

AGREEMENT

This AGREEMENT is made and entered into by the County of Monterey, a political subdivision of the State of California, on behalf of its County-owned and operated hospital, Natividad Medical Center (hereinafter referred to as “NMC”), and Navin, Haffty & Associates, LLC (hereinafter referred to as “CONTRACTOR”).

1.0 RECITALS

WHEREAS, NMC has invited proposals through the Request for Proposals (RFP # 9600-67) for IT Consulting Services, in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, NMC and CONTRACTOR, for the consideration hereinafter named, agree as follows:

2.0 PERFORMANCE OF THE AGREEMENT

2.1 After consideration and evaluation of the CONTRACTOR’S proposal, NMC hereby engages CONTRACTOR to provide the services set forth in RFP # 9600-67 and in this AGREEMENT on the terms and conditions contained herein and in RFP # 9600-67. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

RFP # 9600-67 dated August 1, 2016, including all attachments and exhibits
Addendum No. 1 to RFP # 9600-67
CONTRACTOR’S Proposal dated September 14, 2016
AGREEMENT
Business Associate Agreement (BAA)
Certificate of Insurance
Additional Insured Endorsements

2.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT, CONTRACTOR’S Proposal, RFP #9600-67 including all attachments

and exhibits, Addendum/Addenda issued, Certificate of Insurance, and Additional Insured Endorsements.

- 2.3 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this AGREEMENT are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this AGREEMENT and are not employees of NMC nor of the County of Monterey, or immediate family of an employee of Natividad Medical Center nor of the County of Monterey.
- 2.4 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 2.5 CONTRACTOR shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State of California. The Agency will be in compliance with Title 22, OSHA, Federal and State Labor Laws and the Joint Commission on Accreditation of Health Care Organizations.
 - 2.5.1 CONTRACTOR must maintain all applicable and required licenses throughout the term of the AGREEMENT.
- 2.6 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this AGREEMENT, except as otherwise specified in this AGREEMENT. CONTRACTOR shall not use Natividad Medical Center premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.
- 2.7 CONTRACTOR shall provide such services as CONTRACTOR deems necessary and reasonable to complete the specific services described in this Agreement but is not required to perform services at any particular time. NMC shall not have first right to CONTRACTOR's time.
- 2.8 CONTRACTOR will determine the method, details, and means of performing the services described in this Agreement by CONTRACTOR or any of CONTRACTOR's employees. NMC shall have no right to, and shall not, control the manner or determine the method of accomplishing CONTRACTOR'S services.

3.0 SCOPE OF SERVICE

- 3.1 The Scope of Services can be described generally as providing IT Consulting Services at Natividad Medical Center for key areas that may have future project needs with which a Statement of Work shall be developed on a per project basis. Section 3.1.1 illustrates subject areas that are likely to be the focus of future requested Statements of Work. This

is not all inclusive but contains many of the different areas of expertise that may need to be supported by CONTRACTOR resources.

3.1.1 **GENERAL NEEDS:** Subject areas that can be described generally as providing IT Consulting Services for key areas that may have future project needs. These areas may include but are not limited to the following:

- a. Meditech Client/Server 5.67 application modules, such as:
 - Physician Documentation (PDOC)
 - Patient Care Services (PCS)
 - Emergency Department Management (EDM)
 - Computerized Physician Order Entry (CPOE)
 - Imaging and Therapeutic Services (ITS)
 - Revenue Cycle/Billing/Accounts Receivable (BAR)
 - Admitting/Scheduling (ADM/SCH)
 - Operating Room Management (ORM)
 - Scanning/Archiving
 - Materials Management
 - Abstracting
- b. Implementation of Meditech 6.1x for Natividad Medical Center.
- c. Other areas that may need support that are not Meditech specific but most interface with Meditech in some manner:
 - Intelligent Medical Objects (IMO)
 - Laboratory Information Systems (LIS)
 - McKesson Picture archiving and communication system- PACS for Radiology
 - McKesson Cardiology Picture Archive and Communication System- CPACS for Cardiology
 - Imprivata Single Sign On
 - GE MUSE – Cardiology system
 - Patient Portal/Health Information Exchange (HIE)- McKesson Relay Health
- d. Programmers to support:
 - Report writing NPR (Meditech’s report writing language)
 - Structured Query Language (SQL)
 - Microsoft SQL Server Reporting Services (SSRS)
 - HL7 Interfaces
 - Corepoint Interface Engine
- e. Population Health
- f. Technical Areas (example: Database Administrator, Systems and Network Engineer)

