

Judiciary 1



Milwaukee County Board of Supervisors

County Board
Chair

SEP - 4 2013

Referred

July 24, 2013

Jerome J. Heer, Milwaukee County Auditor
Milwaukee County Department of Audit
Milwaukee County City Campus, 9th Floor
2711 W. Wells St.
Milwaukee, WI 53208

Dear Mr. Heer,

On July 6, 2013, the Milwaukee County Courthouse was threatened by an electrical fire, which resulted in the displacement of county employees and the disruption of county services. We appreciate the dedication of emergency personnel and county employees who have worked diligently so services in the Courthouse could be restored. We know there is still more work to be done.

We have a perfect opportunity, before we move too far away from the incident, to evaluate this emergency. During and after any emergency in the public or private sector, it is prudent to analyze the conditions that led to the incident and any process or policy utilized during and after the emergency. In addition, the public will want to know the financial cost of the incident and the associated clean-up costs, which are on-going.

As the Courthouse reopens and moves toward full functionality, an independent review of the causes of the fire and the ensuing response would serve the public well at this time. The scope of the review should be broad and should give credence to the effects of the crisis on service delivery. It is important to assess the reason for the incident, as well as the damages to the Courthouse and associated costs. It is equally important to assess our emergency response, safety issues, temporary relocation efforts, and any policies that could be enacted or modified to ensure future emergencies are handled safely and smoothly.

We would suggest that a financial and programmatic audit of the Courthouse fire incident would make sense. Please contact me to discuss this issue at your earliest convenience, so we may find the most effective manner to move forward with this evaluation.

Sincerely,

Marina Dimitrijevic
Chairwoman,
Milwaukee County Board of Supervisors

Michael Mayo, Sr.
Milwaukee County Supervisor,
District 7

cc: Milwaukee County Board of Supervisors
Milwaukee County Executive Chris Abele
Scott Manske, Milwaukee County Comptroller
Don Tyler, Director, Department of Administrative Services

MILWAUKEE COUNTY
OFFICE OF THE SHERIFF
INTER-OFFICE COMMUNICATION

DATE : August 27, 2013
TO : Milwaukee County Board of Supervisors, Chairwomen Marina Dimitrijevic
FROM : Richard Schmidt, Inspector, Milwaukee County Office of the Sheriff
SUBJECT : **County Emergency Management Plan**

Policy Issue

The County Board must adopt a county emergency management plan to serve as the official plan to guide disaster preparedness and response to emergencies resulting from a disaster or the imminent threat of disaster.

Recommendation

The Milwaukee County Office of the Sheriff respectfully requests County Board adoption of the county emergency management plan prepared by the Division of Emergency Management.

Background

Chapter 323 of the Wisconsin Statutes requires that the governing body of each county adopt an emergency management plan that is compatible with the state plan of emergency management. The Milwaukee County Office of the Sheriff Division of Emergency Management has developed the County Emergency Management Plan which is compatible with the state plan of emergency management. The Milwaukee County Executive has reviewed and accepted the county emergency management plan.

Program Effect

County Board adoption of the county emergency management plan will meet requirements under Chapter 323 of the Wisconsin Statutes and maintain the county's eligibility to apply for and accept emergency management performance grant funding from the State of Wisconsin that will assist with county wide disaster planning, preparedness and response activities.

Fiscal Effect

There will be no tax levy impact.


Richard Schmidt, Inspector

cc: Chris Able, Milwaukee County Executive
Theodore Lipscomb, Chair, Judiciary, Safety and General Services
Edward Bailey, Inspector, Sheriff's Office
William Lethlean, Public Safety Fiscal Administrator, Sheriff's Office
Carl Stenbol, Administrator, Division of Emergency Management

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(ITEM NO.) From the Milwaukee County Office of the Sheriff, respectfully requesting adoption of the Milwaukee County Emergency Management Plan.

A RESOLUTION

Adoption of County Emergency Management Plan

WHEREAS, Chapter 323 of the Wisconsin Statutes requires that the governing body of each county adopt an emergency management plan that is compatible with the state plan of emergency management so that the state and its subdivisions will be prepared to cope with emergencies resulting from a disaster or the imminent threat of a disaster; and

WHEREAS, pursuant to Section 323.13(1)(b) of the Wisconsin Statutes, the Adjutant General, with the approval of the Governor, has developed and adopted the “Wisconsin Emergency Response Plan”; and

WHEREAS, the Milwaukee County Office of the Sheriff Division of Emergency Management has developed the County Emergency Management Plan to serve as the Emergency Response Plan for the County which is compatible with the State’s plan; and

WHEREAS, the Milwaukee County Emergency Management Plan has been reviewed by the County Judiciary, Safety and General Services Committee, which is designated to serve as the County’s Emergency Management Committee, and deems the plan appropriate for this County; now, therefore,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors does hereby adopt the Milwaukee County Emergency Management Plan as the official plan of Milwaukee County; and

BE IT FURTHER RESOLVED, that the County Clerk shall forward a copy of this resolution to the Milwaukee County Director of Emergency Management, and the Southeast Regional Director of Wisconsin Emergency Management.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 08/30/2013

Original Fiscal Note X

Substitute Fiscal Note

SUBJECT: Request by the Office of the Sheriff for the Milwaukee County Board to adopt an emergency management plan to serve as a disaster preparedness and emergency response guide in the event of a disaster or imminent threat of disaster

FISCAL EFFECT:

- | | |
|--|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input checked="" type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	
	Revenue	0	
	Net Cost	0	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

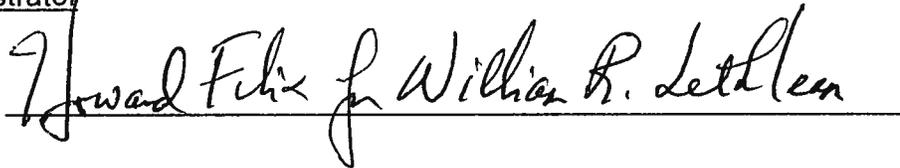
In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

The Sheriff is requesting adoption of this plan to meet the Wisconsin Statutes Chapter 323 requirement that the County Emergency Management Plan be compatible with the State plan of emergency management. Such adoption will allow the County to accept emergency management performance grant funding from the State of Wisconsin to assist with these activities. There is no fiscal effect to the action.

Department/Prepared By Howard Felix, Public Safety Fiscal Analyst for William R. Lethlean,
Public Safety Fiscal Administrator

Authorized Signature



Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

WISCONSIN EMERGENCY MANAGEMENT

COUNTY EMERGENCY RESPONSE PLAN UPDATE TRANSMITTAL

The attached document(s) prepared in accordance with state and local requirements, is/are ready to be made a part of the County Emergency Response Plan upon State acceptance.

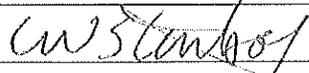
TITLE	REVIEW COMPLETE	PAGES UPDATED	CURRENCY DATE
ERP Basic Plan	Yes	All	03/01/2013
ESF #1, Transportation	Yes	All	03/01/2013
1A Evacuation	Yes	All	03/01/2013
ESF #2, Communications	Yes	All	03/01/2013
2A Warning	Yes	All	03/01/2013
ESF #3, Public Works	Yes	All	03/01/2013
3A Damage Assessment	Yes	All	03/01/2013
3B Debris Management	Yes	All	03/01/2013
ESF #4, Fire Fighting	Yes	All	03/01/2013
ESF #5, Emergency Management	Yes	All	03/01/2013
ESF #6, Mass Care, Emergency Assistance & Human Services	Yes	All	03/01/2013
6A Functional Needs	Yes	All	03/01/2013
ESF #7, Resource Support	Yes	All	03/01/2013
ESF #8, Public Health	Yes	All	03/01/2013
ESF #9, Search and Rescue	Yes	All	03/01/2013
ESF #10, Hazardous Materials	Yes	All	03/01/2013
ESF #11, Agriculture and Natural Resources	Yes	All	03/01/2013
ESF #12, Energy & Utilities	Yes	All	03/01/2013
ESF #13, Law Enforcement & Security	Yes	All	03/01/2013
ESF #14, Long-Term Community Recovery	Yes	All	03/01/2013
14A Volunteer and Donation Management	Yes	All	03/01/2013
ESF #15, Public Information	Yes	All	03/01/2013
ESF #16, Hospital & Medical Services	Yes	All	03/01/2013
ESF #17, Animal and Veterinary Services	Yes	All	03/01/2013
ESF #18, Fatality Management	Yes	All	03/01/2013
Recovery Annex	Yes	All	03/01/2013
Table of Contents	Yes	All	03/01/2013
Acronyms	Yes	All	03/01/2013
Legal Basis	Yes	All	03/01/2013
Update of EOC Phone List	Yes	All	03/01/2013
County Hazard Analysis (If Applicable)	Yes	All	03/01/2013
Update of ERP Resource Folder (If Applicable)	Yes	All	03/01/2013

County: Milwaukee POW: FFY 2013

1st 2nd

County Executive: 

Date: 3/15/13

County Emergency Manager: 

Date: 3/18/13

WEM Regional Director: _____

Date: _____

Emergency Support Function (ESF) # 1

**PRIMARY AGENCY: MILWAUKEE COUNTY DEPARTMENT OF
TRANSPORTATION (MCDOT)**

Transportation

PURPOSE.

1. The purpose of Emergency Support Function # 1 is to provide, in a coordinated manner, the resources (human, technical, equipment, facility, materials and supplies) of participating agencies to support emergency transportation needs and service restoration activities during emergency or disaster situations.
2. Enables agencies, and emergency support functions requiring use of the transportation systems to perform their missions following an emergency. In the context of this plan, transportation refers to the resources and assets necessary to move goods and people.

Emergency Support Function (ESF) # 2

**PRIMARY AGENCY: MILWAUKEE COUNTY INFORMATION MANAGEMENT
SERVICES DIVISION (IMSD)**

Communications

PURPOSE.

1. Support public safety and the operation of government agencies by maintaining continuity of information and telecommunication infrastructure equipment and other technical resources. The emergency communications notification and warning system is described in the Alert & Warning Emergency Support Function ESF # 2A: Warning.

Emergency Support Function (ESF) # 3

**PRIMARY AGENCY: MILWAUKEE COUNTY DEPARTMENT OF
TRANSPORTATION (MCDOT)
AND LOCAL MUNICIPAL PUBLIC WORKS**

Public Works

**Attachment 3A Damage Assessment
Attachment 3B Debris Management**

PURPOSE.

1. To facilitate protection, repair and restoration of local government owned physical infrastructure for roads, waste management, storm-water management systems, and sewer systems.

Emergency Support Function (ESF) # 4

**PRIMARY AGENCY: MILWAUKEE COUNTY FIRE DEPARTMENTS
FIRE FIGHTING**

PURPOSE.

1. The purpose of Emergency Support Function # 4 is to facilitate countywide coordinated use of fire department resources in fire prevention, suppression and control of urban, rural, and wildland fires and other hazardous emergencies.

Note: Search and Rescue is formally addressed in ESF # 9, Hazardous Materials is addressed in ESF # 10 and Emergency Medical Service (EMS) is addressed in ESF # 16. Fire Service Mutual Aid is guided by the fire service MABAS (Mutual Aid Box Alarm System).

Emergency Support Function (ESF) # 5

**PRIMARY AGENCY: MILWAUKEE COUNTY DIVISION OF EMERGENCY
MANAGEMENT**

Emergency Management

PURPOSE.

1. To describe how the Emergency Management Division will collect, analyze, and disseminate information about a potential or actual emergency or disaster to enhance response and recovery activities.
2. ESF # 5 delineates the Emergency Operations Center (EOC) planning framework and process.

Emergency Support Function (ESF) # 6

**PRIMARY AGENCY: MILWAUKEE DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

Mass Care, Emergency Assistance & Human Services

PURPOSE.

1. The purpose of this Emergency Support Function is to describe a coordination framework and serve as a guide to provide sheltering, mass care, emergency assistance and human services following an emergency or disaster. Identify key participants and resources to meet access and functional needs populations in mass care and sheltering operations.

Emergency Support Function (ESF) # 7

**PRIMARY AGENCY: MILWAUKEE COUNTY DIVISION OF EMERGENCY
MANAGEMENT**

Resource Support

PURPOSE.

1. Provide resources and logistical support for emergency response and recovery efforts.
2. Provide for the effective procurement, utilization, prioritization, and conservation of available local resources (equipment and supplies) during emergencies.
3. Provide for acquisition of resources from the state or federal government when local resources are depleted.

Emergency Support Function (ESF) # 8

**PRIMARY AGENCY: MILWAUKEE COUNTY DIRECTOR OF EMERGENCY
PUBLIC HEALTH**

Public Health

PURPOSE.

1. Coordinate comprehensive public health services during an emergency, excluding mental health services (ESF # 6), hospital and medical services (ESF # 16) and fatality management (ESF # 20).
2. Provide measures and resources for communicable disease prevention and control (disease surveillance, investigation, containment and communication), including environmental health to first responders and the impacted community.

Emergency Support Function (ESF) # 9

PRIMARY AGENCY: LOCAL MUNICIPAL FIRE DEPARTMENTS

Search & Rescue

PURPOSE.

1. Provide a coordinated process of locating, extricating, and providing initial medical treatment to victims trapped, threatened or stranded in harm's way by any emergency or hazardous event when they cannot remove themselves.

Emergency Support Function (ESF) # 10

PRIMARY AGENCY: REGIONAL HAZARDOUS MATERIALS RESPONSE TEAM

Hazardous Materials

PURPOSE.

1. Coordinate response to an actual or potential discharge or release of hazardous materials.

Emergency Support Function (ESF) # 11

PRIMARY AGENCY: MILWAUKEE COUNTY DIVISION OF EMERGENCY
MANAGEMENT

Agriculture & Natural Resources

PURPOSE.

1. To coordinate and support efforts to respond effectively to an incident involving agriculture, food, natural or cultural resources and provide a process to integrate State and federal ESF # 11 response/recovery actions.

Emergency Support Function (ESF) # 12

PRIMARY AGENCY: MILWAUKEE COUNTY DIVISION OF EMERGENCY
MANAGEMENT

Energy & Utilities

PURPOSE.

1. Respond to and recover from shortages and disruptions in the supply and delivery of electricity, telecommunications, wastewater and County public utilities, and other forms of energy and fuels.

Emergency Support Function (ESF) # 13

PRIMARY AGENCY: MILWAUKEE COUNTY OFFICE OF THE SHERIFF

Law Enforcement & Security

PURPOSE.

1. The overall coordination of the command and control of the County, state, and federal Law Enforcement Agencies personnel and equipment in support of emergency response and recovery operations.
2. This function provides for the timely and coordinated efforts of Law Enforcement Agencies personnel for public safety and protection. Activities which relate to evacuation, curfew, traffic management, crowd control, security and other extra-ordinary Law Enforcement Agencies functions are necessary to provide for the safety and welfare of the public within an emergency environment.

Emergency Support Function (ESF) # 14

**PRIMARY AGENCY: MILWAUKEE COUNTY DIVISION OF EMERGENCY
MANAGEMENT**

Long Term Community Recovery

Attachment 14A Volunteer & Donation Management

PURPOSE.

1. To support county, local, tribal, nongovernmental organizations (NGOs), the private sector and volunteer efforts to enable community recovery from the long-term consequences of an emergency or disaster. This support consists of available programs and resources to reduce or eliminate risk from future incidents, where possible.

Emergency Support Function (ESF) # 15

**PRIMARY AGENCY: MILWAUKEE COUNTY PUBLIC INFORMATION OFFICERS
(MCSO/COUNTY EXECUTIVE)**

Public Information

PURPOSE.

1. To establish a system that gathers and disseminates emergency-related information through the media and directly to the general public. This does not include the Alert and Warning information covered in the Public Protection ESF #2.
2. Ensure that sufficient County assets are deployed to provide accurate, coordinated, and timely information to the public, the media, and local, state and federal governmental partners.

Emergency Support Function (ESF) # 16

**PRIMARY AGENCY: MILWAUKEE COUNTY EMERGENCY MEDICAL SERVICE
(EMS)**

Hospital & Medical Services

PURPOSE.

1. Manage and organize the response of emergency medical care resources. Act as the liaison between local, state and federal agencies in the coordination of emergency response and emergency medical support.

Emergency Support Function (ESF) # 17

**PRIMARY AGENCY: MILWAUKEE COUNTY DIRECTOR OF EMERGENCY
PUBLIC HEALTH**

Animal & Veterinary Services

PURPOSE.

1. Identify, manage, and organize the response of resources needed for the care and disposition of domestic pets, livestock, wildlife, and exotic animals following a significant emergency, and to coordinate emergency response and relief assistance with various municipal, county, state and federal agencies.
2. Provide guidance regarding animal related issues caused by an emergency/ disaster.

Emergency Support Function (ESF) # 18

PRIMARY AGENCY: MILWAUKEE COUNTY MEDICAL EXAMINER

Fatality Management

PURPOSE.

1. This function addresses general policies and procedures for the mitigation, preparedness, response to and recovery from incidents with fatalities. It also provides an initial coordination framework of mass fatality response activities.

DATE: August 27, 2013

TO: Marina Dimitrijevic, Chairwoman, Milwaukee County Board of Supervisors

FROM: Mike Hafemann, Superintendent, Milwaukee County House of Corrections (HOC)

SUBJECT: Report from the Superintendent, House of Corrections, requesting authorization to enter into a 3-year service contract extension with Aramark Correctional Food Services; Annual contract costs estimated to decline from \$3,434,449 budgeted for 2013 (\$3,406,362 projected actual) to \$3,304,172.

Issue

The Aramark contract expires 12/31/13. This year, 2013, was the final one-year contract extension. No additional extensions are available at this time. The vendor has provided the service levels and flexibility needed, and they have provided the county with a new proposal that we believe to be unmatched in the industry. We are not aware of any other vendor that would be of sufficient size to provide the amount of inventory, capital investment, and inmate programming required by the HOC and Sheriff's department.

