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City of Racine, Wisconsin
COMMON COUNCIL

AGENDA BRIEFING MEMORADUM (ABM)

COMMITTEE: Finance and Personnel Committee **LEGISLATION ITEM #:** 0413-19

AGENDA DATE: April 22, 2019

DEPARTMENT: City Attorney's Office

Prepared By: City Attorney Scott R. Letteney

Reviewed By: N/A

SUBJECT: Communication from the City Attorney requesting authorization to represent employees in the case of *House v. Cleland, et al.*, U.S. District Court Eastern District of Wisconsin Case No. 2-19-CV-00397-LA.

EXECUTIVE SUMMARY: The City Attorney seeks Common Council authorization to represent an employees in the case of *House v. Cleland, et al.*, U.S. District Court Eastern District of Wisconsin Case No. 2-19-CV-00397-LA.

BACKGROUND & ANALYSIS: Persons alleged to be Racine police officers, named as Officers Scott M. Cleland, Andrew Matso, David Arvai, and Bryant Peterson, at the named defendants in this lawsuit. This Complaint also alleges civil rights violations contrary the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Generally, the Complaint alleges that the officers searched the plaintiffs' property and arrested him without probable cause, allegedly occurring on February 10, 2017. Mr. House previously filed a similar lawsuit against the City in Racine County Circuit Court. The City Attorney's Office successfully moved that prior lawsuit be dismissed.

Pursuant to Wis. Stat. § 895.46, a municipality is required to defend or pay for the defense of any official or employee sued for acts taken in the conduct of official business and to indemnify such employee or official if any judgment is ordered. Pursuant to Wis. Stat. § 62.115, the common council of any city may by ordinance or resolution authorize the city attorney to defend actions brought against official or employee sued for acts taken in the conduct of official business.

31 It is more efficient and easier to control costs if the City Attorney's Office simply defends, or manages
32 the defense of, lawsuits against City employees than to have an employee pay for her/his own defense
33 and seek reimbursement.

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35 **BUDGETARY IMPACT:** The City Attorney's Office will handle this matter in-house.

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37 **OPTIONS/ALTERNATIVES:** Require employee or officers to pay for their own defense and seek
38 reimbursement from the City.

39 _____

40 **RECOMMENDED ACTION:** To authorize the City Attorney to represent the employees in the case of
41 *House v. Cleland, et al.*, U.S. District Court Eastern District of Wisconsin Case No. 2-19-CV-00397-LA.

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43 **ATTACHMENT(S):** None