3.2 NMC will clearly communicate its IT consulting needs with CONTRACTOR(s) on an as-needed and per project basis. CONTRACTOR(s) will develop a detailed Statement of Work on this per project basis with clear performance measures and deliverables included based on NMC's needs at the current time. CONTRACTOR(s) shall present this written Statement of Work to NMC for review. NMC reserves the right to negotiate within each Statement of Work. CONTRACTOR shall only proceed in providing the services outlined in the Statement of Work with written permission of the CEO or his designee. NMC may request a statement of work from more than one awarded CONTRACTORS, and shall select the CONTRACTOR who it deems has provided the best Statement of Work for that project to proceed with.

3.3 EXAMPLES of Current Projects/Skillsets provided by Independent IT Consultants

a) Clinical Project Manager (PM) for Meditech Specific Modules

Clinical Project Manager for MEDITECHs Operating Room Module (ORM)

- PM to provide expertise and leadership in implementing the ORM Module
- Provide project planning, task prioritization, budget/cost analysis, scheduling, projections of staffing requirements, performance measures, and training.
- Significant clinical IT leadership and relevant experience in successful ORM implementations
- Technology, strategic planning, tracking, training, oversight knowledge and participation in the implementation across impacted business lines in the hospital
- Track and communicate status and meet milestones and timelines for implementation
- Track all issues and resolutions and owners and timeframes for resolution
- Assist in the development and communication of workflows for IT and all impacted departments
- Manage MEDITECH vendor and software loads and testing and configuration
- Risk Assessment Analysis - Assess the risks associated with costs, benefits, scheduled, technical performance, human factors, safety and security. The analysis may include provisions for identifying risk areas, assessing risk factors, recommending appropriate resources to reduce risk factors, identifying and analyze alternative actions available, identifying the most promising alternatives and planning for implementation of risk reductions.

b) Clinical IT Subject Matter Experts

This role has the following general skillset/experience:

- Experience implementing and supporting the MEDITECH software module application requested
- Clinical expertise and knowledge to the software, application and workflows to optimize the use of the application
- Understanding and ability to facilitate any needed changes for the specific workflow for the clinical module to be optimized, implemented and supported
- Nursing degree or equivalent clinical degree or demonstrated specific clinical experience

Specific Clinical IT Subject Matter Experts include:

1. Clinical IT Nurse to optimize Computerized Physician Order Entry (CPOE)
 - Understanding and creating/updating clinical workflows
 - Thorough knowledge of standardized Pharmacy, nursing and ancillary Order Sets
 - Experience with Provation strongly preferred.
2. Clinical IT Nurse capable of facilitating implementation of a longitudinal population health care system to meet goals in three 1115 Medi-Cal Waiver Programs; (1) Public Hospital Redesign and Incentives in Medi-Cal (PRIME), (2) Whole Person Care (WPC) and the (3)Global Payment Program (GPP). The targeted completion for this is September 2018.
 - Effectively working with the clinical staff, Care Management and IT teams
 - Ability to anticipate the implementation of care management and analytics software
 - Expertise in the clinical workflows and optimization of PDOC, CPOE and PCS
 - Identifying and helping to design the capturing of needed discrete data fields and identifying the data entry workflow for the clinical end users
 - Work closely with report writers and DBAs (DataBaseAdministrators) in order to build the needed data and generate reports
3. Clinical Subject Matter Expert for optimizing Physician Documentation (PDOC)
 - Experience implementing PDOC and Dragon Natural Language
 - Ability to analyze and optimize physician templates and ensure all needed discreet data is being captured and can be reported on
4. Clinical Subject Matter Expert for optimizing Patient Care Services (PCS)
 - Expert to lead optimization of PCS module
 - Must have nursing degree and must have excellent understand of nursing documentation and workflow
5. Clinical Subject Matter Expert for Ambulatory Optimization.
 - Need leadership in completion of documentation capture and workflow in the MEDITECH ambulatory environment.
 - Expertise in all clinical workflows.
 - Work closely with Population Health Team so must have understanding of Population Health and be able to assess the impacts and integration with the ambulatory environment.

c) Report Writer

Target project completion to support the reporting for the Waiver Programs is September 2018

- Report writer with strong SQL skills.
- Work with end users to identify reporting requirements and write and test reports to support Care Management, Clinical Staff and the implementation of longitudinal care management.
- Develop SQL reports and SSRS dashboard for PRIME
- Analyze, build and test reports for analytics and care management software implementation.

