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February 8, 2021

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

Re: Proposed Settlement of claims against the City of Milwaukee in the lawsuit, *David Nickel v. City of Milwaukee*, Case No. 17-CV-177

Dear Council Members:

Enclosed please find a proposed resolution. We ask that it be introduced and referred to the Committee on Judiciary and Legislation with the below recommendation.

The basis of this lawsuit is the separation during probation in February 2014 of Mr. Nickel from his employment with the City as a Systems Analyst-Senior in the ITMD. Mr. Nickel brought suit in federal court alleging violations of his FMLA rights in that he alleged that the City willfully interfered and retaliated against him for expressing his intent to take leave to which he would have been entitled under the law. The City denies these claims.

After discovery, and significant delays in the case due to myriad reasons, the matter is set for a trial on March 1-2, 2021; however, in a final mediation effort, the parties conferred and have agreed to settle the matter for a total of \$90,000, inclusive of all fees and costs, subject to approval by the Common Council and the Mayor. Additionally, the settlement would dispose of two ERD claims pending before LIRC on appeal, one of which relating to his 2014 separation, the other relating to a subsequent retaliation claim regarding his non-selection for hire for several different positions to which he applied.

Because of the unpredictability of a trial, and the City's risk for exposure to compensatory and liquidated damages, as well as additional attorney fees and costs, we recommend that this matter be settled for the amount negotiated. Consistent with our



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recommendation, we request authorization to execute a settlement agreement on behalf of the City and its officer, and have enclosed an appropriate resolution for your consideration.

Very truly yours,

TEARMAN SPENCER

City Attorney

A handwritten signature in black ink, appearing to read "Robin Pederson". The signature is written in a cursive, flowing style.

Robin A. Pederson

Deputy City Attorney

Enclosure