

**INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE**

**DATE:** January 5, 2012

**TO:** Lee Holloway, Chairman, County Board of Supervisors

**FROM:** Mark A. Grady, Deputy Corporation Counsel

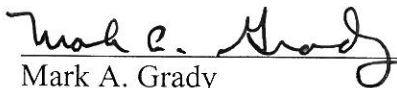
**SUBJECT:** Resolution to Authorize a Contract with Whyte, Hirschboeck & Dudek S.C. relating to O'Donnell Park

It is requested that this matter be referred to the Committee on Finance and Audit and the Committee on Judiciary, Safety & General Services.

Authority is requested to enter into a contract with Whyte, Hirschboeck & Dudek S.C. ("WHD") to represent Milwaukee County for the prosecution of Milwaukee County's claims against potentially responsible parties for loss or damages relating to the failure of the O'Donnell Park parking structure. Milwaukee County is currently a defendant in several lawsuits related to the death of Jared Kellner and injuries to the Kellners and Wosinskis. Wisconsin County Mutual Insurance Corporation has selected WHD to represent Milwaukee County in those lawsuits. As a result, WHD has become intimately familiar with the construction history of O'Donnell Park and the voluminous documents involved. WHD is therefore uniquely qualified to represent Milwaukee County for its claims against others for potential recovery of repair costs and lost revenue. In addition, use of WHD is fiscally efficient. Milwaukee County will be required to pay WHD for only those fees that are uniquely related to pursuing Milwaukee County's claims; any fees generated by WHD for the defense of Milwaukee County are covered by the insurance policy with the Mutual.

A potential contract has been negotiated with WHD that will provide for payment at a reduced hourly rate of \$220. Because of the efficiency of utilizing WHD for this work, the contract will be for hourly fees not to exceed \$50,000.00. In addition, a contingency fee has been agreed to in the event of recovery by Milwaukee County. Any hourly fees that have been paid will be deducted from any contingency fee. The contract will be exempt from the provisions of §56.30 of the County Ordinances.

Sufficient funds exist in the Litigation Reserve Account for these fees.

  
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Mark A. Grady

cc: County Executive Chris Abele  
Carol Mueller  
Linda Durham