

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

(ITEM) From Corporation Counsel, recommending payment in the amount of \$16,875 to Attorney Robert L. Elliott in settlement of his public records suit in *Elliott v. Milwaukee County*, Case No. 2013-CV-004518, by recommending adoption of the following:

A RESOLUTION

WHEREAS, Attorney Robert L. Elliott made a public records request on April 3, 2013, for a large number of documents; and

WHEREAS, Milwaukee County denied the requests for a variety of reasons, including that the requests were overbroad, that they required the County to make legal interpretations in order to determine which records to produce, and that some requests were for attorney-client privileged documents; and

WHEREAS, Elliott filed suit to obtain the records, Milwaukee County Circuit Court Case No. 2013-CV-004518; and

WHEREAS, after briefing by the parties related to possible depositions and the return of inappropriately obtained privileged documents and on the requests themselves, the Court ordered the return of the privileged documents, denied some of the requests for the reasons given by the County, but granted some of the requests, overruling the County's denials as to those requests, resulting in a court order that out of twelve requests for categories of documents, the County was required to respond, in full or in part, to seven of the requests; and

WHEREAS, after discussions concerning the anticipated costs to search and locate the voluminous records ordered to be produced, Elliott agreed to withdraw all of his requests except for one, in return for the County paying his time incurred as an attorney to file and pursue the public records suit; and

WHEREAS, §19.37, Wis. Stats., requires a court to award attorneys' fees to a record requestor who substantially prevails in obtaining denied record requests; and

WHEREAS, after further discussions concerning the requested hourly rate of \$500 per hour, the parties reached this proposed settlement for the County to pay the sum of \$16,875, representing 45 hours of work at a rate of \$375 per hour; and

WHEREAS, the Office of Corporation Counsel recommends this settlement; now, therefore,

44 BE IT RESOLVED, that the County approves the payment of \$16,875 to Attorney
45 Robert L. Elliott in return for the County providing a response to the designated request and
46 for Elliott dismissing the suit, providing a release to the County and agreeing not to re-
47 submit the requests that are being withdrawn.

48

49

50 ag

51 12/11/13

52 H:\Shared\COMCLERK\Committees\2013\Dec\JSGS\Resolutions\13-883.docx