



Monterey County Board of Supervisors

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

Board Order

Agreement No.: A-13931

Upon motion of Supervisor Parker, seconded by Supervisor Adams and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute agreements with three (3) vendors JKL Construction Services, Inc., SHP Project Development, Inc., and Bogard Construction, Inc. for construction management services pursuant to the Request for Qualifications (RFQ) # 9600-77, each with an agreement term of May 1, 2018 through April 30, 2023 and a total aggregate amount for all agreements not to exceed \$2,000,000 or \$400,000 per fiscal year; and
- b. Authorized the Deputy Purchasing Agent for NMC or his designee to execute up to three (3) no-extension amendments for all agreements awarded for construction management services per RFQ# 9600-77 which do not significantly alter the scope of work and do not increase the cumulative "not to exceed" amount by up to 10% (\$200,000) of the original total aggregate amount for all agreements (\$2,000,000).

PASSED AND ADOPTED on this 8th day of May 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams

NOES: None

ABSENT: None

I, Nicholas E. Chiulos, Acting 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 80 for the meeting May 8, 2018.

Dated: June 7, 2018
File ID: A 18-126

Nicholas E. Chiulos, Acting Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**COUNTY OF MONTEREY AGREEMENT
FOR CONSTRUCTION MANAGEMENT SERVICES
(PROJECTS UNDER \$100,000)**

This AGREEMENT is made and entered into by the County of Monterey, a political subdivision of the State of California (hereinafter, "the County"), on behalf of Natividad Medical Center, (hereinafter referred to as "NMC"), a general acute care teaching hospital wholly owned and operated by the County, and Bogard Construction, Inc. (hereinafter referred to as "CONTRACTOR").

1.0 RECITALS

WHEREAS, NMC has invited Statement of Qualifications (SOQ)/proposals through the Request for Qualifications (RFQ# 9600-77) for Construction Management Services, in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible Statement of Qualifications (SOQ)/proposal to perform such services; and

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

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

2.0 PERFORMANCE OF THE AGREEMENT

- 2.1 After consideration and evaluation of the CONTRACTOR'S Statement of Qualifications (SOQ)/proposal, NMC hereby engages CONTRACTOR to provide construction management services whereby the total cost of the construction management service fee does not exceed \$100,000 per project, in accordance with the specifications set forth in RFQ# 9600-77 and in this AGREEMENT on the terms and conditions contained herein and in RFQ# 9600-77. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

RFQ# 9600-77 dated October 1, 2017, including all attachments and exhibits
Addenda Nos. 1, 2, and 3
CONTRACTOR'S SOQ/Proposal dated December 1, 2017
AGREEMENT
Certificate of Insurance
Additional Insured Endorsements

- 2.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT, CONTRACTOR'S SOQ/Proposal, RFQ# 9600-77 including all attachments and exhibits, Addendum/Addenda issued, Certificate of Insurance, and Additional Insured Endorsements.
- 2.3 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this AGREEMENT are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this AGREEMENT and are not employees of NMC nor of the County of Monterey, or immediate family of an employee of Natividad Medical Center nor of the County of Monterey.
- 2.4 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 2.5 CONTRACTOR shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of the United States and of the State of California. The Agency will be in compliance with Title 22, OSHA, Federal and State Labor Laws and the Joint Commission on Accreditation of Health Care Organizations.
- 2.5.1 CONTRACTOR must maintain all applicable and required licenses throughout the term of the AGREEMENT.
- 2.6 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this AGREEMENT, except as otherwise specified in this AGREEMENT. CONTRACTOR shall not use Natividad Medical Center premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

3.0 SCOPE OF SERVICE

- 3.1 Contractor Minimum Work Performance Percentage: CONTRACTOR(S) shall perform with his own firm contract work amounting to not less than fifty percent (50%) of the original total contract price, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total contract price before computing the amount of work required to be performed by the CONTRACTOR with his own firm.
- 3.2 NMC has implemented a Job Order Contracting (JOC) construction delivery method. Not all construction projects will use the JOC program. For those projects which NMC does

use the JOC program to complete, CONTRACTOR(S) shall become familiar with the quality and workmanship required by the applicable Construction Task Catalogs (CTC), coordinate, and adjust specifications and details produced by the JOC contractor.

