

ORDINANCE No.

*Pay claim of Dean Lindstrom and Michele Chernesky in the sum of \$150,000 involving the Bureau of Environmental Services (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. Dean Lindstrom and Michele Chernesky, through their attorney Jack Levy, have filed a property damage claim against the City for erosion and soil slumping involving the Bureau of Environmental Services on August 1, 2016.
2. The claim has 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 claim at this time.
3. Risk Management Services recommends the claim be compromised for the total sum of \$150,000, subject to the claimant 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 \$150,000 made payable to Smith Freed & Eberhard P.C. client trust account.
- 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 property damage claim; 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 Jessica Kincaid
Date prepared: June 16, 2017

MARY HULL CABALLERO
Auditor of the City of Portland
By

Deputy

IMPACT STATEMENT

Legislation title: *Pay claim of Dean Lindstrom and Michele Chernesky, in the sum of \$150,000 involving the Bureau of Environmental Services (Ordinance)

Contact name: Jessica Kincaid

Contact phone: 503-823-5256

Presenter name: Jessica Kincaid

Purpose of proposed legislation and background information:

This Ordinance settles a property damage claim brought by Dean Lindstrom and Michele Chernesky, resulting from erosion and soil slumping on their property in northwest Portland.

Financial and budgetary impacts:

This legislation will have no impact on City revenue.

Total cost to the City to settle the claim is \$150,000. The source of funding is the City's Insurance and Claims Fund. All cost of the settlement is in the 2017-2018 fiscal year. This Ordinance does not amend the budget.

Community impacts and community involvement:

This Ordinance settles a tort claim resulting from erosion and soil slumping involving the Bureau of Environmental Services. 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 claims 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.

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