3.4 A written Statement of Work (SOW) shall contain the following sections and information at a minimum:

- 1) Background and Understanding
- 2) Communication and Accountability
- 3) Scope and Approach
- 4) Deliverables
- 5) Project Schedule and Timeline
- 6) Costs - hours, rates, positions, duration

3.5 NMC will clearly communicate its IT consulting needs with CONTRACTOR(s) on an as-needed and per project basis. CONTRACTOR(s) will develop a detailed Statement of Work on this per project basis with clear performance measures and deliverables included based on NMC's needs at the current time. CONTRACTOR(s) shall present this written Statement of Work to NMC for review. NMC reserves the right to negotiate within each Statement of Work. CONTRACTOR shall only proceed in providing the services outlined in the Statement of Work with permission by NMC to do so. NMC may request a statement of work from more than one awarded CONTRACTORS, and shall select the CONTRACTOR who it deems has provided the best Statement of Work for that project to proceed with.

3.6 Contractor Minimum Work Performance Percentage: CONTRACTOR shall perform contract work amounting to no less than 50 percent of the total contract price defined in the statement of work which will be submitted on a per project basis.

4.0 TERM OF AGREEMENT

4.1 The initial term shall commence on April 1, 2017 through March 31, 2018 with the option to extend the AGREEMENTs four (4) additional one (1) year periods. NMC is not required to state a reason if it elects not to renew this AGREEMENT.

4.2 If NMC exercises its option to extend, all applicable parties shall mutually agree upon the extension, including any changes in rate and/or terms and conditions.

- 4.3 NMC reserves the right to cancel the AGREEMENT, or any extension of the AGREEMENT, without cause, with a thirty (30) day written notice, or immediately with cause.

5.0 COMPENSATION AND PAYMENTS

- 5.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached hereto as EXHIBIT PRICING SHEET.
- 5.2 Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 5.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of this AGREEMENT.
- 5.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 5.5 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from NMC in writing.
- 5.6 Tax:
21.6.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
21.6.2 County is registered with the Internal Revenue Service, San Francisco office, EIN number 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.
- 5.7 Travel Reimbursement. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement, and then only in accordance with any applicable County policies.
- 5.8 The services must be performed in full compliance at all times with the requirements of this Agreement and to the satisfaction of NMC.
- 5.9 NMC will be obligated to pay CONTRACTOR only for services actually performed. If CONTRACTOR fails to perform any services in accordance with this Agreement, CONTRACTOR shall, if practicable, re-perform the services at no cost to NMC, or if the services cannot practicably be re-performed, then NMC shall be entitled to deduct from CONTRACTOR'S invoice an amount equal to the equitable difference in value to NMC between the required services and the services actually performed by Contractor. NMC's remedies set forth in this Section 5.9 shall be in addition to any other remedies available to NMC pursuant to this Agreement or otherwise available pursuant to applicable law or

in equity. At any time that CONTRACTOR does not or is unable to perform the services in full compliance, NMC shall have the right to provide any services with its own employees or by the engagement of another vendor regardless of whether NMC elects to terminate this Agreement. If NMC deems it necessary to provide services by use of its employees or another vendor, CONTRACTOR shall reimburse NMC's actual expenses for providing such services if CONTRACTOR was required to provide the services under the terms of the Agreement.

- 5.10 NMC shall have the right to disapprove of any member of CONTRACTOR'S staff assigned to perform services under this Agreement.

6.0 INVOICES AND PURCHASE ORDERS

- 6.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the Natividad Medical Center Accounts Payable department at the following address:

Natividad Medical Center
Accounts Payable Department
P.O. Box 81611
Salinas, CA 93912

Contact Information:
Phone: (831) 783-2367
Email: AccountsPayableEmail@natividad.com

- 6.2 CONTRACTOR shall reference RFP # 9600-67 on all invoices submitted to NMC. CONTRACTOR shall submit such invoices periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. NMC shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this AGREEMENT, and shall promptly submit such invoice to the County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- 6.3 All NMC Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 6.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by NMC. Surcharges and additional fees not included the AGREEMENT must be approved by NMC in writing via an Amendment.

