

AGREEMENT FOR FORENSIC PATHOLOGY SERVICES

THIS FORENSIC PATHOLOGY SERVICES AGREEMENT is made and entered into this July 1, 2017 ("Effective Date") by and between the County of Lake, a political subdivision of the State of California (hereinafter "COUNTY"), and Forensic Medical Group, Inc., a California professional organization (hereinafter "CONTRACTOR"). COUNTY and CONTRACTOR are at times each referred to herein as a "Party" or, collectively, as the "Parties".

RECITALS

WHEREAS, COUNTY is in need of forensic pathology services; and

WHEREAS, CONTRACTOR provides experts in forensic pathology whom are licensed to practice medicine in the State of California and, therefore, are duly qualified to provide the services needed by the COUNTY; and

WHEREAS, in the judgment of the Lake County Board of Supervisors, it is necessary and desirable to employ the services of CONTRACTOR for the above purposes; and

WHEREAS, such contracts are authorized by California Government Code Sections 27499 and 31000.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

ARTICLE 1 **CONTRACTOR'S RESPONSIBILITIES**

- 1.1 CONTRACTOR shall perform autopsies when determined necessary by an authorized representative of the COUNTY in accord with governing laws. The extent of such examination shall be determined by CONTRACTOR and may include microscopic slide preparation and examination, weighing of organs and other examination/documentation techniques, as appropriate.
 - a. In the event individuals participating in the investigation or prosecution of a case are authorized by the COUNTY to view an autopsy, CONTRACTOR will observe the standards of the profession to explain the procedures and respond to questions during the autopsy.
- 1.2 Order toxicological, bacteriological, serological, or other laboratory studies deemed necessary for appropriate conclusion of cases by laboratory(ies), authorized for such services by the COUNTY.
- 1.3 Provide a complete type written report within thirty (30) working days after each autopsy examination, or as soon as therefore possible, in so long as requested ancillary testing and additional specialty consultation has been completed. Ninety (90%) of reports shall be finalized within 90 (ninety) calendar days in keeping with industry standards and guidelines. These reports are to contain the following information, at a minimum:

- (a) Name of individual and identifying information (such as age, sex, and other vital statistics), and applicable Coroner case number.
- (b) Date and time of autopsy.
- (c) When an autopsy has been performed, CONTRACTOR is to provide description of internal examination of individual, noting condition of specific organs and internal body systems. As applicable, the report will include: significant positive findings, and relevant negative findings; list of gross diagnosis; description of any microscopic examination, summary of laboratory tests (with copies of test reports attached); diagrams of injuries; and any other information considered pertinent by the CONTRACTOR.
- (d) Summary of relevant historical information, results/findings from examinations performed, and determination of probable cause of death.
- (e) Signature of forensic pathologist licensed to practice medicine in the State of California.

If CONTRACTOR is unable to provide a final report within the (30) thirty working day time frame due to a delay in the receipt of required laboratory tests, CONTRACTOR shall submit a preliminary report within a ten (10) day period, followed by a final report within thirty (30) working days after receipt of the lab results.

- 1.4 Warrant that all pathologists provided by CONTRACTOR shall be fully qualified and trained to perform pathology services required by COUNTY under this Agreement.
- 1.5 Provide and pay for own transportation to and from the location at which autopsies are performed, which shall be the Napa County Sheriff/Coroner's facility located at 1535 Airport Blvd., Napa, CA 94559.
- 1.6 Provide pathologist to perform autopsies as requested by an authorized representative of the COUNTY for critical situations.
- 1.7 Testify as an expert witness when subpoenaed to do so at any legal proceeding arising in connection with cases in which CONTRACTOR has conducted an examination. The COUNTY or other entity or individual requesting appearance of CONTRACTOR shall pay based on current rates at time of request for such services and shall be billed separately.
- 1.8 As required by the COUNTY, maintain chain of custody by obtaining and protecting evidence on or about decedents in such a way that it will be legally acceptable and permissible in a court of law.

