

## Legislation Text

**File #:** AI-2021-223, **Version:** 1

### SUBJECT:

Approval of a resolution authorizing the President & CEO, or his designee, to finalize and execute contracts with Bickerstaff Heath Delgado Acosta LLP; Clark Hill PLC; Enoch Kever PLLC; Greenberg Traurig LLP; Hawkins Delafield & Wood LLP; Husch Blackwell LLP; Jackson Lewis P.C.; K&L Gates LLP; Kaplan Kirsch & Rockwell LLP; Kowert, Hood, Munyon, Rankin & Goetzel, P.C.; Orrick, Herrington & Sutcliffe, LLP; Ross Molina Oliveros, PC; Thompson Coburn LLP; and Winstead PC for outside legal counsel services in the aggregate amount not to exceed \$3,600,000 for a three (3) year base term with three (3) one-year renewal options.

### FISCAL IMPACT:

Funding for this action is available in the FY2022 Operating Budget

### STRATEGIC PLAN:

#### Strategic Goal Alignment:

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> 1. Internal/External Customer Service Excellence | <input type="checkbox"/> 2. Stakeholder Engagement |  |
| <input checked="" type="checkbox"/> 3. Financial and Environmental Sustainability    | <input type="checkbox"/> 4. Staff Development      | <input type="checkbox"/> 5. Agency Growth Management |

#### Strategic Objectives:

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> 1.1 Safety & Risk | <input checked="" type="checkbox"/> 1.2 Continuous improvement   | <input type="checkbox"/> 1.3 Dynamic Change           |
| <input type="checkbox"/> 1.4 Culture of Innovation    | <input checked="" type="checkbox"/> 2.1 Be an Employer of Choice | <input type="checkbox"/> 2.2 Organization Development |
| <input type="checkbox"/> 2.3 Organization Culture     | <input checked="" type="checkbox"/> 3.1 Resource optimization    | <input type="checkbox"/> 3.2 Safety Culture           |
| <input type="checkbox"/> 3.3 Environmental Leadership | <input type="checkbox"/> 4.1 Educate & Call to Action            | <input type="checkbox"/> 4.2 Build Partnerships       |
| <input type="checkbox"/> 4.3 Value of Transit         | <input type="checkbox"/> 4.4 Project Connect                     |   |

**EXPLANATION OF STRATEGIC ALIGNMENT:** The provision of quality outside legal counsel services mitigates financial and legal risks to the Authority to support the improved financial health of the agency and provide the best service to the community.

**BUSINESS CASE:** Outside legal counsel services are required to supplement the available resources of in-house legal counsel to meet agency legal needs in a timely manner, especially in specialized areas of law requiring certain subject matter expertise.

**COMMITTEE RECOMMENDATION:** This item will be presented to the Finance, Audit and Administration Committee on October 13, 2021.

**EXECUTIVE SUMMARY:** Capital Metro employs in-house legal counsel to address the need for daily legal advice, counsel and representation of the Authority. In addition to these daily needs, Capital Metro routinely requires the services and expertise of outside legal counsel to supplement the resources of in-house legal staff or to provide services in highly specialized areas of the law.

It is difficult to predict what type of legal services will be required in advance of an immediate need, making the procurement of individual legal services challenging. However, in order to ensure adequate competition and fair and reasonable price assessments for contracts for Outside Legal Counsel Services, Capital Metro solicits and enters into contracts with a variety of law firms in advance of a need for services in order to ensure their availability as they are required.

Law firms proposed their services based on legal practice areas identified by Capital Metro as potential needs as well as on their ability to provide legal services in any area of expertise required. Based on the proposals received, the following recommendations are made:

<b>CONTRACTOR</b>	<b>AREAS OF PRACTICE</b>
Bickerstaff Heath Delgado Acosta LLP	Ethics, Texas Public Information Act, Texas Open Meetings Act and Governance; Real Estate; Eminent Domain/Condemnation; Litigation
Clark Hill PLC	Employment/Labor Law; Ethics, Texas Public Information Act, Texas Open Meetings Act and Governance; Public Transportation Law (Federal and State); Pension and Tax Law; Real Estate
Enoch Kever PLLC	Ethics, Texas Public Information Act, Texas Open Meetings Act and Governance; Intellectual Property and Information Technology
Greenberg Traurig LLP	General Counsel Services; Litigation; Employment/Labor Law
Hawkins Delafield & Wood LLP	Finance for Transit Agencies
Husch Blackwell LLP	Real Estate; Eminent Domain/Condemnation; Public Transportation Law (Federal and State); Finance for Transit Agencies; Litigation
Jackson Lewis P.C	Employment/Labor Law; Public Transportation Law (Federal and State)
K&L Gates LLP	General Counsel Services; Finance for Transit Agencies
Kaplan Kirsch & Rockwell LLP	Real Estate; Public Transportation Law (Federal and State); Finance for Transit Agencies
Kowert, Hood, Munyon, Rankin & Goetzel, P.C.	Intellectual Property and Information Technology
Orrick, Herrington & Sutcliffe, LLP	Finance for Transit Agencies
Ross Molina Oliveros, PC	Real Estate; Eminent Domain/Condemnation

