



County of Fresno

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Legislation Text

File #: 21-0684, **Version:** 1

DATE: August 24, 2021

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Attorney Firm Agreements for General Liability, Auto Liability, Employment Law and Medical Malpractice Legal 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 Ferguson, Praet & Sherman to represent the County and its employees in General Liability, Auto liability, Employment Law and Medical Malpractice legal services cases, effective August 24, 2021, 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.**
- 3. 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**
- 4. Approve and authorize the Chairman to execute an Agreement with the firm Aleshire & Wynder, LLP to represent the County and its employees in General Liability, Auto liability, Employment Law and Medical Malpractice legal services cases, effective August 24, 2021, 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 \$3,000,000 (\$1,500,000 maximum per agreement). The firms were 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, with no additional Net County Cost.

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 waive the competitive bidding process is consistent with Administrative Policy No. 34. Both selected firms provide the specialized expertise and availability to effectively defend the County in high-profile General Liability litigated claims. The ISD-Purchasing 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 these 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 2021-22 Recommended 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, & Whitmore, No. 20-017 with McCormick Barstow, LLP, No. 20-018 with Overstreet & Associates, No. 20-019 with Parker, Kern, Nard & Wenzel, No. 20-020 with Weakley & Arendt, and No. 20-021 with Stammer, McKnight, Barnum & Bailey, to provide General Liability Employment Law legal services for the County's General Liability Employment Law Program. Malpractice legal services for the County's General Liability and Medical Malpractice Programs.

After a comprehensive Risk Assessment conducted by Management Strategies Group of the Sloan, Sakai, Yeung & Wong LLP in 2020, it was recommended that the County select additional outside Counsel for litigation assistance in high-profile cases. Of the firms contacted and interviewed, the two firms selected, Ferguson, Praet & Sherman and Aleshire & Wynder, LLP, were identified to have the required experience in public entity tort claims and were also selected based on their prior involvement with cases that involved jail deaths, serious injuries, dangerous conditions and employment law, as well as officer-involved shootings.

Section 12 of the Agreement gives the Risk Manager the authority to provide written consent on behalf of the County to allow assignment, transfer, or subcontract of the rights or duties of the Agreement. This may be appropriate in circumstances that a specialized service is needed in litigation but is not directly provided by the firm. In these cases, the firm will seek those services from an outside source, and the County will reimburse the firm for those services.

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 #26, January 7, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Acquisition Request Forms (2)
On file with Clerk - Agreement with Ferguson, Praet & Sherman
On file with Clerk - Agreement with Aleshire & Wynder, LLP

CAO ANALYST:

Yussel Zalapa