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(ITEM) 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, by recommending adoption of the following:

A RESOLUTION

WHEREAS, on May 27, 2016, Milwaukee County Circuit Court, Branch 25, (the Court) issued a Decision on Renewed Motions for Summary Judgment against Milwaukee County (the County) and in favor of Milwaukee District Council 48 (DC48); and

WHEREAS, the dispute in this case relates to the interpretation of Ordinance 11-17, adopted September 29, 2011, which amended Section 201.24(4.1) of the Milwaukee County Code of General Ordinances; and

WHEREAS, the subject ordinance pertains to the “Rule of 75,” a retirement pension provision applicable to some County employees; and

WHEREAS, in its May 27, 2016 summary judgment decision, the Court concluded that the individuals represented by the Plaintiff former DC48 members who commenced employment with the County on or after January 1, 1994, and before January 1, 2006, were not “covered by the terms of a collective bargaining agreement” as that term is used in the ordinance, and that those employees are therefore eligible to retire with a full pension when the combined total of their age and years of County service equals 75; and

WHEREAS, a trial court may stay the execution or enforcement of a judgment or order pending an appeal based upon factors including: a strong showing of likelihood of success on the merits; a showing that, unless a stay is granted, the moving party will suffer irreparable injury; a showing that no substantial harm will come to other interested parties; and showing that a stay will do no harm to the public interest; and

WHEREAS, because of the Court’s decision, approximately 640 active employees would potentially be eligible for an earlier retirement under the “Rule of 75”, including employees who would presently be eligible to retire earlier than their “normal” retirement age; and

WHEREAS, if execution of the Court’s decision is not stayed, it is likely that some of the plaintiff County employees, who have become or will become eligible to retire from County service with a full pension by virtue of the May 27, 2016, decision, will attempt to do so before an appeal is resolved; and

46 WHEREAS, should the County ultimately prevail in its appeal, those employees
47 would have effectively retired when they were ineligible to do so, and the County's
48 retirement office would be obligated to attempt to recover from those individuals any
49 pension benefits received; and

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51 WHEREAS, premature execution of the trial court's judgment will have a
52 significantly detrimental effect on the administration and financial stability of a publicly-
53 funded pension system, as well as on the taxpayers of the County and the subject
54 employees; and

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56 WHEREAS, the Office of Corporation Counsel recommends an appeal to the
57 Wisconsin Court of Appeals after consultation with the County Pension Board's legal
58 counsel and the County's actuary; and

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60 WHEREAS, the Committee on Judiciary, Safety, and General Services, at its
61 meeting of June 9, 2016, recommended adoption of Corporation Counsel's request
62 (vote 5-1); now, therefore,

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64 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby
65 authorizes Corporation Counsel to file an appeal of the recent adverse court decision in
66 Milwaukee District Council 48 v. Milwaukee County Case No. 11CV16826, to the
67 Wisconsin Court of Appeals.

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