

COUNTY OF SONOMA AGENDA ITEM SUMMARY REPORT			Clerk of the Board Use Only Meeting Date Held Until ___/___/___ ___/___/___	
			Agenda Item No: Agenda Item No: _____ _____	
Department: Human Resources			() 4/5 Vote Required	
Contact: Marcia Chadbourne	Phone: (707) 565-2473	Board Date: August 18, 2009	Deadline for Board Action: August 18, 2009	
Agenda Short Title: Legal Services Agreements.				
Requested Board Action: 1) Authorize County Counsel to execute renewals of legal services agreements for tort claims and civil litigation legal services with the following law firms: Senneff, Freeman & Bluestone; Geary, Shea, O'Donnell, Grattan & Mitchell; Spaulding, McCullough & Tansil; and Bertrand, Fox & Elliott for the term 7/1/09 through 6/30/10. 2) Authorize County Counsel to execute renewal of legal services agreements for specialized legal services as necessary with the following law firms for various specified terms: Jackson-Lewis; Suntag & Feuerstein; and HansonBridgett, LLP.				
CURRENT FISCAL YEAR FINANCIAL IMPACT				
<u>Expenditures</u>		<u>Add'l Funds Requiring Board Approval</u>		
Estimated Cost	\$ 1,780,000	Contingencies (Fund Name:)	\$	
Amount Budgeted	\$ 1,780,000	Unanticipated Revenue (Source:)	\$	
Other Avail Approp (Explain below)	\$ _____	Other Transfer(s) (Source:)	\$ _____	
Additional Requested:	\$	Add'l Funds Requested:	\$	
Explanation (if required): Costs depend on future litigation - appropriations included in the Liability ISF proposed budget for FY 2009/10 Index # 596148 - \$1,000,000 budgeted in legal services sub object, remainder in claims expense sub object if required. Costs for HansonBridgett services budgeted in Employee Benefits General Fund Index # 076018.				
Prior Board Action(s): 7/22/08 - Approved various attorney retention agreement renewals and authorized County Counsel to execute. 2/26/08 - Approved increase in contract amount with Hanson Bridgett, LLP. 7/12/05 - Approved increases in defense counsel hourly rates and authorized County Counsel to execute renewals. 3/12/02 - Approved updated attorney retention agreements, increased hourly rate and authorized County Counsel to execute renewals.				
Alternatives – Results of Non-Approval: Internal resources are not sufficient to meet the demands associated with civil tort litigation and other legal services.				

Background:

1) The first requested Board action is to authorize County Counsel to execute renewals of the agreements for legal services with various outside defense firms who handle the County's regular civil tort litigation for the term 7/1/09 through 6/30/10. These law firms are Senneff, Freeman & Bluestone; Geary, Shea, O'Donnell, Grattan & Mitchell; Spaulding, McCullough & Tansil; and Bertrand, Fox & Elliott.

Background:

The County of Sonoma has been self-insured for general and automobile liability since 1986. Since that time, the County has retained various outside defense firms to represent the County in civil tort litigation filed in State and Federal Courts. These law firms are assigned cases based upon their ability and experience with public entity defense. Board Resolution No. 85-2577 delegates responsibility for the oversight and management of civil litigation to County Counsel in consultation with the Risk Manager and both departments are responsible for the coordination and oversight of the work performed by outside counsel. Risk Management is responsible for the administration of all tort claims and litigation. County Counsel provides legal oversight and advice and since 1999, there has been 1.0 FTE attorney allocation in County Counsel assigned to provide these services to Risk Management. Other County Counsel staff provides additional oversight and support services, depending upon the nature of the litigated matter.

All costs associated with tort litigation, including County Counsel's costs are a direct charge to the Liability self-insurance fund administered by Risk Management. County Counsel and Risk Management are also responsible for contract oversight and to ensure that the services provided by counsel meet the County's expectations for contractual performance.

The County contracts with various law firms to provide necessary legal services for civil tort litigation. They are Senneff, Freeman & Bluestone; Geary Shea, O'Donnell, Grattan & Mitchell; Spaulding, McCullough & Tansil; and Bertrand, Fox & Elliott. The Board previously approved retention of these firms and extended authority to County Counsel in 2002 to execute annual renewals of these specific agreements. In July 2005, your Board approved a 12% increase in the hourly rate charged by these firms, and in July 2008, your Board approved a 6% increase in the hourly rate charged by these firms.

The current hourly rate for attorneys with 7 or more years of experience is \$185 per hour. Attorneys with less than 7 years experience are \$155 per hour. Paralegals are paid \$95 per hour. A market analysis of what other counties pay for similar services was conducted and ranged from \$175 - \$250 per hour for routine tort civil defense legal services, and the hourly rate charged by County Counsel increased to \$205 effective July 1, 2009. A chart illustrating these rates is attached as Exhibit A.

