

PERALTA COMMUNITY COLLEGE DISTRICT
Board of Trustees Agenda Report
For the Trustee Meeting Date of September 27, 2016

ITEM TITLE: *(Please define the subject; e.g., change order – Berkeley City College)*

Consider Approval of Retainer Agreement for \$150,000 with Ericka Curls-Bartling of Curls Bartling P.C. to provide Acting General Counsel Services for the 2016-2017. Presenter: Chancellor Laguerre

SPECIFIC BOARD ACTION REQUESTED:

Approval of Retainer Agreement for \$150,000 with Ericka Curls-Bartling of Curls Bartling P.C. at the discounted rate of \$265.00 an hour, \$250.00 attorneys with ten (10) or more years of experience, \$235.00 an hour for attorneys with less than ten (10) years of experience, and \$120.00 for paralegals. While this agreement will stay in place until terminated by either party, the rates set forth above will remain in effect through June 30, 2017. After that date the firm is authorized to annually increase its rates by the amount of the increase in the California consumer price index (CPI) for the prior 12 months.

ITEM SUMMARY: *(PLEASE DISCUSS THIS ITEM. IF A VENDOR IS INVOLVED, PLEASE INCLUDE THE COMPANY NAME AS WELL AS THE INDIVIDUAL.)*

In accordance with the contents of this Retainer Agreement, the District is hiring Curls Bartling P.C. to provide legal services (subject in all material respects to your direction) with reasonable professional skill and reasonable dispatch.

SOURCE OF FUNDS (AND FISCAL/BUDGETARY IMPACT):

General Funds

BACKGROUND/ANALYSIS:

Curls Bartling P.C. has provided legal support to the district. Since January 2015, Ms. Sawhney and Ms. Curls Bartling have provided acting general counsel services to the districts and each of the colleges. Over the last six months, district administration has worked closely with Ms. Sawhney and Ms. Curls Bartling to assess the best way to continue to deliver excellent legal services to the district during Ms. Nguyen leave. For the 2015-16 year, Ms. Sawhney will provide on-site office hours two days per week. In addition, Ms. Curls Bartling will provide on-site office hours one day per week. Ms. Sawhney and Ms. Curls Bartling will also be available to the chancellor, deputy chancellor and other district administrators regularly and on an on-call basis.

DELIVERABLES AND SCOPE OF WORK:

Acting General Counsels:

- Provides legal services required in all areas of law affecting The Peralta Colleges.
- Coordinates and reviews specialized legal services provided by other outside counsel.
- Prepares and conducts litigation and participates in federal, state and local administrative proceedings as authorized by the Governing Board.
- Has as his/her priority the containment of legal costs for both the legal fees associated with litigation

and the amounts awarded to plaintiffs by the courts or via a settlement agreement. Provides to the Governing Board quarterly briefings on legal expenses to date.

Develops a position paper for each significant legal action underway or anticipated that includes (1) the basic elements of the legal claim, including names, dates, and financial damages sought; (2) insurance coverage; (3) range of options available to the Board, with a quantified probability of an outcome associated with each; (4) rationale for outsourcing, where utilized; (5) identity of the law firm assigned to each case and rationale for their selection; (6) predicted time horizon to successful termination; (7) overall general prognosis; (8) evaluation as to whether the claim involved is considered to be a relative one-of-a-kind issue or the result of a systemic problem in the operation of The Peralta Colleges; and (9) a recommendation, where appropriate, for actions to be taken to reduce the risk of a reoccurrence of this type of legal claim.

Prepares formal and informal opinions, drafts proposed legislation and regulations, and drafts and reviews contracts and instruments effecting transfers of property, and all other legal documents or instruments, as needed or requested.

Attends and provides legal advice at all meetings of the full Governing Board and other such meetings as the Board may direct.

Serves as a liaison with other governmental entities in the area of legal affairs.

Serves as the legal advisor to the Board Policy Committee to ensure that all policies are consistent with the law, regulations, and policies and to further ensure that administrative procedures are developed and approved by the Governing Board.. Apprise the Governing Board regularly all policies that do not have approved implementing administrative procedures in place.

Serves as the custodian of all FPPC Form 700 disclosure documents required for Board members and applicable employees of The Peralta Colleges. Manages an electronic data bank of appropriate information from the disclosure documents. Provides the information to the Governing Board by “sunshining” the information and noting any possible conflicts of interest, based on known information provided at the time, for contracts being recommended to be agreed upon between The Peralta Colleges and any and all outside entities.

Provides certification as to legal form, by signature, on all documents of significance that are referred to the Governing Board for approval that the proposals are in compliance with all applicable laws, regulations, and policies.

Assumes the legal role of Contract Administrator for The Peralta Colleges by developing and implementing a system of accountability on contract administration, and thereby has line authority to ensure full compliance.

Plans and conducts legal trainings.

Assists the Deputy Chancellor in supervising the staff of the Office of the General Counsel, including the risk manager and other professional, legal research and clerical staff.

Signs a negotiated, annual performance contract that includes merit pay increases with the Governing Board and submits a report of accomplishments to be used by the Governing Board for an annual evaluation.

Performs other duties as assigned by the Governing Board.

ANTICIPATED COMPLETION DATE: JUNE 30, 2017

ALTERNATIVES/OPTIONS:

EVALUATION AND RECOMMENDED ACTION:

OTHER DEPARTMENTS IMPACTED BY THIS ACTION (E.G. INFORMATION TECHNOLOGY):

YES _____ NO X

COMMENTS:

WHO WILL BE PRESENTING THIS ITEM AT THE BOARD MEETING? CHANCELLOR LAGUERRE

(*****Board contract approval is subject to negotiation and execution by the Chancellor.)

DOCUMENT PREPARED BY:

Prepared by: _____
[Enter Here - Your Name and Title of Individual]

DOCUMENT PRESENTED AND APPROVED BY:

Presented and approved by: _____
[Enter Here - Name of College President, (if originating from a college) or Vice-Chancellor (if originating from the District)]

FINANCE DEPARTMENT REVIEW

 X Finance review required _____ Finance review *not* required

If Finance review is required, determination is: X Approved _____ Not Approved

If not approved, please give reason: _____

Signature: *Ron Little*
Ron Little, Vice Chancellor, Finance and Administration

GENERAL COUNSEL (Legality and Format/adherence to Education Codes):

_____ Legal review required X Legal review *not* required

If Legal review is required, determination is: _____ Approved _____ Not Approved

Signature: _____
Nitasha Sawhney, Acting General Counsel

CHANCELLOR'S OFFICE APPROVAL

Approved, and Place on Agenda

Not Approved, but Place on Agenda

Signature: Dr. Jowel C. Laguerre
Dr. Jowel C. Laguerre, Chancellor