

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND CENTRAL VALLEY TOXICOLOGY, INC.

This Agreement is entered into this ____ day of _____, 20____, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Central Valley Toxicology, Inc., hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of Postmortem Toxicology services for the Coroner's Office.

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
- Attachment H—HIPAA Business Associate Requirements
- Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County 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 Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2016, through June 30, 2019.

5. Termination; Availability of Funds

This Agreement may be terminated by Contractor or by the Coroner or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

11. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to 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

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents 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 Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them.

Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts 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.

12. Compliance With Laws

All services to be performed by Contractor 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.

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

13. 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

Contractor 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. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor 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. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- ☐ Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.
- ☐ Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- ☒ Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- ☐ Contractor does not comply with Chapter 2.84, and a waiver must be sought.

e. 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 Contractor and any subcontractor 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 covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- ☒ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- ☐ Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

g. Reporting: Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 12, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

14. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if

Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed Section 3, above, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

15. Retention of Records: Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

16. 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.

17. 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.

18. 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 facsimile to the telephone number listed below or 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: Robert Foucrault, Coroner
Address: 50 Tower Road, San Mateo CA 94402
Telephone: 650.312.5562
Facsimile: 650.571.6258
Email: RFoucrault@smcgov.org

In the case of Contractor, to:

Name/Title: Robert Torres, Vice President, General Manager
Address: 1580 Tollhouse Road, Clovis CA 93611
Telephone: 559.323.9940
Facsimile: 559.323.7502
Email: RTorres@cvtox.com

19. Electronic Signature

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

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

Central Valley Toxicology, Inc.


Contractor's Signature

Date: 6/17/16

Exhibit A

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

Perform Post-Mortem and Human Performance Forensic Toxicology testing to cases sent to the Contractor by the Coroner's Office, including Transportation, Processing, Testing, Reporting and Storing of human tissue.

Transportation:

Contractor will start its clock for the turnaround time of a given case when a sample is received at Contractor's office. Contractor shall use a private contracted courier service to transport specimens. Contractor will provide lockable canvas storage bags as an outer shipping package. Contractor will provide a Styrofoam cooler inside the outer bag to keep specimens from damage due to excessive heat and transportation. A number of samples can be individually packaged and placed in the Styrofoam cooler box. Each sample will have its own "Evidence Slip" with evidence inventory, request form, and chain of evidence.

Processing:

Upon receiving a sample at CVT, a case number is assigned and affixed to the sample. It is necessary for each submitting agency to have a pre-designated contact person, both for CVT inquiries and for inquiries from the County agencies. CVT testing will begin immediately on receipt of evidence after it is assigned a case number. A case, as defined by CVT, is one sample or group of samples (for instance a specimen may have several samples) that bear a first and last name and identification numbers associated with a given agency. For example, a specimen of blood, urine and vitreous humor samples, labeled with the name "Jane Doe" with agency case number 23355 is grouped as a case and identified with a case number (i.e. CVT-04-1050). In like manner, a sample labeled "Baby Doe" included with "Jane Doe's" samples is given a separate case number and is handled as a separate case. However, the "Baby Doe" report will be referenced in the "Jane Doe" report. Each specimen (a sample or group of samples) is placed in a laboratory evidence envelope with the case number and remains in that laboratory envelope indefinitely.

Testing:

A work card is generated for each case and given the same case number. The work card follows the sample in the laboratory evidence envelope throughout the testing process. When a sample from the specimen in the laboratory evidence envelope is aliquoted for testing, it is individually removed and the aliquot is transferred to a test tube marked with the same case number. Tubes from various cases in various laboratory envelopes are never removed at the same time. Once the aliquots are transferred from the original sample, testing begins. Screening is the first level. If the sample is positive, it moves to a second level where the drug is extracted from the matrix. From there, it is sent to the third level where the instruments handle analytical data that include specific identification, confirmation, and levels of the drug in the positive sample. Each testing result and inter-laboratory handling for a case is recorded on the work card.

Reporting:

Upon completion of the work of a given case, the findings are transcribed to a final report that is reviewed and signed by the analyst. The report is e-mailed or faxed to only the designated contact person within the submitting agency, unless otherwise instructed by the designated contact person. The original report is mailed to only the designated contact person at the requesting agency unless otherwise instructed by the designated contact person. The CVT reporting format displays the case number as the Toxicology Number along with sample identification, and a description of what samples were submitted for that particular case. Findings or results are reported in units that commonly appear in Forensic Journals. Ranges such as "Effective (i.e. Therapeutic) Range" and "Potential Toxic Range" appear on the report. In some cases, when available, "Fatality Ranges" are referenced. These ranges are extracted from technical literature by the senior staff members of the laboratory and are intended to assist in evaluating the findings. These ranges are provided as guidelines only, and they may not necessarily apply to a specific case with unusual circumstances.

Storage:

Each case, upon completion, is catalogued in a storage file box and stored by CVT. CVT's normal policy is to retain all samples for two (2) years. The work cards are filed with the cases' individual analytical data. A hard copy of each final report is filed at CVT. All electronic data, QC data, calibration & standardization data, and electronic final reports are kept on CVT's secure data server in the laboratory for a period of five years.

Exhibit B

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

CORONER FEE SCHEDULE

CORONER'S COMPLETE PANEL (INCLUDES CONFIRMATION/LEVELS):	Comprehensive screening with confirmation and quantification of abused drugs, alcohol and other drugs that are in a range of high therapeutic to overdose levels. Includes prescription and over-the-counter drugs, over 350 drugs and metabolites.	\$191.00
ADDITIONAL SAMPLE:	Each additional sample add	\$51.00
ROUTINE PANEL (INCLUDES CONFIRMATION/LEVELS):	Ethyl Alcohol, Acetone, Cocaine, Opiates, PCP, Amphetamines, Barbiturates, Benzodiazepines, Methadone, Fentanyl, Tricyclic Antidepressants, and Carisoprodol.	\$151.00
ABUSED DRUG SCREEN:	Cocaine, Opiates, PCP, Amphetamines; one price includes four individual drug screens. (Qualitative Screen Only)	\$46.00
GENERAL DRUG SCREEN:	Includes prescription and over-the-counter drugs, over 350 drugs and metabolites. (Qualitative Screen Only)	\$83.00
SPECIFIC DRUG SCREEN/CONFIRM/LEVEL:	Screening for a specific drug from a biological matrix with determination and quantitative concentration of primary drug and metabolite when applicable (Quantitative)	\$75.00
BLOODALCOHOL:	Blood Ethyl Alcohol with Confirmation in secondary sample (vitreous humor, urine, etc.) when available	\$44.00
SOLVENTNOLATILE:	Methyl Alcohol, Isopropyl Alcohol, Acetone, Benzene, Chloroform, Toluene, etc. with Confirmation in secondary sample (vitreous humor, urine, etc.) when available	\$75.00
VITREOUS PANEL:	Sodium, Potassium, Chloride, Glucose	\$75.00

UREA NITROGEN:	Urea Nitrogen (Vitreous humor, VUN)	\$28.00
CREATININE:	Creatinine (Vitreous humor)	\$28.00
CARBOXYHEMOGLOBIN:	%Saturation of blood by CO	\$75.00
SUBSTANCE ID:	Identification and confirmation of drugs in capsules, powders, tablets, fluids, organic material.	\$102.00
TISSUE PREP:	Mincing/liquefying preparation of tissue sample.	\$36.00
CORONER'S CAP:	A maximum fee of \$550.00 is charged when the individual test fees are in excess of \$550.00 for a final toxicology report. A cap does not include fees charged by an outside lab or other send outs or additional testing after a final report has been issued.	\$550.00
SEND OUTS:	Shipping Costs to CVT will be included in Send Out Charges (Heavy Metals, Lithium, Hep C, HIV, etc.)	At Cost

July 1, 2014 through June 30, 2018

Courier Services is provided at no cost. Travel time is not applicable to the Coroner's Office as any and all court appearances are currently billed to the Office of the District Attorney.