ARTICLE 2
COUNTY'S RESPONSIBILITIES

- 2.1 Fees. COUNTY shall pay CONTRACTOR the fees set forth in Article 3 below.
- 2.2 Transportation of Bodies/Remains. COUNTY shall arrange and pay for the transportation of bodies to the location in which the procedure is to be performed. COUNTY assumes responsibility for all associated charges.
- 2.3 Space, Equipment and Storage. COUNTY shall provide equipment, supplies and facility in which autopsies or any other postmortem examinations are to be performed and provide for the storage of specimens and tissue samples that CONTRACTOR considers necessary to retain as evidence for further testing, as set forth in Exhibit A attached hereto. As stated above, such location will be the Napa County Sheriff/Coroner facility, located at 1535 Airport Blvd., Napa, CA 94559.
- 2.4 Third Party Testing. COUNTY shall provide direct payment to authorized laboratory contractor(s) for services ordered pursuant to 1.2 above.
- a) COUNTY shall provide direct payment to authorized third party laboratory(ies), including but not limited to toxicology, microbiology and serological tests, or other ancillary tests ordered by CONTRACTOR, considered necessary for adequate conclusion of the case.
- b) COUNTY shall obtain and pay for consultants in forensic neuropathology, forensic anthropology, forensic odontology, and any other specialty as may be necessary and mutually agreed upon by CONTRACTOR and COUNTY for a small number of unusual/extraordinary cases that cannot otherwise be adequately concluded, recognizing that CONTRACTOR is a generalist in the discipline of forensic pathology.

ARTICLE 3
COMPENSATION

- 3.1 Compensation. COUNTY shall pay CONTRACTOR for services performed in accordance with Exhibit B, attached hereto and incorporated herein by this reference. Inasmuch as CONTRACTOR is providing services as an independent contractor, there shall be no deductions by COUNTY from the payment for taxes, benefits or other types of withholdings. Fees specified herein shall not be subject to change during the term of this Agreement, unless mutually agreed, in writing, by both Parties.
- 3.2 Other Services. On occasion, COUNTY may require testimony, consultation or other services by CONTRACTOR, in which case such services are rendered at CONTRACTOR'S fee schedule at the time such services are requested and will be billed separately.

- 3.3 Billing. CONTRACTOR shall render to COUNTY an accounting of services performed and an invoice statement on a monthly schedule. COUNTY shall make payments to CONTRACTOR within 30 days of receiving invoice.

ARTICLE 4 **TERM AND TERMINATION**

- 4.1 Term. This Agreement shall commence as of the Effective Date, July 1, 2017, and shall terminate on June 30, 2020, unless earlier termination occurs as hereinafter provided.
- 4.2 This Agreement shall be effective on the date hereinabove entered into and shall continue in full force and effect until and unless terminated by either COUNTY, by and through the Sheriff/Coroner, or by CONTRACTOR, upon thirty (30) days written notice to the other party by:
- a. Mutual consent of the parties; or
 - b. By either Party upon thirty (30) days written notice thereof to the Other Party.
- 4.3 Payment Upon Termination. Upon termination of this Agreement, CONTRACTOR shall be entitled to receive full payment for all procedures performed and expenses incurred under this Agreement within 30 days of termination. Fees and expenses are paid in accordance with Exhibit B - Fee Schedule.

ARTICLE 5 **ASSIGNMENT**

- 5.1 The CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of COUNTY, except that claims for money due or to become due the CONTRACTOR from COUNTY under this Agreement may be assigned by the CONTRACTOR to a bank, a trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to the COUNTY. Any attempt at assignment of rights under this Agreement, except for those specifically consented to by both parties or as stated above, shall be void.

ARTICLE 6 **SUBCONTRACTING**

- 6.1 CONTRACTOR shall not subcontract any forensic pathology services to be performed pursuant to this Agreement without the prior written consent of COUNTY, but reserves the right to subcontractor services necessary to complete the process such as histology and transcription services.

ARTICLE 7
INSURANCE

- 7.1 CONTRACTOR shall not commence work under this Agreement until CONTRACTOR has obtained all the insurance required herein, certificates of insurance have been submitted to COUNTY and said insurance has been approved by COUNTY. The certificates of insurance shall contain a provision that coverage afforded under the policies will not be canceled until at least twenty (20) days prior written notice has been given to COUNTY. CONTRACTOR shall not allow any subcontractor to commence work on a subcontract until the insurance required of the subcontractor has been obtained.

