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From the Office of Corporation Counsel, requesting authorization to settle two lawsuits filed by Jennifer L. Aleman against the Employees’ Retirement System of the County of Milwaukee, the Pension Board of the Employees’ Retirement System of the County of Milwaukee, and the County of Milwaukee related to survivorship pension benefits, by recommending adoption of the following:

A RESOLUTION

WHEREAS, Jennifer L. Aleman (Aleman) received survivorship pension benefits because of the death of her husband, Sergio Aleman, who was an employee of Milwaukee County (the County), and died in 2012, while on-duty as a deputy sheriff; and

WHEREAS, Aleman also was paid workers’ compensation benefits by the County; and

WHEREAS, Section 201.24 (11.9) of the Milwaukee County Code of General Ordinances (MCCGO) provides for an offset of amounts paid or payable under workers’ compensation to a member or beneficiaries of a member of the Employees’ Retirement System (ERS), on account of a member’s death; and

WHEREAS, in 2017, ERS and the Pension Board of the ERS began an offset of the survivorship pension benefits amount paid to Aleman to account for workers’ compensation benefits paid to her by the County; and

WHEREAS, in 2018, Aleman filed suit in the County Circuit Court (Circuit Court), *Aleman vs. Employees’ Retirement System of the County of Milwaukee et al, Case No. 18-CV-6291*, seeking a writ of mandamus to require ERS to continue paying the survivorship pension benefits without offset, as well as for recovery of damages and attorney’s fees; and

WHEREAS, in 2018, the Pension Board found that there had been an overpayment to Aleman, and denied her request to exempt her from repayment of the overpayment; and

WHEREAS, in 2018, Aleman filed suit in Circuit Court, *Aleman vs. Pension Board of the Employee’s Retirement System et al, Case No. 18-CV-9215*, seeking review by *certiorari* of the Pension Board’s finding; and

WHEREAS, there is dispute based on the MCCGO, Pension Board rules, and Wisconsin law over the definition of survivorship pension benefit amounts to be paid to Aleman; and

46 WHEREAS, ERS, the Pension Board, the County, and Aleman have diligently
47 pursued a settlement of all current disputes related to the survivorship pension benefit
48 amount to be paid to Aleman, and have arrived at an agreement as to the correct
49 survivorship pension benefit amount; and

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51 WHEREAS, the terms of the settlement agreement have been incorporated into
52 the litigation memo; and

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54 WHEREAS, the settlement agreement has been reviewed by the Director of
55 ERS, as well as the Office of the Comptroller, and Corporation Counsel, Office of
56 Corporation Counsel, and is to be reviewed by the Internal Revenue Service as part of
57 the pending Voluntary Correction Program; and

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59 WHEREAS, the settlement allows matters in dispute to be ended; and

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61 WHEREAS, the Committee on Judiciary, Safety, and General Services, at its
62 meeting of September 5, 2019, recommended adoption of File No. 19-715 (vote 5-0);
63 now, therefore

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65 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)
66 hereby approves the settlement with Jennifer L. Aleman (Aleman) consistent with the
67 County Board report and fiscal note contained in this file; and

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69 BE IT FURTHER RESOLVED, the County Board hereby authorizes the County
70 Executive, Office of the Comptroller, County Clerk, Corporation Counsel, Office of
71 Corporation Counsel, and any other Milwaukee County official deemed necessary to
72 prepare and execute all documents, instruments, agreements or otherwise, and to
73 perform all actions necessary to complete the settlement with Aleman, consistent with
74 the County Board report and fiscal note contained in this file; and

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76 BE IT FURTHER RESOLVED, the sum of up to \$41,000 is authorized to be paid
77 from the Litigation Fund.

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82 S:\Committees\2019\Sept\JSGS 090519\Resolutions\19-715 Aleman Settlement.doc