7.0 INDEMNIFICATION

- 7.1 CONTRACTOR shall indemnify, defend, and hold harmless the County of Monterey, including its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County of Monterey. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.
- 7.2 At CONTRACTOR'S expense as described herein, CONTRACTOR agrees to defend, indemnify, and hold harmless NMC, its officers, agents, employees, members, subsidiaries, parent, affiliates, and successors in interest from and against any claim, demand, action, proceeding, threatened or actual, judgment, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees as provided herein arising out of CONTRACTOR's or NMC's alleged failure to pay, when due, all such compensation, premiums, taxes and obligations and including any claim of whatever nature brought by any employee of CONTRACTOR or any applicant of CONTRACTOR for employment, arising out of the hiring, or failure to hire the employee/applicant, or arising out of any aspect of his/her employment by CONTRACTOR and the termination thereof (collectively referred to for purposes of this Section as "Employment Claim(s)"). Contractor shall pay to NMC any expenses or charges relating to or arising from any such Employment Claim(s) as they are incurred by NMC.

8.0 INSURANCE REQUIREMENTS

- 8.1 Evidence of Coverage:
- 8.1.1 Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition CONTRACTOR upon request shall provide a certified copy of the policy or policies.
- 8.1.2 This verification of coverage shall be sent to the County of Monterey's Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by County of Monterey. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

8.1.3 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by County of Monterey's Purchasing Officer.

8.2 Insurance Coverage Requirements:

8.2.1 Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

8.2.1.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

8.2.1.2 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

8.2.1.3 Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

8.2.1.4 Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

8.3 Other Insurance Requirements:

- 8.3.1 All insurance required by this AGREEMENT shall be with a company acceptable to County of Monterey and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.
- 8.3.2 Each liability policy shall provide that County of Monterey shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.
- 8.3.3 Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County of Monterey and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.
- 8.3.4 Prior to the execution of this AGREEMENT by County of Monterey, CONTRACTOR shall file certificates of insurance with County of Monterey's contract administrator and County of Monterey's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.
- 8.3.5 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by County of Monterey, annual certificates to County of Monterey's Contract Administrator and County of Monterey's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County of Monterey shall notify CONTRACTOR and CONTRACTOR shall

have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles County of Monterey, at its sole discretion, to terminate this AGREEMENT immediately.

9.0 NON-DISCRIMINATION

- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

10.0 ASSIGNMENT AND SUBCONTRACTING

- 10.1 Non-Assignment: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of NMC.
- 10.2 Subcontractors that have been approved by NMC: Any subcontractor utilized by CONTRACTOR shall comply with all of the County of Monterey requirements stated herein this Agreement including insurance and indemnification sections.

11.0 CONFLICT OF INTEREST

- 11.1 CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of this AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR'S services under this AGREEMENT.

12.0 COMPLIANCE WITH APPLICABLE LAWS

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to NMC, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.
- 12.4 In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of NMC. No offer or obligation of permanent employment with NMC or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from NMC any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement.
- 12.5 CONTRACTOR agrees to be solely responsible for the direction, supervision, counseling and discipline of any of its employees, now or in the future, including the conducting of informal and formal performance evaluations. CONTRACTOR agrees to be solely responsible for all matters relating to compensation of its employees, subcontractors, agents, partners or consultants including but not limited to compliance with federal and state and local wage and hours laws, laws governing workers' compensation, Social Security, lay-off or termination compensation, withholding and payment of any and all federal, state and local personal income taxes, disability/death insurance, unemployment, and any other taxes for such persons, including any related employer assessments or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits.
- 12.6 CONTRACTOR agrees that in the performance of this Agreement, CONTRACTOR shall comply with all laws limiting employment after retirement with CalPERS member agencies, including, but not limited to, any specific limits on the number of hours a retiree may work and the amount of compensation a retiree may be paid for employment after retirement within CalPERS. This Section shall apply to CONTRACTOR and CONTRACTOR's employees and agents even if CONTRACTOR or any of CONTRACTOR's employees or agents is, as a result of any finding, order, judgment or

other ruling, classified as a retired annuitant or common-law employee of the County of Monterey for periods during which services were performed under this Agreement. Subject to any applicable limitations of law, at CONTRACTOR's expense as described herein, CONTRACTOR agrees to indemnify, defend and hold harmless the County of Monterey from and against any and all liability, loss, costs or obligations (including, without limitation, interest, penalties and attorney's fees in defending against the same) against the County of Monterey, its employees, or its purported agents or independent contractors as a result of any finding, order, judgment or other ruling that CONTRACTOR or any of CONTRACTOR's employees or agents is a retired annuitant or common law employee for periods during which services were performed under this Agreement.

