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191147

Emergency Ordinance

***Pay settlement of Melissa and Eric Oberste property damage claims for \$13,197 involving the Portland Bureau of Transportation**

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Eric and Melissa Oberste have filed claims against the City for damages to their elm tree during sidewalk improvements involving the Portland Bureau of Transportation on September 12, 2021.
2. The claims have been investigated by Risk Management Services. The investigation indicates there is risk the City may be found liable. Therefore, in order to avoid the risk of an adverse jury award, we feel it is prudent to compromise the claims at this time.
3. Risk Management Services recommends the claims be compromised for the total sum of \$13,197.50 with the amount of \$3,197.50 still due, subject to the claimants providing the City with a release in a form to be approved by the City Attorney.

NOW, THEREFORE, the Council directs:

- A. The Mayor and the Auditor are hereby authorized to draw and deliver a check in the amount of \$3,197.50 made payable to Melissa and Eric Oberste.
- B. Risk Management Services will execute a payment authorization in the amount set forth in sub-paragraph (a) above.

Section 2. The Council declares that an emergency exists in order to avoid undue and costly delay in settling these property damage claims; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[Management and Finance;](#)
[Revenue and Financial](#)
[Services; Risk Management](#)

Contact

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Requested Agenda Type

Consent

Date and Time Information

Requested Council Date
January 25, 2023

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
January 25, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

This Ordinance settles two property damage claims brought by Melissa and Eric Oberste, resulting from damage to their elm tree during sidewalk improvement in northeast Portland.

Financial and Budgetary Impacts

This legislation will have no impact on City revenue.

Total cost to the City to settle the claim is \$13,197.50. The source of funding is the City's Insurance and Claims Fund. All cost of the settlement is in the current fiscal year. This Ordinance does not amend the budget.

Community Impacts and Community Involvement

This Ordinance settles two tort claims resulting from property damage to a privately owned Elm tree involving the Portland Bureau of Transportation. No public involvement or input was sought regarding this Ordinance. 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.

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

100% Renewable Goal

This legislation will have no impact on City energy use.

Budget Office Financial Impact Analysis

Total cost to the City to settle the claim is \$13,198. The source of funding is the City's Insurance and Claims Fund. All costs of the settlement are in the current fiscal year.

Agenda Items

73 Consent Agenda in January 25, 2023 Council Agenda

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea