

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND CITY OF VALLEJO

This Agreement is entered into this ____ day of _____, 2015, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and City of Vallejo, hereinafter called "City."

* * *

Whereas, pursuant to Government Code Section 51301, County may contract with City for the performance of City functions by the appropriate employees of County; and

Whereas, City and County find it necessary and desirable to set forth in this Agreement the specific terms and conditions of the services to be performed and provided by County.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A - Services
Exhibit B - Payments and Rates

2. Services to be performed by County

In consideration of the payments set forth in this Agreement and in Exhibit B, County shall perform services for City in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by County in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, City shall make payment to County based on the rates and in the manner specified in Exhibit B. In no event shall City's total fiscal obligation under this Agreement exceed **THREE HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$350,000.00)**.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from **JULY 1, 2015** through **JUNE 30, 2018**.

5. Termination; Availability of Funds

This Agreement may be terminated by City or by the Sheriff or Sheriff's designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. County shall be entitled to receive payment for work/services provided prior to termination of the Agreement.

6. Relationship of Parties

Both parties agree and understand that the work/services performed under this Agreement are performed as an independent contractor and that neither party's employees acquire any of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

- a. City shall indemnify and hold harmless County from and against all actions which in any way arise out of, result from, or are connected in any way with City's negligent or intentional acts in performing services under this agreement, except any action which arises solely and exclusively out of the negligent or intentional acts of County.
- B. County shall indemnify and hold harmless City from and against any and all actions which in any way arise out of, result from, or are connected in any way with the County's negligent or intentional acts in performing services under this agreement, except any action which arises solely and exclusively out of the negligent or intentional acts of City.
- C. If an action arises out of the concurrent negligence of City and County, then liability for any damage in that action shall be apportioned between City and County in accordance with the California law of comparative negligence.
- D. As used in this section, "County" means the County, its officers, agents, employees and servants.
- E. As used in this section, "City" means the City, its officers, agents, employees and servants.
- F. As used in this section, "actions" means actions, claims, suits, demands, and liability of every name, kind, and description brought for, or on account of injuries to or death of any person, including City and County, or damage to property of any kind whatsoever and to whomsoever belonging.
- G. The duty of City and County to indemnify and hold harmless, as set forth herein shall include the duty to defend as set forth in Civil Code Section 2778.

8. Assignability and Subcontracting

Neither party may assign the benefits nor delegate the duties set forth in this Agreement, without prior written approval of both parties.

9. Insurance

a. General Requirements

Both parties shall maintain sufficient insurance, self-insurance, or a combination thereof to comply with the following requirements, and, if requested, each party shall furnish the other party with certificates of insurance evidencing the required coverage. Thirty (30) days' notice must be given, in writing, to the Sheriff's Office and County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Both parties shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance, or an acceptable program of self-insurance providing full statutory coverage. In signing this Agreement, parties certify, as required by Section 1861 of the California Labor Code, that they are aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and parties will comply with such provisions before commencing the performance of the work of this Agreement..

c. Liability Insurance

City and County shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from City's and County's operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below:

- ☒ Comprehensive General Liability \$1,000,000
(Applies to all agreements)
- ☐ Motor Vehicle Liability Insurance \$1,000,000
(To be checked if motor vehicle used in performing services)
- ☐ Professional Liability \$1,000,000
(To be checked if Contractor is a licensed professional)

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

10. Compliance With Laws

All services to be performed pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

City will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

City shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. City's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Both parties shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement.

d. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and parties shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by parties to employ and advance in employment qualified individuals with disabilities.

12. Retention of Records; Right to Monitor and Audit

(a) Each party agrees to provide to the other party, to any federal or state department having monitoring or reviewing authority, to County's or City's authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit records and documents necessary to determine compliance with relevant federal, state, and local statutes, rules, and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

13. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

14. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

15. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Ginger Martinez, Management Analyst
Address: San Mateo County Sheriff's Office
400 County Center
Redwood City, CA 94063
Telephone: (650) 363-7819
Email: gbalkus@smcgov.org

In the case of City, to:

Name/Title: City of Vallejo
c/o Vallejo Police Department
Address: 111 Amador Street
Vallejo, CA 94590
Telephone: (707) 651-7105
Email: john.whitney@cityofvallejo.net

16. Electronic Signature

If both County and City wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☒ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For City: ☐ If this box is checked by City, City consents to the use of electronic signatures in relation to this Agreement.

