

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: 11.06.2024

☐ Posted

Item # 2410.02914

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

Primary Details

Board Approval

Department: Legal
Contact Name: Nicholas C. Williams (tmd)

Other Board Name

Email: nwilliams@cityoftulsa.org

City Council Approval

☒ Yes ☐ No

Phone: 9185967717

Resolution Type

Authorizing Sinking Fund Credit or Payment

Owner-Grantor

Carla Arnold

Amount

\$120,000.00

Case Number

CJ-2023-1435

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: 10-28-24
Date: 10/28/24
Date: NOV 06 2024
Date: _____

Policy Statement

Background Information

On September 9, 2024 this matter came before the Court for jury trial before the Honorable Judge Priddy. On September 10, 2024 the parties rested their case and the jury went into deliberation. On September 10, 2024 the Jury found in favor of the Plaintiff and damages were set at \$200,000.00. Negligence was apportioned as 40% to Plaintiff and 60% to Defendant. Therefore the Court reduced the award to \$120,000.00 based on the percentages. (see attached JE)

Summation of the Requested Action

Request Council sign the Resolution. Request the Mayor approve payment and direct Finance to issue a check in the amount of \$120,000.00 made payable to Carla Arnold, Plaintiff and Moore-Shirer Law Firm, attorney at law and return to the Legal Department for further processing.

Emergency Clause?

☐ Yes

☐ No

Reason for Emergency Clause

Processing Information for City Clerk's Office

Post Execution Processing

- ☐ Mail vendor copy (addt'l signature copies attached)
- ☐ Must be filed with other governmental entity
- ☐ Addt'l governmental entity approval(s) required

Additional Routing and Processing Details

Please return executed RFA and Resolution to the Legal Department for further processing.

(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 24th day of October, 2024, in Case No. CJ-2023-1435, filed in the District Court for Tulsa County, State of Oklahoma, judgment was entered pursuant to a Jury Award in favor of Carla Arnold, Plaintiff, and against the City of Tulsa, Defendant, in the sum of One Hundred Twenty Thousand Dollars and 00/100 (\$120,000.00) representing principal judgment, interest, costs and attorney fees, 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 CARLA ARNOLD, Plaintiff; and MOORE-SHRIER LAW FIRM, attorneys at law, the sum of One Hundred Twenty Thousand Dollars and 00/100 (\$120,000.00); 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

OCT 24 2024

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

ARNOLD, CARLA,

Plaintiff,

vs.

CITY OF TULSA,

Defendant.

Case No. CJ-2023-1435

Judge Tracy L. Priddy

JOURNAL ENTRY OF JUDGMENT

On this 9th and 10th day of September 2024, this matter came before the Court for jury trial. Plaintiff was present with her counsel of record, Pansy Moore-Shrier and Drew Mathews. Defendant was represented through Mark McKenzie and its counsel of record Nicholas Williams and Hayes Martin

On September 9, 2024, voir dire was conducted, a jury was empaneled, and Plaintiff called her first two witnesses. Plaintiff continued their case in chief and rested their case on September 10, 2024.

Defendant began its case in chief on September 10, 2024 and rested their case in chief that same day.

The jury was instructed to deliberate. Verdict was rendered as follows:

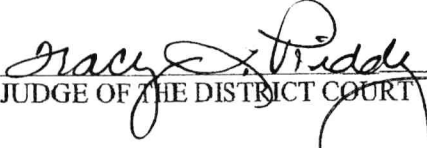
- In favor of Plaintiff, and against Defendant City of Tulsa, on the claim of negligence. Contributory negligence was apportioned as 40% to Plaintiff and 60% to Defendant City of Tulsa. Damages for negligence sustained by Plaintiff were set at \$200,000 with the amount being reduced by the Court by the sum of the percentages. Judgment is rendered in favor of Plaintiff in the amount of \$120,000, plus interest accruing at the statutory rate

subject to the terms and provisions of the Governmental Tort Claims Act, 51 O.S. §§ 151


et seq.

FOR ALL OF WHICH LET EXECUTION ISSUE.

IT IS SO ORDERED.


