

**AMENDMENT NO. 3  
TO AGREEMENT FOR SPECIALIZED  
ATTORNEY SERVICES BY AND BETWEEN  
COUNTY OF MONTEREY AND  
HOOPER LUNDY & BOOKMAN, P.C.**

**THIS AMENDMENT NO. 3** to Agreement for Specialized Attorney Services (“AGREEMENT”) for the provision of legal services is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter referred to as "County"), on behalf of Natividad Medical Center, County’s owned and operated acute care facility, and Hooper Lundy & Bookman, a California Professional Corporation (hereinafter referred to as "ATTORNEY"), with respect to the following.

**WHEREAS**, County and ATTORNEY entered into AGREEMENT in the amount of \$900,000 with a term of July 1, 2018 through June 30, 2021; and

**WHEREAS**, County and ATTORNEY entered into an Amendment 1 in the amount of \$1,200,000 with a revised full term of July 1, 2018 through June 30, 2023; and

**WHEREAS**, the AGREEMENT expired on June 30, 2023; and

**WHEREAS**, the County and ATTORNEY reinstated the Agreement with effect retroactive to July 1, 2023 and entered into a Renewal and Amendment No. 2 modifying fees, for a revised total agreement amount of \$1,600,000 with a revised full term of July 1, 2018 through June 30, 2025; and

**WHEREAS**, the County and ATTORNEY wish to enter into a further Amendment No. 3 to add \$300,000 for a revised total agreement amount of \$1,900,000 with no change to the full term of July 1, 2018 through June 30, 2025.

**NOW THEREFORE**, the County and ATTORNEY hereby agree to amend AGREEMENT in the following manner:

1. Paragraph 3.02. Paragraph 3.02, Budget, shall be amended and restated in its entirety as follows:

“3.02. Budget. ATTORNEY and COUNTY agree that the initial budget for services pursuant to this Agreement shall not exceed the sum of \$1,900,000. ATTORNEY and COUNTY shall revise the budget as necessary to reflect additional fees and expenses required for services, and this Agreement shall be amended accordingly to provide for such budget increases. Proposed budget increases must be approved by COUNTY before increased charges or expenditures are accrued. ATTORNEY shall notify the County Counsel in writing when fifty percent (50%) and seventy-five percent (75%) of the Budget has been spent. If COUNTY does not approve additional fees and expenses required by the project beyond the initial and revised budget, COUNTY hereby consents to ATTORNEY’s withdrawal as counsel or co-counsel in any cases.”

2. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT that are unchanged and unaffected by this AMENDMENT NO. 3 shall continue in full force and effect as set forth in the AGREEMENT.

- 3. This AMENDMENT NO. 3 shall be effective July 1, 2024.
- 4. A copy of this AMENDMENT NO. 3 shall be attached to the original AGREEMENT executed by the County.

**IN WITNESS WHEREOF**, County and ATTORNEY have executed this AMENDMENT NO. 3 as of the day and year written below.

DATED: \_\_\_\_\_

COUNTY

By \_\_\_\_\_  
Susan K. Blich  
County Counsel

DATED: \_\_\_\_\_

ATTORNEY

DATED: 5/3/2024 | 7:36 AM PDT  
\_\_\_\_\_

DocuSigned by:  
*Alicia Macklin*  
By \_\_\_\_\_  
366EB98BA66649F  
Alicia W. Macklin, Esq.  
Hooper Lundy & Bookman, P.C.

APPROVED AS TO FORM AND LEGALITY

SUSAN K. BLITCH  
County Counsel

DATED: 5/7/2024 | 9:52 AM PDT  
\_\_\_\_\_

DocuSigned by:  
*Stacy Saetta*  
By \_\_\_\_\_  
C0ECE1B99E444A9...  
Stacy L. Saetta  
Chief Deputy County Counsel

APPROVED AS TO FINANCIAL  
TERMS

DATED: 5/8/2024 | 7:14 AM PDT

DocuSigned by:  
*Patricia Ruiz*  
By E79EF64E57454F6  
Title Auditor Controller Analyst I  
Auditor-Controller's Office

**RENEWAL AND AMENDMENT NO. 2  
TO AGREEMENT FOR SPECIALIZED  
ATTORNEY SERVICES BY AND BETWEEN  
COUNTY OF MONTEREY AND  
HOOPER LUNDY & BOOKMAN, P.C.**

**THIS RENEWAL AND AMENDMENT NO. 2** to Agreement for Specialized Attorney Services ("AGREEMENT") for the provision of legal services is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter referred to as "County"), on behalf of Natividad Medical Center, County's owned and operated acute care facility, and Hooper Lundy & Bookman, a California Professional Corporation (hereinafter referred to as "ATTORNEY"), with respect to the following.

**WHEREAS**, County and ATTORNEY entered into AGREEMENT in the amount of \$900,000 with a term of July 1, 2018 through June 30, 2021; and

**WHEREAS**, County and ATTORNEY entered into an Amendment 1 in the amount of \$1,200,000 with a revised full term of July 1, 2018 through June 30, 2023; and

**WHEREAS**, the AGREEMENT expired on June 30, 2023; and

**WHEREAS**, the County and ATTORNEY have since continued to perform under the Agreement and otherwise conduct themselves as if it remained in force; and

**WHEREAS**, the County and ATTORNEY mutually desire to reinstate the Agreement with effect retroactive to July 1, 2023; and

**WHEREAS**, County and ATTORNEY wish to further amend the AGREEMENT to extend the term to June 30, 2025, modify fees, and increase by \$400,000 the total amount of the AGREEMENT due to the extended term and added services, for a total liability of \$1,600,000.

**NOW THEREFORE**, the County and ATTORNEY hereby agree to amend AGREEMENT in the following manner:

1. The AGREEMENT shall be, and hereby is, retroactively reinstated in its entirety as of July 1, 2023 and shall be, and shall be considered to have been, at all relevant times as provided herein, in full force and effect as if the same had never expired.
2. Paragraph 2.01. Paragraph 2.01, Services to be Performed by ATTORNEY, shall be amended and restated to read in its entirety as follows:

"2.01. Services to be Performed by ATTORNEY. COUNTY hereby hires ATTORNEY to render independent legal services to COUNTY, subject to the terms of this Agreement. The primary attorneys providing services hereunder shall be Jodi P. Berlin, Alicia W. Macklin, Ruby W. Woods, Emily Brinkman, Andrea L. Frey, and Linda R. Kollar, although other attorneys in the firm may be utilized on an as-needed basis. ATTORNEY shall perform said services faithfully and well, when needed by and as requested by COUNTY. The services to be performed under this

7354222.2

Agreement for Specialized Attorney Services with Hooper Lundy & Bookman, P.C.

Term: July 1, 2018 – June 30, 2025

NTE: \$1,600,000

Agreement shall consist of providing advice to COUNTY regarding healthcare legal services.

A specific scope of work is enclosed as Exhibit A, and incorporated herein by reference. ATTORNEY shall perform only such services as are within the expertise of the individual attorneys on ATTORNEY's staff, and ATTORNEY will notify COUNTY promptly if any work requested is beyond such expertise. ATTORNEY shall diligently provide such legal services as are necessary and approved by COUNTY in a professional, timely manner. ATTORNEY shall perform all of its services with due regard to ethical guidelines and the client's interests."

3. Section 1.0. Section 1.0, **EFFECTIVE DATE AND TERM**, shall be amended and restated in its entirety as follows:

**"1. EFFECTIVE DATE AND TERM**

1.01 This Agreement shall be effective as of July 1, 2018 to June 30, 2025, unless sooner terminated pursuant to the terms of this Agreement. This Agreement may be amended from time-to-time upon the mutual agreement of the parties."

4. Paragraph 3.02. Paragraph 3.02, Budget, shall be amended and restated in its entirety as follows:

"3.02. Budget. ATTORNEY and COUNTY agree that the initial budget for services pursuant to this Agreement shall not exceed the sum of \$1,600,000. ATTORNEY and COUNTY shall revise the budget as necessary to reflect additional fees and expenses required for services, and this Agreement shall be amended accordingly to provide for such budget increases. Proposed budget increases must be approved by COUNTY before increased charges or expenditures are accrued. ATTORNEY shall notify the County Counsel in writing when fifty percent (50%) and seventy-five percent (75%) of the Budget has been spent. If COUNTY does not approve additional fees and expenses required by the project beyond the initial and revised budget, COUNTY hereby consents to ATTORNEY's withdrawal as counsel or co-counsel in any cases."

