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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0112-21

AGENDA DATE: February 22, 2021

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 Darith Foster for consideration for disallowance.

EXECUTIVE SUMMARY:

Darith Foster filed a claim with the City requesting \$378.00 worth of damages for a television that was allegedly broken as a result of vibrations caused by a contractor digging in his neighborhood on or about December 17, 2020. The contracted party performing this road work was Earl Heffel & Sons, Inc. The contractor, rather than the City, is liable for the alleged damages that result from privately contracted plumbing repair 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 this claim be disallowed.

BACKGROUND & ANALYSIS:

Darith Foster, of 1115 Romaine Avenue, Racine, WI 53402, filed a claim with the City requesting \$378.00 worth of damages to a television that was allegedly broken as a result of vibrations caused by a contractor digging in his neighborhood on or about December 17, 2020. According to permit records, on the date in question, privately contracted plumbing work was being performed by Earl Heffel & Sons, Inc. at 1109 Romaine Avenue. As such, any vibrations caused by this plumbing work that allegedly broke Mr. Foster's television were not created by City employees—rather Earl Heffel & Sons, Inc. is liable for this alleged damage.

For the reasons forth above, the City Attorney's Office recommends that this claim be disallowed.

31 **BUDGETARY IMPACT:**

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

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35 **OPTIONS/ALTERNATIVES:**

36 If the Committee recommends that this claim be paid by the City (contrary to any indication of the
37 City's liability for the alleged damages), this item would have up to a \$378.00 impact on the City's 2021
38 claims budget.

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40 **RECOMMENDED ACTION:**

41 That the claim of Darith Foster be disallowed.

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43 **ATTACHMENT(S):**

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