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September 30, 2009

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

Re: Proposed Settlement of *Koestering v. City of Milwaukee*  
Case No. 08-CV-011518

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.

Gregory Koestering was employed as a police officer in the Milwaukee Police Department. He was discharged from the Milwaukee Police Department by former Chief Hegerty. He appealed his discharge and in September 2006, the Milwaukee Fire and Police Commission heard his appeal. It upheld his discharge in a written decision of November 2, 2006. He then sought review in the courts. In October 2007, the Milwaukee County Circuit Court concluded that the Commission had improperly failed to obtain certain evidence during the hearing and ordered a new hearing. Upon remand, the evidence was obtained and considered and in a decision of July 10, 2008, the Commission once again concluded that Koestering should be discharged. That decision has been upheld by the Milwaukee County Circuit Court in a decision of May 2009. Koestering had appealed that decision, but the appeal has yet to be decided.

In August 2008, Koestering filed the above-noted lawsuit, asserting a claim under the Wage Claim statute and seeking an order that the City pay him wages and benefits for the period of time from the November 2006 Commission decision until the second decision in July 2008. On July 14, 2009, the Milwaukee County Circuit Court ordered the City to provide pay and benefits for Koestering for the period of time in question, but denied his request for reasonable attorney's fees and penalties under the Wage Claim statute.

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In compliance with the circuit court order of July 14, the police department has issued a payroll check to Koesterling for his pay from November 2006 until July 2008. Pursuant to this order, however, the city must still pay Koesterling the amounts he paid for health and dental insurance during that time period as well as interest at the statutorily-prescribed rates. The total of these amounts is \$23,973.18.

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

JAN A. SMOKOWICZ  
Assistant City Attorney

GFL:JAS

Encls.

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