

PROFESSIONAL SERVICES AGREEMENT

by and between

COUNTY OF MONTEREY (“County”)

and

CALIFORNIA FORENSIC MEDICAL GROUP, INC. (“Contractor” or “CFMG”)

DRAFT

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("**Agreement**") is entered into as of _____, 20__, by and between COUNTY OF MONTEREY ("**County**") and CALIFORNIA FORENSIC MEDICAL GROUP, INC., a California professional corporation ("**Contractor**" or "**CFMG**"). County and Contractor are sometimes referred to in this Agreement as a "**Party**" or, collectively, as the "**Parties.**"

RECITALS

A. County owns and operates the Monterey County Jail and is seeking a contractor to provide medical and mental health care at its Adult Detention Facilities.

B. Contractor is a professional corporation organized under the laws of the State of California (the "**State**"), consisting of employees and contractors (collectively, "**CFMG**") who are qualified and have the expertise to provide medical and mental health care at the Monterey County Jail.

NOW THEREFORE, County and Contractor, for the consideration hereinafter named, agree as follows:

1.0 PERFORMANCE OF THE AGREEMENT

1.1 After consideration and significant evaluation, the County hereby engages Contractor to provide medical and mental health services at the Monterey County Jail, as enumerated in the Scope of Services attached hereto as Exhibit A. In all instances, the services provided by Contractor shall be in compliance with all applicable state and federal laws, including Title 15. In all instances, the services provided by Contractor shall be in compliance with the implementation plans, settlement agreement, and all Court orders in the matter of *Hernandez et al v. County of Monterey, et. al.*, Case Number: 5:13-cv-02354-BLF. The component parts of this Agreement include the following:

- CFMG Implementation Plan(s) in the matter of *Hernandez et al v. County of Monterey et. al.* Case Number: 5:13-cv-02354-BLF, attached hereto as Exhibit C.
- County Implementation Plan in the matter of *Hernandez et al v. County of Monterey et. al.*, Case Number: 5:13-cv-02354-BLF, attached hereto as Exhibit D.
- Settlement Agreement in the matter of *Hernandez et al v. County of Monterey et. al.*, Case Number: 5:13-cv-02354-BLF, attached hereto as Exhibit E.
- Any Court orders in the matter of *Hernandez et al v. County of Monterey et. al.*, Case Number: 5:13-cv-02354-BLF (past or future).
- Scope of Services attached as Exhibit A.
- Payment Provisions attached as Exhibit B.
- “IT Requirements” attached as Exhibit F.
- Staffing Matrix attached as Exhibit G.
- Certificate of Insurance, and Additional Insured Endorsements.
- Business Associate Agreement attached as Exhibit H.

1.2 All of the above-referenced contract documents are intended to be complimentary. 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 any conflict (direct or indirect) among any of the exhibits, the contract, and the implementation plans, the more stringent requirements providing the County with the broader scope of services shall have precedence, such that this Exhibit A including all attachments, and CFMG’s implementation plan shall be performed to the greatest extent feasible.

1.3 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 the County, or immediate family of an employee of the County.

1.4 Contractor, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner 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.

1.5 Contractor shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of the Agreement, except as otherwise specified in this Agreement. Contractor shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

2.0 SCOPE OF SERVICE

2.1 The Scope of Work for County Adult Detention is described in EXHIBIT A attached hereto.

2.2 Contractor agrees to perform the services and comply with all terms and conditions contained within Ex. A (Scope of Work) and the Court orders, implementation plans, and settlement agreement in the matter of *Hernandez et al v. County of Monterey*, et. al., Case Number: 5:13-cv-02354-BLF.

2.3 **Method of Performing Services.** Contractor will determine the method, details, and means of performing the above described services within the parameters outlined within this Agreement including all exhibits and attachments. County may not control, direct, or supervise Contractor's employees or contractors in the performance of these services.

2.4 **Outpatient and Clinic Setting.** The County shall make available to Contractor without charge all equipment, services, space, and telephones (excluding toll calls) that it has made available in the past to medical personnel providing medical services to inmates at the County's Adult Detention Facilities. Detention treatment sites include but are not limited to:

2.4.1 Adult Detention Men's Medical Outpatient Site: the main clinic is housed in the Core Building and contains a four (4) room outpatient housing unit with a total capacity of six (4) beds that can accommodate intravenous treatment, centralized detoxification, and management of non-ambulatory inmates.

