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February 6, 2017

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

Re: Communication from Attorney Jon Cermele, Cermele & Matthews, S.C.
for legal fees for Police Officers Zachary Thoms and David Letteer

Dear Council Members:

Returned herewith is a document filed by Attorney Jon Cermele for attorney's fees for representing for representing Police Officers Zachary Thoms and David Letteer. The claim is in the amount of \$19,092.85 including \$157.85 in disbursements for 93.9 hours of service billed at the rates of \$250.00 and \$200.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

Legal representation was occasioned by a state criminal investigation and inquest proceedings. No criminal charges were brought against the officer on whose behalf this claim was filed.

This claim is governed by the amended Wis. Stats. §895.35(2). The pertinent language in that statute is the following: "the city...shall reimburse a protective services officer for reasonable attorney fees incurred by the officer in connection with a criminal proceeding arising from the officer's conduct in the performance of official duties" except for certain circumstances that do not apply here. The statute thus removes discretion from the City over whether to pay such claims arising from certain criminal proceedings, but does not specify what are to be deemed "reasonable" attorneys' fees.

As to the proper definition of "reasonable" attorney fees, such a requirement has been interpreted by the Wisconsin Supreme Court in the past in a comparable context. *Village of Shorewood v. Steinberg*, 174 Wis. 2d 191, 204-5, 496 N.W.2d 57 (1993). In doing so, it referred to one of its rules, SCR 20:1.5, relating to fees that attorneys may charge. The factors prescribed by that rule include: 1) time and labor required, 2) novelty and



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difficulty of the questions involved; 3) skill required to perform services; 4) apparent likelihood that lawyer will be precluded from other work; 5) the fee customarily charged; 6) amount involved and results obtained; 7) limitations imposed by client or circumstances; 8) nature and length of the relationship; 9) experience and ability of the lawyer; and, 10) whether the fee is fixed or contingent. Given what we know of this situation, time and labor required, the skill required to perform the services, the fee customarily charged, and the experience and ability of the lawyer support the hourly rate of \$250.00.

Under all the circumstances, therefore, we would recommend that the City pay \$19,092.85 for attorneys' fees and expenses in this matter.

Very truly yours,



GRANT F. HINGLEY
City Attorney



JAN A. SMOKOWICZ
Assistant City Attorney
JAS

Encls.

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