

County of Santa Clara County Counsel




CC01 040709

Prepared by: Kristin Wong Baker
Deputy County Counsel

Reviewed by: Miguel Marquez
Assistant County Counsel

DATE: April 7, 2009

TO: Board of Supervisors

FROM: 
Ann Miller Ravel
County Counsel

SUBJECT: Second Amendment to Legal Services Agreement with Morgan, Franich, Fredkin & Marsh

RECOMMENDED ACTION

Approve Second Amendment to Agreement with Morgan, Franich, Fredkin & Marsh relating to providing legal services, extending the term for two years to June 30, 2011, and increasing the maximum compensation from \$400,000 to \$800,000 for the period August 4, 2007 through June 30, 2011.

FISCAL IMPLICATIONS

There is no General Fund impact as the funding for the Amendment is already included in the budgeted amount for the Liability Insurance Program in the Employee Services Agency, Risk Management Department. The Second Amendment maintains the same fee schedule as the original Agreement.

CONTRACT HISTORY

Morgan, Franich, Fredkin & Marsh has provided outside legal services to the County since August 3, 2004. The firm was originally selected for its reputation of providing quality legal services and its experience in medical malpractice litigation. The firm currently handles complex cases requiring specialized legal expertise on behalf of the County.

The original Agreement with this firm was approved by the Board of Supervisors effective August 3, 2004, and amended as of August 4, 2005. A new Agreement, effective August 4, 2007 and amended as of August 28, 2008, was approved by County Counsel pursuant to a delegation of authority granted by the Board of Supervisors on February 28, 2006 (agenda item 42). This Agreement will expire on June 30, 2009. The maximum compensation under the current Agreement is \$400,000 for the period August 4, 2007 to June 30, 2009.

The attached Agreement is a Type I service agreement subject to the Resolution of Contracting Principles adopted by the Board of Supervisors on October 28, 1997.

REASONS FOR RECOMMENDATION

The Office of the County Counsel assigns matters to outside law firms to represent the County in cases presenting a conflict of interest, where special expertise would benefit the County, or when the existing workload of the County's attorneys renders it impracticable to assign County staff to undertake a particular matter. This firm is currently handling matters for the County requiring special expertise in medical malpractice law. The pending cases are complex and require extensive work.

Under a delegation granted by the Board of Supervisors on February 28, 2006 (agenda item 42), County Counsel has the ability to execute, amend, and terminate agreements with outside counsel in an amount not to exceed \$200,000 per fiscal year. Due to the complex nature of the cases handled by this law firm, the firm's bills exceeded the current maximum compensation amount of \$400,000 in February of this year. Board approval is therefore requested to extend the agreement for an additional two years and increase the maximum compensation amount of the current agreement by \$400,000, to a total of \$800,000 for the period ending June 30, 2011.

CONSEQUENCES OF NEGATIVE ACTION

The County will not have the benefit of the continued expertise and handling by the law firm on pending medical malpractice matters.

STEPS FOLLOWING APPROVAL

The Clerk of the Board will return one fully executed original of the approved Amendment to Kristin Baker, Deputy County Counsel, to forward to Morgan, Franich, Fredkin & Marsh.

ATTACHMENTS

- Legal Services Agreement - Morgan, Franich
- First Amendment to Agreement - Morgan, Franich
- Second Amendment to Agreement - Morgan, Franich, Fredkin & Marsh