Discussion

Historical fiscal records indicate that kitchen costs totaled over \$6.6 million a year for the county. Outsourcing this service brought costs down by over \$2 million dollars each year. Staffing and other costs have continued to increase, yet meal pricing with Aramark has been relatively stable over the last few years. The 2013 extension was contracted at just 2.31% higher than 2012. The new contract proposal is somewhat less than 2012 pricing, as it is for a 3% reduction in Year 1 and 1.65% in Year 2. Total savings on meals should be about \$102,190 in Year 1 & \$56,397 in Year 2.

Additionally, our kitchens are in need of structural renovations and upgrades. They also have some outdated equipment that is no longer serviceable. On top of annual savings on meal costs, Aramark is also offering a significant capital infusion of \$150,000, plus installation. The HOC can select what equipment we need to replace first, and the county will own the equipment at the end of the 3-year contract period.

If this extension is agreed to, Aramark will also be providing an inmate food services program. Developing inmate programming is key to the mission of the HOC. This is a unique program provided by Aramark that will help inmates learn about food services and prepare them for extremely tangible employment opportunities. Aramark will be absorbing the cost of the program which is estimated at about \$15,000 a year or \$45,000 over the proposed 3-year term.

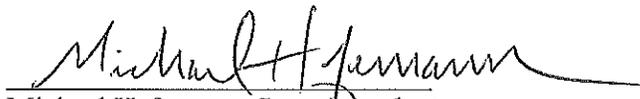
Recommendation

It is recommended that the County Board of Supervisors authorize the Superintendent of the House of Corrections, or his designee, to enter into a 3-year service contract extension with Aramark Correctional Food Services. The time frame for the contract would be January 1, 2014 to December 31, 2016.

Fiscal Effect

Funds for these services have already been identified in the 2013 and 2014 budget. A fiscal note form is attached.

Respectfully Submitted,



Michael Hafemann, Superintendent
Milwaukee County House of Corrections

cc: County Executive Chris Abele
Raisa Koltun, County Executive's Office
Kelly Bablitch, County Board
Don Tyler, Director, DAS
Josh Fudge, Fiscal & Budget Administrator, DAS
Steve Cady, Fiscal & Budget Analyst, County Board
Janelle Jensen, Committee Clerk-Finance, County Board Staff

(ITEM) From the Superintendent, House of Corrections, requesting authorization to enter into a contract with Aramark Correctional Food Services to provide food services, by recommending adoption of the following:

A RESOLUTION

WHEREAS, the Aramark contract expires 12/31/2013 and 2013 was the final one-year contract extension and no additional extensions are available at this time, and

WHEREAS, the vendor has provided the service levels and flexibility needed, and they have provided the county with a new proposal that we believe to be unmatched in the industry, and

WHEREAS, Aramark has agreed to a new contract with a 3% cost reduction in Year 1 & 1.65% in Year 2, totaling a savings on meals of approximately \$158,587 for the first two years of the new contract, and

WHEREAS, Aramark has offered a significant capital infusion of \$150,000 plus installation and the HOC can select what equipment should be replaced first and the County will own the equipment at the end of the 3-year contract period, and

WHEREAS, the contract recommendation of \$3,304,172 is within the funds available in the 2014 budget request; now, therefore

NOW BE IT FURTHER RESOLVED, that the Milwaukee County Board of Supervisors does hereby authorize the Superintendent of the House of Corrections, or his designee, to enter into a 2013 contract with Aramark for \$9,912,516 for the period January 1, 2014 to December 31, 2016

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 8/27/2013

Original Fiscal Note X

Substitute Fiscal Note

SUBJECT: Reduce contract with Aramark from \$3,434,449 budgeted (or \$3,406,362 projected actual) to \$3,304,172

FISCAL EFFECT:

- No Direct County Fiscal Impact
- Existing Staff Time Required
- Increase Operating Expenditures
(If checked, check one of two boxes below)
- Absorbed Within Agency's Budget
- Not Absorbed Within Agency's Budget
- Decrease Operating Expenditures**
- Increase Operating Revenues
- Decrease Operating Revenues
- Increase Capital Expenditures
- Decrease Capital Expenditures
- Increase Capital Revenues
- Decrease Capital Revenues
- Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$0	(\$102,190)
	Revenue	\$0	\$0
	Net Cost	\$0	(\$102,190)
Capital Improvement Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

A. Briefly describe the nature of the action ¹ that is being requested or proposed, and

the new or changed conditions that would occur if the request or proposal were adopted.

- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

A. The Superintendent of the House of Corrections (HOC) is requesting authorization to execute a 3-year contract extension between the HOC and Aramark Correctional Food Services. The HOC has been satisfied with service levels provided by Aramark. The only fiscal change resulting from this extension would be from Aramark providing a reduction in contract pricing which will reduce the county's costs in providing meals for inmates at both the HOC and the Sheriff's department.

This will result in a decrease in operating expenditures in 2014. Based on the current number of meals average, the reduction is estimated to be \$102,190 in 2014 and \$56,397 the following year. Aramark will also be providing an immediate capital investment of \$150,000. The funds will be used to replace some considerably outdated kitchen equipment and to make needed updates to the kitchen. The county will own the equipment after the 3-year contract term, but since Aramark is making the purchases (including installation) directly, there is no impact on expenditures or the capital budget.

Aramark will also be providing an inmate food service program. They are absorbing the estimated cost of \$15,000 per year or \$45,000 over a 3-year term. This is a tremendous value to the HOC, but does not result in any tangible fiscal changes.

Approval of this request will allow the HOC to enter into a new contract for the period of January 1, 2014 to December 31, 2016.

B. Total 2013 and 2014 expenditures included in this request are \$0. While the extension results in \$150,000 for kitchen improvements and \$45,000 in programming costs, those items have no fiscal impact to report.

There would also be a savings of 3% for Year 1 on meal costs. The savings on Year 2 are 1.65%. Year 3 prices would be based on the Consumer Price Index (CPI). The 3% calculates to a price per meal reduction from \$1.208 to \$1.172 to arrive at anticipated savings on operational expenses of \$102,190 in the first year. Year 2 savings come to about \$56,397 with the 1.65% price reduction for that period.

Office records indicate that prior fiscal administration estimated the soon to be expired 3-year contract (varies somewhat due to number of meals served) at \$3,434,449 per year. Using the current average number of meals, that existing contract would total about \$3,406,362 for a year. With the extension, the same number of meals would instead total \$3,304,172 in 2014. This difference is the estimated fiscal impact on operating expenses of \$102,190 in 2014.

C. The tax levy impact associated with approval of this request in 2013 will be neutral. In 2014, it will be positive, with a projected savings on operating expenditures of \$102,190. No additional expenditures are required by the HOC. In addition, this proposal will in essence save the taxpayers \$150,000 that the County would have eventually had to budget in capital improvements for needed kitchen modifications, as well as \$45,000 over the next three years on inmate programs.

D. This proposal assumes stable inmate populations and that approximately 2,891,836 meals a year will continue to be served at the HOC and downtown jail.

Department/Prepared By John Jackson, Fiscal Operations Mgr.
Authorized Signature Michael H. Hjemann, Superintendent

Did DAS-Fiscal Staff Review?	<u>Yes</u>	No
Did CBDP Review? ²	Yes	<u>No</u> Not Required



OFFICE OF CORPORATION COUNSEL

MARK A. GRADY
Acting Corporation Counsel

4

TIMOTHY R. KARASKIEWICZ
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
ALAN M. POLAN
JENNIFER K. RHODES
DEWEY B. MARTIN
JAMES M. CARROLL
PAUL D. KUGLITSCH
Principal Assistant
Corporation Counsel

DATE: August 22, 2013
TO: Marina Dimitrijevic, County Board Chairwoman
FROM: Mark A. Grady, Acting Corporation Counsel
SUBJECT: Claim filed by DC Transportation, Inc.
Date of incident: August 16, 2012
Date claim filed: November 26, 2012

I request that **this matter** be referred to the **Committee on Judiciary, Safety and General Services** to be placed on the agenda for its next meeting to approve the payment of \$1,340.87 to DC Transportation, Inc. to settle in full its claim against Milwaukee County.

This accident took place on August 16, 2012 around 11 am at the intersection of Mayfair Road and Watertown Plank Road, Wauwatosa, WI.

A Milwaukee County Highway employee was operating a plow truck when the wing struck the side of the claimant's fuel tanker during a left turn. The impact occurred as both units started to make their left turns off Mayfair Road onto Watertown Plank Road. This also led to a fuel spill of roughly 25 gallons.

DC Transport, Inc. has submitted an invoice in the amount of \$1240.87 regarding the repair of the fuel tank. There has also been a request of \$100 regarding the loss of 25 gallons of fuel. The amount of fuel spilled was estimated at the scene.

The adjustor and the County insurer recommend a total payment of \$1,340.87 to DC Transportation, Inc. to settle its property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to settle all claims arising out of the property damage to its vehicle.


Mark A. Grady
Acting Corporation Counsel

c: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Steve Cady
Raisa Koltun



OFFICE OF CORPORATION COUNSEL

MARK A. GRADY
Acting Corporation Counsel

5

TIMOTHY R. KARASKIEWICZ
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
ALAN M. POLAN
JENNIFER K. RHODES
DEWEY B. MARTIN
JAMES M. CARROLL
PAUL D. KUGLITSCH
Principal Assistant
Corporation Counsel

DATE: August 22, 2013

TO: Marina Dimitrijevic, County Board Chairwoman

FROM: Mark A. Grady, Acting Corporation Counsel

SUBJECT: Claim filed by Jason Starke
Date of incident: May 6, 2013
Date claim filed: May 30, 2013

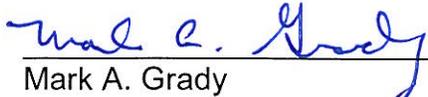
I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$1709.59 to Jason Starke to settle in full his claim against Milwaukee County.

