County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #:	10-874	**Name:**	
Type:	Minutes	**Status:**	Passed
File created:	7/27/2010	**In control:**	Board of Supervisors
On agenda:	7/27/2010	**Final action:**	7/27/2010
Title:	Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute the Agreement with Latham & Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute the Agreement with Latham &		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Completed Board Order, 2. Signed Board Report, 3. Agreement No. A-11791 - Latham & Watkins		

Date	Ver.	Action By	Action	Result
7/27/2010	1	Board of Supervisors	approved	

COMPLETED BOARD ORDER
Before the Board of Supervisors in and for the
County of Monterey, State of California
Agreement No: A 11791
Authorize the Purchasing Manager for Natividad Medical
Center NMC) to execute the Agreement with Latham &
Watkins for Independent Consulting and Legal Services at
NMC in an amount not to exceed $100,000 for the period May
1, 2010 to April 30, 2011.
Upon motion of Supervisor Potter, seconded by Supervisor Armenta, and carried by those
members present, the Board hereby:
Authorized the Purchasing Manager for Natividad Medical Center NMC) to execute the
Agreement with Latham & Watkins for Independent Consulting and Legal Services at NMC in
an amount not to exceed $100,000 for the period May 1, 2010 to April 30, 2011.
PASSED AND ADOPTED this 27th day of July, 2010, by the following vote, to wit:
AYES: Supervisors Armenta, Calcagno, Salinas, Parker, 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 75 for the meeting on July 27, 2010.
Dated: July 29, 2010 Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California
By
Deputy

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SIGNED BOARD REPORTX►►¶"┐└►
MEETING: July, 27 2010
AGENDA NO.:
SUBJECT: Authorize the Purchasing Manager for Natividad Medical Center NMC)
to execute the Agreement with Latham & Watkins for Independent
Consulting and Legal Services at NMC in an amount not to exceed
$100,000 for the period May 1, 2010 to April 30, 2011.
DEPARTMENT: Natividad Medical Center
RECOMMENDATION:
It is recommended the Board of Supervisors authorize the Purchasing Manager for Natividad Medical Center NMC) to execute the Agreement with Latham & Watkins for Independent Consulting and Legal Services at NMC in an amount not to exceed $100,000 for the period May 1, 2010 to April 30, 2011.
SUMMARY/DISCUSSION:
Latham & Watkins healthcare and attorneys have specific experience with the nuanced regulations that govern the healthcare industries, including those related to Medicare/Medicaid reimbursement, healthcare regulatory requirements, Health Insurance Portability and Accountability Act HIPAA),

financing regulation, and licensing. In consultation with the Office of the County Counsel, Latham & Watkins shall render advice on a variety of healthcare-related issues to NMC
OTHER AGENCY INVOLVEMENT:
Due to the late submission of this Board Report, the CAO-Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational policy, or other implications to the County of Monterey.
FINANCING:
The cost of this Amendment is $100,000 and is included in the Fiscal Year 2010/11 Approved Budget. This action will not require any additional General Fund subsidy.
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Prepared by: Nh F-
Stacy Saetta Harry Weis
Deputy County Counsel Chief Executive Officer
July 14, 2010
Attachments: Agreement, Board Order

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AGREEMENT NO. A-11791 - LATHA┐└☼┌┘Jerry Peters
Direct Dial 415) 395-8160
ferry. peters@lw.com
LATHAM&WATKINSLLP
June 6, 2010
Ms. Stacy Saetta
Deputy County Counsel for the County of Monterey
Natividad Medical Center
1441 Constitution Boulevard
Salinas, CA 93906
Re: Engagement Letter
505 Montgomery Street, Suite 2000
San Francisco, California 94111-6538
Tel: +1.415.391.0600 Fax: +1.415.395.8095
www.lw. com
FIRM / AFFILIATE OFFICES
Abu Dhabi Moscow
Barcelona Munich
Beijing New Jersey
Brussels New York
Chicago Orange County
Doha Paris
Dubai Riyadh
Frankfurt Rome
Hamburg San Diego
Hong Kong San Francisco
Houston Shanghai
London Silicon Valley
Los Angeles Singapore
Madrid Tokyo
Milan Washington, D.C.
Dear Stacy:
We are pleased to welcome the County of Monterey herein Monterey County" or, in
context, you") as a client of Latham & Watkins LLP. This letter will confirm our discussions
regarding Monterey County's engagement of our firm.
1. Legal Services.
You have asked us to represent Monterey County in connection with the analysis and
potential negotiation of a physician agreements as well as other healthcare matters regarding
Natividad Medical Center Natividad"), a general acute care teaching hospital owned and
operated by Monterey County and located in Salinas, California.
If additional services are requested by you and agreed to by us, this letter will apply to
such services, unless superseded by another written agreement. Our representation is limited to
the specific services that you request and that we have agreed to undertake.
Please feel free to contact me at 415) 395-8160 or Betty Pang at 415) 395-8130 with
any questions as this engagement proceeds.
2. Identity of the Client.
Our client in this matter will be Monterey County. We do not represent and will not be
deemed to have an attorney-client relationship with any other organization or person. I
understand that County Counsel Charles McKee, you, and Deputy County Counsel William Litt
will be our primary contacts, and will direct our actions on behalf of Monterey County.
3. Roles of Attorney and Client.
Our responsibilities under this agreement are to provide legal counsel and assistance to
you in accordance with this letter, and to provide statements to you that clearly state the basis for
our fees and charges. We will not disclose any confidential information of yours to any other
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LATHAM&WATKINSLLI
client, even where that information might have some bearing on their interests. Likewise, we will not disclose the confidences of any other client to you, even where that information might have some bearing on your interests, and you agree that we are under no obligation to do so. We shall provide to Monterey County such reports as may be requested by the Board of Supervisors

or County Counsel. You also agree to keep us informed of developments related to this representation and to pay our statements in a timely manner. To allow us to conduct a conflicts check, you represent that you have identified to us all persons and entities that are or may become involved in this matter, including all such persons or entities that are affiliated with you. You also agree to notify us if you become aware of any other persons or entities that are or may become involved in this matter.

During the course of this engagement, we may express opinions or beliefs to you about the effectiveness of various courses of action or about the results that might be anticipated. Such statements are expressions of opinion only, and should not be construed as promises or guaranties.

Please also be aware that Latham & Watkins LLP has internal ethics and professional responsibility counsel, who advise Latham attorneys regarding their ethical, professional and legal duties. From time to time, the attorneys working on your matter may consult these lawyers. You acknowledge that any such consultation is protected by Latham's own attorney-client privilege, and you waive any right to discovery of those communications. Should circumstances arise in which Latham & Watkins LLP faces a conflict of interest with respect to or by virtue of these communications, you agree to waive that conflict. You also agree that such communications are property of the firm and are not part of the Client File as defined in Section 4 of this letter.

4. Client Files and Retention.

In the course of your representation, we shall maintain a file in which we may place correspondence, agreements, governmental filings, prospectuses, disclosures, pleadings, deposition transcripts, exhibits, physical evidence, expert reports, and other items reasonably necessary to your representation Client File"). The Client File shall be and remain your property. Upon completion of a specific project, your original Client File for that project shall be available to be taken by you. We will be entitled to make copies if we choose. You also agree at the conclusion of the project whether or not you take possession of the Client File) to take possession of any and all original contracts, wills, stock certificates, and other such important documents that may be in the Client File and we shall have no further responsibility with regard to such documents. If you do not take possession of the Client File at the conclusion of the project, we will store such file for you for a period of seven years. If you do not take possession of the Client File during such seven-year storage period, you agree that we may dispose of it. You agree that the documents containing our attorney work product, mental impressions or notes and drafts of documents shall be and remain our property and shall not be considered part of your Client File. In addition, electronic documents such as e-mail and documents prepared on our word processing system but excluding printed copies thereof), and databases shall be and remain our property and shall not be considered part of your Client File. You agree that we may enact and implement reasonable retention policies for such electronic documents and that our firm has discretion to delete such documents.

5. Conflicts of Interest.

Latham represents a few clients who are adverse to the County of Monterey on matters unrelated to this matter. I am informed that there are potentially three such clients. Latham

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LATHAM&WATKINSLIP
represents Defendant Deloitte in the County Treasurer's securities lawsuit against Washington Mutual. Latham also represents the Pebble Beach Company in various matters that might involve the County. Latham filed an Amicus Brief on behalf of The Irvine Company to California Supreme Court on use of contingent fee lawyers in groundwater toxic torts brought by water districts, which may include the County. Finally, Latham represented a party in a public records act request in 2006. By executing this letter agreement, you consent to our continued representation regarding those matters, none of which involve Natividad.
Without your consent, we will not represent any other party in this matter, nor any other matter substantially related to it. You will have our complete loyalty with respect to this matter. We note that Latham & Watkins LLP is an international law firm with numerous attorneys and offices in many countries and that we practice in many diverse areas of law. Some of our clients may now or in the future operate in the same lines of business as you do. Both our own prudent business conduct, and the interests of our other clients, call for us to seek to retain the ability to take unrelated matters for all of our clients. We thus ask you in connection with this engagement to consent in advance to our acceptance of future matters including litigation matters) adverse to Monterey County, provided that those matters do not involve litigation against Monterey County concerning Natividad and are not substantially related to the work that we have done for Natividad. By entering into this agreement, you consent to such adverse representations. Thus, for example, you agree that we would be able to take a new lawsuit or transactional matter for any client, adverse to Monterey County, at the same time that we are representing Monterey County in this matter, so long as the adverse matter does not involve litigation against Monterey County concerning Natividad and is not substantially related to the work we have done for Natividad. This consent also includes being adverse to you in any bankruptcy, regulatory, administrative, legislative or rulemaking proceeding. A matter shall not be construed as substantially related to the work we have done for Natividad" if it entails merely advising a client that does business with Natividad regarding routine transactional issues

applicable to hospitals generally.
In addition, by entering into this agreement you agree that if we represent you in a matter across from another person or entity, we may represent such person or entity on matters that do not involve litigation against Monterey County concerning Natividad and are not substantially related to our work for Natividad. We agree to inform Monterey County, through timely notification of the County Counsel, of any new actual legal conflicts that arise with respect to Monterey County during the pendency of our representation of Monterey County, subject to our professional obligations under applicable ethics rules.
Because you are consenting only to our taking adverse matters not involving litigation against Monterey County concerning Natividad and not substantially unrelated to anything we have handled for Natividad, we will not have obtained any confidential information from Monterey County that would be pertinent to any matter on which we will be representing these other clients. Nevertheless, we take very seriously our obligations to maintain the confidentiality of information we receive from all of our clients, including Monterey County and any other clients covered by this consent. Accordingly, we will continue to maintain the confidences of both Monterey County and our other clients.
You should feel completely free to consult other counsel concerning these matters and we encourage you to do so. By signing this letter, you acknowledge that you have had an opportunity to consult with other counsel.
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6. Rates, Fees and Charles.
Our fees are based primarily on the amount of time spent by our lawyers, paralegals and other professionals on your behalf. Each lawyer, paralegal and other professional assigned to this matter will have individual hourly billing rates, and the applicable rate multiplied by the number of hours spent, measured in tenths of an hour, will be the initial basis for determining our fee.
My 2010 billing rate is $780 per hour. I anticipate performing most of this initial assignment myself, but might utilize an associate at a lower billing rate to reduce the cost of this project if appropriate. In general, our attorneys' billing rates applicable to this engagement will range from $295 per hour to $900 per hour during 2010, depending upon the seniority and expertise of the attorney involved. For paralegal and other professional time, our rates will range from $115 to $555 per hour.
In addition to fees, you agree to pay for disbursements and other charges. These will include such items as photocopying $0.17 per page); color prints/copies $0.25 per page); scanning documents $0.15 per page); use of fee-based research databases 90% of the third-party vendor rate or 1.25 times our volume-discounted cost depending on vendor); long-distance telephone charges AT&T standard rates); couriers and air freight 1.10 times our volume-discounted cost); messengers at third-party vendor rate); client-specific work by staff; staff overtime and meals as defined by federal or local law); transportation where dictated by safety reasons, and which may include a transaction fee); word processing $60.00 per hour); postage, at cost; supplies for large volume only); and other reasonable costs and expenses. For disbursements over $1,500, we may ask that billings be sent directly to you or that advances be provided. Travel and lodging expenses shall be paid in accordance with the County's Travel Policy, which you shall provide to me.
The term of this Agreement is from May 1, 2010 to Apri 13 0, 2011. The maximum amount of the County's liability over the full term of this Agreement is $100,000. This amount may be amended by written agreement between the parties, or this Agreement may be terminated by either party if the maximum is reached and not increased by the County.
We intend to provide statements to you on a monthly basis. They will show our time logged in tenth-of-an-hour increments and will separate fees from disbursements and other charges. Latham shall submit an invoice to Monterey County no later than 45 days following the last day of 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, 3rd Floor
Salinas, CA 93901
Latham shall provide Monterey County with a detailed statement on a monthly basis, covering its current fees and expenses. It will describe services rendered and will also show the amount of Monterey County's retainer remaining in its trust account or the amount owing to Latham. Natividad's Contract Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this agreement, and shall promptly submit the invoice to the County Auditor-Controller for
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payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
It is understood that Latham's fees and charges shall be paid out of Natividad's budget,

and that Latham's fees and charges shall not be paid out of the budget of County Counsel's Office.
Our billing rates and charges are usually revised annually, but we reserve the right to revise them at other times. Following any such revision, our new rates and charges will be applied to your account, and this letter constitutes written notice to you of our right to make such revisions.
Any funds that you deposit with us as an advance against our fees and charges will be treated as property of the firm. Any unused portion of such advance after our services are concluded will be returned to you.
From time to time, you may request estimates of the fees and charges that we anticipate incurring on your behalf. These estimates are subject to unforeseen circumstances and are by their nature inexact. While we may provide estimates for your general planning purposes, such estimates are subordinate to our regular billing procedures, absent an express written agreement to the contrary.
We agree to inform Monterey County, through timely notification of the County Counsel, of when our fees and charges have reached monetary milestones of $25,000, $50,000, $75,000, and $100,000 and of our plan either to terminate this Agreement without completing the scope of work or to complete the scope of work within the not to exceed amount of the contract.
Contact Information
CONTRACTOR:
Jerry Peters, Esq.
Latham & Watkins, LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111-6538
415) 395-8160
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
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LATHAM&WATKINS►P
831) 755-5045
William M. Litt
Deputy County Counsel
County of Monterey
168 West Alisal Street, 3rd Floor
Salinas, CA 93901
831) 755-5045
NATIVIDAD MEDICAL CENTER Harry Weis, CEO
Natividad Medical Center
1441 Constitutional Boulevard
Salinas, CA 93906
831) 755-4111
7. Arbitration of Disputes.
Any controversy or claim, whether in tort, contract or otherwise, arising out of or relating to the relationship between Monterey County, its affiliates or successors the Client Arbitration Parties") and Latham & Watkins LLP, its affiliated partnerships, attorneys or staff or any of their successors the Latham Arbitration Parties") or the services provided by the Latham Arbitration Parties pursuant to this engagement letter or otherwise to the Client Arbitration Parties shall be submitted to binding arbitration. By agreeing to arbitrate, you are agreeing to waive your right to a jurytrial. The arbitration will be conducted in accordance with this document, the Federal Arbitration Act and CPR Rules for Non-Administered Arbitration, as in effect on the date of this engagement letter. The arbitration shall be conducted before a panel of three neutral arbitrators. The arbitration shall be commenced and held in the city and state in which the Latham & Watkins office is located whose attorneys spent the most amount of time on the matter in dispute. Any issue concerning the location of the arbitration, the extent to which any dispute is subject to arbitration, the applicability, interpretation, or enforceability of this agreement shall be resolved by all of the arbitrators. To the extent state law is applicable, the arbitrators shall apply the substantive law of the state in which the Latham & Watkins office is located whose attorneys spent the most amount of time on the matter in dispute. Each party will be entitled to depose a maximum of six witnesses, plus all experts designated to be witnesses at the arbitration. The depositions shall be limited to a maximum of six hours per deposition. All aspects of the

arbitration shall be treated as confidential and neither the parties nor the arbitrators may disclose the content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. The result of the arbitration shall be binding on the parties and judgment on the arbitrators' award may be entered in any court having jurisdiction.
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LATHAM&WATKINSLLP
8. Limited Liability Partnership.
Latham & Watkins LLP is a limited liability partnership LLP). Similar to the corporate form of business organization, the LLP form generally limits the liability of the individual partners of the firm to the capital they have invested in the firm for claims arising from services performed by the firm. Our form of organization as an LLP will not diminish the ability to recover damages from the firm or from any individuals who directly caused the loss. Because of legal restrictions in those countries, work done out of our offices in England, France, Hong Kong, Japan, and Italy will be carried out through affiliated partnerships registered locally, but the distinction will be largely transparent to you as a client.
9. Indemnification and Insurance.
9.1. Indemnification.
Indemnification for Professional Liability. For liability arising from professional and technical services provided under this Agreement, Latham 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 Latham, its employees, sub-consultants, or agents.
General Indemnification. For any liability, other than arising out of professional and technical services, Latham 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 Latham, its employees, sub-consultants, or agents, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the County.
Notwithstanding the foregoing two paragraphs, Latham's contract indemnity obligation shall be limited to the specified minimum indemnity amount for which Latham is required to be insured in Section 9.2 of the Agreement. Nothing in this Section 9 shall be construed to or shall expand the responsibility or potential liability of Latham beyond that which may already exist under the common or statutory law. Latham shall have the right in its sole discretion to choose defense counsel and make all decisions regarding defense and settlement, including the amount and whether to settle. Payment of defense counsel shall be limited to reasonable costs and fees.
9.2 Insurance. Latham certifies that it maintains a program of insurance and/or self-insurance that covers its activities in connection with this engagement as follows:
1) Professional Liability Insurance. Latham shall have coverage for professional liability in the amount not less than $3,000,000 per claim and $5,000,000 in the aggregate, to cover liability for malpractice or errors and omissions made in the course of rendering professional services. If professional liability insurance is written on a claims-made"
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LATHAM&WATKINS►P
basis, such coverage shall continue for at least three 3) years following the expiration or earlier termination of this Agreement;
2) Commercial General Liability Insurance. Latham shall have coverage for commercial general liability, including but not limited to premises, personal injuries, products, and completed operations, with a combined single limit of not less than $1,000,000 per occurrence;
3) Automobile Liability Insurance. Latham shall have coverage for automobile liability, including but not limited to comprehensive automobile liability covering all motor vehicles, including owned, leased, nonowned, and hired vehicles, used in providing services under this Agreement, with a combined single limit of not less than $1,000,000 per occurrence;
4) Workers' Compensation Insurance: If Latham employs others in the performance of this Agreement, Latham shall have coverage for workers' compensation in accordance with California Labor Code 3700 and with a minimum of $1,000,000 per occurrence for employer's liability; and
5) Such other and further insurance as may be required by law and identified in advance by you to me.
9.3 Other Insurance Requirements. All insurance required by this Agreement shall be self-insured or with a company acceptable to the County and authorized by law 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 two 2) years following the date Latham completes its performance of services under this Agreement or covered by Latham's self-insurance program.

Commercial general liability and automobile liability self-insurance policies shall provide an endorsement naming the County of Monterey, its governing board, officers, agents, and employees as Additional Insureds and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by Monterey County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by Monterey County's insurance.

10. Entire Agreement and Miscellaneous.

You and we understand that this letter constitutes the entire agreement pertaining to the engagement of Latham & Watkins LLP, and that it shall not be modified by any policies, procedures, guidelines or correspondence from you or your representative unless agreed to in writing by Latham & Watkins LLP

Our relationship with you will be deemed concluded when we have completed our services. In addition, and without limiting the preceding sentence, in the event we have performed no work on your behalf for six consecutive months, you agree that our attorney-client relationship with you will have been terminated.

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LATHAM&WATKINSLIP
11. Limitations on law applicability.
Latham and Monterey County agree that this Agreement is not intended to subject Latham to the requirements of the California Public Records Act, or the open meeting, notice, and other requirements of the California Open Meetings Law Brown Act), or other similar statutes applicable to state or local agencies to any greater extent than required by law. Latham and Monterey County further agree that this Agreement shall not subject Latham to Monterey County's internal policies and procedures except as set forth specifically in this Agreement.
12. Approval and Return of Letter.
If this letter meets with your approval, please sign and return the enclosed copy. We look forward to working with you.
Very truly yours,
Jerry Peters
of LATHAM & WATKINS LLP
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LATHAM&WATKI NS►o
Approval of Engagement
Natividad has read the enclosed letter and agrees to its terms, effective as of the date on which Latham & Watkins LLP first provided services to the County of Monterey.
BY SIGNING THIS LETTER, THE COUNTY OF MONTEREY AGREES TO HAVE ANY ISSUE ARISING OUT OF OR RELATING TO THE SERVICES OF THE LATHAM ARBITRATION PARTIES INCLUDING ANY CLAIM FOR PROFESSIONAL LIABILITY) DECIDED IN ARBITRATION AND THE COUNTY OF MONTEREY GIVES UP ITS RIGHT TO A JURY OR COURT TRIAL AND ACKNOWLEDGES THE ARBITRATION PROVISION IN SECTION 7 ABOVE.
Date: 2010.
By:
Charles McKee
County Counsel for the County of
Monterey, California
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↕EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT
This Agreement is made effective April 1, 2010, by and between MONTEREY COUNTY, hereinafter referred to as Covered Entity", and Latham & Watkins LLP, hereinafter referred to as Business Associate", individually, a Party" and collectively, the Parties").
WITNESSETH:
WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the security, confidentiality and integrity of health information; and
WHEREAS, pursuant to the Administrative Simplification provisions, the

Secretary of Health and Human Services has issued regulations modifying 45 CFR Parts 160 and 164 the HIPAA Privacy Rule"); and
WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to Covered Entity, and, pursuant to such arrangement, Business Associate may be considered a business associate" of Covered Entity as defined in the HIPAA Privacy Rule the agreement evidencing such arrangement is your engagement letter, dated May 2010, with a term of May 1, 2010 through April 30, 2011, and is hereby referred to as the Arrangement Agreement"); and
WHEREAS, Business Associate may have access to Protected Health Information as defined below) in fulfilling its responsibilities under such arrangement;
THEREFORE, in consideration of the Parties' continuing obligations under the Arrangement Agreement, compliance with the HIPAA Privacy Rule, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the HIPAA Privacy Rule and to protect the interests of both Parties.
1. DEFINITIONS
Except as otherwise defined herein, any and all capitalized terms in this Section shall have the definitions set forth in the HIPAA Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy Rule, as amended, the HIPAA Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule, but are nonetheless permitted by the HIPAA Privacy Rule, the provisions of this Agreement shall control.
The term Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic, medical and financial information,
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that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.
II. CONFIDENTIALITY REQUIREMENTS
a) Business Associate agrees:
i) to use or disclose any Protected Health Information solely:
1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship or 2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Covered Entity is required to disclose such information or as otherwise permitted under this Agreement, the Arrangement Agreement if consistent with this Agreement and the HIPAA Privacy Rule), or the HIPAA Privacy Rule, and 3) as would be permitted by the HIPAA Privacy Rule if such use or disclosure were made by Covered Entity;
ii) at termination of this Agreement, the Arrangement Agreement or any similar documentation of the business relationship of the Parties), or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return or destroy all Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information, or if such return or destruction is not feasible, Business Associate will extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible; and
iii) to ensure that its agents, including a subcontractor, to whom it provides Protected Health Information received from or created by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate with respect to such information. In addition, Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.
b) Notwithstanding the prohibitions set forth in this Agreement, Business Associate may use and disclose Protected Health Information as follows:
i) if necessary, for the proper management and

administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:
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↕EXHIBIT B
A) the disclosure is required by law; or
B) Business Associate obtains reasonable assurances
from the person to whom the information is disclosed that it will be
held confidentially and used or further disclosed only as required
by law or for the purpose for which it was disclosed to the person,
and the person notifies Business Associate of any instances of
which it is aware in which the confidentiality of the information has
been breached;
ii) for data aggregation services, if to be provided by
Business Associate for the health care operations of Covered Entity
pursuant to any agreements between the Parties evidencing their
business relationship. For purposes of this Agreement, data aggregation
services means the combining of Protected Health Information by
Business Associate with the protected health information received by
Business Associate in its capacity as a business associate of another
covered entity, to permit data analyses that relate to the health care
operations of the respective covered entities.
c) Business Associate will implement appropriate safeguards to prevent use
or disclosure of Protected Health Information other than as permitted in
this Agreement. The Secretary of Health and Human Services shall have
the right to audit Business Associate's records and practices related to
use and disclosure of Protected Health Information to ensure Covered
Entity's compliance with the terms of the HIPAA Privacy Rule. Business
Associate shall report to Covered Entity any use or disclosure of
Protected Health Information which is not in compliance with the terms of
this Agreement of which it becomes aware. In addition, Business
Associate agrees to mitigate, to the extent practicable, any harmful effect
that is known to Business Associate of a use or disclosure of Protected
Health Information by Business Associate in violation of the requirements
of this Agreement.
III. AVAILABILITY OF PHI
Business Associate agrees to make available Protected Health Information to the extent
and in the manner required by Section 164.524 of the HIPAA Privacy Rule. Business
Associate agrees to make Protected Health Information available for amendment and
incorporate any amendments to Protected Health Information in accordance with the
requirements of Section 164.526 of the HIPAA Privacy Rule. In addition, Business
Associate agrees to make Protected Health Information available for purposes of
accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy Rule.
Nothing in this clause, or elsewhere in this Agreement, shall require or be construed to
require Business Associate to violate any local, state, or federal law or regulation, or any
ethical obligation or court rule or order.
IV. TERMINATION
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Notwithstanding anything in this Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement. If Covered Entity reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, Covered Entity gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to Covered Entity that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately.
V. MISCELLANEOUS
Except as expressly stated herein or the HIPAA Privacy Rule, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Arrangement Agreement and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.
This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement will be governed by the laws of the State of California. No change, waiver or discharge of any

liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
The parties agree that, in the event that any documentation of the arrangement pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information which are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information.
In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Privacy Rule, such party shall notify the other party in writing. For a period of up to thirty days, the parties shall address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty-day period, the Agreement fails to comply with the HIPAA Privacy Rule, then either party has the right to terminate upon written notice to the other party.

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2011.-U012

AGREEMENT NO. A-11791 - LATHA┐└►☼☼↕EXHIBIT B
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.
COVERED ENTITY:
Date: 7-1 LD
BUSINESS ASSOCIATE:
LATHAM & WATKINS LLP.
Title: Y^ e-r'
Date: W I$ /
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AGREEMENT NO. A-11791 - LATHA┐└►☼┼↕MONTEREY COUNTY
VENDOR REGISTRATION FORM
RETURN THIS FORM TO:
Contracts Purchasing Division 168 W. Alisal St.3rd Floor Salinas CA 93901
PH(831)755-4990 FAX(831)755.4969
BUSINESS NAME Name
DBA
L-akh&-W 4 vii' ohs 1 I-Jo
TAXPAYER IDENTIFICATION Federal mployeernr ID No. or Social Security No.
Enter Applicable Number) q`7 r 8 31 3
BUSINESS ORGANIZATION Corporation
Check one and follow President
the instructions.)
Vice President
Secretary Treasurer

Subsidiary of-
Parent Corppany)
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Partnership
Partner Name Partner Name MaK 1r% J F *A►Ylt/L
Partner Name Partner Name
Sole Proprietorship
Owner Name
dba if applicable):
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Must be Completed) gg*G
city r J
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TWO Zip Code,
C
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PO Box if applicable) E-mail address
Telephone No. Fax No.
4I5; 391-0600
1W 30
Discounts Offered:
BUSINESS TYPE Retail Minority /Woman Owned
Check applicable boxes.) Wholesale Veteran Owned
Distributor Small Business
Manufacturer
NOTE; If you checked Minonty/Woman Owned or Small Business, please register into our SmalVLocal Business
Outreach Program Online at www.co.monterey.ca.us/admin/outreach.htm
LICENSES Contractors License No.
Revised 10/28/08 1

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AGREEMENT NO. A-11791 - LATHA┐└►☼◄↕MONTEREY COUNTY
VENDOR REGISTRATION FORM
RETURN THIS FORM TO:

Contracts Purchasing Division 168 W. Allsal St.3rd Floor Salinas CA 93901
PH 831) 755 4990 FAX 831) 755-4969
Carefully examine the List of Commodities". List the DESCRIPTION and NUMERIC CODE of each Commodity
product 8Jor Service(s)] that you wish to provide the county. See NIGP Commodity Codes on our web site)
Numeric Code Description
1 01q3 1 Le 5eeryces.A-'4~rveys
2 2
3 3
4 4
5 5
6 6
7 7
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10 10
Use the spaces below for Commodities / Merchandise not listed OR to clarify a commodity you have already selected.
Please feel free to attach any addtional information you would like us to have. ie. Brochures, Line Cards, etc...)]
PREPARED BY: Printed /Typed Njame~
C%tifTzs..! L L N G~
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AGREEMENT NO. A-11791 - LATHA┐└☼↕↕Form
w-9
Rev. October 2007)
Department of the Trwury
Internal Revenue SenAce
Request for Taxpayer
Identification Number and Certification
Name as shown on your income tax slum)
L&- t cur e Wa-i LL' P
Business name, If different from above
Check appropriate box: individuaVSole proprietor corporation Partnership
Urrlftad liability company. Enter the tax dssiftcatlon Dwdiaregarded entity, C-corporstbn, Pepartnership) P
Otlwr sea Mstntctiors)
Address number, street, and apt. or suite no.)
57' Scc
SOS ACAL Z`--~Atf t P o(, ev 0
City, state, and ZIP C
List account number(s) two optional)
Part
Taxpayer Identification Number TIN)
Give form to the
requester. Do not
send to the IRS.
Exempt
payee
Requester's name and address
Enter your TIN In the appropriate box. The TIN provided must match the name given on Una 1 to avoid backup withholding. For Individuals, this Is your social security number SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it Is your employer Identification number EIN). If you do not have a number, see How to get a TIN on page 3.
Note. If the account Is in more than one name, see the chart on page 4 for guidelines on whose
number to enter,
rMM Certification
optional)
Social security number
or
Employer Idevidlloadon number
9s 1o/d'3 7.3
Under penalties of perjury, I certify that
1. The number shown on this form Is my correct taxpayer Identification number or I am waiting for a number to be Issued to me), and
2. I am not subject to backup withholding because: a) I am exempt from backup withholding, or b) I have not been notified by the Internal Revenue Service IRS) that I am subject to backup withholding as a result of a failure to report all Interest or dividends, or c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person defined below).
Certification Instructions. You must cross out Item 2 above If you have been notified by the IRS that you we currently subject to backup withholding because you have failed to report all Interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage Interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an Individual retirement

arrangement IRA), and generally, payments other than Interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the Instructions on page 4.
Sign I sgnetur" of
Here us. person lt.CG• C• tt. tea oat. O/-/ I0
General Instructions Definition of a U.S. person. For federal tax purposes, you are
Section references are to the Internal Revenue Code unless considered a U.S. person if you are:
a An Individual who Is a U.S. citizen or U.S. resident alien,
otherwise noted.
A partnership, corporation, company, or association created or
Purpose of Form organized in the United States or under the laws of the United
A person who is required to file an information return with the states.
IRS must obtain your correct taxpayer Identification number MN) An estate other than a foreign estate), or
to report, for example, Income paid to you, real estate A domestic trust as defined in Regulations section
transactions, mortgage Interest you paid, acquisition or 301.7701-7).
abandonment of secured property, cancellation of debt, or Special rules for partnerships. Partnerships that conduct a
contributions you made to an IRA. trade or business In the United States are generally required to
Use Form W-9 only if you are a U.S. person including a pay a withholding tax on any foreign partners' share of income
resident alien), to provide your correct TIN to the person from such business. Further, in certain cases where a Form W-9
requesting it the requester) and, when applicable, to: has not been received, a partnership Is required to presume that
1. Certify that the TIN you are giving is correct or you are a partner is a foreign person, and pay the withholding tax.
waiting for a number to be issued), Therefore, if you are a U.S. person that Is a partner In a
2. Certify that you are not subject to backup withholding, or partnership conducting a trade or business In the United States,
provide Form W-9 to the partnership to establish your U.S.
3. Claim exemption from backup withholding if you are a U.S. status and avoid withholding on your share of partnership
exempt payee. If applicable, you are also certifying that as a income.
U.S. person, your allocable share of any partnership income from The person who gives Form W-9 to the partnership for
a U.S. trade or business is not subject to the withholding tax on purposes of establishing Its U.S. status and avoiding withholding
foreign partners' share of effectively connected income. on its allocable share of net income from the partnership
Note. If a requester gives you a form other than Form W-9 to conducting a trade or business In the United States Is in the
request your TIN, you must use the requester's form If it Is following cases:
substantially similar to this Form W-9. The U.S. owner of a disregarded entity and not the entity,
Cat. No. 10231X Form W-9 Rev. 10-2007)

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