

ORANGE COUNTY  
BOARD OF EDUCATION

AGENDA ITEM ABSTRACT

Meeting Date: September 10, 2012

AGENDA ITEM No. 12-09-10

ACTION ITEM: (Y/N) Y

SUBJECT: Legal Services Contract

INFO. CONTACT: G. Patrick Rhodes PHONE: 919-732-8126

**ATTACHMENTS:**

1. Contract for the Provision of Legal Services to the Board with D. Michael Parker (PROPOSED).
2. Contract for the Provision of Legal Services to the Board with Tharrington Smith (APPROVED).

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**PURPOSE:** The purpose of this agenda item is to provide the Board of Education an opportunity to approve a contract for local legal services.

**BACKGROUND:** North Carolina schools are governed by a wide range of state and federal legislation. Because of this the Board of Education relies on legal counsel for a range of topics including statutory compliance, personnel matters, securing fines and forfeitures, student discipline, and training.

In September of 2011, the board approved utilizing the legal firm of Tharrington Smith for the purpose of specialized school law legal services. In February of 2012, the Board of Education transitioned to Tharrington Smith for education-related legal services. As part of this transition, the firm of Cheshire and Parker was retained for local legal services. These services include bond forfeiture matters, tax lien litigation, real estate matters and some contract reviews. The attached proposed contract has been reviewed by Tharrington Smith.

**FINANCIAL IMPACT:** The cost of the retainer will be \$300.00 per month or \$3,600.00 annually. Legal service fees are \$100.00 per hour.

**RECOMMENDATION:** The Superintendent recommends the Board of Education approve a contract for the provision of local legal services to the board with D. Michael Parker as described in the attached contract.

ORANGE COUNTY  
NORTH CAROLINA

CONTRACT FOR THE PROVISION OF LEGAL SERVICES  
TO THE BOARD

THIS CONTRACT, made and entered into this the \_\_\_\_ day of August, 2012, by and between D. MICHAEL PARKER, Party of the First Part, (hereinafter referred to as "Parker"), and the ORANGE COUNTY BOARD OF EDUCATION, Party of the Second Part, (hereinafter referred to as "Board");

W I T N E S S E T H :

That whereas, the Parker has agreed to provide certain legal services as defined herein for the Board:

NOW, THEREFORE, Parker and the Board do hereby agree that the Parker will provide the following legal services to the Board:

1. COURT MATTERS

- a. Representing the Board in Orange County Bond Forfeiture Matters including without limitation the following:
  - Review of Motions to Set Aside Bond Forfeitures
  - Preparation of Objections to Motions to Set Aside Bond Forfeitures
  - Preparation of Motions for Sanctions and Judgments
  - Preparation of Orders for Sanctions, Continuances, Motions to Strike
  - Preparation of all bond forfeiture documents for monthly hearings
  - Appearance at District and Superior Court Bond Forfeiture Hearings
  - Telephone and office conferences with the Clerk of Superior Court regarding bond matters
  - Resolve bond forfeiture discrepancies with Clerks, staff persons at County Jails, bondsmen, sureties and attorneys
  - Filing and service of objections and motions for sanctions within prescribed time set by statute
  - Conduct research in ACIS , VCAP and NCAWARE
  - Maintain database of objections/court orders relating to defendants' 2 or more failures to appear
- b. Representing the Board in Tax Lien Litigation including without limitation:
  - Draft Answer to Complaints
  - Draft of letters and other documentation (as required/needed) to resolve tax lien lawsuit
  - Conduct research regarding judgments as needed

- c. Representing the Board in matters involving DWI Seized Vehicles including without limitation:
  - Review of Lienholder's Petition to verify ownership of vehicle
  - Verify amount owed by owner of vehicle
  - Verify value of vehicle
  - Ongoing telephone and office conferences with lienholders re Board's Consent to Release
  - Review and maintain Orders on Non-Defendant Owner's Petition/Application for Release of Seized Motor Vehicles
  
2. REAL ESTATE MATTERS: Upon request, Parker will provide title examinations which require a certificate of title issued either to the Board or to a title insurance company for the purpose of issuing a policy insuring the Board, or other real estate research as the board may request from time to time.
  
3. OTHER MATTERS: Upon request Parker will provide requested services from the Board such as reviewing Contracts.
  
4. COMPENSATION: Parker will be paid a retainer of THREE HUNDRED AND 00/100 DOLLARS (\$300.00) per month to be billed to the Board at the beginning of each month to the Board. Parker will account for the actual time spent performing the services set forth above at the rate of ONE HUNDRED AND 00/100 DOLLARS per hour or fractional part thereof to the nearest one-tenth of an hour. He will then apply the retainer against the hours of work performed during that month and, as appropriate, will either carryover a credit for any unearned retainer or refund the overage or will bill the Board for the balance owed above the retainer for that month.
  
5. COSTS: Any out-of-pocket expenses, including but not limited to travel, copies, court costs, or telephone calls, will be billed at Mr. Parker's cost or at the applicable rate charged by Mr. Parker to other clients.
  
6. CONTRACT REVISIONS: Upon mutual agreement the contract may be revised at any time.
  
7. TERM: The contract will continue in effect unless terminated by either party upon thirty days notice.

IN TESTIMONY WHEREOF, the Board has caused this instrument to be executed in its name by its Chair and D. Michael Parker has hereunto set his hand and seal the day and year first above written.

ORANGE COUNTY BOARD OF EDUCATION

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

\_\_\_\_\_  
D. MICHAEL PARKER

AGREEMENT BETWEEN THE  
ORANGE COUNTY BOARD OF EDUCATION  
AND THARRINGTON SMITH  
FOR THE PROVISION OF LEGAL SERVICES ON PERSONNEL AND OTHER  
SPECIALIZED SCHOOL LAW MATTERS AS REQUESTED  
BY THE BOARD OR SUPERINTENDENT  
(NOT IN A GENERAL BOARD ATTORNEY ROLE)

Effective September 28, 2011, the law firm of Tharrington Smith agrees to serve as attorneys to assist the Orange County Board of Education under the following terms and conditions:

1. **Services.** Tharrington Smith will provide personnel and other specialized school law legal services to the Orange County School System as requested by the Board, the Superintendent, or Superintendent's designee. The Orange County Board of Education will be billed at the beginning of each month and bills will include a statement of charges for services for the preceding one-month period. Legal services will be billed at the rate of \$225.00 (Partners)/\$200.00 (Associates) per hour. Work performed by paralegals will be billed at the rate of \$100.00 per hour.

2. **Costs.** Any out-of-pocket expenses, including but not limited to travel, copies, court costs, or telephone calls, will be billed at our cost or at the applicable rate charged by the firm to all clients.

3. **Contract Revisions.** Upon mutual agreement the contract may be revised at any time.

4. **Term.** The contract will continue in effect unless terminated by either party upon thirty days notice.

THARRINGTON SMITH

ORANGE COUNTY BOARD OF  
EDUCATION

By: Jonathan Blumberg  
Jonathan A. Blumberg

By: Deana Cepfey  
Chairman

Date: 10/3/11

ATTEST:  
G. Patrick Rhodes  
G. Patrick Rhodes  
Superintendent

Date: 9-20-11