2.4.2 Adult Detention Women's Medical Clinic Site: The women's clinic area consists of one private exam room. Prenatal and gynecological services are provided here. Female inmates needing other medical treatment which requires a skilled or specialized nurse practitioner will be sent to one of the five outpatient housing rooms located at the Adult Detention Men's Outpatient site.

2.4.3 Additional clinic sites will be built in conjunction with the ongoing jail expansion project.

2.5 Hours and Personnel.

2.5.1 Contractor shall maintain adequate health personnel to provide services required herein. Contractor's personnel performing professional medical services shall be duly licensed in the State of California, except for medical residents and Interns following a course of study, authorized for training by the Contractor. The Contractor's personnel shall practice medicine in accordance with accepted medical standards in the community.

2.5.2 Contractor shall have a Medical Director who will be responsible to assure the quality of health care provided and who will also supervise the practice of nurse practitioners, registered nurses, or other ancillary personnel, should such personnel be utilized.

2.5.3 Contractor shall hire and maintain a registered nurse who will be the onsite Program Administrator and will be designated as the liaison person between Contractor and County. The Program Administrator shall be responsible for the investigation of all complaints that relate to Contractor's operations, including inmate grievances. These investigations shall be summarized in writing and will include Contractor's findings, position and corrective plan, as applicable.

2.5.4 Copies of licenses and/or records of certification for all medical personnel are to be furnished to the Medical Director who must at all times have them available for examination. Copies of these shall be maintained onsite in the medical unit.

2.5.5 Contractor shall be responsible for time and attendance accountability.

2.5.6 County's Sheriff reserves the right to perform background or security checks of Contractor's personnel as a condition of granting them access to the County detention facility. The Sheriff has the sole discretion to determine security acceptability of all Contractor-personnel at any time during the Contract period, and personnel found to be an unacceptable security risk shall not be given access to the facility. No new Contractor personnel shall be brought to the facility without the prior approval of the Sheriff.

2.5.7 The Contractor shall comply with all provisions of federal, state, and local regulations to ensure that no employee or applicant for employment is discriminated against because of race, religion, color, sex, age, handicap, or national origin or other prohibited basis.

2.6 Administrative Requirements.

2.6.1 Contractor shall design, prepare, and implement all policies, procedures, and protocols necessary to perform all required services under this Contract.

2.6.2 Contractor shall comply with all County departmental procedures as applicable to the detention facility and as determined by County. This shall include, but

not necessarily be limited to, such items as inmate security and communicable disease policies set by the Health Officer.

2.6.3 Contractor shall ensure that its staff document all health care encounters in the inmate's medical record, legibly, in a problem oriented format, including diagnosis and treatment plan.

2.6.4 Contractor shall cooperate with County in any effort to receive funding from outside funding sources.

2.6.5 Contractor shall make all referral arrangements for treatment of covered individuals whose problem(s) extend beyond the scope of services provided on-site.

2.6.6 Contractor shall supply appropriate medical personnel to attend any court proceedings as requested by County, involving any inmate person whose medical history, condition, problem or status is at issue.

2.6.7 Contractor shall cooperate fully in aiding County to investigate, adjust, settle or defend any claim, action, or proceeding brought in connection with the operation of the County facility health programs with which Contractor may be connected.

2.6.8 Contractor shall secure and maintain continuously, all necessary licenses and certifications necessary for its performance under this Contract.

2.6.9 Either party may re-open this Contract to negotiate compensation adjustments based upon changes in the amount or type of contract services that have duration beyond the contract year in which they are anticipated to occur, such as and including, but not limited to changes in Title 15 or IMQ standards related to serving the realignment population.

2.6.10 Either party may re-open this Contract to negotiate compensation adjustments based upon significant changes in the number or type of inmates being housed within the Monterey County Jail.

2.6.11 Contractor's employees must attend any and all orientation and training classes conducted by the County that have been deemed necessary for increasing awareness of safety, security, and operational issues in the facility, to be paid at Contractor's expense.

2.7 Funding Availability.

2.7.1 It is mutually agreed that if the County budget of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the program, this Contract shall be of no further force and effect. In this event, the County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Contract and Contractor shall not be obligated to perform any provisions of this Contract. Contractor's assumption of risk of possible non-

appropriation is part of the consideration for this Contract. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this program, the County shall have the option to either cancel this Contract with no liability occurring to the County, or offer a Contract amendment to Contractor to reflect the reduced amount.

3.0 TERM OF AGREEMENT

3.1 The initial term shall be effective on December 1, 2017 through November 30, 2021, unless terminated earlier in accordance with the provisions of Section 19 of this Agreement. The Contractor may earn an extension of one (1) year each according to the terms of the renewal provisions of this Agreement.

3.1.1 The County does not have to provide a reason if it elects not to renew.

3.2. Both parties shall mutually agree upon rate changes in writing via an amendment in order for any rate change to be binding.

3.3 County 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.

3.4 Renewal Provisions

3.4.1 To earn a one (1) year extension, the Contractor must meet or exceed the minimum requirements of the Agreement absent any declarations of breach during the previous term of the agreement that is not cured, as determined by the Sheriff of the County of Monterey. Whether to extend the terms of this Agreement for any period lies within the sole and absolute discretion of the County of Monterey.

4.0 COMPENSATION AND PAYMENTS

4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated for this AGREEMENT in accordance with the pricing sheet attached hereto as Exhibit B. The amount quoted for services in the attached pricing sheet is subject to an annual increase of 3%, with the first such increase occurring on December 1, 2018, with yearly increases thereafter.

4.2 County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.

4.3 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.

4.4 CONTRACTOR shall levy no additional fee or surcharge of any kind during the term of this AGREEMENT without first obtaining approval from County in writing.

4.5 **Tax.**

4.5.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.

4.5.2 County is registered with the Internal Revenue Service, San Francisco office, registration number 94730022K. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.

4.6 Travel reimbursements shall not exceed the IRS allowance rates as per County of Monterey Travel Policy. A copy of County's Travel Policy is available on the Auditor-Controller's website at: <http://www.co.monterey.ca.us/auditor/policy.htm>.

4.7 The parties agree that the annual price for services attached as Exhibit B is based on an average daily population ("ADP") between 825 and 1100 inmates. At any time during this Agreement, should the ADP at the Monterey County jail fall below or above an ADP of between 825 and 1100 inmates for four months in a row, the parties shall meet and confer on amending this Agreement to change the compensation rate based on the new average ADP. Should the parties fail to reach an agreement on a new compensation rate, either party may terminate the agreement with 90 days written notice.

5.0 INVOICES AND PURCHASE ORDERS

5.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to: Monterey County Sheriff's Office, Accounting/Finance Division, 1414 Natividad Road, Salinas, CA 93906.

5.2 CONTRACTOR shall reference "Inmate Healthcare Agreement **xxxxxx**" on all invoices submitted to County. 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. County shall certify the invoice, either in the requested amount or in such other amount as County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

5.2.1 CONTRACTOR also agrees to provide a monthly report on expenditures for HIV medications in a format to be mutually agreed upon.

5.2.2 CONTRACTOR agrees to pay outside providers of inmate care, for which CONTRACTOR is responsible under the terms of this AGREEMENT, in a timely matter and no later than 60 days after receipt of an invoice from an outside provider. For purposes of this section, outside provider includes Natividad Medical Center.

5.3 All County of Monterey 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).

5.4 **Unauthorized Surcharges or Fees.** Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by County. Surcharges and additional fees not included in the AGREEMENT must be approved by County in writing via an Amendment.

6.0 STANDARD INDEMNIFICATION

6.1 CONTRACTOR shall indemnify, defend, and hold harmless County, 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. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

7.0 INSURANCE REQUIREMENTS

7.1 Evidence of Coverage.

7.1.1 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.

7.1.2 This verification of coverage shall be sent to the County'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 County. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

7.1.2 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 County's Purchasing Officer.

7.3 Insurance Coverage Requirements.

7.3.1 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:

7.3.1.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$5,000,000 per occurrence.

7.3.1.2 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.

7.3.1.3 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.

7.3.1.4 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 \$2,000,000 per claim and \$5,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, 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.

7.4 Other Insurance Requirements.

7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to County 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.

7.4.2 Each liability policy shall provide that County 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.

7.4.3 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 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.

7.4.4 Prior to the execution of this AGREEMENT by County, CONTRACTOR shall file certificates of insurance with County's contract administrator and County's Contracts/Purchasing Division, 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.

7.4.5 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 County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County 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 County, at its sole discretion, to terminate this AGREEMENT immediately.

