

# Orange Countywide Oversight Board

Date: 7/23/2024

Agenda Item No. 6

From: Staff to the Orange Countywide Oversight Board

Subject: Contract for Legal Services with Aleshire & Wynder, LLP

Recommended Action:

Authorize and direct Board Chairman to sign agreement with Aleshire & Wynder, LLP and direct Auditor-Controller to commence process to terminate agreement with Ring Bender LLP

---

Health and Safety Code §34179(j) specifies that the Auditor-Controller's office is to provide staff support to the Oversight Board, and as such, when the Board was being formed in 2018, then-Auditor-Controller Eric Woolery authorized a request for proposal (RFP) for legal counsel for the Oversight Board.

Ring Bender LLP won the RFP on the basis of a proposal submitted by Partner Patrick "Kit" Bobko and commenced services on January 10, 2019, with Mr. Bobko serving as Counsel to the Oversight Board. The initial term of the contract was 2 years (January 10, 2019-January 9, 2021) with a 1-year renewal option (January 10, 2021-January 9, 2022). The Auditor-Controller's office exercised that renewal option.

Upon the expiration of that contract, the Auditor-Controller commenced a new 2-year contract (January 10, 2022-January 9, 2024) with a 1-year renewal option (January 10, 2024-January 9, 2025). The Auditor-Controller's current contract with Ring Bender for legal services for the Oversight Board expires in less than 6 months. By a coincidence of timing, Mr. Bobko is transitioning from Ring Bender to Aleshire & Wynder, LLP.

Health and Safety Code §34179(o) specifies that the Oversight Board may contract with any public or private entity for additional support of its functions.

Staff recommends that the Oversight Board approve a contract with Aleshire & Wynder for legal services, commencing July 23, 2024, and concluding December 31, 2028.

Staff also recommends that the Oversight Board direct the Auditor-Controller to work with Mr. Bobko to determine the appropriate steps to terminate the Auditor-Controller's contract with Ring Bender while ensuring sufficient time to smoothly transition the Oversight Board's legal services from Ring Bender to Aleshire & Wynder.

In both the Auditor-Controller's contract with Ring Bender and the proposed Oversight Board contract with Aleshire & Wynder, the terms specify that any of the firm's attorneys, paralegals, and staff may assist in representing the Oversight Board, but that Mr. Bobko shall be the attorney assigned to represent the Countywide Oversight Board as its general counsel.

As with the Auditor-Controller's contract with Ring Bender, the proposed Oversight Board contract with Aleshire & Wynder authorizes the hiring of consultants and other outside experts at the Board's expense. The proposed contract authorizes Aleshire & Wynder to bill the Board for litigation costs and travel costs incurred.

At any time, if the Oversight Board wishes to terminate the contract, it may do without cause, subject to reasonable notice. Similarly, Aleshire & Wynder may terminate the contract without cause, subject to reasonable notice.

Attachment

- Proposed Contract Between the Orange Countywide Oversight Board and Aleshire & Wynder, LLP



Aleshire & Wynder

July 23, 2024

**VIA E-MAIL**

Orange Countywide Oversight Board  
Attn: Kathy Tavoularis  
Office of the Auditor-Controller  
1770 North Broadway  
Santa Ana, CA 92706  
E-Mail: Kathy.Tavoularis@ac.ocgov.com

Re: Engagement of Aleshire & Wynder, LLP to Provide Legal Services to the Orange Countywide Oversight Board

Chairman Probolsky and Honorable Members of the Board:

This letter agreement (“Agreement”) is written to set out and confirm the retention of Aleshire & Wynder, LLP (“Firm”) to provide legal representation to the Orange Countywide Oversight Board and its related entities (“Client” or “Board” or “you”) in connection with certain legal services requested by Client as specified herein.

In this regard, please know that *California Business and Professions Code* § 6148 requires a written fee contract between attorneys and their clients to set forth the scope of the legal services which the attorneys have been retained to perform, and the fees which the attorneys will charge to perform those services.

**1. Scope of Services**

The Firm will provide legal assistance to Client related to its obligations to comply with directing and dissolution of Orange County Successor Agencies and the disposition of their assets as required by the Dissolution Act. The Firm will advise the Board on its obligations under the Brown Act, assist with the conduct of public meetings, preparation of Staff reports and meeting agendas, and provide other opinions and assistance as the Client may require. The Firm will interact with various State and local agencies in accomplishing the Board’s tasks and goals.

If necessary, the Firm will defend the Board in any potential litigation, or initiate litigation on the Client’s behalf.

**2. Attorneys Providing Services**

While any or all of the Firm’s attorneys, paralegals and staff are available to assist in Client’s representation, the attorneys assigned to the Client’s representation shall be the

Countywide Oversight Board's existing General Counsel, Patrick K. Bobko. The services of other attorneys and paralegals in the Firm also may be used as is necessary and appropriate as the undersigned determines to provide the Client with the most effective legal service.

**3. Compensation, Costs, and Expenses**

The rates for services provided to Client shall be as set forth in Exhibit "A" attached hereto and made a part hereof. These rates may be reviewed and adjusted by an addendum or amendment to this Agreement, approved by the Firm and the Client.

The Firm also might incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for those costs and expenses in addition to fees. Expenses will be reimbursed at the cost thereof in accordance with the billing and reimbursement practices set forth in Exhibit A attached hereto and by this reference incorporated herein.

The Firm's fees are charged on an hourly basis and are billed monthly with payment due thirty (30) days after the date of the bill. Client agrees to pay for all hourly services when billed on a monthly basis. The Firm shall be entitled to include interest at the rate of one percent (1%) per month on the outstanding balances when an amount is outstanding for more than thirty (30) days after the billing date.

