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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0240-23

AGENDA DATE: March 13, 2023

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa Roubik

SUBJECT: Communication sponsored by Alder Taft on behalf of the City Attorney's Office submitting the claim of Jeff Horton for consideration for disallowance.

EXECUTIVE SUMMARY:

Jeff Horton filed a claim with the City in the amount of \$16,156.14 for damages allegedly arising from the top of his 26 foot box truck striking a tree limb that was extending over the 3500 block of Main Street on or about October 14, 2022. The Claimant alleges that he was forced to use the curbside lane due to road construction on Main Street, which he claims had no signage to warn drivers of the low clearance height of the tree in question. The City is not liable for these damages. Rather, the contractor for this project—A.W. Oakes & Son, Inc.—is responsible for providing and maintaining all traffic control devices as necessary to protect their work and safeguard and direct traffic around their work.

Because the City is not liable for the alleged damages, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Jeff Horton, of 3600 Sheridan Road, Kenosha, Wisconsin 53140, filed a claim with the City in the amount of \$16,156.14 for damages allegedly arising from the top of his 26 foot box truck striking a tree limb that was extending over the 3500 block of Main Street on or about October 14, 2022. The Claimant alleges that he was forced to use the curbside lane due to road construction on Main Street, which he claims had no signage to warn drivers of the low clearance height of the tree in question.

30 The City is not liable for these damages. Rather, contractors are responsible for providing and
31 maintaining all traffic control devices and flaggers as necessary to protect their work and safeguard and
32 direct traffic around their work. The contracted party performing this road construction was A.W. Oakes
33 & Son, Inc. Therefore, A.W. Oakes & Son, Inc. is liable for these alleged damages to the extent that any
34 party, other than the Claimant, may be at fault.

35 The City will send a letter to the Claimant to notify him of the contractor's name and address.

36 Because the City is not liable for the alleged damages, it is the recommendation of the City
37 Attorney's Office that this claim be disallowed.

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39 **BUDGETARY IMPACT:**

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

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43 **RECOMMENDED ACTION:**

44 That the disallowance of this claim be recommended for approval.

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46 **ATTACHMENT(S):**

47 _____