- 3.3 Services will be rendered at the request of NMC. With more than one CONTRACTOR awarded a services agreement per RFQ# 9600-77, work shall be assigned at the discretion of NMC. As projects arise, NMC will select the most qualified CONTRACTOR based upon specialty in most situations and request that they provide a detailed scope and cost. Proposals are subject to negotiations. NMC reserves the right to select the most qualified CONTRACTOR it believes to be the most qualified for the project.
- 3.4 CONTRACTOR will advocate for NMC and ensure the project produced is in the best interest of NMC. CONTRACTOR is expected to deliver products on or ahead of the required schedule and within budget.
- 3.5 All approved Construction Management team members will be expected to perform work on the specified project for the entire duration of the project. No substitution is allowed unless approved in advance and in writing by NMC. CONTRACTOR(S) is expected to produce complete and correct work in a timely manner that will not impact the project's schedule. CONTRACTOR(S) is expected to monitor his/her approved budget, provide NMC with a written construction estimate for any additional work outside the contracted scope of work and obtain written approval from NMC prior to performing such additional work.
- 3.6 All work shall be done in conformance with all applicable County, State and Federal laws, County Design Manuals, County Standard Plans, all Caltrans manuals, policies, State Standard Plans and Specifications, Manual of Uniform Control Devices, Uniform Building Code, (Fire, Electrical), Americans with Disabilities Act (ADA), California Green Building Standards Code (Part 11, Title 24, California Code of Regulations); and as revised and amended by County ordinance.
- 3.7 The Scope of Work can be described generally as providing construction management services which includes, but is not limited to, the following:
 - 3.7.1 Type of Construction Management projects:
 - 3.7.1.1 Healthcare Facilities Construction
 - 3.7.1.2 New Building Construction
 - 3.7.1.3 Building Renovation
 - 3.7.1.4 Building Rehabilitation
 - 3.7.1.5 Tenant Improvements
 - 3.7.1.6 Site Work
 - 3.7.1.7 Infrastructure
 - 3.7.1.8 General Engineering
 - 3.7.1.9 Conceptual Estimating

3.7.2 During the project life cycle, CONTRACTOR's duties shall include, but is not limited to:

- 3.7.2.1 Prepare Requests for Proposals (RFP) and Request for Quotations (RFQ) for design
- 3.7.2.2 Work with NMC and Architect to develop design criteria
- 3.7.2.3 Review plans and technical specifications for completeness
- 3.7.2.4 Perform a pre-construction survey
- 3.7.2.5 Prepare construction bid package
- 3.7.2.6 Monitor and facilitate design plan check with all pertinent agencies
- 3.7.2.7 Evaluate RFP/RFQ bidders and make recommendations for selecting the most qualified bidder(s):
 - 3.7.2.7.1 Assist in bidding of projects
 - 3.7.2.7.2 Assist in prequalification of bidders
 - 3.7.2.7.3 In conjunction with Architect, provide bid analysis
 - 3.7.2.7.4 Conduct reference checks on most qualified bidder(s)
 - 3.7.2.7.5 Conduct state license check on most qualified bidder(s)
 - 3.7.2.7.6 Make recommendations for the most qualified bidder(s)
 - 3.7.2.7.7 Prepare contract for the most qualified bidder(s)
 - 3.7.2.7.8 Review contract required documents from the most qualified bidder(s)
- 3.7.2.8 In conjunction with Architect, provide value engineering reviews
- 3.7.2.9 Coordinate the survey, test, and inspection needs of projects
- 3.7.2.10 Assist Architect in Request for Information (RFI)
- 3.7.2.11 Negotiate and make recommendations for Change Orders (CO)
- 3.7.2.12 Provide and maintain logs for:
 - 3.7.2.12.1 Submitted RFIs
 - 3.7.2.12.2 Change Orders
 - 3.7.2.12.3 Submittals
 - 3.7.2.12.4 Request for Quotations (RFQ)
 - 3.7.2.12.5 Correction Notices
 - 3.7.2.12.6 Stop Work Notices
 - 3.7.2.12.7 Any related construction documents
- 3.7.2.13 Prepare weekly construction progress reports to NMC
- 3.7.2.14 Monitor general contractor's labor compliance
- 3.7.2.15 Review general contractor's safety program
- 3.7.2.16 In conjunction with Architect, prepare all documentation needed for project closeout

