

PUBLIC SAFETY COMMITTEE

13-0213R

RESOLUTION APPROVING SETTLEMENT OF CLAIM OF NATIONWIDE
INSURANCE COMPANY (AS SUBROGEE: TYLER WEDEL) IN THE
AMOUNT OF \$11,844.93.

CITY PROPOSAL:

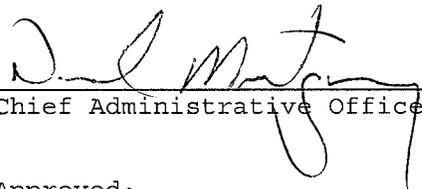
RESOLVED, that the proper city officials are authorized to pay to
Nationwide Insurance Company (as subrogee: Tyler Wedel) the sum of \$11,844.93 in
full and final settlement of the claim which arose out of a vehicle accident
occurring near North 1st Avenue West and 4th Street on January 10, 2013; payment
to be made from the Self Insurance Fund 0610.

Approved:



Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

DPD/ATTY DD:db 04/23/2013

STATEMENT OF PURPOSE: On January 10, 2013, an accident occurred at or near North
1st Avenue West and 4th Street in the City of Duluth between Tyler Wedel and
Officer Ashley Thrumes, an employee of the city of Duluth. Thrumes stopped her
vehicle, exited the vehicle and did not have the vehicle in park. The vehicle
rolled down 1st Avenue West and struck Wedel's parked vehicle, which was
unoccupied at the time of the accident.

The city's liability is based upon the legal principle that an employee is liable for the negligence of its employees. Here, sufficient evidence exists to conclude that the city's employee was negligent, that her negligence was a direct cause of the damage sustained by the Wedel vehicle, and that the employee's negligence was greater than any negligence which a jury may attribute to Tyler Wedel.

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 \$11,844.93. The city attorney's office recommends this settlement.

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RELEASE OF PROPERTY DAMAGE CLAIM

PART A

For and in consideration of the payment to us of the sum of ELEVEN THOUSAND EIGHT HUNDRED FORTY FOUR DOLLARS AND NINETY THREE CENTS (\$11 844 93), the receipt of which is hereby acknowledged we, being of lawful age do 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, demands damages consequential damages costs loss of services expenses and compensation including any claim presented as arising pursuant to Federal law and including any insurance policy deductible or co pay paid by claimant which is in any way related to any and all property damage resulting or to result from or in any way arising out of an accident or incident that occurred on or about the 10th day of January, 2013 at or near North 1st Avenue West and 4th Street for property damage due to a vehicle accident

PART B

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 C

~~And in further consideration of said payment we hereby subrogate set over and assign to City of Duluth all our right title and interest in any and all claims for damages we may have against any persons or corporations that arise out of said incident or accident. We assign the City full right and authority to demand and receive from other parties any sums of money in settlement of said claims in its own name or in our name but without financial cost to us. We further agree to verify all proper pleadings attend and testify at all hearings and said City of Duluth in securing evidence and generally do all things necessary and proper as a party plaintiff~~

Handwritten signature and date: 4-10-13

PART D

It is our intention that, except for payment to us provided for in this agreement the City shall not be required to make any payment to any party as a result of the damages we sustained in the accident described in Part A Should any party other than the City its agents or employees that is concurrently or jointly liable to us or is a subrogee of ours, for any damages arising out of the accident described in Part A become entitled by way of judgment arbitration award, settlement or otherwise to receive on account of or directly resulting from said accident any payment from the City of Duluth its agents or employees then I will indemnify the City its agents or employees for any such payment they may be required to make

PART E

We agree that this settlement becomes binding upon the City of Duluth at the time this agreement is accepted and approved by the proper City officials as required by law

PART F

This release contains the entire agreement between the parties hereto and the terms of this release are contractual and not a mere recital

We hereby authorize and direct the proper City officers to draw an order payable to us as subrogee for Tyler Wedel with claim number 72 22 20 084225 01102013 01 from Self Insurance Fund

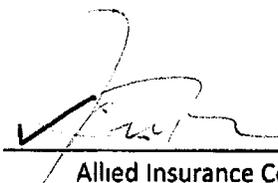
We further state that we have carefully read the foregoing release and know the contents thereof and we sign the same as our own free act

WITNESS our hand this 16 day of April 2013

IN PRESENCE OF


Signature of Witness

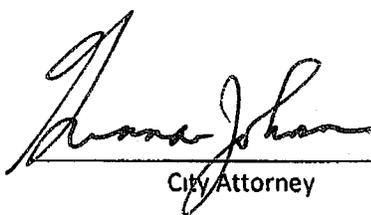
1100 Locust St.
DES MOINES IA 50391
Address of Witness


Allied Insurance Company Claimant


Title

APPROVAL BY CITY ATTORNEY S OFFICE

Approved as to form and execution this 18 day of April 2013


City Attorney