Report of the Mayor's Task Force on the City of Milwaukee's Pension System

September 17, 2021

Mayor's Task Force on the City of Milwaukee's Pension System
Convened June 10, 2021

Members:

- Alderman Nik Kovac – Common Council 3^{rd} District
- Aycha Sawa – City Comptroller
- Dennis Yaccarino – City of Milwaukee Budget & Management Director
- Nicole Fleck – City of Milwaukee Labor Negotiator
- Jerry Allen – City of Milwaukee Employes' Retirement System CEO
- Beth Cleary – City of Milwaukee Deferred Compensation Executive Director
- Michael Bongiorno, President – International Association of Firefighters Local 215
- Andy Wagner, Vice President – Milwaukee Police Association
- Carmelo Patti, Vice President – Milwaukee Police Supervisors Organization
- Mark Pelzek, President – American Federation of State, County, and Municipal Employees District Council 32
- Joe'Mar Hooper – Public member[**]
- Mark Nicolini – Public member
- Antonio Riley[**] – Public member, Chair[**]
- Gina Spang – Public member
- Mary Reavey[*] – Vice President, Milwaukee Retirees Association
- Ron Roberts[*] – Public member
- John Barmore[*] – Milwaukee Retired Fire & Police Association

Staff:

- Molly Christianson – Budget & Management Division, Department of Administration
- Asst. City Attorney Patrick McClain – City Attorney's Office
- Aaron Szopinski – Office of the Mayor

[*] *Appointed to Task Force after June 18^{th} meeting*
[**] *Left Task Force August 4^{th}, replaced as Chair by Joe'Mar Hooper*

Task Force Meetings:

June 18, 2021 (virtual, via GoToMeeting)
July 8, 2021 (virtual, via GoToMeeting)
August 5, 2021 (in-person at Port of Milwaukee, with virtual option for attendees)
August 19, 2021 (in-person at Port of Milwaukee, with virtual option for attendees)
September 10, 2021 – Final meeting (virtual, via GoToMeeting)

EXECUTIVE SUMMARY

In 2023, based on the latest actuarial valuations, the City of Milwaukee's required annual pension funding contribution is projected to grow from approximately $71 million to over $145 million. That amount is 17% of the City's entire 2021 tax levy supported budget, and 48% of the City's 2021 property tax levy. This potential doubling of expense comes at a time when the City and numerous third party analysts agree that the City's revenue structure is inadequate to meet both needed City service levels and fund future pension obligations.

Mayor Tom Barrett convened the Pension Task Force in June of 2021 to help the City of Milwaukee assess and identify critical steps to deal with this major challenge on the horizon. Members represent key stakeholders in the City's finances and pension system, including elected officials, active and inactive employees, taxpayers, retirees, and labor organizations.

Mayor Barrett asked the Task Force to address three key questions:

1) What are the most feasible options to help the City of Milwaukee manage and reduce funding costs for employee pensions?
2) What are the most impactful and fair changes at the State level to help the City meet those goals?
3) How do those options impact employees, retirees, and the City's current and future costs?

The Task Force built on the work of the City's 2012 Pension Task Force, led by Alderman Michael Murphy, the 2018-19 Milwaukee County Pension Task Force, and years of third party reports, analysis from actuaries, policy experts, and bond rating agencies. Task Force members heard in meetings from former City officials and experts in pension plans and public finance.

Since 2009, Mayor Barrett and the Common Council have taken numerous steps to ensure the City responsibly funds the City of Milwaukee Employes' Retirement System (CMERS). Those actions have maintained the City's above average funding ratio for future retirement costs and smoothed the City's annual budgeted contribution for pension benefits. The City implemented a combination of ordinance and policy changes between 2010 and 2013 that set a 5-year stable pension funding level, continued growing the balance of the Employer's Reserve Fund, and negotiated employee contributions and retirement benefit changes to offset the City's funding.

Future pension liabilities continue to accrue and actuarial assumptions of investment returns to the pension fund have been lowered significantly. Both of these factors increase the City's required funding contributions. Since 2018, required funding for pensions has begun to impact the City's ability to maintain critical services funded by property taxes. This has resulted in the reduction of over 120 sworn Police positions, decommissioning of 5 Fire Department units, and across the board reductions to the City's workforce and capacity for critical services.

Current State law strictly limits annual increases in City property tax revenues. State distribution of sales and income tax revenue to local governments – the Shared Revenue program – has not been increased in over a decade. Current Shared Revenue payments to the City of Milwaukee are $42 million below than what funding would have been with modest 2% annual growth in the

State's Shared Revenue appropriation. State law governs municipal pension systems, collective bargaining, and the use of fees to cover local service costs. Current State law prohibits most Wisconsin cities from levying sales and income taxes, including the city of Milwaukee.

Task Force members acknowledged that under current conditions and without additional sources of revenue, the full funding of both future pension obligations and current City services are threatened. To address this challenge, the Task Force identified and discussed twelve ideas for the Mayor to consider, as summarized below:

1) Close the City Pension Plan to new entrants, and have new entrants instead join the State's retirement system.
2) Create through ordinance and collective bargaining negotiations (as required) a new benefit design/structure for new entrants within the CMERS plan
3) Estimate and specify the needed reduction in City services and staffing to ensure all required future funding contributions are made as currently projected.
4) Change the City's legal requirements and funding policy and explore other metrics for funding that avoid the need for draconian budget cuts, while securely funding current and future retirement benefits.
5) Consider selling or leasing City assets and allocating revenues in a planned manner to minimize cutting critical City services currently funded by the property tax as employer pension contributions increase.
6) Through collective bargaining as required by law, or policymaking, adjust retirement benefits and pension plan design for employees hired in the future.
7) Use Pension Obligation Bonds to "catch up" to full funding and more efficiently finance pension obligations without cutting services.
8) Seek and support State legislation allowing the City a local option sales tax to increase revenue for both pension costs and critical City services.
9) Seek other State-allowed sources of local revenue, including increasing the hotel/room tax rate, other new taxes, marijuana legalization, sports gambling, or increased Payments In Lieu of Taxes.
10) Seek dedicated, increased allocation of Shared Revenue specifically for public safety
11) Utilize shared services to reduce City costs and tax levy growth
12) Leverage and lobby for Federal funding, including relief funds from the American Rescue Plan, other direct aids, to offset growing public safety and other City budget costs

As part of its discussions, the Task Force requested analysis from CMERS and the City's Budget & Management Division, as well as the City Attorney, on the fiscal and legal consequences of not increasing pension contributions beyond current levels starting in 2023. Those analyses are included in this report. The Task Force asked the City Attorney's Office to review each of the concepts brought forward to identify the preliminary legal considerations and potential risks of each, and make clear where changes in State law or City Code would be needed to pursue those options.

The Task Force‘s broader recommendation to the Mayor and his Administration is to continue working closely with CMERS and the Plan’s actuary as well as the City Attorney and independent experts to understand at a finer level the potential outcomes, risks, and advantages to each of these options.

