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October 13, 2017

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

Re: Proposed Settlement in *William Avery, et al. v. City of Milwaukee, et al.*
Case No. 11-CV-0408-JPS

Dear Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Committee on Judiciary and Legislation with the following recommendation. A companion resolution to authorize contingent borrowing to fund the proposed settlement is being filed by the Department of Administration, Division of Budget and Management and should be referred to the Finance and Personnel Committee.

Avery and several members of his family filed this federal civil rights lawsuit, claiming that Avery was wrongly convicted in March 2005 of a woman's 1998 homicide as a result of the actions of several investigating detectives. They claimed in particular that the detectives fabricated a confession from Avery, fabricated inculpatory statements from inmates in several institutions in which Avery was incarcerated, and then withheld certain exculpatory evidence from Avery. Avery was released from prison in 2010 once DNA evidence linked the homicide to a serial killer connected to the deaths of several other women.

A trial on Avery's various claims took place in June 2015. At the conclusion of the trial, the jury found that two of the defendant detectives had fabricated Avery's confession, but that the detectives had not fabricated any statements from the jailhouse informants. The jury determined that Avery was entitled to \$1,000,000 in compensatory damages. The trial judge had dismissed the claim that exculpatory evidence had been withheld from Avery.



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On our post-trial motion, the federal district court judge set aside the verdict on the fabrication claim and granted judgment to the defendant detectives. Avery appealed and the federal court of appeals reversed, reinstating the verdict and the claim on withholding evidence. It returned the matter to the district court for a new trial on that claim.

The Supreme Court refused to grant our petition for a writ of certiorari. The matter is now pending in the district court for a trial set to begin in December 2017.

Following remand, we have discussed the possibility of settling all of Avery's claims. Through his counsel, Avery has agreed to accept \$1,987,012.00 in settlement of all of his claims, including his claims for reasonable attorneys' fees and costs under federal civil rights law.

Because settlement in this matter is deemed expeditious, we recommend payment of the proposed settlement amount, and have enclosed an appropriate resolution for your convenience.

Very truly yours,


GRANT F. LANGLEY
City Attorney


JAN A. SMOKOWICZ
Deputy City Attorney

Enclosure

JAS

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