

**INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE**

**DATE:** April 18, 2013

**TO:** Marina Dimitrijevic, Chairwoman, County Board of Supervisors

**FROM:** Veronica W. Robinson, PRB Executive Secretary

**SUBJECT:** Resolution to Amend Contract for Gonzalez, Saggio & Harlan LLP for Legal Representation in Personnel Review Board Matters

**REQUEST**

It is requested that this matter be referred to the Committee on Finance, Personnel and Audit.

On April 4, 2013, the PRB was served with a new lawsuit: *James L. Tietjen v. Milwaukee County Personnel Review Board and Milwaukee County*, Case No. 13-CV-003154. Immediate action is necessary to provide representation to the PRB and the PRB has asked its outside counsel to defend it in this matter. In addition, the PRB anticipates another lawsuit against it by Milwaukee County based on its decision in the matter of the Charges for Discharge of Willie McGee, and the PRB will ask its outside counsel to represent it in that matter as well.

Authority is requested to amend the PRB's contract amount with Gonzalez, Saggio & Harlan, LLP ("GSH") by an additional \$90,000, to a total of \$102,000, in order to pay for continued legal services in pending cases, including the matters of James Tietjen and Willie McGee, as well as for any new legal proceedings against the PRB and its ongoing need to receive advisory opinions and other legal services from its outside counsel pertaining to matters brought before the PRB. The costs for the additional amount for PRB outside legal counsel will be charged to the Department of Health and Human Services and/or the Behavioral Health Division.

Corporation Counsel has advised that it is unable to provide representation in these cases due to conflicts of interests with the PRB and/or the fact that Corporation Counsel has represented County departments before the PRB and cannot simultaneously represent the PRB and departments that appeared before the PRB in Circuit Court reviews.

Because of the emergency nature of the need, it is requested that this contract and amendment be exempted from the provisions of section 56.30(2)(b) and Chapter 42 of the ordinances. GSH is a minority-owned law firm, but is no longer considered a DBE by CDBP due to its size and success. However, the Office of the Personnel Review Board shares labor and other resources with the Office of the Ethics Board at a 75/25 ratio and

the Ethics Board does use a DBE firm for its outside counsel. Therefore, taking into consideration the dual nature of the Offices, the departmental requirement to utilize 17% DBE firms is met.

The Department of Administrative Services has confirmed that sufficient funds exist in the DHHS and/or BHD org units for this request.

### **HISTORY & JUSTIFICATION**

Since 2004, the PRB has continuously used Gonzalez, Saggio & Harlan, LLP (“GSH”) as its outside counsel for advisory opinions and, in limited circumstances, to assist with the drafting of legal findings and other legal documents. In 2012, GSH was paid \$17,396.60, an increase from the prior year, and no outstanding billings were carried over to 2013. On February 5, 2013, the Personnel Review Board (“PRB”) renewed its contract for legal representation from GSH in the amount of \$12,000.60 and a modest \$5,769.40 was carried over from 2012. Although it was anticipated that the need for PRB outside legal services in 2013 would remain similar to the amount of the 2012 expenditures, in fact, the need has significantly increased, in large part due to both appeals of PRB decisions to Circuit Court by employees and the possibility of additional appeals by Milwaukee County departments. Substantially greater legal services are also anticipated for the PRB’s regular matters than were anticipated in its 2013 budget.

The PRB continues to use GSH to handle proceedings in court including, most recently:

- *State of Wisconsin ex Rel. Amy Hazen v. Milwaukee County Personnel Review Board and David A. Clarke, Jr. as Sheriff of Milwaukee County*, Case No. 12-CV-006035.

In addition, the PRB has requested opinions from its outside counsel regarding procedural matters and regarding complex, new or high profile matters most recently including, but not limited to, the matters of:

- *The suspension of Lieutenant William Brown, Milwaukee County Sheriff’s Office*
- *The discharge of Reginald Bell, Child Support Enforcement*
- *The discharge of Willie McGee, Behavioral Health Division*
- *The grievance of Dr. Robert Montgomery, Behavioral Health Division*
- *The discharge of James L. Tietjen, Department of Health & Human Needs*

Currently, the PRB has eighteen (18) additional regularly scheduled meetings remaining in calendar year 2013 and one (1) scheduled special meeting. (In 2012, the Personnel Review Board needed to schedule four (4) special meetings in addition to its regularly scheduled 26 meetings per year.) The PRB currently has eighty-one (81) matters scheduled for hearing through October 29, 2013 and anticipates scheduling additional hearings at each of its remaining meetings in 2013. (The PRB schedules a minimum of four (4) hearings per meeting.)

The PRB anticipates that the funds adopted in its 2013 budget will be insufficient to cover the costs associated with its defense in the identified matters and to cover the costs associated with other legal services provided by its outside counsel. To date, the PRB has incurred and paid \$4,900.50 in legal fees, which represents 28% of total funds available in its 2013 budget for private legal counsel.

*The requested increased amount is a best estimate of the legal fees required for these matters, but is only an estimate as the actual amount of fees that will be required is unknown.*

cc: Amber Moreen  
Kelly Bablitch  
Carol Mueller  
Steve Cady  
Raisa Koltun