5. EXHIBIT B-2 FEES AND EXPENSES replaces EXHIBIT B-1 FEES AND EXPENSES. All references in the AGREEMENT to EXHIBIT B shall be construed to refer to EXHIBIT B-2. This EXHIBIT B-2 modifies the Fee Schedules effective July 1, 2023 through June 30, 2025.
6. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT that are unchanged and unaffected by this RENEWAL AND AMENDMENT NO. 2 shall continue in full force and effect as set forth in the AGREEMENT.
7. This RENEWAL AND AMENDMENT NO. 2 shall be effective July 1, 2023.
8. A copy of this RENEWAL AND AMENDMENT NO. 2 shall be attached to the original AGREEMENT executed by the County.

7354222.2

Agreement for Specialized Attorney Services with Hooper Lundy & Bookman, P.C.


Term: July 1, 2018 – June 30, 2025

NTE: \$1,600,000

**IN WITNESS WHEREOF**, County and ATTORNEY have executed this RENEWAL AND AMENDMENT NO. 2 as of the day and year written below.

DATED: 8/29/23

COUNTY

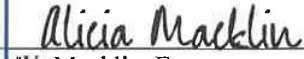
By   
Leslie J. Girard  
County Counsel-Risk Manager  
County of Monterey

DATED: \_\_\_\_\_

ATTORNEY

DATED: 8/25/2023

DocuSigned by:

By   
Alicia W. Macklin, Esq.  
366EB98BA86649F...  
Hooper Lundy & Bookman, P.C.


APPROVED AS TO FORM AND LEGALITY

LESLIE J. GIRARD  
County Counsel-Risk Manager

DocuSigned by:

DATED: 6/28/2023 | 9:19 PM PDT

By

  
Stacy L. Saetta  
C0ECE1B99F444A9...  
Chief Deputy County Counsel

DocuSigned by:

6/29/2023 | 11:28 AM PDT

By Auditors/Controller Signers

  
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7354222.2

Agreement for Specialized Attorney Services with Hooper Lundy & Bookman, P.C.

Term: July 1, 2018 – June 30, 2025

NTE: \$1,600,000

## EXHIBIT B-2

### FEES AND EXPENSES

COUNTY shall pay ATTORNEY the fees and necessary expenses for services performed under this Agreement. ATTORNEY's fees are based upon the number of attorney hours devoted to a client's matters, and the then-existing hourly rates for the personnel involved. At present, ATTORNEY's hourly rates range from \$955 to \$1,215 for principals in the firm, from \$540 to \$930 for associates, and from \$240 to \$525 for paralegals. ATTORNEY's hourly rates may be adjusted periodically. Variations in ATTORNEY's current hourly rates may be made in some cases, either upward or downward, to account for complexity of issues, uniqueness of services, expertise of the involved attorney, etc. COUNTY shall be billed at preferred rates with a 10% discount, for ATTORNEY's attorneys who provide services for the County, with the exception of Ruby W. Wood and Emily Brinkman who will be billed at preferred rates with a 15% discount. The attorney's listed Paragraph 2.01 of Amendment No. 2 have the following current rates: Jodi P. Berlin's standard hourly rate is \$1,090; COUNTY shall be billed at her discounted hourly rate of \$864. Alicia W. Macklin's standard hourly rate is \$990; COUNTY shall be billed at her discounted hourly rate of \$779. Ruby W. Wood's standard hourly rate is \$1,055; COUNTY shall be billed at her discounted hourly rate of \$782. Andrea L. Frey's standard hourly rate is \$945; COUNTY shall be billed at her discounted hourly rate of \$747. Emily L. Brinkman's standard hourly rate is \$945; COUNTY shall be billed at her discounted hourly rate of \$706. Linda R. Kollar's standard hourly rate is \$1,125; COUNTY shall be billed at her discounted hourly rate of \$905. In addition to our fees, ATTORNEY also charges for expenses incurred by ATTORNEY on COUNTY's behalf. These expenses include, but are not limited to, long distance telephone calls, document processing, photocopying, facsimile, delivery costs and travel expenses. Such expenses shall be paid in accordance with COUNTY's Travel Policy.

ATTORNEY will bill all overhead expenses, such as long distance, telephone charges, facsimile transmission charges, photocopying and delivery expenses, as costs advanced. ATTORNEY shall submit an invoice to the COUNTY no later than the 10<sup>th</sup> of the month following the month of service for work performed and costs advanced. Invoices shall be submitted to:

Stacy L. Sietta  
Chief Deputy County Counsel  
Office of the County Counsel  
168 West Alisal Street, 3<sup>rd</sup> Floor  
Salinas, CA 93901

The maximum amount to be paid by COUNTY to ATTORNEY under this agreement shall not exceed **One Million, Six Hundred Thousand Dollars (\$1,600,000.00)**.

7354222.2

Agreement for Specialized Attorney Services with Hooper Lundy & Bookman, P.C.

Term: July 1, 2018 – June 30, 2025

NTE: \$1,600,000

**AMENDMENT NO. 1  
TO AGREEMENT FOR SPECIALIZED  
ATTORNEY SERVICES BY AND BETWEEN  
COUNTY OF MONTEREY AND  
HOOPER LUNDY & BOOKMAN, P.C.**

**THIS AMENDMENT NO. 1** to Agreement for Specialized Attorney Services ("AGREEMENT") for the provision of legal services is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter referred to as "County"), on behalf of Natividad Medical Center, County's owned and operated acute care facility, and Hooper Lundy & Bookman, a California Professional Corporation (hereinafter referred to as "ATTORNEY"), with respect to the following.

**WHEREAS**, County and ATTORNEY entered into AGREEMENT in the amount of \$900,000 with a term of July 1, 2018 through June 30, 2021; and

**WHEREAS**, County and ATTORNEY wish to amend the AGREEMENT to extend the term, modify fees, and increase the total amount of the AGREEMENT due to the extended term and added services.

**NOW THEREFORE**, the County and ATTORNEY hereby agree to amend AGREEMENT in the following manner:

1. Section 1.0. Section 1.0, **EFFECTIVE DATE AND TERM**, shall be amended and restated in its entirety as follows:

**"1. EFFECTIVE DATE AND TERM**

1.01 This Agreement shall be effective as of July 1, 2018 to June 30, 2023, unless sooner terminated pursuant to the terms of this Agreement. This Agreement may be amended from time-to-time upon the mutual agreement of the parties."

2. Paragraph 2.01. Paragraph 2.01, Services to be Performed by ATTORNEY, shall be amended and restated to read in its entirety as follows:

"2.01. Services to be Performed by ATTORNEY. COUNTY hereby hires ATTORNEY to render independent legal services to COUNTY, subject to the terms of this Agreement. The primary attorneys providing services hereunder shall be David P. Henninger, Jodi P. Berlin, Alicia Macklin, and Ruby W. Woods, although other attorneys in the firm may be utilized on an as-needed basis. ATTORNEY shall perform said services faithfully and well, when needed by and as requested by COUNTY. The services to be performed under this Agreement shall consist of providing advice to COUNTY regarding healthcare legal services.

A specific scope of work is enclosed as Exhibit A, and incorporated herein by reference. ATTORNEY shall perform only such services as are within the expertise of the individual attorneys on ATTORNEY's staff, and ATTORNEY will notify COUNTY promptly if any work requested is beyond such expertise. ATTORNEY shall diligently provide such legal services as are necessary and approved by COUNTY in a professional, timely manner.

7071051.1

Agreement for Specialized Attorney Services with Hooper Lundy & Bookman, P.C.

Term: July 1, 2021 – June 30, 2023

NTE: \$1,200,000



ATTORNEY shall perform all of its services with due regard to ethical guidelines and the client's interests.”


3. Paragraph 3.02. Paragraph 3.02, Budget, shall be amended and restated in its entirety as follows:  
  
“3.02. Budget. ATTORNEY and COUNTY agree that the initial budget for services pursuant to this Agreement shall not exceed the sum of \$1,200,000. ATTORNEY and COUNTY shall revise the budget as necessary to reflect additional fees and expenses required for services, and this Agreement shall be amended accordingly to provide for such budget increases. Proposed budget increases must be approved by COUNTY before increased charges or expenditures are accrued. ATTORNEY shall notify the County Counsel in writing when fifty percent (50%) and seventy-five percent (75%) of the Budget has been spent. If COUNTY does not approve additional fees and expenses required by the project beyond the initial and revised budget, COUNTY hereby consents to ATTORNEY’s withdrawal as co-counsel in any cases.”
4. EXHIBIT B-1 FEES AND EXPENSES replaces EXHIBIT B FEES AND EXPENSES. All references in the AGREEMENT to EXHIBIT B shall be construed to refer to EXHIBIT B-1. This EXHIBIT B-1 modifies the fees and expenses effective July 1, 2021 through June 30, 2023.
5. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT that are unchanged and unaffected by this AMENDMENT NO. 1 shall continue in full force and effect as set forth in the AGREEMENT.
6. This AMENDMENT NO. 1 shall be effective July 1, 2021.
7. A copy of this AMENDMENT NO. 1 shall be attached to the original AGREEMENT executed by the County.

