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File #:	A 12-057	Version: 1	Name:	Nixon Peabody Amendment #1
Type:	BoS Agreement		Status:	Consent Agenda
File created:	5/2/2012		In control:	Board of Supervisors
On agenda:	6/12/2012		Final action:	
Title:	Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Amendment No. 1 to the Agreement with Nixon Peabody LLP for Legal Services at NMC in an amount not to exceed \$300,000 (an increase of \$200,000) increasing the scope of services, and extending the Agreement to June 30, 2013.			
Attachments:	<a href="#">Nixon Peabody, Completed Board Order</a>			
History (0)	Text			

**Title**

Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Amendment No. 1 to the Agreement with Nixon Peabody LLP for Legal Services at NMC in an amount not to exceed \$300,000 (an increase of \$200,000) increasing the scope of services, and extending the Agreement to June 30, 2013.

**Body****RECOMMENDATION:**

It is recommended the Board of Supervisors authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Amendment No. 1 to the Agreement with Nixon Peabody LLP for Legal Services at NMC in an amount not to exceed \$300,000 (an increase of \$200,000) increasing the scope of services, and extending the Agreement to June 30, 2013.

**SUMMARY/DISCUSSION:**

Nixon Peabody LLP is a Global 100 law firm that has represented the County with respect to public finance matters. On October 10, 2011, the County entered into an agreement for up to \$100,000 to provide legal assistance and advice on various financing matters, including issues regarding changes in hospital structure and governance with respect to Natividad Medical Center. The County continues to require the Nixon firm's counsel with respect to the performance of due diligence regarding the Salinas Valley Memorial Healthcare System affiliation and financing issues related to the structure and governance of Natividad Medical Center. Accordingly, the parties wish to extend its agreement to increase the scope of services, to increase the maximum liability by \$200,000 for a total contract amount of \$300,000 and to extend the term to June 30, 2013.

**OTHER AGENCY INVOLVEMENT:**

County Counsel has reviewed and approved this Amendment as to legal form and risk provisions. Auditor-Controller has reviewed and approved this Amendment as to fiscal provisions. The Amendment has also been reviewed and approved by Natividad Medical Center's Board of Trustees.

**FINANCING:**

The cost of this Amendment No. 1 is \$200,000. \$20,000 is included in the Fiscal Year 2011/12 Budget and \$180,000 is included in the Fiscal Year 2012/13 Recommended Budget. There is no impact to the General Fund.

Prepared by: Stacy Saetta, Deputy County Counsel, 755-5333

Approved by: Harry Weis, Chief Executive Officer, 783-2553

Attachments: Agreement, Amendment No. 1



## Monterey County

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

### Board Order

**Agreement No.: A-12242**

Authorized the Purchasing Manager for Natividad Medical Center (NMC) to execute Amendment No. 1 to the Agreement with Nixon Peabody LLP for Legal Services at NMC in an amount not to exceed \$300,000 (an increase of \$200,000) increasing the scope of services, and extending the Agreement to June 30, 2013.

PASSED AND ADOPTED on this 12th day of June 2012, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker, and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, 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 76 for the meeting on June 12, 2012.

Dated: June 22, 2012  
File Number: A 12-057

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy

AMENDMENT NO. 1 TO AGREEMENT FOR SPECIALIZED SERVICES

THIS FIRST AMENDMENT TO AGREEMENT FOR SPECIALIZED SERVICES ("AMENDMENT NO. 1") is made and entered into as of March 1, 2012, by and between County of Monterey ("COUNTY") and NIXON PEABODY LLP ("ATTORNEY") with respect to the following:

RECITALS

A. ATTORNEY and COUNTY have entered into an Agreement for Specialized Services No. SC2526 ("AGREEMENT") dated October 10, 2011, pursuant to which ATTORNEY provides advice and counsel to COUNTY with respect to Natividad Medical Center.

B. The parties wish to amend the scope of service of the AGREEMENT, to extend the term of the AGREEMENT, and to extend the maximum liability under the AGREEMENT.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, COUNTY and ATTORNEY agree as follows:

1. Paragraph 2.02, Budget, is amended to read in its entirety as follows:

"2.02. Budget. ATTORNEY and COUNTY agree that the budget for the project shall not exceed the sum of three hundred thousand dollars (\$300,000). ATTORNEY and COUNTY shall revise the Budget estimates as necessary to reflect actual necessary ongoing fees and expenses required for the project. Proposed budget increases must be approved by COUNTY before increased charges on expenditures are accrued. ATTORNEY shall notify the County Counsel in writing when fifty (50%) and seventy-five (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 in the project."

2. Paragraph 2.03, Maximum Liability, is amended to read in its entirety as follows:

"2.03. Maximum Liability. The maximum amount of COUNTY's liability over the full term of this Agreement (including all items paid under paragraph 2.01) is three hundred thousand dollars (\$300,000). This amount may be amended by

written agreement between the parties, subject to approval by the Board of Supervisors.”

3. Effective Date of Amendment and Extension of Term. This AMENDMENT NO. 1 shall become effective on March 1, 2012. The term of the AGREEMENT shall continue until June 30, 2013.

4. Exhibit A. Exhibit A to the AGREEMENT is hereby amended to read in its entirety as follows:

“COUNTY retains CONTRACTOR to assist and advise the County of Monterey/Natividad Medical Center in all aspects of financing, including issues around a change in hospital structure, governance, and relationship to the County. The assistance should include creative ideas to address existing financing as well as future financing. COUNTY retains CONTRACTOR to assist and advise the County of Monterey/Natividad Medical Center with due diligence in regard to the proposed affiliation with Salinas Valley Memorial Healthcare System. In addition, assistance in crafting related documents should be provided. Understanding that CONTRACTOR may have expertise in other areas of the law relevant to NMC, the parties may desire to expand the scope of these services on short notice. CONTRACTOR may work directly with NMC senior management and County Counsel and shall keep County Counsel fully advised of all activities and advice.”

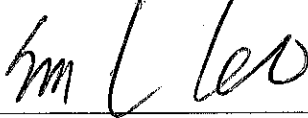
5. All other terms and conditions of AGREEMENT shall remain in full force and effect.

6. A copy of this AMENDMENT NO. 1 shall be attached to the AGREEMENT.

**IN WITNESS WHEREOF**, COUNTY and ATTORNEY have caused this AMENDMENT NO. 1 to be executed:

COUNTY OF MONTEREY

By



Title

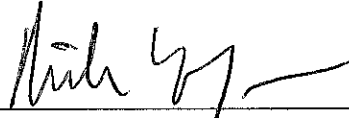
NMC CONSULTANTS MGMT.

Date:

6-13-12

ATTORNEY

By



Title Partner

Date: April 17, 2012

NATIVIDAD MEDICAL CENTER

By [Signature]  
NMC-CEO

Date: 4/23/12

APPROVED AS TO FORM:  
CHARLES J. McKEE, County Counsel

By [Signature]  
STACY L. SAETTA  
Deputy County Counsel

Reviewed as to fiscal provisions  
[Signature]  
Auditor-Controller  
County of Monterey

4-22-12