The City of Milwaukee can continue to build on its track record of thoughtful and responsible management of pension obligations and funding. Leaders and residents should be proud of the City’s fiscal responsibility in managing pension costs and contributions. The Task Force is confident that City policymakers understand the stakes and are ready to take action in a fair, responsible, and sustainable way. Ensuring that critical City services and functions continue will require continued communication with stakeholders and the public on what the path forward will be.

Submitted to Mayor Tom Barrett on September 14, 2021

Joe’Mar Hooper
Chair
Mayor’s Task Force on the City of Milwaukee’s Pension System

GLOSSARY OF KEY TERMS

Some key terms used in this report are defined below:

Actuarial Accrued Liability (AAL) – The estimated present value of all future pension benefits due to retirees. Estimated by actuaries based on numerous factors, including: benefit terms, actuarial estimates of life expectancy and dependent benefits, employee salaries over time, and assumed annual earnings of funds invested currently in the pension fund (*rate of return* or *discount rate*). The AAL is the estimated and inflation-adjusted current cost of all benefits to be paid over time.

Actuarial valuation – An assessment by actuaries of the present and future costs of benefits to be paid by the pension plan, calculated under established professional standards and using approved models by actuaries. The valuation includes assumptions on a large range of factors, and includes calculating AAL and UAAL as one part of the total valuation.

Amortization –Amortization creates a schedule of payments for large and changing costs that includes changes in components of those costs between one payment and the next. An example is the monthly principal and interest payments in a 30-year mortgage loan – they are amortized into a uniform monthly payment, with the amount of principal and interest in that payment varying each month.

City of Milwaukee Employes' Retirement System (CMERS) – also known as the Pension Fund or Pension Plan, the system created by State law and City Charter to determine and administer retirement benefits for City employees and their survivors and dependents. The Fund is governed by the Annuity & Pension Board, whose members are elected or appointed and have a fiduciary duty to assure benefits are paid to members of the Fund. CMERS covers classified (non-instructional) employees of Milwaukee Public Schools as well as the Milwaukee Metropolitan Sewerage District

Benefits – monthly and annual pension payments to retirees and survivors, determined through bargaining agreements, City Code, State and Federal law, and other terms of employment.

Cost of Living Adjustment (COLA) – annual increase in benefits for City of Milwaukee retirees, which varies based on the retiree's terms of hire, retirement, and the position from which they retired.

Discount rate *or* **rate of return** – the annual projected rate of return used by actuaries for earnings on funds held and managed by the pension fund. These earnings help grow the fund's assets and reduce the cost to City taxpayers of funding future benefits. Reducing the assumed rate of return will increase the amount of City funding required to keep the Plan fully funded.

Funding ratio *or* **percent funded**– the percentage of all estimated future benefits (AAL) funded on an actuarial basis at a given point in time. A "fully funded" ratio is 1.0 or 100%, and means the Plan's current assets, future contributions, and investment earnings are enough to pay the full future value of benefits. For a fully funded plan, UAAL is zero, or even negative. The funding ratio is simply calculated as $1 - (UAAL/AAL)$.

Funding cost – the annual contributions needed over time to reach a point of fully funding AAL for that same period of time, excluding the normal cost. The unfunded liability can be amortized over time to estimate annual funding contribution costs from the City as plan sponsor.

Normal cost – the percentage of current year employee salaries to be contributed to fund future pension benefits, as calculated by the pension plan's actuary. For CMERS, the normal cost is calculated separately for sworn Police, sworn Fire, and General City (non-sworn) employees. Normal cost is typically paid by any combination of employee and employer contributions.

Pension Fund *or* **Pension Plan** – *see CMERS*

Plan Design – the terms and formulas of benefits, credit for time worked, employer and employee contributions, retirement criteria, survivor benefits, and other specific provisions that are part of the pension plan.

Plan Sponsor – the City of Milwaukee is the sponsor of the Pension Plan administered by CMERS, though the Plan and the Fund are governed and managed by the Annuity & Pension Board. The City as sponsor is required to fund both the benefits paid through the Plan as well as the administrative costs of the Plan/CMERS.

Unfunded Actuarial Accrued Liability (UAAL) – the difference between actuarially projected liabilities (paid pension benefits) and the actuarially projected assets in the fund over the same period, including investment returns and funding contributions from the City and employees.

Report of the Mayor's Task Force on the City of Milwaukee's Pension System
September 14, 2021

Mayor Tom Barrett convened the Mayor's Task Force on the City of Milwaukee's Pension System on June 10, 2021. The Mayor requested the members of the Task Force look at the City's coming pension funding challenges, and bring forward ideas on actions the City can take to mitigate those challenges. The Mayor also requested that the Task Force assess which State actions may be required to undertake those actions.

In the letter confirming Task Force members, the Mayor shared a summary of the funding challenge facing the City of Milwaukee:

> *Since 2018, increasing contributions for pensions have been a major factor in budget decisions including the elimination of Fire companies, reductions in the Police force, and increases in charges for service. In 2023, the City's pension funding requirement is projected to increase by $76 million per year, from $73 million to $149 million. This increase threatens the City's ability to deliver core services…*
>
> *Key questions I would like the Task Force to address are:*
>
> 1) *What are the most feasible options to help the City of Milwaukee manage and reduce funding costs for employee pensions?*
> 2) *What are the most impactful and fair changes at the State level to help the City meet those goals?*
> 3) *How do those options impact employees, retirees, and the City's current and future costs?*

The Task Force was asked to focus on the City's ability and capacity to fund pension benefits. By national standards, the CMERS funding ratio is above average. The CMERS Fund has the capacity to continue paying benefits for decades if current City funding is carried forward. The Mayor's chief concern and his request of the Task Force was to explore ways to improve the City's ability to fairly and sustainably meet funding requirements as the sponsor of the CMERS plan.

To ensure the Task Force included all stakeholders and key decision makers in the City's pension funding and overall fiscal situation, the membership included representatives of:

Milwaukee Common Council
City Comptroller
Department of Administration
Department of Employee Relations
Deferred Compensation Plan
CMERS management
Current City employees
Former City employees
Retired City employees
Property taxpayers

Staff support was provided by the Mayor's Office, City Attorney, and the Budget & Management Division of the Department of Administration. The Mayor asked the Task Force to share a report by August 15, 2021, that date was later changed to August 31, 2021.

Task Force Charter and Meetings

The Task Force received a Charter document [*See Appendix, Exhibits 2 & 3*] from staff that outlined the Task Force's purpose and scope, membership and a tentative schedule of meetings. The Task Force also was provided a digital drive location for key files and reference documents to help their work. Those documents and links to video of Task Force meetings accompany this report as an Appendix.

Due to COVID-19 public health orders and guidance in place in June 2021, in-person meetings for the initial gatherings of the Task Force were not feasible. The digital distribution of documents and virtual meetings were helpful in getting the Task Force's first meeting together quickly and ensuring all could join. Virtual meetings throughout also ensured there was a clear record of presentations and discussions for all to reference.

