



## City of Gainesville Agenda Item Report

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**File Number: 2023-1013**

**Agenda Date:** October 19, 2023

**Department:** City Attorney

**Title: 2023-1013 Rachel Hargy, as Parent and Next Friend of Z.M. v. City of Gainesville; Case No. 2022-CA-1327: Eighth Judicial Circuit, in and for Alachua County, Florida (NB)**

**Department:** City Attorney

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

**Explanation:** On May 22, 2021, Z.M. (age 14) was injured on the grounds of Depot Park in Gainesville, Florida, when she fell from her skateboard while traversing an extension cord, and fractured both legs. The extension cord was secured to the sidewalk with black Gorilla tape. The accident happened on or next to the cement sidewalk surrounding the water feature. This cement sidewalk is known as the "Promenade." Electrical cords are frequently used around the Promenade to supply power to holiday tree lights and for vendors selling concession items. Plaintiff contends that the City was negligent in the placement of the electrical cord, and that patrons regularly operate skateboards and other wheeled devices on the Promenade notwithstanding signage and park rules prohibiting such activities. Plaintiff maintains that the City knew or should have known that a patron might be injured while traversing an electrical cord on a skateboard.

The City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this lawsuit. Plaintiff's injuries in this matter were quite significant and inexplicable based on the minor's account of how he was injured; a double leg fracture resulting from a routine trip and fall is unusual. Although skateboarding is an inherently dangerous sport, for which the law of assumption of risk applies, the assigned judge has determined that triable issues of fact exist to allow Plaintiff to present this case to a jury. Should the matter proceed to trial, the City's liability limit is \$200,000 per the application of Florida's limited waiver of sovereign immunity contained in section 768.28, Florida Statutes. Through negotiations with the City Attorney's Office, Plaintiff has agreed to accept \$140,000 in full settlement of her claim. It is the recommendation of the City Attorney's Office and the Risk Management Department that the City settle the claim for \$140,000, and avoid the risk of greater liability at trial.

**Recommendation:** The City Commission authorize the City Attorney to enter into a settlement agreement to resolve the claim of Rachel Hargy, as parent and next friend of Z.M., a minor child, arising from a skateboarding incident that occurred at Depot Park on May 22, 2021.