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January 4, 2010

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

Re: Substitute Resolution to Approve Settlement Agreement in the matter of *Terra Engineering & Construction Corp. v. City of Milwaukee*, Milwaukee County Circuit Court Case Number: 06-C-1133

Council file number 091182

Dear Council Members:

Enclosed is a substitute resolution to fill file number 091182 entitled Resolution to Approve Settlement Agreement in the matter of *Terra Engineering & Construction Corp. v. City of Milwaukee*, Milwaukee County Circuit Court Case Number: 06-C-1133. We understand that the resolution has been referred to the Judicial and Legislative Committee. We request that the Committee meet in closed session for purposes of discussing the terms of the settlement, and the underlying litigation, and reconvene in open session to take action.

The litigation is related to the project for partial removal of the North Avenue Dam in 1997 and 1998. The City received a settlement of \$200,000 in 2008 from CNA Insurance concerning the City's claims against Terra Engineering & Construction Corp, and Camp, Dresser & McKee but did not, at that time, settle a claim Terra Engineering & Construction Corp. had asserted against the City in a counterclaim for failure to pay it the retained percentages. The proposed settlement agreement settles that counterclaim with the payment of \$20,000 from the City to Terra Engineering & Construction Corp.

To the Honorable Common Council

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Please see Common Council File No. 071691 in reference to the receipt of \$200,000 in settlement of the City's claims.

Very truly yours,

GRANT F. LANGLEY

City Attorney

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Assistant City Attorney

Enc.

MRH/MRH

1047-2006-447:153442

c: Jeffrey J. Mantes, Commissioner of Public Works  
Jeffrey Polenske, City Engineer