



Legislation Text

File #: 140033., **Version:** 1

LISA MELTON, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JARED MELTON, DECEASED V. CITY OF GAINESVILLE D/B/A GAINESVILLE REGIONAL UTILITIES, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, COURT CASE NO. 2012-CA-4494 (NB)

The City Commission: 1) approve the terms of the negotiated settlement; and 2) authorize the City Attorney to settle the claim of Lisa Melton, as Personal Representative of the Estate of Jared Melton, resulting from an incident that occurred on August 22, 2011.

On August 22, 2011, Jared Melton ("Melton") was working at the Tuscan Bend Apartments performing boring samples on the premises. His employers had previously contacted Sunshine State One Call to have underground utilities located on the property. Gainesville Regional Utilities (GRU) performed a series of locates on the property.

One of the requests was to locate utility infrastructure within 10 feet of the perimeter of Building B. The GRU Underground Utilities Technician located utilities in that area using both maps and a transmitter/receiver locating tool. No utilities were located in the area eventually excavated by Melton. However, while excavating in the area with a metal hand auger, Melton contacted an energized wire which resulted in his death by electrocution.

An investigation by GRU after the incident revealed that the map illustrating the location of its utilities in the area was spatially inaccurate. Instead of the underground electric wire being 35 feet off Building B as shown in the map, the wire was physically located 7 feet off the building, within the area GRU had been asked to perform a locate. In addition, the transformer which was the energy source for that underground wire was remotely located and adjacent to a different building within the complex. That transformer, according to the map, had no relation to Building B. Therefore, the technician hooked up his transmitter/receiver locating tool to the transformer that was in closest proximity to and supplying power to Building B. The underground infrastructure associated with that transformer was located.

At the time of his death, Melton had two children, a one-year old son and a six-year old daughter. Melton's mother, the Personal Representative of his estate, brought a wrongful death action against the City on behalf of the Estate and his two children. The lawsuit alleges that the City was negligent in that it failed to properly locate the area, maintained inaccurate maps, and failed to warn of the underlying utility line. The lawsuit requests damages to include a) loss of net accumulations Melton would have left as part of his estate had he lived his normal life expectancy; b) medical and funeral expenses; c) the loss of support and services for each survivor; and d) for his two minor children the loss of parental companionship, instruction, guidance and mental pain, and suffering.

The City has a commercial general liability insurance policy with an umbrella policy that covers GRU operations. Under the policies, the City is responsible for the first \$100,000, Liberty Mutual for the next \$900,000, the City for the next \$10,000 and AIG for any excess amount up to a limit of 10 million dollars.

Counsel for the insurance carriers and the City Attorney's Office engaged in discovery and eventually participated in mediation. The recommended settlement is a result of discussions continued after the mediation.

Section 768.28, Florida Statutes, waives sovereign immunity for the State and its political subdivisions for torts, but only to the extent provided for in the statutes. At the time this incident occurred, liability was waived to settle claims up to \$100,000 per person and \$200,000 per incident absent a claims bill being presented to the legislature. An exception to the requirement of a claims bill exists when a settlement is negotiated within the limits of insurance coverage.

The Personal Representative for the Estate, the City and the Insurance companies have reached a recommended negotiated settlement in this case for 1.2 million dollars. The settlement amount will provide current support for the children, establish an annuity for both children and pay the attorney's fees and costs of the case. After approval by the City Commission, the settlement will be presented to the Court which will appoint a Guardian to review the settlement on behalf of the children and if recommended by the Guardian, approve the settlement.