

Personal Services Agreement

THIS AGREEMENT IS MADE on the later of the dates on which it is signed on behalf of the parties hereto –

– by and between –

Lewis County, a Washington municipal corporation, by and through the Lewis County Coroner, 585 NW Center Street Chehalis, Washington 98532;

-and-

Dr. Sigmund Menchel, M.D., Forensic Pathologist, 6701 154th Place SE, Bellevue, WA 98006 and hereafter referred to as Dr. Menchel.

1. Definitions. In this Contract the following terms bear the meanings ascribed to each as follows:

- a) Personal Services Agreement means this Agreement, and includes any renewal of this Agreement pursuant to the provisions hereof.
- b) *Coroner* means the Lewis County Coroner or any of his Deputies.
- c) *County* means Lewis County.
- d) *Pathologist* means Dr. Menchel, MD.
- e) *Autopsy* means a complete invasive examination of decedents involving the removal/examination of internal organs.
- f) *Toxicological specimens* includes blood, urine, and/or vitreous fluids.
- g) *Consultations* mean telephone consults regarding deaths.
- h) *Decedent* means a person who has passed away.

2. Duration: The term of this Agreement shall begin on January 1, 2020 at 12:00 AM. Subject to the provisions below regarding early termination, this contract shall be of full force and effect through December 31, 2020 at 11:59 PM.

- a) The terms of this Agreement will be reviewed by each party in July for consideration of amending the existing terms.
- b) Early Termination Without Cause: Either party may terminate this Agreement at any time, without cause, by giving thirty (30) days prior written notice thereof to the other party.
- c) Early Termination for Cause: In the event that either party fails to perform its obligations pursuant to this Agreement, and fails to cure such defect in performance after written notice thereof, the party aggrieved by such defective performance may terminate this Agreement forthwith, upon written notice thereof to the other party.

3. Duties of Pathologist: Dr. Menchel shall provide the following services to the County:

- a) Provide consultation as needed on deaths.
- b) Perform full autopsies as necessary/appropriate
- c) Perform medical records reviews.
- d) Draw toxicological specimens as needed/appropriate.
- e) Provide for histological services to be performed.
- f) Provide written documentation of procedures, and conclusions within thirty (30) days of the service with the exception of cases that are pending toxicological results.
- g) Maintain current licensing requirements for the State of Washington and provide the County with copies of all licensure.
- h) Maintain the appropriate amount of insurance for performing pathological services.

4. Duties of the County: The Coroner shall provide Dr. Menchel with notice of cases requiring an autopsy.

Autopsies:

- a) The County will provide the morgue facilities including the equipment necessary to complete the appropriate exam(s).
- b) The County can provide a Forensic Assistant, depending on availability, to Dr. Menchel at the cost to the County (County employee).
- c) The County will meet all reasonable accommodations required by Dr. Menchel.

Records consultations:

- i) Copies of the records to be reviewed.

5. Payment: Dr. Menchel shall provide invoices to the County with an invoice for services within two (2) weeks of the service being provided. The invoices shall contain:

- a) The date of the service(s)
- b) The services provided
- c) The remittance address

The County will pay the invoice within two (2) weeks of its receipt. The fee schedule for the services shall be as follows:

- a) All autopsies will be invoiced at the rate of sixteen hundred dollars (\$1600.00).

- b) Records consultations will be invoiced at the rate of three hundred and seventy-five dollars (\$375.00) per hour.

6. Indemnity. Dr. Menchel shall indemnify and hold the County, its elected officials, officers, employees, and volunteers harmless from all liability arising out of or relating to Dr. Menchel performance, purported performance or non-performance of this Agreement. Each Party shall be responsible for his/her/its own acts and omissions and shall be liable for payment of that portion of any and all claims, liabilities, injuries, suits, and demands and expenses that may result from or arise out of any alleged malfeasance, or neglect caused by said Party, its employees, agents, or subcontractors. If a claim is made against more than one Party, each Party shall cooperate in the defense of said claim and cause its insurers to do likewise. Each Party shall, however retain the right to take any action it believes necessary to protect its own interests.

7. Insurance and Defense. Dr. Menchel, shall at all times maintain a policy of professional liability insurance from an insurer licensed to do business in the State of Washington in an amount not less than \$1 million per occurrence and \$1 million aggregate. Dr. Menchel further shall tender to the Lewis County Risk Manager at the Lewis County Courthouse within 30 days of the signing of this Agreement, and then in the month of January of each calendar year while this Agreement is in effect, a certificate of insurance in respect of such policy naming the County as an additional insured. In the event that the County or any of its elected officials, officers, employees, or volunteers is sued for any act or failure to act arising out of or relating to Dr. Menchel performance, purported performance or non-performance of this Agreement, Pathologist shall provide a legal defense for the County or such individual.