Key reports and documents shared with the Task Force include the following:

1) The report and recommendations of the City's 2012 Pension Task Force, led by 10th District Alderman Michael Murphy, which developed the foundation of the City's current pension funding policy and ordinances.
2) The final report of the 2018 Milwaukee County Retirement Stability Taskforce, which met for over a year to help Milwaukee County address similar pension funding issues.
3) The March 2020 issue of *The Taxpayer*, the Wisconsin Policy Forum's report on Milwaukee's pension system and funding challenges.
4) The July 2017 *On The Money* report by the Wisconsin Policy Forum, examining the impacts of State laws limiting local revenues on City of Milwaukee services and pension funding.
5) Documents from the CMERS' plan actuary and management showing estimates of future pension liability and the current and projected funded ratio for CMERS fund under a number of scenarios.
6) Documents related to the 2000 Global Pension Settlement, which changed benefits and plan design for a large number of City employees and current retirees.
7) Chapter 36 of the Milwaukee Code of Ordinances, the City Charter chapter dealing with pension benefits and funding.

The Task Force Charter established the first two meetings as information sessions, for members to get insight and direction from the Mayor. The first two meetings were also for members to gain a shared understanding and baseline knowledge of pension funding dynamics and the City's particular pension funding issues.

The Task Force had its first meeting on June 18, 2021. The Mayor shared his insight and outlook on pension funding and has requests of the Task Force. Members then heard from David Riemer, former Director of the City's Department of Administration, who was involved in the 2000 Global Pension Settlement. A presentation was also made by Task Force member and former Budget & Management Director Mark Nicolini. Their presentations shared critical facts and perspective on the history of the City's pension system, and key moments in the history of CMERS. Specifically, they discussed the Global Pension Settlement of 2000 and key funding policy changes made to the City Charter in the wake of the Great Recession and rapidly increasing funding needs.

The Task Force's second meeting on July 8, 2021 covered additional background and analysis to look at the City's pension funding approach compared to other State and local pension funds. Rob Henken, President of the Wisconsin Policy Forum, shared summaries of the Forum's research since 2009 on the City's finances and pension funding. Mr. Henken also discussed research and analysis done by the Forum on potential solutions for both the City and Milwaukee County's pension systems, and the Forum's work on the 2018 Milwaukee County pension task force.

Mr. Henken outlined some of the issues facing Milwaukee County's pension system, and options considered by the County via the 2018 Retirement Stability Taskforce. Those include several potential changes to benefits for future employees and future retirees, use of Pension Obligation Bonds to pre-finance future contributions at lower interest rates, and increasing employee contribution rates. The County report also looked at adjusting the rate of return on fund investments and using a longer actuarial amortization period for accrued liability to reduce annual funding requirements without affecting the payment of benefits due to retirees.

The County panel's final recommendations to the Board and County Executive were:

1) Reduce the Cost of Living Adjustment (COLA) for retirees – current and future – to reduce overall pension costs.
2) Take action to "close" the County's pension fund and move future retirees to the Wisconsin Retirement System, which is prevailing practice for county and local governments in the state.
3) Fund regular monitoring and "stress testing" of the County ERS and funding obligations, similar to what is provided for in Chapter 36 of Milwaukee's City Charter.
4) Follow a rate of return/discount rate recommended by actuaries, use a maximum 20-year amortization period for Accrued Actuarial Liability (AAL), and prioritize full funding of liabilities. These are also practices included in Chapter 36 of the Milwaukee City Charter.

Mr. Henken shared some of the insights and analysis that produced these recommendations. A key observation is that most future pension benefits have already been earned. Since both the County and City systems have more retirees than active employees, reducing benefits for future or even current employees will only provide limited savings. Adjusting annual COLA factors, employee contributions, and the amortization period for determining and funding liabilities may have a greater impact.

The second meeting also included analysis of the City's situation and options in a national context by Greg Mennis of the Pew Charitable Trusts' Public Retirement Project. The Pew team was also engaged with Milwaukee County's pension funding assessment, and Mr. Mennis shared insights from that effort as well as broader trends in pension funding. Key factors shared by Pew from a national perspective include:

1) The City's funded ratio as of June 30, 2021 was 88% based on market value of assets. This mirrors the national trend projected for an increased average funded ratio of 84% in 2021, and the City's funded ratio over time is well above national averages.
2) Funding ratios are tied more than anything to investment performance, and markets in 2020 were highly volatile.
3) National averages for cash flow in pension funds are stabilizing, though still negative, indicating big picture underfunding. CMERS' cash flow is negative and trending down, reflecting increasing benefit growth and decreasing average investment returns.
4) Options for stabilizing funding outside of major City budget cuts and new sources of revenue are limited. For alternative funding strategies, few have been used by enough plans to evaluate their effectiveness:
   - Pension Obligation Bonds may help, but require changes to State law and should be only one part of a bigger plan to improve pension funding.
   - Revenue or asset leases to the Pension Fund could potentially help, but have not been tried or proven nationally.
5) Changes to the stable contribution policy, within the guidance of actuaries and investment consultants, may be helpful to sustaining funding without major reductions to City staffing and services.

The Task Force met again on August 5th and August 19th. Based on the direction of the Chair, and staff advice, members discussed the City's funding outlook, put questions to City officials and CMERS management, and shared their observations and ideas on how the City may address pension funding.

Staff compiled the August 5th discussion and subsequent messages and input from members to staff into a list of broad ideas that was reviewed and revised at the August 19th Task Force meeting. Given the Mayor's request for a report by August 31st, fully analyzing and testing the concepts offered by members and different scenarios against the City budget and the valuation of the CMERS fund was not feasible.

The Chair proposed on August 19th and staff communicated to all members that any counterpoints or disagreement with the direction or substance of ideas be noted in the final report to the Mayor, so the nuanced views of all stakeholders are included. The revised list of ideas was sent to the City Attorney's Office for its input on where changes in State law or City ordinance would be helpful or required to implement the concepts or ideas from the Task Force.

Based on the Task Force's list of generated ideas, Assistant City Attorney Patrick McClain offered legal analysis and legislative requirements for each. Assistant City Attorney McClain also provided broader input to the Task Force on the general legal considerations of making changes to the City's funding of pension benefits and City policy or ordinance for pension benefits. The City Attorney's Office also shared the broad legal assessment that follows.

Legal Insights

It should be noted that this analysis does not constitute a formal opinion of the City Attorney, nor is it intended to be viewed as definitive advice. Rather, the legal analysis presented in this report represents only initial impressions regarding the legal considerations and risks attending each idea or concept. If the city elects to pursue one or more of these proposals, the city has been advised to request a more comprehensive, formal legal opinion from the City Attorney.

There are three primary considerations bearing on the city's authority to enact changes to the ERS. These are: (1) the contractual benefit guarantees stated in Chapter 36; (2) collective bargaining rights; and (3) the Global Pension Settlement (GPS).

