

Agenda Item: VIII.B.
Meeting Date: September 20, 2016

MEMORANDUM TO BOARD OF COMMISSIONERS:

FROM: Sheriff Neil Godfrey

DATE: September 14 2016

SUBJECT: Contract with NMS Labs for Forensic Drug Analysis and DNA Testing

REQUEST:

We are requesting that the Board of Commissioners approve the attached contract and sole source justification with NMS Labs to provide forensic drug analysis and DNA testing for criminal investigations.

BACKGROUND:

The Moore County Sheriff's Office and other law enforcement agencies have relied upon the North Carolina State Crime for forensic drug analysis and DNA testing for the past several years. There has been a significant case backlog in the State Crime Lab. This backlog has resulted in the delayed arrests and the delayed criminal prosecution of criminal suspects. In some cases, the backlog has resulted in cases being dismissed. While the backlog has been reduced during the past few years, the backlog still exists. Last year, the Sheriff's Office and other law enforcement agencies in this area contracted with NMS labs for forensic drug analysis and DNA testing. Other agencies include the Cumberland County Sheriff's Office, the Fayetteville Police Department and the Harnett County Sheriff's Office. We found that the lab work completed by NMS labs enabled the Sheriff's Office to prosecute criminal cases in both State Court and Federal Court in a very timely manner.

IMPLEMENTATION PLAN:

The terms and conditions of this contract will be implemented upon the approval of the contract by the Board of Commissioners.

FINANCIAL IMPACT STATEMENT:

The cost for the work in this contract will be paid from available funds in our current budget that were previously budgeted for this purpose and approved by the Board of Commissioners in the FY2017 County Budget.

RECOMMENDATION SUMMARY:

Sheriff Godfrey recommends that the contract for this work be approved.

Motion to approve the sole source contract with NMS Labs for providing forensic drug analysis and DNA testing for the Sheriff's Office and to authorize the county manager to sign the contract.

SUPPORTING ATTACHMENTS:

1. Copy of the proposed contract with NMS Labs.
2. Sole Source Justification for contracting with NMS Labs



LABORATORY SERVICES AGREEMENT
Agreement No. 100000-IFS-MOORENC

National Medical Services, Inc. d/b/a NMS Labs ("NMS Labs") located at 3701 Welsh Road, Willow Grove, PA 19090, agrees to provide laboratory testing and related services for County of Moore acting by and through its department, the Moore County Sheriff's Office ("Client") located at Rick Rhyne Public Safety Center, 302 S McNeill St, Carthage, NC 28327 pursuant to the terms and conditions of this Agreement.

I. SERVICES PROVIDED

- a. Laboratory testing and services covered by this Agreement are as described in Exhibit A & B.
- b. In the event that Client requires a change to the nature, scope, or delivery of agreed upon services, Client shall provide a request to NMS Labs in writing. NMS Labs will provide an estimate of work required and associated costs to meet the request. Any changes to this Agreement shall be agreed to in writing by both parties and an Amendment to this Agreement shall be executed.

II. PERIOD OF PERFORMANCE

The Effective Date of this Agreement is **July 1, 2016** and will apply to commitments made by NMS Labs as outlined in Exhibits A and B from **July 1, 2016** and ending on the Completion Date of **June 30, 2017**, unless terminated pursuant to the terms of this agreement or extended by mutual written agreement of the parties.

III. COMPENSATION

NMS Labs will bill Client for services performed in accordance with this agreement as outlined in Exhibit A & B.

IV. USE OF SUBCONTRACTORS

- a. NMS Labs may utilize independent or third-party contractors or subcontractors to perform all or any part of its obligations under this Agreement.
- b. NMS Labs may be required to release certain patient information to said contractors. NMS will use reasonable commercial efforts to protect health information (as that term is defined in the Privacy Regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

V. USE OF NETWORK LABS

Under the terms of this agreement, NMS Labs is authorized by the Client to utilize one of its ABFT and/or ASCLD/LAB accredited network laboratories to perform all or part of the work performed under this agreement.

