

## POSTMORTEM SKELETAL SURVEY AGREEMENT

**THIS POSTMORTEM SKELETAL SURVEY AGREEMENT** (this “Agreement”) is made and entered into as of the term (the “Effective Date”) by and between **DENVER HEALTH AND HOSPITAL AUTHORITY**, a body corporate and political subdivision of the State of Colorado, with offices located at 777 Bannock St., Mail Code 0278, Denver, Colorado 80204, (hereinafter referred to as “DHHA”), and the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (hereinafter referred to as “City”). DHHA and City may be referred to in this Agreement each, individually, as (a “Party”) or, jointly, as (the “Parties”).

### RECITALS

**WHEREAS**, DHHA is the owner and operator of Denver Health Medical Center, in Denver, Colorado, which provides inpatient and out-patient medical services and fulfills public health functions for the citizens of the City and County of Denver; and

**WHEREAS**, City, through the Office of the Medical Examiner, desires to secure certain postmortem skeletal surveys, as defined herein, from DHHA on an as-needed, as-available, independent contractor basis; and

**WHEREAS**, DHHA desires to provide such postmortem skeletal surveys on an as-needed, as-available, independent contractor basis.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements set forth herein, the Parties agree as follows:

### AGREEMENT

**1. Coordination And Liaison**: DHHA shall fully coordinate all services under the Agreement with the Executive Director of Public Health and Environment, (“Executive Director”) or, the Executive Director’s Designee.

**2. Services**. DHHA agrees to perform certain postmortem skeletal survey services as more fully described in ***Exhibit A: Scope of Services***, which is attached hereto and incorporated herein by this reference (“Services”). Any changes to the Services, including the scope, deliverables and related fees, must be approved by the prior written consent of the Parties. DHHA shall provide the Services on an as-needed, as-available basis. If, at any time during the term of this Agreement, DHHA determines, in its sole discretion, that it does not have the internal resources reasonably necessary to perform a postmortem skeletal survey for a particular case, DHHA shall not be required to perform the Services for that case. In such event, DHHA shall promptly notify City and, if desired by City, DHHA shall cooperate with City in arranging for transport of the body to another facility of City’s choosing, at City’s sole cost and expense.

3. Term; Termination. The Agreement will commence **upon mutual execution of the Parties** and will expire on **December 31, 2023** (the “Term”). This Agreement may be terminated by either Party, with or without cause, upon thirty (30) days advance written notice by the terminating Party to the other Party. In the event of termination, payments will be made to DHHA for all Services provided up to the date of termination.

4. Compensation. City shall pay DHHA the amount of **SIX HUNDRED DOLLARS AND NO CENTS (\$600.00)** per postmortem skeletal survey provided by DHHA to the City. DHHA shall periodically invoice City, and all invoices shall be due and payable within thirty (30) days of receipt. All invoices shall be submitted to City at the following address:

City and County of Denver  
Office of the Medical Examiner  
500 Quivas Street  
Denver, Colorado 80204

5. Confidentiality. In performance of this Agreement, each Party may provide to the other Party certain confidential information identified by a disclosing Party as confidential or such as the reasonable person would understand to be confidential under the circumstances (collectively, “Confidential Information”). Both Parties agree that they will hold the other’s Confidential Information in confidence, and will not, without the other’s written consent, disclose any portion thereof to any third Party. Confidential Information shall not include information which: (i) is in the receiving Party’s possession before receipt from the disclosing Party; (ii) is or becomes a matter of public knowledge through no fault of the receiving Party; (iii) is rightfully received by the receiving Party from a third Party without a duty of confidentiality; (iv) is independently developed by the receiving Party; or (v) is disclosed by the receiving Party under operation of law provided the receiving Party gives the disclosing Party prompt notice of the requirement to disclose and the opportunity to contest such disclosure.

6. Indemnification.

a. DHHA is a “public entity” within the meaning of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended (the “Act”). DHHA shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet DHHA’s liabilities in accordance with the limits of the Act. Proof of such insurance shall be provided upon written request by the City. This obligation shall survive the termination of the Agreement.

b. City will defend, indemnify and hold harmless DHHA and its employees, officers, directors and agents (“Indemnitees”) from and against any and all claims, demands, causes of actions, proceedings, damages, losses and expenses arising from, resulting from, or in any way relating to, the Services. The obligations contained in this paragraph shall survive the expiration or termination of this Agreement.

c. Waiver of Subrogation: For all coverages required under this Agreement, DHHA's insurer shall waive subrogation rights against the City.

7. Governmental Immunity. The Parties hereto understand and agree that DHHA is a body corporate and political subdivision of the State of Colorado relying upon the rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.* ("CGIA"). Anything in this Agreement, including any Exhibits or referenced materials, that conflicts with DHHA's status as a governmental entity or compromises its rights, immunities and protections under the CGIA or Colorado law is hereby rejected by DHHA and of no effect.

