

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR AUTOPSIES AND RELATED SERVICES BETWEEN
FORT BEND COUNTY AND
THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON**

This Agreement for Autopsies and Related Services (“Agreement”) is between Fort Bend County, Texas (the "COUNTY" or “County”) and The University of Texas Medical Branch at Galveston, for and on behalf of its Department of Pathology ("UTMB") to perform autopsies and related services for the COUNTY.

PREAMBLE

WHEREAS, Chapter 49.10 of the Texas Code of Criminal Procedure specifies both mandatory and permissive instances that authorize a Justice of the Peace to order that an autopsy be performed; and

WHEREAS, County does not have a medical examiner’s office and is not part of a medical examiner’s district; and

WHEREAS, UTMB has qualified staff to perform autopsies and related services on an “as needed basis” for County; and

WHEREAS, Chapter 49.10 of the Texas Code of Criminal Procedure authorizes County to pay a reasonable fee for such autopsy and related services; and

WHEREAS, County finds this Agreement serves a public purpose;

NOW THEREFORE, County and UTMB (the “parties”) agree that UTMB will provide autopsies and related services for County in accordance with the following terms and conditions.

I. UTMB RESPONSIBILITIES

- 1.1 **Personnel.** Under this Agreement, UTMB agrees to provide faculty physicians and associated staff necessary to perform autopsies and related services as requested by COUNTY and agreed to by the parties. UTMB will provide at least one faculty physician who will provide autopsy services for COUNTY. That individual shall be licensed by the Texas State Board of Medical Examiners and be board certified in the field of forensic pathology.
- 1.2 **Autopsies.** UTMB shall perform an autopsy on behalf of County upon UTMB’s receipt of an “Order for Autopsy” (in the designated format of Attachment “A”,

attached hereto and incorporated for all purposes) signed by a Justice of the Peace or other person authorized by law to request an autopsy on behalf of County. All autopsies shall be performed in accordance with the laws of the United States and the State of Texas.

- 1.2.1 Autopsies shall determine the manner and cause of death to the extent such can be ascertained, including toxicology examinations when appropriate where death does not appear from natural causes or is undetermined. UTMB shall provide a written autopsy report to the requesting authority/agency within a reasonable time period and provide an initial summary form to expedite certification of death and the flow of information.
- 1.2.2 Autopsies shall be fully documented through the use of 35mm photography (or the use of reputable digital photographic techniques, utilizing secure and unalterable computer storage techniques), laboratory analysis of tissue and other necessary samples, and written reports. Tissue samples will be maintained by UTMB and in a sufficient quantity to allow for future testing.
- 1.2.3 Autopsies shall only be performed by an appropriately licensed physician and shall only be conducted at a facility suitable for autopsy examinations, including access to x-ray facilities, and a professional support.
- 1.2.4 Records of autopsy reports, lab tests and reports, data, documents, x-ray, photographs, investigator reports, correspondence, magnetic recording, or other tangible item ("autopsy records") relating to COUNTY autopsies shall be stored in the records of UTMB. For purposes of this contract solely, UTMB shall be deemed to be the Custodian of Records for the records relating to any COUNTY autopsy. A copy of such information shall be provided to COUNTY immediately upon completion of a final report. UTMB shall allow COUNTY access to COUNTY autopsy records for copying purposes. UTMB shall only be reimbursed for the actual cost of the copies produced to COUNTY, not to exceed the amounts specified in Texas Health & Safety Code Section 671.012 and in the rules adopted by the General Services Commission for charges for public records. COUNTY may at its own expense make copies of documentation for any legal purpose.

The parties acknowledge certain portions of autopsy records are available to the public under Texas Government Code, Chapter 552 (the "Public Information Act") and Texas Code of Criminal Procedure, Art. 49.25, Sec. 11. Pursuant to the Public Information Act and notwithstanding any provisions herein to the contrary, COUNTY is responsible for responding to any and all requests for public information related to COUNTY autopsies and autopsy records. If any request for public information is served upon UTMB, UTMB will promptly notify COUNTY.

COUNTY shall notify UTMB of County's receipt of each Public Information Act Request for records created during the term of this Agreement. UTMB shall

promptly provide the responsive records to ensure COUNTY has adequate time to review the records. COUNTY shall be responsible for any argument made to the Texas Attorney General, as well as any subsequent release to the requestor, related to the public information requested. Both parties understand and agree that Public Information Act Requests are time sensitive and should be handled without delay.

