

AGREEMENT FOR PROFESSIONAL SERVICES
[JAIL INMATE AND/OR DETAINED YOUTH DENTAL SERVICES]

THIS AGREEMENT (“Agreement”) is made and entered into this 1st day of November, 2020, by and between the County of Tuolumne, a political subdivision of the State of California, (“County”), and _____, a [INSERT TYPE OF COMPANY], (“Contractor”), pursuant to the following terms and conditions.

W I T N E S S E T H:

1. TERM

The term of this Agreement shall commence on November 1, 2020 and terminate on October 31, 2022 unless extended as provided by this Agreement.

This Agreement may be extended for three (3) additional one-year terms by written amendment signed by both parties.

2. SERVICES

Contractor shall perform dental services to the Sheriff J.H. Dambacher Detention Center inmates and/or Mother Lode Regional Juvenile Detention Facility detained youth as described in Exhibit A, “Scope of Work,” which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

3. COMPENSATION

Contractor shall be compensated for services performed in an amount not to exceed [INSERT \$ AMOUNT] per fiscal year. The Contractor’s hourly rates are listed in Exhibit B, “Cost Proposal.” The County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

4. INSURANCE

A. The Contractor shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the County as may be required by the Risk Manager of the County. The Policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the County by registered mail, return receipt requested, for all of the following stated insurance policies.

- i. Worker’s Compensation – in compliance with the statutes of the State of California.

- ii. General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage. The certificate of insurance shall indicate the aforementioned.
- iii. Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage. This insurance shall cover for bodily injury and property damage, owned automobiles, and non-owned automobiles.
- iv. Medical Professional Liability insurance with a minimum level of \$1,000,000 per occurrence and \$3,000,000 aggregate for bodily injury and property damage.
- v. Professional Negligent Errors and Omissions insurance, during the entire term of this Agreement and two (2) years past the expiration or termination thereof, Contractor shall maintain in full force and effect, professional negligent errors and omissions liability insurance, which shall include the following provisions:

The policy limits of said insurance shall not be less than four hundred thousand (\$400,000) per claim. Contractor shall endeavor to maintain insurance for a period of no more than one year following completion of this Agreement. In the event Contractor fails to provide such insurance or to pay premiums thereon, County shall have the right to pay such premiums as are reasonable and commercially available, on behalf of Contractor and to deduct the costs thereof from any sums then owing to Contractor.

- B. If at any time any of the said policies shall be reasonably unsatisfactory to the County, as to form or substance or if a company issuing such policy shall be reasonably unsatisfactory to the County, the Contractor shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Contractor to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the County may be forthwith declared suspended, or terminated. Failure of the Contractor to obtain and/or maintain any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Contractor concerning indemnification. The County, its elected and appointed officials, officers, employees, agents and volunteers (“additional insureds”) shall be named as an additional insured on automobile and general liability insurance policies required herein. The Contractor’s insurance policy(ies) shall include a provision that the coverage is primary as respects to the additional insureds (to the extent of the

Contractor's negligence in the performance of its services under this Agreement); shall include no special limitations to coverage provided to additional insured under the automobile and general liability policies; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager.

- C. Policy Endorsements: Each general liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
- i. The County, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds ("County additional insureds").
 - ii. This policy shall be considered, and include a provision it is, primary as respects the County additional insureds, and shall not include any special limitations to coverage provided to the County additional insureds. Any insurance maintained by the County, including any self-insured retention the County may have, shall be considered excess insurance only and shall not contribute with it.
 - iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
 - iv. The insurer waives all rights of subrogation against the County additional insureds.
 - v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County additional insureds.
- D. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the County's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- E. Unsatisfactory Policies: If at any time any of the policies or endorsements be unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory, to the Risk Manager, a new policy or endorsement shall be promptly obtained and evidence submitted to the Risk Manager for approval.
- F. Failure to Comply: Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the

insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.

