



Legislation Text

File #: 2202-2014, **Version:** 1

Background: This ordinance is submitted to settle the lawsuit known as *Elizabeth S. Salini, et al. v. City of Columbus*, Case No. 14CV-02-1577 in the Franklin County Court of Common Pleas, for the total amount of One Hundred Seventy-Five Thousand Dollars (\$175,000.00).

On February 4, 2013, Elizabeth S. Salini suffered permanent physical injury as a result of being struck in the head by a loose brick which was thrown up from a brick crosswalk by a Central Ohio Transit Authority bus traveling north on South High Street. The incident occurred at the intersection of South High Street and East Mound Street in Columbus, Ohio. Plaintiff was standing on the southeast corner of the intersection waiting for the light to change so she could cross High Street. The plaintiffs allege that the City negligently failed to keep the street in repair and to remove obstructions, including loose bricks, from South High Street.

Fiscal Impact: Funds were not specifically budgeted for this settlement, however, sufficient monies are available in the Street Construction Maintenance and Repair Fund (Fund 265) to pay the amount for this purpose.

To authorize and direct the City Attorney to settle the case of *Elizabeth S. Salini, et al. v. City of Columbus*, pending before the Franklin County Court of Common Pleas; to appropriate \$175,000.00 from the unappropriated balance of the Street Construction Maintenance and Repair Fund; to authorize the expenditure of \$175,000.00; and to declare an emergency.

WHEREAS, on February 12, 2014, the plaintiffs filed a lawsuit in the Franklin County Court of Common Pleas, Case No. 14CV-02-1577, against the City of Columbus. The plaintiffs alleged that the city negligently failed to keep South High Street in repair and to remove obstructions, thereby causing the incident resulting in permanent physical injury to plaintiff Elizabeth S. Salini; and,

WHEREAS, following the evaluation of plaintiffs' claims in the course of litigation, the parties reached an agreement to settle this matter. Due to the dispute of this claim and the risks and uncertainties associated with continued litigation and trial, the settlement amount was deemed acceptable by the City of Columbus, along with dismissal of the lawsuit with prejudice and a release of the City of Columbus from all further liability; and,

WHEREAS, by reason of the foregoing, and in order to meet the timeframe of the agreement and avoid the possible payment of interest, an emergency exists in the usual daily operation of the Department of Public Service and for further preservation of the public health, peace, property, safety and welfare; now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That the City Attorney be and hereby is authorized and directed to settle all claims against the City of Columbus, its officers, agents and employees in the lawsuit of *Elizabeth S. Salini, et al. v. City of Columbus*, Case No. 14CV-02-1577 in the Franklin County Court of Common Pleas, by payment of One Hundred Seventy-Five Thousand Dollars (\$175,000.00), as a reasonable and fair amount, and in the best interests of the City of Columbus.

Section 2. That the sum of \$175,000.00 be and hereby is appropriated from the unappropriated balance of the Street Construction Maintenance and Repair Fund, Fund 265, and from all monies estimated to come into said Fund from any and all sources and unappropriated for any other purpose during the fiscal year ending December 31, 2014, to the Division of Infrastructure Management, Department-Division No. 59-11, as follows:

Fund / OCA / OL1-3 / Amount

265 / 591101/ 05-5571/ \$175,000.00

Section 3. For the purpose of paying the settlement, there be and hereby is authorized to be expended by the City of Columbus, Department of Public Service, Department/Division 59-11, Fund No. 265, Object level one - 05, Object level three - 5571, OCA 591101, the sum One Hundred Seventy-Five Thousand Dollars (\$175,000.00)

Section 4. That the funds necessary to carry out the purpose of this ordinance are hereby deemed appropriated, and the City Auditor shall establish such accounting codes as necessary.

Section 5. That the City Auditor be and hereby is authorized to draw a warrant upon the City Treasury in the sum of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) payable to Elizabeth S. Salini, Alexander Salini, and their attorney, John M. Alton & Co., L.P.A., upon receipt of a voucher and release approved by the City Attorney.

Section 6. That for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.