

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: August 23, 2022

Consent

Regular

Ordinance

Public Hearing

Department: Risk Management

Submitted By: County Attorney's Office

I. EXECUTIVE BRIEF

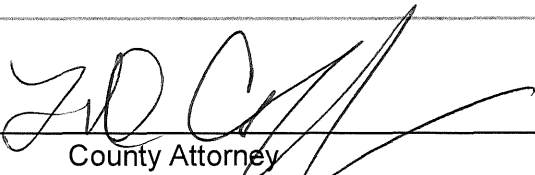
Motion and Title: Staff recommends motion to approve Amendment No. 2 to the contract for Professional Legal Services with Walton Lantaff Schroeder & Carson LLP to provide Workers' Compensation litigation defense services for Palm Beach County, Palm Tran Inc., and Constitutional Officers participating in the County's Self-Insurance Program. This amendment to the contract is for a period of twelve (12) months, beginning October 1, 2022 for the contract price of \$497,650.00, plus reasonable costs and expenses not to exceed three percent (3%) of total fees (\$14,929.50) for the fiscal year 2022/2023. The contract price for Amendment No. 2 is the same as the initial contract price for the fiscal year.

Summary: On September 18, 2018, the Board of County Commissioners approved the contract (R2018-1470) with Walton Lantaff Schroeder & Carson LLP for three (3) years at \$497,650.00 for attorney's fees plus reasonable costs and expenses not to exceed three percent (3%) of total fees (\$14,929.50), per fiscal year. The contract also provided for two (2) additional one (1) year options at the same annual fixed fee of \$497.650.00, plus reasonable costs and expenses not to exceed three percent (3%) of the total fees (\$14,929.50 per fiscal year). The Board of County Commissioners approved the first additional (1) year option, which will expire on September 30, 2022. Countywide (DO)

Background and Justification: This Contract for Professional Legal Services with Walton Lantaff Schroeder & Carson LLP provides defense of litigated workers' compensation claims by County employees, Palm Tran employees, and employees of all Constitutional Officers that participate in the County's Self-Insurance Program (this does not include the Palm Beach County Sheriff's Office). The County paid \$497,650.00 for legal services for each of the County's fiscal years 2018/2019, 2019/2020 and 2020/2021, plus reasonable costs and expenses not to exceed three percent (3%) of total fees (\$14,929.50) per fiscal year. The contract requires payments to be made in four (4) equal installments. The contract also provides for two (2) additional one (1) year options at the same annual fixed fee of \$497.650.00, plus reasonable costs and expenses not to exceed three percent (3%) of the total fees (\$14,929.50 per fiscal year). The Board of County Commissioners approved the first additional one (1) year option, which will expire on September 30, 2022. Staff has concluded that this Contract for Professional Legal Services provides a substantial benefit to the County. **(Continued on page 3)**

Attachments:

1. Amendment No. 2 to Legal Services Contract
2. Confirmation of Insurance

Recommended By:  _____
 County Attorney Date

Approved By: NIA _____
 County Administrator Date

Background and Policy Issues (continued from page 1): Since 1985, the County has contracted with outside firms for workers' compensation litigation defense. Prior to that, cases were handled by the County Attorney's Office on an infrequent and part-time basis. Due to the complexity of the workers' compensation system in Florida and the lack of sovereign immunity cap (which exists for personal injury cases), historical research indicates that this method of defense proved costly for the County.

Workers' compensation is managed under the provisions and authority of Chapter 440 of the Florida Statutes. It is a unique and complex area of the law, and it is not unusual for litigated cases to stretch over several years before resolution. As such, there are several claims currently being handled by Walton Lantaff Schroeder & Carson that continue to be eligible for reimbursement under the Special Disability Trust Fund (SDTF), for which eligibility ceased January 1, 1998. The SDTF was created in 1955 as a means to encourage employers to hire workers with pre-existing permanent physical impairments. If second injuries occurred with the new employer, the SDTF reimbursed associated medical and indemnity costs on a pre-determined scale.

Another area of complexity of workers' compensation litigation defense, particularly as it relates to local government, is the statutory presumption that firefighters and correction officers who develop hypertension, heart disease, hepatitis, and/or tuberculosis are presumed to have developed these diseases within the course and scope of their duties, barring any medical evidence to the contrary. These cases can mean considerable financial implications to the County. If such claims are not handled properly, those financial implications can increase exponentially.

