

## A RESOLUTION

To authorize the Executive Secretary of the Personnel Review Board (“PRB”) to amend the contract with Gonzalez, Saggio & Harlan, LLP (“Gonzalez, Saggio & Harlan”) to provide legal representation to the PRB.

WHEREAS, the PRB has required and will continue to require the assistance of outside legal counsel with specialized and historical knowledge of the PRB’s activities and decisions and with experience in the area of labor, employment, and administrative law to advise and represent the PRB in employee disciplinary matters and grievance appeals that come before the PRB and in appeals of PRB decisions to Circuit Court, and

WHEREAS, utilizing 2013 adopted budget funds, the PRB has a contract with Gonzalez, Saggio & Harlan dated February 5, 2013 for that purpose, and

WHEREAS, continuously since 2004 and renewing in February, 2013 Gonzalez, Saggio & Harlan has advised and represented and continues to advise and represent the PRB on, most recently, matters including but not limited to:

- *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, and

WHEREAS, the PRB has needed to request an opinion from its outside counsel regarding procedural matters and regarding, most recently, 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 Services, and*

WHEREAS, the PRB calendar as of April 17, 2013 has eighty-one (81) hearings scheduled through October 29, 2013, any one of which may require the PRB to utilize the legal services provided by Gonzalez, Saggio & Harlan, and

WHEREAS, the PRB as of April 17, 2013 has an additional eighteen (18) regularly scheduled meetings at which it anticipates the scheduling of new matters and the hearing of as yet unscheduled matter for which the PRB may require the legal services provided to it by Gonzalez, Saggio & Harlan, and

WHEREAS, it is advantageous to the PRB to continue to retain the services of Gonzalez, Saggio & Harlan to provide advice and representation in matters brought before the PRB because of its extensive background and experience advising and representing the PRB and its continuing representation of the PRB in pending litigation identified above, and

WHEREAS, it is expected that the need for these services will be significant as a result of the currently scheduled hearings, pending litigation, and anticipated matters that require the firm's continued advice and representation, and

WHEREAS, the PRB Secretary estimates the need for a minimum additional \$90,000.00 to provide those services in 2013, which amount represents 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, and

WHEREAS, the total sum of \$17,396.60 was paid to Gonzalez, Saggio & Harlan in 2012 and no outstanding billings were carried over to 2013, but by April 17, 2013, the sum of \$4,900.50 – 28% of the PRB's funds available for private legal counsel – has already been paid to Gonzalez, Saggio & Harlan for the various legal services described in this resolution and additional billings are being incurred, but have not yet paid, and

WHEREAS, the PRB was just served with a new lawsuit: *James L. Tietjen v. Milwaukee County Personnel Review Board and Milwaukee County*, Case No. 13-CV-003154, and the PRB anticipates another lawsuit against it by Milwaukee County based on its decision in the Willie McGee matter listed above, and

WHEREAS, 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, and

WHEREAS, the nature of this request is an emergency, 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, and

WHEREAS, Gonzalez, Saggio & Harlan is a minority-owned law firm, but is no longer considered a Disadvantaged Business Enterprise (DBE) by the Office of Community Business Development Partners (CDBP) due to its size and success, but the combined Offices of the PRB and Ethics Board meet the 17% DBE participation requirement, and

WHEREAS, the Department of Administrative Services has confirmed that sufficient funds exist in the DHHS and/or BHD org units to pay for the legal services described in this resolution,

NOW THEREFORE,

BE IT RESOLVED that the Executive Secretary of the PRB is authorized and directed to amend the contract with Gonzalez, Saggio & Harlan, LLP to advise and represent the Personnel Review Board in employee disciplinary matters, and grievance

appeals, and appeals of PRB decisions to Circuit Court, for a total amount not to exceed \$102,000 for payment of continuing legal services.