8.0 HAZARDOUS MATERIAL DISPOSAL

8.1 CONTRACTOR, CONTRACTOR's employees, and subcontractors who are hired by CONTRACTOR to provide hazardous material disposal services pursuant to this AGREEMENT shall comply with the Superfund Amendments and Reauthorization Act (SARA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) while performing all services of this Agreement. CONTRACTOR shall be solely responsible for the transportation and disposal or release of any hazardous material. County does not take responsibility for the improper packaging and/or transportation of any hazardous materials ordered by the County while in transit or storage of services performed for this Agreement.

9.0 RECORDS, CONFIDENTIALITY AND HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

9.1 **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 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.

9.2 **HIPAA Compliance.** CONTRACTOR agrees to operate its business in a manner as necessary to permit County to comply with its obligations under the Health Insurance Portability and Accountability Act of 1996, Subtitle F, Public Law 104-191, relating to the privacy and security of confidential health information, and any final regulations or rules promulgated by the U.S. Department of Health and Human Services thereunder (collectively, the "HIPAA Standards"). CONTRACTOR has agreed to and signed the BUSINESS ASSOCIATE AGREEMENT attached hereto as Exhibit H.

9.3 **Records and Reports.**

(a) Existing medical records and medical records prepared by the Contractor shall be the property of the County. Contractor shall be the custodian of said medical records and shall adhere to all state and federal laws concerning the confidentiality of records. During the term of this Contract, the County of Monterey shall have access to inmate medical records. Such access to be provided as needed to the County Counsel or to any person designated in writing by the County Counsel.

(b) Contractor shall have access to these records after the termination of this Contract for the purpose of preparing for litigation or anticipated litigation in connection with services provided under this Contract. Medical records, as stated in this section, shall also include psychiatric or mental health records.

(c) Ownership of Record. All records associated with inmate healthcare belong to and shall remain the property of County. When this AGREEMENT expires or terminates, CONTRACTOR shall hand over to County all inmate records and reports which CONTRACTOR used or received from County to perform services under this AGREEMENT.

9.4 **Maintenance of Records.** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this AGREEMENT during the term of this AGREEMENT.

9.5 **Access to and Audit of Records.** County 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 County 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.

10.0 **NON-DISCRIMINATION**

10.1 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.).

10.2 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.

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

11.0 OVERRIDING CONTRACT PERFORMANCE REQUIREMENTS

11.1 Independent Contractor: CONTRACTOR shall be an independent contractor and shall not be an employee of Monterey County, nor immediate family of an employee of County, CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.

11.2 Minimum Work Performance Percentage: CONTRACTOR shall perform with his own organization contract work amounting to not less than 50 percent of the original total AGREEMENT amount, 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 AGREEMENT amount before computing the amount of work required to be performed by CONTRACTOR with his own organization or per a consortium.

11.3 Non-Assignment: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of County.

11.4 Any and all subcontractors hired by CONTRACTOR to provide services for this AGREEMENT shall comply with all of County of Monterey requirements, including insurance and indemnification requirements as detailed herein.

12.0 CONFLICT OF INTEREST

12.1 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.

13.0 COMPLIANCE WITH APPLICABLE LAW

13.1 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 its services under this Agreement.

13.2 CONTRACTOR will comply with all applicable laws regulating to medical services in local detention facilities in the State of California.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the performance of its services under this Agreement.

13.3 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.

14.0 EMERGENCY SITUATIONS

14.1 CONTRACTOR shall provide the name and contact information of a representative who shall be available 24 hours a day, 7 days a week, in the event of an emergency. During the emergency, CONTRACTOR shall ensure that County detention facilities have in supply all available supplies, materials, equipment and/or services to provide services as per this AGREEMENT at all times. 24 x 7 contact is as follows:

Emergency Contact Person 's Name: Christina Kaupp

Emergency Contact's Phone.Number: 831-320-8400

14.2 County expects emergency deliveries to occur within 4 hours of order placement and may be required during evenings, weekends, and holidays. Time is of the essence for delivery during emergency situations. Delivery location(s) and estimated arrival will be mutually agreed upon, by County and CONTRACTOR, at time of order and will be determined based on need and existing conditions. It is understood that current conditions, such as power outages, road closures, lock-downs, and damages to CONTRACTOR's facility and/or equipment, will be taken into consideration.

15.0 BACKGROUND CHECKS

15.1 CONTRACTOR shall be required to submit appropriate State level criminal background clearance(s) for all personnel required to work within County facilities that are deemed restricted or high security.

15.1.1 Individuals who are designated to provide services at any of the County Sheriff's facilities are required to undergo fingerprinting and background checks through the Sheriff's main office, at no cost to CONTRACTOR.