**4. Retainer**

The Firm has not requested a retainer in connection with the representation of Client. Terms of the Firm's compensation is described in Exhibit "A."

**5. Prohibition of Subcontracting or Assignment**

The Firm shall not contract with any other person or entity to perform the services required hereunder without Client's written approval, nor shall any interest herein be transferred, assigned or conveyed without Client's approval.

**6. Termination**

Both the Firm and the Client shall have the right to terminate this engagement at any time, subject to reasonable notice. Notwithstanding the Client's discharge or the Firm's withdrawal, the Client will remain obligated to pay the Firm the fees for all legal services provided under this Agreement and to reimburse the Firm for all costs incurred prior to such approved and effectuated discharge, withdrawal or termination.

**7. Disputes**

If legal proceedings are instituted to collect fees and costs owing to the Firm, the prevailing party shall be entitled to the allowance of reasonable attorneys' fees and other costs incurred in the action or proceeding. The Firm is entitled to represent itself on all legal matters and the actual time incurred by members of our Firm at our standard hourly rates. The rates are deemed reasonable for collection or other purposes.

**8. Insurance**

In accordance with *California Business and Professions Code*, the Firm hereby informs Client that it maintains errors and omissions insurance coverage in an amount applicable to the services to be rendered.

**9. Conflicts**

The Firm is not aware of any conflict of interest in this representation. Client agrees to inform the Firm of any conflicts which may arise after execution of this Agreement which Client believes would affect the representation of Client.

The Firm may have current or future clients which may have interests adverse to Client or Client's related entities, and the Firm reserves the right to represent such clients in matters not connected to the representation described herein. If a potential conflict of interest arises in the Firm's representation of two clients, if such conflict is only speculative or minor, the Firm may seek waivers from each client with regards to such representation. However, if real conflicts exist, the Firm would withdraw from representing either client in the matter, and assist them in obtaining outside special counsel.

**10. Integration**

By signing below, Client acknowledges that no oral representations, statements, or inducements, apart from this written agreement, have been made. If any portion of this Agreement is declared invalid by a court, the remainder shall continue in full force and effect.

**12. Execution and Authority**

This Agreement may be executed in counterparts and by electronic signature. In executing this Agreement, you warrant that (i) Client is a duly organized and existing entity, (ii) you are duly authorized to execute and deliver this Agreement on behalf of the Client, (iii) by so executing this Agreement, the Client is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Client is bound. This Agreement supersedes any other agreement between the Firm and the Client.

---

July 23, 2024  
Page 4

Please carefully review the terms of this Agreement and, if you find them acceptable, execute the enclosed copy. We appreciate your confidence in selecting Aleshire & Wynder, LLP as legal counsel and we look forward to working with you.

Very truly yours,

ALESHIRE & WYNDER, LLP

/s/

Patrick K. Bobko  
Equity Partner

I HAVE RECEIVED THE ORIGINAL OF THIS LETTER AGREEMENT AND UNDERSTAND THE FOREGOING TERMS AND CONDITIONS AND AGREE TO THEM. I HAVE THE AUTHORITY TO SIGN ON BEHALF OF AND BIND CLIENT.

Dated: \_\_\_\_\_, 2024

By: \_\_\_\_\_

Brian Probolsky  
Chairman, Orange Countywide Oversight Board

**EXHIBIT "A"**

**LEGAL FEES AND BILLING AND REIMBURSEMENT OF COSTS**

The Firm will provide legal services to the Client at a fee of \$10,000 per month, starting in July 2024 and continuing until December 31, 2028. The total annual amount the Client will pay the Firm for General Counsel services is \$120,000 for each year from 2025 through 2028. The total amount of the fees for General Counsel services shall not exceed \$540,000.

Separately, the Firm shall bill its time for litigation matters on an hourly basis. The "blended" rate for attorney litigation services is \$395 per hour. Paralegals will bill their time at \$185 per hour.

The Firm's fees are charged on an hourly basis for all time actually expended and are generally billed monthly with payment due within thirty (30) days after the date of the bill. At the start of the Client's fiscal year in July, 2025 and every July thereafter during the term of this Agreement, the Firm's litigation rates and amounts may be increased by the greater of 4% or the change in the Consumer Price Index for All Urban Consumers ("CPI-U") for the geographic region known as Los Angeles-Long Beach-Anaheim rounded up to the nearest dollar for the twelve (12) month period published for the most recent month of May and counting backwards as shown by the U.S. Department of Labor. In addition to the increase, either the Firm or Client can initiate consideration of a rate increase at any time. The Firm will incur various costs and expenses in performing legal services.

Costs and expenses are separately billed to the client and include fees fixed by law or assessed by public agencies, litigation costs including deposition, reporter fees, and transcript fees, long distance telephone calls, messenger and other delivery fees, postage, photocopying (charge of twenty-five cents (\$.25) per page) and other reproduction costs, staff overtime when necessitated and authorized by the client, and computer-assisted research fees when authorized by the client, all based on the actual and reasonable cost (mileage, reproduction and other costs are periodically adjusted in accordance with the Firm's actual costs).

Travel costs including mileage (current IRS rate), parking, airfare, lodging, meals, and incidentals are charged at actual costs. Travel time at the rates set forth above may also be charged in connection with such proceedings. In addition, the Client will be responsible for paying the fees of consultants and other outside experts who are retained after consultation with the client.

The monthly billing statements for fees and costs shall indicate the basis of the fees, including a detailed and auditable breakdown of the hours worked, the billable rates charged, and description of the work performed. All bills are expected to be paid within thirty (30) days of the date of the billing statement.