

# Resolution

Version 2.3 released on 8/3/21



## 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: 01.26.2022  
☐ Posted Item #: 2201.00152

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

## Primary Details

### Board Approval

Department: Legal  
Contact Name: Stephan Wangsgard (rwk)

### Other Board Name

Email: swangsgard@cityoftulsa.org

### City Council Approval

☒ Yes ☐ No

Phone: 918-596-7717

### Resolution Type

Authorizing Sinking Fund Credit or Payment

### Owner-Grantor

Amount: \$60,000.00  
Case Number: CJ-2020-1577

### TMAPC Number

### Council District

Description (Subject):  
Pauline Eberhard vs City of Tulsa

### Bid/Project Number

Section: \_\_\_\_\_ Township: \_\_\_\_\_

### Range

### Addition

Lot: \_\_\_\_\_ Block: \_\_\_\_\_

### Address

## Budget

### Funding Source(s)

Sinking Fund 110 - 110502: \$60,000.00

TOTAL: \$60,000.00

## Approvals

Department: \_\_\_\_\_  
Legal: \_\_\_\_\_  
Board: \_\_\_\_\_  
Mayor: \_\_\_\_\_  
Other: \_\_\_\_\_

Date: 1/19/22  
Date: 01-19-2022  
Date: \_\_\_\_\_  
Date: JAN 26 2022  
Date: \_\_\_\_\_

## Policy Statement

### Background Information

The Court entered an award to Plaintiff including attorney fees in the amount of \$60,000.00.

### Summation of the Requested Action

To conclude this case the Legal Department requests a check be made payable to Pauline Eberhard, Plaintiff and Gregory LaFevers, Attorney at Law, in the amount of \$60,000.00, from the Sinking Fund, which accounts for the total amount of the Judgment plus post judgment interest.

### Emergency Clause?

☒ Yes  
☐ No

### Reason for Emergency Clause

This is a Court awarded judgment that will accrue interest each day it is not paid.

## 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 to A/P for payment to be issued; please forward an approved copy to Legal for further processing.

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(Published in the Tulsa World,  
\_\_\_\_\_, 2022.)

## **RESOLUTION**

**A RESOLUTION AUTHORIZING INVESTMENT IN A JUDGMENT, TO BE LEVIED AGAINST AND PAID FROM MONIES IN THE SINKING FUND AS PROVIDED BY OKLAHOMA LAW; AND DECLARING AN EMERGENCY.**

WHEREAS, on the 12th day of January, 2022, in Case No. CJ-2020-1577, filed in the United States District Court for the Northern District of Oklahoma, judgment was entered based on a settlement agreed to by and between Pauline Eberhard, Plaintiff, and the City of Tulsa, Defendant, in the sum of Sixty Thousand Dollars (\$60,000.00), 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 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 Sinking Fund:

To the order of PAULINE EBERHARD, Plaintiff, and GREGORY LaFEVERS, Attorney at Law, the sum of Sixty Thousand Dollars (\$60,000.00); 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 OF TULSA COUNTY  
STATE OF OKLAHOMA

DISTRICT COURT  
FILED

JAN 12 2022

DON NEWBERRY, Court Clerk  
STATE OF OKLA. TULSA COUNTY

PAULINE EBERHARD,

Plaintiffs,

v.

CITY OF TULSA,

Defendant.

Case No. CJ-2020-1577

Judge: William D. LaFortune

**JOURNAL ENTRY OF JUDGMENT UPON AGREED SETTLEMENT**

NOW ON this 12<sup>th</sup> day of JAN., 2022, this matter comes before the undersigned judge. Plaintiff, Pauline Eberhard, by and through her attorney, Gregory LaFevers, and Defendant City of Tulsa, appears by and through its attorney of record, Stephan A. Wangsgard, 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 27<sup>th</sup> day of DEC., 2021 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 Sixty Thousand and 00/100 Dollars (\$60,000.00), 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 her Petition, including costs and fees, upon payment in the sum of Sixty Thousand and 00/100 Dollars (\$60,000.00), 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 their right to trial by jury;

3. That Plaintiffs desire to accept as full, final and complete settlement the sum of Sixty Thousand and 00/100 Dollars (\$60,000.00), 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 they represent 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 Sixty Thousand and 00/100 Dollars (\$60,000.00);

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 recover from the Defendant City of Tulsa, Oklahoma, damages in the total sum of Sixty Thousand and 00/100 Dollars (\$60,000.00), 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.