* * *

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands

COUNTY OF SAN MATEO

*A Political Sub-division of the
State of California*


BY: _____
PRESIDENT, BOARD OF SUPERVISORS

DATE: _____

ATTEST:

BY: _____
CLERK OF SAID BOARD

CITY OF VALLEJO

BY: 
(SIGNATURE)

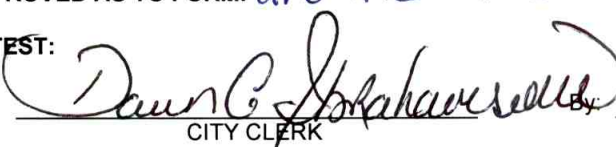

Daniel E. Keen
PRINTED NAME

City Manager
TITLE

DATE: 10-22-15

APPROVED AS TO FORM: and insurance

ATTEST:

BY:  
CITY CLERK CITY ATTORNEY

APPROVED AS TO INSURANCE:

BY: _____
~~RISK MANAGER~~

APPROVED AS TO CONTENT:

BY: 
ANDREW BIDOU
CHIEF OF POLICE

(April 1, 2015 CCC issued contract template version)

EXHIBIT A

In consideration of the payments set forth in Exhibit B, County shall provide the following services:

1. INTRODUCTION.

The purpose of this Agreement is to provide the City of Vallejo with forensic services through the San Mateo County Sheriff's Office Forensic Laboratory, which services will assist in the investigation of criminal matters within the territorial limits of the City.

2. SERVICES TO BE PERFORMED BY COUNTY.

- A. A Sheriff's Forensic Team will respond, upon request by the City, to:
 - 1.) City's police officer involved shootings, or City's law enforcement officers injured or killed in the line of duty.
 - 2.) Complex crime scenes, requiring the processing of a scene, beyond the resources/training/scope/expertise of the Vallejo Police Department crime scene personnel. To be determined by the Vallejo Police Department Investigations supervisor or his/her designee. This provision may be utilized no more than twice in any twelve month period. And in any event, the County may decline to respond based on its determination that current staff available are insufficient or are otherwise occupied with performing work for the County.
- B. A Sheriff's Forensic Supervisor will be available to assist the City via telephone 24/7.
- C. The Sheriff's Forensic Laboratory will assist the City by providing training to the City's staff in the collection and preservation of evidence.
- D. The Sheriff's Forensic Laboratory will perform the following forensic examinations for City, or seek out a provider at Sheriff's direct costs for the following services:
 - Blood pattern interpretations
 - CODIS entry
 - Crime scene reconstruction
 - Distance determination
 - DOJ/AFIS entry
 - Fingerprint comparison
 - Fingerprint processing of evidence
 - Firearms comparison
 - Firearms NIBIN entry (no charge)
 - Firearms NIBIN searches
 - Forensic biology serology screening
 - Forensic biology DNA typing
 - Fracture analysis
 - Gun identification
 - Gunshot residue physical match
 - Latent print AFIS searches
 - Serial number restoration
 - Shoe/tire impressions
 - Tool mark comparison
 - Trace analysis, (hair/fibers)
- * *The Sheriff's Forensic Laboratory does not conduct analysis of arson / explosives evidence, but will seek out a provider at Sheriff's direct costs, if requested.*
- E. City will deliver to the Sheriff's Forensic Laboratory items/material for analyzing.
- F. Each year the Sheriff's Forensic Laboratory Director shall meet with the City's Chief of Police to establish specific service level objectives for the upcoming contract period. The Sheriff's Laboratory Director shall provide the Police Chief with a written report as part of the annual report, containing a summary of activity for the previous period, by October 31 following the end of the contract period.

EXHIBIT B

In consideration of the services provided by County described in Exhibit A and subject to the terms of the Agreement, City shall pay County based on the following fee schedule and terms:

1. RATES.

- A. For the period of July 1, 2015 to June 30, 2016, City will pay County in advance for 100 hours (\$21,897) of forensic examinations/services based on the hourly rate of \$218.97.
 - 1) If City expends more than 100 hours during FY 2015-16, City will pay County in advance in increments of 100 hours.
 - 2) If a balance of unused hours exists at the end of FY 2015-16, the hours will be credited to FY 2016-17 at the adjusted FY 2016-17 hourly rate of \$227.73.
- B. For the period of July 1, 2016 to June 30, 2017, City will pay County in advance for 100 hours (\$22,773) of forensic examinations/services based on the FY 2016-17 hourly rate of \$227.73.
 - 1) If City expends more than 100 hours during FY 2016-17, City will pay County in advance in increments of 100 hours.
 - 2) If a balance of unused hours exists at the end of FY 2016-17, the hours will be credited to FY 2017-18 at the adjusted FY 2017-18 hourly rate.
- C. City will reimburse County for Court testimony at the rate of \$85 per hour, plus travel time. There will be no charge for the first two (2) hours per court appearance.

2. PAYMENTS.

- A. County will send City a monthly statement outlining the amount of hours/funds expended and the balance remaining.
- B. County will send City an invoice when the balance of remaining hours/funds becomes low or on an as-needed basis.
- C. Payments by City shall be made to County within 30 days of receipt of invoice.
- D. Questions regarding billing should be directed to the Sheriff's Forensic Laboratory Director by telephone (650) 312-5306 or by mail to:

San Mateo County
Sheriff's Office Forensic Laboratory
50 Tower Road
San Mateo, CA 94402