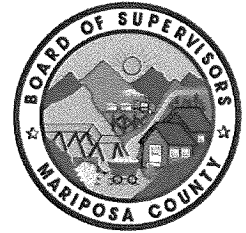


# MARIPOSA COUNTY

Sheriff's Office · 209 966-3615



## RESOLUTION - ACTION REQUESTED 2021-283

MEETING: May 18, 2021

TO: The Board of Supervisors

FROM: Jeremy Briese, Sheriff

RE: 2021-2024 Central Valley Forensic Nurse Specialists' Agreement

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### **RECOMMENDATION AND JUSTIFICATION:**

Approve a three-year Agreement with Central Valley Forensic Nurse Specialists', Inc. for Sexual Assault Examination Services for Mariposa County Sheriff's Office Investigations; and Authorize the Board of Supervisors Chair to Sign the Agreement.

A current Agreement exists and is due to expire June 30, 2021. Central Valley Forensic Nurse Specialists' has expressed interest in a three-year agreement to align with the State's Fiscal Year. Minor expenditures have been identified on Attachment "A" of the Agreement, however should have little or no effect of the overall expense. The three-year Agreement has a not to exceed amount of \$40,000 and not to exceed \$70,000.00 with two 12 month agreed upon extensions.

Due to the technical and medical expertise required as part of a sexual assault investigation, it is desirable to utilize medical professionals who possess the skills and equipment to perform and record the examination process.

Central Valley Forensic Nurse Specialists' possesses both the personnel and equipment necessary to perform these crucial forensic examinations. Central Valley Forensic Nurse Specialists' is able to perform the examinations at the Sexual Assault Response Team (SART) Center in Fresno California.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

A contract between the Sheriff's Office and Forensic Nurse Specialists' of Central California has been in place since 2008. Forensic Nurse Specialists' of Central California changed ownership in November 1, 2019 with the name being changed to Central Valley Forensic Nurse Specialists'. Both parties have recently been working together to continue the Agreement and are in consensus a three-year Agreement to align with the State's Fiscal Year would benefit both entities.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

If the new contract is not approved, Central Valley Forensic Nurse Specialists' will continue to provide services to the Sheriff's Office; However, the contract will ensure that the new services being provided will remain unchanged as agreed upon for the duration of the contract.

### **FINANCIAL IMPACT:**

**Sufficient funding for Fiscal Year 2021-2022 has been requested in the proposed budget for expenses related to this Agreement.**

**ATTACHMENTS:**

**CVFNS contract 2021-2024 (PDF)**

**RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]**

**MOVER:** Wayne Forsythe, District IV Supervisor

**SECONDER:** Tom Sweeney, District II Supervisors

**AYES:** Smallcombe, Sweeney, Long, Forsythe, Menetrey

**AGREEMENT FOR CENTRAL VALLEY FORENSIC NURSE SPECIALISTS'**

THIS AGREEMENT ("Agreement") is made and entered into this 18th day of May, 2021, by and between the County of Mariposa, a political subdivision of the State of California, ("County"), and Central Valley Forensic Nurse Specialists', ("Contractor"), pursuant to the following terms and conditions.

**W I T N E S S E T H:**

**1. TERM**

The term of this Agreement shall be for a period of three (3) years, commencing on July 1, 2021 through and including June 30, 2024. This Agreement may be extended for two (2) additional consecutive twelve (12) month periods upon the written approval of both parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The Sheriff or his/her designee is authorized to execute such written approval on behalf of County based on Contractor's satisfactory performance.

**2. SERVICES**

Contractor shall perform forensic evidence collection and examination of victims of sexual assault and forensic evidence collection from suspects as described in Exhibit A, "Scope of Work," which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

**3. COMPENSATION**

The maximum compensation payable to Contractor under this Agreement is \$40,000.00 commencing as of the effective date for the entire term of the Agreement. For each 12 month extension to the Agreement the maximum compensation payable to the Contractor under this agreement is \$15,000.00. The maximum compensation payable to Contractor for the entire term of the Agreement with extensions is \$70,000.00. Contractor's rates are listed in Exhibit B, "Cost Proposal." County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

**4. INSURANCE**

Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, or employees.

**A. MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

- (1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than

\$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

(4) Professional Liability (Errors and Omissions): Insurance appropriate to Contractor's profession, with a limit of no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. If Contractor maintains broader coverage and/or higher limits than the minimums shown above, County requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to County.

B. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

(1) Additional Insured Status: County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 forms if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, Contractor's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with at least thirty (30) calendar days' notice to County.

(4) Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not County has received a waiver of subrogation endorsement from the insurer.

(5) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by County. County may require Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to County.

(7) Verification of Coverage: Contractor shall furnish County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

(9) Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

## **5. HOLD HARMLESS/INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify County, its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions of Contractor or its officers, agents, or employees in rendering services under this Agreement; excluding however such liability, claims, losses, damages, or expenses arising from County's sole negligence of willful acts.

## **6. INDEPENDENT CONTRACTOR**

It is the expressed intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Contractor or any employee or agent of Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement.

## **7. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)**

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an

employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

## **8. STATE AND FEDERAL TAXES**

As Contractor is not County's employee, Contractor is responsible for paying all required state and federal taxes. In particular:

- a. County will not withhold FICA (Social Security) from Contractor's payments;
- b. County will not make state or federal unemployment insurance contributions on behalf of Contractor;
- c. County will not withhold state or federal income tax from payment to Contractor;
- d. County will not make disability insurance contributions on behalf of Contractor;
- e. County will not obtain workers' compensation insurance on behalf of Contractor.

## **9. AUDITS AND INSPECTIONS**

Contractor shall at any time during business hours, and as often as County may deem necessary, make available to County for examination all of its records and data with respect to the matters covered by this Agreement. Contractor shall, upon the request of County, permit County to audit and inspect all of such records and data necessary to ensure Contractor's compliance with the terms of this Agreement. If compensation to be paid by County under this Agreement exceeds Ten Thousand Dollars (\$10,000), Contractor shall be subject to the examination and audit of the California State Auditor, as provided in Government Code section 8546.7, for a period of three (3) years after final payment under this Agreement. This section survives the termination of this Agreement.

## **10. ASSIGNMENT**

It is understood and agreed that this Agreement contemplates personal performance by Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of Contractor under this Agreement will be permitted only with the express written consent of County.

## **11. NOTICE**

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

**CONTRACTOR:**

Central Valley Forensic Nurse Specialists’  
P.O. Box 25423  
Fresno, CA 93729

**COUNTY:**

Sheriff  
County of Mariposa  
P.O. Box 276  
Mariposa, CA 953338  
Fax (209) 742-5090

**12. COMPLIANCE**

Contractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Contractor’s performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person’s race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

**13. PUBLIC RECORDS ACT**

Contractor is aware that this Agreement and any documents provided to County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of Contractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

**14. ENTIRE AGREEMENT AND MODIFICATION**

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

**15. ENFORCEABILITY AND SEVERABILITY**

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

**16. TERMINATION AND RIGHTS UPON TERMINATION**

A. This Agreement may be terminated upon mutual written consent of the parties, or as a remedy available at law or in equity. In the event of the termination of this Agreement, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination as set forth in Exhibit B.

B. Either party may terminate this Agreement for convenience upon 30 calendar days' written notice to the other party. Upon termination for convenience, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination, as set forth in Exhibit B.

C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.

**17. NO WAIVER**

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

**18. DISPUTES**

Should it become necessary for a party to this Agreement to bring an action in connection with this Agreement, the prevailing party in any such action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Mariposa, State of California.

**19. CAPTIONS**

The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**20. NUMBER AND GENDER**

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**21. MANDATORY AND PERMISSIVE**

"Shall" is mandatory. "May" is permissive.



## **22. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

## **23. COUNTERPARTS/ELECTRONIC, FACSIMILE, AND PDF SIGNATURES**

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA"), Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA, as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

## **24. OTHER DOCUMENTS**

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

## **25. CONTROLLING LAW**

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

## **26. AUTHORITY**

Each party and each party's signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to this Agreement shall comply with all requirements of law, including capacity and authority to amend or modify this Agreement.

## **27. NEGOTIATED AGREEMENT**

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so

with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

**28. NO RELIANCE ON REPRESENTATIONS**

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other party.

