

September 18, 2002

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

Re: Resolution approving stipulations to resolve proposed litigation
by the State of Wisconsin against the City of Milwaukee

Dear Council Members:

Enclosed is a resolution approving stipulations that will resolve litigation to be filed by the State of Wisconsin against the City of Milwaukee, with a fiscal note. The litigation involves allegations by the State of Wisconsin of violations on the part of the City of various State environmental statutes and regulations.

Specifically, the alleged violations pertain to the following matters: (1) unlawful dredging and disposal activities in the Root River associated with a water main relocation project in the vicinity of South 99th Street and West Layton Avenue; (2) illegal discharge of sewer cleanout at the Tracer Yard, located at South Sixth Street and West Canal Street; (3) illegal discharge of sewer cleanout into Lincoln Creek in the vicinity of the Good Hope Road bridge located at West Good Hope Road and North 51st Street; (4) violations of the terms and conditions of the two permits issued to the City under the Wisconsin Pollution Discharge Elimination System on October 21, 1994 (Permit No. WI-S049018-1) and on August 1, 2000 (WPDES Permit No. WI-S049018-2), which regulate discharges from the City's municipal separate storm sewer system to the various waterways of the Milwaukee region; (5) failure to adequately enforce the provisions of ch. 290, Milwaukee Code of Ordinances, pertaining to construction-site erosion control; and (6) violation of the terms and conditions of the two WPDES permits pertaining to construction-site erosion control. The violations that the State alleges the City committed

To the Honorable
the Common Council of the
City of Milwaukee
September 18, 2002
Page 2

may subject the City to remedial sanctions and statutory forfeitures, fines, and penalties, which aggregate for each day during which a violation continues.

The Department of Public Works and the Department of Neighborhood Services, with the assistance of this office, commenced negotiations with the State of Wisconsin to reach a satisfactory settlement of this dispute. These efforts proved successful. The Stipulations and Orders for Judgment are attached to this file, and will be filed by the State of Wisconsin with the court simultaneously with the initiation of civil proceedings. The terms include: (1) the City's payment of \$100,000.00 in resolution of all allegations; (2) engagement by the City of an environmental consultant to review the City's storm water-control and construction-site erosion control programs and to make recommendations; and (3) implementation of those recommendations where reasonable. The Stipulation further provides for non-admission of any liability on the part of the City to any party other than the State of Wisconsin with respect to the subject matter of the State's various allegations.

We recommend approval of this resolution. Should the State initiate civil proceedings against the City, and should those proceedings result in a finding of violations as alleged, the City would become subject to statutory fines, forfeitures, and penalties, which would be significantly greater than those payable by way of attached Stipulation, as well as to potentially far-reaching and costly revisions in the manner by which storm

To the Honorable
the Common Council of the
City of Milwaukee
September 18, 2002
Page 3

water-control, construction-site erosion control, and other activities encompassed within the scope of the State's various allegations are conducted.

Very truly yours,

GRANT F. LANGLEY
City Attorney

LINDA ULISS BURKE
Special Deputy City Attorney

STUART S. MUKAMAL
Assistant City Attorney

SSM:lmb
enclosures

c: Ronald D. Leonhardt, City Clerk

Mariano A. Schifalacqua, Commissioner, Department of Public Works

Martin G. Collins, Commissioner, Department of Neighborhood Services

1047-2001-3344:57640