5. HOLD HARMLESS/INDEMNIFICATION

Contractor shall indemnify, defend, save, protect and hold harmless County, its elected and appointed officials, officers, employees, agents and volunteers (collectively, "County") from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with the services provided hereunder which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, consultants, or any person under its direction or control and shall make good to and reimburse County for any expenditures, including reasonable attorney's fees, the County may make by reason of such matters and, if requested by County, shall defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor shall not be required to indemnify County for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the County.

If such indemnification becomes necessary, the County Counsel for the County shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the County. This indemnification clause shall survive the termination or expiration of this Agreement.

6. INDEPENDENT CONTRACTOR

It is understood that Contractor, in the performance of the services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the County. Contractor shall obtain no rights to retirement benefits or other benefits which accrue to County's employees, and Contractor hereby expressly waives any claim it may have to any such rights. All employees, agents, contractors, subcontractors hired or retained by the Contractor are performing in that capacity for and on behalf of the Contractor and not the County. The County shall not be obligated in any way to pay any wage claims or other claims made against the Contractor by any such employee, agent, contractor or subcontractor, or any other person resulting from the performance of this Agreement.

7. ASSIGNMENT

This Agreement is for the professional services of the Contractor and it shall not assign, subcontract or sublet any part of this Agreement without the express prior written consent of County. Any assignment without the express prior written consent of the County is VOID.

8. NOTICE

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

CONTRACTOR:

[INSERT CONTACT INFO]

COUNTY:

[INSERT CONTACT INFO]

County of Tuolumne

2 South Green Street

Sonora, CA 95370

Fax: (209) 533-_____

9. COMPLIANCE

Contractor shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Contractor's performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person's race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

All services performed by Contractor under this Agreement shall be in strict conformance with all applicable federal, state and/or local laws and regulations relating to confidentiality, including, but not limited to, California Civil Code section 56 et seq., Welfare and Institutions Code sections 827, 5328, 10850 and 14100.2, Health and Safety Code sections 11977 and 11812, 22 California Code of Regulations section 51009, and 42 Code of Federal Regulations section 2.1 et seq.

10. NON-DISCRIMINATION

The Contractor selected through this RFP shall provide services without discrimination based on race, creed, color, ethnic or linguistic identification, gender or sexual preference, disability or handicap or any other basis prohibited by law.

11. PUBLIC RECORDS ACT

Contractor is aware that this Agreement and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Contractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

12. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties, however, matters concerning the scope of services which do not affect the agreed price may be modified by mutual written consent of the Contractor and the Health and Human Services Agency Director. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

13. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

14. TERMINATION AND RIGHTS UPON TERMINATION

- A. This Agreement may be terminated upon mutual written consent of the parties, or as a remedy available at law or in equity. In the event of the termination of this Agreement, Contractor shall immediately be paid all fees earned as of the effective date of termination.
- B. Either party may terminate this Agreement for convenience upon one hundred twenty (120) calendar days' written notice to the other party. Upon termination for convenience, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination, as set forth in Exhibit B.
- C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.

15. NO WAIVER

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

16. DISPUTES

Should it become necessary for a party to this Agreement to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Tuolumne, State of California.

17. CAPTIONS

The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

18. NUMBER AND GENDER

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

19. MANDATORY AND PERMISSIVE

"Shall" is mandatory. "May" is permissive.

20. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

21. COUNTERPARTS

This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

22. OTHER DOCUMENTS

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

23. CONTROLLING LAW

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

24. AUTHORITY

Each party and each party's signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the agreement shall comply with all requirements of law, including capacity and authority to amend or modify the Agreement.

25. NEGOTIATED AGREEMENT

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

26. NO RELIANCE ON REPRESENTATIONS

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other party.

27. WARRANTY

County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work shall be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

28. FUNDING AVAILABILITY

It is mutually agreed that if the County budget of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement 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

Exhibit A
SCOPE OF WORK

SCOPE OF WORK WILL BE ADJUSTED BASED ON PROPOSAL OPTION SUBMITTED.

