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*Client-Driven. Community-Focused.*

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TO: Theodore Lipscomb, Sr., Chairman,  
Milwaukee County Board of Supervisors

FROM: Anne Berleman Kearney, Deputy Corporation Counsel *AKK*  
Scott F. Brown, Assistant Corporation Counsel *SFB*

DATED: September 27, 2019

RE: *Innovative Masonry Restoration LLC v. Milwaukee County*  
E.D. Wis. Case. No. 2018-CV-001877-PP

We request that this matter be referred to the Committee on Judiciary, Safety, and General Services, and the Committee on Finance for approval of a settlement of the above-referenced matter.

In January of 2018, Milwaukee County (the "County") contracted with Innovative Masonry Restoration, LLC ("IMR") to complete a construction project involving tunnel repairs at the Milwaukee County Courthouse ("the Project"). That contract arose from IMR's bid that was submitted based on unit quantity estimates (that is, the amount of projected labor and materials based on the necessary repairs) that the County had provided to bidders. Since it was a unit price contract (meaning that the total amount of the contract could vary based on the actual repairs needed), there was a provision in the contract that provided for price adjustments if the actual amount of work deviated substantially from the estimates provided by the County. The calculation of those price adjustments is central to the dispute in this case and resulted in IMR demanding \$200,000 from the County. The parties went to mediation. With the mediator, the County and IMR discussed the price adjustments for the work that had been done and came to an agreement that the County would pay IMR the sum of \$120,000. IMR continues to work on the Project until its completion. IMR will dismiss its lawsuit with prejudice. The settlement payment is to come from the Project's capital budget as administered by DAS. The Project is still within budget even with the settlement payment.

The Office of Corporation Counsel and all other interested parties recommend approval of this settlement.

cc: Sherri Jordan  
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