8. Inter-Governmental Liability. At all times during the term of this Agreement, including any renewals or extensions, DHHA shall maintain such insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the CGIA. **DHHA will be responsible for the actions and omissions of its respective officers, agents, employees, and subcontractors, to the extent provided by the Act. This obligation will survive termination of this Agreement.**

9. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any third person. It is the express intention of the Parties that any person other than a Party to this Agreement receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

10. No Waiver of Rights. In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of DHHA. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

11. Venue, Governing Law. The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado without regard to the choice of law thereof. Venue for any legal action shall be in a

court of competent jurisdiction within Denver, Colorado.

**12. Notices.** Notices concerning termination of this Agreement, notice of alleged or actual violation of the terms or provision of this Agreement, and other notices shall be provided to the Parties at the following addresses: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to DHHA at the address listed below, and if to the City at:

If to DHHA:

Denver Health and Hospital Authority  
Office of General Counsel  
601 N. Broadway  
Denver, Colorado 80203

If to City:

Executive Director of Public Health & Environment or Designee  
101 W. Colfax Avenue, Suite 800  
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office  
1437 Bannock St., Room 353  
Denver, Colorado 80202

Said notice shall be delivered by prepaid U.S. mail and shall be deemed effective three (3) days after deposit with the U.S. Postal Service. The Parties may from time-to-time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered but such substitutions shall not be effective until actual receipt of written notification. Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

**13. Severability.** If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly, to effectuate the essential intent and purpose of this Agreement.

Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

**14. Entire Agreement.** This Agreement reflects the entire Agreement of the Parties with respect to the subject matter hereof and supersedes all prior oral or written statements, understandings or correspondence, if any, with respect thereto. No other documentation related to this Agreement shall form a part of this Agreement unless it is expressly referenced and incorporated herein. No modification or waiver of this Agreement shall be valid unless in writing and duly executed by the Parties to be charged herewith. The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

**15. Execution of Agreement, Counterparts.** This Agreement may be executed in multiple, identical counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument. Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in “portable document format” (“pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper Agreement bearing the original signature. This Agreement will not be final and binding until signed by both Parties. Once executed, this Agreement shall be binding on all Parties, their successors and assigns.

**Exhibit List**

**Exhibit A – Scope of Services.**

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**[Signature Pages Follow]**

**EXHIBIT A:  
SCOPE OF SERVICES**

1. DHHA will notify the Office of the Medical Examiner in the event that a DHHA patient aged three (3) years old or younger has died at DHHA and DHHA's medical staff is suspicious that such death may have resulted from child abuse pursuant to existing protocols.
2. Upon notification from DHHA, the Office of the Medical Examiner will determine whether a postmortem skeletal survey is needed and, if so, will request a postmortem skeletal survey from DHHA.
3. The Office of the Medical Examiner will ensure that a coroner or investigator is present with the body at DHHA's facility during the performance of the postmortem skeletal survey. In the event the coroner requests a postmortem skeletal survey, DHHA will allow up to ninety (90) minutes for the coroner or investigator to arrive at DHHA's facility. After such time period, DHHA may move the patient's body to the morgue to await the arrival of the coroner or investigator. If the coroner or investigator arrives after the body has been transported to the morgue, DHHA will nonetheless attempt to perform the skeletal survey; provided, however, the parties each acknowledge that a skeletal survey performed after rigor mortis has set in will affect the ability of DHHA staff to manipulate the body and, therefore, may affect the quality of images produced during the skeletal survey.
4. The coroner or investigator shall provide direction to DHHA staff to ensure that the postmortem skeletal survey satisfies the evidentiary requirements of the Office of the Medical Examiner, including, without limitation, any requirements relating to chain of custody and manipulation of the body.
5. The postmortem skeletal survey will be performed by DHHA in accordance with DHHA protocol and appropriate standards of practice. Without limiting the foregoing, the City understands that the body will be removed from the body bag and reasonably manipulated by DHHA staff in order to perform the skeletal survey.
6. DHHA will prepare documentation of the postmortem skeletal survey and will provide the Office of the Medical Examiner copies of such documentation in a manner determined by DHHA, in consultation with the Office of the Medical Examiner.

**Contract Control Number:** ENVHL-202264740-00  
**Contractor Name:** DENVER HEALTH AND HOSPITAL AUTHORITY

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

ENVHL-202264740-00  
DENVER HEALTH AND HOSPITAL AUTHORITY

By:  F15GEE241F5B4B2...

Name: Kris Gaw  
(please print)

Title: Chief operating officer  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)