The [INSERT DENTIST/DENTAL PRACTICE] shall provide dental specified below to the Sheriff J.H. Dambacher Detention Center inmates and/or Mother Lode Regional Juvenile Detention Facility detained youth. Establishing the scope of services to be rendered to inmate and/or detainee patients is based on the following assumptions:

- Treatment plans for patients will be limited to care that can be provided during the expected time of County incarceration.
- Patients are required to practice a high level of self-control during their time of dental services and cooperate fully during treatment, including answering questions and following instructions.
- Dental treatment services are limited to immediate needs as described herein.
- **Dental services will be provided in the dental office on-site for adult inmates. Juveniles will be seen off-site at the Contractor's facility.**

Screening

Dental screening will be performed by County's correctional facility medical staff as part of the routine health assessment for all inmates and youth.

Scheduling

Adult jail inmate appointment scheduling will occur as follows:

- Dental appointments will be regularly scheduled through the County Sheriff's Office on a monthly basis, in six-hour blocks of time for jail inmates, and limited service time needed for detained youth. The number of inmates treated per block of time depends on the types of treatments required and the efficient flow of patients made possible by Jail custody staff.
- Dental services for adult inmates will be performed in the dental office provided on-site. The selected dental professional(s) will be working in a state-of-the-art dental environment fully equipped with Adec dental equipment, Gendex digital imaging products, and Dentrax software.
- **Cancellations:** Cancellations of scheduled blocks of time must occur no later than 9:00 a.m. two (2) days prior to the day of the scheduled block. Cancellations made by County after deadlines will result in billing the Sheriff's Office the full amount for the reserved block. Cancellations made after deadlines by Contractor staff will result in no charge to County.

- **Cancellations:** Should an inmate cancel, an inmate on the wait-list will fill the vacant spot.

Detained youth appointment scheduling will occur as follows:

- Dental appointments will be scheduled on an as-needed basis by the County Probation Department’s MLRJDF staff to respond to acute conditions and to avert adverse effects on the detained youth’s overall health, including preventative services as recommended by a dentist and annual dental exams for youth detained for longer than one year (15 CCR §1435).

Transportation and Security. County custody staff will provide transportation of inmates/youth to and from the dental clinic. Security will be provided at all times on the dental clinic premises. Youth must be previously classified for level of security and appropriately supervised/restrained by County custody staff.

Security: County custody staff shall be present at all times during the dental service to maintain a secure work environment for dental staff.

Dental Treatment Services.

- i. The Parties to this Agreement understand that this is a clinically limited program. Typical services rendered include (but are not limited to): limited exam, imaging, consultation, treatment planning, surgery, restorative (palliative treatment) including indirect pulp caps and stainless steel crowns, gross scale, oral hygiene instruction, and prosthetics if pre-authorized.
- ii. Inmates/youth accessing dental treatment will be under the direction of a licensed dentist. Treatment provided is based on the patient’s needs, length of stay and priorities listed below:
 - Relief of pain and treatment of acute infections, including hemorrhage, swelling, toothaches, broken, loose, or knocked out teeth, acute abscesses, and post-operative complications.
 - Extraction of infected and broken teeth
 - Repair of injured or carious teeth
 - Biopsy of suspicious lesions
- iii. Although treatment is not limited to the services described above, elective restorative work that can reasonably be deferred without serious detriment to the patient is considered the patient’s responsibility. Such work shall not be completed during the period of incarceration.
- iv. All plans for detained youth dental treatment must be reviewed with the Chief Probation Officer or designee prior to receipt of treatment.

Confidentiality. For reasons of security for staff and inmates/youths, strict confidentiality regarding all patients and appointments will be maintained. Patients and/or appointments shall not be published nor acknowledged to any outside inquiry other than direct contact with County custody staff and/or correctional facility medical staff.

Records. Patient records are the property of Contractor. A record of dental treatment will be also be maintained in each patient's medical record on site at the applicable facility. Access to patient dental records by authorized County staff will be consistent with all applicable federal, state, and local codes and regulations, including those defined by the Health Information Portability and Accountability Act (HIPAA), and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). Information regarding dental treatment and aftercare instructions will be provided to County correctional facility medical staff.

Exhibit B
COST PROPOSAL