

ORIGINAL

AGREEMENT FOR SERVICES #4379

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Praeses LLC, a Limited Liability Corporation, duly qualified to conduct business in the State of Louisiana, whose principal place of business is 330 Marshall Street, Suite 800, Shreveport, LA 71101, (hereinafter referred to as "Consultant") and whose Agent for Service of Process is Corporation Service Company, CSC-Lawyers Incorporation Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833-3505;

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Consultant to provide certain inmate communications consulting, management and reconciliation services, as hereinafter described, and consultant is willing to provide such services under the terms and conditions set forth herein; and

WHEREAS, Consultant has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

WHEREAS, County has determined that the provision of these services provided by Consultant is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

NOW, THEREFORE, County and Consultant mutually agree as follows:

ARTICLE I

Scope of Services: Consultant agrees to furnish the personnel and equipment necessary to provide all professional and technical services and shall make available Consultant's own personnel, sub consultants, materials and equipment necessary to perform the services, work, and tasks outlined in Exhibit "A" marked "Scope of Services" incorporated herein and made by reference a part hereof (hereafter the "Services").

Upon full execution of this Agreement, the Contract Administrator will issue a single written Notice to Proceed for all of the tasks and services to be provided under this Agreement. Consultant shall not commence work on any of the tasks or services until receiving the Notice to Proceed. No payment will be made for any work performed prior to the date specified in the Notice to Proceed. The schedule for tasks and services shall be mutually agreed upon by the Contract Administrator and the Consultant.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall cover the period January 15, 2020 through January 14, 2022. Either party can provide notice of termination to other via certified mail, return receipt requested, no less than sixty (60) days prior to the expiration of the Agreement.

ARTICLE III

Compensation for Services: County shall pay Consultant a flat monthly management fee of \$5,900.00 effective from January 15, 2020 to January 30, 2020 and a monthly management fee of 12% effective February 1, 2020 to the expiration of contract of the total monies and benefits (including but not limited to signing bonuses, technology grants and any other compensation) paid by Inmate Communications Service Providers ("ICSP") to the County. The monthly fee of 12% shall not apply to any inmate communications equipment. The parties agree to maintain a minimum annual fee threshold of \$18,000. At the end of any contract year, if the sum of Consultant's monthly fees is less than the annual fee threshold, County agrees to pay the difference in the next monthly remittance.

Should the County terminate this Agreement for any reason before the annual anniversary date, then the minimum annual threshold shall be prorated for that year and any commissions due Consultant shall be withheld from the final remittance.

Consultant will provide monthly revenue reporting to the County in a format approved by County. Consultant will modify or revise the reporting formats as requested by County and mutually agreed upon. The management fee described above will be deducted monthly from the payment remitted by Consultant to County along with the monthly reports. Consultant will remit to County on a mutually agreed-upon date following the receipt month of commissions and traffic reports from ICSP.

Total amount of this Agreement shall not exceed \$36,000 for the two (2) year period.

ARTICLE IV

Taxes: Consultant certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Consultant to County. Consultant agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE V

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE VI

Consultant to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during term hereof.

ARTICLE VII

Assignment and Delegation: Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE VIII

Independent Consultant/Liability: Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates, and subConsultants, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

ARTICLE IX

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the

effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE X

Audit by California State Auditor: Consultant acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Consultant shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XI

Default, Termination, and Cancellation:

- A. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior

termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

ARTICLE XII

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
Sheriff's Office
200 Industrial Drive
Placerville, CA 95667
ATTN: Jon DeVille, Chief Fiscal Officer

or to such other location as the County directs.

with a carbon copy to

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
360 Fair Lane
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to Consultant shall be addressed as follows:

PRAESES, LLC
Attn: Ann O'Boyle Day
330 Marshall Street, Suite 800
Shreveport, LA 71101
CC: Drew Smith (at same address)
drew.smith@praeses.com

or to such other location as the Consultant directs.

ARTICLE XIII

Change of Address: In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties". Said notice shall become part of this Agreement upon acknowledgment in writing by the

County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XIV

Indemnity: The Consultant shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Consultant's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Consultant, subConsultant(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XV

Insurance: Consultant shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Consultant as required by law in the State of Louisiana.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Consultant shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Consultant agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance

coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event the Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
 - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Consultant'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 in excess of the Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

ARTICLE XVI

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XVII

Interest of Consultant: Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

ARTICLE XVIII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".

ARTICLE XIX

Nondiscrimination:

- A. County may require Consultant's services on projects involving funding from various state and/or federal agencies, and as a consequence, Consultant shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Consultant and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Consultant shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full;

and Title VI of the Civil Rights Act of 1964, as amended. Consultant and its employees and representatives shall give written notice of their obligations under this clause as required by law.