8. Not covered under the contract: Should the pathologist be required to provide testimony or depositions in any legal proceeding arising out of or relating to any autopsy or other work which Pathologist has performed for the County Coroner, the county will only be responsible for Pathologist's charges for testifying or providing a deposition if the County issued a subpoena to Pathologist. In all other instances Pathologist is free to charge whoever issues such a subpoena or requires such testimony or deposition evidence.

a) Dr. Menchel shall bill the agency, and not the Lewis County Coroner, that issues a subpoena requiring expert testimony in court and/or at depositions regarding cases in which they have performed pathological services as outlined in this contract.

9. Entire agreement. This Agreement:

- (a) contains the entire understanding of the parties with respect to the subject matter covered,
- (b) supersedes all prior and contemporaneous understandings, and
- (c) may only be amended in a written instrument signed by the parties.

10. Choice of law and venue. This Agreement is made in Lewis County, Washington. It shall be construed in accordance with the laws of the State of Washington (excluding Washington's choice of law rules) and of the United States of America. Any action to enforce any rights or obligations created by this Agreement or to construe this Agreement shall be brought in the Superior Court of

Washington for Thurston County in Olympia, or in the United States District Court for the Western District of Washington in Tacoma.

11. Survival of Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and all of their respective heirs, successors, and to their assigns. The terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation, or termination of this Agreement shall so survive.

12. Notices: Any notice anticipated by or tendered pursuant to this Agreement shall be sent by Certified Mail to a party at its address listed on page 1 hereof. The notice shall be deemed to be received on the third business day following its mailing. Alternatively, a notice may be sent to a party by email to an email address used consistently by that party in communicating with the co-contracting party. Unless the sender receives a notice of non-deliverability, the notice shall be deemed delivered on the day it is sent. However, a notice sent by email after 5:00 p.m. at the recipient's address, or on a Saturday, Sunday, or public holiday, shall be deemed delivered on the next business day.

13. Severability. If any provision of this Agreement is found to be contrary to law or public policy or is declared null and void by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect and binding upon the parties.

14. Waiver. Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by the parties hereto or by their authorized representatives.

15. Assignment and delegation. Neither party may assign any benefit nor delegate any duty provided for, anticipated, or arising out of by this Agreement without the prior express written consent of the other party.

16. *Contra Proferentem* Rule Excluded. This Contract was negotiated and drafted jointly by the parties, and it shall not be construed against either part in case of any dispute.

17. Facsimile. This Agreement may be executed by facsimile signature and such execution shall be binding.

18. Rules of interpretation.

a) No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted that provision, and this Agreement shall be construed as if jointly prepared by the parties.

b) In this Agreement the singular shall be deemed to embrace the plural and the masculine shall be deemed to embrace the feminine.

19. Headings: In this Agreement paragraph headings appear for convenience of reference only, and they shall not be used or considered in construing the terms hereof.

20. Status of the Parties. This is an agreement for services only, and it is not an agreement of service.

a) Neither party shall be the agent of the other, whether for purpose arising out of or relating to this Agreement, or otherwise. At no time shall either party, its elected officials, officers, or employees hold itself out to be the agent of the other party.

b) All persons hired by Dr. Sigmund Menchel to perform services anticipated by this Agreement shall at all times be its sole and exclusive employees, and in no event shall they or any of them thereby become employees of the County in executing the Agreement.

c) At no time and for no purpose shall the County be a co-employer of any employee of Dr. Menchel.

d) Dr. Menchel shall at all times maintain such unemployment insurance and workers' compensation insurance as may be required by Washington law in full force and effect for all of its members principals, and employees who may, from time to time, perform services pursuant to this Agreement.

Signed for and on behalf of each party hereto by its authorized representative on the date inscribed beneath his signature.

LEWIS COUNTY



per Warren McLeod, Coroner

11/14, 2019.

Reviewed as to form

Jonathan Meyer, Lewis County Prosecutor



per Cullen R. Gatten, Civil Deputy Prosecutor

11/18, 2019

Kevin A. McDowell

DR. SIGMUND MENCHEL, M.D.



per Dr. Sigmund Menchel, M.D.

11/7, 2019.