**29. WARRANTY**

County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work shall be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

**30. FUNDING AVAILABILITY**

It is mutually agreed that if the County budget of the current fiscal year and/or any subsequent fiscal year covered under this Agreement does not appropriate sufficient funds for this Agreement, this Agreement shall terminate and be of no further force and effect upon the day notice is provided by County to Contractor of such event. Upon termination of this Agreement, County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement except for services rendered prior to such termination and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this Agreement, the County shall have the option to either cancel this Agreement with no liability occurring to the County, except County must reimburse Contractor for services rendered prior to such reduction or modification of the County budget, or offer an amendment to this Agreement to Contractor to reflect the reduced amount.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.


COUNTY OF MARIPOSA



ZOFFOsign 7BDB492BE9

Marshall Long, Chair  
Board of Supervisors

CONTRACTOR



ZOFFOsign 7BDB492BFD

Heather McCoy, RN,SANE,  
Owner/Director

COUNTERSIGNED:  
*(Government Code §25103)*



ZOFFOsign 7BDB492BE3

Rene LaRoche  
Clerk of the Board

APPROVED AS TO FORM:



ZOFFOsign 7BDB492BDE

Steven W. Dahlem  
County Counsel

Exhibit A  
SCOPE OF WORK

Contractor and Mariposa County Sheriff's Office agree as follows:

- Contractor agrees to provide forensic evidence collection and examinations of victims of sexual assault and forensic evidence collection from suspects.
- Suspect exams at the same time as the victim exams will be discounted.
- Victim "no show or cancelled" after Contractor's nurse is called out will be subject to a "no show/cancellation" fee.
- Additional follow up examination for victims at law enforcement request.
- Expert Witness testimony is a contracted negotiated amount between Contractor and the District Attorney's Office.

**SPECIAL PROVISIONS:**

1. Law enforcement officers agree to call the 24 hour Contractor's answering service prior to transporting the victim to the Contractor's examination site located within the Family Healing Center, located at the 7025 N. Chestnut, #102, Fresno, CA 93720.
2. Contractor agrees to collect forensic evidence from sexual assault victims in accordance with OES state protocols by qualified forensic examiners. All examinations will utilize a High Definition (HD) Digital Camera for photography when injuries are present. Copies of photographs will be made available to the contracting law enforcement agency upon request. Discussion of the findings will be provided at the conclusion of the exam.
3. Contractor agrees to provide competent expert witness testimony in court when subpoenaed to be present.
4. All evidence collection will be relinquished by the Contractor to the law enforcement officer ordering the examination at the conclusion of the examination with a completed copy of the OES 923/925/930/950 medical report.
5. Contractor agrees to provide any evidence from the examination available to law enforcement personnel at any time subsequent to the date of examination upon request.
6. This agreement is not meant to prohibit the law enforcement agency from utilizing the services of other hospitals.

Exhibit B  
COST PROPOSAL

Contractor and the Mariposa County Sheriff's Office agree as follows:

- Charge per case, to be paid for by Mariposa County Sheriff's Office, is \$1000.00.
- Suspect exams at the same time as the victim exams are \$600.00.
- Suspect examinations after initial victim examinations will be \$700.00.
- Victim "no show or cancellation" after the Contractor's nurse is called out will be subject to a \$150.00 "no show/cancellation" fee.
- Additional follow up examinations for victims at the request of law enforcement will be subject to a \$550.00 fee.
- Expert Witness testimony is a contracted negotiated amount between the Contractor and the District Attorney's Office.
- The Contractor's nurses' time and travel on mobile cases will be an additional \$300.00 per case.
- Pediatric Sexual Assault Evidence Collection that are "acute" examinations within 72 hours will cost \$100.00 per exam and one follow up included if needed.
- Pediatric Sexual Assault Evidence Collection that are "non-acute" examinations after 72 hours will cost \$100.00 per exam.
- Domestic Violence Forensic Examinations will cost \$500.00 per exam.
- Pediatric Physical Abuse Examinations will cost \$500.00 per exam and one follow up included if needed.
- DNA Forensic Evidence Collections will cost \$500.00 per exam.
- Death Investigations that require going to the morgue will cost \$1200.00 and require two experienced death investigation forensic RN's.
- All training is included in the price annually for the patrol briefings, and a one hour detective training as needed.

The Contractor shall be compensated for services performed in an amount not to exceed \$40,000.00 for the duration of this contract. The maximum compensation payable to Contractor for the entire term of the Agreement with extensions is \$70,000.00.