

**RESOLUTION NO. 2018-02**

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE PUBLIC AGENCY RISK SHARING  
AUTHORITY OF CALIFORNIA ESTABLISHING  
CRITERIA FOR DEFENSE COUNSEL PANEL FOR  
THE LIABILITY PROGRAM**

**WHEREAS**, the Public Agency Risk Sharing Authority of California, herein referred to as PARSAC, is a Joint Powers Authority organized and existing in accordance with the laws of the State of California, and;

**WHEREAS**, one of PARSAC's functions is to operate a liability risk sharing pool for its members, and;

**WHEREAS**, PARSAC and its members will retain defense counsel to provide defense against third party claims and suits, and;

**WHEREAS**, PARSAC shall have the right and duty to participate in the defense of any claim or suit against a member if the final judgment or settlement is likely to result in an ultimate net loss exceeding a member's self-insured retention, and;

**WHEREAS**, PARSAC previously developed an informal list of defense attorneys throughout the state who have experience in defending public entities and their employees against third party liability claims, and;

**WHEREAS**, the geographic diversity and wide variability of members' self-insured retentions result in inconsistent litigation management, reporting, administration, and defense costs, and;

**WHEREAS**, it is the desire of the Board of Directors to develop a formal defense attorney panel to ensure professional, competent, and cost-effective handling of defense litigation of cases that affect PARSAC;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors as follows:

- A. The informal defense panel shall be replaced by a formal defense panel as per the attached Exhibit A, which may only be amended by Board action.
- B. Law firms must meet and agree to the following provisions before PARSAC will consider their inclusion on the panel:

Amended May 31, 2018

Adopted May 25, 2017

Adopted May 27, 2010

Amended May 29, 2014

Adopted December 3, 2015

Replaces Prior Resolutions 2015-02, 2014-01, 2011-01 and 2010-02

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1. Attorneys must have no less than 10 years civil litigation practice which includes substantial and significant experience in municipal entity liability defense to be eligible for case assignment;
  2. The firm shall provide a resume setting forth the experience of the individual attorneys that would be assigned to cases and their areas of expertise;
  3. The firm must agree to the maximum hourly rates outlined in the attached Fee Schedule (Exhibit B), unless specialized legal representation is necessary (i.e. railroad litigation) which would require prior approval from PARSAC. Except where prior approval has been given, members will be responsible for the amount in excess of the maximum, which shall not reduce the member's self-insured retention obligation. The maximum hourly rate will be reviewed on a bi-annual basis.
  4. The firm must agree to abide by the policies and procedures established by PARSAC for the handling of litigation.
  5. The firm must evidence general liability, automobile liability, workers' compensation, and professional liability insurance. The policy limits must not be less than \$1,000,000 per occurrence and PARSAC its officials, officers, employees and agents, with the exception of workers' compensation and professional liability, must be named additional insured.
- C. The General Manager and Officers may appoint a particular attorney or law firm other than panel counsel when specialized, unforeseen defense is required. The law firm or attorney shall comply with conditions 1 -6 above.
- D. PARSAC will assign defense counsel for Members with SIRs under \$250,000 in collaboration with the Member. Members with SIRs of \$250,000 and higher will make the assignment, except for claims involving law enforcement. Nothing in this resolution shall be construed to limit the right of the member entity to retain its own defense counsel to represent the member entity in any litigation. If, however, a member entity retains its own counsel who is not one of the defense panel firms, the member entity shall be solely responsible for all attorney's fees and costs, and the member entity shall be deemed to have waived any rights to defense and indemnity coverage from PARSAC for that particular litigation, regardless of any change in PARSAC's position on available coverage.

Amended May 31, 2018

Adopted May 25, 2017

Adopted May 27, 2010

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Adopted December 3, 2015

Replaces Prior Resolutions 2015-02, 2014-01, 2011-01 and 2010-02

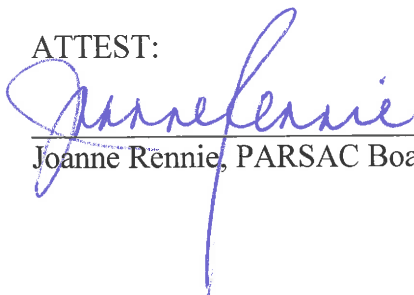
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- E. A member entity has the right to utilize its own in-house counsel (i.e. an employee of the member entity, not a contracted city attorney) to represent the member entity in any litigation. However, no in-house counsel fees or costs shall be applied towards the satisfaction of the member entity's retained limit.
- F. Law firms that are contracted city attorneys for the member entity will not serve in the dual capacity of general counsel and defense counsel for the litigation of claims/suits. A member entity retaining the contracted city attorney's law firm for defense counsel shall be solely responsible for all attorney's fees and costs, and the member entity shall be deemed to have waived any rights to defense and indemnity coverage from PARSAC for that particular litigation.
- G. Law firms that are contracted city attorneys for the member entity may serve in the dual capacity of general counsel and defense counsel for the litigation of claims/suits if the member entity maintains a \$350,000 self-insured retention. Member selected defense counsel must include PARSAC on all litigation correspondence from the onset of the claim or suit, comply with conditions 1 – 6, and is subject to regular review and approval of PARSAC. PARSAC may assign alternative counsel should the claim/suit involve an area of practice that is outside the contracted defense counsel's specialty.

Effective Date. This Resolution shall become effective on upon adoption and shall replace Resolution 2014-01.

ADOPTED this 31st day of May 2018

ATTEST:

  
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Joanne Rennie, PARSAC Board Secretary

  
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John Gillison, President  
PARSAC Board of Directors

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**EXHIBIT A**

**Liability Defense Panel Approved Firm List**

Allen, Glaessner Hazelwood & Werth

Angelo Kilday & Kilduff

Best Best & Krieger

Bordin Semmer

Law Offices of Borton Petrini

Bremer Whyte Brown & O'Meara

Brobeck West Borges Rosa & Douville

Caulfield Law Firm

Collins Collins Muir & Stewart

Daley & Heft

Diepenbrock & Cotter

Edrington Schirmer & Murphy

Ferguson Praet & Sherman

Fortin Law Group

Graves & King

Haight, Brown & Bonesteel

Law Offices of Scott C. Haith

Jones & Mayer

Kennedy Archer & Giffen

Longyear O'Dea & Lavra

Low Ball & Lynch

Marderosian, Cercone & Cohen

Manning & Kass Ellrod Ramirez Trester

McNamara Ney Beatty Slattery Borges & Ambacher

Mitchel Brisso Delaney & Vrieze

Murchison & Cumming

Noland Hamerly Etienne & Hoss

Porter Scott

Porter Simon

Pyka Lenhard Schnaider Zell

Richard Watson Gershon

*Amended May 31, 2018*

*Amended May 25, 2017*

*Adopted December 3, 2015*

*Replaces Resolutions 2015-02, 2014-01, 2011-01, 2010-02, and 2005-04*

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**EXHIBIT B**

**Maximum Fee Schedule**

<i>Legal Staff</i>	<i>Maximum Rate</i>
Partners	\$225
Associates	\$185
Paralegals	\$95

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Adopted May 25, 2017  
Adopted December 3, 2015  
Replaces Prior Resolutions 2015-02, 2014-01, 2011-01 and 2010-02*