- 1.2.5 UTMB shall make a report on a quarterly basis of the total number of autopsies performed for the COUNTY.
- 1.3 **Other Duties.** In addition to the above, UTMB will also perform these duties:
 - 1.3.1 Provide telephone consultation with a pathologist 24 hours a day in response to incoming inquiries.
 - 1.3.2 Provide law enforcement briefings and pre-trial conferences at UTMB as necessary on autopsy cases.
 - 1.3.3 Provide one hour notice prior to start of autopsy if County agency makes the request in writing on the Investigator's Report.
- 1.4. **Standard of Performance.** UTMB shall ensure that all services are performed in a manner consistent with the applicable canons of forensic medicine, professional ethics, and professional judgment.
- 1.5. **Court Appearances.** UTMB agrees that UTMB personnel performing services pursuant to this Agreement shall appear as necessary during grand jury proceedings, court hearings, and trials in Fort Bend County at the written request of the COUNTY'S District Attorney or designee. However, UTMB shall not be responsible for court appearances under this section relating to autopsy services involving non-UTMB personnel or non-UTMB experts. UTMB shall assess County no additional fee for Court Appearances as described in Section 1.5.

II. COUNTY RESPONSIBILITIES

- 2.1 **Fees and Payment.** During the term of this Agreement, the COUNTY shall pay UTMB the sum of **\$2,200.00** for each full autopsy performed and **\$725.00** for each external view autopsy performed, due and payable within thirty (30) days of receipt of invoice by County. The full autopsy fee includes the autopsy, report, toxicology screen if required, routine slides and histology, routine x-rays if required, pathologist consultation and court testimony. Any complicated, non-routine testing such as, but not limited to, non-routine toxicology, non-routine radiographic studies, trace elements and dental work, shall be charged to the County at UTMB's cost.
- 2.2 **Court Appearances.** COUNTY agrees to use its best efforts to minimize disruption to UTMB with regard to Court Appearances as addressed in Section 1.5 of this Agreement.

2.3 **COUNTY DUTIES.** COUNTY agrees to perform the following duties:

- 2.3.1 Provide legal authorization for autopsy examination to UTMB prior to examination.
- 2.3.2 Provide necessary information, including related police reports, medical records, names of treating physicians, allied information, and support necessary for an informed pre-examination and review.
- 2.3.3 Provide the body with clothing and, if all or part of the clothing has previously been removed, provide it with the body for examination, correlation, and documentation.
- 2.3.4 Provide any items associated with treatment and/or life saving attempts undisturbed and, if necessary, assist in distinguishing features of medical/surgical treatment from those due to injury. When available, obtain and forward for analysis any blood, body fluid or other such specimens obtained during life.
- 2.3.5 Provide for examination any medications prescribed for, or thought to have been used by, the deceased.
- 2.3.6 Provide for examination any weapons, ammunition, instruments, or case-related items such as suspected suicide notes, or copies of notes, especially any that are found on/about the person of the deceased. If a weapon is not provided, will provide a detailed description with appropriate measurements.
- 2.3.7 If the identity of the deceased is unknown or in doubt, help acquire any information, items or records necessary to help establish identification by scientific means.
- 2.3.8 In the event the next-of-kin should request tissue or organ donation, coordinate procedures with UTMB to promote optimum handling and to ensure that appropriate examination can be completed.
- 2.3.9 Transport the body to and from the morgue to the autopsy room at the location identified in Section 1.2.3.
- 2.3.10 If requested, send an authorized representative to take possession of items of value or evidence that may be discovered.
- 2.3.11 Provide the necessary personnel to perform any investigatory functions and related administrative support for crime scenes and death sites.
- 2.3.12 Notify UTMB of any severely abusively injured child at time of hospitalization.

2.3.13 Promptly make arrangements to remove the remains of the deceased after the performance of the autopsy if the next-of-kin have not been informed of the death or no next-of-kin has been located or identified.

III. MUTUAL AGREEMENTS

3.1 Indemnification.

3.1.1 To the extent authorized by the laws and constitution of the State of Texas, the COUNTY agrees to hold the State of Texas, the Board of Regents of The University of Texas System, UTMB, its officers, employees, and agents harmless from and indemnify each of them against any and all claims, actions, damages, suits, proceedings, judgments, and liabilities, excluding attorney fees, for personal injury, death, or property damage resulting from the acts or omissions of COUNTY or its agents, or employees.

3.1.2 To the extent authorized by the laws and constitution of the State of Texas, UTMB agrees to hold the COUNTY, its officers, employees, and agents harmless from and indemnify each against any and all claims, actions, damages, suits, proceedings, judgments, and liabilities, excluding attorney fees, for personal injury, death, or property damage resulting from the acts or omissions of UTMB or its agents, or employees.

3.2 **Insurance.** UTMB represents and warrants to COUNTY that UTMB shall maintain in full force and effect during the term of this Agreement self-funded professional liability coverage for designated faculty physicians known as The University of Texas System Medical Malpractice Self-Insurance Plan. Liability for the tortious conduct of all other UTMB employees including house staff is provided for solely by Chapters 101 and 104 of the Texas Tort Claims Act.

3.3 **Amendments.** This Agreement may be amended when set forth in writing and signed by the parties to the Agreement.

3.4 **Notice.** Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be mailed by certified or registered mail addressed as set forth below or at such other address as may be specified by written notice:

UTMB: Executive Vice President,
Chief Business and Finance Officer
The University of Texas Medical Branch at Galveston
301 University Boulevard
Route Number 0128
Galveston, Texas 77555-0128

cc: Barbara Petit
Sr. Administrator, Department of Pathology
The University of Texas Medical Branch at Galveston
301 University Blvd.
Galveston, Texas 77555-0527

COUNTY: Fort Bend County Judge, Robert E. Hebert
301 Jackson, Suite 719
Richmond, Texas 77469

All payments shall be made to UTMB in the following manner:

Fiscal Services Route Number 0107
The University of Texas Medical Branch at Galveston
Room 2.204 Administration Annex II
301 University Boulevard
Galveston, Texas 77555-0107

- 3.5 **Term.** Regardless of the date of execution, this Agreement shall be in effect from September 1, 2011 through August 31, 2012, unless terminated earlier as provided herein. The Agreement supersedes any prior agreement between the parties. A subsequent one (1) year term may be effected upon the mutual written consent of the parties. A party may terminate this Agreement for any reason by giving the other party ninety (90) days written notice of such intent to terminate.
- 3.6 **Assignment.** Neither party may assign any of the rights or duties created by this contract without the prior written approval of the other party.
- 3.7 **Venue.** This contract is governed by the laws of the State of Texas.
- 3.8 **Severability.** Any invalidity of any part of this contract will not cause the remaining parts hereof to be invalid.
- 3.9 **Waiver.** No waiver of any default by either party will constitute a waiver of any subsequent default.
- 3.10 **Independent Contractor.** UTMB recognizes that it is engaged as an independent contractor and acknowledges that COUNTY will have no responsibility to provide benefits normally associated with employee status. UTMB, in accordance with its status as an independent contractor, agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the COUNTY, and that it will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the COUNTY, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits.

3.11 **Entire Agreement.** This contract constitutes the entire Agreement between the parties and no oral representation between the parties made prior to or after the execution of this contract will be given any force and effect unless reduced to writing herein.

3.12 **HIPAA Compliance.**

Acknowledgment of HIPAA Obligation and Other Regulations Implementing the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320(d) (“HIPAA”). To the extent County comes into contact with information considered Individually Identifiable Health Information as defined by 42 U.S.C. §1320(d), Protected Health Information or Electronic Protected Health Information (collectively known as “Protected Information”) as regulated by the Department of Health and Human Services (DHHS) through the adoption of standards, 45 CFR Parts 160 and 164 (Privacy Rule) and 45 CFR Parts 160, 162 and 164 (Security Rule), collectively referred to as “the HIPAA Rules,” County agrees to keep private and to secure any information considered Protected Information in accordance with federal law.

- A. County agrees to only use and disclose Protected Information as required to perform the services outlined in this Agreement. County may use and disclose Protected Information for the proper management and administration of the County’s operations and for data aggregation services to the extent permitted by the HIPAA Rules.
- B. County will not use or further disclose Protected Information other than as permitted or required under this Agreement or as required by law.
- C. County will use appropriate safeguards to prevent the use or disclosure of Protected Information for any reason other than as provided by this Agreement. County shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Information that it creates, receives, maintains, or transmits on behalf of UTMB.
- D. County agrees to promptly notify UTMB of any use or disclosure of Protected Information not provided for in this Agreement of which it becomes aware. Contactor shall report to UTMB any instances, including security incidents, of which it is aware in which Protected Information is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules.
- E. County shall require any agents or subcontractors who receive Protected Information to be bound by the same restrictions and conditions outlined in this Agreement. Additionally, County shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of electronic

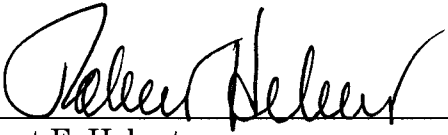
Protected Information that County creates, receives, maintains, or transmits on behalf of UTMB.

- F. To the extent it is determined County maintains a Designated Record Set, County agrees to follow 45 CFR §164.524 (Access of Individuals to PHI), 164.526 (Amendment of PHI) and 164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Rules.
 - G. County agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from UTMB available to the Secretary of Health and Human Services or the Secretary's designee for purposes of determining UTMB's compliance with the HIPAA Privacy Regulations.
 - H. After termination of the Agreement, County agrees to return or destroy all Protected Information, if feasible, and, if not feasible, County agrees to continue to protect the Protected Information from wrongful uses and disclosures.
 - I. County understands that UTMB may terminate this Agreement immediately if UTMB determines County violated a material term of this Agreement and County's actions are not successful in remedying the breach. If termination is not feasible UTMB may report the problem to the Secretary of Health and Human Services.
 - J. County may use and disclose de-identified Protected Information if UTMB approves of the use of de-identified Protected Information and the Protected Information is de-identified in compliance with the HIPAA Rules.
- 3.13 Notwithstanding the foregoing, neither party waives any rights of sovereign immunity to which it may be entitled pursuant to statute or at common law.

[Signatures follow on next page.]


EXECUTED this 10 day of January, ~~2011~~ 2012

FORT BEND COUNTY

By: 
Robert E. Hebert
County Judge

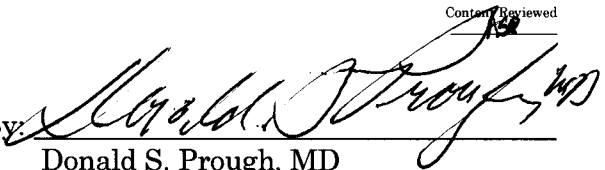
Date: 1-10-2012

**THE UNIVERSITY OF TEXAS MEDICAL
BRANCH AT GALVESTON**

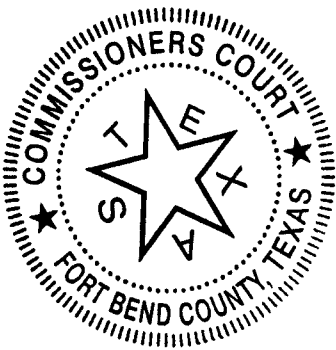
By: 
William R. Elger, CPA
Executive Vice President,
Chief Business and Finance Officer

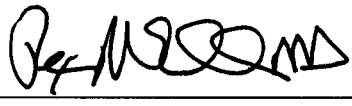
Date: 11/15/11

Contract Reviewed

By: 
Donald S. Prough, MD
Interim Vice President and Dean,
School of Medicine

Date: _____



By: 
Rex McCallum, M.D., FACP, FACR
Vice President, Chief Physician
Executive

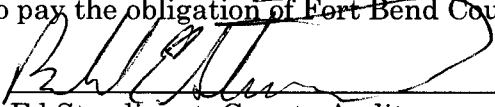
Date: 12/15/11

ATTEST: 
Dianne Wilson, County Clerk

Auditor's Certificate

\$340,000 RAJ

I hereby certify that funds are available to pay the obligation of Fort Bend County.


Ed Sturdivant, County Auditor

I/MTR/HHS/Autopsies/10.17.11 File No. _____

Attachment A

ORDER REQUESTING AUTOPSY

I, _____, Justice of the Peace, Precinct _____, Fort Bend County, Texas, upon the authority vested in me by Texas Code of Criminal Procedure Chapter 49 and in accordance with the Agreement for Autopsies between Fort Bend County and The University of Texas Medical Branch at Galveston, hereby order an autopsy upon the body of:

Decedent's **Full Legal Name:**

(From government issued ID)(Last) (First) (Middle)

Date of Death: _____

I hereby request and authorize a physician, to perform a post mortem examination of the decedent and to remove and retain such organs, tissues, or fluids as may be necessary for further study to determine cause and manner of death.

Please mail a copy of the report to:

Phone#: _____ Fax: _____

Email: _____

I further order the physician to release the body to _____ upon completion of the autopsy.

Judge

Date