Walton Lantaff Schroeder & Carson LLP annual fee for workers compensation legal services us \$497,650.00, which represents a 4.24% increase over previous firm's contract that expired in 2018. For this annual fee, the County will continue to benefit from the services of five (5) full-time attorneys with over seventy (70) years of experience in workers' compensation defense. In addition to the attorneys, there will be four (4) legal assistants assigned to the County's files.

**Amendment No. 2 to Legal Services
Contract between Palm Beach County and
Walton Lantaff Schroeder & Carson LLP**

This Amendment No. 2, dated August _____, 2022, to the Contract (R-2018-1470) dated September 18, 2018, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and Walton Lantaff Schroeder & Carson LLP, a corporation authorized to do business in the State of Florida, hereinafter referred to as the OUTSIDE COUNSEL.

WITNESSETH

WHEREAS, the parties hereto previously entered into a contract for legal services dated September 18, 2018, for Workers' Compensation Litigation Defense; and

WHEREAS, the contract expired on September 30, 2021; and

WHEREAS, the contract provided for two (2) additional one (1) year options at the contract price of the previous fiscal year; and

WHEREAS, the parties hereto extended the contract for the first additional one (1) year option from October 1, 2021 to September 30, 2022; and

WHEREAS, the parties hereto desire to extend the contract for the second additional one (1) year period;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth and for such other good and valuable consideration, the receipt of which the parties hereto expressly acknowledge, the parties covenant and agree to the following terms and conditions:

1. The term of this contract as set forth is one (1) additional year through September 30, 2023, at \$497,650.00 for attorney's fees plus reasonable costs and expenses not to exceed three percent (3%) of total fees at \$14,929.50, for fiscal year 2022/2023.
2. Except, as specifically modified above, the terms and conditions of the contract dated September 18, 2018, are hereby confirmed and remain in full force and effect.

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IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Amendment on behalf of the COUNTY and OUTSIDE COUNSEL and has hereunto set its hand the day and year above written.

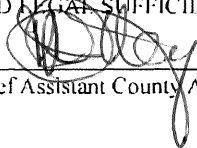
ATTEST

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

Joseph Abruzzo,
Clerk & Comptroller

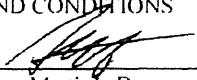
Robert Weinroth,
Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



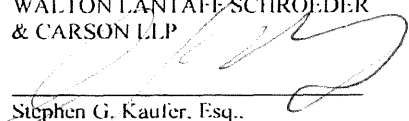
Chief Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS



Scott Marting, Department Director
Risk Management, Palm Beach County

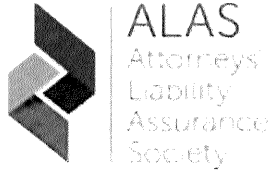
WALTON LANTAFE SCHROEDER
& CARSON LLP



Stephen G. Kaufer, Esq.,
Senior Partner

Witness Signature

Witness Printed Name



December 13, 2021

Walton Lantaff Schroeder & Carson LLP
9200 South Dadeland Boulevard
Suite 300
Miami, FL 33156

To Whom It May Concern:

CONFIRMATION OF INSURANCE

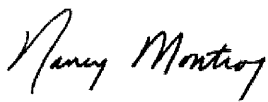
We hereby confirm that Walton Lantaff Schroeder & Carson LLP has Professional Liability Coverage under Policy LPL-1567-2022 with an annual limit of \$10,000,000 per claim and \$20,000,000 in the aggregate with the right, under stated conditions, to purchase extended reporting rights upon termination of such Policy by ALAS.

The self-insured retention under such Policy is \$250,000 each claim up to an aggregate of \$500,000 and \$100,000 each claim thereafter.

The Policy effective date is from January 1, 2022 to January 1, 2023.

Such Policy is subject to the terms, conditions, limitations and exclusions stated therein.

**ATTORNEYS' LIABILITY ASSURANCE SOCIETY LTD.,
A RISK RETENTION GROUP**

By: 

Nancy J. Montroy
Vice President – Director of Underwriting

Date: 12/13/2021

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alas.com