

Request to approve resolution authorizing Milwaukee County's reimbursement to the ERS Trust of an overpayment of pension benefits in further settlement of Walker, et al., v. Milwaukee County and the Employees' Retirement System of the County of Milwaukee through its Pension Board, Case No. 15-CV-6288 (Milwaukee County Circuit Court), by recommending adoption of the following:

A RESOLUTION

WHEREAS, on or about July 30, 2015, the plaintiffs (the Walkers) filed a lawsuit captioned *Walker v. Milwaukee County and the Employees' Retirement System of the County of Milwaukee through its Pension Board*, in Milwaukee County Circuit Court (the Court), Case No. 15-CV-6288 (the Action), asserting various causes of action relating to their alleged entitlement to and denial by the Pension Board of Protective Survivorship Benefits (PSO Benefits), and alleged violation of the Wisconsin Open Records law; and

WHEREAS, Milwaukee County (the County) and the Pension Board denied the allegations contained in the Walkers' complaints, including in their Fifth Amended Complaint; and

WHEREAS, the Court ordered that the parties attempt to resolve the Action through mediation; and

WHEREAS, the County, the Pension Board, and the Walkers worked diligently and in good faith to compromise their respective claims and defenses, and settle the Action at a mediation conducted by retired Judge John D'Amato; and

WHEREAS, the parties reached an Agreement to settle the Action, which included a payment to the Walkers from the County in the amount of \$110,000, in exchange for, among other things, a full and final release of all causes of action against the County arising from the Walkers' alleged entitlement to PSO Benefits and open record requests, and dismissal of the Action with prejudice; and

WHEREAS, on July 28, 2022, in Adopted File No. 22-820 the Milwaukee County Board of Supervisors approved the \$110,000 settlement payment to the Walkers, consistent with the report and fiscal note contained therein from Agency 194, Org. Unit 1961 – Litigation Reserve, and such payment has been made; and

WHEREAS, as set forth in Adopted File No. 22-820 the Agreement with the Walkers also included an agreement that the overpayment (the Overpayment Settlement) made to the Walkers in the original amount of \$204,752.78, plus interest pursuant to Section 201.24(8.24) Milwaukee County Code of General Ordinances (the Code) shall be forgiven; and

WHEREAS, pursuant to applicable tax law and pursuant to Section 201.24(8.24)(4) of the Code, such Overpayment Settlement amount must be reimbursed to the Employee Retirement System (ERS) Trust by the County; and

WHEREAS, as of October 1, 2022, the Overpayment Settlement amount due to the ERS Trust was \$427,266.15, representing the principal amount owed of \$204,752.78 plus interest of \$222,513.37, calculated pursuant to Section 201.24(8.24)(4) of the Code; and

WHEREAS, Corporation Counsel, Office of Corporation Counsel, recommends the Overpayment Settlement in connection with the settlement with the Walkers; and

WHEREAS, the Committee on Judiciary, Law Enforcement, and General Services, at its meeting of September 9, 2022, recommended adoption of File No. 22-958 as amended (vote 4-0); and

WHEREAS, the Committee on Finance, at its meeting of September 15, 2022, recommended adoption of File No. 22-958 (vote 7-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board) hereby approves the Overpayment Settlement payment by Milwaukee County to the Employee Retirement System Trust, in the principal amount of \$204,752.78 plus interest of \$222,513.37, plus any additional interest calculated pursuant to Section 201.24(8.24)(4), Milwaukee County Code of General Ordinances, through the date of such payment, which amount shall be paid from the contingency fund (Agency 194, Org. 1950); and

BE IT FURTHER RESOLVED, the County Board hereby authorizes the County Executive, Comptroller, Office of the Comptroller, County Clerk, Office of the County Clerk, Corporation Counsel, Office of Corporation Counsel, and any other County official deemed necessary to prepare and execute all documents, instruments, agreements or otherwise, and to perform all actions necessary to complete said reimbursement in final resolution of the settlement with the Walkers.

srb
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