

July 19, 2006

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

Re: Resolution to authorize settlement of arrest record, race discrimination and retaliation claims in cases entitled Larry J. Murphy, Jr. v. City of Milwaukee, ERD case numbers CR200301173, CR200400308, CR200504422 and EEOC Charge numbers 6GA400595, 26G200600279.

Dear Council Member:

Enclosed please find a resolution authorizing settlement of the above captioned claims.

On March 28, 2003, Larry J. Murphy, Jr. filed an Equal Rights Division (ERD) complaint (200301173) alleging arrest record discrimination. In 2004, he filed an ERD complaint (200400308) alleging race discrimination on the theory that the policy of using arrest records had disparate impact against African Americans. In 2005, he filed another complaint (200504422). The later two ERD cases were cross-filed with the Equal Employment Opportunity Commission (EEOC). All of these claims relate to his failure to pass the background investigation for police officer in 2003.

Mr. Murphy's charges resulted in findings of no probable cause; however, as to the arrest record claim, he requested a hearing on the issue of probable cause. Hearings were held on March 8, 2004 and June 8, 2004. The administrative law judge issued a determination August 5, 2005 finding probable cause to believe that arrest record discrimination had occurred and the matter was certified for hearing on the merits.

Mr. Murphy also appealed the race discrimination findings of no probable cause, but withdrew the complaint from the Equal Rights Division before the hearing. The Equal Employment Opportunity Commission subsequently issued a dismissal and notice of right to sue letter. As of the date of the settlement, Mr. Murphy could have, but had not yet filed suit on his theory of

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disparate impact race discrimination. In addition, Mr. Murphy had filed a notice of claim against the City alleging negligence and other theories in connection with the manner in which his appeal hearing before the Fire and Police Commission had been conducted.

This settlement consists of a payment of \$15,000 to Mr. Murphy in full settlement and release of all claims, including the foregoing discrimination claims, and claims raised in the notice of claims. In addition to releasing all claims, Mr. Murphy agrees that he will not apply for the position of police officer for a period of at least four years from the date the settlement is approved, and if he does apply, he will be required to pass each portion of the selection process (including background investigation) then in effect for new hires.

The City Attorney believes settlement is in the best interests of the City and therefore recommends settlement of this lawsuit.

The City Attorney requests that the Committee to which this matter is referred convene in closed session for purposes of discussing the terms of the settlement, and the underlying litigation.

Very truly yours,

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City Attorney

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Enc.

MRH/MRH  
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c (w/enc.):

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