**RESOLUTION NO. \_\_\_\_\_ - 2019**

**AUTHORIZING “DARK STORE” LITIGATION SUPPORT**

**Fiscal Impact: [ ] None [ ] Budgeted Expenditure [ X ] Not Budgeted**

***Background:*** In recent years, some property owners, particularly big box retailers, have sought substantial property tax reductions by arguing that the value of their retail building is comparable to the value of abandoned (“dark’) buildings that are in different locations and subject to significant sale restrictions limiting the number of potential buyers and suppressing the value of those “comparable” properties. These large retailers rely on law from other states and their wealth to leverage tax reductions from Wisconsin local governments, including those in Sauk County, who often do not have sufficient resources to fight the big box owner claims.

**It is estimated that 8 dark store challenges to property tax assessments has shifted over $5,000,000 of property tax payments from big box retailers to small businesses and homeowners in Sauk County in the past 10 years.** If the tax liability is not redistributed, Sauk County local government current service levels will be threatened by a $1,635,315.88 revenue loss for non-County local governments, a $1,952,569.45 reduction for school districts, a $336,703.36 reduction for MATC and a $1,139,335.78 revenue loss for Sauk County government. **These losses and tax burden shifts will be permanent unless Wisconsin courts and/or the Wisconsin legislature act to prohibit the “dark store” property tax reduction/shift argument.**

Only a small percentage of Sauk County big box stores have made dark store claims to date. However, Wal-Mart recently filed a dark store challenge against the Village of Lake Delton and there is no current legal restriction on these claims in Wisconsin to prevent even more tax shifting in the future. Moreover, the “dark store” argument is not limited to large retailers and a modified variation could be used by smaller and smaller retail stores to shift more and more tax burden to homeowners. Therefore, it is more likely than not that this problem will worsen without action.

The Wisconsin state legislature came close to adopting bipartisan legislation during the last session. But it was killed in committee by the majority party leadership. While new legislation is being discussed in the current legislative session, there is no guarantee that it will not suffer the same fate as its predecessor in the last session.

**The big box retailers are relying on court decisions from other jurisdictions because there is no current decision from any Wisconsin appellate court that addresses the validity of the “dark store” argument. However, it will take significant resources to fight a legal challenge against the well-funded big box retailers.**

**Sauk County homeowners and Sauk County government are harmed by every successful dark store challenge anywhere in the county.** This resolution seeks to utilize the collective resources of the county and all of its residents to address that harm.

**NOW, THEREFORE, BE IT RESOLVED**, by the Sauk County Board of Supervisors, met in regular session, that the county shall pay one-half of the total costs to defend against and litigate a “dark store” claim in Sauk County that yields a published Wisconsin appellate court decision on that issue and authorizes the Sauk County Corporation Counsel to communicate this support to all Sauk County local government units with property tax assessment responsibility and make a recommendation for such support and litigation participation to the County Board in an appropriate case.

For consideration by the Sauk County Board of Supervisors on April 16, 2019.

Respectfully submitted,

**EXECUTIVE & LEGISLATIVE COMMITTEE**

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peter vedro, Chair WILLIAM HAMBRECHT

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WALLY CZUPRYNKO THOMAS KRIEGL

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DAVID RIEK

**Fiscal Note:** Potentially significant fiscal impact.

**MIS Note:** No information systems impact