



**Roll Call Number**

**Agenda Item Number**

22 I

**Date** July 29, 2013

Communication from Legal Department concerning settlements made by City Attorney, not exceeding \$5,000.00.

FORM APPROVED:

MOVED BY \_\_\_\_\_ TO RECEIVE,  
FILE AND AFFIRM SETTLEMENTS MADE BY  
CITY ATTORNEY

Jeffrey D. Lester  
City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
<b>TOTAL</b>				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**CITY ATTORNEY**

Jeffrey D. Lester

**DEPUTY CITY ATTORNEYS**Mark Godwin  
Lawrence R. McDowell  
Kathleen Vanderpool**ASSISTANT CITY ATTORNEYS**Angela T. Althoff  
Roger K. Brown  
Ann M. DiDonato  
David A. Ferree  
Glenna K. Frank  
Gary D. Goudelock, Jr.Michael F. Kelley  
Vicky L. Long Hill  
Katharine J. Massier  
Carol J. Moser  
Douglas P. Philip

July 29, 2013

HONORABLE MAYOR AND MEMBERS OF  
THE DES MOINES CITY COUNCIL

Re: Report to Council

Pursuant to the authority and direction of Council authorizing the City Attorney to settle claims, lawsuits and workers compensation actions for a total sum not to exceed \$5,000, I submit to Council the following summary report of settlements made:

METLIFE AUTO & HOME, \$3,332.51 in payment of subrogation claim for vehicle damage, car rental expense and collision deductible resulting from incident on March 28, 2013 when City Park's employee rear-ended van on I-235.

NICOLE HOLLINGSHEAD AND HER ATTORNEY, RICK L. OLSON, \$4,000.00 as a settlement for a lawsuit regarding incident of May 26, 2010 when a child suffered burns from a slide in Brook Run Park.

KARIANN MIKESELL, AS PARENT, AND LAMARCA & LANDRY, P.C., \$5,000.00 in payment of claim for bodily injury resulting from incident of June 6, 2011 when a child cut her foot on a piece of glass in the wading pool at Chesterfield Pool.

FISHER BODY & PAINT, \$3,096.30 for repairs to claimant's vehicle resulting from incident of May 3, 2013 when employee was plowing snow in the City Hall parking lot and backed into vehicle; ENTERPRISE RENT A CAR, \$155.34 for rental car expense.

LUZ AMANDA TORRES, \$3,505.00 for bodily injury and lost wages resulting from incident on March 3, 2013 when police officer rear-ended claimant on Easton at University Avenue; \$447.40 was previously paid for property damage.

TMC AUTO BODY, \$856.64 in payment of claim of May 3, 2013 when police officer changed lanes in the 1300 block of East Grand Avenue and struck claimant's vehicle; ENTERPRISE RENT-A-CAR, \$62.14 for rental car expense associated with the claim.

JOHN AND DUSTY MASOLINI, \$1,851.82 for repairs to trailer that was parked at 5621 Terrace Drive and garbage collector backed into on April 5, 2013.

TOM KILTS, \$300.00 in payment of claim of February 27, 2013 when snow plow struck claimant's brick planter at 930 Hackley.

STEPHEN NICHOLS, \$35.00 in payment of claim regarding incident of May 8, 2013 when garbage truck struck parked truck at 832 Lacona and the side mirror broke.

ALLEN KRAMER, \$419.00 for plumber's call, damaged carpet and cleanup resulting from obstructed sanitary sewer at 1236 East 29<sup>th</sup> Street on April 13, 2013 and May 2, 2013.

TIM FITZGERALD, \$985.92 in payment of claim of March 17, 2013 when claimant had private sewer line replaced at 809 S.W. Creston and it was discovered that wye that connects private line to City sewer was broken; City is responsible for the wye portion of the connection.

T. CHAD WOLFE, \$1,299.98 for property damage at 4114 S.E. 15<sup>th</sup> Street resulting from sewer backups in 2010 and on March 13, 2013; Public Works discovered sewer had not been installed properly and caused the backups.

KEVIN SHOESMITH, \$600.00 to settle claim for cleanup labor, property damage and plumber's call resulting from incidents of April 17<sup>th</sup> and 18<sup>th</sup>, 2013 when sanitary sewer was obstructed at 2315 40<sup>th</sup> Place.

MICHAEL SHAVER, \$610.00 in payment of property damage claim regarding obstructed sanitary sewer at 2210 60<sup>th</sup> Street on April 23<sup>rd</sup> and 24<sup>th</sup>, 2013.

MIDAMERICAN ENERGY COMPANY, \$328.86 in payment of property damage claim of February 26, 2013 when City driver was emptying dumpster and struck overhead wire at 2300 East 32<sup>nd</sup> Street.

DEBBIE RAGAN, \$232.14 to replace windshield that was damaged on May 15, 2013 when gravel fell from dump truck traveling on Maury Street.

EAST UNIVERSITY STORAGE, \$200.00 for repairs to railroad timbers and asphalt at 3200 East University Avenue that were damaged by plow truck on December 20, 2012.

LAWRENCE JOHNSON, \$200.50 in payment of claim of May 18, 2013 when claimant got yellow paint on his vehicle from lines painted by City crews on Walnut Avenue between 10<sup>th</sup> and 12<sup>th</sup> Streets.

BRETT LUCAS, \$962.68 for repairs to vehicle resulting from incident of May 17, 2013 when police officer struck claimant on 6<sup>th</sup> Avenue at School Street.

ADESA DES MOINES, L.L.C. \$3,507.30 for reimbursement of proceeds from a police auction sale of a 2004 Pontiac Grand Am to Claimant Capitol City Motors with no valid title, which turned out to be a stolen vehicle.

ENTERPRISE RENT-A-CAR \$155.44 for car rental expense due to automobile accident involving Claimant Beryl Guy and City snow plow, occurring in City Hall parking lot on May 3, 2013.

ENTERPRISE RENT-A-CAR \$62.14 for car rental expense due to automobile accident involving Claimant Charles Maddex and police officer occurring in the 1300 block of East Grand Avenue on May 3, 2013.

MVP FENCE \$534.00 for damaged chain link fence at 853 18th Street, owned by Claimant Bret McFarlin, which was damaged by pick-up arm of City garbage truck on May 10, 2013.

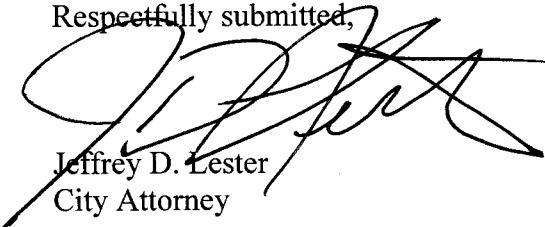
KEVIN and BETH TUBBS \$1,485.15 for property damage due to a sewer backup at 2813 47th Street, occurring on April 11, 2013, which was caused by an obstruction of roots in the City's sanitary sewer.

DEBORAH BECVAR \$3,757.02 for property damage due to a sewer backup at 4107 E. 8th Street, occurring on April 11, 2013, which was caused by an obstruction of roots and grease in the City's sanitary sewer.

MVP FENCE \$597.00 for damaged chain link fence at 1436 Thompson Avenue, owned by Cody McDaniel and Mattie Thomsen, which was damaged by pick-up arm of City garbage truck on May 14, 2013.

ANDREW WARD \$864.03 for property damage to Claimant's parked vehicle on May 24, 2013 when City garbage collector struck the vehicle while emptying a large dumpster on 17th Street.

Respectfully submitted,



Jeffrey D. Lester  
City Attorney