13.0 RECORDS AND CONFIDENTIALITY

- 13.1 Confidentiality: CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the NMC or prepared in connection with the performance of this AGREEMENT, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this AGREEMENT except for the sole purpose of carrying out CONTRACTOR's obligations under this AGREEMENT.
- 13.2 NMC Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this AGREEMENT.
- 13.3 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, County of Monterey and NMC rules and regulations related to services performed under this AGREEMENT.
- 13.4 Access to and Audit of Records: NMC and the County of Monterey shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of NMC or as part of any audit of County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.

14.0 INFORMATION PORTABILITY AND ACCOUNTABILITY ACT— HIPAA COMPLIANCE

CONTRACTOR agrees to operate its business in a manner as necessary to permit NMC to comply with its obligations under the Health Insurance Portability and Accountability Act of 1996, Subtitle F, Public Law 104-191, relating to the privacy and security of confidential health information, and any final regulations or rules promulgated by the U.S. Department of Health and Human Services thereunder (collectively, the "HIPAA Standards").

CONTRACTOR and NMC shall agree to and execute the Business Associates Agreement attached hereto as EXHIBIT A as a binding part of this AGREEMENT.

15.0 EMERGENCY SITUATIONS

CONTRACTOR acknowledges that NMC plans for the continuity of hospital operations during an emergency, especially sustained incidents, and that collaboration with CONTRACTOR is necessary to maintain continuity of operations. Accordingly, CONTRACTOR shall provide the name and contact information of a representative who shall be available 24 hours a day, 7 days a week, in the event of an emergency:

Name: Robert Hoehne
Title: Executive Director, Service Delivery
Cell Phone: (617) 947-9421

During an emergency, contractor shall use its best efforts to provide NMC with all available supplies, materials, equipment and/or services on a priority basis. The Parties agree that time is of the essence. The delivery of CONTRACTOR's supplies, materials, equipment and/or services will be mutually agreed upon by NMC and CONTRACTOR at the time of order and will be determined based on need and existing conditions. It is understood that current conditions, such as power outages, road closures, and damages to CONTRACTOR's facility and/or equipment, will be taken into consideration.

16.0 INTELLECTUAL PROPERTY RIGHTS

All data provided by NMC belongs to Natividad Medical Center (County of Monterey). All records compiled by CONTRACTOR in completing the work described in this AGREEMENT, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, graphs, charts, plans, source codes, specifications and all other similar recorded data, shall become and remain the property of NMC. Use or distribution of NMC data by CONTRACTOR is prohibited unless CONTRACTOR obtains prior written consent from NMC.

For NMC data hosted or stored on equipment not owned by NMC, CONTRACTOR shall furnish all data to NMC upon request by NMC at any time during the term of this AGREEMENT and up to one year after the term has expired, in a useable format as specified by NMC and at no additional cost to NMC.

Notwithstanding anything to the contrary contained in this AGREEMENT, it is understood and agreed that CONTRACTOR shall retain all of its rights in its proprietary information including, without limitation, methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by CONTRACTOR prior to this AGREEMENT.

17.0 NOTICES

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to NMC contracts division manager or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

TO NMC:
Natividad Medical Center
CONTRACTS DIVISION
1441 Constitution Blvd.
Salinas, CA 93906
FAX: (831) 757-2592

TO CONTRACTOR:
Navin Haffty & Associates, LLC
ATT: Robert Hoehne
1900 West Park Drive, Suite 180
Westborough, MA 01581
FAX: (781) 878-8703

18.0 LEGAL DISPUTES

CONTRACTOR agrees that this AGREEMENT, and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.

Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.

CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.

The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

-Signature page to follow-

Natividad Medical Center

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: _____
Monterey County Deputy County Counsel

Date: _____

APPROVED AS TO FISCAL PROVISIONS

By: _____
Monterey County Deputy Auditor/Controller

Date: _____

CONTRACTOR

Navin Haffty & Associates, LLC
CONTRACTOR'S Business Name
*** See instructions below***

By: _____
(Signature of Chair, President, or Vice-President)

Name and Title

Date: _____

By: _____
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Name and Title

Date: _____

*****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 (2 signatures required).

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 (2 signatures required).

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 (1 signature required)