

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
ROXANE L. CRAWFORD
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
MICHAEL G. TOBIN
DAVID J. STANOSZ
SUSAN E. LAPPEN
JAN A. SMOKOWICZ
PATRICIA A. FRICKER
HEIDI WICK SPOERL
KURT A. BEHLING
GREGG C. HAGOPIAN
ELLEN H. TANGEN
MELANIE R. SWANK
JAY A. UNORA
DONALD L. SCHRIEFER
EDWARD M. EHRlich
LEONARD A. TOKUS
VINCENT J. BOBOT
MIRIAM R. HORWITZ
MARYNELL REGAN
G. O'SULLIVAN-CROWLEY
KATHRYN M. ZALEWSKI
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
Assistant City Attorneys

August 28, 2006

To the Honorable Common Council
Of the City of Milwaukee
Room 205 – City Hall

Re: Resolution relating to the claim of Midnight Haulers, Inc.
By Great West Casualty Co.
C.I. File No. 06-L-60

Dear Council Members:

We return the enclosed document which has been filed with the City Clerk and ask that it be introduced and referred to the Committee on Judiciary & Legislation with the following recommendation.

Claimant, Midnight Haulers, Inc., 829-19th Avenue, St. Joseph, MN 56301 by Great West Casualty Co., Vickie Stolen, Subrogation Specialist, Post Office Box 277, South Sioux City, NE 68776-0277 allege damages to their semi-trailer truck arising from the truck hitting an allegedly mis-marked excavation site on June 5, 2006 at North 96th Street and West Brown Deer Road. They claim damages in the amount of \$30,295.38.

Our investigation reveals the Infrastructure Services Division-Street Maintenance (ISD) was performing concrete repairs along the 9700 block of West Brown Deer Road at the time of the incident. The location was properly cordoned off using barricades and warning signs. As traffic travels west toward the excavation site there is a down slope that provides an unobstructed sight line to the barricaded area. The division has no record

To the Hon. Common Council
August 28, 2006
Page 2

of any other accidents in this area during this project.

It was noted on the police accident report completed for this incident that the claimant's driver was traveling at a speed too fast for conditions and was driving inattentively. The ISD properly barricaded and posted this excavation site, and as such, the City cannot accept liability. We recommend denial of this claim.

Very truly yours,

GRANT F. LANGLEY
City Attorney

MICHAEL G. TOBIN
Assistant City Attorney

MGT:beg
Enclosure
1029-2006-2081:108945