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Assistant City Attorneys

February 21, 2005

Honorable Common Council  
Of the City of Milwaukee  
City Hall—Room 205

Re: Resolution to authorize settlement of litigation entitled Nelson, et al v. City of Milwaukee, et al, United States District Court, Eastern District of Wisconsin, Case no. 03 C 0984.

Dear Council Members:

Enclosed please find a resolution authorizing the private settlement of a lawsuit brought by eleven plaintiffs, James D. Nelson, James W. Heller, Scott F. Franken, Scott M. Van Roo, Kenten K. Kais, James L. Merchant, Richard A. Kaiser, Luke Jones, Frank D. Alioto, Michael E. Nowak and James S. Mueller, against the City of Milwaukee, the Board of the Fire and Police Commission and Jane French, in the above captioned matter.

Plaintiffs are or have been fire lieutenants for the Milwaukee Fire Department who took and passed the 2002 Fire Captain promotional examination. They were not promoted from the

eligible list resulting from that examination, and claimed that the examination had adverse impact against white male candidates due to alleged bias in the manner in which candidates were assigned to rater panels. The City had vigorously defended this matter. Both parties retained testing experts and moved for summary judgment. The plaintiffs' motion for summary judgment was denied, and the City's motion was granted in part and denied in part. The Court dismissed the plaintiffs' claims of municipal liability for violation of the Equal Protection Clause, but did not dismiss their claims under Title VII of the Civil Rights Act of 1964 as amended.

GRANT F. LANGLEY

City Attorney

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## CITY OF MILWAUKEE

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Form CA-43

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The Honorable Common Council

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The parties now desire to enter into a private settlement in order to avoid further litigation, including appeals of any dismissed claims.

Under the terms of the settlement, the City will pay a total of \$80,000 for all damages, attorney fees and costs regarding all plaintiffs, and further agrees to provisions stated in the settlement agreement with respect to future promotional examinations for the Fire Department.

The City Attorney believes settlement is in the best interest 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 this settlement, and the underlying litigation.

Very truly yours,

SLEY  
City Attorney

MII~IAM R. HORWITZ

Assistant City Attorney

MRHImrh

cc (w/enc): Rudolph M. Konrad  
David Heard  
Maria Monteagudo  
Jane French