

Resolution

Version 2.5 released on 6/29/23
Use for all types of Resolutions



CITY COUNCIL USE ONLY		CITY CLERK USE ONLY	
Date Received:	Tracking #:	☐ Scanned	Date: 08.07.2024
Committee Date:	Committee:	☐ Posted	Item #: 2408.02078
1st Agenda Date:	Hearing Date:		
	2nd Agenda Date:		

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	Contact Name	Email	Phone
Legal	Hayes T. Martin (tmd)	hmartin@cityoftulsa.org	9185967717
Resolution Type		Owner-Grantor	
Authorizing Sinking Fund Credit or Payment		Jacob and Sarah Boyce	
Amount	Case Number	TMAPC Number	Council District
\$150,000.00	CJ-2023-375		
Description (Subject)		Bid/Project Number	
Payment of Lawsuit			
Section	Township	Range	Addition
Lot	Block	Address	

Budget

Funding Source(s)

TOTAL:

Approvals

Department:		Date:	8.5.24
Legal:		Date:	8/5/24
Board:		Date:	
Mayor:		Date:	AUG 07 2024
Other:		Date:	

Policy Statement

Background Information
On July 26, 2024 Mayor Bynum approved settlement in the above lawsuit in the amount of \$150,000.00. The Journal Entry was signed by the Judge and filed with the Court on July 31, 2024. (See attached JE)

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 \$150,000.00 made payable to Jacob and Sarah Boyce, Plaintiffs, and Buxton Law Group, attorneys at law and return to City Legal for further processing.

Emergency Clause?	Reason for Emergency Clause
☐ Yes	
☐ No	

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 and Resolution to City Legal for further processing.

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

JACOB BOYCE, SARAH BOYCE,)
MCKENNA BOYCE, WANDA SUE)
JACKSON, JACOB BOYCE II,)
JACOB AND SARAH BOYCE,)
As Natural Parents and Next Friends of J.R.B.,)
a Minor Child,)

Plaintiffs,)

vs.)

THE CITY OF TULSA, a municipal)
Corporation,)

Defendants.)

**DISTRICT COURT
FILED**

JUL 31 2024

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

Case No. CJ-2023-00375

Judge LaFortune

JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT

NOW ON this 30th day of July, 2024, this matter comes before the undersigned Judge. Jacob and Sarah Boyce, individually and as the Natural Parents and Next Friends of J.R. B., a Minor Child, Mckenna Boyce, and Jacob Boyce II, Plaintiffs, appear by and through their attorney, Jim Buxton, 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 Plaintiffs' Petition, having reviewed the Defendant's *Offer of Proof* filed herein on the 29th day of July, 2024 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 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 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 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 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 One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00), for any and all damages, losses, fees, and expenses sustained as a result of the events identified in Plaintiffs' Petition;
4. That J.R.B. will receive Nine Hundred Dollars (\$900.00) and the remaining settlement amount will be divided among the remaining Plaintiffs by Sarah and Jacob Boyce.
5. 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;
6. The Plaintiffs have agreed to dismiss with prejudice or forgo any and all claims against any employees of the City of Tulsa individually;
7. That by agreement of the parties, Defendant'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;

8. That the City has agreed to settle Plaintiffs' lawsuit in the sum of One Hundred Fifty Thousand Dollars and 00/100 (\$150,000.00) with Nine Hundred Dollars (\$900.00) being paid to J.R.B.;

9. 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

10. 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 recover 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 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.

William D. LaFortune

JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

By: _____


Jim Buxton, OBA #19057
Buxton Law Group
511 Couch Drive, Suite 300
Oklahoma City, OK 73102
(405) 604-5577
(405) 604-5578 Facsimile

By: _____


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 31st day of July, 2024, in Case No. CJ-2023-375, filed in the District Court of Tulsa County, State of Oklahoma, judgment was entered based on a settlement agreed to by and between Jacob and Sarah Boyce, Plaintiffs, 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 JACOB AND SARAH BOYCE, Plaintiffs, and BUXTON LAW GROUP, Attorneys at Law, 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 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, VOUs, Election Actions, Worker's Compensation Orders and Miscellaneous

bsol



CITY COUNCIL USE ONLY

Date Received: _____
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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 (tmd)

Email

hmartin@cityoftulsa.org

Phone

9185967717

Incident Date

9/8/22

Legal Case No.