This accident took place on May 06, 2013 around 3:15pm in the parking lot located at 10190 W. Watertown Plank Road, Wauwatosa, WI.

A Milwaukee County deputy sheriff backed his squad out of a parking stall and into the driver's side rear door of the claimant's vehicle. The deputy was looking at his computer as he was going to be headed to a homicide call at Washington Park. He was unaware that the claimant vehicle was behind him.

The claimant has submitted two estimates on the damages to his 2009 Hyundai Accent. The estimates are in the amounts of \$1709.59 and 1859.13.

The adjustor and the County insurer recommend a total payment of \$1,709.59 to Jason Starke to settle his property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to settle all claims arising out of the property damage to his vehicle.


Mark A. Grady
Acting Corporation Counsel

c: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Steve Cady
Raisa Koltun

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 16, 2013
TO: Marina Dimitrijevic, County Board Chairwoman
FROM: Timothy R. Karaskiewicz, Principal Assistant Corporation Counsel
SUBJECT: Subrogation Claim by Shannon Rohde
Date of Incident: 3/19/2013

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$1,861.33 to Travelers Claims Hartford Auto to settle in full this claim against Milwaukee County. I request authority to settle this claim for the total sum of \$1,861.33, which will be paid from General Mitchell International Airport revenues.

This incident occurred on March 19, 2013 at General Mitchell International Airport. The personal vehicle of Shannon Rohde, an employee of the Milwaukee County Airport Fire Department, was damaged when Airport Gate 4A closed on her vehicle as it passed through the gate. Damage to the vehicle was located on the driver's side front end. Travelers is seeking reimbursement for \$1,361.33 in connection with this loss and for their insured, Shannon Rohde, who has a deductible of \$500.00. It has been confirmed with Milwaukee County Operations that the gate malfunctioned.

Corporation Counsel has reviewed this matter and recommends a total payment of \$1,861.33 to Travelers to settle this property damage claim. There is no tax levy impact because the settlement will be covered under airport revenues. The check should be made payable to: "Travelers Claims Hartford Auto" and mailed to the the following address:

Travelers Claims Hartford Auto
P.O. Box 660339
Dallas, TX 75266-0339



Timothy R. Karaskiewicz
Principal Assistant Corporation Counsel

cc: Amber Moreen
Kelly Bablitch
Jennifer Collins
Janelle Jensen
Raisa Koltun



OFFICE OF CORPORATION COUNSEL

MARK A. GRADY
Acting Corporation Counsel

7

TIMOTHY R. KARASKIEWICZ
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
ALAN M. POLAN
JENNIFER K. RHODES
DEWEY B. MARTIN
JAMES M. CARROLL
PAUL D. KUGLITSCH
Principal Assistant
Corporation Counsel

DATE: August 22, 2013
TO: Marina Dimitrijevic, County Board Chairwoman
FROM: Mark A. Grady, Acting Corporation Counsel
SUBJECT: Claim filed by Wisconsin Department of Transportation
Date of incident: February 5, 2013
Date claim filed: May 17, 2013

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$2,970 to the Wisconsin Department of Transportation to settle in full its claim against Milwaukee County.

This accident took place on February 05, 2013 around 12:25pm in the HOV lane of Hampton on the on ramp for Northbound Hwy 45.

A Milwaukee County Highway employee was operating a plow truck performing winter maintenance. As the employee was plowing, the right side wing blade was in the up position and struck the median metering light.

The Wisconsin Department of Transportation has forwarded an invoice in the amount of \$2970.00 for the repairs of the traffic signal.

The adjustor and the County insurer recommend a total payment of \$2970 to the Wisconsin Department of Transportation to settle its property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to settle all claims arising out of the property damage.

Mark A. Grady
Acting Corporation Counsel

c: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Steve Cady
Raisa Koltun



OFFICE OF CORPORATION COUNSEL

MARK A. GRADY
Acting Corporation Counsel

8

TIMOTHY R. KARASKIEWICZ
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
ALAN M. POLAN
JENNIFER K. RHODES
DEWEY B. MARTIN
JAMES M. CARROLL
PAUL D. KUGLITSCH
Principal Assistant
Corporation Counsel

DATE: August 22, 2013

TO: Marina Dimitrijevic, County Board Chairwoman

FROM: Mark A. Grady, Acting Corporation Counsel

SUBJECT: Claim filed by Daniel Miller (Acuity)
Date of incident: February 2, 2013
Date claim filed: March 13, 2013

I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$3462.28 to Acuity to settle in full its subrogated claim against Milwaukee County.

This accident took place on February 02, 2013 around 12:50 on West College Ave. just prior to S. 27th Street.

A Milwaukee County Highway employee was operating a plow truck performing winter maintenance. As he was pulling up in the left turn lane headed westbound on W. College Ave. the plow wing struck the driver's side of Daniel Miller's vehicle as his vehicle sat stopped at the red light.

Acuity has submitted subrogation documents related to the repairs on the 2102 Chevy Equinox totaling \$3462.28. Damages were located on the left side of the vehicle. The vehicle has been repaired.

The adjustor and the County insurer recommend a total payment of \$3462.28 to Acuity to settle its subrogated property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to settle all claims arising out of the property damage to this vehicle.



Mark A. Grady
Acting Corporation Counsel

c: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Steve Cady
Raisa Koltun



OFFICE OF CORPORATION COUNSEL

MARK A. GRADY
Acting Corporation Counsel

9

TIMOTHY R. KARASKIEWICZ
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
ALAN M. POLAN
JENNIFER K. RHODES
DEWEY B. MARTIN
JAMES M. CARROLL
PAUL D. KUGLITSCH
Principal Assistant
Corporation Counsel

DATE: August 22, 2013

TO: Marina Dimitrijevic, County Board Chairwoman

FROM: Mark A. Grady, Acting Corporation Counsel

SUBJECT: Claim filed by Bryan Staral (Progressive Insurance)
Date of incident: March 12, 2013
Date claim filed: June 13, 2013

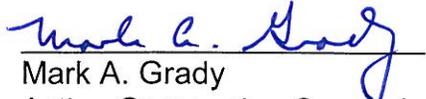
I request that this matter be referred to the Committee on Judiciary, Safety and General Services to be placed on the agenda for its next meeting to approve the payment of \$7932.48 to Progressive Insurance to settle in full its subrogated claim against Milwaukee County.

This accident took place on March 12, 2013 around 4:20pm in the westbound lanes of County Line Road on the I43 overpass bridge.

A Milwaukee County Highway employee was operating a plow truck performing winter maintenance in the right lane. As he was proceeding west bound on County Line Road he failed to notice the claimant's vehicle headed in the same direction in the left lane. When he attempted a u-turn to head eastbound on County Line Road, the plow truck struck the claimant's vehicle as they were both moving.

Progressive Insurance has submitted subrogation documents related to the total loss of the claimant's 2009 Toyota Corolla. Progressive Insurance was able to recover \$4054.49 for the salvage therefore making their claim \$7932.48. There is no bodily injury claim related to this accident.

The adjustor and the County insurer recommend a total payment of \$7932.48 to Progressive Insurance to settle its subrogated property damage claim. Corporation Counsel has reviewed this matter and supports the recommendations to settle all claims arising out of the property damage to this vehicle.


Mark A. Grady
Acting Corporation Counsel

c: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Steve Cady
Raisa Koltun

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 15, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Acting Corporation Counsel *MAG*

SUBJECT: *Rouse v. Milwaukee County et al.*
Milwaukee County Case No. 12-CV-11466

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority for Milwaukee County to settle this case for the amount of \$14,000. The defense of this case was handled by outside counsel with Emile Banks & Associates through the Wisconsin County Mutual. Settlement is recommended by both their office and ours.

This case involves a motor vehicle accident that occurred on November 05, 2009 around 1:15 pm while both vehicles were traveling westbound on West Brown Deer Road near 95th Street. Mr. Rouse, the plaintiff, was driving a dump truck in front of the county dump truck. Rouse slowed as he approached the yellow light. The county truck driver was looking around to see if there were any potholes or areas that required patching with asphalt. The county driver looked up to see that traffic was stopping in front of him and was unable to stop before rear-ending Rouse's truck.

Prior to the accident, Rouse had injured his neck and had surgery in 2004, but continued to have some neck pain. After the accident, Rouse complained that his neck pain increased for several months. Due to this history, he underwent an extensive diagnostic work-up in the emergency room. He also received several weeks of physical therapy. His claimed medical expenses total \$7099.34:

Emergency Medical Associates:	\$368.00
Radiology Waukesha, S.C.:	\$271.00
Waukesha Memorial Hospital:	\$6100.34
Fehr, Steven, MD:	\$360.00

Initially, Rouse also claimed a significant wage loss while he was unable to operate his dump truck in his business. Rouse was unable to document any substantial wage loss claim; however that remained a claim in the case.