First, pension benefits are contractually guaranteed benefits provided by an employer to its employees. The contractual benefit guarantees for ERS members are set forth in MCC § 36-13. These contractual rights have changed over time, so employees hired at different times retain different contractual rights to ERS benefits. In 2011, the city expressly reserved the right to modify future benefit accruals. *See* MCC § 36-13-2-h. This means that the city has the general authority to prospectively modify future pension benefits for post-November 3, 2011 hires without impairing existing contractual rights. This does not mean the city cannot modify the future benefits of other employees, it simply means that a more complex analysis is required before such amendments could be legally approved. In any event, the city generally remains free to amend aspects of Chapter 36 that do not impact "benefits." Precisely what constitutes a protected "benefit" is subject to some debate. *See Madison Tchrs., Inc. v. Walker*, 2014 WI 99 (finding "pick-up" contributions were not a contractually guaranteed "benefit" under Chapter 36).

Second, perhaps the most significant legal consideration impeding the city's flexibility to amend future ERS benefits based on changing circumstances is collective bargaining rights. Although 2011 Wisconsin Act 10 eliminated collective bargaining rights for general city employees, it continued those rights for police and firefighter unions. As a result, for the city to amend pension benefits for sworn personnel in the Milwaukee Police and Fire Departments under current law, even prospectively, the change must first be agreed to by the relevant unions, or approved in arbitration.

Finally, the Global Pension Settlement ("GPS") creates additional contractual protections for GPS-covered employees. Signed in 2000, the GPS is a contractual agreement between the city and then-current ERS members which both settled numerous pending lawsuits and authorized substantial changes to the ERS, including the creation of the current combined fund. As part of that agreement, the city largely forfeited its right to alter the pension benefits of GPS signatories. The GPS therefore serves as an additional barrier to amending Chapter 36, at least to the extent that those changes would affect GPS-covered employees.

In sum, the ability of the city to implement changes to benefits of different employee groups depends on their date of hire and employment class. However, it must always be remembered that consent can overcome essentially all of these obstacles. For example, it was only through broad employee consent that the GPS became possible. Union employees can agree to benefit modifications in collective bargaining. Similarly, non-union employees can waive contractual rights and agree to future benefit modifications by giving affirmative consent. In short, the possibility of consent-driven amendments should not be overlooked.

Task Force Ideas & Concepts

Based on the information shared in meetings and their understanding of the issues and the Mayor's request, the Task Force report thus presents each of the 12 ideas for action with four parts:

- Summary
- Discussion, including key factors and components of each action
- City Attorney assessment of the action's relationship to current State and City law
- Counterpoints offered by Task Force members for this particular concept

1) Close the City Pension Plan to new entrants, and have new entrants instead join the State's retirement system, the Wisconsin Retirement System.

Discussion: The City's pension plan, CMERS, is unique in the State, as most local governments and schools districts offering pension benefits do so through the WRS. The State's plan has a high funded ratio, nearly 100% in its 2020 valuation[1].

The WRS has three critical differences from the City's Plan:

- Instead of a fixed COLA, the WRS pays a dividend in the form of a benefit increase if and when the fund's investment return target is met. In years where the target is not met there is either a 0% adjustment or, rarely, a reduction compared to prior increases. The "base" level pension benefit is not subject to reduction. City retirees currently get an annual COLA regardless of fund performance.
- Members share equally in the cost of the plan, and contributions are expressed as a flat rate for all members, currently 6.75%.
- The WRS as a whole has a much smaller proportion of protective service employees than CMERS, making the higher wages and pension benefits and required employer funding costs for those members more manageable within the entire fund.

These differences make contributions from local governments to WRS more affordable, as members pay slightly more and post-retirement costs do not increase as rapidly compared to the CMERS plan. In effect, post-retirement benefit increases serve as a "reserve" on which the WRS can draw upon in the event funding requirements so dictate. The WRS' costs to employers as a percentage of covered pay which includes overtime, are also lower compared to CMERS, which excludes overtime.

For the City's pension funding purposes, preliminary actuarial estimates show that moving new entrants to WRS would reduce the City's pension costs for those employees over time, and eventually save additional funding as the CMERS system membership declines over time. If the CMERS Plan is "closed", the benefits paid over time grow more slowly and eventually begin to decrease as members and survivors pass away. The benefits to the City would only occur if all new employees, including protective service personnel, move to WRS. Under current State law, that is a subject that must be addressed in collective bargaining with sworn protective service employees.

A second major consideration for this path is that actuarial standards of practice call for different treatment of "closed" plans, including rapid amortization of the future value of benefits. That amortization period is typically 10 years, compared to the longer periods currently used to estimate funding and contribution requirements for the CMERS plan. Similarly to refinancing a 30-year loan to a 15-year loan, the annual cost of funding all future

[1] WRS Entry-Age Valuation for Dec. 31, 2020, published May 28, 2021: https://etf.wi.gov/boards/joint/2021/06/17/jm3a/direct

benefits in 10 years is significantly greater than funding them over 25 years. For this option to improve the City's funding outlook, amortization of the unfunded liability for a "closed" CMERS plan would need to be spread over a period of 25 years or more.

Preliminary actuarial estimates [*See Exhibit 25*] puts the additional annual cost of the 10-year amortization at $226 million, and $2.3 billion over the 10-year term. Those estimates also show that after the 10-year amortization, the City's total cost for remaining liability for CMERS and funding costs for WRS stay at approximately current levels of $68 million and grow at a much more manageable annual rate.

To make the funding of this option possible, both the City Charter and State law would need to be changed in several ways. State authorization of a local option sales tax would be critical to help to fund transition of the City's retirement plan from CMERS to WRS. Further discussion and analysis on the actuarial and legal risks would also be helpful to fully understand the funding need.

Legal Analysis: Closing the plan to new entrants implicates several legal considerations. First, since the city has retained the authority to modify future pension benefits for post-2011 general city hires, moving future general city employees into the Wisconsin Retirement System ("WRS") can be accomplished without violating any vested rights.

Because, however, the city remains obligated to collectively bargain with sworn police and firefighters regarding changes to pension benefits, the city cannot unilaterally shift sworn protective service employees to the WRS. Instead, the city would have to either secure a voluntary agreement from the relevant unions during collective bargaining, or secure a favorable arbitration outcome. A third option would be to seek state legislation which eliminates pension benefits as a mandatory subject of bargaining. Depending on its form, legislation of this kind would potentially give the city the same flexibility to amend future pension benefits for police and firefighters as it currently retains for general city employees. Given that the Wisconsin Supreme Court has previously rejected a challenge to similar legislation targeting general city employees, any legal challenge from the protective service unions would likely be unsuccessful.

