

MARIPOSA COUNTY

Sheriff's Office • (209) 966-3615



RESOLUTION - ACTION REQUESTED 2018-302

MEETING: June 26, 2018
TO: The Board of Supervisors
FROM: Doug Binnewies, Sheriff-Coroner-Public Administrator
RE: Approve 2018-2019 Professional Services Agreement with John C. Fremont Hospital

RECOMMENDATION AND JUSTIFICATION:

Approve a Professional Services Agreement with John C. Fremont Healthcare District to Provide Medical Services to the Mariposa Adult Detention Facility in the Not-To-Exceed Amount of (\$295,805.00); and Authorize the Board of Supervisors Chair to Sign the Agreement.

The Mariposa County Sheriff's Office currently enjoys an Agreement with John C. Fremont Healthcare District to provide medical services to inmates at the Mariposa County Adult Detention Facility. The current Agreement expires on June 30, 2018. The new proposed one year Agreement includes increased on site medical care services, including a RN/LVN presence seven days per week for the one year duration Agreement starting July 1, 2018 through June 30, 2019. The cost of this Agreement has increased due to the necessity to provide credentialed medical staff to fulfill the needs and services at the site. The proposed Agreement also includes telemedicine. The related telemedicine equipment has been acquired and installed on site. The use of telemedicine will also enhance services while remaining financially mindful due to our distance from medical specialists.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors has approved a similar Professional Service Agreements with this provider for several years.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If the agreement is not approved, the Mariposa County Sheriff's Office will need to seek an agreement with an alternate service provider and/or begin transporting inmates to a health care provider. The costs of either will greatly increase. The overtime cost associated with paying jail staff to transport and guard inmates at a distant health care provider would be substantial.

FINANCIAL IMPACT:

Funding for this Professional Service Agreement has been included in the 2018-2019 proposed budget for the Mariposa County Sheriff's Adult Detention Facility.

ATTACHMENTS:

Agreement for Jail Medical Services 2018-2019 (PDF)

Resolution - Action Requested 2018-302

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: Marshall Long, District III Supervisor

AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Miles Menetrey

EXCUSED: Kevin Cann

AGREEMENT FOR JAIL MEDICAL SERVICES

THIS AGREEMENT (“Agreement”) is made and entered into this 11th day of June, 2018, by and between the County of Mariposa, a political subdivision of the State of California, (“County”), and John C. Fremont Healthcare District, a Medical Service Provider, (“Contractor”), pursuant to the following terms and conditions.

WITNESSETH:

1. TERM

The term of this Agreement shall commence on July 01, 2018 and terminate on June 30, 2019 unless extended as provided by this Agreement.

2. SERVICES

Contractor shall perform Medical Service as described in Exhibit A, “Scope of Service,” 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 \$295,805.00 The Contractor’s hourly rates are also listed in Exhibit B, “Cost Proposal.” The County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

4. INSURANCE

Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form Number CA 00 01 covering any auto, (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$2,000,000 per accident for bodily injury or disease.

(4) Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provision:

(1) Additional Insured Status: The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 forms if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

(4) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(5) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the County.

(6) Verification of Coverage: Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide

them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(7) Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

(8) Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

5. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify Entity its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions to act of contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from Entity's sole negligence or willful acts.

6. INDEPENDENT CONTRACTOR

It is the expressed intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Contractor or any employee or agent of Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement.

7. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of the County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

8. STATE AND FEDERAL TAXES

As Contractor is not County's employee, Contractor is responsible for paying all required state and federal taxes. In particular:

- a. County will not withhold FICA (Social Security) from Contractor's payments;

- b. County will not make state or federal unemployment insurance contributions on behalf of Contractor;
- c. County will not withhold state or federal income tax from payment to Contractor;
- d. County will not make disability insurance contributions on behalf of Contractor;
- e. County will not obtain workers' compensation insurance on behalf of Contractor.

9. ASSIGNMENT

It is understood and agreed that this Contract contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Contract will be permitted only with the express written consent of the County.

10. 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:

John C. Fremont Healthcare District
P.O. Box 216
Mariposa, CA 95338

COUNTY:

Doug Binnewies
Mariposa County Sheriff's Office
P.O. Box 276
Mariposa, CA 95338
Fax: (209) 966-5090

11. 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.

