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December 15, 2015

To the Honorable Common Council
of the City of Milwaukee
Room 205 – City Hall

Re: Proposed Settlement Regarding Body Cavity Search Litigation

Dear Council Members:

Enclosed please find two proposed resolutions: 1) a resolution authorizing settlement of claims in the total sum of \$5 million dollars concerning the litigation entitled *Ashford, et al. v. City of Milwaukee, et al.*, 13 other related lawsuits, and the related claims of claimants in certain unfiled matters; and, 2) a resolution authorizing up to \$5 million of contingent borrowing to fund the settlement. We also enclose the settlement agreement and the related fiscal impact statements. We ask that the resolution to authorize the settlement be introduced and referred to the Committee on Judiciary and Legislation for both a closed and open session, and that the other resolution be introduced and referred to the Committee on Finance and Personnel. We offer the following background and recommendation.

In 2012, criminal allegations were brought forth concerning claims that certain police officers had conducted illegal strip searches and body cavity searches. Chief of Police Edward Flynn cooperated with the Milwaukee District Attorney's office and also conducted an internal investigation. Subsequently, one officer pleaded no contest to four felonies and misdemeanors, including misconduct in office, and three other officers pleaded to misdemeanors. Since 2013, a large number of lawsuits have been filed on behalf of individuals who claim to have been subjected to such unlawful searches by these and other Milwaukee police officers. Currently, 16 lawsuits are pending in the United States District Court for the Eastern District of Wisconsin and, in addition, the City has been presented with numerous claims that have not been brought as lawsuits. Approximately 131 officers have been named in these cases to date. Due to the volume and complexity of this litigation, the City Attorney has engaged outside counsel to also represent the City. Because of the exposure the City faces with respect to awards of




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compensatory and punitive damages, attorneys' fees and costs in the event individual plaintiffs are successful, together with the cost of outside counsel, and due to the internal demands on both the City Attorney's office and the Milwaukee Police Department in responding to the litigation, we recommend approval of the current "Global" Settlement Agreement, which will resolve 14 lawsuits and obtain releases from 74 plaintiffs and claimants, for a total sum of \$5 million.

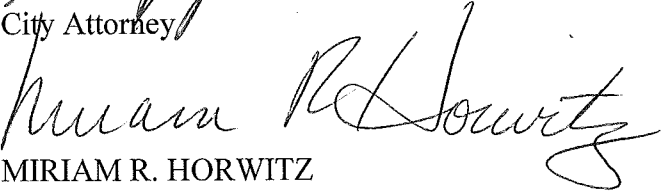
As set forth in the enclosed settlement agreement, this settlement involves five law firms representing these 74 plaintiffs and claimants. The settlement provides approximately \$2.3 million in attorney fees and costs, and \$2.7 million in compensation to plaintiffs and claimants. However, the agreement also provides that the plaintiffs and claimants will pay child support, restitution and other obligations and debts totaling approximately \$900,000 from the compensation provided.

Although we have termed the agreement a "global" settlement because it comprehensively settles all of the cases on file from this group of five law firms, it is not a class action settlement. There are other cases and claims that will have to be individually addressed. However, we recommend this settlement because it is in the City's best interest to manage the risks involved in a reasonable and responsible manner.

Very truly yours,



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MRH:lmb
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