It must additionally be noted that a "soft close" of the ERS will likely accelerate the city's employer contribution requirements under actuarial standards of practice. Because Chapter 36 presently requires contribution rates to be set according to actuarial standards, closing the plan under its current terms would have the effect of increasing employer contribution costs. While the charter could be amended to require a formula which does not comply with the actuarial standards, as discussed above there are significant legal questions about the city's authority to do so. As such, state legislation is likely a more legally durable option. The Wisconsin Supreme Court has previously sanctioned the state's modification of the city's existing contribution policy—albeit for employee rather than employer contributions. *See 2014 WI 99.*

Counterpoint: None.

2) **Create through ordinance and negotiations (as required) a new benefit design/structure for new entrants within the CMERS plan**

Discussion: Similar to closing the CMERS plan, the City could change the plan design for employees joining CMERS as of a certain date. Employees in the CMERS system prior to that date would retain their current plan design, and retirees would see no change in benefits. The terms of retirement for employees hired after the implementation of a new plan design could help the City reduce costs in a manner similar to moving new hires to WRS.

Changes to pension plan design could include changes to existing terms such as employee contributions, pension benefit calculations, retirement criteria, COLAs, and multiplier factors. A new plan design could also integrate retirement provisions that are not currently blended with the City's pension plan.

For example, a new plan could combine some level of traditional pension benefits with a defined contribution plan like the City's Deferred Compensation Plan. Moving new employees to the defined contribution option with a City match could be another strategy. As with other changes, under current law, pension benefits and plan participation would need to be bargained for sworn protective service employees.

The considerations of this option are in many ways similar to moving new entrants to WRS, with two key differences. First, since the CMERS plan is not being closed, the question of rapid amortization for the total liability of the existing plan is not an issue. Second, the City would still be the sole sponsor and funder of the plan, as opposed to joining WRS with thousands of other local governments as well as State agencies participating in the funding of the plan.

Legal Analysis: This idea implicates effectively the same legal considerations as those discussed in Option #1. Notably, the city is already capable of unilaterally amending future benefits for new general city hires, but lacks unilateral authority as it relates to sworn protective service employees. As discussed above, amendments to the latter benefits would require union agreement, a favorable arbitration award, or state legislation removing pension benefits from collective bargaining rights. Unlike Option #1, this action avoids the accelerated funding requirements that would likely accompany a "soft close."

Counterpoint: None.

3) Estimate and specify the needed reduction in City services and staffing to ensure all required future funding contributions are made as currently projected.

Discussion: This concept was put forward with the full knowledge that it is undesirable but may become a reality without changes to pension funding requirements or increased revenue capacity. Discussion at the Task Force's first two meetings prompted members at subsequent meetings to ask for a better understanding of what was called "the consequence of inaction" in the Pew presentation, which informed Options #3 and #4.

As a baseline for evaluation other options, the Task Force asked for two projections of future outcomes:

- First, a projection on the reduction of City services required to meet the actuarial projections for the City's funding cost. [*Exhibit #26*]

- Second, a projection of the funding ratio and status of the CMERS plan if the City did not increase contributions from the current level [*Exhibit #24*].

Meeting the current projections for pension funding increases within the City's current budget requires an additional $77 million per year from 2023 to 2027, and a total of over $380 million in additional funding from 2023 through 2027. The City's 2021 property tax levy is $299.2 million. Current State law generally limits annual levy increases to the value of new construction, which is typically 1-1.5% for Milwaukee and far less than the growth in contributions to sustain full funding of the CMERS plan under the current actuarial forecast.

To meet the funding need without additional revenue or other sources of funding, the City would need to reduce property-tax funded budgets by the same amount starting in 2023. An estimate provided to the Common Council's Finance & Personnel Committee in April 2021 showed a 10% *annual* reduction in City FTE was required in 2023 *and* 2024, followed by a 5% reduction in 2025. In total, the City's workforce would be reduced by 24%, or approximately 1,300 positions. [*Exhibit #26*]

Many City services are partially or wholly offset by fees for service, like solid waste, snow removal, and building inspections. Property taxes are the vast majority of funding for the Police and Fire Departments, Public Library, and other City services required under Statute and the Charter, including public health and street maintenance. With 82% of the City's tax levy funded budget allocated to personnel, reducing enough expenses to fund increased pension costs requires wage and staffing reductions. A 24% reduction in City staff would mean the end of many services and serious reductions in others.

The Task Force sees these reductions as an absolute worst case scenario, but members saw value in having a more detailed understanding of where and how these budget reductions would be made to sustain significant increases in pension funding requirements starting in 2023.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: No task force member was supportive of this level of City service reduction, though several members expressed the sentiment that funding from non-tax levy services and projects, including Federal funding, should be diverted to fund tax-levy supported services including Police, Fire, Libraries, and public health. For members of the pension system, layoffs and staffing reductions by the City would consign laid off employees to a lower "deferred" pension benefit. The legal ramifications of that need to be analyzed, but reducing staffing through layoffs is effectively reducing the "active" membership of CMERS, changing their future benefits. Reducing the City's workforce would increase the City's required pension funding cost, as member contributions from active employees makes up a significant amount of normal cost funding.

4) Change the City's legal requirements and funding policy and explore other metrics for funding that avoid the need for draconian budget cuts, while securely funding current and future retirement benefits.

Discussion: In tandem with Option #3, the Task Force sought to understand the consequences of inaction as a baseline for looking at other options. The requested analysis of the CMERS Plan's UAAL and funding ratio under this scenario is included in the Appendix [*Exhibit #24*]. It shows that with an annual capped contribution of $79 million from the City, the funded ratio of the Plan would go from approximately 80% to approximately 70% in 15 years. Over 25 years, the Plan's current funding amortization period, the funded ratio would decrease to 47%.

The CMERS Plan Actuary presented a projection to the Common Council's Finance & Personnel Committee in January of 2021 [*Exhibit 28*] showing that a City contribution capped at $110 million with a 2% annual increase would keep the Plan's funded ratio at or above 80% through 2043.

Several Task Force members also suggested that the funded ratio is not the only means of assessing the viability and sustainability of the CMERS Plan. For example, the Pew Trusts' presentation looked at CMERS' performance in terms of net cash flow compared to assets [*Exhibit 19*].

Another measure of fund performance and adequacy was in a summary from CMERS staff showing the Plan's net additions and deductions on an annual basis [*Exhibit #22*]. That summary showed that through the Great Recession and recovery, from 2010 to 2020, only 3 of 11 years had a net funding loss. The fund added $5.6 billion and paid out just under $4 billion in benefits in that time, a net gain of $1.6 billion.

Task Force members identified the assumed rate of return for the CMERS plan as a critical factor informing this idea. The assumed rate drives the assumption of investment earnings for the fund, and is based on the advice of investment experts and the Plan actuary.

All other things being equal, increases in the Plan's assumed rate of return will generally decrease the City's required contribution and the Plan's funded ratio over time. Decreases in the rate will increase the required contribution and the Plan's funded ratio over time. The Annuity & Pension Board, which governs CMERS and fills a fiduciary role for Plan members, adopts the assumed rate of return for the Plan's valuation and projections. It is not something the City as Plan sponsor can control.

