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June 30, 2008

Hon. Common Council
of the City of Milwaukee
Room 205 – City Hall
Milwaukee, WI 53202

Re: Settlement of Lawsuit Entitled *Morales v. Jones, et al.*
Case No. 00-C-0618

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, Alfonso Morales, is at present a Milwaukee Police Lieutenant. The events giving rise to this lawsuit occurred about ten years ago, between March 1998 and January 1999. At that time, Morales was a police officer assigned to the Vice Control Unit. Morales has asserted in his federal lawsuit that former Chief Jones and then-Deputy Chief Monica Ray violated Morales' First Amendment rights by transferring him to routine patrol duties because of certain statements that Morales made in a civil deposition.

Morales and a vice control division detective were assigned to investigate a complaint that Deputy Chief Ray's brother was involved in fortifying a house to use for drug dealing. In April 1998, Morales and another officer, David Kolatski, were able to arrest Vincent Ray on open warrants. Shortly after the arrest, while at a restaurant, the restaurant owner claimed to have seen Vincent Ray in the presence of Chief Jones and Deputy Chief Ray while Vincent Ray was wanted on the warrants. Upon leaving the restaurant, Kolatski passed this allegation on to Morales.

Morales in turn passed this information on to the district attorney's office in the course of processing Vincent Ray's arrest. The district attorney's office investigated the restaurant owner's allegations and found them to be totally baseless. Kolatski was transferred to patrol duties in mid-April, 1998. He claims this came as retaliation for his statements

while Deputy Chief Ray insisted this was the result of problems between Kolatski and her secretary.

Months later, Morales was still in the vice control division when he was subpoenaed to give deposition testimony in December 1998 in an unrelated civil lawsuit. He recounted the restaurant owner's allegations. About one month later, in January 1999, he was transferred to regular patrol duties. Again, Morales claimed this was the result of retaliation while Deputy Chief Ray insisted that it was merely the result of her effort to provide Morales with additional street experience before an anticipated promotion to the rank of detective.

Kolatski and Morales then both filed a federal civil rights lawsuit against Chief Jones and Deputy Chief Ray. The matter was tried to a jury in November 2005. The jury returned a verdict in favor of both Morales and Kolatski, awarding each \$20,000 in compensatory and \$65,000 in punitive damages. They were also awarded attorney fees of \$115,531.43, for a total judgment of \$ 285,531.43.

On appeal, the higher court concluded that Kolatski had no right to assert a first amendment claim because his speech was entirely a part of his employment duties. It concluded that Morales' statements to the prosecutors were likewise unprotected, but that his deposition testimony could constitute protected speech. The appellate court remanded the matter for a new trial only on that part of Morales' claim.

Morales is now willing to settle his remaining claim for a total of \$112,000, including all attorney fees. Although Chief Jones and Deputy Chief Ray are adamant that the transfer had nothing to do with Morales' deposition testimony, one jury found otherwise and it is possible that a second jury would reach the same conclusion. A new trial and the possibility of a second appeal could also result in simply adding more to Morales' claim for attorney fees.

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.

Hon. Common Council
June 30, 2008
Page Three

Very truly yours,

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