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December 14, 2015

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

Re: Proposed Settlement in *Mary C. Oden, et al. v. City of Milwaukee, et al.*
Case No. 10-CV-021173

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 above-noted lawsuit was filed by Ms. Oden and her son's guardian *ad litem* after a gas explosion in the early-morning hours of February 1, 2009. The blast destroyed her home and seriously injured both Ms. Oden and her son. In response to calls about the smell of gas and slightly more than an hour before the explosion, Milwaukee police and fire units had responded to the 2400 block of North 10th Street where the Oden residence was located. Firefighters and police found evidence of a break in the gas main in the street. Firefighters checked one of the houses from which a call had come and found no evidence of gas inside the residence. Police went door-to-door along the block, alerting residents to the leak but indicating that they did not need to evacuate their homes. Both the fire department battalion chief on the scene and a utility company representative told police that no evacuations were required.

In proceedings before the trial court, the circuit judge concluded that the actions of the firefighters and police were discretionary. On appeal, however, the Wisconsin Court of Appeals held that training previously provided to the fire department by WE Energies required the evacuation of this block and removed all discretion from the responding firefighters. The Wisconsin Supreme Court refused to review the decision of the court of appeals.



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The plaintiffs have demanded \$100,000 to settle their claims against the city, the maximum amount that they can recover from the city under Wisconsin law. The plaintiffs have previously settled their claims against WE Energies. Because settlement in this matter is deemed expeditious, we recommend payment of the proposed settlement amount, and have enclosed an appropriate resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS

Enclosure

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