The property damage to Rouse's truck was paid by his insurer and their subrogation claim was paid by the County in April of 2010 for a total of \$7132.63.

Liability is clearly on the county driver. A negotiated settlement totaling \$14,000.00 was reached for all of Rouse's personal injury claims, in return for a release of all claims related to the accident and dismissal of the suit. The payment will be made to Rouse by the Wisconsin County Mutual Insurance Corporation and applied to the County's deductible.

cc: Amber Moreen
Kelly Bablitch
Raisa Koltun
Alexis Gassenhuber
Steve Cady

1 From Corporation Counsel requesting approval of a resolution authorizing
2 a settlement of Rouse v. *Milwaukee County et al.*, Milwaukee County
3 Case No. 12-CV-11466.

4
5 File No. 13-
6

7
8 A RESOLUTION
9

10
11 WHEREAS, in 2009, a county truck driver rear-ended a truck driven
12 by Rouse at the intersection of Brown Deer Road and 95th Street; and
13

14 WHEREAS, Rouse suffered injuries as a result of the accident,
15 including, but not limited to, the aggravation of a prior neck injury and
16 surgical condition resulting in pain and suffering for several months; and
17

18 WHEREAS, Rouse incurred medical expenses totaling \$7099.34 as a
19 result of the accident and claimed additional wage losses due to the
20 accident; and
21

22 WHEREAS, Rouse's truck suffered property damage in the amount of
23 \$7132.63 which was previously settled by Milwaukee County with Rouse
24 and his insurer; and
25

26 WHEREAS, a settlement was negotiated with Rouse, through his
27 counsel, for a payment totaling \$14,000.00;
28

29 NOW, THEREFORE, BE IT RESOLVED that Milwaukee County approves
30 a settlement payment to Rouse by the Wisconsin County Mutual
31 Insurance Corporation in the total amount of \$14,000 in return for a full
32 release of all claims by Rouse and the dismissal of the pending action.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: August 15, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution approving a settlement of personal injury claims in Rouse v. Milwaukee County et al., Case No. 12-CV-11466.

FISCAL EFFECT:

- | | |
|--|--|
| <input type="checkbox"/> No Direct County Fiscal Impact

<input type="checkbox"/> Existing Staff Time Required

<input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)

<input checked="" type="checkbox"/> Absorbed Within Agency's Budget

<input type="checkbox"/> Not Absorbed Within Agency's Budget

<input type="checkbox"/> Decrease Operating Expenditures

<input type="checkbox"/> Increase Operating Revenues

<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures

<input type="checkbox"/> Decrease Capital Expenditures

<input type="checkbox"/> Increase Capital Revenues

<input type="checkbox"/> Decrease Capital Revenues

<input type="checkbox"/> Use of contingent funds |
|--|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	14,000	
	Revenue		
	Net Cost	14,000	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

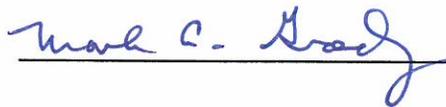
In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this resolution authorizes Wisconsin County Mutual Insurance Corporation to pay Rouse \$14,000 in settlement of his claims in Case No. 12-CV-11466. The payment will be applied to the County's deductible.

Department/Prepared By Mark A. Grady, Acting Corporation Counsel

Authorized Signature



Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 21, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Acting Corporation Counsel *MAG*
Molly J. Zillig, Principal Assistant Corporation Counsel *mjz*

SUBJECT: *Irby Alexander v. Milwaukee County*
E.D. Case No. 12-CV-0329

Please refer this matter to the Committee on Judiciary, Safety, and General Services to be placed on the agenda for its September 12, 2013 meeting. We are seeking settlement approval of the above referenced lawsuit that alleges a violation of the Family and Medical Leave Act ("FMLA") and the Americans with Disabilities Act ("ADA"), which is pending before the U.S. District Court for the Eastern District of Wisconsin, Case No. 12-CV-0329. The lawsuit was defended by Oyvind Wistrom of Lindner and Marsack, S.C., through the Wisconsin County Mutual, with the assistance of the Office of the Corporation Counsel.

Mr. Alexander was a long-term Correctional Officer at the Milwaukee County House of Correction (hereinafter the "HOC") who was diagnosed with a serious health condition in 2001. Mr. Alexander applied for and received intermittent FMLA from 2001 to 2011.

There is evidence in the record that could support a determination that the County violated Mr. Alexander's rights under the FMLA when it denied him FMLA approval for multiple absences that resulted in the filing of written charges against Mr. Alexander seeking his termination on April 29, 2011. If a jury finds in his favor under the FMLA, Mr. Alexander could be entitled to reinstatement, back pay, liquidated damages and attorney fees.

Mr. Alexander also alleges a claim for disability discrimination under Title III of the ADA. He claims he was denied a reasonable accommodation when he was denied leave for his disability and that he was discharged in part because of his disability. If he prevails on the ADA claim, he would be entitled to the same remedies available under the FMLA (except liquidated damages). In addition, he could recover up to \$300,000 in compensatory damages.

The parties have had extensive settlement discussions and have reached a proposed settlement that includes reinstating Mr. Alexander to his former position at the HOC,

without back pay or other monetary damages, with the County's insurer agreeing to pay reasonable attorneys' fees and costs in the amount of \$17,729.30.

Lindner and Marsack, S.C., the Office of Corporation Counsel, and the Wisconsin County Mutual recommend this settlement for approval.

cc: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Stephen Cady
Raisa Koltun

1 From Corporation Counsel recommending the approval of a resolution to settle
2 the case of *Irby Alexander v. Milwaukee County, et al.*, E.D. Wis. Case No.
3 12-CV-0329.

4
5 File No. 13-
6 (Journal,)
7

8
9 A RESOLUTION

10
11 WHEREAS, a lawsuit was filed in the United States District Court for the
12 Eastern District of Wisconsin, Case No. 12-CV-0329, against Milwaukee County by
13 Irby Alexander, a former Correctional Officer of the Milwaukee County House of
14 Correction ("HOC"), alleging violation of his rights under the Federal Family and
15 Medical Leave Act ("FMLA") and the Americans with Disabilities Act ("ADA");
16 and

17
18 WHEREAS, Alexander has a serious medical condition as defined by 29
19 U.S.C. Sec. 2612(a)(1)(D) and C.F.R. 825.113; and

20
21 WHEREAS, Alexander made various requests for FMLA leave in 2010 and
22 2011 to care for his serious medical condition which were denied and as such,
23 Alexander violated the HOC's attendance policy.

24
25 WHEREAS, charges for Alexander's discharge were referred to the
26 Personnel Review Board on April 29, 2011; and

27
28 WHEREAS, Alexander alleged disability discrimination based on Milwaukee
29 County's failure to approve a leave of absence as an accommodation for his
30 disability; and

31
32 WHEREAS, Alexander alleged that the County violated his rights under the
33 FMLA by denying his various requests for FMLA leave in 2010 and 2011; and

34
35 WHEREAS, the tentative settlement agreement provides for a release of all
36 claims against Milwaukee County in return for Alexander to be reinstated to his
37 Correctional Officer position with the HOC and a payment by the Wisconsin
38 County Mutual to Alexander's attorneys in the amount of \$17,729.30; and

39
40 WHEREAS, Lindner and Marsack, S.C., the Office of Corporation Counsel,
41 and the Wisconsin County Mutual recommend this settlement; and

42

43 WHEREAS, the Committee on Judiciary, Safety and General Services
44 approved this settlement at its meeting on September 12, 2013 by a vote of
45 _____;

46
47 NOW, THEREFORE, BE IT RESOLVED, that the Milwaukee County Board of
48 Supervisors approves the reinstatement of Alexander to his Correctional Officer
49 position with the HOC and a payment of \$17,729.30 by the Wisconsin County
50 Mutual Insurance Corporation to Alexander's attorneys in exchange for dismissal
51 of his lawsuit and a full and complete release of all claims against Milwaukee
52 County.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: August 21, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A RESOLUTION to approve a settlement related to a Family and Medical Leave Act and American with Disabilities Act lawsuit filed by Irby Alexander.

FISCAL EFFECT:

No Direct County Fiscal Impact

Existing Staff Time Required

Increase Operating Expenditures
(If checked, check one of two boxes below)

Absorbed Within Agency's Budget

Not Absorbed Within Agency's Budget

Decrease Operating Expenditures

Increase Operating Revenues

Decrease Operating Revenues

Increase Capital Expenditures

Decrease Capital Expenditures

Increase Capital Revenues

Decrease Capital Revenues

Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	17,729.30	
	Revenue		
	Net Cost	17,729.30	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.
 - A. The County is proposing a settlement to Irby Alexander, who has filed a federal lawsuit alleging violation of his rights under the Family and Medical Leave Act and the Americans with Disabilities Act. Approval of this settlement will result in the reinstatement of Irby Alexander to his Correctional Officer position with the Milwaukee County House of Correction and a payment of \$17,729.30 to Irby Alexander's attorneys by the Wisconsin County Mutual Insurance Corporation.
 - B. Approval of this Resolution authorizes a payment of \$17,729.30 to Irby Alexander's attorneys by Wisconsin County Mutual Insurance Corporation. The \$17,729.30 payment will be applied to the County's deductible.