*[Remainder of Page Intentionally Left Blank]  
[Signature Page Follows]*

IN WITNESS WHEREOF, County and ATTORNEY have executed this AGREEMENT as of the day and year written below.

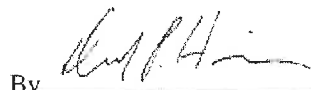
DATED: 8/9/21

COUNTY

By   
Leslie J. Girard  
County Counsel-Risk Manager  
County of Monterey

DATED: \_\_\_\_\_

ATTORNEY

By   
David P. Henninger, Esq.  
Hooper Lundy & Bookman, P.C.

APPROVED AS TO FORM AND LEGALITY

LESLIE J. GIRARD  
County Counsel-Risk Manager

DATED: 5/5/2021

By   
Stacy L. Saetta  
Deputy County Counsel

Reviewed for Fiscal Provisions

 5-5-2021

Chief Deputy Auditor-Controller

**EXHIBIT B-1**

**FEES AND EXPENSES**

COUNTY shall pay ATTORNEY the fees and necessary expenses for services performed under this Agreement. ATTORNEY's fees are based upon the number of attorney hours devoted to a client's matters, and the then-existing hourly rates for the personnel involved. At present, ATTORNEY's hourly rates range from \$865 to \$1,130 for principals in the firm, from \$485 to \$865 for associates, and from \$220 to \$475 for paralegals. ATTORNEY's hourly rates may be adjusted periodically. Variations in ATTORNEY's current hourly rates may be made in some cases, either upward or downward, to account for complexity of issues, uniqueness of services, expertise of the involved attorney, etc. COUNTY shall be billed at preferred rates for ATTORNEY's attorneys who provide services for the County. At present, David P. Henninger's standard hourly rate is \$1,095; COUNTY shall be billed at his preferred hourly rate of \$794. At present, Jodi P. Berlin's standard hourly rate is \$970; COUNTY shall be billed at her preferred hourly rate of \$815. At present, Alicia Macklin's standard hourly rate is \$880; COUNTY shall be billed at her preferred hourly rate of \$735. At present, Ruby W. Wood's standard hourly rate is \$900; COUNTY shall be billed at her preferred hourly rate of \$765. In addition to our fees, ATTORNEY also charges for expenses incurred by ATTORNEY on COUNTY's behalf. These expenses include, but are not limited to, long distance telephone calls, document processing, photocopying, facsimile, delivery costs and travel expenses. Such expenses shall be paid in accordance with COUNTY's Travel Policy.

ATTORNEY will bill all overhead expenses, such as long-distance telephone charges, facsimile transmission charges, photocopying and delivery expenses, as costs advanced. ATTORNEY shall submit an invoice to the COUNTY no later than the 10th of the month following the month of service for work performed and costs advanced. Invoices shall be submitted to:

Stacy L. Sietta  
Deputy County Counsel  
Office of the County Counsel  
168 West Alisal Street, 3rd Floor  
Salinas, CA 93901

7071051.1

Agreement for Specialized Attorney Services with Hooper Lundy & Bookman, P.C.

Term: July 1, 2021 – June 30, 2023

NTE: \$1,200,000



## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
[www.co.monterey.ca.us](http://www.co.monterey.ca.us)

A motion was made by Supervisor Chris Lopez, seconded by Supervisor Mary L. Adams to:

**Agreement No.: A-15263; Amendment No.: 1**

Authorize the County Counsel to execute an Amendment No. 1 to Agreement with Specialized Attorney Services with Hooper, Lundy & Bookman, and P.C. for legal services with respect to healthcare matters at Natividad Medical Center, adding two years, for a revised full term of July 1, 2018 through June 30, 2023 and adding \$300,000 for a contract amount not to exceed \$1,200,000.

PASSED AND ADOPTED on this 8<sup>th</sup> day of June 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams

NOES: None

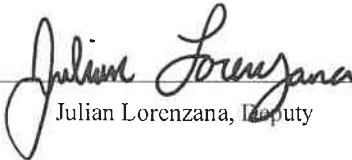
ABSENT: None

(Government Code 54953)

I, Valerie Ralph, 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 82 for the meeting June 8, 2021.

