

Resolution

Version 2.4 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: 07.12.2023
 Posted Item #: 2307.01432

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: R. Lawson Vaughn (tmd)

Email: lvaughn@cityoftulsa.org

Phone: 9185967717

Resolution Type: Authorizing Sinking Fund Credit or Payment

Owner-Grantor: _____

Amount: \$1,060,000.00
Case Number: 22-CV-55

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: [Signature]
Board: _____
Mayor: [Signature]
Other: _____

Date: 6.29.2023
Date: 6.29.2023
Date: _____
Date: JUL 12 2023
Date: _____

Policy Statement

Background Information

On March 22, 2023 the Mayor and Council approved settlement of this matter in the amount of \$1,060,000.00. The Journal Entry was signed and filed with the Court on June 28, 2023 (see attached JE)

Summation of the Requested Action

Request Mayor approve payment of this lawsuit and direct Finance to issue a check in the amount of \$1,060,000.00 made payable to Plaintiffs' Counsel, McGillivray Steele Elkin LLP, as set forth in the attached Settlement Agreement signed by all parties.

Emergency Clause?

Yes
 No

Reason for Emergency Clause

We have a limited time frame in which to pay this settlement payment before interest will be assessed.

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 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 28th day of June, 2023, in Case No. 22-CV-55, 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 Joshua D. Lamb et al, Plaintiffs, and the City of Tulsa, Defendant, in the sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00), 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 MCGILLIVARY STEELE ELKIN LLP, Counsel for Plaintiffs, the sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00); 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

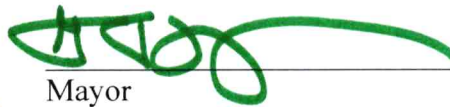
Received by the Mayor: _____, at _____
Date Time

G.T. Bynum, Mayor

By _____
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: JUL 12 2023,
Date

Time



Mayor

(Seal)

ATTEST:



City Clerk



APPROVED:

City Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JOSHUA D. LAMB, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:22-cv-00055-TCK-SH
)	
CITY OF TULSA, OKLAHOMA, et al.,)	
)	
Defendants.)	

STIPULATED JUDGMENT UPON AGREED SETTLEMENT

NOW ON this 28th day of June, 2023, this matter comes before the undersigned Judge. This Court has been advised that the Parties have reached a settlement of Plaintiffs’ claims. The Parties have filed a Joint Motion To Enter a Stipulated Judgment Upon Agreed Settlement [Doc. No. 58]. This Court hereby grants the Motion and enters the following judgment:

The Court, having reviewed the allegations set forth in Plaintiffs’ Third Amended Complaint [Doc. No. 57], has been advised that the statutory requirements pursuant to Okla. Stat. tit. 62 § 362 have been met and the judgment proceeds being paid on behalf of the Defendant City of Tulsa to the Plaintiffs herein shall be paid from the City of Tulsa’s pooled cash and investment portfolio which has sufficient funds available to pay said judgment. The Court has further been advised that the City’s Mayor and City Council has authorized a compromise settlement in a lump sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00) 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 events identified in Plaintiffs’ Third Amended Complaint and, upon being further advised by Plaintiffs that it is their desire, as fully set out in the settlement agreement, to settle the entirety of all claims and causes of action relating to the events identified in the Third Amended Complaint, including costs, fees,

interest, and attorneys' fees, upon payment in the sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00), the Court finds:

1. That the Court has jurisdiction over the subject matter of this lawsuit and the Parties hereto;

2. That Plaintiffs 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 one-time payment of the sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00), for any and all damages, losses, fees, attorneys' fees, interest, and expenses sustained as a result of the events identified in Plaintiffs' Third Amended Complaint and as fully set out in the settlement agreement;

4. That this settlement is not an admission of liability but is only a recognition of the uncertainty of trial;

5. That Plaintiffs have agreed to dismiss with prejudice and/or forgo any and all claims against the City of Tulsa and its employees individually as set forth in the Parties' Settlement Agreement;