Department/Prepared By Corporation Counsel

Authorized Signature _____



Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 21, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Acting Corporation Counsel *MAG*
Molly J. Zillig, Principal Assistant Corporation Counsel *mjz*

SUBJECT: *District Council 48, AFSCME, AFL-CIO, et al. v. Milwaukee County*
E.D. Case No. 12-CV-00543

Please refer this matter to the Committee on Judiciary, Safety, and General Services to be placed on the agenda for its September 12, 2013 meeting. We are seeking settlement approval of the lawsuit involving District Council 48 and Milwaukee County asserting a pattern and practice of race discrimination at the Milwaukee County House of Corrections ("HOC"), which is pending before the U.S. District Court for the Eastern District of Wisconsin, Case No. 12-CV-00543.

This lawsuit was initiated by District Council 48 with the filing of an EEOC charge against Milwaukee County on behalf of its representative members who were employed as Correctional Officers at the HOC. The charge alleged that the County discriminated when it applied more severe discipline to African American officers because of their race than non-African American officers. A timely complaint was filed in the Eastern District of Wisconsin on May 31, 2012 under Title VII. This lawsuit was defended by Attorney Oyvind Wistrom of Lindner and Marsack, S.C., through Wisconsin County Mutual, with the assistance of the Office of the Corporation Counsel.

Although the Plaintiffs have presented no evidence that African American Correctional Officers were disciplined more frequently than other non-African American Correctional Officers, they have presented some evidence that the degree of discipline imposed on African American officers was significantly greater than for non-African American officers. Although there was a statistical difference in the severity of the discipline imposed upon African American officers, each case of discipline is based on its own set of facts and the County asserts that these facts explain the disparities. However, due to the uncertainty of the litigation and rather than risk greater damages and attorney fees, both Mr. Wistrom and the Office of the Corporation Counsel believe that settlement of the above claim is appropriate.

We are seeking approval to settle this matter pursuant to the following terms and conditions:

- a. To reinstate Marsha Spells to employment as a Correctional Officer at the HOC with the receipt of pension service credit for the period of time since her termination (June 22, 2011 to present), but without any back pay for the two-plus years that she has been out of work. She would also agree to dismiss her WERC case. Her PRB case will be settled with her returning to work as a Correctional Officer.
- b. To consider Alicia Magee for any future promotional opportunities to any Lieutenant positions at the HOC for which she is qualified. This does not guarantee employment in the event there is an opening and she submits an application.
- c. To provide preferential rehire to the following former Correctional Officers should they seek reemployment at the HOC: Caribe Baker, Marvin Daniels, Acacia Wilson, Monique Turner, Nikki Franklin, Markata Smith and Sammie Reed. This does not guarantee employment in the event there is an opening and they submit an application.
- d. The County's insurer (WCMIC) agrees to pay reasonable attorneys' fees and costs of \$21,000.00. This represents approximately one-third of the costs and attorney fees that Mark Sweet of Sweet & Associates, LLC has incurred in the prosecution of this case.

Lindner and Marsack, S.C., the Office of Corporation Counsel and the Wisconsin County Mutual recommend this settlement for approval.

cc: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Stephen Cady
Raisa Koltun

1 From Corporation Counsel recommending the approval of a resolution to settle
2 the discrimination action filed by the District Council 48, AFSCME, AFL-CIO and
3 District Council 48, Local 567, AFSCME, AFL-CIO (collectively the "Union")
4

5 File No. 13-
6 (Journal,)
7

8
9 A RESOLUTION
10

11 WHEREAS, the Union filed a lawsuit in the United States District Court for the
12 Eastern District of Wisconsin, Case No. 12-CV-0543, against Milwaukee County
13 with claims of racial discrimination regarding the discipline imposed on various
14 African American Correctional Officers of the Milwaukee County House of
15 Correction (hereinafter the "HOC"); and
16

17 WHEREAS, the Union alleges the discipline imposed on African American
18 Correctional Officers was more severe than the discipline imposed on non-
19 African American Correctional Officers; and
20

21 WHEREAS, the parties engaged in extensive discovery; and
22

23 WHEREAS, the parties engaged in court ordered mediation; and
24

25 WHEREAS, the Union presented no evidence that African American
26 Correctional Officers were disciplined more frequently than other non-African
27 American Correctional Officers; and
28

29 WHEREAS, the Union presented some evidence that the degree of
30 discipline imposed on African American Correctional Officers was significantly
31 greater than the discipline imposed on non-African American Correctional
32 Officers; however, each case of discipline is based on its own set of facts and
33 Milwaukee County asserts that these facts explain the disparities; and
34

35 WHEREAS, the tentative settlement agreement provides for a release of all
36 claims against Milwaukee County in return for the following: employment
37 reinstatement of Marsha Spells with the HOC as a Correctional Officer and
38 receipt of pension service credit from June 22, 2011 to present; consideration of
39 Alicia Magee for any future promotional opportunities to a Lieutenant position;
40 provide preferential rehire as Correctional Officers to Caribe Baker, Marvin
41 Daniels, Acacia Wilson, Monique Turner, Nikki Franklin, Marka Smith and Sammie
42 Reed; and a payment by the Wisconsin County Mutual Insurance Corporation
43 to the Union's attorneys in the amount of \$21,000.00; and
44

45 WHEREAS, Lindner and Marsack, S.C., the Office of Corporation Counsel,
46 and Wisconsin County Mutual recommend this settlement; and

47

48 WHEREAS, the Committee on Judiciary, Safety and General Services
49 approved this settlement at its meeting on September 12, 2013 by a vote of
50 _____;

51

52 NOW, THEREFORE, BE IT RESOLVED, that the Milwaukee County Board of
53 Supervisors approves the settlement terms set forth above and the payment of
54 \$21,000.00 by the Wisconsin County Mutual Insurance Corporation to the Union's
55 attorneys in exchange for dismissal of this lawsuit and a full and complete
56 release of all claims against Milwaukee County.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: August 21, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A RESOLUTION to approve a settlement in District Council 48, AFSCME, AFL-CIO, et al. v. Milwaukee County, E. D. Wis. Case No. 12-CV-0543

FISCAL EFFECT:

No Direct County Fiscal Impact

Existing Staff Time Required

X Increase Operating Expenditures
(If checked, check one of two boxes below)

X Absorbed Within Agency's Budget

Not Absorbed Within Agency's Budget

Decrease Operating Expenditures

Increase Operating Revenues

Decrease Operating Revenues

Increase Capital Expenditures

Decrease Capital Expenditures

Increase Capital Revenues

Decrease Capital Revenues

Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	21,000.00	
	Revenue		
	Net Cost	21,000.00	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

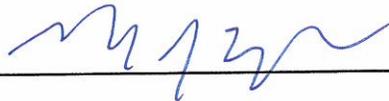
- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

A. The County is proposing a settlement that includes the following: employment reinstatement of Marsha Spells with Milwaukee County House of Corrections ("HOC") as a Correctional Officer and to provide her with pension service credit from June 22, 2011 to present; to consider to Alicia Magee for any future promotional opportunities to a Lieutenant position at the HOC; and to provide preferential rehire as Correctional Officers at the HOC to Caribe Baker, Marvin Daniels, Acacia Wilson, Monique Turner, Nikki Franklin, Markata Smith and Sammie Reed. Approval of this settlement will result in a payment of \$21,000.00 to Milwaukee District Council 48's attorneys by the Wisconsin County Mutual Insurance Corporation.

B. Approval of this Resolution authorizes a payment of \$21,000.00 to Milwaukee County District Counsel 48's attorneys by Wisconsin County Mutual Insurance Corporation. The \$21,000.00 payment will be applied to the County's deductible.

Department/Prepared By Corporation Counsel

Authorized Signature _____



Did DAS-Fiscal Staff Review? Yes No

Did CDBP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 22, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: James M. Carroll, Principal Assistant Corporation Counsel

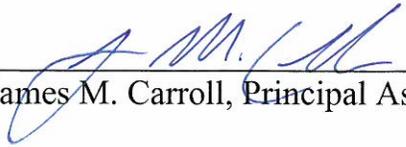
SUBJECT: Burton & Mayer, Inc. v. Milwaukee County Election Commission

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority to settle this dispute for the total sum of \$38,000.00, which we request be paid out of the Appropriation for Contingencies.

This settlement is related to the printing of ballots for the April 3, 2012 presidential primary election. In mid-March of 2012, the County Election Commission was notified of potential concerns with approximately 488,000 ballots printed by Burton & Mayer, Inc. of Menomonee Falls. There were concerns that the ballots were too long for some voting machines and/or that some voting machines were not reading the ballots properly. Though Burton & Mayer did not agree that there were problems with the ballots, the County Election Commission decided to have the ballots reprinted by other vendors at additional expense. Burton & Mayer maintains that, to the extent there were any issues with the ballots, it could have resolved those issues in a timely manner and a less expensive manner had it been permitted to do so.

