INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE

DATE: November 4, 2013

TO: Marina Dimitrijevic, Chairwoman
County Board of Supervisors

FROM: Paul Bargren, Corporation Counsel PB
Mark A. Grady, Deputy Corporation Counsel MAG

SUBJECT: File No. 13-747; ICC fiscal note check off box

This file was referred to our office by the County Board at its meeting of September 26, 2013. No specific questions were asked.

The resolution supports the inclusion of a line on the county fiscal note form to indicate whether it is believed that the matter requires approval by the Executive Council under §59.794 and check boxes for "yes," "no," and "uncertain." The resolution directs the County Clerk to forward to the Executive Council and resolution with the boxes "yes" or "uncertain" checked.

Several issues related to this resolution are apparent. Generally, to be subject to Executive Council approval, the agreement must qualify as an agreement under §66.0301 and must have a "value" of greater than $300,000. Fiscal notes are quite often prepared by departmental staff. Determining which agreements meet these definitions is not always obvious. Not every agreement with a municipality is an agreement under §66.0301. Determining which agreements have a "value" over $300,000 is also not always certain. Consequently, it appears likely that departmental staff may check the "uncertain" box for many resolutions. These resolutions then will be forwarded automatically by the County Clerk to the Executive Council for approval when, in fact, that approval may not have been required. In other words, the process created by this resolution will result in Executive Council approval being unnecessarily sought for more resolutions than required.

In Milwaukee County, the Office of Corporation Counsel is required by §59.42(2)(b)(5), Stats., to "Review and countersign all contracts to verify that the contracts comply with all statutes, rules, ordinances, and the county's ethics policy." It appears to us that this statutory requirement already fulfills the objective of the proposed resolution. If the Board needs to know whether any

matter pending before it will require Executive Council approval under the statutes, our office can provide that information.

We hope these comments are helpful.

cc: County Board of Supervisors
Scott Manske
Janelle Jensen
Kelly Bablitch
Amber Moreen
Raisa Koltun