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Title: MARY KATHRYN CALDWELL v. CITY OF GAINESVILLE; PRESUIT CLAIM ARISING FROM AN ACCIDENT THAT OCCURRED ON OR ABOUT AUGUST 25, 2011 (B)

Sponsors: City Attorney

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Date	Ver.	Action By	Action	Result
5/16/2013	1	City Commission	Approved as Recommended	Pass

MARY KATHRYN CALDWELL v. CITY OF GAINESVILLE; PRESUIT CLAIM ARISING FROM AN ACCIDENT THAT OCCURRED ON OR ABOUT AUGUST 25, 2011 (B)

The City Commission 1) approve the terms of the negotiated settlement; and 2) authorize the City Attorney to settle the claim of Mary Kathryn Caldwell arising from an accident that occurred on or about August 25, 2011.

On August 25, 2011, Ms. Mary Kathryn Caldwell, a research scientist working on a Department of Defense grant with a local engineering firm, was riding her bicycle southbound in the designated bicycle lane on Gale Lemerand Drive, approaching the intersection with Stadium Road. A Regional Transit System bus was also traveling south on Gale Lemerand Drive directly to the left of Ms. Caldwell. As the bus and bicycle entered the intersection with Stadium Road, Ms. Caldwell proceeded straight, and the bus turned right. The bus collided with Ms. Caldwell, and the back right tires of the bus drove over Ms. Caldwell's legs below the knees.

Ms. Caldwell suffered extreme soft tissue damage in both legs, a sprained ankle, and a broken ankle. The left ankle required surgery including the placement of permanent screws. Including the emergency care, surgical intervention, and necessary physical therapy and rehabilitation, Ms. Caldwell incurred medical bills through June of 2012 totaling \$37,740.22. She was wheelchair bound for a month, and non-weight bearing on her left leg for two months. In the immediate wake of the accident, Ms. Caldwell's parents flew to Gainesville to care for her, and she relied on the assistance of others for some time thereafter. She was unable to work for two months, incurring lost wages and compensation of approximately \$8,773.50. Ms. Caldwell's physicians have cautioned her that there is the possibility that future surgeries may be necessary to remove the existing hardware, and there is a dramatic increase in the likelihood of early arthritic conditions.

Prior to the accident, Ms. Caldwell was an avid, competitive cyclist and participated in numerous outdoor activities such as hiking and ultimate frisbee. These activities have been limited or curtailed due to the lingering effects of her injuries. She continues to experience a loss of feeling in her right leg, with numbness on the inside of her right leg attributed to the soft tissue damage. The range of motion in her left ankle is diminished. It is uncertain whether the ongoing nerve damage will ameliorate with time. If this case were to proceed to trial, the permanent nature of Ms. Caldwell's injuries would lead her to also seek damages for pain

and suffering, mental anguish, inconvenience, loss of capacity for the enjoyment of life, expense of future medical treatment, loss of earnings, and loss of ability to lead and enjoy a normal life.

Due to the nature of the accident and injuries, and with the cooperation of the claimant and her attorney, the City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this claim prior to the filing of a lawsuit. A complete review of the applicable medical records was performed, a sworn deposition of Ms. Caldwell was conducted, and other witnesses were interviewed. Per the application of Florida's limited waiver of sovereign immunity contained in section 768.28, Florida Statutes, the City's liability and authority to settle claims such as this is limited to \$100,000. After cooperative, reciprocal due diligence was performed by both the City and lawyers for the claimant, a negotiated settlement was achieved. Representatives for the City agreed to recommend a settlement in the amount of \$100,000 subject to the approval of the City Commission of the City of Gainesville, and in exchange Ms. Caldwell will provide a full and complete Release to the City including waiving the pursuit of a claims bill to the Legislature. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

Fiscal Impact: Funds are available in the City's General Insurance Fund.