In July 2012 Burton & Mayer sent the County Election Commission a detailed letter explaining its position that the company was not at fault for any alleged problems with the ballots. Burton & Mayer attributed both the ballot length and the ballot reading issues to errors by other vendors responsible for providing ballot specifications and ballot testing. The company demanded payment of the total invoice for the ballots, which totaled \$70,775.94. Thereafter, the County Election Commission (via Corporation Counsel) engaged in a lengthy analysis of the situation that ultimately led to settlement negotiations. Burton & Mayer filed a Notice of Claim demanding full payment of its outstanding invoice. The Election Commission would like to continue what has otherwise been a positive working relationship and to avoid the risks of costly and contentious litigation. Therefore, the parties agreed to resolve the matter for \$38,000.00.

Corporation Counsel and the County Election Commission recommend this settlement for approval. Because the Election Commission does not have funds in its budget for this settlement, it is requested that a fund transfer from the Appropriation for Contingencies be approved.



James M. Carroll, Principal Assistant Corporation Counsel

- cc: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Stephen Cady
Raisa Koltun

1 From Corporation Counsel recommending the adoption of a resolution to
2 resolve a disputed invoice from Burton & Mayer, Inc.

3
4 File No. 13-
5 (Journal,)
6

7
8 A RESOLUTION
9

10 WHEREAS, in March 2012 the Milwaukee County Election Commission was
11 notified of potential concerns related to ballots printed by Burton & Mayer, Inc.;

12 and
13
14 WHEREAS, Burton & Mayer, Inc. disputes that, to the extent there were any
15 problems with the ballots, it was responsible for such problems; and
16

17 WHEREAS, Burton & Mayer, Inc. has filed a claim against Milwaukee
18 County seeking payment of its outstanding \$70,775.94 invoice for printing of the
19 ballots; and
20

21 WHEREAS, the Milwaukee County Election Commission and Burton &
22 Mayer, Inc. wish to maintain their ongoing working relationship and to avoid the
23 risk and expense of litigation; and
24

25 WHEREAS, the tentative settlement agreement provides that the
26 outstanding invoice will be resolved for \$38,000.00; and
27

28 WHEREAS, the Election Commission does not have budget funds to pay for
29 this settlement; and
30

31 WHEREAS, the Office of Corporation Counsel recommends this settlement;
32 and
33

34 WHEREAS, the Committee on Judiciary, Safety and General Services
35 approved this settlement at its meeting on September 12, 2013 by a vote of
36 ____;

37
38 NOW, THEREFORE, BE IT RESOLVED, that the Milwaukee County Board of
39 Supervisors approves the payment of \$38,000.00 to Burton & Mayer, Inc. in full
40 resolution of its disputed invoice and in exchange for a full and complete
41 release of all related claims against Milwaukee County; and
42

43 BE IT FURTHER RESOLVED, that the Milwaukee County Board of Supervisors
44 approves a fund transfer from Org. Unit 1945, Appropriation for Contingencies to
45 Org. Unit 3010, Election Commission, in the amount of \$38,000.00.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: August 22, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A RESOLUTION to approve a settlement agreement related to a claim for payment of a disputed invoice from Burton & Mayer, Inc.

FISCAL EFFECT:

- | | |
|---|--|
| <input type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| X Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| X Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | X Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	38,000.00	
	Revenue		
	Net Cost	38,000.00	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

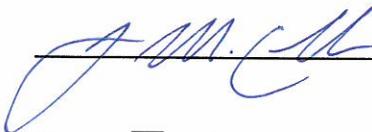
DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.
 - A. The County is proposing resolution of a disputed invoice from Burton & Mayer, Inc. for the printing of ballots for the Spring 2012 presidential primary election.
 - B. Approval of this Resolution authorizes a payment of \$38,000.00 to Burton & Mayer, Inc. by the Milwaukee County Election Commission. The \$38,000.00 will be paid out by a fund transfer from Org. Unit 1945, Appropriation for Contingencies.

Department/Prepared By Corporation Counsel

Authorized Signature



Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 19, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: James M. Carroll, Principal Assistant Corporation Counsel

SUBJECT: Percy Morgan v. Milwaukee County, et al.
Milwaukee County Case No. 2012CV005229

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority to settle this case for the total sum of \$40,000.00, which will be paid by Wisconsin County Mutual Insurance Corporation.

This case involves two personal injury claims resulting from a March 26, 2011 motor vehicle accident. The accident occurred at approximately 10 a.m. at the intersection of Appleton Avenue and Grantosa Drive in Milwaukee. A Milwaukee County employee was driving a Milwaukee County truck with a snow plow and salting equipment attached. Jimmy Newmy was driving a 2001 Mercedes Benz CL500 owned by his brother, Percy Morgan. Morgan was a rear seat passenger at the time of the accident. Patrice England, who is not a party to this action, was in the front passenger seat. Morgan was not wearing a seatbelt at the time of the accident. While Morgan and the defendant relate different versions of how the accident occurred, it is clear that the Milwaukee County vehicle was making a right turn when it struck the driver's side of the Morgan vehicle. Both Newmy and Morgan filed personal injury claims. This memo and resolution pertain only to Morgan's claims; Newmy's claims were previously resolved and approved by the Milwaukee County Board of Supervisors and the County Executive (File No. 13-312).

Morgan claims \$9,881.00 in medical special damages for treatment of soft tissue injuries to his neck, back, and left shoulder. He is claiming a permanent left shoulder injury based on the report of an orthopedic surgeon, who states that he will need surgery to repair his left shoulder. The orthopedist anticipates that this surgery and follow-up treatment will cost between \$65,000.00 and \$72,000.00. The County obtained a physician's report disputing Morgan's need for surgery.

Per the court's direction, the parties mediated this matter on March 22, 2013. Though the mediation was unsuccessful, ongoing negotiations thereafter resulted

in the proposed resolution. The settlement provides that the Wisconsin County Mutual Insurance Corporation will pay to Mr. Morgan and his attorneys \$40,000.00. In return, Mr. Morgan will dismiss his suit and provide the County with a full and complete release from any liability. The payment will be applied to the County's deductible with the County Mutual.

Corporation Counsel and the Wisconsin County Mutual recommend this settlement for approval.

 8/19/13

James M. Carroll, Principal Assistant Corporation Counsel

cc: Amber Moreen
Kelly Bablitch
Alexis Gassenhuber
Stephen Cady
Raisa Koltun

1 From Corporation Counsel recommending the adoption of a resolution to settle
2 the personal injury claim of Percy Morgan

3
4 File No. 13-
5 (Journal,)
6

7
8 A RESOLUTION
9

10 WHEREAS, on March 26, 2011 Percy Morgan was a passenger in a vehicle
11 that was involved in an auto accident with a Milwaukee County vehicle; and
12

13 WHEREAS, as a result of said auto accident Morgan filed a lawsuit in the
14 Circuit Court of Milwaukee County, Case No. 12-CV-5229, against Milwaukee
15 County and seeking damages for injuries allegedly sustained in the March 26,
16 2011, auto accident; and
17

18 WHEREAS, Morgan claims that he suffered neck, back, and left shoulder
19 injuries in the accident and that he incurred medical expenses attributable to
20 the accident in the amount of \$9,881.00; and
21

22 WHEREAS, Morgan claims a permanent left shoulder injury requiring
23 surgery costing between \$65,000.00 and \$72,000.00; and
24

25 WHEREAS the parties engaged in court-ordered mediation; and
26

27 WHEREAS the tentative settlement agreement provides for a release of all
28 claims against Milwaukee County in return for a payment by the Wisconsin
29 County Mutual Insurance Corporation in the amount of \$40,000.00 to Morgan
30 and his attorneys; and
31

32 WHEREAS the Office of Corporation Counsel recommends this settlement;
33 and
34

35 WHEREAS the Committee on Judiciary, Safety and General Services
36 approved this settlement at its meeting on September 12, 2013 by a vote of
37 _____;
38

39 NOW, THEREFORE, BE IT RESOLVED, that the Milwaukee County Board of
40 Supervisors approves the payment by the Wisconsin County Mutual Insurance
41 Corporation of \$40,000.00 to Morgan and his attorneys in exchange for dismissal
42 of his suit and a full and complete release of all claims against Milwaukee
43 County.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: August 19, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A RESOLUTION to approve a settlement agreement related to personal injury claims by Percy Morgan

FISCAL EFFECT:

- | | |
|--|--|
| <input type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input checked="" type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget

<input type="checkbox"/> Decrease Operating Expenditures

<input type="checkbox"/> Increase Operating Revenues

<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures

<input type="checkbox"/> Decrease Capital Expenditures

<input type="checkbox"/> Increase Capital Revenues

<input type="checkbox"/> Decrease Capital Revenues

<input type="checkbox"/> Use of contingent funds |
|--|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	40,000.00	
	Revenue		
	Net Cost	40,000.00	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

- A. The County is proposing a settlement to Percy Morgan, who was involved in an auto accident with a Milwaukee County vehicle driven by a Milwaukee County employee. Adoption of this settlement will result in a payment to Percy Morgan of \$40,000.00 by the Wisconsin County Mutual Insurance Corporation.
- B. Approval of this Resolution authorizes a payment of \$40,000.00 to Percy Morgan by Wisconsin County Mutual Insurance Corporation. The \$40,000.00 payment will be applied to the County's deductible.