Any failure of CONTRACTOR to maintain the insurance required by this paragraph, or to comply with any of the requirements of this paragraph, shall constitute a material breach of the entire Agreement.

Certificates evidencing the issuance of the following insurance shall be filed with the COUNTY within ten (10) days after the date of execution of this Agreement by CONTRACTOR.

- (a) Compensation Insurance. CONTRACTOR shall procure and maintain, at CONTRACTOR's own expense during the term hereof, Workers' Compensation Insurance for all of his employees to be engaged in work. In case of any such work sublet, CONTRACTOR shall require any subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by CONTRACTOR's Workers' Compensation Insurance.
- (b). General Liability Insurance. CONTRACTOR shall procure and maintain, at CONTRACTOR's own expense during the term hereof, Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverages: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

CONTRACTOR shall not commence work under this Agreement until CONTRACTOR has delivered to COUNTY an "Additional Insured Endorsement" naming COUNTY, its officers, employees and agents as additional insureds under each of the aforesaid policies in this subparagraph.

- (c) Automobile Liability Insurance. CONTRACTOR shall procure and maintain, at CONTRACTOR's own expense during the term hereof, Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in connection with CONTRACTOR's business in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence.

CONTRACTOR shall not commence work under this Agreement until he has had delivered to COUNTY, and "Additional Insured Endorsement" naming COUNTY, its officers, employees and agents as additional insureds under each of the aforesaid policies in this subparagraph.

- (d) Professional Liability Insurance. CONTRACTOR shall procure and maintain, at CONTRACTOR's own expense during the term hereof, Professional Liability Insurance for protection against claims arising out of the performance of services under this Agreement caused by errors, omissions or other acts for which CONTRACTOR is liable. Said insurance shall be written with limits of not less than one million dollars (\$1,000,000).
- (e) CONTRACTOR shall require each subcontractor to procure and maintain, during the life of his contract, similar Public Liability and Automobile Liability Insurance as specified in subparagraphs (b) and (c) hereinabove, with minimum limits equal to one-half the amounts required by CONTRACTOR and containing the "Additional Insured Endorsement" as required by CONTRACTOR in subparagraph (b) and (c) hereinabove.

ARTICLE 8 **INDEMNIFICATION-HOLD HARMLESS**

- 8.1 CONTRACTOR shall indemnify and defend COUNTY and its officers, employees, and agents against and hold them harmless from any and all claims, losses, damages, and liability for damages, including attorney's fees and other costs of defense incurred by COUNTY, whether for damage to or loss of property, or injury to or death of person, including properties of COUNTY and injury to or death of COUNTY officials, employees or agents, arising out of, or connected with CONTRACTOR's operations hereunder or the performance of the work described herein, unless such damages, loss, injury or death is caused solely by the negligence or willful misconduct of COUNTY.

ARTICLE 9 **INDEPENDENT CONTRACTOR**

- 9.1 It is specifically understood that in the making and performance of this Agreement, CONTRACTOR is an independent contractor and is not an employee, agent, or servant of COUNTY.

ARTICLE 10 **MODIFICATION**

- 10.1 This Agreement may only be modified by a written amendment hereto, executed by both Parties; however, matters concerning Contractor's Responsibilities and fee schedule, which do not materially affect the payment limit for each fiscal year, may be modified by mutual written consent of CONTRACTOR and COUNTY executed by Sheriff/Coroner, or designated representative.

ARTICLE 11
NON-DISCRIMINATION IN EMPLOYMENT

- 11.1 In the performance of the work authorized under this Agreement, CONTRACTOR, and/or any permitted subcontractor, shall not unlawfully discriminate against any qualified worker because of race, religious creed, color, , gender, gender orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

CONTRACTOR and/or any permitted subcontractor understands and agrees that CONTRACTOR is bound by and will comply with the non-discrimination mandates of all Federal, State, and local statutes, regulations, and ordinances.