Several Task Force members observed that using only the goal of a full funding ratio to determine the City's funding requirement puts a difficult fiscal burden on the City and in some ways ties the City's fiscal capacity to financial markets and CMERS' investment performance. If fund returns have a sustained decline, pension contributions will eventually increase as the assumed rate of return goes down, regardless of how many years of benefits the Plan has on hand.

This idea proposes that the City, in consultation with actuaries and other experts, adjust the current requirements for funding, without endangering the sustainability of the CMERS fund or the City's fiscal capacity. Any changes in this vein must reflect the use of stress testing on alternatives, and examine the impacts on Plan solvency and the operating cost ratio, as well as the funded ratio.

Legal Analysis: Under this action, the current employer contribution requirements stated in MCC § 36-08 would be amended to require something less than full funding. It does not imply an alteration of the city's current "mandatory" funding policy—merely an amendment to the *amount* of required funding. At a minimum, MCC § 36-08-6-h, et seq. would have to be amended to remove the "full funding" requirement and likely also the requirement that employer contribution rates be set in accordance with actuarial standards of practice. The prospects of such amendments are complicated by the fact that under MCC § 36-15-b, no changes may be made to the city's funding policy without both an affirmative vote of at least five members of the Annuity and Pension Board and written certification from the Board's actuary that "such changes comply with Actuarial Standards of Practice." Because this would likely not comply with actuarial standards of practice, no such approval could be given. While the city could attempt to eliminate this statutory procedure altogether, the city's authority to do so is far from certain.

Additionally, there are significant legal questions regarding the city's ability to unilaterally enact this change. First, it is unclear whether the state's 1947 grant of home rule authority was broad enough to allow the city to alter its "full funding" policy. See generally *Milwaukee Police Ass'n v. City of Milwaukee*, *2018 WI 86*. Second, there is a possibility ERS members may be able to challenge such changes under their recognized right to the "integrity and security" of the pension fund. See generally *Wisconsin Professional Police Association, Inc. v. Lightbourn*, *2001 WI 59*. While it is impossible to say with any degree of certainty how a court would ultimately decide on these issues, they nonetheless present significant legal concerns that must be considered in relation to this concept.

State legislation may be a viable alternative to unilateral city action. Presumably, if the city lacks home rule authority to eliminate the "full funding" requirement, the state retains it. While a state legislation option would avoid questions regarding the city's unilateral authority, it is unlikely it would avoid member litigation altogether.

However, members' claims would be rather limited. Many state courts, including Wisconsin courts, have been reluctant to recognize that pension plan members retain an enforceable right to a particular funding policy. Instead, as discussed above, courts generally recognize a more amorphous member right to the "integrity and security" of the pension fund. Some of the recent proposals for less-than-full funding policies have been actuarially predicted to achieve sustained funding levels of around 80% - 85%. These policies are far more reasonable than a policy that would simply freeze contributions at the current rate, which would produce a funded ratio of just 29% after 30 years. While, again, we cannot say for certain how a court would view these proposals, a policy which achieves higher sustained funding levels (albeit somewhere below 100%) has significantly better prospects of passing judicial muster than those which rapidly deplete the fund's assets.

Counterpoint: Several Task Force members disagreed with this concept and disagreed with the need to model a scenario with less than full funding contributions, citing Chapter 36 of the City Charter. Their view was that not increasing City funding contributions to the full funding level currently required in the Charter would run afoul of both the Charter as well as the City's fiduciary duty to retirees as Plan sponsor. They specifically this idea as a "slow defunding" of the pension fund, and supported making contributions to aggressively reach full funding of all future liabilities as quickly as possible.

5) **Consider selling or leasing City assets and allocating revenues in a planned manner to the Pension Fund to minimize cutting critical City services currently funded by the property tax as employer pension contributions increase.**

Discussion: The creation and use of asset and revenue sales, assignments, and leases is one way to help governments generate revenue and funding, ideally while reducing ongoing costs and risks. Water utilities, parking meters and facilities, event and sports venues, and other public assets can generate revenue connected to their operation and be the basis for economic development. These revenues typically come with operating and capital costs as well as broader economic risks. For example, a recession may drive down parking revenues as entertainment, dining, events, and other discretionary activities decrease. The cost to operate parking meters and facilities does not change as much, creating some financial risk for a city.

In an asset lease or assignment, the City would enter into an arrangement where some or all of the value and net revenue of the Water Works, City parking meters and facilities, or other City assets are leased or assigned to a third party. That third party may then also lease, develop, or leverage City assets or revenue streams with other third parties. The net proceeds of those City leases or operations would then go into the CMERS Fund, and earn additional returns. If those deals are structured correctly and perform as expected, the net revenue could reduce the City's overall contribution level. The third party could be CMERS, or an operator selected by the City, with net revenue or upfront financing from the deal going to fund pension obligations.

Implementing this idea would require a thorough and thoughtful financial, legal, and political analysis and careful vetting of any proposals. Prior discussions around leasing or selling City of Milwaukee assets were controversial, and nationally, asset and revenue leases have had mixed results.

Legal Analysis: This proposal implicates legal and actuarial considerations that are outside the scope of pension law.

Counterpoint: None.

6) **Through collective bargaining as required by law, or policymaking, adjust retirement benefits and pension plan design for employees hired in the future.**

Discussion: The future cost of pension benefits is driven in large part by a few basic factors: length of service, average salary, and retirement age. CMERS members, through the City Charter and various bargaining agreements, may have additional factors that determine the value of their benefits. A "multiplier" for the pension benefit calculation may be higher for some employees and lower for others. Sworn Police and Fire employees may have a lower minimum for retirement eligibility, meaning they may collect a pension for a longer period of time. Higher wages generally create higher pensions. Annual COLAs will increase costs for all pension benefits.

As noted in the Legal Analysis, State law and court decisions prohibit the City from making unilateral changes to future benefits for City employees already hired prior to November 3, 2011, or for those who retain the right to collectively bargain. That pension benefit can be changed with affirmative consent or by collective bargaining with sworn protective service employees, as noted in the City Attorney's analysis. For employees without bargaining rights hired after November 3, 2011, future benefits can be modified by the City unilaterally, but that group is not a large share of CMERS members.

Those adjustments to future retirement benefits for a limited number of employees will reduce pension funding costs, but very gradually and over time. As of 2021, approximately $5.1 billion of the $6.5 billion in total pension benefit liability in CMERS' valuation is already earned, meaning no changes for future employees will meaningfully reduce it [*See Appendix, Exhibit #20, p. 24*].

Benefit adjustments for large numbers of existing employees post-hire and pre-retirement is possible, but will require bargaining with employees who still have bargaining rights, and explicit affirmative agreement for non-represented employees. It is likely that any changes in State law or the City Charter to prospective benefits would face some court challenge, regardless of the method. That path is one the Task Force suggests evaluating further.