Department/Prepared By Corporation Counsel

Authorized Signature  8/19/13

Did DAS-Fiscal Staff Review? Yes No

Did CDBP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 19, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Acting Corporation Counsel *MAG*

SUBJECT: *Calderon v. Milwaukee County et al.*
E.D. Wis. Case No. 12-CV-1043

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority for Wisconsin County Mutual to make a payment on behalf of Milwaukee County to settle this case in the amount of \$110,000. The defense of this case was handled by outside counsel with Whyte, Hirschboeck & Dudek through the Wisconsin County Mutual. Settlement is recommended by both their office and ours.

This case involves an assault by former Deputy Sheriff Scott Krause on Ray Calderon while Calderon was handcuffed in the rear of a squad car in the sallyport of the CJF. The assault is on videotape. Former Deputy Krause was criminally convicted of misdemeanor battery and felony misconduct in office and served prison time. He was discharged from employment by Milwaukee County. Other officers did not participate in the assault, but appeared to have been in a position to have witnessed it. The PRB declined to grant the Sheriff's request for the discharge of two other deputies for not reporting the incident, but they did receive lesser discipline.

Calderon claims injuries to his face and his back for which he has received treatment over the past several years. He also claims significant emotional injuries and has received psychological treatment. His medical expenses totaled approximately \$18,000.

In addition, because this is a civil rights case, Calderon is entitled to recover his attorneys' fees if he recovers any damages in this case. Although we do not have an itemization, we believe that an attorney fee award in this case has the potential to be very substantial if this case went to trial and a verdict were rendered in Calderon's favor. We have reason to believe that the attorneys' fees are currently as much as \$50,000.

In June of this year, Calderon was convicted in Ozaukee County of felonies in connection with the sale of illegal drugs, including prescription drugs, and is now serving a sentence. That fact is likely to influence a jury with respect to an award of damages, but because it occurred several years after this incident, it may not affect a jury's view of liability against the County.

Outside counsel negotiated with Calderon's counsel and recently reached an agreement to settle the case for the total sum of \$110,000. This sum includes Calderon's claim for attorneys' fees. We believe this is a reasonable settlement of this case under the circumstances. The payment will be made by the Wisconsin County Mutual Insurance Corporation and applied to the County's deductible.

cc: Amber Moreen
Kelly Bablitch
Raisa Koltun
Alexis Gassenhuber
Steve Cady

1 From Corporation Counsel requesting approval of a resolution authorizing
2 a settlement of *Calderon v. Milwaukee County*, E.D. Wis. Case No. 12-CV-
3 1043.

4
5 File No. 13-
6

7
8 A RESOLUTION
9

10
11 WHEREAS, on October 16, 2009, Ray Calderon was in custody and
12 handcuffed in the back of a squad car in the Criminal Justice Facility and
13 was assaulted by Deputy Sheriff Scott Krause; and
14

15 WHEREAS, other deputies were present and allegedly witnessed the
16 assault, but failed to report it; and
17

18 WHEREAS, Krause was convicted of a felony in connection with this
19 incident and was discharged from employment and other deputies
20 received discipline related to the incident; and
21

22 WHEREAS, Calderon alleges he incurred physical and emotional
23 injuries due to the assault and that he incurred treatment expenses
24 totaling approximately \$18,000 and he claims a need for continuing
25 treatment; and
26

27 WHEREAS, Calderon has subsequently been convicted of felonies;
28 and
29

30 WHEREAS, Calderon claims attorneys' fees against Milwaukee
31 County as a portion of his recovery; and
32

33 WHEREAS, Milwaukee County's counsel negotiated a settlement
34 with Calderon and his counsel for a payment totaling \$110,000.00 for all
35 claims;
36

37 NOW, THEREFORE, BE IT RESOLVED that Milwaukee County approves
38 a settlement payment to Calderon and/or his attorneys, Samster, Konkel &
39 Safran S.C., by the Wisconsin County Mutual Insurance Corporation in the
40 total amount of \$110,000 in return for a full release of all claims by
41 Calderon and the dismissal of the pending action.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: August 19, 2013

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution approving a settlement in Calderon v. Milwaukee County, E.D. Wis. Case No. 12-CV-1043.

FISCAL EFFECT:

- | | |
|--|--|
| <input type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input checked="" type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget
<input type="checkbox"/> Decrease Operating Expenditures
<input type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input type="checkbox"/> Use of contingent funds |
|--|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	110,000	
	Revenue		
	Net Cost	110,000	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

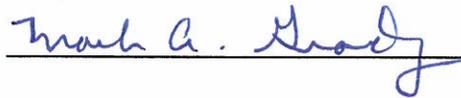
In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this resolution authorizes the Wisconsin County Mutual Insurance Corporation to pay \$110,000 to Ray Calderon and his attorneys, Samster, Konkel & Safran S.C., in return for a release of all claims and a dismissal of the suit. The payment will be applied to the County's deductible.

Department/Prepared By Mark A. Grady, Acting Corporation Counsel

Authorized Signature



Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: August 23, 2013

TO: Theodore Lipscomb Sr., Chairman
Committee on Judiciary, Safety and General Services

Willie Johnson & David Cullen, Co-Chairmen
Committee on Finance, Personnel and Audit

FROM: Mark A. Grady, Deputy Corporation Counsel

SUBJECT: Status update on pending litigation

The following is a list of some of the significant pending cases that we believe may be of interest to the Committees. New information and additions to the list since the last committee meetings are noted in **bold**. However, our office is prepared to discuss any pending litigation or claim involving Milwaukee County, at your discretion.

1. *DC48 v. Milwaukee County* (Rule of 75)
Case No. 11-CV-16826 (temporary stay of case until November 25, 2013)
2. *MDSA v. Milwaukee County* (overturn arbitration award on 2012 deputy layoffs)
Case No. 12-CV-1984
3. Retiree health plan (co-pays, deductibles, etc.) cases:
Hussey v. Milwaukee County (Retiree health)
Case No. 12-C-73 (U.S. District Court, appealed by Hussey to U.S. Seventh Circuit Court of Appeals)
MDSA prohibited practice complaint
WERC Case No. 792 No. 71690 MP-4726
Rieder & MDSA v. Milwaukee County
Case No. 12-CV-12978
DC48 prohibited practice complaint
WERC Case No. 762 No. 70685 MP-4657
DC48 et al. v. Milwaukee County et al.
Case No. 12-CV-13612 (stayed pending outcome of *Hussey* case)
4. Medicare Part B premium reimbursement cases:
FNHP and AMCA v. Milwaukee County
Case No. 12-CV-1528 (appealed to WI Court of Appeals by Milwaukee County)
DC48 et al. v. Milwaukee County et al.
Case No. 12-CV-13612 (stayed pending outcome of case above)

5. 1.6% Pension Multiplier cases:
Stoker & FNHP v. Milwaukee County
Case No. 11-CV-16550 (appealed to WI Court of Appeals by Milwaukee County)
AFSCME v. Milwaukee County
Case No. 12-CV-9911 (stayed pending *Stoker* appeal)
Brillowski & Trades v. Milwaukee County
Case No. 12-CV-13343 (stayed pending *Stoker* appeal)
6. Sheriff Captain Lay-off cases:
McKenzie & Goodlette v. Milwaukee County (captains layoffs)
Case No. 12-CV-0079
Rewolinski v Milwaukee County (captain layoff)
Case No. 12-CV-0645
Clarke v. Civil Service Commission (captains promotions and layoffs)
Case No. 12-CV-3366 (Commission affirmed)(appealed by Sheriff to Court of Appeals)
7. *DC48 v. Milwaukee County* (seniority in vacation selection and CO1 transfer rights under Sheriff)
Case No. 12-CV-3944 (**voluntarily dismissed by DC48**)
8. *Wosinski et al. v. Advance Cast Stone et al.* (O'Donnell Park)
Case No. 11-CV-1003 (consolidated actions)(trial: October 7, 2013, six weeks)
9. *Christensen et al. v. Sullivan et al.*
Case No. 96-CV-1835
10. *Milwaukee Riverkeeper v. Milwaukee County* (Estabrook dam)
Case No. 11-CV-8784
11. *Milwaukee County v. Federal National Mortgage Ass'n. et al.* (transfer taxes)
Case No. 12-C-732 (U.S. District Court)(**appealed to Seventh Circuit by County**)
12. *Midwest Development Corporation v. Milwaukee County* (Crystal Ridge)
Case No. 12-CV-11071
13. Retirement sick allowance payment for employees not represented at retirement, but previously represented
Pasko v. Milwaukee County
Case No. 11-CV-2577 (**petition to WI Supreme Court filed by County**)
Porth v. Milwaukee County

- Case No. 11-CV-4908 (consolidated with Pasko case, **petition to WI Supreme Court filed by County**)
Koehn v. Milwaukee County
Case No. 12-CV-1402 (stayed in circuit court pending appeal of other cases)
Marchewka v. Milwaukee County
Case No. 13-CV-969
14. *Clarke v. Milwaukee County* (House of Correction transition)
Case No. 12-CV-13388 (appealed by Sheriff to Court of Appeals)
15. *Calderon v. Milwaukee County*
Case No. 12-C-1043 (U.S. District Ct.)(deputy assault of person in custody)
16. Froedtert Hospital petition to disturb burial sites – petition granted by State.
17. *FNHP, AMCA & AFSCME v. Milwaukee County and ERS*
Case No. 13-CV-3134 (backdrop modification)