



Board Agenda Item 29

DATE: August 21, 2018

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, Director, Department of Human Resources

SUBJECT: Retroactive Agreement with Fishman, Larsen & Callister, a Professional Corporation, for legal representation of County employees

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 Fishman, Larsen & Callister, a Professional Corporation, for representation of County employee(s) who is/are listed in a lawsuit, effective July 9, 2018 through July 8, 2023, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed \$3,750,000.**

Approval of the recommended actions will allow Fishman, Larsen & Callister, a Professional Corporation, to provide legal representation of employee(s) for the County (\$750,000 annually). There is no increase to Net County Cost. This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative action as County Counsel and our outside contracted attorneys cannot handle this matter.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The Department's request to waive the competitive bidding process is consistent with Administrative Policy No. 34 when obtaining the services of legal counsel to assist the County. The Internal Services Department - Purchasing concurs with the Department's request to waive the competitive bidding process.

RETROACTIVE AGREEMENT:

The recommended Agreement is retroactive to July 9, 2018 due to the fact that an employee was served on June 19, 2018, and the file was already referred for representation.

FISCAL IMPACT:

There is no increase in Net County Cost associated with this action. The total estimated cost to the County for the legal services is included in the Risk Management Internal Service Fund (ISF). All costs will be recovered through rates charged to County departments for general liability and medical malpractice coverage by the Risk Management ISF.

DISCUSSION:

Risk Management contracts with various law firms to represent the County in the General Liability program. Attorneys currently under contract cannot represent County employees who are involved in the lawsuit due to a possible conflict of interest such as employee(s) whose conduct may be considered outside the course and scope of their duties. In an abundance of caution, it is necessary to contract with Fishman, Larsen & Callister, a Professional Corporation, who specializes in employment law, and who does not represent the County of Fresno in any lawsuits.

ATTACHMENTS:

Suspension of Competition Request Form
On file with Clerk - Agreement with Fishman, Larsen & Callister, a Professional Corporation

CAO ANALYST:

Juan Lopez