ARTICLE 12
LICENSING

- 12.1 CONTRACTOR shall possess all licenses associated with the provision of services under this Agreement and shall meet all professional and legal requirements to maintain all said licenses in good standing.

ARTICLE 13
INTEREST OF CONTRACTOR

- 13.1 CONTRACTOR hereby covenants that CONTRACTOR has, at the time of the execution of this Agreement, no interest, direct or indirect, and that CONTRACTOR shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. CONTRACTOR further covenants that in the performance of this work, no person having any such interest shall be employed.

ARTICLE 14
SEVERABILITY

- 14.1 If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

ARTICLE 15
NOTICES

- 15.1 All notices that are required to be given by one Party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with a United States Post Office for delivery by registered or certified mail addressed to the Parties at the following addresses, unless such addresses are changed by notice, in writing, to the other Party.

If directed to County: COUNTY OF LAKE
Sheriff/Coroner
1220 Martin Street
Lakeport, California 95453

If directed to Contractor: FORENSIC MEDICAL GROUP, INC.
Kelly Arthur-Kenny, M.D., President
1261 Travis Blvd, Suite 120
Fairfield, California 94533

With a copy to: Perry, Johnson, Anderson, Miller & Moskowitz
Attn: Legal Counsel – Forensic Medical Group Inc.
438 First Street, 4th Floor
Santa Rosa, California 95401

ARTICLE 16
ADDITIONAL PROVISIONS

- 16.1 This Agreement shall be governed by the laws of the State of California. It constitutes the entire agreement between the parties regarding its subject matter. This Agreement supersedes all proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties related to the subject matter of this Agreement.

Executed at Lakeport, California, on the day and year first written above.

COUNTY OF LAKE

FORENSIC MEDICAL GROUP, INC.

Jeff Smith, Chairman
Board of Supervisors



Kelly Arthur-Kenny, MD
President

ATTEST:

APPROVED AS TO FORM:

Carol J. Huchingson
Clerk of the Board of Supervisors



Anita Grant
County Counsel

Exhibit A
Space, Equipment and Storage Provisions

Lake County shall have the following responsibilities under this Agreement:

- 1) Facility/Equipment: Lake County shall provide equipment and maintain an appropriate morgue facility in which autopsies and other postmortem examinations are to be performed. Per the Agreement, this location is to be the Napa County Sheriff/Coroner's facility located at 1535 Airport Blvd., Napa, CA 94559
- 2) Operational Supplies: Lake County shall provide supplies and equipment necessary for conducting required examinations, such as Personal Protective Equipment (PPE), supplies and tools. This includes, but is not limited to, the following:
 - a. Protective supplies - face protection (goggles/face shields/face masks), hair coverings, gloves, gowns, aprons, boot/shoe covers;
 - b. Containers and supplies for the collection and preservation of tissue and other biological samples - blood vials/tubes with varying preservatives, tissue and body fluid jars, formalin, syringes, needles, biohazard bags;
 - c. Items used in performance of autopsies – knives, scalpels, scissors, forceps, probes, measuring devices, saws, chisels;
 - d. Cleaning supplies – soaps, detergents, disinfectants, towels/rags
- 3) Specimen/Tissue Storage: Lake County shall provide for storage of specimens and tissue samples the Contractor deems necessary to retain as evidence or for further testing.



1261 Travis Blvd., Suite 120
Fremont, CA 94538

Phone: 707.421.1883
Fax: 707.421.1000

www.fmg-inc.com

EXHIBIT B

FEE SCHEDULE

Autopsy	\$1700.00
Inspection	\$ 750.00
SIDS	\$2300.00
Record Review	\$ 400.00
Trip Charge	\$ 600.00
** Trip Charge not applicable if procedure is to be completed at approved location.	
** Reimbursement of lodging for overnight accommodations will be invoiced.	
Death Scene Investigation	\$ 500.00/hr
** Trip Charge applies and will be billed separately to all death scene investigation requests.	
** Once FMG pathologist is on-scene, hourly rate will apply.	

LEGAL SERVICES

Percipient Expert Witness – Criminal

Percipient Expert Witness – Civil

Retained Expert Witness

** Legal services rates are based on current rates at the time of request and billed separately.