Thompson Coburn LLP	Employment/Labor Law; Public Transportation Law (Federal and State); Pension and Tax Law; Intellectual Property and Information Technology
Winstead PC	Eminent Domain/Condemnation; Intellectual Property and Information Technology

The contracts will be awarded with a total not-to-exceed amount for all contracts of \$3,600,000 for a base period of three (3) years with three (3) one-year options based on historical needs for outside legal counsel services. These will be Task Order contracts and work will be requested and performed as legal needs arise. There is no guarantee that a firm will receive work under these contracts if services in their practice area is not required and no minimum work is guaranteed. In addition, Capital Metro may obtain required legal services during the term of these contracts outside the scope of services or expertise of one of these firms.

**DBE/SBE PARTICIPATION:** No SBE goal is assigned to this procurement due to limited subcontracting opportunity. However, we will work with the selected vendors for commitment towards small business participation.

**PROCUREMENT:** On April 26, 2021, a Request for Proposals was issued and formally advertised. By the closing date of May 26, 2021, fourteen (14) proposals were received. The evaluation team used the following factors in the evaluation of proposals:

- (1) The offeror's demonstrated, relevant work experience, past performance, and capabilities of the firm as a whole in the relevant practice areas.
- (2) The qualifications, experience, and past performance of personnel to be assigned to provide legal services in the disciplines offered.
- (3) The offeror's plan for matter management, budget adherence and assignment of law firm personnel and resources for efficiency and responsive, cost-effective, reliable service.
- (4) The offeror's capacity to adequately and timely respond to the legal needs of Capital Metro.
- (5) The offeror's demonstrated, relevant work experience and past performance of the law firm as a whole in the representation of governmental entities.
- (6) The offeror's demonstrated understanding of the needs and legal issues of a public transportation authority.

The evaluation team met on June 14, 2021, to discuss the matrix results of evaluations of all proposals, and the consensus resulted in agreement to recommend all fourteen (14) firms to the Capital Metro Board of Directors:

1. Bickerstaff Heath Delgado Acosta LLP
2. Clark Hill PLC
3. Enoch Kever PLLC
4. Greenberg Traurig LLP
5. Hawkins Delafield & Wood LLP
6. Husch Blackwell LLP

7. Jackson Lewis P.C.
8. K&L Gates LLP
9. Kaplan Kirsch & Rockwell LLP
10. Kowert, Hood, Munyon Rankin & Goetzel, P.C.
11. Orrick, Herrington & Sutcliffe, LLP
12. Ross Molina Oliveros, PC
13. Thompson Coburn LLP
14. Winstead PC

The prices are considered fair and reasonable based on adequate competition.

The resulting fourteen (14) contracts will be indefinite quantity/indefinite delivery contracts for a not-to-exceed amount for all 14 contracts of \$1,800,000 for a three-year base period plus a not-to-exceed amount for all 14 contracts of \$1,800,000 for three (3) Option Periods of 12 months each, for a total not-to-exceed amount for all 14 contracts of \$3,600,000 for six (6) years.

RESPONSIBLE DEPARTMENT: Legal

**RESOLUTION  
OF THE  
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY  
BOARD OF DIRECTORS**

**STATE OF TEXAS  
COUNTY OF TRAVIS**

**AI-2021-223**

WHEREAS, the Capital Metropolitan Transportation Authority Board of Directors and Capital Metro management recognize the requirement for outside legal counsel services to be available on an as needed basis; and

WHEREAS, the Capital Metropolitan Transportation Authority Board of Directors and Capital Metro management desire to have qualified law firms readily available to provide services as the need arises.

NOW, THEREFORE, BE IT RESOLVED by the Capital Metropolitan Transportation Authority Board of Directors that the President & CEO, or his designee, is authorized to finalize and execute contracts with Bickerstaff Heath Delgado Acosta LLP; Clark Hill PLC; Enoch Kever PLLC; Greenberg Traurig LLP; Hawkins Delafield & Wood LLP; Husch Blackwell LLP; Jackson Lewis P.C.; K&L Gates LLP; Kaplan Kirsch & Rockwell LLP; Kowert, Hood, Munyon, Rankin & Goetzel, P.C.; Orrick, Herrington & Sutcliffe, LLP; Ross Molina Oliveros, PC; Thompson Coburn LLP; and Winstead PC for outside legal counsel services in the aggregate amount not to exceed \$3,600,000 for a three (3) year base term with three (3) one-year renewal options.

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**Secretary of the Board  
Eric Stratton**

**Date:** \_\_\_\_\_