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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0286-20

AGENDA DATE: May 27, 2020

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Marisa Roubik

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

EXECUTIVE SUMMARY:

Steve Hlavacek filed a claim with the city requesting \$7,329.57 in damages to a property he owns as a result of an alleged sewer backup in the property's basement on or about October 25, 2019. The contractor who performed this work, rather than the City, is liable for the alleged damages that resulted from the contractor's work. For this reason, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Steve Hlavacek, of Phillips, Wisconsin, filed a claim for reimbursement in the amount of \$7,329.57 in damages to a property he owns, located at 1740 Webster Street, Racine, Wisconsin, as a result of an alleged sewer backup in the property's basement on or about October 25, 2019.

Upon further investigation, the City determined that when the sewer main for this property was rehabilitated by a contractor, the contractor's reinstatement of the privately-owned lateral was incomplete. As such, the alleged defect that may have caused the sewer backup on Mr. Hlavacek's property was not created by City employees. After reviewing the circumstances of this claim, the City Attorney's Office contends that the City is not liable for this damage, rather the contractor is liable.

30 The City Attorney’s Office recommends that this Committee deny the claim of Mr. Hlavacek
31 because the alleged defect was not created by a City employee, rather, the contractor who performed this
32 work is liable for the alleged damages.

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34 **BUDGETARY IMPACT:**

35 Assuming the recommendation to deny this claim is adopted, this item would have a \$0.00 impact
36 on the City’s budget.

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38 **OPTIONS/ALTERNATIVES:**

39 If the Committee recommends that this claim be paid by the City, this item would have up to a
40 \$7,329.57 impact on the City’s 2020 claims budget.

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42 **RECOMMENDED ACTION:**

43 That the disallowance of the claim of Steve Hlavacek be recommended for approval.

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45 **ATTACHMENT(S):**

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