6. That the Defendant, City of Tulsa, has agreed to settle Plaintiff's lawsuit in the lump sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00);

7. That the Defendant City of Tulsa shall pay the One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00) lump sum to the Plaintiffs from the City of Tulsa's pooled cash and investment portfolio which has sufficient funds available to pay said judgment within thirty (30) days of the filing of this Stipulated Judgment Upon Agreed Settlement by the Court;

8. 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 will recover from Defendant City of Tulsa damages in the total sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00) for any and all damages, losses, fees, attorneys' fees, interest, and expenses incurred or sustained incident to the events described in Plaintiffs' Third Amended Complaint and that the sum of One Million Sixty Thousand Dollars and 00/100 (\$1,060,000.00) shall be paid from the City of Tulsa's pooled cash and investment portfolio which has sufficient funds available to pay said judgment within thirty (30) days of the filing of this Stipulated Judgment Upon Agreed Settlement by the Court;

IT IS FURTHER ORDERED BY THE COURT that Plaintiffs' claims against Defendant City of Tulsa and any of its employees are dismissed with prejudice and that payment to Plaintiffs by the City of Tulsa on behalf of Defendant City of Tulsa will preclude any further or separate action by Plaintiffs against Defendant City of Tulsa or any employees of the City of Tulsa arising from or pertaining to the events described in Plaintiffs' Third Amended Complaint, as fully set forth in the Parties' Settlement Agreement.



TERENCE C. KERN
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

/s/ Philip R. Bruce

Philip R. Bruce, OBA #20504
McAfee & Taft, A Professional Corporation
Eighth Floor, Two Leadership Square
211 North Robinson Avenue
Oklahoma City, OK 73102-7103
Telephone: (405) 235-9621
Facsimile: (405) 235-0439
philip.bruce@mcafeetaft.com

-and-

R. Lawson Vaughn, OBA #21557
Senior Assistant City Attorney
Kristina L. Gray, OBA #21685
Litigation Division Manager
175 E. Second Street, Suite 685
Tulsa, Oklahoma 74103
Telephone: (918) 596-7717
Facsimile: (918) 596-9700

ATTORNEYS FOR DEFENDANTS

s/Sara L. Faulman

Sara L. Faulman (*admitted pro hac vice*)
John W. Stewart (*admitted pro hac vice*)
McGillivray Steele Elkin LLP
1101 Vermont Avenue, N.W., Ste. 1000
Washington, DC 20005
Telephone: (202) 833-8855
slf@mnelaborlaw.com
jws@mnelaborlaw.com

-and-

James P. Hunt, OBA #15559
601 S. Boulder, Ste. 600
Tulsa, Oklahoma 73119
Telephone: (918) 497-9159
jamesphunt@earthlink.net

ATTORNEYS FOR PLAINTIFFS

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

JOSHUA D. LAMB, et al.,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 4:22-cv-00055-TCK-SH
)	
CITY OF TULSA, OKLAHOMA, et al.,)	
)	
Defendants.)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and among all the Parties in the above-captioned case, namely Plaintiffs, each of whom are identified on **Exhibit A** attached hereto, and who have consented to be Party-Plaintiffs in the above-captioned case, and the Defendants, the City of Tulsa, Oklahoma, George Theron Bynum in his official capacity as Mayor of the City of Tulsa, Oklahoma, and Jack Blair, in his official capacity as Chief Operations Officer of the City of Tulsa, Oklahoma, (the “City” or “Defendants”), and is based on the following:

I. RECITALS

1.1 Plaintiffs are five hundred and twenty-six (526) overtime non-exempt fire fighters employed by the City in the Tulsa Fire Department. On February 1, 2022, thirteen (13) of those plaintiffs filed a complaint in the U.S. District Court for the Northern District of Oklahoma seeking overtime pay pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* By subsequent amendments to the complaint, an additional five hundred and thirteen (513) individuals were joined to the case, bringing the total number of plaintiffs, as of the Third Amended Complaint, to five hundred and twenty-six (526).