Legal Analysis: The Wisconsin Supreme Court has expressly sanctioned the prospective modification of pension benefits that will accrue after the effective date of the modification. *Stoker v. Milwaukee Cty.*, 2014 WI 130, ¶ 4. This general conclusion, however, does *not* necessarily apply to protective service union-covered employees or GPS-covered employees, each of which have additional benefit protections preventing unilateral modification (even if prospective). This means that the city may only have the authority to unilaterally modify only benefits for non-GPS-covered general city employees, particularly post-2011 hires.

Counterpoint: Several Task Force members reiterated their strong conviction that pension benefits be discussed only through the collective bargaining process for those employees allowed to bargain under current State law.

7) Use Pension Obligation Bonds to "catch up" to full funding and more efficiently finance pension obligations without cutting services, or leverage potential reductions in new debt from coming Federal infrastructure funding to increase the capacity to fund pensions

Discussion: Pension Obligation Bonds (POBs) borrow money to pre-pay pension costs. If the bonds are sold at an interest cost lower than the assumed rate of return, with the right terms and economic conditions, there is a potential savings for the City as Plan sponsor.

The Task Force discussed this option and was referred to an April 2021 presentation by the City Comptroller on POBs and considerations the City should take when looking at POBs as a pension funding strategy. Key points shared by the Comptroller were:

- POBs are best suited for low points in the economic cycle, when interest rates for credit are low and pension fund returns are lagging.
- Putting POB proceeds into the fund as the economy cycles back up will provide the best spread between low interest cost and increasing returns in the pension fund.

- POBs convert a "soft" liability (accrued liabilities for future pension benefits) into a "hard" liability – bonds that need to be repaid with interest to bond holders.
- POBs may pose a credit rating risk depending on circumstance and how the bonds are structured.
- State legislation on municipal debt limits and a State commitment of moral obligation to assume repayment would both be required for Milwaukee to issue POBs
- POBs work best as one part of a coordinated pension funding strategy.

The Comptroller also shared that POBs would be more feasible and productive if Federal tax code could be changed to allow POBs for public sector organizations to be tax-exempt, as other City bonds are. The Pew Trusts' presentation included POBs as an option, emphasizing that POBs are not a single solution but can work as part of a funding strategy including other actions impacting liability growth and funding.

Another proposed strategy put to the Task Force by a member would be borrowing the discounted present value of the full 5-year contribution. The intent would be to "pre-fund" the entire 5-year projected contribution, reducing the short-term City required contribution by some amount. This would still require State legislation allowing the City to take on that amount of debt, as well as a clear strategy to repay that debt without cutting other City services.

Task Force members also suggested a different debt strategy, reducing City borrowing authority on an annual basis to increase funding available for employer pension contributions. This option becomes more viable to the extent that a coming Federal infrastructure stimulus enables the City to address capital budget priorities with direct funding. Reducing the borrowing otherwise required for those projects would create bond capacity or future debt service reductions that would increase cash available for pension funding. Combined with a sales tax or extension/creation of a "special resort" tax for Milwaukee (*see #8 and #9, below*), this strategy would allow for such reallocation without having to reduce the City's capital investment in streets, sidewalks, and infrastructure.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: None.

8) Seek and support State legislation allowing the City a local option sales tax to increase revenue for both pension costs and critical City services.

Discussion: The Task Force received a copy of the Wisconsin Policy Forum's "On The Money" report [*See Exhibit #9*], produced in July of 2017. That report focused on the unique fiscal situation the City of Milwaukee faces as a large and economically dynamic city that is not allowed by State law to levy a local sales or income tax. Compared in the report to 39 similar large cities, Milwaukee was the *only one* without some form of direct sales tax revenue.

As the Forum report stated:

> *… with its local revenue options restricted by the State and limited largely to property taxes and service fees, the City was placing more and more burden on property owners to generate revenue growth, despite the tens of thousands of suburban commuters who use those services each weekday, and the millions of annual visitors to its conventions, special events, and sports venues.*

The Forum report also showed that the City of Milwaukee relied less on Federal funding than peer cities, but that State revenue sharing and other aids to the City made up nearly 3 times as much of the City's funding compared to peers. Without a sales or income tax, which represented up to a third of peer city revenue, the City's reliance on property taxes was also much higher, by nearly 50% [*Exhibit 9, p. 13*]. The Forum report showed that 96% of Milwaukee's tax revenue was from property taxes, with the next closest city, Minneapolis, at 72%. The median share of property tax revenue in other peer city budgets was 52%.

Local implementation of a 0.5% sales tax (a 1-cent tax increase per $2 of taxable sales) could generate an additional $43.7 million in annual revenue for the City, according to the Forum report. At 1.5%, or $1.50 per $100 in taxable sales, the tax could raise $131 million per year. That amount would be more than enough to provide both relief from current pension funding costs as well as additional funding for property tax reductions, economic development, and even City service expansions.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: None.

9) Seek other State-allowed sources of local revenue, including increasing the hotel/room tax rate, other new taxes, marijuana legalization, sports gambling, or increased Payments In Lieu of Taxes.

Discussion: As referenced in Option #8, most local option revenues require State authorization and in some cases a local referendum as well. Many states have seen major increases in revenue from marijuana legalization and regulation of production and sales, though Wisconsin has declined to pursue that policy.

The room tax in Milwaukee is currently collected and reverted to the Wisconsin Center District to fund improvements and operations of the Convention Center and adjacent facilities. Increasing it and putting the additional revenue to the City for pension funding support would provide similar benefits to the local option sales tax. Other new taxes would do the same, and several additional sales taxes were modeled in the Policy Forum's "On The Money" report. Another sales tax option is the "Special Resort Area" sales tax allowed by the Legislature for a small number of cities and towns in the state to help fund infrastructure and local government needs.

Payments in Lieu of Taxes (PILOTs) could also be considered. The City has over $5 billion in tax-exempt property, approximately 20% of total property value, which could generate approximately $50 million in tax levy capacity for the City as well as additional revenue capacity for MPS and Milwaukee County. Tax exempt property is generally property owned by other units of government, non-profits, education institutions, health care, and religious organizations and used for those purposes. Those properties do not pay taxes but benefit from public safety, public works, and other city services funded by property taxes.

Several cities have engaged in PILOT campaigns to increase revenue and equity in financing, including the City of Milwaukee. One disadvantage facing Milwaukee is that unlike other cities, tax-exempt organizations pay the City of Milwaukee municipal service fees based on the size of their property and other factors for services like snow and ice removal, storm water management, and as of 2021, street lighting. Those revenues and the public purpose of many non-profits may make increasing PILOTs a challenge.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: None.

10) Seek dedicated, increased allocation of Shared Revenue specifically for public safety

Discussion: As referenced in Option #8 and the "On The Money" report, the State of Wisconsin collects all sales and income taxes in the State, totaling tens of billions each year. The Shared Revenue program was designed to distribute a portion of those revenues back to local governments and counties to reduce their reliance on property taxes and prevent "poaching" between localities seeking to grow their property tax base.

