

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: December 2, 2013

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Paul Bargren, Corporation Counsel *PB*
Mark A. Grady, Deputy Corporation Counsel *MAG*

SUBJECT: Contract Amendment for Whyte, Hirschboeck & Dudek S.C. relating to O'Donnell Park claims

It is requested that this contract amendment be referred to the Committee on Finance, Personnel and Audit. Pursuant to §59.52(31)(b)(1), Stats., the County Executive has approved an amendment to this contract, authorizing an additional sum of \$75,000, for a total contract sum of \$200,000 and the contract will take effect unless the Committee takes action to reject or affirm the contract within 14 days (but see below regarding fund transfer).

On February 2, 2012 (File No. 12-79), the County Board approved a contract with Whyte, Hirschboeck & Dudek S.C. ("WHD") for legal representation of Milwaukee County to pursue the County's claims *against* potentially responsible contractors for repair costs, lost revenue and other damages. The contract was for up to \$50,000. On December 20, 2012, the County Board approved an amendment to that contract (File No. 12-924) for an additional \$50,000, for a total of \$100,000. In July, 2013, the County Executive approved an amendment for an additional \$25,000, for a total of \$125,000. That amendment was submitted to the County Board under §59.52(31)(b)(1), Stats., which took no action on the amendment.

As you know, the case just completed trial. We exhausted the previously approved funds prior to the start of trial and this amendment is the estimate for fees related specifically to pursuing the County's claims through trial and a rough estimate for fees related to post-trial litigation.

The contract amendment is contingent upon a fund transfer of \$75,000 from the 2013 Appropriation for Contingencies to the 2013 Litigation Reserve Account, Org. Unit 1961. That fund transfer is being submitted by DAS to the County Board in this December cycle to provide the needed funds. Based on other allocations, the 2013 Litigation Reserve Account will be exhausted and will not contain funds for this amendment.

cc: Amber Moreen
Kelly Bablitch
Janelle Jensen
Steve Cady
Raisa Koltun