Dated: June 14, 2021  
File ID: A 21-240  
Agenda Item No.: 35

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Julian Lorenzana, Deputy

## **AGREEMENT FOR LEGAL SERVICES**

This Agreement for Legal Services (“Agreement”) is made and entered into effective as of the date of the last signature (the “Effective Date”) by and between Hooper, Lundy & Bookman, P.C. (“HLB”) and County of Monterey,

(“Client”) and is made with reference to the following facts:

### **RECITALS**

A. HLB is a law firm specializing in the provision of legal services to health care organizations. Among other areas, HLB has substantial experience and expertise in representing health care providers in Medicare reimbursement appeals and other Medicare matters.

B. Client is a hospital that participates in the Medicare Inpatient Prospective Payment System (“IPPS”) or a hospital system that includes more than one hospital that participates in IPPS.

C. The Secretary of Health and Human Services (the “Secretary”) has adopted a final rule (the “Final Rule”) that continues for the federal fiscal year (“FFY”) ending September 30, 2023, certain changes to the Medicare IPPS instituted in FFY 2020. The Final Rule continues several changes to the manner in which the Area Wage Index (“AWI”) is determined, which is a factor used in determining payments to hospitals under IPPS. Among the changes is a reduction to the standardized amount under IPPS to fund an increase in the AWI for hospitals with an AWI in the lowest quartile (the “Appeal Issue”).

D. This continuation of the change to the AWI will adversely affect payment under IPPS to California hospitals.

E. The California Hospital Association (“CHA”) is sponsoring, coordinating, and making available to its members a vehicle to challenge the Appeal Issue (the “AWI Litigation”). CHA has engaged HLB to handle the AWI Litigation.

F. HLB intends to engage Toyon Associates, Inc. (“Toyon”) to assist HLB with the AWI Litigation. Toyon is a healthcare consulting firm with specific experience and expertise in relation to the AWI and in filing Medicare reimbursement appeals for providers.

G. Client desires to engage HLB to represent it in the AWI Litigation and HLB desires to accept this engagement.

### **AGREEMENT**

#### **1. HLB Services**

HLB will represent Client in the AWI Litigation. HLB anticipates that the legal challenges will involve (a) appeals by hospitals and hospital systems of the Appeal Issue to the Medicare Provider Reimbursement Review Board (“PRRB”), (b) one or more requests for expedited judicial review (“EJR”) to the PRRB, (c) litigation in one or more United States

District Courts, and (d) one or more appeals to the United States Court of Appeals for the Ninth Circuit.

Lloyd Bookman and David Vernon of HLB will be primarily responsible for the AWI Litigation. All of the resources of HLB will be available to assist with the AWI Litigation as necessary, appropriate, and cost-effective. HLB will keep CHA informed of the progress of the AWI Litigation, and CHA will keep Client informed of the progress of the AWI Litigation.

2. **Toyon Services**

Client understands that HLB intends to engage Toyon to provide it with certain services in connection with the AWI Litigation. Specifically, Toyon will identify the information required to file appeals for hospitals and hospital systems with the PRRB, will prepare the material required to file appeals with the PRRB on behalf of participating hospitals and hospital systems, and file the appeals with the PRRB. Toyon will also provide HLB with technical assistance in connection with the AWI, such as determining the impact of the challenged AWI Appeal Issue on payments to hospitals. Client agrees to HLB's engagement of Toyon to provide these services.

3. **PRRB Appeals**

In order to pursue the Appeal Issue, a group appeal or group appeals (the "Group Appeal(s)") must be filed with the PRRB on a timely basis. HLB and Toyon will file an appeal with the PRRB from the publication of the FFY 2023 IPPS Final Rule, which was first published online on August 1, 2022. HLB expects and will rely upon the Client's cooperation in meeting applicable deadlines, including, but not limited to, providing any information needed to perfect the appeal and signing one or more representation letters as requested by HLB or Toyon authorizing HLB or Toyon to serve as the Client's designated representative before the PRRB on this matter. Once the PRRB acknowledges receipt of the appeal, it will establish deadlines for the appeal.

HLB will represent the Client on the Appeal Issue for its hospital's cost reporting periods that include any portion of FFY 2023, that is, any part of the period October 1, 2022 through September 30, 2023, and for any future periods, until the Appeal Issue is resolved or withdrawn, or the representation is terminated.

4. **CHA Sponsorship**

CHA, and not the Client, will be responsible for paying HLB's and Toyon's fees and costs incurred in connection with the AWI Litigation.

