

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to City Budget Office. Retain copy.)

1. Name of Initiator Becky Chiao		2. Telephone No. 503-823-6124	3. Bureau/Office/Dept. OMF/Risk Management
4a. To be filed (hearing date): May 28, 2014	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and CBO Budget Analyst:
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title: *Pay claims of Cayla and Jaikyla Wilson in the sum of \$816,263, involving the Portland Police Bureau. (Ordinance)

2) Purpose of the Proposed Legislation:

This ordinance will close OMF Risk Management File Nos. G2010-0510-01 and G2010-0510-02 for a total of \$816,263.18.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

This legislation will have no impact on City revenue.

5) Expense: What are the costs to the City as a result of this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)

Cost to the City is \$816,263.18. The source of funding is the City's Insurance and Claims Fund. All cost of the settlement is in the current fiscal year.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No.

- **Will positions be created or eliminated in *future years* as a result of this legislation?**

No.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

- ☐ **YES:** Please proceed to Question #9.
☒ **NO:** Please, explain why below; and proceed to Question #10.

This Ordinance settles a tort lawsuit filed against the City of Portland by Cayla and Jaikyla Wilson. The City Attorney's Office and Risk Management have concluded that it is not appropriate to have public involvement in settlement negotiations regarding tort claims or lawsuits against the City.

9) If "YES," please answer the following questions:

- a) What impacts are anticipated in the community from this proposed Council item?**
- b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?**
- c) How did public involvement shape the outcome of this Council item?**
- d) Who designed and implemented the public involvement related to this Council item?**
- e) Primary contact for more information on this public involvement process (name, title, phone, email):**

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

No future public involvement is anticipated or necessary. Approval by City Council of this Ordinance will fully settle a tort lawsuit against the City of Portland.

Bryant Enge, Director, BIBS
 Kate Wood, Risk Manager



APPROPRIATION UNIT HEAD (Typed name and signature)



CITY OF PORTLAND

OFFICE OF MANAGEMENT AND FINANCE

Charlie Hales, Mayor
Fred Miller, Interim Chief Administrative Officer
Bryant Enge, Director, Bureau of Internal Business Services

186603

Kate Wood, Manager

Risk Management

1120 S.W. Fifth Avenue, Rm. 709

Portland, Oregon 97204-1912

(503) 823-5101

FAX (503) 823-6120

TTY (503) 823-6868

DATE: May 7, 2014

TO: Mayor Charlie Hales

FOR MAYOR'S OFFICE USE
ONLY

FROM: Bryant Enge, Director of Internal Business Services
Becky Chiao 503-823-6124

RE: *Pay claims of Cayla and Jaikyla Wilson in the sum of \$816,263, involving the
Portland Police Bureau (Ordinance)

1. INTENDED WEDNESDAY FILING DATE: May 14, 2014

2. REQUESTED COUNCIL AGENDA DATE: May 28, 2014

3. CONTACT NAME & NUMBER: Becky Chiao, 503-823-6124

4. PLACE ON: ☐ CONSENT ☒ REGULAR

5. BUDGET IMPACT STATEMENT ATTACHED: ☒ Y ☐ N ☐ N/A

6. (3) ORIGINAL COPIES OF CONTRACTS APPROVED AS TO FORM BY CITY
ATTORNEY ATTACHED: ☐ Yes ☐ No ☒ N/A

7. BACKGROUND/ANALYSIS

The civil suit was brought against the City of Portland and an individual police officer Devonna Dick by William and Denise Wilson on behalf of their daughter Cayla Wilson and granddaughter Jaikyla Wilson. Through their attorney, the Wilsons claimed damages in excess of \$40 million. These damages resulted from a car crash caused by a third party named Jack Dean Whiteaker. He crashed his vehicle into the car driven by Cayla Wilson on April 15, 2010. Cayla Wilson was 19 and pregnant at the time of the crash. She subsequently gave birth to a daughter, Jaikyla. Cayla suffered catastrophic, permanent injuries as a result of the crash. Jaikyla suffered some complications at birth. Both Cayla and Jaikyla are being cared for by the Wilson family.

Plaintiffs claim Officer Dick negligently failed to take Mr. Whiteaker into custody during two different contacts with him earlier in the day of the crash. Had she done so, they alleged, Mr. Whiteaker would not have caused the crash that resulted in their daughter's injuries. However, Officer Dick did not have probable cause to arrest Mr. Whiteaker. She followed her training and appropriate process to address the situation at the time she had contact with him. It was not reasonable to expect her to predict his future actions.

At the time of this event, the City self-insured liability defense and damages up to \$1, million. The City transferred the financial risk of losses above this \$1 million retention to commercial excess liability insurance policies.

On October 30, 2013, four weeks before the original trial date, the excess liability insurance

An Equal Opportunity Employer

To help ensure equal access to programs, services and activities, the Office of Management & Finance will reasonably modify policies/procedures and provide auxiliary aids/services to persons with disabilities upon request.

adjuster contacted the City. His assessment of the case was that it should not be tried, but rather settled. He believed the risk of a sympathetic jury was too great and potential damages too high to risk a trial. The insurer requested that they undertake control of the case and demanded the City preserve the unspent remainder of its retention for settlement purposes. The City could have been liable for the full amount of claimant's damages if it denied the insurer's request.

Ultimately, the insurance company representative took control of the defense and settled both Cayla and Jaikyla's claims against the City. The City expended more than \$183,000 defending the case prior to the settlement. The amount remaining in the City's self-insured retention and owed by the City to the claimant is \$816,263.18

8. FINANCIAL IMPACT

Approval of the settlement will result in a payment of \$816,263.18 from the liability fund.

9. RECOMMENDATION/ACTION REQUESTED

Approve settlement of Cayla and Jaikyla Wilson bodily injury lawsuit in the sum of \$816,263.18.