William D. LaFortune

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JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

By:   
J. Gregory LaFeyers  
640 South Lewis, Suite 100  
Tulsa, OK 74136  
(918) 496-9258

By: 

Stephan A. Wangsgard OBA# 18312  
Assistant City Attorney  
City of Tulsa  
175 East Second Street, Suite 685  
Tulsa, Oklahoma 74103  
(918) 596-7717  
(918) 596-9700 Facsimile

I, Don Plewberry, Court Clerk, for Tulsa County, Oklahoma,  
hereby certify that the foregoing is a true, correct and full  
copy of the instrument herewith set out as appears on record  
in the Court Clerk's Office of Tulsa County, Oklahoma, this

JAN 12 2022

By: 

Deputy



# Legal Records

Version 2.6 released on 8/3/21

Legal copy



## CITY COUNCIL USE ONLY

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

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

Stephan Wangsgard (rwk)

### Email

swangsgard@cityoftulsa.org

### Phone

918-596-7717

### Incident Date

7/25/18

### Legal Case No.

CJ-2020-1577

### Amount

\$60,000.00

### Name

Eberhard (LaFevers)

### Originating Department

Water and Sewer

### Date Filed City Clerk

5/13/20

## Budget/Payments

Funding Source(s) / Checks to be Issued

TOTAL:

## Approvals

Department: \_\_\_\_\_

Legal: \_\_\_\_\_

Board: \_\_\_\_\_

Mayor: \_\_\_\_\_

Other: \_\_\_\_\_

Date: 12/1/21

Date: 12/1/21

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

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

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

## Summary

### Background Information

### Summation of the Requested Action

Request Mayor approve the lawsuit settlement in the amount of \$60,000.00.

### Other Pertinent Information

APPROVED BY MAYOR  
CITY OF TULSA

DEC 08 2021

## 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

City Clerk, please return a copy of the approved RFA to Legal for processing.

20 07 1 07



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*INTEROFFICE CORRESPONDENCE*

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**To:** Mayor G.T. Bynum  
**From:** Stephan A. Wangsgard, Assistant City Attorney  
**Date:** December 1, 2021  
**Subject:** Settlement Approval, Case No. CJ-2020-1577

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On May 13, 2020, attorney J. Gregory LaFevers filed this negligence action on behalf of Pauline Eberhard, seeking money damages for an amount in excess of \$75,000.00, plus court costs and attorney fees, for personal injury allegedly caused by the negligence of City of Tulsa employees. The City's potential exposure in this case is \$100,000.00. Before filing suit, Plaintiff timely filed a Notice of Tort Claim for this single cause of action in the Petition.

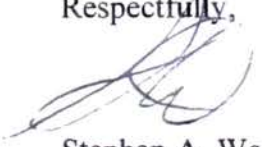
Plaintiff alleges that on or about July 25, 2018, she suffered an injury to her lower left leg. The injury occurred when a water meter cover in her front yard moved out of place as she was mowing her front yard causing Plaintiff to fall into the hole. The large 28" diameter steel meter cover opened a large laceration on her leg requiring 21 sutures.

Plaintiff returned St. John Medical Center on multiple visits for wound infection care and wound care, and hyperbaric treatment at OSU Medical Center before being released by her treating physician on October 17, 2021.

The Legal Department has reached a negotiated settlement in the amount of \$60,000.00 and recommends this claim be approved.

To conclude this case, we request approval to file the necessary court documents for the settlement proceeds to be paid from the sinking fund.

Respectfully,



Stephan A. Wangsgard  
Assistant City Attorney, Litigation Division

/rwk