1.2 In the above-captioned case, Plaintiffs alleged that the City unlawfully failed to pay them the full one and one-half times their regular rate of pay for all of their regularly scheduled overtime hours, beginning in approximately April 2021 (Count I), and that, since at least February 1, 2019, as well as before, the City had unlawfully delayed overtime pay for all hours of overtime work (Count II), and that for both counts, the City's violations had been willful. Plaintiffs sought to recover back pay (for Count I only) as well as liquidated damages and attorneys' fees and costs (for Counts I and II). The City has denied Plaintiffs' allegations and alleged that Plaintiffs were properly compensated under the FLSA and that they have subsequently been paid the amount of backpay owed under Count I, in full. Further, the City denies that all of the Plaintiffs are fire suppression employees entitled to overtime under the Collective Bargaining Agreement ("CBA") and nothing in this Agreement shall be used or intended to be used to provide entitlement of overtime to any additional positions under which they are not entitled pursuant to the CBA.

1.3 The Parties agreed to engage in settlement discussions and mediation before engaging in formal discovery. After informal exchange payroll and timekeeping records, the parties engaged in an in-person mediation, which took place on February 15, 2023, before a jointly selected mediator. Although mediation was initially unsuccessful, the parties were subsequently able to reach settlement on the terms set forth herein.

1.4 The Parties have agreed to settle the matters in dispute between and among them pursuant to the terms of this Agreement. Specifically, the Parties and their counsel have considered that the interests of all concerned are best served by compromise, settlement, and dismissal of the Plaintiffs' FLSA claims. The Parties have concluded that the terms of this Agreement are fair, reasonable, adequate, and in the Parties' mutual best interests.

II. PAYMENT AND DISTRIBUTION

2.1 In consideration for the terms, conditions, and promises in this Agreement, the City, in accordance with paragraph 2.2, shall pay or cause to be paid to Plaintiffs a total of \$1,060,000.00 (“the Settlement Amount”) for FLSA damages allegedly accruing for the time period between February 1, 2019, through June 1, 2023, inclusive of liquidated damages, attorneys’ fees, and litigation expenses.

2.2 The Settlement Amount will be paid in a lump sum payment by check or electronic transfer in the amount of \$1,060,000.00, payable to Plaintiffs’ Counsel McGillivray Steele Elkin LLP, at 1101 Vermont Ave., N.W., Suite 1000, Washington, D.C. 20005, and shall be distributed to individual Plaintiffs in accordance with the amounts set forth in **Exhibit A** to this Agreement. Plaintiffs’ counsel shall provide the City with a W-9 within two days after the Parties have executed this Agreement. These amounts are agreed to among the Parties to compromise, settle, and satisfy the Released Claims described in paragraph 3.1 below and are therefore attributable to liquidated damages and attorneys’ fees and expenses related to the Released Claims.

2.3 The City shall issue payment of the Settlement Amount within thirty (30) calendar days of the entry of the stipulated judgment as set forth in paragraph 5.1. However, if not paid after a sixty (60) day period from entry of the stipulated judgment, interest shall accrue on any unpaid Settlement Amount at the rate set forth in 28 U.S.C. § 1961.

2.4 Plaintiffs’ counsel McGillivray Steele Elkin LLP will be responsible for distributing individual payments to each Plaintiff listed in **Exhibit A**.

2.5 Plaintiffs and their counsel determined the contingency fee applicable to this Agreement. Plaintiffs have entered into individual agreements with Plaintiffs’ counsel. Each of these retainer agreements provides for a contingency fee equal to twenty-five percent (25%) of the

Settlement Amount, after deducting expenses, which amount to \$20,243.71. Plaintiffs' counsel shall deduct their contingency attorney fee in the amount of \$259,939.07.

