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May 25, 2017

Honorable Common Council
City Hall, Room 205

Re: Resolution authorizing settlement of the claims of various food processors and manufacturers

Dear Honorable Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Judiciary & Legislation Committee for the committee to take appropriate action, with the following recommendation.

The above-referenced claims were commenced by thirteen food processors and manufacturers who had been informed by the City Clerk Licenses Division that license fees for the 2016 license year had been collected in error. Historically, the City's Health Department required food processors and manufacturers who operated in or delivered products to the City of Milwaukee to obtain a license issued by the City. The Health Department believed it had the authority for this action pursuant to a Memorandum of Understanding it had with the State of Wisconsin to license and inspect food establishments in its jurisdiction.

In 2015, the Wisconsin Department of Trade, Agriculture and Consumer Protection (DATCP) issued a letter to the Health Department stating that it did not have the authority to license food processors and manufacturers. After review of DATCP letter, the MOU, and applicable law by the City Attorney's office, a formal opinion was issued in October 2015 indicating that the Health Department had to follow the directive of the state agency as it related to the authority granted to it under the MOU.

After the opinion was issued, the City Clerk Licenses Division issued letters to all affected food processors and manufacturers informing them that they were no longer required to



Honorable Common Council

May 25, 2017

Page 2

obtain a city license and providing refunds to those businesses that had remitted license fees in 2016.

Some of the affected manufacturers then filed claims against the City for license fees paid in prior years. A group of thirteen retained counsel and their claims were negotiated in the aggregate. The City Attorney now recommends settlement of these claims for the total sum of \$30,000.00. In exchange for this settlement and payment, the claimants will release any and all claims against the City arising out of the assessment of food manufacturer/food processor fees by the Health Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Grant F. Langley, for".

GRANT F. LANGLEY
City Attorney

A handwritten signature in blue ink, appearing to read "La Keisha W. Butler".

LA KEISHA W. BUTLER
Assistant City Attorney

Enclosure

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