

**TEARMAN SPENCER**  
City Attorney

**KIMBERLY R. WALKER**  
Special Deputy City Attorney

**MIRIAM R. HORWITZ**  
**MARY L. SCHANNING**  
Deputy City Attorneys



Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551  
Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

SUSAN E. LAPPEN  
PATRICIA A. FRICKER  
HEIDI WICK SPOERL  
GREGG C. HAGOPIAN  
JAY A. UNORA  
KATHRYN Z. BLOCK  
KEVIN P. SULLIVAN  
THOMAS D. MILLER  
ROBIN A. PEDERSON  
JEREMY R. MCKENZIE  
PETER J. BLOCK  
JENNY YUAN  
ALLISON N. FLANAGAN  
HEATHER H. HOUGH  
ANDREA J. FOWLER  
PATRICK J. MCCLAIN  
NAOMI E. GEHLING  
BENJAMIN J. ROOVERS  
ELLENY B. CHRISTOPOULOS  
TYRONE M. ST. JUNIOR  
HANNAH R. JAHN  
JULIE P. WILSON  
GREGORY P. KRUSE  
KIMBERLY A. PRESCOTT  
SHEILA THOBANI  
KATRYNA C. RHODES  
NICOLE F. LARSEN  
JAMES M. CARROLL  
WILLIAM G. DAVIDSON  
MEIGHAN M. ANGER  
ALEXANDER R. CARSON  
JENNIFER J. TATE  
Assistant City Attorneys

October 20, 2020

Ms. Jacqueline Mann  
Milwaukee Board of School Directors  
Board Clerk, Office of Board Governance  
5225 West Vliet Street  
Milwaukee, WI 53208

**RE: Resolution Authorizing Retention of Counsel and Commencement of  
Litigation Against Responsible Defendants Concerning E-Cigarette Vaping  
in Milwaukee Public Schools**

Dear Ms. Mann:

The City Attorney recommends the Board's consideration of the enclosed Resolution in order to secure potential funds to remedy the vaping epidemic affecting MPS students. Please place this on the Board's agenda for the October 22, 2020 meeting and set it for closed session in order to confer with legal counsel, followed by an open session to take action on the Resolution. Thank you for your kind attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah Spencer".

TEARMAN SPENCER  
City Attorney

A handwritten signature in black ink, appearing to read "Miriam R. Horwitz".

MIRIAM R. HORWITZ  
Deputy City Attorney

MRH/cdr  
/271809



RESOLUTION AUTHORIZING RETENTION OF  
COUNSEL AND COMMENCEMENT OF LITIGATION  
AGAINST RESPONSIBLE DEFENDANTS CONCERNING  
E-CIGARETTE VAPING IN MILWAUKEE PUBLIC SCHOOLS

WHEREAS, due to e-cigarettes and vaping the percentage of 12th graders who reported consuming nicotine almost doubled between 2017 and 2018 and in 2019, more than five million middle and high school students reported current use of e-cigarettes, including more than one in every four high schoolers; and

WHEREAS, according to the results of the 2018-2019 Youth Risk Behavior Survey, in Milwaukee Public Schools, almost one in three high school students (31%) reported having tried e-cigarettes; and

WHEREAS, between the 2017-2018 school year and the 2018-2019 school year, the prevalence of e-cigarette use by 7<sup>th</sup> grade students more than doubled; and

WHEREAS, the Surgeon General has warned that this new “epidemic of youth e-cigarette use” could condemn a generation to “a lifetime of nicotine addiction and associated health risk.” and

WHEREAS, JUUL and Altria are the primary manufacturers and marketers of these products, and

WHEREAS, the U.S. Surgeon General, the Director of the Centers for Disease Control and Prevention, the former Food & Drug Administration Commissioner, and the Health and Human Services Secretary have “[a]ll squarely pointed to JUUL as a primary cause of that epidemic;<sup>55</sup> and,

WHEREAS, the Milwaukee Public Schools has been damaged by the epidemic of e-cigarettes and vaping in the schools due to increased costs and loss of productivity and educational outcomes; and

WHEREAS, over 1,000 lawsuits have already been filed against JUUL and Altria and many of these lawsuits have been aggregated into a single proceeding –*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation* (the “JUUL MDL”), in the federal district court in San Francisco before the Honorable William H. Orrick; and

WHEREAS, the law firm of Keller Rohrback, L.L.P. currently represents multiple school districts across the United States in the JUUL MDL and has been named as Co-Lead Counsel appointed by the Court to help direct the JUUL MDL, and the MWH Law Group, L.L.P, a Milwaukee based minority owned law firm, is working with Keller Rohrback; and

WHEREAS, the City Attorney recommends the two firms for this matter based upon their expertise and experience with this particular subject matter; and

WHEREAS, the firms have offered to engage in the representation of the MBSD on a contingent fee basis so that the MBSD will pay no attorney fees or costs if there is no recovery by settlement or litigation; NOW THEREFORE, be it

RESOLVED, by the Milwaukee Board of School Directors that the Board may enter into a contingent attorney fee agreement with Keller Rohrback and MWH Law Group with authority to pursue all legal recourse the Board may have with respect to claims against JUUL and Altria along with any other responsible potential defendants.