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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORADUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 1207-18

AGENDA DATE: November 27, 2018

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Marisa Roubik

SUBJECT: Claim of Gabriella Blake, City Attorney File No. 2018-0248

EXECUTIVE SUMMARY:

Gabriella Blake filed a claim with the city requesting \$1,840.00 to compensate for alleged medical costs incurred on or about October 25, 2018, when she tripped while walking through a We Energies construction zone (which the City was not party to) where the sidewalk was removed near the corner of Cleveland and Durand Avenues. The City is not liable for alleged damages that result from construction projects that the City is not party to.

For this reason, it is the recommendation of the City Attorney's Office that the Finance and Personnel Committee recommend that the Common Council deny this claim.

BACKGROUND & ANALYSIS:

Gabriella Blake, of 1555 Boyd Avenue in Racine, Wisconsin, filed a claim for reimbursement in the amount of \$1,840.00 for alleged medical costs incurred on or about October 25, 2018, when she tripped while walking through a We Energies construction zone (which the City was not party to) where the sidewalk was removed near the corner of Cleveland and Durand Avenues. Ms. Boyd claims that this alleged hazard was not properly marked and the sidewalk was in a dangerous condition. On the date in question, the sidewalk in this vicinity was undergoing construction as part of a We Energies project, in which the City was not involved. After reviewing the circumstances of this claim, the City Attorney's Office contends that the City is not liable for this damage.

30 The City is not liable for alleged damages that result from construction projects that the City is not
31 party to.

32 We Energies was performing a construction project that required them to dig up the sidewalk near
33 the intersection of Cleveland and Durand Avenues on or about the date in question. The City did not have
34 any concurrent sidewalk construction projects located at or about this intersection on the date in question.
35 As such, the alleged hazard that Ms. Blake tripped upon was not created by the City.

36 The City Attorney's Office recommends that this Committee deny the claim of Christine Kiernan
37 because the construction hazard at issue was part of a We Energies construction project, and the City is not
38 liable for alleged damages that result from construction projects that the City is not party to.

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40 **BUDGETARY IMPACT:**

41 Assuming the recommendation to deny this claim is adopted, this item would have a \$0.00 impact
42 on the City's budget.

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44 **OPTIONS/ALTERNATIVES:**

45 If the Committee recommends that this claim be paid by the City (contrary to any indication of
46 the City's liability for the alleged damages), this item would have up to a \$1,840.00 impact on the City's
47 2018 claims budget.

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49 **RECOMMENDED ACTION:**

50 The City Attorney's Office respectfully advises this Committee to recommend that the Common
51 Council deny the claim of Gabriella Blake.

52 _____

53 **ATTACHMENT(S):**

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