



Mendocino County

Legislation Text

File #: 17-0653, **Version:** 1

To: Board of Supervisors

From: Risk Management and Executive Office

Meeting Date: September 12, 2017

Department Contact: Alan D. Flora

Phone: 463-4441

Department Contact: Heather Correll Rose

Phone: 463-4441

Item Type: Regular Agenda

Time Allocated for Item: 15 Mins.

Agenda Title:

Discussion and Possible Approval of Amendment to Purchasing Agent Insurance Reimbursable Agreement 17-36 with Liebert Cassidy Whitmore (LCW), Increasing the Total Compensation by \$300,000 (from \$50,000, for a New Agreement Total of \$350,000) and Extending the Termination Date from June 30, 2017 to October 31, 2017, for Litigation Services for *Turner v. County of Mendocino* (Sponsor: Executive Office)

Recommended Action/Motion:

Approve Amendment to Purchasing Agent insurance reimbursable Agreement 17-36 with Liebert Cassidy Whitmore (LCW), increasing the total compensation by \$300,000 (from \$50,000, for a new Agreement total of \$350,000) and extending the termination date from June 30, 2017 to October 31, 2017, for litigation services for *Turner v. County of Mendocino*; and authorize Chair to sign same.

Previous Board/Board Committee Actions:

On December 2, 2014, the Board rejected the claim of Joan Turner, a former staff member from the Office of County Counsel. A lawsuit regarding the matter was filed on May 7, 2014. On August 18, 2015, the Board held closed session discussions regarding the case with representatives from Human Resources. On December 20, 2016, direction was given to staff for settlement negotiations on the employment law case *Turner v. County of Mendocino*, including but not limited to, authorization of up to \$430,000 for settlement litigation work and trial preparation. A full cost accounting, including settlement payments (confidential) were presented to the Board at this time, and it was indicated that we expect to be fully reimbursed for the entirety of this agreement.

Summary of Request:

The litigation, *Turner v. County of Mendocino*, is an employment law case against former staff at the Office of County Counsel, and includes separate defense of former County Counsel, Doug Losak. This case was originally designated as a Human Resources personnel matter, not a Risk case, and until August of 2016 was primarily managed out of the Human Resources Office. Pursuant to the existing Human Resources labor contract with Liebert Cassidy Whitmore, this case was referred to them as outside counsel due to the legal and ethical conflicts that prevent County Counsel staff from acting as their own legal representatives in employment claims against their office. Costs in this case were significantly higher than originally anticipated due to a multitude of factors. The unexpected overturn of the County's demurrer ruling created additional legal

arguments that needed to be fully researched and addressed. Extensive duplicate discovery efforts were required by Plaintiff's change of counsel midway through the proceedings that created a significant setback in moving forward with advantageous settlement negotiations. Additionally, several depositions were taken and eleven declarations were prepared for staff in County Counsel and Human Resources. These increases were brought before the Board on December 20, 2016, and authorization for continuing legal fees and settlement were provided. The County has been working closely with the vendor to make sure that the contract update was accurate and the Board would be provided with a more accurate accounting of the costs of this litigation. This case has been settled and recently dismissed, and staff expects to fully recover the costs of the litigation that exceeded the County's self-insured retention rate.

Alternative Action/Motion:

None.

Supplemental Information Available Online at: N/A

Fiscal Impact:

Source of Funding: GL-863320

Current F/Y Cost: \$0 (100 % Insurance Reimbursable)

Budgeted in Current F/Y: No

Annual Recurring Cost: N/A

Supervisory District: All

Vote Requirement: Majority

Agreement/Resolution/Ordinance Approved by County Counsel: Yes

CEO Liaison: Alan D. Flora, Assistant CEO

CEO Review: Yes

CEO Comments:



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Executed By: Nicole French

Date: **SEPTEMBER 14, 2017**

Note to Department: 3 original to dept (h/d), 1 original to Auditor (i/i)

Final Status:Approved

Executed Item Number: Agreement 17-112