2.6 Plaintiffs and their counsel determined the method used to calculate the amounts to be paid to each Plaintiff under this Agreement. After deducting expenses and attorneys' fees, the remaining amount to be distributed to the Plaintiffs is **\$779,817.22** ("Net Settlement Fund"). For purposes of computing the amounts distributed from the Net Settlement Fund "the relevant recovery period" used to calculate each individual Plaintiff's point total is three (3) years prior to the date when each Plaintiff's Consent to Sue form was filed with the Court, or the date that a Plaintiff became employed in a non-exempt position, such as Fire Fighter, Lieutenant, or Captain, with the City of Tulsa Fire Department ("Covered Positions"), whichever is later, and up to June 1, 2023, or the date that the Plaintiff stopped working in a Covered Position, whichever is earlier. For those Plaintiffs filed into the case with the Third Amended Complaint, the date the Parties agreed to use extrapolated data for those additional plaintiffs in order to facilitate settlement negotiations, August 5, 2022, has been used instead of the date their Consent to Sue forms were filed. Each Plaintiff received one point for each week during "the relevant recovery period" that the Plaintiff was employed by the Defendants and working in the Covered Position. The total number of points for all Plaintiffs was then divided into **\$779,817.22**, which reflects the Net Settlement Fund after attorneys' fees, and litigation expenses are deducted, to determine the dollar value of each point. Plaintiffs will then receive distribution from the Net Settlement Fund based on the number of points assigned.

2.7 In January 2024, the Plaintiffs' counsel shall issue a Form 1099-MISC to each Plaintiff, reflecting the distribution amounts, which are set forth in **Exhibit A** to this Agreement, as well as attorneys' fees and costs paid.

2.8 The Parties agree that all amounts paid pursuant to this Agreement are, because of the specific claims in the Lawsuit and the Defendants' claim that it has paid all wages, including overtime, reasonably allocated to liquidated damages for all tax purposes and that withholding of federal, state, and local income taxes, together with all FICA, FUTA, SUTA, Medicare, and any other payroll taxes from each Plaintiff is not necessary.

III. RELEASE AND WAIVER OF CLAIMS

3.1 All Plaintiffs for themselves, and their spouses and families, attorneys (if any), agents, executors, administrators, personal representatives, heirs, and successors, hereby release, acquit, and forever discharge the Defendants, and any managers, employees, officers, directors, subsidiaries, affiliates, divisions, or trusts of Defendants, from any and all known or unknown state and federal wage and hour claims that were asserted or could have been asserted in the Lawsuit through June 1, 2023, specifically including any claims or causes of any nature that could have been brought pursuant to the Fair Labor Standards Act or the Oklahoma Protection of Labor Act ("Released Claims"), for the time period Plaintiffs worked in Covered Positions for the Defendant City of Tulsa. The waiver and releases set forth herein does not include the state wage and hour claims and/or investigations currently or recently pending for Anna-Lee Dunaway, Levi Hutton, Steven Jones, Jeremy Jurena, Darrell Martin, Alexa Reed, or Zachary Wood, which are explicitly excluded from the Released Claims, and this Agreement shall not be interpreted to waiver or release such claims in any way.

3.2 All Plaintiffs shall be deemed to and shall have waived, released, discharged, and dismissed all Released Claims as set forth in Paragraph 3.1, with full knowledge of any and all rights they may have, and they hereby assume the risk of any mistake in fact in connection with the true facts involved or with regard to any facts which are now unknown to them.

3.3 All Plaintiffs understand and agree that, to the fullest extent permitted by law, they are precluded from filing or pursuing any legal claim or action of any kind against any entity at any time in the future, or with any federal, state or municipal court, tribunal or other authority arising out of the Released Claims for the time period beginning three (3) years prior to the filing date of each Plaintiff's Consent to Sue form through June 1, 2023, with respect to the claims asserted in this lawsuit. Excluded from this release is any right or claim that cannot be waived by law, including but not limited to the right to file a charge with or participate in an investigation conducted by government agencies. All Plaintiffs are waiving, however, any right to monetary recovery should any agency pursue any claims on their behalf with respect to the Released Claims as set forth in Paragraph 3.1 for the time period beginning three (3) years prior to the filing date of each Plaintiff's Consent to Sue form through June 1, 2023.

