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Date: July 18, 2016

To: Honorable Supervisors of the County Board

cc: County Clerk Joseph Czarnetzki (c/o Janelle Jensen)
County Executive Chris Abele
Deputy Corporation Counsel Paul Kuglitsch
Interested Parties

From: Interim Corporation Counsel Colleen Foley 

Re: Referral of File 16-366

At its June 23, 2016 meeting, your honorable body referred File 16-366 to the Office of Corporation Counsel pursuant to MCO 1.15 and to be laid over until the next meeting of the County Board pursuant to MCO 1.14(b). MCO 1.15 allows a one-third minority of the County Board to refer a matter to Corporation Counsel for a "written opinion ... as to the legality of the resolution or ordinance offered, or the recommendation made in any report presented to the County Board for adoption." MCO 1.14(b) allows for action on a committee report (when first made) to be "deferred until the next meeting of the County Board if one-third of the members present and voting so request." File 16-366 is as follows:

From Corporation Counsel, requesting authorization to appeal the trial court ruling in *Milwaukee District Council 48 v. Milwaukee County*, Case No. 11CV16826, to the Wisconsin Court of Appeals, and requesting appellate intervention for a stay, if necessary.

The dual motions to refer to Corporation Counsel and lay over comport with deference to the will of the majority and avoidance of a special meeting before statutory deadlines lapse. The notice of appeal must be filed within ninety (90) days of the final judgment or order. Wis. Stat. § 808.04(1). The circuit court entered the final order on June 17, 2016 and the deadline to file the notice of appeal is September 15, 2016, ninety (90) days later. For the notice to be timely, the County Board must authorize and approve the appeal at its July 28, 2016 meeting, before its August recess.

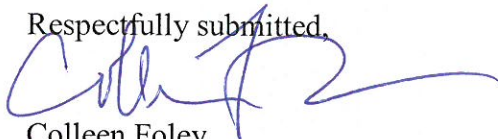
As previously noted in the June 6, 2016 submissions for referral by Corporation Counsel, all requests for appeals of civil actions to the state appellate courts must be referred to the Committee on Judiciary, Safety and General Services for recommendation. The request then goes to the full Board for authorization and approval. MCO 1.28(1) requires that the request be in writing with sufficient explanation validating the appeal, including a reliable estimate of the fiscal impact. In addition to the materials from Corporation Counsel, Buck Consultants submitted a June 16, 2016 actuarial analysis and June 17, 2016 follow up report estimating a six

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million dollar increased actuarial accrued liability for the County absent an appeal. The Comptroller also submitted an initial June 9, 2016 report and a June 17, 2016 analysis of the actuary's report confirming the financial impact for county employees in particular and the county in general should the court decision go unchallenged.

The County Board's dual motions to refer file 16-366 to Corporation Counsel and lay over for one (1) meeting were legal and proper under the cited ordinances and statutes and advisable under the circumstances. Based on the foregoing, the Office of Corporation Counsel maintains its request for the County Board to authorize and approve an appeal of the circuit court ruling in *Milwaukee District Council 48 v. Milwaukee County*, Case No. 11CV16826 at its July 28, 2016 meeting.

Respectfully submitted,



Colleen Foley
Interim Corporation Counsel