



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** CORONER

**File #:** 22-885

Board Meeting Date: 11/15/2022

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**Special Notice / Hearing:** None

**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Robert J. Foucrault, Coroner

**Subject:** Forensic Pathology Services Master Service Agreement

### **RECOMMENDATION:**

Adopt a resolution authorizing the Coroner, or designee(s), to execute agreements and/or amendments with each contractor listed in Attachment A to provide as-needed forensic pathology services for the term of August 2, 2022 through June 30, 2025 in an aggregate amount not to exceed \$2,827,280, and granting a waiver of the competitive bidding process for the provision of the above forensic pathology services pursuant to County Ordinance Code Section 2.83.050(e).

### **BACKGROUND:**

The Coroner's Office is required by statute to investigate and determine the cause and manner of death in all violent, sudden, or unusual deaths in the County of San Mateo. To carry-out this statutory duty, the Coroner's Office contracts with forensic pathologists certified by the American Board of Forensic Medicine, of which there are currently fewer than 500 practicing full-time in the entire United States.

The need for reliable on-call forensic pathology services is critical, as the recognized industry standard for completion of all autopsies is within 24 hours of the death, a standard that, in certain circumstances, becomes even more pressing, such as in cases of Sudden Infant Death Syndrome, suspected homicides, and where religio-cultural practices require burial in less than 24 hours. Further, since November 2019, the Coroners' Office has been accredited by the International Association of Coroners and Medical Examiners (IAC&ME), which, in order to maintain accreditation, requires the Coroner's Office to complete all autopsy reports within 90 calendar days of the autopsy having been conducted.

Over the course of the past two-plus years the Coroner's Office has encountered significant difficulties in recruiting and retaining Board-certified forensic pathologists. In January 2020, the Coroner's Office switched to agreements based on a fee-for-service model, under which forensic pathologists are paid based on the type and number of clinical inspections and/or autopsies they actually perform, rather than receiving set monthly payments regardless of the amount of work performed. However, the Coroner's Office discovered that, while the fee-for-service model allowed

the Coroner's Office to recruit new forensic pathologists available for on-call or part-time work, the model failed to result in the provision of consistent, reliable, full-time forensic pathology services.

Thus, on August 2, 2022, the Board approved a series of contracts with forensic pathologists that, together, combined the fee-for-service model and standard monthly fee model for forensic pathology services through June 30, 2025 with a total maximum fiscal obligation of \$2,827,280, the budgeted amount for the provision of forensic services over the three-year period.

Shortly thereafter, however, the forensic pathology physician group with whom the Coroner's Office had contracted to provide services based on the standard monthly fee model, NAAG Pathology Labs PC, owned by Dr. Evan Matshes, M.D., terminated its agreement due to internal staffing issues. This left the Coroner's Office, yet again, without a consistent provider of critical forensic pathology services, forcing it to return to the Board (for the fifth time since June 2021) to revise its agreements for such services.

### **DISCUSSION:**

To remedy the persistent difficulties the Coroner's Office has encountered regarding the provision of reliable forensic pathology services, and to maximize flexibility in the performance of such services, staff recommends that the Board authorize a master services model whereby the Coroner's Office is authorized to execute agreements and/or amendments with each Board-certified forensic pathology contractor listed in **Attachment A**, including those over \$200,000, to provide as-needed forensic pathology services for the term of August 2, 2022 through June 30, 2025 in an aggregate amount not to exceed \$2,827,280, the amount previously approved by the Board for such services during the three-year period on August 2, 2022. The scope of services for each agreement and/or amendment with the pre-approved contractors listed in Attachment A would be substantially similar to the scope of services provided in **Attachment B**, and the total not-to-exceed amount would include any agreements and/or amendments entered into on or after August 2, 2022.

Prior to the Coroner, or designee(s), executing agreements and/or amendments with the approved contractors listed in Attachment A, documentation shall be obtained and retained confirming that all such agreements and/or amendments have been reviewed and approved by the County Attorney, Risk Management, and Information Services Department, wherever applicable, and that such agreements and/or amendments comply with applicable County ordinances and are consistent with the terms and conditions approved by the Board.

The Board has previously waived the competitive bidding process for the provision of forensic pathology services pursuant to County Ordinance Code 2.83.050(e) and the Coroner's Office requests that the Board continue to do so for each agreement entered into with the contractors listed on Attachment A under the master services model, as forensic pathologists are specifically exempt from the competitive bidding process by County Administrative Memorandum B-1, Section IV.B.15, and because the Coroner's Office is required to use Board-certified forensic pathologists in order to maintain its IAC&ME accreditation and there are fewer than 500 Board-certified forensic pathologies in the entire United States.

Finally, the Coroner's Office requests that it be authorized to execute additional amendments to each agreement that modify the County's maximum fiscal obligation by no more than \$25,000 for each agreement (\$200,000.00 in total), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

The County Attorney has reviewed and approved the Resolution as to form.

**PERFORMANCE MEASURE:**

IAC&ME recommends the completion of all autopsy reports within 60 calendar days of autopsy performance as a forensic pathology best practice and requires the completion of all autopsy reports within 90 calendar days of autopsy performance. Thus, all agreements with the contractors listed on Attachment A will conform to the following performance measures:

Measure	FY 21-22 Actual (as of 12/31/2021)	FY 22-23 Projected
% of autopsy reports completed within 60 days (IAC&ME standard)	63%	75%
% of autopsy reports completed within 90 days (IAC&ME requirement)	93%	95%
Average number of days elapsed from date of autopsy performance to date of autopsy report completion	49	49

**FISCAL IMPACT:**

The total maximum fiscal obligation for all anticipated forensic pathology needs through June 30, 2025 is \$2,827,280.00, which amount is partially included in the 2021-2023 Recommended Budget for the Coroner's Office and the remaining balance will be included in the 2023-2025 Recommended Budget.