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

FROM: Margaret Daun, Corporation Counsel
Anne Berleman Kearney, Deputy Corporation Counsel *ABK*

DATED: November 13, 2019

RE: *Dynamis Properties LLC et al. v. Milwaukee County, Case No. 16-cv-1379*

We request that this matter be referred to the Committee on Judiciary, Safety, and General Services, for approval of a settlement related to a lawsuit brought by Dynamis Properties LLC, Elias Pagoudis, and Kearns Management LLC (“Dynamis”) against Milwaukee County to resolve a dispute involving a lease agreement for a County parking lot, which lot had certain spaces occupied for over 3 years by non-Dynamis construction equipment. Lease payments are disputed because of the construction equipment and restaurant business allegedly lost as a result.

Dynamis purchased a restaurant in 2006 and, at that time, assumed from the County the lease on a parking lot adjacent to the restaurant. The lease terms were renewed in 2008. In 2012, non-Dynamis construction workers and equipment entered the parking lot. The equipment remained in the parking lot for over 3 years without Dynamis’ approval. Dynamis alleged lost restaurant business and sought compensation in its lawsuit for the amount of money withheld at closing (when it eventually sold the restaurant) to compensate for the disputed-and-not-paid lease payments as well as the lost business.

Dynamis filed suit in 2016 and, recently, the circuit court denied the County’s motion for summary judgment and further denied its motion to bar Dynamis’ expert on damages related to lost business. Outside counsel, Crivello Carlson, recommended that the County agree to mediate a resolution of the lawsuit. Outside counsel, the Office of Corporation Counsel and Dynamis all participated in the mediation. The settlement proposed is the result of that mediation and represents a compromise of the claims of Dynamis and the defenses of the County. Specifically, the mediated settlement has Milwaukee County paying Dynamis \$49,000. The funds are to come from the litigation reserve. In return, Dynamis will dismiss with prejudice its lawsuit.

The Office of Corporation Counsel, outside counsel and the Wisconsin County Mutual Insurance Corporation recommend approval of this settlement.