



Legislation Text

File #: 23-1965, **Version:** 2

Human Resources Department recommending the Board consider the following:

- 1) Make findings in accordance with Ordinance 3.13.030 that a contract for workplace investigation and training services is necessary to protect against a conflict of interest or to ensure independent and unbiased findings where there is a need for an outside perspective and where work must be completed within limited timeframes;
- 2) Approve and authorize the Purchasing Agent to sign Amendment II to Agreement 4730 with Boucher Law, PC to increase the not-to-exceed amount by \$58,000, making the new not-to-exceed amount \$268,000, with a term effective from the final execution through April 15, 2024; and
- 3) Authorize the Purchasing Agent to execute any necessary amendments relating to Agreement 4730, excluding term extensions and increases to the not-to-exceed amount, contingent upon approval by County Counsel and Risk Management.

FUNDING: General Fund.

DISCUSSION / BACKGROUND

Human Resources receives complaints of alleged misconduct in the workplace; including, discrimination, harassment, retaliation, and abusive conduct by County employees. Human Resources receives and provides for investigations of these complaints in accordance with County policy or rule, including Board Policy E-5 and Personnel Rule 309.4, or as Human Resources and affected department heads deem necessary. The department has contracted with outside vendors when special skills and qualifications are involved in the performance of the work, when it is necessary to protect against a conflict of interest and obtain an outside perspective to make independent and unbiased findings, or when it is otherwise necessary to ensure a prompt and thorough investigation and resolution of the complaints filed. The nature of the work involves temporary, occasional, and urgent services.

Since April 16, 2020, Boucher Law, PC has provided the personnel and equipment necessary to provide legal services in connection with labor and employment matters, including but not limited to, investigations, mediation, trainings, and services related to other various employment relations subjects under Agreement 4370. In order to ensure that Human Resources has a wide variety of vendors with different areas of specialty, this agreement is one of multiple agreements for as-needed legal services.

On April 19, 2022, with Legistar item 22-0541, the Board approved and authorized the Purchasing Agent to sign Amendment I to Agreement for Services 4730, with Christopher K. Boucher doing business as Boucher Law, to process a name change to Boucher Law, PC and update contract language.

Human Resources has identified additional service needs that require an increase to the not-to-exceed amount. Amendment II is being requested to increase the not-to-exceed amount by \$58,000, making the new not-to-exceed amount \$268,000, through the end of the contract term. The County is currently soliciting for Statements of Qualifications to establish a qualified list of licensed attorneys

and private investigators to provide as-needed workplace investigation services for future Agreements.

ALTERNATIVES

The Board could choose not to approve the amendment and instead allocate additional personnel and funding for the hiring and development of additional internal workplace investigators and mediators or direct Human Resources to find another vendor to provide employment labor and law services. Given Boucher is actively engaged in providing current Investigation services in addition to the sporadic nature of complaints, and the need for sufficient availability of external investigators and mediators when subject matter expertise, conflicts of interest, or potential litigation issues arise, these alternatives are not recommended.

PRIOR BOARD ACTION

04/19/2022 Legistar item 22-0541 - The Board approved and authorized the Purchasing Agent to sign Amendment I to Agreement for Services 4730, with Christopher K. Boucher doing business as Boucher Law, to process a name change to Boucher Law, PC and update contract language.

04/07/2020 Legistar item 20-0392 - The Board approved and authorized the Purchasing Agent to sign agreement 4730 with Boucher Labor and Employment Law for investigative services with a total not-to-exceed amount of \$210,000 for the term of four years.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Procurement and Contracts and County Counsel

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

Human Resources is reimbursed for costs associated with investigations from the department in which the complaint is filed. This results in the agreement being funded from a variety of departments from within their allocated resources. Departments also reimburse Human Resources for direct costs borne by complaints. Departments from which multiple complaints are filed, or for which complaints are more extensive or complex, will be financially impacted more than others given the increased cost to investigate and resolve such complaints. For all other specialized personnel services rendered under this agreement, as requested by or for Human Resources, funding for this agreement is available in the Human Resources budget. There is no change in Net County Cost, as funding for these as-needed services has been included in Human Resources' FY 2023-24 Budget. Future years costs will be budgeted appropriately.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Good Governance.

CONTACT

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