



# Board Agenda Item 33

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DATE: December 12, 2023

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Attorney Firm Agreement for General Liability, Auto Liability, Employment Law, and Medical Malpractice Services

RECOMMENDED ACTION(S):

1. **Make a finding that it is in the best interest of the County to suspend the competitive bidding process consistent with Administrative Policy No. 34 for obtaining the services of special counsel to assist the County; and**
2. **Approve and authorize the Chairman to execute an Agreement with the firm Porter Scott to represent the County and its employees in General Liability, Auto Liability, Employment Law, and Medical Malpractice legal services cases, effective December 12, 2023, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed \$7,500,000.**

There is no increase in Net County Cost associated with the recommended actions. Approval of the recommended actions will allow the County to maintain Employment Law, General Liability, Auto Liability, and Medical Malpractice defense legal services at a maximum annual cost of \$1,500,000. The firm was interviewed and selected based on their experience with public entity tort claims filed against public agencies that are similar to the County. Their services will be funded with annual budgetary contributions based on actuarial projections.

ALTERNATIVE ACTION(S):

The Board can reject the recommended firms; however, this would result in a reduction in the number of contracted vendors to handle the defense of general liability related claims against the County.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The Department's request to suspend the competitive bidding process is consistent with Administrative Policy No. 34. The selected firm provides the specialized expertise and availability to effectively defend the County in high-profile general liability litigated claims. The Internal Services Department Purchasing division concurs with the Department's request to suspend the competitive bidding process.

FISCAL IMPACT:

There is no additional Net County Cost associated with the recommended actions. The costs associated with the attorney services are a part of the Risk Management Internal Service Fund (ISF), Org 8925, General Liability and Medical Malpractice Rates which are determined actuarially. Sufficient appropriations and estimated revenues for this Agreement have been included in the Risk Management Org 8925 FY 2023-24 Adopted Budget and will be requested in future budgets for the duration of the term.

DISCUSSION:

On January 7, 2020, your Board approved Agreements No. 20-016 with Liebert, Cassidy and Whitmore, No. 20-017 with McCormick Barstow, LLP, No. 20-018 with Overstreet and Associates, No. 20-020 with Weakley & Arendt, and No. 20-021 with Stammer, McKnight, Barnum & Bailey; on August 24, 2021, your Board approved Agreement No. 21-239 with Ferguson, Praet & Sherman, and Agreement 21-330 with Aleshire & Wynder, LLP; and on May 17, 2022, your Board approved Agreement No. 22-211 with Prentice Long to provide General Liability and Employment Law legal services for the County's General Liability and Employment Law Programs and malpractice legal services for the County's General Liability and Medical Malpractice Programs.

Since those Agreements were executed, two of the appointed firms dissolved, and one firm no longer had the capacity to take on County of Fresno cases due to a long-term illness in one of the Partners. As a result, the County had limited options of legal defense firms to assign general liability litigated cases. The selected firm, Porter Scott, was identified to have the required experience in public entity tort claims and was selected based on their prior experience with cases that involved jail deaths, officer-involved shootings, serious injuries, dangerous conditions, and employment matters. The firm has also been previously retained by the County, engaging in legal service with County Counsel's Office.

Your Board's approval of the recommended action will allow the County to continue to receive essential General Liability, Auto Liability, Employment Law, and Medical Malpractice defense services for the County's Self-Insured General Liability Program.

REFERENCE MATERIAL:

BAI #45, May 17, 2022  
BAI #33, August 24, 2021  
BAI #26, January 7, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Acquisition Request Form  
On file with Clerk - Agreement with Porter Scott

CAO ANALYST:

Paige Benavides