Since 2009, the State appropriation for Shared Revenue to Wisconsin cities and counties has been reduced, meaning the shared revenue formula has reduced the amount of sales and income taxes generated by workers and visitors in Milwaukee that are returned to the City. In that same time, State sales and income tax revenues have grown considerably. Despite growing economic activity in the city of Milwaukee, property taxpayers pay almost all of the cost of providing Police, Fire, Public Works, and other services for the hundreds of thousands of non-residents who work in and visit Milwaukee every year.

This action would increase Shared Revenue and dedicate that increase to the two most expensive and fastest growing costs the City carries, the Police and Fire Department. Increasing Shared Revenue funding for those departments would also increase the amount of property tax funding available for pension funding, without needing to cut other parts of City government.

Shared revenue payments to the City have been frozen at approximately $219 million per year since 2012. A 2% annual increase since that time would mean $42 million more on hand in 2021 to fund Police and Fire personnel and pension obligations. Even a one-time increase in the Share Revenue base of 5% would allow considerable restoration of staffing and capacity for public safety.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: None.

11) Utilize shared services to reduce City costs and tax levy growth

Discussion: Task force members proposed the City examine the cost benefits of consolidating services or entering into shared service agreements with Milwaukee County and suburban communities for high-cost services. While these agreements have been documented to provide savings in other cities and within Milwaukee County, broad-based shared services for Police, Fire, or Public Works would require major financial planning, legislative actions, and considerable political negotiations.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: None.

12) Leverage and lobby for Federal funding, including relief funds from the American Rescue Plan, other direct aids, to offset growing public safety and other City budget costs

Discussion: The City of Milwaukee receives Federal funding through grants as well as through Federal formula programs or pass-through funding from the State of Wisconsin. Task Force members raised additional directed Federal funding as a possible way to fund key City services. Task Force members also recommended evaluating use of relief funding allocated to the City under the American Rescue Plan Act to help the City fund pension obligations (*see #7, above*).

Given the timing of pension funding increases, significant dedicated support will be difficult to achieve before 2023. The rules issued by the United States Treasury for use of Rescue Plan funds explicitly prohibit using those funds to make contributions to pension funds. The City may consider using Rescue Plan funding to free up other property tax dollars and thus increase the ability to pay increased pension contributions. With Rescue Plan funding required to be fully committed by 2024, those funds could potentially help in the short term.

Legal Analysis: This is a political proposal and/or does not implicate any substantial question of pension law.

Counterpoint: None.

Conclusion

The Task Force is glad for the Mayor's leadership on this issue and appreciates the opportunity to help the City tackle a major challenge on the horizon. Together, the members share the conviction that the City can and must overcome this challenge. The recommendations developed and presented by the Task Force show there is a range of creative and effective solutions.

As stakeholders representing a wide range of experience and roles in the City of Milwaukee, the Task Force urges the Mayor and Common Council to continue working collaboratively on the

City's path forward. There will need to be a consensus strategy on how to sustain the City's pension obligations and funding, and the Task Force recommends the Mayor continue working with the Common Council, Annuity & Pension Board, civic sector partners, and the State Legislature to refine and implement a sustainable pension funding strategy.

APPENDIX

Exhibits and Supplementary Documents Provided and Referenced by the Task Force

1. Letter from Mayor Tom Barrett June 10, 2021

2. June 11, 2021 Pension Task Force Charter Document

3. August 5, 2021 Updated Pension Task Force Charter Document

4. Milwaukee City Charter & Code of Ordinances – Chapter 36

5. Global Pension Settlement (GPS) & Consent Package (July-August 2000)

6. Bargaining Unit Summaries for the GPS (2000)

7. Milwaukee County Retirement Stability Task Force Final Report, Nov. 2018

8. Wisconsin Policy Forum, *The Taxpayer* newsletter, March 2020

9. Wisconsin Policy Forum, *On The Money* report, July 2017

10. June 21, 2010 City Attorney Opinion issued to CMERS (Allen)

11. January 22, 2021 Email from CMERS Plan Actuary re: closing CMERS (Allen)

12. February 7, 2011 Opinion of Whyte Hirschbeck Dudek SC to Annuity & Pension Board

13. June 25, 2021 Letter from Ald. Michael Murphy (10^{th} Dist.) to Mayor's Pension Task Force

14. September 18, 2020 Letter from Ald. Michael Murphy (10^{th} Dist.) to Budget & Management Division

15. December 12, Report of the 2012 City of Milwaukee Pension Task Force

16. Slides presented June 18, 2021 by Mark Nicolini on the history of the WRS and ERS

17. Slides presented June 18, 2021 by Mark Nicolini on recent City pension funding policy

18. Slides presented July 8, 2021 by Rob Henken of the Wisconsin Policy Forum on County pension funding strategies and options for the City of Milwaukee

19. Slides presented July 8, 2021 by Gregg Mennis of Pew Charitable Trusts – Public Retirement Project on national pension funding comparisons and points of action for Milwaukee

20. June 10, 2021 Actuarial Valuation of the CMERS Plan by Cavanaugh MacDonald (Plan Actuary)

21. June 21, 2021 Slides Presented to Annuity & Pension Board on the 2021 Valuation by Cavanaugh MacDonald

Exhibits and Supplementary Documents Provided and Referenced by the Task Force

22. Summary of Additions & Deductions to the ERS Trust, provided by CMERS at August 5, 2021 Task Force Meeting

23. April 8, 2021 Presentation by the City Comptroller to the Common Council's Finance & Personnel Committee (CCFN 201241)

24. August 12, 2021 Projection of UAAL for CMERS with no change from current pension funding level by Cavanaugh Mac Donald (CMERS Plan Actuary)

25. August 12, 2021 Projection of UAAL for CMERS with new entrants joining WRS by Cavanaugh MacDonald (CMERS Plan Actuary)

26. April 28, 2021 Presentation by the Budget & Management Division to the Common Council's Finance & Personnel Committee (CCFN 201241)

27. CMERS' comparison of ERS and WRS returns, 2000-2020, provided June 18, 2021

28. January 13, 2021 Projection of Capped Contribution Impact on CMERS Fund by Cavanaugh MacDonald, Presented to Common Council Finance & Personnel Committee (CCFN 201241)

29. CMERS' annual summary slides provided to the Task Force July 2, 2021

30. Link to video of June 18, 2021 meeting: https://www.youtube.com/watch?v=ZF2MIRW1pWY

31. Link to video of July 8, 2021 meeting: https://www.youtube.com/watch?v=BNJPwejz5G4

32. Link to video of August 5, 2021 meeting: https://www.youtube.com/watch?v=k0m0CHcKKco

33. Link to video of August 19, 2021 meeting: https://www.youtube.com/watch?v=_1UrCYpxVzE

34. Link to video of September 10, 2021 meeting: https://www.youtube.com/watch?v=l8kY-sf2TZ4