



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER _____

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DATE: 08/20/2024

SUBJECT: AUTHORIZATION FOR THE CHIEF OF THE TARRANT COUNTY CRIMINAL DISTRICT ATTORNEY'S OFFICE'S CIVIL DIVISION TO EXECUTE AN ATTORNEY EMPLOYMENT AGREEMENT ON BEHALF OF TARRANT COUNTY FOR OUTSIDE COUNSEL REGARDING THE 340B DRUG PRICING PROGRAM

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court authorize the chief of the Tarrant County Criminal District Attorney's Office's (CDA) civil division to execute an attorney employment agreement on behalf of Tarrant County for outside counsel regarding the 340B drug pricing program.

BACKGROUND

In 1992, the United States Congress enacted section 340B of the Public Health Service Act. Through the adoption of this law, the federal government sought to help uninsured, indigent patients by giving qualifying healthcare facilities access to discounts for outpatient drugs. This law is commonly referred to as the 340B Drug Pricing Program or the 340B Program. In short, it is a federally facilitated program that imposes ceilings on prices prescription drug manufacturers may charge for certain medications sold to qualifying healthcare facilities known as covered entities.

The Tarrant County Public Health Department (TCPH) qualifies as a covered entity under the 340B Program. When TCPH contracts with a pharmacy and insured clients of TCPH obtain their prescriptions from that contracted pharmacy, Tarrant County receives the difference between what the insurance company paid for the prescription and the replenishment price of the prescription. The contracted pharmacy then places a replenishment order with the prescription manufacturer and TCPH pays the manufacturer invoice for the order at the 340B pricing. Through the 340B Program, Tarrant County has accumulated approximately \$29 million, which currently sits unused and is generating additional interest income. Tarrant County desires to use these funds for public purposes, but federal law restricts the manner in which these funds can be used. To comply with the law and due to the complexity of the regulatory schemes governing the use of these funds, Tarrant County requires specialized legal advice on allowable expenditures.

Several potential attorneys with the necessary specialized qualifications and experience to serve as outside counsel on this issue have been identified. Time is of the essence in selecting an attorney to provide legal advice on this issue and engagement of outside counsel is needed before the next scheduled Commissioners Court meeting. By authorizing the chief of the CDA's civil division to execute an attorney employment agreement on behalf of Tarrant County with one (1) of the identified attorneys, Tarrant County will receive specialized legal advice in a timely manner.

SUBMITTED BY:	Criminal District Attorney	PREPARED BY: APPROVED BY:	Polly S. Maxwell
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FISCAL IMPACT

The fiscal impact associated with this action is unknown at this time. The total cost will depend on the amount of hours outside counsel expends to provide the necessary legal services. It is estimated the total cost for the legal services provided will be between \$15,000.00 to \$35,000.00. Funding is available in T4100-2024 PMC Insured – 340B Fund/5100011000 Public Health/500000 Rollup All Expenditures.