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(ITEM) From Corporation Counsel, requesting authorization to amend an existing Professional Services Contract with Whyte Hirschboeck Dudek S.C., by \$50,000 from \$290,000 to an amount not-to-exceed \$340,000, to provide legal representation of Milwaukee County in O'Donnell Park claims, by recommending adoption of the following:

A RESOLUTION

WHEREAS, a parapet wall of the O'Donnell Park parking structure fell on June 24, 2010, resulting in the death of Jared Kellner and injuries to the Wosinski's and Kellner's; and

WHEREAS, the O'Donnell Park parking structure was closed for an extended period of time, resulting in a loss of revenue to Milwaukee County (the County), and extensive repairs were required to the structure at a significant cost to the County; and

WHEREAS, various parties have filed multiple suits against the County and others related to the death and injuries that occurred and Whyte Hirschboeck Dudek S.C. (WHD), has been retained by the Wisconsin County Mutual Insurance Corporation to represent and defend the County's interests in those lawsuits; and

WHEREAS, WHD acquired extensive knowledge and experience of the facts and issues related to the parking structure construction, repair, and related matters; and

WHEREAS, WHD has extensive specialized knowledge and experience in the area of construction litigation; and

WHEREAS, it is advantageous to the County to maintain the services of WHD to utilize its general legal experience and its specific legal experience related to the parking structure in order to prosecute the County's appellate claims against potentially responsible parties for loss or damages relating to the failure of the O'Donnell Park parking structure; and

WHEREAS, Corporation Counsel has negotiated a contract that provides for a discounted hourly rate not to exceed \$220, and in the event of a recovery by the County, a reduced contingency fee offset by any fees paid at the hourly rate; and

WHEREAS, several amendments have been made to this contract, with the last amendment in September of 2015, increasing the contract to \$290,000, which has now been expended; and

WHEREAS, Corporation Counsel requests authorization to increase the potential fees to be paid under this contract by \$50,000, to a total authorization of \$340,000; and

47 WHEREAS, there are sufficient funds in Org. Unit 1961-Litigation Reserve
48 Account, to pay for the legal services described in this resolution; and
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50 WHEREAS, the Committee on Finance and Audit, at its meeting of June 16,
51 2016, recommended adoption of Corporation Counsel's request (vote 7-0); now,
52 therefore,
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54 BE IT RESOLVED, Corporation Counsel is authorized and directed to amend the
55 existing Professional Services Contract with Whyte Hirschboeck Dudek S.C., to
56 prosecute the claims that Milwaukee County has against potentially responsible parties
57 for losses or damages related to the failure of the O'Donnell Park parking structure, for
58 a total amount not to exceed \$340,000.
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61 jmj
62 06/16/16
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