



# Board Agenda Item 29

DATE: December 15, 2015

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, Interim Director of Personnel Services

SUBJECT: Second Amendment to Agreement with McCormick, Barstow LLP, Sheppard, Wayte, & Carruth, LLP

RECOMMENDED ACTION(S):

**Approve and authorize the Chairman to execute a Second Amendment to Agreement No. 12-084 with McCormick, Barstow, Sheppard, Wayte, & Carruth, LLP to increase their fee schedule by approximately 7% for employment law legal services, effective February 22, 2016 through February 21, 2017 with no increase in the annual contract maximum of \$1,000,000.**

Approval of the recommended action will revise the fee schedule for the Agreement with McCormick, Barstow, Sheppard, Wayte, & Carruth, LLP (McCormick, Barstow LLP) effective February 22, 2016 through February 21, 2017. The recommended action will allow the law firm to continue to defend the County and its employees in General Liability and Medical Malpractice matters. McCormick, Barstow LLP requested a seven percent (7%) increase from the prior rate schedule; no rate increase has been requested in the last four (4) years of the Agreement. The agreement maximum will continue to be \$5,000,000 with an original effective of February 21, 2012 through February 21, 2017.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended action although; this would result in the lack of a contracted vendor to perform defense litigation for the County's General Liability and Medical Malpractice matters.

FISCAL IMPACT:

There is no increase in net County cost associated with this recommended action. The total estimated cost is included in the Risk Management Internal Service Fund (ISF), Org 8925, General Liability and Medical Malpractice Rates which are determined actuarially. The estimated increase for FY 2015-16 (February 22, 2016 to June 30, 2016) is \$7,980.00 and \$15,940.00 for FY 2016-17 (July 1, 2016 to February 21, 2017). Sufficient appropriations for this Agreement have been included in the FY 2015-16 Risk Management Org 8925 Adopted Budget and will be requested in the FY 2016-17 budget.

DISCUSSION:

Personnel Services, through the Risk Management division, administers the General Liability and Medical Malpractice Program for the County. Based on the severity and complexity of the claim filed, either Risk Management staff will serve as representative in settlement negotiations and court proceedings or it will assign the case to County Counsel or identified outside legal firms. When a case is assigned to outside counsel, Risk Management determines which firm (or specific attorney), based on experience and expertise, will put the County in the best position to defend the case.

In accordance with the County's competitive bid process, on September 21, 2011, Request for Proposal No. 946-4997 for Employment Law Legal Services was issued and proposals were received and reviewed by a committee. McCormick, Barstow LLP was selected and the contract was approved by your Board on February 21, 2012.

McCormick, Barstow LLP sent a notice dated August 6, 2015, stating they no longer wished to provide employment law legal services for the County at the current professional rate structure for year five (5) (February 22, 2016 to February 21, 2017) of their contract and submitted a proposal for a new rate schedule. The suggested rate schedule is an approximate seven percent (7%) increase from the prior rate schedule and the law firm had not requested a rate increase for the past four (4) years. See Attachment B - Fee Schedule.

The rate schedule is appropriate for the services that McCormick, Barstow LLP will continue to provide for the County and will not result in an increase to the existing maximum annual compensation of \$1,000,000. The Risk Management division recommends approval of the fee schedule increase and plans to release a new Request for Proposal for Employment Law Legal Services in FY 2016-17.

REFERENCE MATERIAL:

BAI#51, August 19, 2014, First Amendment to Agreement No. 12-084  
BAI#36, February 21, 2012, Agreement No. 12-084

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Second Amendment to Agreement No. 12-084

CAO ANALYST:

Samantha Buck