JUDGE OF THE DISTRICT COURT

Approved as to form:



Pansy Moore-Shrier, OBA No. 20289
Drew Mathews, OBA No. 34070
201 S. Denver Ave Box-7
Tulsa, Oklahoma 74103
(918) 592-3001
(918) 794-7149 (*facsimile*)
Attorneys for Plaintiff Carla Arnold



Nicholas C. Williams, OBA#33787
Hayes T. Martin, OBA #32059
Assistant City Attorneys
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175 E. Second St., Suite 685
Tulsa, OK 74103
(918) 596-7717
(918) 596-9700 *Facsimile*
Attorneys for Defendant City of Tulsa

INTEROFFICE CORRESPONDENCE

To: G.T. Bynum, Mayor

From: Nicholas C. Williams, Assistant City Attorney

Re: Request for Approval – Payment of Judgment in

Carla Arnold v. City of Tulsa, Tulsa County, Case No. CJ-2023-1435

Judge Tracy Priddy

Date: November 4, 2024

Dear Mr. Mayor,

I am requesting approval in the amount of \$120,000 to be paid from the sinking fund for the payment of the judgment reached in the following matter: *Carla Arnold v. City of Tulsa*, Tulsa County Case No. CJ-2023-1435.

This negligence case arose from Plaintiff Carla Arnold's fall in June 2022 when she stepped on a residential water meter cover located approximately one mile north of downtown Tulsa, specifically at 812 N. Cheyenne Ave. Plaintiff (75 years old) sustained a fractured (and subsequently infected) leg—incurring approximately \$70,000 in medical expenses—and claims her injuries were caused by a City employee negligently failing to affix the water meter cover five days before.

This case went to trial from September 9 – 10, 2024. The Jury returned a verdict finding the City 60% liable for Plaintiff's injuries and Plaintiff 40% at fault. The Jury awarded total damages of \$200,000. That number was reduced to account for Plaintiff's percentage of fault, with the judgment against the City resulting in \$120,000. Accordingly, I am requesting approval for that amount to be paid from the sinking fund.

Facts of the Case

On May 31, 2022, Jalyn Johnson—a temporary employee with the City of Tulsa Water Department—read the water meter in question at 812 N. Cheyenne Ave. There are no records indicating any issue with the water meter or cover, and there are no known witnesses (other than Jalyn himself) of Jalyn reading the water meter and replacing the cover.

On June 5, 2022, Ms. Arnold was visiting her son (Chris Arnold) to work with him in his garden for the day. At approximately 3 p.m., after finishing gardening for the day, Ms. Arnold and her son got in his car to drive a few blocks to the house of Larry Cagle, an acquaintance of Chris. Chris wished to procure some honey from Larry, given some of Larry's bees pollenate Chris' garden. Chris parked the vehicle by the curb in front of Larry's house (812 N. Cheyenne Ave.), leaving Ms. Arnold in the car.

While waiting for Chris, Ms. Arnold decided to exit the car to smoke a cigarette. After exiting the car, Ms. Arnold began walking through the grassy area between the curb and sidewalk in front of Larry's house, and ultimately stepped on the meter cover at issue. Ms. Arnold claims that the meter cover flipped 90 degrees, causing both her legs to fall in about three feet.

After the fall, Ms. Arnold was taken to the hospital where she was diagnosed with two fractures in her left leg and had surgery to place a plate and screws. Two months later, Ms. Arnold had a second surgery due to an infection in her left leg. Ms. Arnold spent the next six-plus months in physical therapy and alleges on-going/permanent impairment from her injuries.

Plaintiff's Claimed Damages

Plaintiff claimed her injuries—which included nearly \$70,000 in medical bills—were caused by the negligence of the City's employee. Plaintiff also claimed the following damages:

- Physical pain and suffering, past and future;
- Mental pain and suffering, past and future;
- Physical impairment; and
- Loss of enjoyment of life.

Plaintiff asserted these damages entitle her to a recovery of the fullest extent allowed under Oklahoma law, \$175,000. *See* 51 Okla. Stat. § 154(A)(2).

Trial

Hayes Martin (Assistant City Attorney), Paige Broyles (paralegal), and I represented the City at trial, which took place from September 9 – 10, 2024. Our primary arguments were that there was no evidence that the City's meter reader failed to place the lid back on, and that Ms. Arnold should shoulder some responsibility since she failed to watch where she was walking and stepped into an open meter can. The Jury returned a verdict finding the City 60% liable for the Plaintiff's injuries and the Plaintiff 40% at fault. They awarded total damages of \$200,000. Once that number was reduced to account for Ms. Arnold's percentage of fault, the Judgment against the City resulted in \$120,000. Accordingly, I am requesting approval for that amount to be paid from the sinking fund.

If you have questions, please let me know.

Sincerely,



Nicholas Williams | Assistant City Attorney - Litigation Division

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