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MEMORANDUM

TO: Jim Owczarski, City Clerk

FROM: Peter J. Block, Assistant City Attorney

DATE: June 21, 2021

RE: Updated Attorney General's Advice on Copying Costs

On August 8, 2018, the Attorney General's Office released an Advisory pertaining to copying costs under the Wisconsin Public Records Law. The purpose of the advisory was to remind Authorities that they can only charge a copying fee for the actual, necessary, and direct costs of making the copies, and to advise that the Department of Justice ("DOJ") had recently dropped their cost of copies down to \$0.0135 a page for a single black and white copy, and \$0.0632 for a single color copy. The Advisory indicated that their own copying costs were determined by analyzing the DOJ's contract with their copier company and the price of printer paper. The advisory also recommended that authorities re-evaluate their copying costs.

Prior to the 2018 Advisory, the advice in Opinions issued by the Attorney General's Office, and in the Attorney General's Public Records Compliance Guide, was that the photocopy fees should be around \$0.15 a page, and that anything in excess of \$0.25 might be suspect. No Opinions appear to have been issued by the Attorney General's Office after the Advisory was issued that retract that advice.

When we last discussed this matter, we decided to continue following the advice set forth in the Attorney General Opinions and in the Attorney General's Compliance Guide, but that if the Compliance Guide was altered, we should revisit the issue and look at whether or not the City of Milwaukee should reduce its copying fees in a similar manner.

Currently, per MCO § 81-38.5, the city charges \$0.25 a page for single-sided copies and \$0.50 a page for double-sided copies, and departments have the ability to waive or reduce the copying fees when in the public interest.

Shortly before the pandemic hit Wisconsin, the Attorney General's Office edited their Compliance Guide to remove the language that anything in excess of \$0.25 a page might be suspect. Now the Compliance Guide just says that copies cannot exceed the actual, necessary and direct cost of copies.

I've spoken to legal counsel for a few other municipalities recently and it appears that most have lowered their copying costs to \$0.05 or less a page.

In light of the above, I recommend that we revisit the issue of copying costs to make sure that the City is not charging a copying rate that is out-of-line with the Attorney General's interpretation of the public records law, or that is out-of-line with what other municipalities are charging.

If you have any questions, or if you would like to discuss further, please don't hesitate to reach out to me.

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