

**AMENDMENT NO. 7  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN HOOPER, LUNDY & BOOKMAN, PC AND  
THE COUNTY OF MONTEREY  
ON BEHALF OF NATIVIDAD MEDICAL CENTER  
FOR  
LEGAL SERVICES WITH RESPECT TO HEALTHCARE MATTERS**

This Amendment No. 7 to the Services Agreement ("Agreement") which was effective on April 1, 2010 is entered into by and between the County of Monterey (hereinafter "COUNTY"), on behalf of Natividad Medical Center (hereinafter "NMC"), and Hooper, Lundy & Bookman, PC (hereinafter "CONTRACTOR"); (collectively, COUNTY, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

**RECITALS**

**WHEREAS**, the County of Monterey on behalf of Natividad Medical Center and Hooper, Lundy & Bookman, PC entered into an Agreement for legal services with respect to healthcare matters with a term April 1, 2010 through March 31, 2011 and a total Agreement amount not to exceed \$100,000; and

**WHEREAS**, the Parties amended the Agreement effective November 1, 2010 via Amendment No. 1 to extend the term for an eight month period through November 30, 2011 and to add an additional \$250,000, thereby increasing the total Agreement amount to \$350,000; and

**WHEREAS**, the Parties amended the Agreement effective July 1, 2011 via Amendment No. 2 to extend the term for an additional seven month period through June 30, 2012 and to add an additional \$300,000, thereby increasing the total Agreement amount to \$650,000; and

**WHEREAS**, the Parties amended the Agreement effective January 1, 2012 Amendment No. 3 to extend the term for an additional one year period through June 30, 2013 and to add an additional \$475,000, thereby increasing the total Agreement amount to \$1,125,000; and

**WHEREAS**, the Parties amended the Agreement effective July 1, 2013 via Amendment No. 4 to extend the term for an additional two year period through June 30, 2015 and to add a revised professional services rates attached to Amendment No. 4 as "Amendment-4 to Exhibit A" with an increase of \$500,000, thereby increasing the total Agreement amount to \$1,625,000; and

**WHEREAS**, the Parties amended the Agreement effective July 1, 2014 via Amendment No. 5 to replace "Exhibit A" attached the original Agreement and "Amendment-4 to Exhibit A" attached to Amendment No. 4 with "Exhibit A-5 per Amendment No. 5" attached to Amendment No. 5 with an increase of \$146,000, thereby increasing the total Agreement amount to \$1,771,000; and

**WHEREAS**, the Parties amended the Agreement effective July 1, 2015 via Amendment No. 6 to extend the term for an additional two year period through June 30, 2017 and to replace "Exhibit A-5" attached to Amendment No. 5 with "Exhibit A-6 per Amendment No. 6" attached to Amendment No. 6 with an increase of \$364,368, thereby increasing the total Agreement amount to \$2,135,368; and

**WHEREAS**, the Parties currently wish to amend the Agreement to extend it for an additional one (1) year period through June 30, 2018 for a revised full Agreement term of April 1, 2010 through June 30, 2018 to allow for services to continue and to replace "Exhibit A-6" attached to Amendment No. 6 with the revised Exhibit attached hereto as "Exhibit A-7 per Amendment No. 7" with an increase of \$317,000 to the total agreement amount for a revised total agreement amount not to exceed \$2,452,368.

## AGREEMENT

**NOW, THEREFORE,** the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the original Agreement and in Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, and Amendment No. 6 incorporated herein by this reference, except as specifically set forth below.

1. The first sentence of Section 1 / Paragraph titled, "SERVICES TO BE PROVIDED" shall be amended to the following:  
*"The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in EXHIBIT A-7 in conformity with the terms of this Agreement."*
2. Section 2 / Paragraph titled, "PAYMENTS BY COUNTY" shall be amended to the following:  
*"County shall pay the CONTRACTOR in accordance with the payment provisions set forth in EXHIBIT A-7 attached hereto this Amendment No. 7, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$2,452,368."*
3. The first sentence of Section 3 / Paragraph titled, "TERM OF AGREEMENT" shall be amended to the following:  
*"The term of this Agreement is from April 1, 2010 through June 30, 2018 unless sooner terminated pursuant to the terms of this Agreement."*
4. Section 4/ Paragraph titled, "ADDITIONAL PROVISIONS/EXHIBITS" shall be amended to the following:  
*"The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:*

