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October 11, 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,
Rodolfo Gomez v. Board of Fire and Police Commissioners for the City of Milwaukee, Milwaukee County Circuit Court, Case No. 15-CV-6824.

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. A companion resolution to authorize contingent borrowing to fund the proposed settlement will be filed separately and should be referred to the Finance and Personnel Committee.

On August 14, 2013, Gomez physically assaulted a murder suspect in an interrogation cell. On December 3, 2013, former MPD Chief Edward A. Flynn ordered Gomez's discharge from the MPD for violating the MPD's internal rules regarding excessive use of force. On December 4, 2013, Gomez appealed his discharge to the Board of Fire and Police Commissioners (the "Board"). On July 22, 2015, the Board sustained Gomez's discharge.

Gomez sought review of the Board's ruling in Milwaukee County Circuit Court pursuant to Wis. Stat. § 62.50(20) and common law certiorari review. The Circuit Court held that the Board acted outside of its jurisdiction by failing to hold a hearing on Gomez's discharge within the statutory time limit. The Board appealed; however, the Court of Appeals affirmed the Circuit Court's decision, holding that because the trial in



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this matter did not occur until almost 600 days after the discharge of Gomez the Board lost its authority to exercise its jurisdiction to sustain the discharge.

Once the case was remanded to the Circuit Court, the Board appealed—on different grounds—the Circuit Court’s ruling that Gomez was entitled to backpay. This appeal was also unsuccessful. The Wisconsin Supreme Court declined the Board’s petition for review. Remanded again, the Circuit Court ordered payment to compensate Gomez for backpay, the value of unpaid benefits and interest from the date of his discharge to the date he pled guilty to the underlying assault in federal court in the summer of 2016. The amount of that payment, through November 12, 2021, is \$335,772.02. The Board has now exhausted its ability to appeal a court order requiring that payment to Gomez be made. Failure to make the payment will likely result in sanctions and additional interest being due.

The City Attorney recommends that the Common Council approve the payment of \$335,772.02 to former Milwaukee Police Department Detective Rodolfo Gomez (“Gomez”) for the reasons set forth above, and have enclosed an appropriate resolution for your consideration.

Very truly yours,



ROBIN A. PEDERSON

Deputy City Attorney

Enclosure