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**Request for City Council Committee Action  
From the City Attorney's Office**

Date: March 15, 2004  
To: Ways & Means/Budget Committee  
Referral to: None

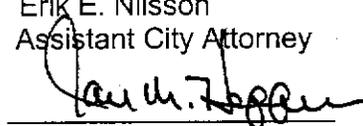
**Subject:** Michael L. Sweat v. City of Minneapolis  
Hennepin County District Court File No. PI 02-9129

**Recommendation:** That the City Council approve settlement of this lawsuit by payment of \$30,000.00 to Michael Sweat and his attorney, Deno Berndt, Esq., Hellmuth & Johnson, PLLC, from Fund/Org 690 150 1500 4000.

**Previous Directives:** None

Prepared by: Erik E. Nilsson  
Assistant City Attorney

Phone: 673-2192

*JH* Approved by:   
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): Payment of \$30,000.00 from Fund /Org. 690 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

City Goals: Build Community

**Background/Supporting Information**

This memorandum is submitted to request City Council approval of a settlement reached in the above-entitled matter. This case arose out of a motor vehicle accident involving a squad car on November 9, 1996. On that date, Plaintiff Sweat was a passenger in a vehicle being driven by Third-Party Defendant Robert Bostic that was traveling eastbound on Lowry Avenue NE (2 lanes each way) in the lane closest to the center line near the intersection of Jefferson Street NE. A

police squad car was parked in the same eastbound direction in the far right (curb) lane. Upon hearing screeching tires coming from a vehicle traveling westbound on Lowry Avenue NE, Officer Jeffrey Kazel of the Minneapolis Police Department proceeded to make a u-turn from the curb lane. During the maneuver, the squad car collided with the vehicle driven by Third-Party Defendant Bostic.

Plaintiff Sweat suffered a cut on his right forehead, cracking the upper corner of the windshield in the process, and was transported to Abbot Northwestern Hospital for suturing. He subsequently visited many different treatment providers for complaints of headaches and lower back pain, including extensive chiropractic care for his back. A neuropsychological exam conducted in March 1999 concluded that Sweat suffered post-concussion syndrome/mild traumatic brain injury based on the accident ("cognitive dysfunction").

The main issue to be litigated at trial is whether the City was negligent in the operation of its squad car. This issue is of considerable concern because the police officer did not activate lights or siren prior to executing the u-turn. He also did not observe the Bostic vehicle or take any other precautions prior to executing the maneuver. In addition, Plaintiff Sweat was merely a passenger in the vehicle driven by Third-Party Defendant Bostic. Although Third-Party Defendant Bostic admitted to speeding, he has not been served with process and is unavailable to date. Upon these facts, it was determined by the City Attorney's Office's Litigation Committee that it was likely that the City could potentially face joint and several liability for the entire jury award.

Contingent upon your approval, Plaintiff Sweat would agree to a full and complete settlement of his claim against the City of Minneapolis for the sum of \$30,000.00. Plaintiff Sweat had originally demanded in excess of \$100,000.00 to settle this case. I believe this is an appropriate resolution of this matter and is in the best interest of the City.