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From the Milwaukee County Comptroller, Office of the Comptroller, requesting authorization to pay Mallery & Zimmerman an amount of \$3,557.30 for legal services relating to the April 26, 2017, deposition in the matter of United States Eastern District of Wisconsin Case No. 2017CV156 *Daniel Black v. David Clarke, et al.*, and requesting a waiver of Section 56.30(9) of the Milwaukee County Code of General Ordinances to pay for services rendered without a signed contract, by recommending adoption of the following:

A RESOLUTION

WHEREAS, Section 56.30(9) of the Milwaukee County Code of General Ordinances (the Code) requires that a written contract be signed and executed before professional services in an amount greater than \$2,000 are performed by an outside party; and

WHEREAS, on April 18, 2017, a staff member of the Audit Services Division (ASD), Office of the Comptroller, received a deposition subpoena in the matter of United States Eastern District of Wisconsin Case No. 2017CV156, *Daniel Black v. David Clarke, et al.*; and

WHEREAS, in the months prior, ASD staff tried to interview staff of the Milwaukee County Sheriff's Office (MCSO) as part of an investigation per Section 34.095 of the Code, but MCSO denied the request; and

WHEREAS, on April 20, 2017, a contract was drafted for the ASD to retain Attorney Stadler of Mallery & Zimmerman to serve the ASD as legal counsel to represent the ASD at the April 26, 2017, deposition and to represent the ASD in an affirmative declaratory judgement action concerning its authority under Section 34.09(5) of the Code in conducting Milwaukee County (the County) investigations; and

WHEREAS, Attorney Stadler began to provide services related to the deposition subpoena on April 21, 2017, since the deposition date was quickly approaching and the ASD understood mistakenly that the contract was being signed; and

WHEREAS, on April 25, 2017, the Office of Corporation Counsel advised that a conflict of interest would likely exist if Attorney Stadler were to represent ASD in the case above relating to the Milwaukee County Board of Supervisor's (County Board) powers to grant authority to the ASD due to Attorney Stadler's ongoing representation of the County Executive in a separate case also relating to the County Board's powers and therefore the ASD should retain different legal counsel for the pending matters; and

44 WHEREAS, as authorized in File No. 17-324, the ASD has now retained different
45 legal counsel to represent the ASD in an affirmative declaratory judgement action
46 concerning its authority under Section 34.09(5) of the Code in conducting County
47 investigations; and

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49 WHEREAS, Mallery & Zimmerman has invoiced the ASD for services in an
50 amount of \$3,557.30 to represent the ASD at the April 26, 2017, deposition in the matter
51 of United States Eastern District of Wisconsin Case No. 2017CV156 *Daniel Black v.*
52 *David Clarke, et al.*; and

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54 WHEREAS, the contract to retain Attorney Stadler of Mallery & Zimmerman was
55 never signed, so the Office of the Comptroller would need authorization to pay the
56 invoice; and

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58 WHEREAS, the Committee on Finance and Audit, at its meeting of
59 September 20, 2017, recommended adoption of File No. 17-579 (vote 5-0); now,
60 therefore,

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62 BE IT RESOLVED, the Office of the Comptroller is hereby authorized to pay
63 Mallery & Zimmerman an amount of \$3,557.30 for legal services rendered without a
64 contract relating to the April 26, 2017, deposition in the matter of United States Eastern
65 District of Wisconsin Case No. 2017CV156 *Daniel Black v. David Clarke, et al.*; and

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67 BE IT FURTHER RESOLVED, the provisions of Section 56.30(9) of the
68 Milwaukee County Code of General Ordinances is hereby waived, and the Office of the
69 Comptroller is authorized to pay for any services rendered prior to the contract being
70 signed and executed.

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73 jmj
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