15.1.2 COUNTY reserves the right to suspend any and all clearances to CONTRACTOR, CONTRACTOR's staff, agents and/or subcontractors with cause.

15.2 The required background and fingerprint checks SHALL be completed prior to allowing the personnel to work within any of the limited access facilities.

16.0 MATERIAL BREACH, TERMINATION, PERFORMANCE SECURITY, AND DEFAULT

16.1 Due to the importance of CFMG's services in providing health care to Monterey County inmates and protecting the health and safety of inmates, the County must do everything possible to eliminate the potential for a system failure. Accordingly, the County may declare Contractor in Material Breach of the Agreement for the following reasons:

16.1.1 Failure of Contractor to operate in a manner which enables the County and Contractor to maintain compliance with the requirements of the implementation plans and Court orders in *Hernandez et al v. County of Monterey et. al.*, Case Number: 5:13-cv-02354-BLF.

16.1.2 Chronic failure of Contractor to timely administer tuberculosis testing as required in the implementation plans and Court orders in *Hernandez et al v. County of Monterey et. al.*, Case Number: 5:13-cv-02354-BLF. This will not be considered a breach if county's failure to provide sufficient custody officers contributes to the failure to meet the mandates of the Hernandez implementation plans. Chronic failure for the purposes of section 16.1.2 shall be defined as twice in a 30-day period or four times in a six-month period.

16.1.3 Failure to provide staffing for any individual staffing position called for in the Agreement for a period of more than 30 days, in the aggregate. per calendar year.

16.1.4 Failure of the Contractor to maintain the required insurance in accordance with the terms of the Agreement.

16.1.5 Chronic failure to submit reports and information under the terms and conditions outlined in the Agreement and any subsequent Agreement. Chronic failure for the purposes of section 16.1.5 shall be defined as failure to perform the identified task two consecutive times.

16.1.6 Failure to cure a breach of any other term of this Agreement after written notice from the County and reasonable opportunity to cure.

16.1.7 Any failure of performance required in the Agreement which is determined by the Monterey County Health Officer to constitute an imminent threat to inmate or public health and safety.

16.1.8 Failure to be NCCHC compliant within 18-months after the contract start date.

16.1.9 Failure to obtain full NCCHC Accreditation within 30 months after the contract start date.

16.2 In the event of any Material Breach by Contractor as defined in Section 16.1, the County shall have all rights and remedies available at law or in equity under the Agreement. The County's remedies shall be cumulative and shall be in addition to any other remedy available to the County.

16.3 County may terminate this Agreement in the event of any Material Breach by Contractor as defined in Section 16.1. Except for a Material Breach under 16.1.8 (which allows for immediate termination of this Agreement), as a condition precedent to termination by County, County shall provide Contractor with no less than thirty (30) calendar days' advance written notice citing, with specificity, the basis for the Material Breach (the "Breach Notice"). Within five (5) calendar days of receipt of the "Breach Notice", Contractor shall deliver to the County in writing, a plan to cure such breach. The Contractor shall have the right to cure a Material Breach within thirty (30) calendar days of receipt of the "Breach Notice". In the event, Contractor shall have cured the Material Breach within such thirty (30) day period, or such a longer period as may be specified in the Breach Notice, this Agreement shall remain in full force and effect. In the event County deems Contractor to remain in Material Breach as of the end of the cure period specified in the Breach Notice, the County may provide Contractor with a notice of termination ("Termination Notice"), setting forth the specific reasons County believes Contractor remains in Material Breach and the effective date of termination. ("Termination Date").

16.4 In the event of continuous or repeated material breaches of the same nature despite intermittent cures by the Contractor, County may immediately terminate the Agreement.

16.5 In the case of default by CONTRACTOR, a Material Breach which Contractor fails to cure, or continuous or repeated material breaches of the same nature, County may procure the articles or services from other sources and may recover the loss occasioned thereby from any unpaid balance due to CONTRACTOR, if any, or by suit against CONTRACTOR.

16.6 Performance Security and Irrevocable Letter of Credit: Due to the impracticality and difficulty of determining actual damages in the event of CONTRACTOR'S failure to perform, or breach of contract, the parties will agree in the contract that the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) is a reasonable amount for performance security. CONTRACTOR shall provide this performance security entirely through an Irrevocable Letter of Credit. The Irrevocable Letter of Credit shall be replenished to the full amount within 14 days of a withdrawal by County.