3.7.3 Management Knowledge & Company Experience:

CONTRACTOR(S) shall have substantial construction management experience in the following areas:

- 3.7.3.1 Healthcare Facilities (OSH PD 1)
- 3.7.3.2 Health Clinics (OSH PD 3)

- 3.7.3.3 Public Works / Government Buildings
- 3.7.3.4 Parking Structures
- 3.7.3.5 Administration Buildings
- 3.7.3.6 Data / Communication Buildings
- 3.7.3.7 Essential Buildings (*Ex: hospitals or other medical facilities, fire and police stations, primary communication facilities, disaster or emergency operations centers, power stations and other utilities required in an emergency.*)

4.0 TERM OF AGREEMENT

- 4.1 The initial term of this AGREEMENT is for a period of five (5) years from May 1, 2018 through April 30, 2023 unless sooner terminated pursuant to the terms of this AGREEMENT. NMC is not required to state a reason if it elects not to renew this AGREEMENT.
- 4.2 All applicable parties shall mutually agree upon any changes, including rate and/or terms and conditions of this AGREEMENT.
- 4.3 NMC reserves the right to cancel the AGREEMENT, or any extension of the AGREEMENT, without cause, with a thirty (30) day written notice, or immediately with cause.

5.0 COMPENSATION AND PAYMENTS

- 5.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the fee schedule attached hereto as "EXHIBIT A – Fee Schedule".
- 5.2 EXHIBIT A shall remain firm for the term of this AGREEMENT. NMC does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 5.3 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 5.4 CONTRACTOR shall levy no additional fees nor surcharges of any kind during the term of this AGREEMENT without first obtaining approval from NMC in writing.
- 5.5 Tax:
 - 5.5.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
 - 5.5.2 County is registered with the Internal Revenue Service, San Francisco office, EIN number 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.

6.0 INVOICES AND PURCHASE ORDERS

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

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

- 6.2 CONTRACTOR shall reference "Construction Management per RFQ# 9600-77" on all invoices submitted to NMC. CONTRACTOR shall submit such invoices periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. NMC shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this AGREEMENT, and shall promptly submit such invoice to the County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- 6.3 All NMC Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 6.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by NMC. Surcharges and additional fees not included the AGREEMENT must be approved by NMC in writing via an Amendment.

7.0 INDEMNIFICATION

- 7.1 CONTRACTOR shall indemnify, defend, and hold harmless the County of Monterey, including its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County of Monterey. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

8.0 INSURANCE REQUIREMENTS

8.1 Evidence of Coverage:

- 8.1.1 Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition CONTRACTOR upon request shall provide a certified copy of the policy or policies.
- 8.1.2 This verification of coverage shall be sent to NMC's Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by NMC. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.
- 8.1.3 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.

8.2 Insurance Coverage Requirements:

- 8.2.1 Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:
 - 8.2.1.1 Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
(Note: Any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)
 - 8.2.1.2 Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
(Note: Any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above

that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

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

(Note: Any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

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

(Note: Any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

8.3 **Other Insurance Requirements:**

- 8.3.1 All insurance required by this AGREEMENT shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.
- 8.3.2 Each liability policy shall provide that NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

- 8.3.3 Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County of Monterey and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.
- 8.3.4 Prior to the execution of this AGREEMENT by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.
- 8.3.5 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles NMC, at its sole discretion, to terminate this AGREEMENT immediately.

9.0 NON-DISCRIMINATION

- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of

Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

10.0 ASSIGNMENT AND SUBCONTRACTING

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

11.0 CONFLICT OF INTEREST

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

12.0 COMPLIANCE WITH APPLICABLE LAWS

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to NMC, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

13.0 RECORDS AND CONFIDENTIALITY

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

14.0 TRAVEL REIMBURSEMENT

- 14.1 Travel Reimbursement is not allowed for this AGREEMENT.

