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July 27, 2009

To the Honorable Common Council
Of the City of Milwaukee
Room 205 – City Hall

Re: Resolution relating to the claim of James & Nora Luster
Through her attorney, Law Office of Daniel W. Stevens
C.I. File No. 09-L-69

Dear Council Members:

We return the enclosed document which as been filed with the City Clerk and ask that it be introduce and referred to the Committee on Judiciary & Legislation with the following recommendation.

Claimant, James & Nora Luster, 3919 North 62nd Street, Milwaukee, WI 53216 alleges through their attorney, Law Office of Daniel W. Stevens, Centre of Brookfield, 14380 West Capitol Drive, Brookfield, WI 53005 that on June 18, 2009 they sustained damages when a sewer maintained by the City at or near Dineen Park backed up into their property. They claim damages in the amount of \$50,000.00.

Our investigation reveals that the Infrastructure Services Division (ISD) records indicate that they did not receive a complaint of backwater at that time. Their records also indicate that because of the large amount and strong intensity of the rain during the June 18, 2009 flood, the City experienced flows that exceeded the capacity of the sewer systems. The ISD checked the City main sewer as a result of Mr. & Mrs. Luster's claim

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and found it to be in proper working order. In addition, the culvert box sewer in this area is maintained by Milwaukee County. The City was not negligent in this matter. As such, the City would not be liable. Therefore, we recommend that this claim be denied.

Very truly yours,

GRANT F. LANGLEY
City Attorney

JAN A. SMOKOWICZ
Assistant City Attorney

JAS:beg
Enclosure
1029-2009-1804:148322