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File #:	A 12-061	Version: 1	Name:	Latham & Watkins Amendment #3
Type:	BoS Agreement		Status:	Consent Agenda
File created:	5/3/2012		In control:	Board of Supervisors
On agenda:	6/12/2012		Final action:	
Title:	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.			
Attachments:	<a href="#">Latham &amp; Watkins LLP Amendment #3, Completed Board Order</a>			

[History \(0\)](#)
[Text](#)

#### Title

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.

#### Body

##### **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.



## Monterey County

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

#### Agreement No.: A-11791

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta, and carried by those members present, the Board of Supervisors hereby:

Authorized 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.

PASSED AND ADOPTED on this 12th day of June 2012, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on June 12, 2012.

Dated: June 25, 2012  
File Number: A 12-0061

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By *Dennis Hancock*  
Deputy

**AMENDMENT NO. 3 OF AGREEMENT (A-11791) BETWEEN THE  
COUNTY OF MONTEREY &  
LATHAM & WATKINS LLP**

WHEREAS, Latham & Watkins LLP, hereinafter "CONTRACTOR", and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "COUNTY," previously entered into an agreement dated May 1, 2010, for the provision of legal services ("AGREEMENT") in an amount not to exceed \$100,000 for the period May 1, 2010 to April 30, 2011; and

WHEREAS, COUNTY and CONTRACTOR amended the AGREEMENT, effective October 1, 2010 via AMENDMENT NO. 1, increasing the maximum liability by \$300,000 and extending the AGREEMENT to June 30, 2011;

WHEREAS, the AGREEMENT, as amended by AMENDMENT NO. 1, expired pursuant to its terms on June 30, 2011; and

WHEREAS, COUNTY and CONTRACTOR entered into a Renewal and Amendment No. 2 of the AGREEMENT retroactive to July 1, 2011, extending the term of the renewed AGREEMENT through and including June 30, 2012; and increasing the maximum amount of COUNTY's liability over the full term of this Agreement to \$1,000,000 and \$600,000 for fiscal year 2011-2012;


WHEREAS, COUNTY and CONTRACTOR wish to further extend the term of parties' AGREEMENT through and including June 30, 2013; NOW THEREFORE,

For valuable consideration, the sufficiency of which is hereby acknowledged, COUNTY and CONTRACTOR agree as follows:

1. Paragraph 4, Section 6, Rates, Fees and Charges, is amended to extend the term date until June 30, 2013.
2. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT NO.3 OF AGREEMENT (A-11791) ("AMENDMENT NO. 3"), and shall continue in full force and effect as set forth in the AGREEMENT;
3. A copy of this AMENDMENT NO. 3 shall be attached to the original AGREEMENT dated May 1, 2010.
4. The effective date of this AMENDMENT NO. 3 is July 1, 2012.

IN WITNESS WHEREOF, the parties hereto are in agreement with this Amendment on the basis set forth in this document and have executed this Amendment on the day and year set forth herein.

CONTRACTOR Latham + Watkins LLP

Signature 1 

Dated March 23, 2012

Printed Name Jerry Peters

Title Partner

Signature 2 \_\_\_\_\_


Dated \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

\*\*\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.

NATIVIDAD MEDICAL CENTER

Signature   
Purchasing Manager

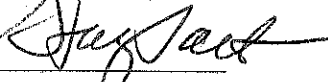
Dated 6-13-12

Signature   
NMC - CEO

Dated 4/18/12

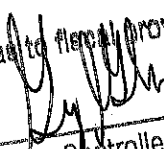
Approved as to Legality and Legal Form:

Charles J. McKee, County Counsel

By   
Stacy Saetta, Deputy  
Attorneys for County and NMC

Dated: 5/1, 2012


Reviewed as to fiscal provisions

  
Auditor-Controller  
County of Monterey

5-2-12

IN WITNESS WHEREOF, the parties hereto are in agreement with this Amendment on the basis set forth in this document and have executed this Amendment on the day and year set forth herein.

CONTRACTOR Latham + Watkins LLP

Signature 1 

Dated March 23, 2012

Printed Name Jerry Peters

Title Partner

Signature 2 \_\_\_\_\_


Dated \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

\*\*\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.

NATIVIDAD MEDICAL CENTER

Signature   
Purchasing Manager

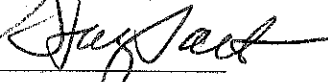
Dated 6-13-12

Signature   
NMC - CEO

Dated 4/18/12

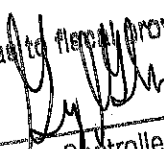
Approved as to Legality and Legal Form:

Charles J. McKee, County Counsel

By   
Stacy Saetta, Deputy  
Attorneys for County and NMC

Dated: 5/1, 2012

Reviewed as to fiscal provisions

  
Auditor-Controller  
County of Monterey

5-2-12