- B. Where applicable, Consultant shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Consultant's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

ARTICLE XX

California Residency (Form 590): If Consultant is a California resident, Consultant must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Consultant will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXI

Nonresident Withholding: If Consultant is not a California resident, Consultant shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Consultant during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Consultant shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

ARTICLE XXII

Taxpayer Identification Number (Form W-9): All independent Consultants or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE XXIII

County Business License: It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXIV

Licenses: Consultant hereby represents and warrants that Consultant and any of its subconsultants employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Consultant and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant and its

subconsultants shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXV

Administrator: The County Officer or employee with responsibility for administering this Agreement is Captain Matthew Foxworthy, Sheriff's Office, or successor.

ARTICLE XXVI

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XXVII

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXVIII

Venue: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XXIX

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

ARTICLE XXX

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

Requesting Contract Administrator Concurrence:

By: 
Matthew Foxworthy
Captain
Sheriff's Office

Dated: 11/8/19

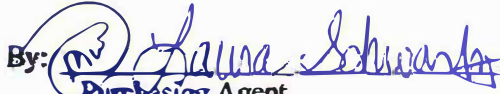
Requesting Department Head Concurrence:

By: 
John D'Agostini
Sheriff

Dated: 11/12/19

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

By: 
Purchasing Agent
Chief Administrative Office
"County"

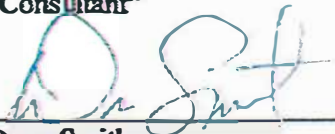
Dated: 1/15/2020

-- CONSULTANT --

Prases, LLC
A Louisiana limited liability company

By: 
Adam Rosen
President
"Consultant"

Dated: 19 November 2019

By: 
Drew Smith
General Counsel
"Consultant"

Dated: 19 November 2019

**EXHIBIT A
SCOPE OF SERVICES**

Praeses shall provide the following services:

I. MANAGEMENT

Day-to-Day Management Services

Praeses will provide County with a single point of contact (National Account Manager) for all inmate communications issues. This individual will work directly with each County facility to manage and coordinate day to day issues, including, but not limited to:

- End-user requests/issues
- Repair/service issues
- Coordination of on-site technicians
- System upgrades/maintenance
- Investigative reports
- Blocked numbers
- Coordination of new installation of equipment/features
- Maintenance of inventory (phones, devices, rate plans, commission structures, equipment)
- Verification of “free” attorney, bail bondsmen, etc. phone numbers
- Telephone/device removals and relocations
- Inmate Communications Service Provider (ICSP) issues (validation of rates, fees, etc.)
- Reporting and commissions
- Opportunities for improvement in technology, commissions, and service

ICSP Compliance Services

- Work with ICSP(s) and County to facilitate optimal inmate telecommunications customer service from the ICSP(s).
- Work with ICSP(s) and County to validate ICSP(s) is(are) contractually compliant with its service offerings.
- Work with ICSP(s) to facilitate timely responses to open requests.

II. CONSULTING AND MARKET INTELLIGENCE

Praeses will conduct additional in-depth requirements gathering and site surveys to understand County’s unique needs and requirements affecting its inmate communications environment. Praeses will consult with County to:

- Advise County of new technologies, regulations, and industry trends and facilitate the implementation and ongoing use of any technologies chosen by County.
- Consult through any Request for Proposal (“RFP”) process or contract renewal process which will include, at County’s sole option, RFP creation, ICSP RFP response summaries, contract negotiations, and ICSP equipment transitions.

III. RECONCILIATION

The reconciliation services to be provided by Praeses include:

- Evaluate the accuracy of invoices, rates, revenues, and financial remuneration.
- Work at the discretion of County to collect any earned but unpaid monies.
- Utilize proprietary methods to detect errors and identify trends and anomalies.

County responsibilities:

I. County agrees to retain a Letter of Agency designating Praeses as its authorized Agent with respect to all matters regarding the provisioning of the inmate communications services.

II. County shall provide Praeses, to the extent possible, with County's records to assist Praeses in providing the Scope of Services. Such information will include but not be limited to:

- Average Daily Population and number of beds at each County facility;
- Number of telephones/devices located in County's facilities and used by inmates;
- Copies of current ICSP contracts and any amendments;
- Information about the ICSP at each County facility including company name and contact person;
- Any other information pertinent to Praeses' management of the inmate communications environment.

III. County shall provide Praeses reasonable access to County facilities during normal business hours for the purposes of inspecting, evaluating, and monitoring the inmate telecommunications quality. County shall also provide authorization for remote access (approved user level) from the ICSP(s).

IV. County shall assist Praeses with obtaining data from ICSP(s) if/or when ICSP(s) declines to give the requested data to Praeses.