

**AGREEMENT FOR FORENSIC EXAMINATION SERVICES
by FORENSIC NURSE SPECIALISTS, INC.**

This **Agreement for Forensic Examination Services** is made and entered into as of the day of October 3, 2023 (the “Effective Date”), by and between FORENSIC NURSE SPECIALISTS, INC (“FNS”), a privately owned minority (woman) professional corporation, and the City of Irvine, a California Municipal Corporation (“City”), on behalf of Irvine Police Department (“Department”), with respect to the following:

WHEREAS, Department requires the collection of forensic evidence with respect to victims of sexual assault and other forms of interpersonal violence;

WHEREAS, this is a mandatory expense as failure to provide a victim of sexual assault with an examination by a qualified healthcare professional would be a violation of the California Penal Code;

WHEREAS, Department does not have the capability to collect the aforesaid forensic evidence internally;

WHEREAS, FNS has specialized training and expertise in the forensic examination services and Department desires to contract such services from FNS; and

WHEREAS, FNS is the sole source providing this service in Orange County and there are no specific registries that utilizes forensic nurses solely for the purpose of exams.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained herein, the parties hereto agree as follows:

1. Services. FNS agrees to provide the following services (collectively, the “Services”) to the Department:

1.1. Examination. FNS agrees to provide the Department approved forensic-medical exams 24 hours per day, 7 days per week (i.e., continuously) to sexual assault and other types of victims with a one hour response to a mutually agreed upon examination location. The exam is to include digital imaging of injuries and physical findings. The examination will be conducted by forensic nurses who are trained and competent in the California State Protocol established by CALOES (California Office of Emergency Services).

1.2. Evidence. All evidence collected during the examination will be packaged, labeled and sealed according to the state and local crime lab requirements and submitted to the on-site evidence storage refrigerator with appropriate chain of custody documentation. Evidence for mobile exams (off site) or courtesy cases will be relinquished at the

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conclusion of that examination to the authorizing Department. Digital photographs will be available upon request by Department investigators.

1.3. Equipment and Supplies. FNS will provide all equipment and supplies to conduct all services listed in Exhibit A.

1.4. Testimony. FNS agrees to provide competent court testimony as requested by the Department (upon receipt of subpoena).

1.5. Records. FNS shall keep an itemized record of all Services performed by FNS for Department under this Agreement, which records shall be made available within three (3) business days for inspection by the Chief of Police of Department.

2. Compensation. In exchange for the Services to be provided by FNS pursuant to Section 1 above, Department, though City, shall compensate FNS according Exhibit A “FEE SCHEDULE – 2023-2024”. Services can be added at any time per Department request and at negotiated rates.

2.1. Rate Adjustment. Department acknowledges and agrees that FNS is entitled to adjust the rates set forth in this Section 2, Exhibit A. All fee adjustments are subject to prior written mutual agreement of the parties. FNS shall use reasonable efforts to give Department at least sixty (60) days advance written notice of any increase or adjustment to rates.

3. Payment. FNS shall invoice Department monthly for all Services performed in each previous month. Department shall remit payment to FNS within thirty (30) days of receipt of an invoice, unless Department disputes the validity or veracity of the information on the invoice. Department shall provide FNS with notice of any such disputed information or amount within thirty (30) days of receipt of an invoice.

4. Term. This Agreement shall be for a term of one year, commencing on the Effective Date and expiring on the first anniversary thereof (the “Initial Term”). This Agreement shall be renewable only upon the mutual written agreement of both parties hereto (each, a “Renewal Term” and together with the Initial Term, the “Term”).

4.1. Termination. Either party may terminate this Agreement without cause at any time during the term of this Agreement by providing the other party at least thirty (30) days prior written notice of termination.

5. Indemnification. The parties each shall indemnify, defend, and hold the other party harmless from and against any and all claims, liability, loss, damages, costs, and expenses (including reasonable attorneys’ fees) caused, or alleged to be caused, by

the negligence or wrongful acts or omissions of such indemnifying party or its employees, officers or agents. The provisions of this Section 5 shall survive the expiration or termination of this Agreement.

6. Insurance. FNS shall procure and maintain at its own expense the following insurance:

6.1. Commercial General Liability Insurance in an amount not less than \$1,000,000 per each occurrence and \$2,000,000 general aggregate.

6.2. Workers Compensation Insurance as required by the California Labor Code and employer's liability insurance in an amount not less than \$1,000,000. This policy shall be endorsed to state that the insurer waive its right of subrogation against the Department, its boards and commissions, and its officials, employees, and agents.