3.4 All Plaintiffs agree that they are entering into this Agreement knowingly, voluntarily, and with full knowledge of its significance. Each Plaintiff affirms that he/she has not been coerced, threatened, or intimidated into agreeing to the terms of this Agreement, and he/she has been advised to consult with an attorney.

IV. REASONABLE TIMELY PAYMENTS & FLSA WORKING GROUP AND CONTINUED EFFORTS

4.1 The City agrees that, within 30 days of this Agreement, it shall begin paying FLSA overtime, as defined and understood under the CBA and as part of the normal 27 workday cycle, within two pay periods of the final date of any time worked and under the normal payroll processes. Provided that the City shall not be required to pay such amounts within two pay periods if there is a force majeure event, including hacking, natural disasters, or other events outside of the City's control, which reasonably prevents the City from paying within two pay periods. The Parties agree

that the City paying the FLSA overtime within two pay periods within the final date of any time worked is reasonable and complies with the FLSA.

4.2 Further, the City agrees that the “Working Group on Fair and Lawful Pay Practices for Tulsa Fire Fighters” (hereinafter “The Working Group”) shall be established within 30 days of the execution of this Agreement. The Working Group shall have the purpose of analyzing and discussing existing pay, scheduling, and timekeeping practices and policies, as well as considering any complaints or commentary on the same by members of the International Association of Fire Fighters, AFL-CIO, CLC, Local 176, (“IAFF Local 176”) or other Fire Department employees. The Working Group shall, at the request of the City or IAFF Local 176, meet at least quarterly, and will be attended by: at least one City of Tulsa payroll and timekeeping subject matter expert, not within the Tulsa Fire Department, capable of addressing pay and timekeeping issues for the Fire Department; at least one member of the Fire Department with the authority to propose changes in policy; up to three (3) members appointed to the Working Group by IAFF Local 176; and any other additional Fire Department employees who wish to attend, subject to reasonable space constraints.

V. DISMISSAL OF CLAIMS

5.1 Plaintiffs agree to dismissal of all claims asserted in the Lawsuit against the Defendants with prejudice as specified in paragraph 3.1, upon the Parties’ execution of the Settlement Agreement. Provided, the Parties agree that they will file an agreed motion and stipulated judgment against the City upon agreed settlement regarding this agreement, attached as Exhibit B, which will also provide for an order of dismissal of Plaintiffs’ Released Claims as set forth in 3.1 above against the Defendants and any employees of the City of Tulsa with prejudice. It is expressly understood and agreed that reducing the settlement to a judgment against the City is for the sole purpose of securing the necessary funding for the settlement and shall not be construed as an

admission of liability on the part of Defendants, who maintain that the allegations of their liability in this suit constitute doubtful and disputed claims.

VI. NO ADMISSION OF LIABILITY

6.1 The Defendants do not admit any allegations made against them in the above-captioned lawsuit. Nothing contained in this Agreement shall be deemed an admission of liability or of any violation of any applicable law, rule, regulation, order, or contract of any kind. The Defendants acknowledge that retaliation for participation in this litigation is strictly prohibited by the Fair Labor Standards Act.

VII. CONTINUED JURISDICTION & NO COURT APPROVAL NECESSARY

7.1 The U.S. District Court for the Northern District of Oklahoma shall have continuing jurisdiction to construe, interpret and enforce the provisions of this Agreement, and to hear and adjudicate any dispute or litigation arising under this Agreement.

