



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: A 12-061, **Version:** 1

Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Amendment No. 3 to the Agreement (A-11791) with Latham & Watkins LLP for Legal Services at NMC, extending the Agreement to June 30, 2013 for a total Agreement amount not to exceed \$1,000,000 (no change to previously approved amount) in the aggregate.

RECOMMENDATION:

It is recommended the Board of Supervisors authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Amendment No. 3 to the Agreement (A-11791) with Latham & Watkins LLP for Legal Services at NMC, extending the Agreement to June 30, 2013 for a total Agreement amount not to exceed \$1,000,000 (no change to previously approved amount) in the aggregate.

SUMMARY/DISCUSSION:

Latham & Watkins LLP is one of the pre-eminent law firms representing healthcare systems and local community hospitals throughout the United States. Their healthcare attorneys have specific experience with the nuanced regulations that govern the healthcare industries, including those related to fraud and abuse, Medicare/Medicaid reimbursement, healthcare regulatory requirements, financing regulation, and licensing.

On July 27, 2010 the Board of Supervisors approved the original Agreement with Latham & Watkins for Legal Services at NMC in an amount not to exceed \$100,000 for the period May 1, 2010 to April 30, 2011 ("Agreement"). On January 11, 2011, the parties entered into an Amendment No. 1 to the Agreement, increasing the maximum liability by \$300,000 and extending the Agreement to June 30, 2011. The parties' Agreement expired on June 30, 2011. Services nevertheless continued since June 30, 2011 without interruption. On November 15, 2011 the Board approved Renewal and Amendment No. 2 to the Agreement. The Renewal and Amendment No. 2 increased the maximum liability by \$600,000, for a total not to exceed Agreement amount of \$1,000,000 in the aggregate, and allowed continuation of services and payment for services on the same terms and conditions as the expired Agreement without interruption for the period July 1, 2011 to June 30, 2012. This Amendment No. 3 extends the Agreement to June 30, 2013 without increasing the maximum liability under the Agreement.

During Fiscal Year 2010-2011, Latham & Watkins provided significant legal services to the County of Monterey, to ensure that the County's agreements complied with state and federal healthcare and Medicare compliance laws. The potential sanctions for noncompliance with these laws are severe and include civil and criminal liability, as well as debarment or exclusion from participation in Medicare. Because the requested services pertained to multiple healthcare professional agreements and, due to the severity of potential sanctions for noncompliance, required the skilled competence of healthcare law experts, the law firm's advice and counsel were both necessary and extensive. The law firm's services continued to be needed in the Fiscal Year 2011-2012 in the area of healthcare professional agreements compliance and as NMC readied for changes initiated by healthcare reform. Accordingly the maximum liability under the Agreement was increased by \$600,000 for FY 2011-2012, and the Agreement was extended to June 30, 2012. Amendment No. 3, extending the term of the Agreement through June 30, 2013 without increasing the County's maximum liability under the Agreement, is necessary to permit the continuation of Latham's services in the area of healthcare professional agreements compliance and healthcare reform.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed and approved this Amendment as to legal form and risk provisions. Auditor-Controller has reviewed and approved this Amendment as to fiscal provisions. The Amendment has also been reviewed and approved by Natividad Medical Center's Board of Trustees.

FINANCING:

As a result of Renewal and Amendment No. 2, the Board of Supervisors approved a \$600,000 increase for Fiscal Year 2011-2012 in the maximum liability in the Agreement (for a total Agreement amount not to exceed \$1,000,000 in the aggregate). As a result of this Amendment No. 3, no additional dollars will be added. As of May 8, 2012, for Fiscal Year 2011-2012, \$167,683.39 was spent for services. Remaining funds from previous years purchase orders (approximately \$550,000) will be rolled over for Fiscal Year 2012/2013. \$550,000 is included in the fiscal year 2012/2013 Recommended Budget. There is no impact to the General Fund.

Prepared by: Stacy Saetta, Deputy County Counsel, 755-5333

Approved by: Harry Weis, Chief Executive Officer, 783-2553

Attachments: Agreement, Amendments 1, 2, and 3.