16.6.1 CONTRACTOR shall have the Irrevocable Letter of Credit delivered to County's Contracts/Purchasing Officer within ten (10) business days after this AGREEMENT is executed which includes the access to the additional response penalties account, County shall notify CONTRACTOR within five (5) business days if the letter is not acceptable. Failure to comply shall be grounds to terminate the AGREEMENT and

County has the option of pursuing negotiations with another proposer. The address to deliver to County's Contracts/Purchasing Officer is:

County of Monterey Contracts/Purchasing Division
ATTN: Michael Derr, Contracts/Purchasing Officer
1488 Schilling Place, Salinas, CA 93901

16.6.2 The minimum amount of the irrevocable letter of credit shall be \$1,500,000. It is to be issued only by a federally insured (FDIC) banking institution, acceptable to County, with a debt rating of 1 A or higher by the FDIC; A or higher by Standard and Poor's; A or higher by Mood y's investors; or have a comparable rating by another rating system acceptable to County. CONTRACTOR may renew their Irrevocable Letter of Cred it annually provided there is no lapse, therefore any new Irrevocable Letter of Credit must be completed and submitted no less than 90 days prior to the current irrevocable letter of credit expiring.

16.6.3 CONTRACTOR's Irrevocable Letter of Credit will be used to assure the operation of inmate healthcare services, including, but not limited to, the conduct of the procurement process, and negotiation or related administrative expenses, and additional contract costs incurred as a result of contracting with a new CONTRACTOR, should the County terminate performance of the CONTRACTOR under the contract because of default, a material breach, or repeated material breaches of the same nature.

16.6.4 Forfeiture: In the event the County terminates performance of the CONTRACTOR under the agreement in accordance with its terms, the CONTRACTOR will immediately forfeit the full amount of its performance security Irrevocable Letter of Credit as liquidated damages.

16.7 Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: when personally delivered to County's contract administrator 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 my 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 COUNTY:
Contracts/Purchasing Officer
County of Monterey, Contracts/Purchasing
1488 Schilling Place
Salinas, CA 93901
(831) 755-4992

TO CONTRACTOR:
California Forensic Medical Group
Attn: Dan Hustedt
300 Foam Street, Suite B
Monterey, CA 93940
(831) 649-8994

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.

18.0 QUALITY ASSURANCE

18.1 Contractor shall work with the Monterey County Health Department concerning communicable disease screening, continuing medical surveillance, case management reporting, and inmate referral to the community.

18.2 Contractor shall work with the Monterey County Health Officer who, pursuant to section 101045 of the California Health and Safety Code, must investigate health and sanitary conditions of every detention facility within the county.

18.3 The County retains the right to audit all of the Contractor's records relative to the performance of contract services and to make site inspections at any time to evaluate contract performance and compliance with industry standards, Title 15, and other policy and procedure requirements. The County may, at its own expense, contract with a neutral third party experienced in medical quality assurance reviews ("Quality Assurance Consultant"). The services of this third-party consultant may include items such as conducting periodic audits of inmate medical records for treatment of medical conditions in order to evaluate the timeliness of care, appropriateness of assessment, treatment, and type of provider and level of care. Contractor shall cooperate fully with County's Quality Assurance Consultant or any other County audit, including providing full and immediate access to records, including inmate medical records.

18.4 Contractor shall work with County in providing any reports necessary to conduct necessary reviews and audits of Contractor's performance of services under this Agreement. In addition, Contractor shall work with County Counsel to compile reports for the regular review of potential claims, litigation, or other legal issues concerning the provision of services under this Agreement.

18.5 Contractor shall work with County in assisting in obtaining state, federal, or other grants for the provision of care to inmates in the Monterey County jail.

18.6 Contractor shall address any and all grievances from inmates concerning the provision of services under this Agreement as required under the applicable County policies and procedures and the requirements of Title 15. In addition, Contractor shall be expected to make its staff available for court appearances and the preparation thereof, concerning the provision of services under this Agreement and provide information to County Counsel and other relevant County offices to respond to grievances or complaints that are brought before the courts.

18.7 Contractor will at a minimum hold quarterly quality assurance/peer review committee meetings, designed to ensure the provision of quality care at the Monterey County jail and promote effective communication among stakeholders and continuity of care for patients. Accordingly, in addition to CFMG representatives, representatives from the Monterey County Sheriff's Custody Operations Bureau, Natividad Medical Center, and the Monterey County Department of Health will be encouraged to attend the quality assurance meetings.