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Date: October 12, 2017

To: Theodore Lipscomb, Chairman, Milwaukee County Board of Supervisors
Peggy West, Chairwoman, Finance and Audit Committee
Finance & Audit Committee Members

From: Margaret C. Daun, Corporation Counsel

Subject: File No. 17-706. Recommendations for Additional Expenditure Reductions and Revenues Concerning the 2018 Proposed Budget

In File 17-706, the Board Chairman requested that each County department submit recommendations for expenditure reductions that yield net savings totaling 2% and 5% of tax levy, sales tax or other flexible revenue sources that minimize the loss of other outside revenue or critical services, as well as new revenues beyond what is included in the recommended budget.

The proposed 2018 Office of Corporation Counsel budget has a tax levy of \$1,029,591, with total revenues of \$175,000 and expenditures of \$1,204,591.

Revenues

The OCC's revenues are generated from charging WCMIC for the legal services the OCC provides on litigation matters covered under the County's insurance policy. By January 2018, the OCC plans to have fully implemented Practice Master software across the office, which will improve case management, as well as hourly billable timekeeping. I hope that this will result in increased revenues, but it would be imprudent to build any such assumption into the 2018 budget because (1) Practice Master's full implementation date and its efficacy are not known; and (2) operating testing has not yet commenced. Moreover, while increased billing to WCMIC may generate more "revenue" for the OCC, ultimately, WCMIC premiums and deductibles are paid by the County, and so this "revenue" does not represent true taxpayer dollar savings, unlike revenues generated by the Parks Department, for example. In summary, increased revenues are not a viable option for the OCC to create the tax levy savings sought.

Expenses

The OCC's operating expenses total \$2,346,517. The difference between this figure and the "total expenditures" figure noted above is due to the cross-charges (i.e., revenues) the OCC receives

from other County departments for legal services it provides. The proposed amount of those cross-charges in 2018 is estimated to be \$1,141,926.

The primary driver of operating expenses in the OCC is personnel costs (\$2,159,667 in the proposed 2018 budget). In fact, outside of laying off personnel, there are no other line items that together or individually could create 2% or 5% in savings.

To create 2% or 5% in levy savings (i.e., \$43,430 or \$108,575¹ if based on the proposed 2018 effective tax levy), the OCC would need to lay off between 1-2 individuals, depending upon the salaries of the laid-off employees and what the target reduction is.²

As I explain in my budget presentation, which I am attaching hereto, I believe that these staff reductions would ultimately result in increased costs to the County. We are currently understaffed to handle the volume and complexity of the workload. And because the OCC does not determine its workload, if the OCC has insufficient personnel to handle the statutory mandates of the Office, the County and the OCC will be forced to engage outside counsel to fulfill those mandates, at a much greater cost to the County than either maintaining or increasing personnel levels in the OCC, whether measured on an hourly-rate or absolute-dollar basis.

For context, outside counsel currently engaged by the County charge anywhere from approximately \$200/hour to more than \$400/hour. In sharp contrast, attorneys in the OCC have a real cost to the County on an hourly basis of approximately \$78/hour, excluding pension and health care benefits, or \$126/hour including pension and health care benefits. In addition, over the past five years, outside counsel expenses average around \$2,500,000, which is a low estimate, since departments may not report outside counsel contracts to my office or the Comptroller's Office.

¹ The 2% and 5% calculations noted above utilized the effective tax levy in the proposed budget because it more accurately represents true costs to the County, because it excludes interdepartmental charges and fringe benefit costs. However, if savings are calculated based upon the reported "tax levy," then the dollar savings required equal \$20,591 (2%) or \$51,479 (5%).

² There were only 4 other changes in the proposed 2018 OCC budget: (1) the budgeted amount for "recording and filing fees" (object # 6021) increased by \$5,000 (this is due to increased filings for forfeiture and return of property proceedings); (2) the budgeted amount for "miscellaneous" (object 8166) was reduced to \$0 from \$3,000; (3) the budgeted amount for "miscellaneous legal fees" (object 8405) was reduced to \$0 from \$5,000; and (4) the budgeted amount for "legal fees – general" (object 6106) was increased from \$25,000 to \$50,000 to accommodate a marked increase in demand for transactional, pension, and other specialized non-litigation outside counsel services that are not properly allocable to the litigation reserve fund, which in turn better reflects the legal demands of the County. This represents a net increase of \$22,000. This increase will provide essential funding to support the statutorily mandated functions of the office. Furthermore, providing sufficient funding so that the OCC can retain transactional or other specialized outside counsel on behalf of client departments when necessary, increases transparency about these contracts for the Board (because it ensures that the contract is put through DocuSign and is therefore disclosed to the Board via the monthly reports from the Comptroller's Office) and requires that the departments work with the OCC to contract with the outside counsel and evaluate potential conflicts of interest, and then to monitor the outside counsel's cost efficiency and quality of service, as opposed to the department unilaterally contract without the assistance of the OCC or notice to the Board.

Finally, below I provide a summary listing of the statutory obligations of the Office of Corporation Counsel. Please bear in mind that because there is an office of corporation counsel in Milwaukee County, anywhere a state statute assigns legal duties to the District Attorney, if those legal duties are civil in nature, the OCC in Milwaukee must handle those under Wis. Stat. § 59.42(2)(b)(4).

- Prosecute and defend all civil actions in any tribunal in any jurisdiction where the county is a named party. Wis. Stat. § 59.42(2)(b).
- Advise all county boards, commissions, committees, and departments in all civil matters. *Id.*
- Advise the highway commission. *Id.*
- Review and sign all contracts. *Id.*
- Prosecute public records and open meetings violations. Wis. Stats. §§ 19.37, 19.97.
- Represent the state in return of property proceedings.
- Represent municipalities in civil forfeiture proceedings.
- Represent the state in wage claims. Wis. Stat. § 109.09.
- Review election complaints. Wis. Stat. § 5.05(2m)(c)4.
- Represent the interest of the public in all mental health commitment proceedings. Wis. Stat. § 51.20(4).
- Corporation Counsel is an interested party in guardianship matters. Wis. Stat. § 54.01(17).