7.2 The Parties Agree that no court approval is necessary to effectuate this Agreement and for the releases by all plaintiffs, as specified in paragraph 3.1, to be fully valid and enforceable. Specifically, the Parties agree that the decision issued by the presiding judge, the Hon. Terence Kern, in *Lawson v. Procares CRS, Inc.* Case No. 18-Cv-00248-TCK-JFJ, applies and that all Parties may be bound to the Agreement and releases without court approval. The Parties shall file a stipulation of dismissal, which shall state its position that court approval is not necessary, but request to file a motion to approve, should the Court request. Should the Parties file a dismissal and the Court requires a motion to approve, the Parties shall work in good faith to draft any necessary motion or other documents for the Agreement to be fully enforceable. Provided, that as stated in paragraph 5.1, the Parties will additionally file an agreed journal entry of judgment.

VIII. PARTIES' AUTHORITY

7.1 The signatories hereby represent that they are fully authorized to enter into this Agreement and to bind the parties hereto to the terms and conditions hereof.

7.2 All of the Parties acknowledge that they have been represented by competent, experienced counsel throughout all negotiations which preceded the execution of this Agreement, and this Agreement is made with the consent and advice of counsel who have jointly prepared this Agreement.

8.3 Any signature made and transmitted by facsimile, email, or verified electronic signature program such as DocuSign for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement.

IX. MUTUAL FULL COOPERATION

9.1 The Parties agree to use their best efforts and to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement and effectuate the terms of this Agreement.

X. MODIFICATION

10.1 This Agreement and its attachment may not be changed, altered, or modified, except in writing and signed by the Parties hereto.

10.2 In the event that one or more of the Parties to this Agreement institutes any legal action, arbitration, or other proceeding against any other Party or Parties to enforce the provisions of this Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

XI. ENTIRE AGREEMENT

11.1 This Agreement and its attachment constitute the entire agreement between the Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms shall modify, vary or contradict the terms of this Agreement. In the event of any conflict between this Agreement and any other settlement-related document, the parties intend that this Agreement shall be controlling.

XII. CHOICE OF LAW/JURISDICTION

12.1 This Agreement shall be subject to, governed by, construed, enforced, and administered in accordance with the laws of the State of Oklahoma, both in its procedural and substantive aspects, and shall be subject to the continuing jurisdiction of the United States District Court for the Northern District of Oklahoma. This Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any Party, regardless of who drafted or who was principally responsible for drafting this Agreement or any specific term or condition thereof.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the

date indicated below:

McGILLIVARY STEELE ELKIN LLP
1101 Vermont Street N.W., Suite 1000
Washington, D.C. 20005

By: [Signature]
Sara L. Faulman

Counsel for Plaintiffs

Dated: 6/5/2023

McAFEE & TAFT
211 N. Robinson Ave
Oklahoma City, OK

By: [Signature]
Philip R. Bruce

Counsel for Defendants

Dated: 6/5/23

TULSA CITY CLERK

By: [Signature]
Christina Chappell

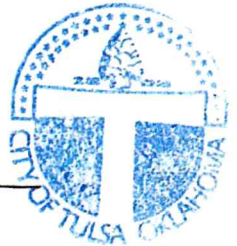
Dated: JUN 07 2023

CITY OF TULSA, OKLAHOMA

By: [Signature]
G.T. Bynum

Mayor of Tulsa

Dated: JUN 07 2023



CITY COUNCIL CHAIRPERSON

By: [Signature]
Crista Patrick

Dated: JUN 14 2023

Legal Records

Version 2.6 released on 8/3/21

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		CITY CLERK USE ONLY	
Date Received: _____	Tracking #: _____	<input type="checkbox"/> Scanned	Date: <u>03.22.2023</u>
Committee Date: _____	Committee: _____	<input type="checkbox"/> Posted	Item #: <u>2303.00506</u>
1 st Agenda Date: _____	Hearing Date: _____		
	2 nd Agenda Date: _____		

