02-R-2215

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF CORLISS S. SIMS IN THE AMOUNT OF $8,180.00 AGAINST THE CITY OF ATLANTA

WHEREAS, CORLISS S. SIMS, has filed a claim against the City of Atlanta seeking damages to her vehicle; and

WHEREAS, the damage to CORLISS S. SIMS' vehicle occurred when she drove over manholes that were left exposed during a street re-paving project that created a hazardous street condition; and

WHEREAS, the City of Atlanta was on notice of said nuisance and has subsequently made an attempt to abate said nuisance; and

WHEREAS, the construction and maintenance of public roads is a ministerial function and therefore this claim is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and;

WHEREAS, the claimant has asserted damages in the amount of $8,180.00 and has agreed to accept this sum in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of CORLISS S. SIMS, be settled for the sum of $8,180.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that $8,180.00 be paid by the City of Atlanta to CORLISS S. SIMS, in satisfaction of any and all claims she may have stemming from damages sustained to her vehicle on or about August 25, 2002, on Burbank Drive, NW and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 1A01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0788 Date: November 26, 2002

Claimant /Victim CORLISS S. SIMS
BY: (Atty) (Ins. Co.) _____
Address: P. O. Box 960931, Riverdale, Georgia 30296
Subrogation: _____ Claim for Property damage $ 8,180.00 Bodily Injury $ _____
Date of Notice: 11/1/02 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 8/25/02 Place: Burbank Drive
Department PUBLIC WORKS Division Street
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that her vehicle sustained extensive damage after driving over several manholes that were exposed and above the surface of the street. An investigation determined that Burbank Drive had been milled down by the City in preparation for a resurfacing project. The Street Division has subsequently placed asphalt material around the manholes to abate the hazardous condition.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental _____ Ministerial X
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay $ 8,180.00 Adverse _____ Account charged: 1A01 X 2P01 ___ 2J01 ___ 2H01 ___
Claims Manager: _____ Concur/date 11-26-02
Committee Action: _____ Council Action _____

FORM 23-61

 STS.

Burns
10/1

RE: CLAIM FOR DAMAGES

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

Today's Date: 30 Aug 02

ENTERED – 11-1-02 – SB
02L0788 – GWEN BURNS

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of $ 6,375.00 property and/or $ ——— bodily injury for which I contend the City is liable.

1. Date of incident: 8/25/02 (month/day/ year) 2. Time of Incident: 8:00pm 3. Police called: X Yes ___ No

4. Location of incident (including street address): Burbank Drive, Atlanta 30314

5. Name of your insurance company: State Farm Policy No. 913643-C15-11

6. State what and how incident occurred: While driving down Burbank Drive I attempted to avoid 2 large potholes only to encounter larger potholes. I also hit 3 manholes sticking out of the ground ~ 4-6 inches. The street has been torn up several weeks with no time of repair in sight. The street was scheduled for repaving, but it never happened.

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: Acura Legend (Make) 1995 (Year) 4245 ADA (Tag Number) Corliss Sims (Driver's Name)

City vehicle: ——— (Make) ——— (City Driver's Name) ——— (Department/Bureau)

9. Witness: Phyllis C. Jackson (Name) 1285 Akridge St (Address) Atlanta, 30314 (770) 294-2323 (Telephone Number)

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. Claims must be received within 6 months of the event.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Signature of Claimant

Corliss S. Sims
(Print Claimant's Name)

P.O. Box 960931
(Address)

Riverdale Ga 30296
(City, State and Zip Code)

(770) 991-1951 (Work Number) (678) 618-5123 (Home Number)

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