CJ-2023-375

Amount

\$150,000.00

Name

Jacob & Sarah Boyce et al

Originating Department

Water and Sewer

Date Filed City Clerk

2/6/23

Budget/Payments

Funding Source(s) / Checks to be Issued

TOTAL:

Approvals

Department: _____

Legal: _____

Board: _____

Mayor: _____

Other: _____

Hayes Martin For Jack Blair

APPROVED BY MAYOR
CITY OF TULSA

JUN 26 2024

Date: 6/24/24

Date: 6/24/24

Date: _____

Date: _____

Date: _____

Summary

Background Information

On January 3, 2023 Buxton Law filed suit on behalf of the Plaintiffs for damages to their residence due to a blockage in the sewer line which caused significant damage to their property. They were seeking restitution for both property and personal damages in excess of \$1,000,000.00. The City was able to negotiate a settlement in the amount of \$150,000.00. (See attached memo)

Summation of the Requested Action

Request that the Mayor approve settlement in this matter 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)
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LEGAL

\$92,535.00. Plaintiffs additionally seek damages for inconvenience, discomfort, and annoyance under their nuisance claim.

Settlement

In preparation for settlement negotiations in this matter, I presented this case to you by email and was authorized to negotiate a settlement to resolve 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 \$150,000.00, which includes all damages, fees, attorney fees, interest, and costs.

Respectfully,

A handwritten signature in blue ink, appearing to read "H. Martin", with a long horizontal flourish extending to the right.

Hayes T. Martin
Assistant City Attorney
City of Tulsa



LEGAL

JUNE 20, 2024

SETTLEMENT APPROVAL REQUEST

Mayor G.T. Bynum

Re: Settlement Approval
Boyce, et al v. City of Tulsa, et. al, CJ-2023-00375

Dear Mayor Bynum:

I am writing to request approval of a settlement of the above-styled lawsuit brought by Attorneys Jim Buxton and Dereck Owens against the City of Tulsa on behalf of Jacob Boyce, Sarah Boyce, McKenna Boyce, Jacob Boyce II, and Minor Child J.R.B. for the amount of \$150,000.00.

Factual Background

On September 8, 2022, wastewater from the City's collection line backed up into Plaintiffs' home. Plaintiff Sarah Boyce testified that around 4:30 AM on September 8, 2022, she arrived home from work and noticed a bad smell as she walked by Plaintiff McKenna Boyce's room. Plaintiff Jacob Boyce testified that he smelled a bad smell and thought a dog had had an accident when he went to work. He did not notice any water. McKenna testified that she woke up in the morning and her floor was wet and there was a bad smell. McKenna woke up her mother Sarah and they began moving items out of the water. Sarah states that this was around 7:30 AM. At some point, Sarah went to home depot to get a shop vacuum. Sarah also called Jacob around noon. Jacob did not arrive home until around 1 PM and called a plumber to assist. The plumber opened the home's cleanouts, which stopped the overflow in the home. Jacob Boyce called the City for the first time at 1:48 PM. The City's emergency crew arrived at 2:25 PM and met with the residents. The emergency crew checked the upstream and downstream manholes. The emergency crew then ran a 4-inch nozzle to knock down the blockage. The emergency crew pulled out 3 gallons of roots and 2.5 gallons of grease. The emergency crew relieved the blockage by 3:00 PM.

Claimed Damages

Plaintiffs' home was significantly damaged as a result of the overflow. As such, Plaintiffs have provided estimates of \$138,147.30 and \$177,853.80 for remediation and reconstruction of their home. Plaintiffs also seek personal property damages of