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 <input checked="" type="radio"/> Yes <input type="radio"/> No
Department Legal	Contact Name R. Lawson Vaughn (tmd)	Email lvaughn@cityoftulsa.org
Incident Date _____	Legal Case No. 22-CV-55	Phone 9185967717
Name Joshua Lamb et al	Amount \$1,060,000.00	Originating Department Fire
		Date Filed City Clerk _____

Budget/Payments

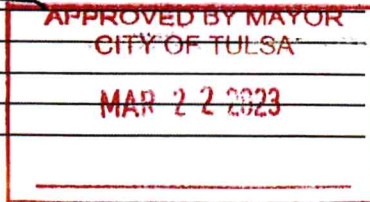
Funding Source(s) / Checks to be Issued

TOTAL:

Approvals

Department: _____
 Legal: _____
 Board: _____
 Mayor: _____
 Other: _____

[Handwritten Signature]



Date: 3-20-23
 Date: 3-20-2023
 Date: _____
 Date: _____
 Date: _____

Summary

Background Information

This lawsuit was filed on behalf of approximately 500 Tulsa Fire Department firefighters alleging they were owed overtime, liquidated damages and attorney fees under FLSA for missing and/or late payments of overtime earned between January 2019 and January 2022. (See attached Memo)

Summation of the Requested Action

Request the Mayor and Council place this on a 4:00 p.m. Council Agenda to be discussed in executive session.

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

Please return executed RFA to City Legal for further processing

INTER-OFFICE CORRESPONDENCE

To: Mayor G.T. Bynum
From: R. Lawson Vaughn, Senior Assistant City Attorney
Date: March 17, 2023
Subject: Settlement Approval, N. District of OK Case No. 4:22-cv-00055-TCK-SH

On February 1, 2022, Attorney John Stewart of McGillivray, Steele, Elkin, LLP of Washington, DC, filed suit on behalf of about 500 TFD fire fighters in Federal Court in the Northern District of Oklahoma, Case No. 4:22-cv-00055, alleging they were owed overtime, liquidated damages, and attorneys' fees under the Fair Labor Standards Act (FLSA) for missing and/or late payments of overtime earned between January 2019 and January 2022.

The Legal Department, with assistance from the Fire Department, gathered a voluminous amount of data and reviewed these claims. The City also engaged an attorney with McAfee & Taft, Philip Bruce, who specializes in FLSA issues, to assist on the defense of this case. The investigation confirmed that, largely due to issues created by the ransomware attack, there were some late payments for overtime owed to the plaintiff fire fighters and there is a possibility the City does have some liability exposure pursuant to the Fair Labor Standards Act.

The ransomware attack in April 2021 severely impacted TFD's timekeeping records and systems. TFD had to scramble and the damage took months to recover from and rebuild its system and processes. The City faces specific issues with paying overtime to the firefighters because they have an incredibly complex pay cycle and system based off of the Collective Bargaining Agreement ("CBA") and a 27-day FLSA cycle pursuant to Section 207(k) of the FLSA. The ransomware attack and resulting damage prevented the City from paying a portion of FLSA overtime to the firefighters. In February 2022, the City finally recovered from the ransomware attack, a retroactive pay change under the CBA, and rebuilding its payroll system and started paying overtime. In April 2022, TFD completed its calculations of back overtime and made each firefighter whole, paying nearly \$600,000 in overtime. The plaintiffs made an initial demand seeking \$2.4 million to settle the case. The parties attended a mediation on February 15, 2023, but settlement negotiations were unsuccessful.

The parties have since continued to have ongoing settlement communications and have reached an agreement for the monetary amount to settle all claims. The parties are also finalizing a plan that will ensure that the issues are resolved and will not reoccur. The Legal Department recommends approval of settlement of this lawsuit in the amount of \$1,060,000, which includes all damages, attorneys' fees, interest, and costs.

Respectfully,

Lawson Vaughn

R. Lawson Vaughn
Senior Assistant City Attorney