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November 22, 2021

The Honorable Members of the Common Council of  
The City of Milwaukee  
City Hall Room 205

Re: Resolution authorizing payment for legal services from the Cade Law Group LLC  
for legal services relating to former Police Chief Alfonso Morales's claims against  
the City of Milwaukee – File No. 211122

Honorable Council Members:

This letter is intended to provide you background and further information regarding the  
above referenced resolution.

The law firm of Attorney Nate Cade, the Cade Law Group, was retained by the City to  
represent the interests of the City and the Fire & Police Commission in consultation with  
the Office of the City Attorney regarding the due process violation claims of former Police  
Chief Alfonso Morales's against the City in relation to his separation from service. (Ex. 1.)

On February 9, 2021, the Common Council waived any conflict presented in the  
representation caused by Mr. Cade representing plaintiffs with ongoing claims against the  
City or its agents. (File No. 201380.)

Mr. Cade had initially been brought on for the purposes of defending against the claims in  
federal court – there had been a notice of claim filed, and a suit was anticipated. He began  
work on the matter on January 29, 2021, and by early March his role had expanded to  
include conferring with the FPC, and engaging opposing counsel in settlement discussions.  
(Ex. 2.)

The resolution file and the Legal Services Agreement was drafted and submitted by then-  
Deputy City Attorney Scott Brown on February 25, 2021. (File No. 201480.) There was  
some concern on the need for outside counsel and the scope of work, which created some  
delay in the passage of the resolution, which did not occur until April 13, 2021. The



agreement contained a not-to-exceed provision of \$40,000.00, unless the parties otherwise agreed in writing. (Ex. 1, ¶ 8.e.)

Then-DCA Brown and then-Assistant City Attorney William Davidson had principal supervision of the file and representation since January; however, on April 23, 2021, Mr. Brown separated from the City. Shortly thereafter, Deputy City Attorney Robin Pederson was assigned to the file along with ACA Davidson; however, on May 14, 2021, Mr. Davidson separated from the City.

These departures and several others resulted in an unprecedented circumstance that required the Deputies and ACAs to direct their attention to matters with the most urgent deadlines.

On May 2, 2021, Mr. Cade submitted an invoice in the amount of \$8,590.55 for services rendered between January 29 and April 30, 2021. (Ex. 2.)

On June 1, 2021, Yolanda McGowan joined the Office of the City Attorney as the Deputy of Litigation, and became involved in the supervision of this matter in conjunction with DCA Pederson.

In the meantime, Mr. Cade continued to work on the matter, engaged mostly in settlement negotiations; however, he also took on the matter pending in Milwaukee County Circuit Court, conducting research, preparing briefs, making several appearances, and presenting argument. Mr. Cade also initiated an appeal to the Court of Appeals, conducting research related to that as well, but ultimately that appeal was not pursued as the matter was settled.

On July 1, 2021, Mr. Cade submitted an invoice in the amount of \$28,279.43 for services rendered between May 3 and Jun 30, 2021. (Ex. 3.) At that time, Mr. Cade advised DCAs Pederson and McGowan that he had billed the City \$37,869.98, leaving just over \$2000.00 on the original agreement. He noted that his role had expanded greatly since his first coming on to the matter. He did not explicitly state that funds above and beyond the \$40,000.00 would be required, but it was implied, particularly since we were aware that ongoing mediation was occurring, there was potential for an ongoing appeal in the Wisconsin Court of Appeals. Further, we were researching the implications and legal issues of a potential reinstatement of Mr. Morales to Chief of Police, and Mr. Morales had recently filed his federal complaint on June 15. As of June 30, 2021, we were still working with Mr. Cade in coordinating an answer to the federal suit concerning notice to the eight individually named defendants in the matter.

DCA McGowan responded to Mr. Cade that same day, July 1, on behalf of herself and DCA Pederson, indicating that we received the invoice and that we would follow up as soon as practicable. The next Judiciary and Legislation Committee meeting was set for July 19, 2021. All but \$2,642.50 of the overage for legal services was accumulated between July 1 and July 18. (See Ex. 4.)

Mr. Cade was in regular communication with various departments, including ERS, where they were providing him calculations reflecting the various scenarios being discussed in the settlement negotiations. During the first two weeks of July there was significant work done considering that Mr. Morales was scheduled to be reinstated to Chief on July 3. Mr. Morales's return was put off by agreement of the parties under the expectation of earnest and expeditious negotiation. Ultimately, the matter was settled on July 13; however, there was significant after-the-fact work that needed to be done in order to facilitate the complexities related to Mr. Morales's retirement status.

On August 1, 2021, Mr. Cade submitted an invoice in the total amount of \$17,956.63, which included \$14,802.50 for legal services rendered between July 1 and July 29, 2021, and \$3,154.13 for expenses, \$3,150.00 of which was for mediation fees. (Ex. 4.)

On October 16, 2021, Mr. Cade submitted an invoice in the amount of \$770.00 for services rendered between August 5 and September 13, 2021. (Ex. 5.)

The total of the invoices submitted by Mr. Cade is \$55,596.61. Of that, \$3,600.61 was for expenses, made up primarily from mediation fees, and filing fees. This constitutes an overrun on the initial agreement of \$15,596.61; \$11,996.00 if the expenses are subtracted, leaving only the cost of the legal services.

This office prepared an amendment to the agreement (Ex. 6) consistent with its provisions (*see* Ex. 1, ¶¶ 8.e and 12) in order to cover the costs of the additional legal services rendered and expenses. This office then filed a resolution (File No. 211122) for payment to Mr. Cade for introduction at the November 2, 2021, session of the Common Council, which was referred to and taken up by the Judiciary and Legislation Committee on November 15, 2021, where it was recommended for placing on file.

This office respectfully requests that this resolution be approved at the Common Council session set for November 23, 2021. In speaking with DCA Pederson, he acknowledges that he could have brought this issue up before Committee on July 19, or at minimum, provided a courtesy communication to the Chair of the Committee as early as July 1. In all fairness, our office was under some extraordinary circumstances regarding the volume of work we were facing at the time, and many of my staff were relatively new to the processes of dealing with these issues. Be assured that the failure did not arise from a lack of respect for or recognition of the Committee's and the Common Council's role in oversight and holders of the City's purse strings.

Further, the requirement to take these sort of outside counsel overages to Common Council is relatively new. Previously, this office had been authorized to make the majority, if not all, of its outside counsel contracts and payments upon its own authority through its special purposes account. That authority was revoked earlier this year. Our office is making the necessary adjustments to its procedures to account for the new

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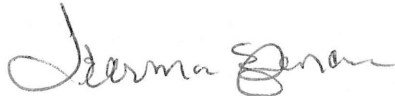
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requirement to run all contracts through Common Council. We would request some brief consideration of time as we deal with new and legacy contracts in order to bring them into full compliance – this is one such contract.

As for some practical considerations, please be advised that we would expect a notice of claim and subsequent litigation to be filed against the City by Mr. Cade should these invoices not be paid. The claims would likely be a breach of contract and *quantum meruit*. We will not delve further into the merits and potential defenses in this letter; however, it should be noted that a significant expense related to any such litigation would be outside counsel. It is likely that no attorney currently in the Office of the City Attorney would be able to take on the representation without conflict, and it is unclear whether the conflict would be waivable; regardless it would be an open question, even if waivable, if any attorney in this office should take on such a matter.

Please let us know if we can answer any additional questions regarding this matter

Very truly yours,



TEARMAN SPENCER  
City Attorney