

# CITY COUNCIL REPORT



Meeting Date: April 14, 2015  
 General Plan Element: *Provide for the orderly administration of the affairs of the City*  
 General Plan Goal: *Fiscal management*

## ACTION

**Adopting Resolution No. 10108 authorizing settlement of Dulatahu v. City of Scottsdale, et al.** Consider adopting Resolution No. 10108 authorizing settlement in the amount of \$25,000 of Amor Dulatahu's negligence lawsuit against the City styled *Dulatahu v. City of Scottsdale, et al*, Case No. CV2014-011772, currently pending in the Maricopa County Superior Court.

### Background

This litigation stems from a motor vehicle accident that occurred at the intersection of Hayden and Indian School Roads on November 30, 2013, between Amor Dulatahu and City of Scottsdale Police Officer Kevin Reynolds. Officer Reynolds was requested to respond on an urgent basis to locate a reckless driver travelling westbound on Chaparral Road in Scottsdale. Officer Reynolds approached the Hayden and Indian School intersection, slowed, and stopped at a red light. Officer Reynolds activated his police emergency lights to break the intersection at the same time that Officer Reynolds believed the westbound light was cycling to yellow. After looking both ways and seeing the roadway clear in both directions, Officer Reynolds proceeded to break the intersection. Officer Reynolds proceeds to clear through the intersection when a Mercedes, operated by Plaintiff, driving westbound on Indian School suddenly enters the intersection and collides with Officer Reynolds' vehicle. Mr. Dulatahu claimed multiple injuries as a result of the collision.

The City has reached a tentative settlement of this litigation, subject to the approval of the City Council. The recommended settlement is in the amount of twenty five thousand dollars (\$25,000) and will lead to the dismissal of the case and termination of the litigation. Plaintiffs' initial Notice of Claim sought approximately \$125,000 from the City.

## ANALYSIS & ASSESSMENT

### Recent Staff Action

The case has been defended by the City Attorney's Office. Mr. Dulatahu has agreed to settle his case against the City and Officer Reynolds for Twenty-Five Thousand Dollars dollars (\$25,000.00), contingent upon the City Council's approval.

**Policy Implications**

None.

**Significant Issues to be Addressed**

Given the risk of litigation and the additional costs of moving forward to a jury trial, outside counsel, the City Attorney's Office and Risk Management Department believe a settlement amount of \$25,000 is in the best interests of the City. Settlement of this action will resolve the uncertainty of litigation.

**Community Involvement**

No community involvement is necessary on this item as this matter is in litigation.

**RESOURCE IMPACTS**

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**Available funding**

Funding is available in the Risk Management Operating Budget (710-23740-52483).

**Staffing, Workload Impact**

Approval of the proposed settlement brings this litigation to a conclusion and will eliminate the need for staff resources from the City Attorney's Office, Risk Management and other Departments to be spent on this case, as well as eliminating the risk and uncertainty of litigation.

**Future Budget Implications**

The proposed settlement may be included in the City's primary property tax rate for the next year. The eligibility of settlement and judgment payments for possible inclusion in the City's primary property tax rate is based upon an Arizona Attorney General opinion. The City of Scottsdale has in the past included paid tort settlements equal to or greater than \$20,000 in the City's primary tax rate to reimburse the Self-Insured Fund for payment of the claim.

**Cost Recovery Options**

None.

**OPTIONS & STAFF RECOMMENDATION**

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**Recommended Approach**

Adopt Resolution No. 10108 and authorize settlement and release of this litigation in the amount of \$25,000 as proposed.

**Proposed Next Steps**

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## City Council Report | Authorizing Settlement

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If the settlement is approved, City representative(s) will execute settlement documents as proposed and the City will pay the settlement amount within a reasonable time thereafter.

### RESPONSIBLE DEPARTMENT(S)

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General Government, City Attorney's Office – Civil Division  
Risk Management

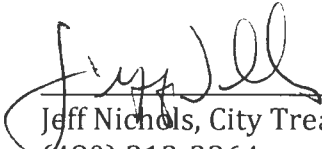
### STAFF CONTACTS (S)

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Bruce Washburn, City Attorney, [bwashburn@scottsdaleaz.gov](mailto:bwashburn@scottsdaleaz.gov)  
Katie Callaway, Director, Risk Management, [kcallaway@scottsdaleaz.gov](mailto:kcallaway@scottsdaleaz.gov)

### APPROVED BY

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Jeff Nichols, City Treasurer  
(480) 312-2364  
[jenichols@scottsdaleaz.gov](mailto:jenichols@scottsdaleaz.gov)

3/31/15  
Date

  
Bruce Washburn, City Attorney  
(480) 312-2405  
[bwashburn@scottsdaleaz.gov](mailto:bwashburn@scottsdaleaz.gov)

3/5/15  
Date

### ATTACHMENTS

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1. Resolution No. 10108

RESOLUTION NO. 10108

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, CONCERNING *DULATAHU V. CITY OF SCOTTSDALE, ET AL.*, CASE NO. CV2014-011772 CURRENTLY PENDING IN THE SUPERIOR COURT IN AND FOR MARICOPA COUNTY, ARIZONA.

WHEREAS, Amor Dulatahu brought suit against the City of Scottsdale and City of Scottsdale employees seeking to recover monetary damages for injuries to Amor Dulatahu allegedly resulting from a motor vehicle accident which occurred on November 30, 2013 in Scottsdale; and

WHEREAS, the City has decided to resolve the disputed issues and compromise the claims by settling herein; and

WHEREAS, it is in the best interest of the City to effectuate a settlement of the matter of *DULATAHU V. CITY OF SCOTTSDALE, ET AL.*, Maricopa County Superior Court Case No. CV2014-011772.

NOW, THEREFORE, BE IT RESOLVED by the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Council hereby authorizes \$25,000 to be paid from the City's Risk Management Operating Budget (710-23740-52483) for settlement of *DULATAHU V. CITY OF SCOTTSDALE, ET AL.*, Maricopa County Superior Court Case No. CV2014-011772.

Section 2. That the City Manager, the City Treasurer, the City Attorney, and their respective staff are authorized and directed to execute such documents and take such other actions as are necessary to carry out the purpose of this Resolution.

PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF SCOTTSDALE, an Arizona  
Municipal Corporation

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

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W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

  
\_\_\_\_\_  
Bruce Washburn, City Attorney  
By Lori S. Davis, Senior Assistant City Attorney