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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORADUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 1255-18

AGENDA DATE: December 10, 2018

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Marisa Roubik

SUBJECT: Claim of Amy Beckett, City Attorney File No. 2018-0211

EXECUTIVE SUMMARY:

Amy Beckett filed a claim with the city requesting \$1,641.07 worth of damages to her vehicle as a result of her running over pothole on Durand Avenue resulting from road construction being performed on behalf of We Energies on a road maintained by Racine County on or about September 4, 2018. The City is not liable for alleged damages that result from construction projects that the City is not party to nor for roads maintained by Racine County.

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:

Amy Beckett, of 2527 Maryland Avenue in Racine, Wisconsin, filed a claim for reimbursement in the amount of \$1,641.07 for vehicle damage allegedly arising after she struck a large pothole on Durand Avenue where it merges to a single lane on or about September 4, 2018. On the date in question, this intersection was undergoing construction as part of a We Energies project, in which the City was not involved. Furthermore, this road is maintained by Racine County. After reviewing the circumstances of this claim, the City Attorney's Office contends that the City is not liable for this damage.

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

30 We Energies had contracted with a third-party to perform a construction project on Durand Avenue
31 on or about the date in question. The City did not have any concurrent road construction projects located
32 at this intersection on the date in question. As such, the alleged hazard that Ms. Beckett struck was not
33 created by the City.

34 Additionally, the City is not liable for alleged damages that result from the maintenance of roads
35 that the City is not responsible for maintaining.

36 Upon checking with the Department of Public Works, it was determined that Racine County is
37 responsible for maintaining the roadway in question.

38 As such, the City Attorney's Office recommends that this Committee deny the claim of Amy
39 Beckett because the alleged pothole at issue was the responsibility of We Energies and Racine County;
40 therefore, the City is not liable for the alleged damages that resulted from said pothole.

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42 **BUDGETARY IMPACT:**

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

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46 **OPTIONS/ALTERNATIVES:**

47 If the Committee recommends that this claim be paid by the City (contrary to any indication of
48 the City's liability for the alleged damages), this item would have up to a \$1,641.07 impact on the City's
49 2018 claims budget.

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51 **RECOMMENDED ACTION:**

52 The City Attorney's Office respectfully advises this Committee to recommend that the Common
53 Council deny the claim of Amy Beckett.

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55 **ATTACHMENT(S):**

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