**Exhibit A-7: Revised Scope of Services/Payment Provisions as per Amendment No. 7**  
(Replaces Exhibit A-6: Scope of Services/Payment Provisions attached to Amendment No. 6)

**Exhibit B: HIPAA Business Associate Agreement"**

5. Except as provided herein, all remaining terms, conditions and provisions of the original Agreement are unchanged and unaffected by this Amendment No. 7 and shall continue in full force and effect as set forth in the original Agreement and in Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, and Amendment No. 6.
6. A copy of this Amendment No. 7 shall be attached to the original Agreement.
7. This Amendment No. 7 shall be effective on July 1, 2017.

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 7 on the basis set forth in this document and have executed this Amendment No. 7 on the day and year set forth herein.

**COUNTY OF MONTEREY**  
**on behalf of NATIVIDAD MEDICAL CENTER**

By: \_\_\_\_\_  
Gary R. Gray, DO, CEO

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL PROVISIONS**

By: \_\_\_\_\_  
Monterey County Deputy County Counsel

\_\_\_\_\_  
Stacy Saetta  
Name

Date: \_\_\_\_\_  
5/3/17

**APPROVED AS TO FISCAL PROVISIONS**

By: \_\_\_\_\_  
Monterey County Chief Deputy Auditor-Controller

\_\_\_\_\_  
5/4/17 Rupa Shah  
Name

Date: \_\_\_\_\_  
5/4/17

**CONTRACTOR**

**Hooper, Lundy & Bookman, PC**

CONTRACTOR's Business Name

*\*Signature instructions below*

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

\_\_\_\_\_  
Chair, CEO  
Name and Title

Date: \_\_\_\_\_  
March 30, 2017

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

\_\_\_\_\_  
Lloyd Bookman, Treasurer  
Name and Title

Date: \_\_\_\_\_  
March 29, 2017

**\*Signature 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 an individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (1 signature required).

**EXHIBIT A-7 per Amendment No. 7**

**Hooper, Lundy & Bookman, PC**

*April 1, 2010 through June 30, 2018*

**I. CONTACT INFORMATION**

**CONTRACTOR:**

Glenn E. Solomon, Esq.  
Hooper, Lundy, & Bookman, PC  
1875 Century Park East, Suite 1600  
Los Angeles, CA 90067  
(310) 551-8179

David P. Henninger, Esq.  
Hooper, Lundy, & Bookman, PC  
1875 Century Park East, Suite 1600  
Los Angeles, CA 90067  
(310) 551-8177

**COUNTY:**

**OFFICE OF THE COUNTY COUNSEL**

Charles J. McKee  
County Counsel  
County of Monterey  
168 West Alisal Street, 3rd Floor  
Salinas, CA 93901  
(831) 755-5045

Stacy L. Saetta  
Deputy County Counsel  
County of Monterey  
168 West Alisal Street, 3rd Floor  
Salinas, CA 93901  
(831) 755-5045

**NATIVIDAD MEDICAL CENTER  
(NMC)**

Dr. Gary R. Gray, D.O., CEO  
Natividad Medical Center  
1441 Constitution Boulevard  
Salinas, CA 93906  
(831) 755-4111

**II. SCOPE OF WORK**

**CONTRACTOR shall:**

- A. Provide legal services with respect to physician agreements, and

**EXHIBIT A-7 per Amendment No. 7**

- B. Other legal healthcare matters and other healthcare matters regarding Natividad Medical Center ("NMC").

**III. PAYMENT PROVISIONS**

- A. COUNTY shall pay CONTRACTOR according to Section 6, PAYMENT CONDITIONS, of this agreement.
- B. CONTRACTOR'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, CONTRACTOR's standard hourly rates range from \$670 to \$865 for principals in the firm, from \$365 to \$705 for associates and senior counsel, and from \$305 to \$350 for paralegals. CONTRACTOR's most preferred hourly rates range from \$595 to \$795 for principals in the firm, from \$320 to \$620 for associates and senior counsel, and from \$270 to \$310 for paralegals. CONTRACTOR's hourly rates may be adjusted periodically. Variations in CONTRACTOR'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 CONTRACTOR's attorneys who provide services for the County. At present, Glenn E. Solomon's standard hourly rate is \$805; COUNTY shall be billed at his most preferred hourly rate of \$705. At present, David P. Henninger's standard hourly rate is \$835; COUNTY shall be billed at his preferred hourly rate of \$720. At present, Laurence D. Getzoff's standard hourly rate is \$820; COUNTY shall be billed at his most preferred hourly rate of \$710. In addition to our fees, CONTRACTOR also charges for expenses incurred by CONTRACTOR 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.
- C. CONTRACTOR shall submit an invoice to the COUNTY no later than the 10<sup>th</sup> of the month following the month of service. Invoices shall be submitted to:
- Stacy L. Saetta  
Deputy County Counsel  
County Counsel's Office  
County of Monterey  
168 West Alisal Street, 3<sup>rd</sup> Floor  
Salinas, CA 93901
- D. The maximum amount to be paid by COUNTY to CONTRACTOR under this agreement shall not exceed **Two Million, Four Hundred Fifty-Two Thousand, Three Hundred Sixty-Eight Dollars (\$2,452,368).**
- E. CONTRACTOR shall provide COUNTY with a detailed statement on a monthly basis, covering its current fees and expenses. It will describe services rendered,



**EXHIBIT A-7 per Amendment No. 7**

and will also show the amount of COUNTY's retainer remaining in its trust account or the amount owing to CONTRACTOR.

- F. It is understood that CONTRACTOR's fees and charges shall be paid out of NMC's budget and that CONTRACTOR's fees and charges shall not be paid out of the budget of County Counsel's Office.

**IV. ADDITIONAL PROVISIONS**

**A. Reports**

CONTRACTOR shall provide to Monterey County such reports as may be requested by the Board of Supervisors or County Counsel.

**B. Agreement to Arbitrate and Mediate**

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 in Los Angeles County before a retired judge of the Los Angeles County Superior Court pursuant to the provisions of California *Code of Civil Procedure* § 1280, *et seq.*, and the Federal Arbitration Act. 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 pursuant to 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.

Notwithstanding the foregoing, in the event of an action by this firm to collect fees, *Business and Professions Code* § 6201 permits COUNTY to request non-binding arbitration through the local Bar Association, and if either party is unsatisfied with the outcome of the non-binding arbitration, they have the right to request a *trial de novo* in the Court. With respect to any action or proceeding by this firm to collect fees, COUNTY may elect within 30 days of notice of a demand for arbitration by this firm whether to proceed in accordance with the provisions for binding arbitration or whether to proceed in accordance with the procedures set forth in *Business and Professions Code* § 6201. If COUNTY does

**EXHIBIT A-7 per Amendment No. 7**

not, the resolution of any such dispute will proceed in accordance with the mediation and arbitration language set forth in the preceding paragraph.

- C. Indemnification. Paragraph 8 of the Agreement shall be replaced in its entirety with the following:

8. Indemnification.

Indemnification for Professional Liability. For liability arising from professional and technical services provided under this Agreement, Hooper Lundy shall indemnify, defend and hold harmless County, its governing board, officers, agents, and employees from any loss, injury, damage, expense and liability to the extent arising out of the negligence of Hooper Lundy, its employees, or agents.

General Indemnification. For any liability, other than arising out of professional and technical services, Hooper Lundy shall indemnify, defend and hold harmless, County, its governing board, officers, agents, and employees from any loss, injury, damage, expense and liability resulting from injury to or death of any person and loss of or damage to property, or claim of such injury, death, loss or damage caused by an act or omission in the performance under this Agreement by Hooper Lundy, its employees, or agents, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the County.

Notwithstanding the foregoing two paragraphs, Hooper Lundy's contract indemnity obligation shall be limited to indemnity liability for which Hooper Lundy is insured by the program of insurance described in described in Paragraph 9 of the Agreement and Section IV D. of this Exhibit A.

- D. Professional Liability Insurance. The provision concerning Professional Liability Insurance, located within Paragraph 9.03, Section 9 of the Agreement, shall be replaced in its entirety with the following:

Based on scope of work, CONTRACTOR shall provide professional liability insurance in the amount of not less than \$3,000,000 per claim and \$5,000,000 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, the 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.