City of Tulsa relating to the events identified in their Petition, including costs and fees, upon payment in the sum of Twenty Five Thousand, Three Hundred and Twenty Six

Dollars and 00/100 (\$25,326.00), 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 as to Defendant City of Tulsa;

3. That Plaintiffs desire to accept as full, final, and complete settlement of their claims against Defendant City of Tulsa the sum of Twenty Five Thousand, Three Hundred and Twenty Six Dollars and 00/100 (\$25,326.00), for any and all damages, losses, fees, and expenses sustained as a result of the actions of the City or its employees identified in Plaintiffs' 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 Plaintiffs have 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 City's payment to Plaintiffs 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 against the City in the sum of Twenty Five Thousand, Three Hundred and Twenty Six Dollars and 00/100 (\$25,326.00);

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 Plaintiffs and Defendant City 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 recovers from Defendant City of Tulsa, Oklahoma, damages in the total sum of Twenty Five Thousand, Three Hundred and Twenty Six Dollars and 00/100 (\$25,326.00), as full, final, and complete compensation for any and all damages, losses, fees, and expenses incurred or sustained incident to the claims against the City of Tulsa 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

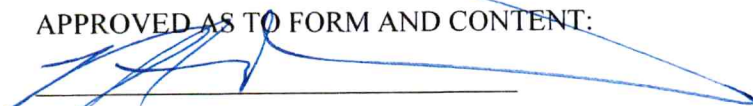
IT IS FURTHER ORDERED BY THE COURT that Plaintiffs' claims against Defendant City of Tulsa are dismissed with prejudice and that payment to Plaintiffs by Defendant City of Tulsa will preclude any further or separate action by Plaintiffs against the City, or any employee of Defendant City of Tulsa arising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

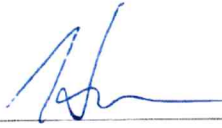
KELLY M. GREENOUGH

2/20/24

JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:


Matthew Reinstein
Lawter & Associates, PLLC
3313 North Classen Boulevard
Oklahoma City, OK 73118
Attorneys for Plaintiff



Hayes T. Martin, OBA #32059
Assistant City Attorney
City of Tulsa
175 East Second Street, Suite 685
Tulsa, Oklahoma 74103
(918) 596-7717
(918) 596-9700 Facsimile

(Published in the Tulsa World,
_____, 2024.)

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 __ day of _____, 2024, in Case No. CJ-2022-234, filed in the District Court for Tulsa County, State of Oklahoma, judgment was entered based on a settlement agreed to by and between Phillip Duane Burch and Robert Lowell Burch III, Plaintiffs, and the City of Tulsa, Defendant, in the sum of Twenty Five Thousand, Three Hundred and Twenty Six Dollars and 00/100 (\$25,326.00) 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 PHILLIP DUANE BURCH AND ROBERT LOWELL BURCH III, Plaintiffs; LAWTER & ASSOCIATES, PLLC, Counsel for Plaintiffs; the sum of Twenty Five Thousand, Three Hundred and Twenty Six Dollars and 00/100 (\$25,326.00)); 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.

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

Legal Records

Version 2.9 released on 11/29/23

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

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

Hayes T. Martin (zee)

Email

hmartin@cityoftulsa.org

Phone

918-596-7717

Incident Date

2/8/21

Legal Case No.

CJ-2022-234

Amount

\$25,326.00

Name

Phillip and Robert Burch

Originating Department

Police

Date Filed City Clerk

Name or Description

Budget/Payments

Funding Source(s) / Checks to be Issued

TOTAL:

Enter the funding source(s) using the appropriate Munis funding format: Org (Allocation Code)-Object-Amount (1001211-531401-\$10.00) or Project String-Amount (144104.AbstTitle5413102.6001-4043122-541102-\$30,000.01)

Approvals

Department: _____

Legal: _____

Board: _____

Mayor: _____

Other: _____

APPROVED BY MAYOR
CITY OF TULSA

JAN 31 2024

Date: _____

Date: _____

Date: _____

Date: _____

Date: _____

Summary

Background Information

On January 25, 2022 attorneys Matthew Reinstein and Mike Moore filed suit on behalf of Phillip and Robert Burch in Tulsa County, Case No. CJ-2022-0234 against the City of Tulsa, alleging personal injury and property damages. Plaintiffs allege that they were injured when their vehicle was struck by a Tulsa Police Department vehicle driven by a Tulsa Police Officer. The Legal Department was able to negotiate the settlement of all claims with a settlement amount of \$25,326.00. (See attached memo.)

Provide background information on the requested action.

Summation of the Requested Action

Request Mayor approve this settlement in the amount of \$25,326.00 and return to City Legal for further processing.

Summarize the pertinent details of the requested action

Other Pertinent Information

Provide any additional information that should be considered when considering approval of this contract document

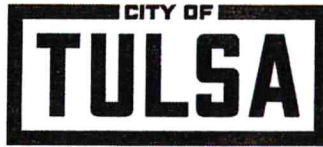
Processing Information for City Clerk's Office

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.



LEGAL

DATE:

January 24, 2024

Mayor Bynum,

On January 25, 2022, attorneys Matthew Reinstein and Mike Moore filed suit on behalf of Philip and Robert Burch in the District Court of Tulsa County, Case No. CJ-2022-0234, seeking recovery for personal injury and property damages incurred in an accident which occurred when the Burches were involved in a collision with a Tulsa Police Department vehicle.

The Plaintiffs alleged they were injured on February 8, 2021 when their vehicle was struck by a Tulsa Police Department vehicle driven by a Tulsa Police Officer. Plaintiff Robert Burch was transported by EMSA to St. John Medical Center where he was treated. Plaintiff Phillip Burch left in a private vehicle. Both brothers later received medical treatment for injuries from the accident.

Plaintiff Phillip Burch claims he suffered injuries to his back and neck as a result of this collision. Plaintiff Phillip Burch treated from February 24, 2021 to May 28, 2021 with Dr Jack Halsey, D.C. Plaintiff Phillip Burch stated that his injuries are largely resolved. His medical bills amount to \$5,874.50. Plaintiff Phillip Burch also claims lost wages in the amount of \$780.00 and mileage reimbursement of \$187.68. Plaintiff Philip Burch also claims property damage in the amount of \$3,200.00. Plaintiff Phillip Burch also seeks compensation for pain and suffering.

Plaintiff Robert Burch claims he suffered injuries to his head, back, right shoulder, abdomen and neck as a result of this collision. Plaintiff Robert Burch was transported via EMA to St. Johns Medical Center. The EMSA charge amounts to \$1,362.70. Plaintiff Robert Burch was evaluated at St. Johns Medical Center. St Johns charges amount to \$11,241.75. Plaintiff Robert Burch also treated from February 24, 2021 to May 28, 2021 with Dr Jack Halsey. His chiropractic bills amount to \$5,704.50. Plaintiff Robert Burch also seeks compensation for pain and suffering.

In preparation for settlement negotiations in this matter, I presented this case to you by email and was authorized to resolve this case. The parties have negotiated the settlement of all claims and the Legal Dept. recommends approval of settlement of this lawsuit in the amount of \$25,326, which includes all damages, fees, attorney fees, interest, and costs.

Respectfully,

A handwritten signature in black ink, appearing to read "Hayes T. Martin".

Hayes T. Martin
Assistant City Attorney