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June 7, 2006

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

Re: Settlement of the Lawsuit Entitled Metropolitan Property
& Casualty Insurance Company v. City of Milwaukee
Case No. 05-CV-005461

Dear Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Committee on Judiciary and Legislation with the following recommendation.

The plaintiff is the insurer for the property owner located at 2115 West Roosevelt Drive in the City of Milwaukee. The City contracted with a private entity to replace a section of sewer adjoining the plaintiff's insured's property. In the process of excavating to perform this work on December 9, 2003, the contractor struck a water main which resulted in the flooding of the insured's basement. It had been the City's responsibility to prepare plans showing the location of that water main, however, in preparing the plans, the City negligently failed to show the location of the water main on the plans.

The total amount for the cleaning of the subject basement and replacement of property located in the basement, including the insured's \$1,000 deductible, was \$19,218.86. Pursuant to its insurance agreement, however, the insured had undertaken to pay actual replacement value, rather than the depreciated value of the items in the basement. The difference between the replacement and the depreciated value totaled \$1,071.66. The insurer has agreed to accept in settlement the actual amount of the payment, plus the deductible, but less the \$1,071.66 amount. The total amount which the insurer is willing to accept in settlement, therefore, \$18,147.20.

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Because settlement of this matter is deemed expeditious to the City of Milwaukee, we recommend payment of this proposed settlement amount and have enclosed an appropriate resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY
City Attorney

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Assistant City Attorney

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Enc.

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