



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 3/25/25

**REQUESTER:** Jeanne Snider

**PRESENTER:** Jeanne Snider, Assistant City Attorney

**ITEM TITLE:** CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2425-108: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING JOINT PETITION SETTLEMENT OF THE CLAIM FILED BY JARED TIPTON UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF *JARED TIPTON V. THE CITY OF NORMAN*, WORKERS' COMPENSATION COMMISSION CASE 2024-05980 T; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COMMISSION, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COMMISSION JUDGMENT FROM THE RISK MANAGEMENT INSURANCE FUND.

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### **BACKGROUND:**

Jared Tipton is a Fire Driver Engineer for the City of Norman's Suppression Division of the Fire Department. He was hired as a firefighter recruit March 3, 2008, reclassified as firefighter March 3, 2009 and promoted to Fire Driver Engineer October 18, 2023. Mr. Tipton filed Workers Compensation Commission Case 2024-05980 T on October 24, 2024, alleging a single incident injury to the Right Shoulder from a lifting injury on January 15, 2024 when he reaching up to close a compartment. The case was accepted and proceeded through the normal litigation process.

Prior to a trial being held, Mr. Tipton has agreed to a settlement in the total amount of \$23,328, which represents 18 percent permanent partial disability (PPD) to the Whole Body regarding the Right Shoulder. The settlement is recommended for consideration by the City Council.

### **DISCUSSION:**

Medical Treatment. Mr. Tipton was seen at OrthoCentral the date of his injury and sent for a magnetic resonance imaging (MRI) on January 19, 2024. MRI imaging revealed a full-thickness rotator cuff tear with underlying inflammation and surgical intervention was recommended by Dr. Kirkpatrick. On February 7, 2024, he underwent arthroscopic repair and joint debridement

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followed by postoperative physical therapy. Mr. Tipton continued to follow-up with Dr. Kirkpatrick and was released modified duty with restrictions on May 2, 2024 and to regular work May 31, 2024.

Issues for Trial. There is no question Mr. Tipton injured his right shoulder in the course of his employment with the City. The primary issues to be tried before the Workers' Compensation Commission are the extent of his injury and whether the injury is permanent in nature. Permanent partial disability is a factual determination made by the Workers' Compensation Commission Trial Judge based on doctors' opinions and medical records regarding the extent of permanent partial disability.

Evaluations. Mr. Tipton was first rated by Dr. Lance Rosson on December 18, 2024. Dr. Rosson opined a rating of 28 percent (\$36,288) PPD to the Right Shoulder, entitlement to continuing medical benefits in the nature of prescription medications on an as needed basis, as well as other treatment his treating physician or further selected physicians might deem necessary, and additional surgical intervention potentially required due to implanted medical devices/prosthetic/instrumentation.

On February 4, 2024, the medical expert for the City, William Jones, M.D. opined 8 percent (\$10,368) PPD to the Right Shoulder and noted that the bioabsorbable surgical anchors are not medical or prosthetic devices and are not intended to be repaired, replaced, or removed. The City's maximum exposure for total PPD would be \$36,288.

Trial. The case proceeded through the normal litigation process; however, Mr. Tipton has agreed to a settlement of the case as outlined below. If a trial was held, the Judge could determine nature and extent to his injuries and award permanent partial disability.

Proposed Settlement. The proposed settlement closes Workers' Compensation Commission Case 2024-05980 T in a lump sum payment of \$23,328 (less attorney fee) representing the settlement amount discussed above. Pursuant to 85A O.S. § 31(7), for injuries occurring on or after July 1, 2019, a Multiple Injury Trust Fund assessment in the amount of \$699.84, representing (3%) of the permanent partial disability award shall be deducted and paid to the Oklahoma Tax Commission.

It is felt that the settlement is fair and reasonable. A settlement is beneficial to the City in that it is a full, final and complete settlement of any and all claims and closes out any continued medical treatment. This settlement is beneficial to Mr. Tipton in that it provides certainty for an award and would be paid in a lump sum rather than at a weekly rate over a period of time.

Furthermore, if the case was settled in this manner, the City would incur additional costs and fees of:

Workers' Compensation Administration Fund Tax in the amount of \$466.56; Special Occupational Health & Safety Tax in the amount of \$174.96, and Workers Comp Commission Filing fee in the amount of \$140. In addition, the City would incur an additional cost and fee for the Cleveland County Court Filing Fee in the amount of \$154.14.

These additional costs and fees total \$935.66, which brings the total cost of this settlement to the City to \$24,263.66. Adequate funds are available in the Order/Settlements Account (43330102-42131).

**RECOMMENDATION:**

For the reasons outlined above, it is believed the settlement is fair, reasonable, and in the best interest of the City. Acceptance of the settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Mr. Tipton and his attorney in a lump sum. The settlement would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85A O.S. § 107, 51 O.S. § 159, and 62 O.S. § 361, *et seq* and 85 O.S. § 313, 51 O.S. § 159, and 62 O.S. § 361, *et seq*. Certifying the order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.