

# Mayor and Council Communication

**DATE:** 11/28/23

**M&C FILE NUMBER:** M&C 23-0999

**LOG NAME:** 12ZC LAWSUIT SETTLEMENT

**SUBJECT**

(ALL) Authorize Settlement and Payment in the Amount of \$3,500,000.00 for the Claims of Amber Carr, on Behalf of Minor Z.C. Related to the Lawsuit Entitled David Bakutis, as Administrator for the Estate of Atatiana Jefferson v. Aaron Dean, et al. and Amber Carr, on Behalf of Minor, Z.C. v. Aaron Dean, et al (Cause No. 4:21-CV-00665-Y Consolidated with Civil Action No 4:21-CV-1053-Y)

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**RECOMMENDATION:**

It is recommended that the City Council:

1. Authorize the settlement and payment in the amount of \$3,500,000.00 to Amber Carr (or a duly appointed representative) on behalf of minor, Z.C., and attorneys David W. Henderson, Jay D. Ellwanger, and J. Sebastian Van Coevorden, of Ellwanger Henderson LLLP in settlement of all claims related to the lawsuit styled Amber Carr, on behalf of minor, Z.C. v. Aaron Dean, et al, Civil Action No 4:21-CV-1053-Y (consolidated with Civil Action No. 4:21-CV-665-Y, David Bakutis, as Administrator for the Estate of Atatiana Jefferson v. Aaron Dean, et al.);
  2. Adopt the attached appropriation ordinance increasing estimated receipts and appropriations in the Risk Financing Fund in the amount of \$3,500,000.00, from available net position, for the purpose funding lawsuit expenses;
  3. Authorize the payment of the Court appointed Guardian Ad Litem; and
  4. Authorize the appropriate City Personnel to execute all releases and agreements necessary to complete the settlement.
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**DISCUSSION:**

On October 12, 2019, Fort Worth Police Officers responded to an “open structure” call at the home of Atatiana Jefferson. During the investigation of the call Ms. Jefferson was shot and killed by former police officer Aaron Dean. ZC was in the house with Ms. Jefferson at the time of the shooting. ZC’s mother, Amber Carr, sued the City and Aaron Dean, alleging that ZC’s Fourth Amendment rights were violated. She also sued for state law claims of intentional infliction of emotional distress.

An agreement has been reached to settle the claims of ZC for \$3,500,000.00, subject to City Council approval. A final determination of the division of the settlement amount and the amount of the Guardian Ad Litem fees will be determined by the Court.

Funding is available for appropriation from net position of the Risk Financing Fund. The beginning net position balance is \$44,678,831.20 and after appropriation the new net position balance will be \$41,178,831.20.

Parties are to bear their own court costs.

Approval of this settlement should not be construed as an admission of liability by the City of Fort Worth, as any liability in this matter is denied.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

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**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that funds are currently available from net position of the Risk Financing Fund, and upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available in the current operating budget, as appropriated, in the Risk Financing Fund. Prior to any expenditure being incurred, the Human Resources Department has the responsibility to validate the availability of funds.

**Submitted for City Manager's Office by:** Fernando Costa 6122

**Originating Business Unit Head:** Leann Guzman 8973

**Additional Information Contact:** Laetitia Coleman Brown 6639