Client agrees that decisions relating to the conduct of the AWI Litigation, including, but not limited to, decisions regarding litigation strategy and settlement, shall be delegated to and made by the CHA Executive Committee. Such committee shall have the authority to authorize HLB to enter a settlement or settlements on behalf of the Client on such terms as the committee determines are acceptable.

Client agrees to abide by the decisions of the CHA Executive Committee concerning the AWI Litigation. If Client does not want the CHA Executive Committee to make decisions relating to the conduct of the AWI Litigation on its behalf, Client will be permitted to withdraw from the AWI Litigation at any time or to terminate HLB's representation of it in the AWI Litigation with reasonable notice and to engage other counsel at its own expense. HLB will cooperate reasonably with any such withdrawal or termination.

In the event Client discontinues its CHA membership during the course of the AWI Litigation, following the change in membership status, Client shall either (a) promptly withdraw from the AWI Litigation entirely; (b) at its sole cost and expense, transfer representation in the AWI Litigation to legal counsel other than HLB; or (c) continue to participate in the AWI Litigation with HLB, as its legal counsel, under a separate engagement letter under which Client is responsible to pay a portion of HLB's fees for services provided on or after the date Client discontinued its CHA membership, based on the amount that is at issue in the AWI Litigation for Client as compared to the aggregate amount at issue for all hospitals participating in the AWI Litigation, separately computed if reasonably possible for each issue.

Client understands that the payment of HLB's fees for the representation of Client by CHA may create a conflict of interest for HLB. California Rule of Professional Conduct 1.8.6 requires that HLB obtain informed consent from a client before HLB accepts payment from a third party for the legal services HLB has provided to you. Client's signature below confirms, among other things, that Client consents to CHA paying for those HLB legal services rendered to you in connection with the AWI Litigation.

Client further understands that HLB's engagement by CHA and the authority Client agrees to grant to the CHA Executive Committee in connection with the AWI Litigation may create a conflict of interest. For example, the Executive Committee may direct HLB to pursue a legal strategy with which Client disagrees, may choose to move certain appeals more quickly than others in a manner that Client believes is not in its interest, may seek a remedy that is not as favorable to Client as an alternative remedy, or may elect to settle the litigation on terms that the Executive Committee determines are favorable to CHA members as a whole, but are not the most favorable terms that potentially could be negotiated for Client, individually. These are intended as examples of potential conflicts and not as a complete list of all potential conflicts. Client's signature below acknowledges that Client understands that conflicts may arise as a result of the authority provided to CHA's Executive Committee, and that Client waives any and all such conflicts.

#### 5. **Termination and Withdrawal From the AWI Litigation**

Client may at any time withdraw from the AWI Litigation or terminate HLB's representation of it in the AWI Litigation and engage other counsel at its own expense. HLB will cooperate reasonably with any such withdrawal or termination.

HLB may withdraw at any time as the representative of any or all hospitals or hospital systems participating in the AWI Litigation in connection with that matter with respect to any or all fiscal periods at issue, upon giving reasonable notice to Client and upon taking reasonable

steps to avoid any reasonably foreseeable prejudice to the rights of Client. Client agrees to execute any documents necessary to effectuate a substitution of attorneys upon request by HLB. To the extent that court or other adjudicatory body approval may be necessary for HLB to withdraw, Client will not oppose the motion by HLB to obtain such approval.

6. **Conflict Waiver**

Because of the specialized nature of its practice, HLB may, from time to time, represent a client in a matter and at the same time be asked by a second client to represent it in a separate matter that is unrelated to the work that HLB is performing for the first client, but where our work for the second client would be adverse to the interests of our first client. For example, while representing Client, HLB may be asked to represent a competitor of the Client in a business or litigation matter where Client is a counter-party, and where HLB's representation of the competitor therefore would be directly adverse to Client. HLB assures Client that when HLB represents an adversary of a client in a matter that is unrelated to HLB's work for that client, HLB will strictly preserve the confidential information of both clients, and that our duty of loyalty will run solely to the Client in connection with any and all matters in which HLB represents it. HLB is not aware that any such conflicts of interest exist with respect to the Client at this time, but they may arise in the future, and HLB therefore believes that their possibility should be addressed now. HLB would require your consent to engage in any representation of an adversary of the Client as described above, and HLB is therefore asking that you now waive any conflicts of interest in connection with such representations in advance. Accordingly, by executing this engagement letter, you agree that the Client does not consider such representation by HLB of Client and any adversary as described above to be inappropriate, and Client therefore waives any objection to, or any conflict of interest arising from, any such future representation by us of adversaries of Client.