12. 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.

13. 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 Sheriff Doug Binnewies. 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.

14. 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.

15. 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 (60) 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 A.

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.

16. 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.

17. 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 Mariposa, State of California.

18. 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.

19. 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.

20. MANDATORY AND PERMISSIVE

“Shall” is mandatory. “May” is permissive.

21. 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.

22. 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.

23. 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.

24. CONTROLLING LAW

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

25. 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.

26. 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.

27. 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.

28. 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.

29. FUNDING AVAILABILITY

It is mutually agreed that if the County budget of the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for this Agreement, 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 furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. 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 Agreement, the County shall have the option to either cancel this Agreement with no liability occurring to the County, or offer an Agreement amendment to Contractor to reflect the reduced amount.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

COUNTY OF MARIPOSA



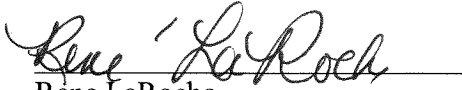
Rosemarie Smallcombe, Chair
Board of Supervisors

CONTRACTOR



Matthew Matthiessen, CEO/~~CFO~~
John C. Fremont Healthcare District

ATTEST:



Rene LaRoche
Clerk of the Board

APPROVED AS TO FORM:



Steven W. Dahlem
County Counsel

Exhibit "A"

SCOPE OF SERVICES

CONTRACTOR shall provide "on site" services consisting of the following:

CONTRACTOR shall provide two sick calls per week at the County Jail by a Nurse Practitioner with a Doctorate hereinafter referred to as "DNP" or Physician, hereinafter referred to as "MD".

CONTRACTOR shall provide registered nursing/Licensed Vocational Nursing, hereinafter referred to as "RN/LVN", services to provide a nurse presence 7 days per week, 10 hours per day Monday through Sunday on-site at the jail. Actual work schedules for nursing staff shall be provided by the Chief Nursing Officer at John C. Fremont Hospital, subject to approval by the Jail Lieutenant. In addition to on-site nursing services, an RN/LVN shall be available "on call" as an advice nurse, and if necessary to return to the jail to provide nursing services after regular hours and on weekends.

CONTRACTOR reserves the right to meet with **COUNTY** to discuss possible increases and present supporting material that would uphold a proposed price adjustment, if price adjustment is deemed necessary. An hourly/weekly/yearly rate increases during this agreement would not occur until such discussion during the above date took place.

"OFF-SITE SERVICES"

1. In the event that the PA recommends that any patient receiving on-site services as set forth above is in need of further medical services either off-site of the county jail or by someone other than the PA (hereinafter collectively, "Off-Site Services"), the **CONTRACTOR** shall notify the **COUNTY** of the recommendation prior to any off-site services being provided unless the condition of the patient requires prompt medical attention as determined by a physician. Upon receipt of the notice, the **COUNTY** may request that the PA's supervising physician review the recommendation. In the event that the **COUNTY** disagrees with the Physician's recommendation after receiving notice, the **COUNTY** may, at its own expense, obtain a second opinion ("Second Opinion") from a physician of its choice. In the event the **COUNTY** elects to obtain a second opinion, the **COUNTY** shall provide notice to the **CONTRACTOR** of its election within 15 days' notice of the Physician's recommendation.

Exhibit "B"
COST PROPOSAL

John C. Fremont Hospital and Mariposa County Sheriff's Office agree as follows:

- **CONTRACTOR** shall bill the jail \$22,523.57 per month or \$270,285 per year for sick calls, not to exceed eight hours per week.
- **CONTRACTOR** shall provide subcontracted medical supervision/M.D. services for \$1,000 per month or \$12,000 per year. If the subcontracted physician is required to see patients in the Adult Detention Facility, the rate of \$130.00 per hour will be charged, not to exceed 104 hours per year or \$13,520.00
- The **COUNTY** shall pay the actual costs incurred by the **CONTRACTOR** in providing off-site services on a case-by-case basis. Off-site costs are not subject to be used in calculating the \$295,805.00 limit.
- The total contract shall not exceed \$295,805.00 per year.