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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORADUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 1127-18

AGENDA DATE: November 12, 2018

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Marisa Roubik

SUBJECT: Claim of G. Scherfer, City Attorney File No. 2018-0207

EXECUTIVE SUMMARY:

Mr. G. Scherfer filed a claim with the city requesting \$410.14 worth of damages to his vehicle as a result of him allegedly running over a protruding manhole supposedly resulting from road construction at the intersection of 6th Street and Memorial Drive on or about August 10, 2018. The contracted party performing this road work was Payne & Dolan. The contractor, rather than the City, is liable for the alleged damages that result from contracted road construction projects, and the City will notify the claimant of the contractor's name and address.

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:

G. Scherfer, of 333 Lake Avenue #702, in Racine, Wisconsin, filed a claim for reimbursement in the amount of \$410.14 for vehicle damage allegedly arising after he struck a protruding manhole supposedly resulting from road construction at the intersection of 6th Street and Memorial Drive on or about August 10, 2018. On the date in question, this intersection was undergoing construction which was being performed by contract with Payne & Dolan. As such, the alleged hazard that Mr. Scherfer struck 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.

31 The City Attorney's Office recommends that this Committee deny the claim of Mr. Scherfer
32 because the alleged manhole at issue was created by Payne & Dolan crews, and the City is not liable for
33 alleged damages created by contracted construction crews.

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35 **BUDGETARY IMPACT:**

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

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39 **OPTIONS/ALTERNATIVES:**

40 If the Committee recommends that this claim be paid by the City (contrary to any indication of
41 the City's liability for the alleged damages), this item would have up to a \$410.14 impact on the City's
42 2018 claims budget.

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44 **RECOMMENDED ACTION:**

45 The City Attorney's Office respectfully advises this Committee to recommend that the Common
46 Council deny the claim of G. Scherfer.

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48 **ATTACHMENT(S):**

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