7. **Potential Conflicts**

HLB does not believe that any conflicts currently exist or are likely to arise that would prevent HLB from representing Client in the AWI Litigation, except any such conflicts for which HLB has obtained or will obtain necessary written waivers. However, HLB advises Client that there is a possibility that a party could attempt to intervene in some or all aspects of the AWI Litigation in a manner that is adverse to the interests of Client and its members. By way of example, it is possible that hospitals that are benefited by the increase in the AWI for hospitals in the lowest AWI quartile could try to intervene in the AWI Litigation on the side of the government, even though HLB intends only to seek as a remedy a reversal of the reduction to the AWI of CHA members and not a reduction to the payments to any hospitals. If a party intervenes on the side of the government and that party is an HLB client in a different matter, it is possible that HLB will have to resign from representing Client in some or all of the AWI Litigation. Client acknowledges and understands that HLB's withdrawal from some or all of the AWI Litigation could be difficult, expensive, or harmful to the interests of Client. In the unlikely event that this were to occur, HLB would take all reasonable steps to minimize any resulting harm to the interests of Client.



8. **Mediation and Arbitration**

In the event of any disputes between the parties to this Agreement over professional services rendered, the parties agree to resolve all such disputes through binding arbitration before a retired judge of the Los Angeles County Superior Court pursuant to the provisions of California Code of Civil Procedure § 1280, et seq. Such retired judge shall be selected by mutual agreement of the parties within 15 days of a demand for arbitration by any party. If the parties are unable to select an arbitrator through mutual agreement, an arbitrator shall be designated by the Los Angeles County Superior Court upon petition to that court by any party. The parties agree that speed and cost effectiveness of such arbitration are important to all parties to this agreement, and agree that any such arbitration shall be concluded within 120 days of the date of selection of the arbitrator. The parties also agree that prior to the arbitration, they shall engage in mediation with a mutually acceptable mediator, to be selected within 15 days of the date of the request for arbitration. If the parties are unable to agree upon a mediator within 15 days of the date of a demand for arbitration by any party, the mediator may be designated by the Los Angeles County Superior Court upon petition by any party. The mediation shall be completed within 60 days of the designation of a mediator. The parties shall share the costs of the arbitrator and the mediator, and each party shall bear its own attorneys' fees for both the mediation and the arbitration.

9. **Counsel Review**

This Agreement affects important legal rights of Client. In particular, this Agreement addresses several conflicts or potential conflicts of interest and provides that Client waive certain conflicts. HLB hereby advises Client to seek review of this Agreement by independent legal counsel.

10. **General Provisions.**

a. **Entire Agreement of the Parties.** This Agreement supersedes any and all agreements, either written or oral, between the parties hereto with respect to the subject matter contained herein. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

b. **Amendments.** Any amendment must be expressly set forth in writing and signed by both HLB and Client.

c. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction or applicable state or federal law and their implementing regulations to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

d. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, except to the extent such laws are preempted by any federal law, in which case federal law shall govern.

e. Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the parties to it, and their respective heirs, legal representatives, successors and assigns. Neither party may assign any of his or her respective rights or delegate any of his or her respective duties hereunder without receiving the prior written consent of the other party.

f. Waiver. The waiver of any provision, or of the breach of any provision, of this Agreement must be set forth specifically in writing and signed by the waiving party. Any such waiver shall not operate or be deemed to be a waiver of any prior or future breach of such provision or of any other provision.


g. No Third-Party Beneficiaries. The obligations created by this Agreement shall be enforceable only by the parties hereto, and no provision of this Agreement is intended to, nor shall any provision be construed to, create any rights for the benefit of or enforceable by any third party.

h. Headings. The subject headings of the articles and paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

i. Counterparts. This Agreement may be executed in one (1) or more counterparts, all of which together shall constitute only one (1) Agreement. Furthermore, signatures delivered via facsimile transmission shall have the same force, validity and effect as the originals thereof.

Dated: December 9, 2022

HOOPER, LUNDY & BOOKMAN, P.C.

By:   
Lloyd A. Bookman

Dated: 12/13/22

CLIENT – COUNTY OF MONTEREY

By:   
Leslie J. Girard

Its: County Counsel