

COMMITTEE OF THE WHOLE

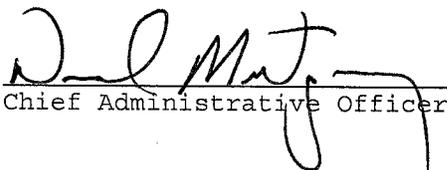
13-0609R

RESOLUTION APPROVING SETTLEMENT OF CLAIM OF CASSANDRA
OLSON IN THE AMOUNT OF \$125,000.

CITY PROPOSAL:

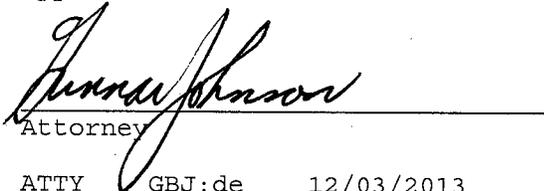
RESOLVED, that proper city officials are authorized to pay to Cassandra Olson and her attorney, Rich Ruohonen, the sum of \$125,000 in full and final settlement of the claim which arose out of a bicycle accident occurring near 15th Avenue East and 5th Street on September 23, 2009; payment to be made from the Self Insurance Fund 0610.

Approved for presentation to council:



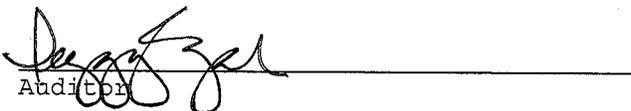
Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

ATTY GBJ:de 12/03/2013

STATEMENT OF PURPOSE: On September 23, 2009, a bicycle accident occurred at or near 15th Avenue East and 5th Street in the City of Duluth. Cassandra Olson was riding her bicycle down 15th Avenue East when she hit a depressed manhole cover which caused her to fall to the pavement causing injuries.

The city's liability is based upon the legal principle that an employer is liable for negligence of its employees. Here, sufficient evidence exists to conclude that the city did not properly level the manhole during the resurfacing of 15th Avenue East, that this failure was negligent, that this negligence was a direct cause of the injuries sustained by Cassandra Olson, and that the city's negligence was greater than any negligence which a jury may attribute to Ms. Olson.

The city of Duluth has investigated this claim and verified the damages and expenses. The civil division of the city attorney's office analyzed the city's loss exposure. Settlement negotiations were conducted and an agreement has been reached in the amount of \$125,000. The city attorney's office recommends this settlement.

**RELEASE OF PROPERTY DAMAGE, PERSONAL
INJURY, AND ALL OTHER CLAIMS**

PART A

For and in consideration of the payment to me of the sum of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$125,000.00), the receipt of which is hereby acknowledged, I, being of lawful age, to hereby release and discharge the CITY OF DULUTH, MINNESOTA, its agents, officers and employees, and their assigns and legal representatives, of and from any and all causes of action, claims, damages, consequential damages, costs, loss of services, expenses, and compensation, including any claim presented as arising pursuant to Federal law or to the Minnesota No-Fault Insurance Act (M.S. Chapter 65B), on account of, or in any way arising out of, any and all personal injuries, property damage, or other legal damage resulting from an accident or incident that occurred on or about the 23rd day of September, 2009, at or near 15th Avenue East and 5th Street for injuries suffered while riding a bicycle on the roadway.

PART B

The amount received from the City of Duluth in payment for settlement of bodily injury, property damage, medical expense, deprivation of legal rights, or other legal damages claims is \$125,000.00.

PART C

I hereby declare and represent that any injuries sustained are permanent and progressive and that recovery therefrom is uncertain and indefinite, and in making this release agreement it is understood and agreed that I rely wholly upon my own judgment, belief, and knowledge of the nature, extent and duration of said injuries, and that based upon my information, judgment, and advice, and not upon the representations of any agent of the City concerning my condition, I wish to enter into this agreement.

PART D

It is further understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment is not to be construed as an admission of liability on the part of the City of Duluth, its agents, employees, by whom liability is expressly denied.

PART E

And in further consideration of said payment, I hereby subrogate, set over and assign to City of Duluth all my right, title, and interest in any and all claims for damages against any persons or corporations arising out of said incident or accident. I assign the City full right and authority to demand and receive any sums of money, in settlement of said claims, in its own name or my name, but without financial cost to me. I further agree to verify all proper pleadings, attend and testify at all hearings, aid said City of Duluth in securing evidence, and generally do all things necessary and proper as a party plaintiff.

