

**TO: MAYOR SHAUN SIPMA  
MEMBERS OF THE CITY COUNCIL**

**FROM: CITY ATTORNEY'S OFFICE**

**DATE: SEPTEMBER 21, 2018**

**SUBJECT: SETTLEMENT OFFER  
State of North Dakota v. Trenton Newman  
Case No. 51-2018-CR-00418  
Damaged Traffic Signal**

**I. RECOMMENDED ACTION**

Accept offer from Progressive Insurance Company to settle outstanding claim with the City of Minot for the full amount to replace the traffic signal (\$11,476.15) and authorize the Mayor to sign the Full Release of All Property Damage Claims on behalf of the City of Minot.

**II. DEPARTMENT CONTACT PERSONS**

Kelly Hendershot, City Attorney 857-4377  
Stefanie Stalheim, Assistant City Attorney

**III. DESCRIPTION**

**A. Background**

Progressive Insurance Company insured a driver that struck a traffic signal in the City of Minot on February 14, 2018, then left the scene of the accident. The driver was located by the North Dakota Highway Patrol and Ward County Sheriff's Department, was cited for and pled guilty to leaving the scene of a fixed object and violating the conditions of his overwidth permit.

The City of Minot hired Main Electric Construction, Inc. to repair the damaged traffic signal. Main Electric Construction, Inc. invoiced the City of Minot \$11,476.15 for the repairs. The City of Minot filed a claim with the driver's insurance company, Progressive Insurance.

On June 7, 2018, Progressive Insurance contacted David Rodman, the City of Minot's Street Superintendent, and offered \$9,876.15 to settle the claim filed by the City. The insurance company claims they have the right to apply depreciation, and that \$9,876.15 would constitute the "Actual Cash Value" of the equipment that was replaced, not "Full Replacement Cost." On September 21, 2018, Progressive Insurance offered to settle his claim for the full replacement cost (\$11,476.15).

**IV. IMPACT**

**A. Strategic Impact**

**B. Service/Delivery Impact**

**C. Fiscal Impact**

Progressive Insurance's offer to settle its claim with the City will compensate the City for the actual cost to replace the street light (\$11,476.15).

**V. ALTERNATIVES**

Decline Progressive Insurance's offer to settle its claim with the City and extend a counter-offer. The City Attorney recommends offering to settle this claim for the amount invoiced by Main Electric Company, Inc. to repair the traffic signal (\$11, 476.15).

**VI. TIME CONSTRAINTS**

The statute of limitations to file a lawsuit in property damage cases is six years, which begins to run from the moment of the accident. See NDCC § 28-01-16.

**VII. LIST OF ATTACHMENTS**

**A. Full Release of All Property Damage Claims**