

# CITY OF MILWAUKEE

Form CA-43

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October 8, 2001

The Honorable Common Council  
Of the City of Milwaukee  
City Hall, Room 205

Re:

Resolution approving a testing procedure for entry-level positions of firefighter and settlement of claims of discrimination and disparate impact concerning entry-level positions of firefighter in the Milwaukee Fire Department from the 1993, 1995 and 1999 examinations. (File No. 010543)

Dear Council Members:

Enclosed please find a Substitute Resolution in File No. 010543, approving a testing procedure for entry-level positions of firefighter and settlement of claims of discrimination and disparate impact concerning entry-level positions of firefighter in the Milwaukee Fire Department from the 1993, 1995 and 1999 examinations. The resolution attaches a Memorandum Settlement Agreement, and proposed Supplemental Order. The Supplemental Order would be submitted to the United States District Court for approval and entry if this resolution were passed.

On October 30, 1996, the Milwaukee Brotherhood of Firefighters ("Brotherhood") filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC"), Charge No. 260970100, which alleged, in part, discriminatory testing, recruitment and hiring

procedures for entry level firefighters. The charges, as amended, was as investigated by the EEOC.

On December 10, 1999, the EEOC issued an initial determination finding reasonable cause to believe that there were violations of Title VII of the Civil Rights Act of 1964, as amended, with respect to the allegation that Blacks as a class were discriminated against in the area of recruitment of Firefighters and Cadets, and that the 1993 and 1995 written examinations for entry-level Firefighter were not properly validated and resulted in an adverse impact on the hiring of Blacks as Firefighters. The initial determination also found reasonable cause to believe that violations had occurred with respect to the 1995 promotional examination for Fire Lieutenant, and the 1996 promotional process for Battalion Chief.

On October 5, 2000, the EEOC referred these charges to the United States Department of Justice. The Department of Justice concluded its supplemental investigation of the charges relating to recruitment and hiring, as well as a related practice: the City's 1999 written examination for entry level Firefighter. The Department and Justice has not concluded its investigation of the 1995 promotional examination for Fire Lieutenant, or the 1996 promotional process for Battalion Chief.

The Department of Justice and the Brotherhood have agreed to the Memorandum Settlement Agreement, and attached proposed Supplemental Order. The Agreement and proposed Order cover charges and practices relating the recruitment and hiring of Cadets and entry level Firefighters, and the 1993, 1995 and 1999 examinations. It does not cover charges related to the 1995 promotional examination for Fire Lieutenants or the 1996 promotional process for Battalion Chief.

Under the terms of the settlement, the City would provide a settlement fund of 1.8 million dollars for back pay claims, payable in three deposits: \$600,000 within 30 days of the date of entry of the Court final Order; a second deposit of \$600,000 within 13 months from the date of the Court's final Order; and, a third deposit of \$600,000 within 25 months of the date of the Court's final Order. The settlement fund, including accrued interest, will be distributed as determined by the Department of Justice, after Court approval. The City will be required to make the employer Medicare Tax contribution on the amounts paid. Claimants who may be eligible for monetary awards are African Americans who took the 1993 and 1995 written examination for Firefighter; scored at least 60 on the examination; met minimum qualifications for the position, passed any required subsequent selection procedures; did not remove themselves from the process; and, were not hired from the eligible lists which resulted from those examinations.

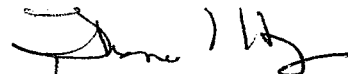
The settlement also provides that the City will offer priority appointments to the position of Firefighter of up to 19 claimants concerning the 1993 examination, with retroactive seniority and pension credit to June 5, 1994, and up to 16 claimants concerning the 1995 examination, with retroactive seniority and pension credit to June 1, 1997. Further, 5 claimants concerning the 1999 examination will receive priority appointment, with retroactive seniority and pension credit to be the date of the last recruit class which is enrolled as a result of the 1999 eligible list. The

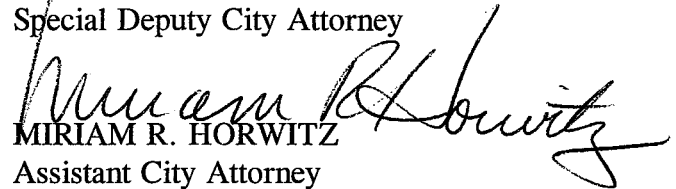
seniority and pension credit to be the date of the last recruit class which is enrolled as a result of the 1999 eligible list. The Fire and Police Commission may continue to use the 1999 eligible list for up to one year from the date of the Court's final Order, or down to rank 250, whichever occurs first.

The City Attorney believes the settlement is in the best interests of the City and therefore recommends that the Common Council authorize its approval. If the Common Council approves the settlement, the City, the Department of Justice and the Brotherhood will join in submitting the Supplemental Order to the United States District Court for approval and entry of a final order.

Very truly yours,

  
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Cc: Joseph J. Czarnezki, FPC, Executive Director

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