6.3. Professional liability or errors or omissions insurance in an amount not less than \$1,000,000 per claim.

7. Confidentiality of Patient Information. None of the parties shall disclose any confidential patient health information to any third party, except where permitted or required by law or where the patient expressly approves such disclosure. FNS and the Department shall comply with all federal and state laws and regulations regarding the confidentiality of such information, including without limitation the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

8. Non-Discrimination. By signing this Agreement, FNS certifies that it does not discriminate in hiring or treatment on the basis of race, color, creed, religion, sex, sexual orientation, age, mental status, national origin, ancestry, physical handicap, medical condition, or any other classification protected by State or Federal law.

9. Non-Exclusivity. This Agreement is not exclusive, and nothing herein shall preclude either party from contracting with any other person or entity for any purpose.

10. Notices. Any notices required or desired to be given under this Agreement shall be in writing and personally delivered or deposited in the US Postal Service, first class.

Chief of Police
Irvine Police Department
1 Civic Center Plaza
Irvine, CA 92623
949-724-7101

Forensic Nurse Specialists, Inc.
C/O: Malinda Wheeler, President
10413 Los Alamitos Blvd.
Los Alamitos, CA 90720
562-430-6220

11. Assignment of Personnel. FNS shall assign only competent, licensed personnel to perform Services pursuant to this Agreement.

12. Independent Contractor. It is the intent of the parties that FNS is and shall remain an independent contractor, and FNS shall (i) comply in all material respects with all the laws, rules, ordinances, regulations and restrictions applicable to the Services, and (ii) pay all federal and state taxes applicable to FNS, whether levied under existing or subsequently enacted laws, rules or regulations. The parties hereto do not intend to create an employer-employee or master-servant relationship of any kind. Neither Department nor City shall in any way, at any time or for any purpose, become or be deemed to be a joint employer of FNS employees. FNS shall not at any time or in any manner represent that FNS employees are agents or employees of Department or City. FNS employees shall not be entitled to any sick leave, vacation, retirement, or other fringe benefits from Department or City; and FNS employees shall not be paid by Department or City time and one-half for working in excess of forty (40) hours in any one week. Neither Department nor City is under an obligation to withhold State and Federal tax deductions from compensation paid to FNS. FNS employees shall not be included in the competitive service, have any property right to any position, or any of the rights an employee of City or Department may have in the event of termination or expiration of this Agreement.

13. Governing Law. This Agreement shall be governed by the laws of the State of California.

14. Entire Agreement; Amendments. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understanding, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto.

15. Severability. If any paragraph, section, sentence, clause or phrase contained in this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining paragraphs, sections, sentences, clauses or phrases contained in this Agreement shall not be affected thereby.

16. Counterparts. This Agreement may be executed by electronic or hard-copy signature and in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of executed copies of this Agreement by

facsimile, email or other electronic transmission will constitute effective execution and delivery of this agreement for all purposes. Signatures of the parties transmitted by such methods will be treated in all respects as having the same effect as an original signature.

17. Non-Liability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of City or Department shall be personally liable to FNS, or any successor in interest, in the event of any default or breach by City or Department, or for any amount which may become due to FNS or its successor, or for breach of any obligation of the terms of this Agreement.

18. No Third Party Beneficiaries. This Agreement does not confer any rights or benefits upon any third person or entity other than City, Department, and FNS. There are no third party beneficiaries.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**FORENSIC NURSE SPECIALISTS,
INC, (FNS) a professional
Corporation in the State of California**

By: Malinda Wheeler
Name: Malinda Wheeler

Title: President

THE CITY OF IRVINE ("CITY")

DocuSigned by:
By: Michael Kent
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Name: Michael Kent
Title: Chief of Police

Attest:

DocuSigned by:
By: Carl Petersen
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Carl Petersen
Its: City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

DocuSigned by:
By: Jeffrey Melching
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Jeffrey Melching

EXHIBIT A- FEE SCHEDULE – 2023-2024

Service	Definition	Rate
Sexual Assault Forensic Exam (All ages, reported or non-reported cases to law enforcement)	Evidence collection, clothing, DNA reference samples, blood and urine collection, digital photography, medical-forensic documentation using state mandated forms, healthcare treatment for STI prevention, HIV prevention and pregnancy prevention provided at the time of the exam.	\$1200.00
Mobile Trauma Exam	A forensic exam conducted at any Orange County hospital in the ER or ICU when a patient is severely injured and admitted to that other hospital for on-going medical care. (Requests for Mobile exams in nursing homes and psychiatric facilities will be considered on a case-by-case basis.)	\$1400.00
Dry Run	Department calls out the on-call forensic nurse to perform a case and through no fault of FNS, the victim changes their mind, refuses to permit the examination, does not want the examination, or does not permit forensic nurse to conduct the examination.	\$300.00
Domestic Violence/ Strangulation Exam	A forensic exam focused on body injury and assessment with specific written and photographic documentation on strangulation injury.	\$600.00
Testimony	Expert witness testimony by the forensic nurse upon receipt of subpoena form the District Attorney's office	\$500.00/day in court on the stand