

COUNTY OF SAN MATEO
INTERDEPARTMENTAL CORRESPONDENCE

To: Honorable Board of Supervisors
From: County Counsel
Subject: Execution of Second Amendment to Agreement Between the County of San Mateo and Farella Braun & Martel
Date: June 11, 2001

RECOMMENDATION:


Approve a resolution authorizing execution of a second amendment to the agreement between the County of San Mateo and Farella Braun & Martel

DISCUSSION:

During construction of the County of San Mateo Health Center, legal disputes arose for which it was beneficial to consult with attorneys specializing in construction litigation. Your Board previously authorized an agreement with the law firm of Farella Braun & Martel, and, in particular, Alan Harris of that firm, to provide such expertise. A lawsuit was filed by the engineering consultant to the architects alleging that they are owed fees in connection with the hospital construction and the architect has cross-complained against the County. The County has responded to this suit and also filed a cross-complaint alleging negligence in the architect's provision of services. Mediation was attempted but was unsuccessful. With trial set for October 19, 2001 in Alameda County, the suit is currently in the discovery phase, which has involved a large amount of time in categorizing and providing the extensive number of documents. In addition, expert consultants have been hired to examine the issues related to the quality of the services provided by the architects and the mechanical engineers. This lawsuit, and in particular the need to go to trial after the refusal of the plaintiffs to settle, has increased the expected cost of the agreement with the law firm. Costs to date have been \$500,000 with the expected cost of going to trial estimated to be an additional \$750,000. This amendment would therefore raise the maximum amount payable under the agreement from \$500,000 to \$1,250,000.

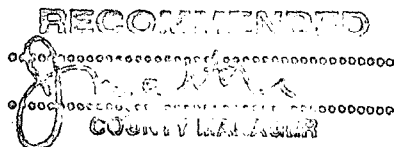
FISCAL IMPACT:

The agreement limits the fees to \$1,250,000, unless this Board authorizes additional payment. These payments are made from the proceeds of the 1994 Series A Health Center bonds.



Thomas F. Casey III, County Counsel

cc: John Maltbie, County Manager
Paul Scannell, Assistant County Manager

RECOMMENDED

COUNTY MANAGER

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**RESOLUTION AUTHORIZING EXECUTION OF SECOND AMENDMENT TO
AGREEMENT BETWEEN THE COUNTY OF SAN MATEO
AND FARELLA BRAUN & MARTEL**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California,
that

WHEREAS, the County has previously contracted with Farella Braun & Martel for the
provision of legal services in connection with the construction of the hospital; and

WHEREAS, the firm is now representing the County in litigation with the architects for the
hospital and this Board wishes to continue such representation and amendment to the contract is
required; and

WHEREAS, there has been presented to this Board of Supervisors for its consideration and
acceptance an amendment, reference to which is hereby made for further particulars, whereby
the maximum amount payable under the contract is increased; and

WHEREAS, this Board has been presented with a form of such amendment and said Board
has examined and approved same as to both form and content and desires to enter into same:

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the
County Counsel be, and he is hereby, authorized and directed to execute said agreement for and on
behalf of the County of San Mateo, and the Clerk of this Board shall attest his signature thereto.

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**SECOND AMENDMENT TO AGREEMENT BETWEEN
THE COUNTY OF SAN MATEO AND
FARELLA BRAUN & MARTEL LLP**

Whereas, the County of San Mateo and the law firm of Farella Braun & Martel (Contractor) previously entered into an agreement whereby the Contractor would provide legal services to the County; and

Whereas, there is a need for continued services concerning the lawsuit Ted Jacob Engineering v. Ratcliff Architects, and the parties wish to amend the agreement to increase the maximum amount payable under this contract;

Wherefore, it is agreed as follows:

1. Paragraph 2 of the agreement is amended to replace "\$500,000" with "\$1,250,000."
2. In all other respects the agreement will remain in full force and effect.

Dated: _____

SAN MATEO COUNTY COUNSEL

THOMAS F. CASEY III, COUNTY COUNSEL

Dated: _____

FARELLA BRAUN & MARTEL LLP

ALAN E. HARRIS, ATTORNEY