15.0 PUBLIC WORKS OF IMPROVEMENT REQUIREMENTS

- 15.1 Prevailing Wages: If applicable, CONTRACTOR shall comply with provisions of the Labor Code (sections 1720, et seq.) governing public works, including payment of prevailing wages, payroll records and employment of apprentices. Copies of the determination of the general prevailing rate of per diem wages are available to interested parties at: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.
- 15.2 If applicable, CONTRACTOR shall be registered with the California Department of Industrial Relations as a Public Works Contractor pursuant to Division 2, Part 7, Chapter 1, commencing with section 1720 of the California Labor Code.

16.0 NOTICES

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

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

TO NMC:

Natividad Medical Center
Attn.: Contracts Division
1441 Constitution Blvd.
Salinas, CA 93906
Fax No.: (831) 757-2592

TO CONTRACTOR:

Bogard Construction, Inc.
Attn: JARED BOGARD
Street Address: 350A CORAL ST.
City, State, Zip: SANTA CRUZ CA 95060
Fax No.: 831.426.8191 / 831.426.4921 fx
E-mail: JARED@BOGARDCONST.COM

17.0 LEGAL DISPUTES

- 17.1 CONTRACTOR agrees that this AGREEMENT, and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
- 17.2 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.
- 17.3 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.
- 17.4 The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

NATIVIDAD MEDICAL CENTER

By: [Signature]
Gary R. Gray, DO, CEO
Date: 5/12/18

APPROVED AS TO LEGAL PROVISIONS

By: [Signature]
Monterey County Deputy County Counsel
Stacy Saetta
Name
Date: 4/11/18

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Monterey County Deputy Auditor-Controller
Georgi Gibany
Name
Date: 4/11/18

CONTRACTOR

Bogard Construction, Inc.
CONTRACTOR's Business Name
**Signature instructions below*

By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)
Date: _____
By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)
Name and Title
Date: _____

wet signatures on next page →

***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).

NATIVIDAD MEDICAL CENTER

By: _____
Gary R. Gray, DO, CEO

Date: _____

APPROVED AS TO LEGAL PROVISIONS

By: _____
Monterey County Deputy County Counsel

Name

Date: _____

APPROVED AS TO FISCAL PROVISIONS

By: _____
Monterey County Deputy Auditor-Controller

Name

Date: _____

CONTRACTOR

Bogard Construction, Inc.

CONTRACTOR's Business Name

**Signature instructions below*

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

VICTOR F. BOGARD III, PRESIDENT
Name and Title

Date: 4/17/18

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

JARED BOGARD, SECRETARY
Name and Title

Date: 4/17/18

***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).

Bogard Construction, Inc.

EXHIBIT A – Fee Schedule (Construction Management Services RFQ# 9600-77)

Natividad Medical Center ("NMC") and Bogard Construction, Inc. ("CONTRACTOR") agree that once annually, CONTRACTOR may adjust its hourly rates in correlation with Consumer Price Index (CPI) increases; however, CONTRACTOR agrees that any such rate increase shall not be greater than three percent (3%) per year. In the event that CONTRACTOR does increase its rates once yearly per the annual CPI adjustments, CONTRACTOR shall provide an updated written rate sheet to NMC at a **minimum of forty-five (45) days** prior to the anniversary date of the AGREEMENT to ensure that NMC has the revised rates on file with the AGREEMENT. Revised rate sheets are to be **emailed to both** of the following individuals:

- Brian Griffin, Project Manager GriffinB@natividad.com
- Melanie Showalter, Project Manager ShowalterMEI@natividad.com

Position/Title (Indicate Below)	Hourly Rate
Project Executive	\$195.00
Project Manager	\$175.00
Project Engineer	\$125.00
Cost Estimator	\$130.00
Scheduler	\$130.00
Inspection Services	\$180.00
Superintendent	\$130.00
Accounting / Clerical	\$95.00

Reimbursable Items Anticipated to be Billed (List below)	Estimated Cost (Note: Indicated markup should not exceed 10%)	
	Total Cost (If applicable at the time of RFQ)	% of Markup Calculated
Fees paid to Authorities having jurisdiction	Cost +	10%
Reimbursables including, but not limited to,		
reproductions, postage, renderings, gasoline, subcontracts or subconsultant fees, if required.	Cost +	10%

Travel Reimbursement is not allowed for this Agreement.