Background (continued):

A Request for Proposal (RFP) for tort claim litigation and other legal services was planned for FY 0809 but due to workload constraints, this RFP was not completed. Accordingly 60 day renewals were executed, through August 31, 2009, pending your Board's approval of these renewals through June 30, 2010. All legal services provided by each of these firms have been excellent, and are provided at good value to the County. The requested Board action is to authorize the renewal of the agreements with these firms at the current rates for the term 7/1/09 through 6/30/10. Agreements are fee for service and will have contract limits as follows: Senneff, Freeman, & Bluestone - \$500,000; Geary, Shea, O'Donnell, Grattan, & Mitchell - \$500,000; Spaulding, McCullough & Tansil - \$500,000; and Bertrand, Fox, & Elliot - \$100,000. Should services be required that exceed these contract limits, authorization for contract amendments will be sought from your Board. During the term of these agreements County Counsel and Risk Management will conduct an RFP process of law firms who provide tort claim litigation and other legal services to the County. Recommendations for new agreements will be presented following this process to your Board prior to June 30, 2010.

2) The second requested Board action is to authorize County Counsel to execute renewals of various legal services agreements for specialized tort litigation and other legal services as necessary with the following law firms: Jackson-Lewis; Suntag & Feuerstein; and HansonBridgett, LLP

In recent years, the County has been faced with a variety of matters related to employment law, including issues related to employment discrimination, employee benefits, retirement and taxation, as well as cases requiring specialized skills and experience. As it was necessary to retain counsel to address some of these matters immediately, initial agreements not to exceed \$25,000 were executed by County Counsel, pursuant to the County's Purchasing Ordinance and authority provided in Resolution No. 95-0328 with the following firms: Jackson Lewis, LLP; and Suntag & Feuerstein. In July 2008, your Board approved amendments to extend contract limits beyond \$25,000, and authorized County Counsel to renew these agreements as necessary. Due to the specialized nature of the legal services provided by these law firms the hourly rates are higher and are illustrated in Exhibit B.

Due to the specialized nature and level of complexity of these matters, and ongoing litigation, it is recommended that the County continue to contract with these firms and that your Board continue to extend authority to County Counsel to execute contract renewals as necessary to complete current cases assigned to these firms. Selection of these firms for future case assignment will depend on the results of the RFP process. In the mean time agreements will be renewed as needed with fee for service contract limits as follows: Jackson Lewis, LLP (9/01/09 through 8/31/10) - \$30,000; and Suntag & Feuerstein (4/17/10 through 4/16/11) - \$100,000.

The work performed under all outside counsel agreements is provided in adherence to the County's Litigation Management Guidelines, incorporated into each agreement as appropriate. These guidelines are closely monitored, requiring attorneys to provide a comprehensive written case analysis, along with a proposed litigation strategy and budget for each case assignment. Regular updates are provided to County Counsel and Risk Management, who are in continuous communication with attorneys regarding assigned cases. Attorneys are also required to provide monthly invoices which are reviewed by County Counsel and Risk Management for appropriateness of the work and the charges incurred.

Background (continued):

Since 2007, the County has contracted with HansonBridgett, LLP, to provide legal services and consultation on various compensation issues, compliance with federal tax compensation limits (IRS code sec. 401(a) (17)), compliance with FICA tax issues for 457 plan, consultation on Deputy Sheriff's Association (DSA) Retiree Medical Trust, retiree medical issues, and tax and benefit issues related to the County's OPEB liability.

The recommended action is for your Board to authorize County Counsel to execute an agreement with Hanson Bridgett, LLP for the term 10/31/2008 through 12/31/09 in the amount of \$50,000. This new contract will allow payment for work your Board previously authorized back in February 2008 as well as additional consulting work to complete projects by December 31, 2009.

Summary

The agreements proposed in this report are all fee for service contracts with no minimum or maximum amount of work guaranteed. Actual costs will depend on future litigation. Should services be required that exceed these contract limits, authorization for contract amendments will be sought from your Board. The chart below summarizes the proposed contract limits, and a chart displaying the historical cost of services provided by these firms is attached as Exhibit C.

Firm	Contract limit
<u>Senneff, Freeman & Bluestone</u>	<u>\$500,000</u>
Geary, Shea, O'Donnell, Grattan & Mitchell	\$500,000
Spaulding, McCullough & Tansil	\$500,000
Bertrand, Fox & Elliott	\$100,000
Jackson-Lewis	\$30,000
Suntag & Feuerstein	\$100,000
HansonBridgett, LLP	\$50,000
Total	\$1,780,000

Recommended Board Action:

- 1) Authorize County Counsel to execute renewals of legal services agreements for tort claims and civil litigation legal services with the following law firms: Senneff, Freeman & Bluestone; Geary, Shea, O'Donnell, Grattan & Mitchell; Spaulding, McCullough & Tansil; and Bertrand, Fox & Elliott for the term 7/1/09 through 6/30/10.

- 2) Authorize County Counsel to execute renewal of legal services agreements for specialized legal services as necessary with the following law firms for various specified terms: Jackson-Lewis; Suntag & Feuerstein; and HansonBridgett, LLP.

Attachments:
Exhibits A, B, and C.

On File With Clerk:
Proposed Legal Services Agreement template.

CLERK OF THE BOARD USE ONLY

Board Action (If other than "Requested")

Vote: