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April 22, 2010

Honorable Common Council  
Of the City of Milwaukee  
City Hall—Room 205

Re: Proposed Settlement of *Philip Sliwinski v. City of Milwaukee*,  
Case No. 07-CV-013074

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 following recommendation.

Philip Sliwinski has been employed as a detective in the Milwaukee Police Department. In November 2002, he was discharged from the Milwaukee Police Department. He appealed his discharge and in March 2004, the Milwaukee Fire and Police Commission heard his appeal. It upheld his discharge. He then sought review in the courts. The Circuit Court of Milwaukee County affirmed the Commission. In January 2006, the Wisconsin Court of Appeals concluded that the Commission had improperly excluded certain evidence from the hearing and ordered a new hearing.

Since that time, and while awaiting a rehearing, Sliwinski filed a lawsuit seeking an order that the City return him to the payroll and restore his benefits until the time that the rehearing took place. On September 11, 2007, the Milwaukee County Circuit Court initially denied the request for such an order. Upon appeal, however, the Wisconsin Court of Appeals on June 17, 2008 reversed and ordered pay and benefits for Sliwinski. Upon remand, the circuit court on September 18, 2008 first ordered Sliwinski to be provided his pay and benefits going forward and he was actually returned to the payroll on September 12, 2008. On June 15, 2009, the circuit court entered a further order requiring the city to pay Sliwinski his pay and benefits for the period of time from March 18, 2004 to September 12, 2008. That has been done as well. In the meantime, fire and police commission conducted the rehearing and on April 22, 2009, reversed the decision to discharge Sliwinski altogether.

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Sliwinski, however, also filed a separate lawsuit pursuant to Wisconsin's wage claim statute, Wis. Stats. § 109.03(5). Initially, on July 17, 2008, the trial court orally granted the City's motion for judgment on the pleadings. Sliwinski appealed, however, and the court of appeals on October 6, 2009 issued a decision reversing the judgment of the circuit court and remanding the matter to the circuit court with certain instructions. The Wisconsin Supreme Court denied the City's petition for review on January 12, 2010.

Although Sliwinski obviously has received his salary and benefits in the mandamus action, the court of appeals in the wage claim action concluded that Sliwinski could still maintain an action for penalties, or "increased wages," under the wage claim statute as well as attorney's fees. Given the amount of salary that the city paid Sliwinski for the period covered by the wage claim (\$220,563.76), the wage claim statute allows for a penalty of up to 50% of this amount, or \$110,281.88. With regard to attorney's fees and costs, Sliwinski's attorney claimed \$30,000.00.

Following negotiations before further proceedings in the circuit court, we have been able to obtain Sliwinski's agreement to accept \$75,000.00 as a total settlement of these claims with \$49,626.85 to Detective Sliwinski as "increased wages," and \$25,373.15 for attorney's fees and costs. Because settlement of this matter is deemed expeditious to the City of Milwaukee, we recommend payment of this proposed settlement amount and have enclosed an appropriate resolution for your convenience.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

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GFL:BDS

Encls.

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