

ORDINANCE No.

* Pay attorney's fees settlement from Masonry Building Owners of Oregon et al. litigation in the sum of \$350,000 involving the Portland Bureau of Development Services and the Bureau of Emergency Management (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Masonry Building Owners of Oregon through attorney John DiLorenzo and the firm Davis Wright Tremaine, filed a lawsuit against the City for declaratory and injunctive relief challenging ordinances related to unreinforced masonry buildings involving the Portland Bureau of Development Services and the Bureau of Emergency Management.
2. U.S. Magistrate Judge John Acosta granted a preliminary injunction on May 30, 2019 and on October 23, 2019 City Council repealed the ordinance in question. Based on the successful outcome of the suit, plaintiffs are entitled to their reasonable attorney's costs and fees.
3. Risk Management Services recommends the payment of \$350,000 a compromise from the full demand in order to resolve the matter without further legal proceedings.

NOW, THEREFORE, the Council directs:

- a. The Mayor and the Auditor are hereby authorized to draw and deliver a check in the amount of \$350,000 made payable to Davis Wright Tremaine LLP.
- 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 this matter; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,

Mayor Ted Wheeler
Prepared by Becky Chiao
Date prepared: October 29, 2019

MARY HULL CABALLERO
Auditor of the City of Portland
By

Deputy

IMPACT STATEMENT

Legislation title: * Pay attorney's fees settlement from Masonry Building Owners of Oregon et al. litigation in the sum of \$350,000 involving the Portland Bureau of Development Services and the Bureau of Emergency Management (Ordinance)

Contact name: Becky Chiao
Contact phone: 503-823-6124
Presenter name: Becky Chiao

Purpose of proposed legislation and background information:

This Ordinance settles the attorney's fees demand resulting from the lawsuit for declaratory and injunctive relief brought against the City by Masonry Building Owners of Oregon, Fountain Village Development LLC, and Jim A. Atwood.

Financial and budgetary impacts:

This legislation will have no impact on City revenue.

Total cost to the City to settle this matter is \$350,000. 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 resolves a lawsuit involving the Portland Bureau of Development Services and the Bureau of Emergency Management. 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.

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
☒ **NO:** Skip this section

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