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3 From Deputy Corporation Counsel, Office of Corporation Counsel, requesting
4 authorization to settle a breach of contract claim regarding the 2010-2011 closure of the
5 O'Donnell Park parking structure and the 2016 closure of the Domes at the Mitchell
6 Park Horticultural Conservatory in *Grandview Management Inc., v. Milwaukee County*,
7 Case No. 2016-CV-4676, by recommending adoption of the following:
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10 **A RESOLUTION**

11 WHEREAS, from October 2002 until December 2017, Grandview Management,
12 Inc. (Grandview) operated a restaurant and full-service event planning and catering
13 business under various lease and catering agreements (O'Donnell Agreements) with
14 Milwaukee County (the County) at the O'Donnell Park Pavilion and adjacent garden
15 plazas; and
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17 WHEREAS, Grandview currently operates a full-service event planning and
18 catering business under a catering agreement (Domes Agreement) with the County at
19 the Mitchell Park Horticultural Conservatory (the Domes), since January 2009; and
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21 WHEREAS, with respect to Grandview's operations at O'Donnell Park, on
22 June 24, 2010, one of the architectural precast panels attached to the exterior of the
23 O'Donnell Park parking structure unexpectedly fell to the ground, causing the County to
24 close the parking structure for over one year to complete repairs; and
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26 WHEREAS, Grandview believes the O'Donnell Agreements required the County
27 to keep the parking structure in a reasonably safe and serviceable condition, and
28 required the County to provide parking; and
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30 WHEREAS, on June 23, 2016, Grandview filed a lawsuit against the County in
31 State court (Case No. 16-CV-4676) alleging that the County had breached the
32 O'Donnell Agreements by failing to keep the parking structure in a reasonably safe and
33 serviceable condition, and by failing to provide parking for the year in which the parking
34 structure was closed; and
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36 WHEREAS, with respect to Grandview's operations at the Domes, on
37 January 29, 2016, the County closed the Arid Dome due to falling concrete, and on
38 February 5, 2016, closed the remaining Domes due to similar safety concerns; and
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40 WHEREAS, the Domes remained closed for three to nine months; and
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42 WHEREAS, Grandview believes the Domes Agreement required the County to
43 provide and maintain the existing buildings and equipment in a safe and clean condition;
44 and
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46 WHEREAS, on April 11, 2016, Grandview filed a notice of claim against the
47 County alleging that the County had breached the Domes Agreement by failing to keep
48 the buildings and equipment in a safe and clean condition; and
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50 WHEREAS, in each instance, Grandview claims that the closure of the facilities
51 caused it substantial damages, which include but are not limited to: lost revenue for
52 cancelled or relocated events, staff parking costs, loss of employees, discounts and/or
53 upgrade costs given to retain business, decreased sales, cost of purchasing and
54 increased waste of inventory, costs of professional services, and payrolls costs; and
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56 WHEREAS, since the lawsuit and notice of claim were filed, Grandview and the
57 County have diligently pursued a settlement of all current disputes related to O'Donnell
58 Park and the Domes; and
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60 WHEREAS, the terms of the settlement have been incorporated into the attached
61 Term Sheet; and
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63 WHEREAS, the Term Sheet has been reviewed by the Department of Parks,
64 Recreation, and Culture, as well as the Offices of the Comptroller, County Executive,
65 and Corporation Counsel; and
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67 WHEREAS, the Offices of the Comptroller and County Executive have
68 recommended four changes, which include the following:
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- 70 1. Instead of receiving seven percent of gross sales (food and beverage) for
71 sales between \$0 - \$600,000 each contract year, the County receives eight
72 percent;
- 73 2. The buy-out schedule of the Domes Agreement, if terminated, must
74 depreciate during the year, either monthly or daily;
- 75 3. The amortization schedule for the heating, ventilation, and air conditioning
76 unit at the Annex must depreciate during the year, either monthly or daily; and
- 77 4. The County must be permitted to close the Domes for inspection; provided,
78 however, it gives adequate notice to Grandview so Grandview does not
79 schedule events during the inspection periods.
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81 ; and
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83 WHEREAS, these recommended changes have been agreed to by Grandview;
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86 WHEREAS, in recognition of these newly agreed to terms, the County has
87 agreed to allow Grandview to book events at the Domes and the Annex through
88 June 30, 2019, pending approval of this resolution; and

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WHEREAS, a settlement of these disputes allows the parties to strengthen their partnership, to continue to provide excellent services to the residents of the County, and to drive revenue to the County; and

WHEREAS, the Committee on Judiciary, Safety, and General Services, at its meeting of January 18, 2018, recommended adoption of File No. 18-99 (vote 3-0); and

WHEREAS, the Committee on Finance and Audit, at its meeting of January 25, 2018, recommended adoption of File No. 18-99 (vote 5-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board) hereby approves the settlement agreement with Grandview Management, Inc. (Grandview), consistent with the attached Term Sheet and recommended changes of the Offices of the Comptroller and County Executive as a complete release and resolution of all claims in the matters related to O'Donnell Park and the Mitchell Park Horticultural Conservatory (the Domes); and

BE IT FURTHER RESOLVED, the County Board hereby authorizes the County Executive, Office of the Comptroller, County Clerk, Office of Corporation Counsel, and any other Milwaukee County official deemed necessary to prepare and execute all documents, instruments, agreements or otherwise, and to perform all actions necessary to complete the settlement with Grandview, consistent with the attached Term Sheet and the recommended changes of the Offices of the Comptroller and County Executive; and

BE IT FURTHER RESOLVED, the sum of up to \$200,000 is authorized to be paid from the settlement proceeds received in *Wosinski, et al. v. Advance Cast Stone, et al.* for heating, ventilation, and air conditioning capital improvements to the Annex, as described in the Term Sheet; and

BE IT FURTHER RESOLVED, an administrative transfer shall be processed by the Office of the Comptroller and the Department of Administrative Services to create a 2017 capital project for the installation of an HVAC unit at the Annex.

jmj
01/25/18
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