File No.

A RESOLUTION

WHEREAS, Steven Cole received medical and mental health services from the Milwaukee County Department of Health and Human Services—Behavioral Health Division ("BHD") in the Rehabilitation Center Central unit from December 30, 1998 until his death on June 30, 2011; and

WHEREAS, Steven Cole was 62 years old at the time of his death; and

WHEREAS, Robert Cole, Administrator of the Estate of Steven Cole, filed suit on June 26, 2014 against Milwaukee County and its employees in the U.S. District Court for the Eastern District of Wisconsin alleging negligence, violation of civil rights and other claims, with respect to the care given to Steven Cole while a patient and resident of BHD; and

WHEREAS, it is alleged in the lawsuit that Steven Cole had a history of seeking out food, stuffing food in his mouth, eating too quickly, not drinking sufficient fluids while eating, having difficulty swallowing and choking on food, and

WHEREAS, Steven Cole died on June 30, 2011 after grabbing a discarded sandwich from the trash, stuffing it into his mouth and choking, and

WHEREAS, Steven Cole was under one-to-one surveillance by staff at the time of his death, but he acted too quickly to be prevented from engaging in this behavior, and

WHEREAS, the claims filed by Steven Cole are excluded from the insurance coverage provided to Milwaukee County by the Wisconsin County Mutual Insurance Corporation, and

WHEREAS, Milwaukee County, through the Office of Corporation Counsel, has retained outside counsel to defend the suit using funds from Org Unit 1961, Litigation Reserve, and

WHEREAS, the Committee on Judiciary, Safety & General Services, at its meeting on February 17, 2015 approved the filing of an Offer of Judgment in this matter in the amount of $10,000, and

WHEREAS, after the filing of the Offer, negotiations occurred between counsel for the parties resulting in a settlement of the litigation for a payment of $20,000 in return for a release of all liability, and

WHEREAS, the tax levy costs to defend the suit, even if successful through trial, would be substantially greater than the amount of this settlement; and

WHEREAS, with continued denial of liability by Milwaukee County, the parties wish to settle any potential claims in order to avoid further litigation, uncertainty and costs; and

WHEREAS, the Office of Corporation Counsel recommends this settlement; and

WHEREAS, the Committee on Judiciary, Safety and General Services approved this settlement at a meeting on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by a vote of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and

` NOW, THEREFORE,

BE IT RESOLVED, that Milwaukee County approves a payment of $20,000 from Org. Unit 1961, Litigation Reserve, to Pitman, Kalkhoff, Sicula & Dentice S.C. Trust Account, in return for a dismissal of the lawsuit and a release of all potential claims related to the care given to Steven Cole.