VI. CLIENT RESPONSIBILITIES

- a. Client's personnel shall cooperate with NMS Labs personnel, providing assistance and information as needed, to ensure testing services can be completed in accordance with this Agreement.
- b. Client shall adhere to the sample submission requirements set forth by NMS Labs located at: <http://www.nmslabs.com/sample-submission/>
- c. In the event Client submits samples to NMS Labs that do not adhere to NMS Labs' sample submission requirements, NMS Labs will proceed with the following action:

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- 1) Provide notice to Client that testing cannot be performed on the samples provided by Client and;
- 2) Take no action with regards to any non-conforming samples unless the parties amend the current agreement to provide for such testing.

Client will be responsible for reimbursing NMS Labs for all costs incurred in the performance of this Agreement as outlined in Exhibit A & B.

VII. PRIOR AGREEMENTS

This Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and supersedes all prior understandings, arrangements, and agreements, oral or written, relating to the services provided herein.

VIII. TERMINATION

This Agreement may be terminated by either party at any time for any reason with **thirty (30)** days prior written notice. If the Client should terminate the agreement prior to the end date, the Client shall reimburse NMS Labs for all costs under this agreement, not previously paid, for the performance of this contract before the effective date of the termination. The Client shall also reimburse NMS Labs for those costs that may continue for a reasonable time after the termination date with the approval of or as directed by the Client. NMS Labs shall discontinue these costs as rapidly as practical.

IX. PAYMENT

- a. The Total Annual Amount of this Agreement is Not to Exceed \$40,000 per year.
- b. Payment is due to NMS Labs 30 days from invoice date. Invoices are provided on a monthly basis and capture billing for services completed and rendered in that calendar month.
- c. NMS Labs reserves the right to charge a finance charge on any past due balance at either one percent (1 %) per month or the maximum rate that the law permits, whichever is less.
- d. NMS Labs will collect from Client all applicable federal, state, local and other taxes and other amounts as required by law, rule or regulation.
- e. All invoices will be rendered by NMS Labs in United States dollars and all payments to NMS Labs are to be made in United States dollars.

X. LEGISLATIVE AND REGULATORY CHANGES

NMS Labs reserves the right to immediately amend this Agreement to comply with any changes to federal or state laws or regulations in order to comply with said changes.

XI. COMPLIANCE WITH LAWS

NMS, its employees, and personnel shall comply with all applicable statutes, ordinances, rules, regulations, and other similar requirements pertaining to the profession(s) of their employees and to the Services provided under this Agreement. NMS will use reasonable commercial efforts to perform the services provided hereunder in compliance with all applicable local, state, and federal licensing, certification and accreditation standards and requirements including any applicable standards for laboratories participating in the Medicare and state Medicaid programs.

XII. CONFIDENTIALITY

Each party shall hold all Confidential Information in confidence. Neither party shall disclose any Confidential Information without the knowledge and written approval of the authorized other party. For purposes of this Agreement "Confidential Information" means all terms of this Agreement, all information

and know-how of a scientific, technical, operational or economic nature, the results of analysis provided hereunder and all Innovations. Confidential Information shall not include (i) information generally available to the public through no fault of the other party, (ii) information which the other party had already had knowledge of, (iii) information which has become part of the public domain, including the North Carolina Public Records Act, through no fault of a party, and (iv) information ordered to be disclosed by subpoena, other legal process or requirement of law. Each party agrees to return or destroy, on demand and without delay, any and all Confidential Information (including any and all copies thereof) of the other party which has come into its possession, provided, however, that NMS Labs may retain such media and materials containing Confidential Information for customary archival and audit purposes (including with respect to regulatory compliance). This Section shall survive any termination or expiration of this Agreement.

XIII. DISCLOSURE OF INNOVATIONS; OWNERSHIP OF INNOVATIONS

- a. Client acknowledges that (i) prior to the date hereof NMS Labs has created, made, conceived, developed or reduced to practice, alone or jointly with others, inventions, improvements and other innovations, including, but not limited to, techniques and methodologies (including clinical methodologies) and markers, whether or not such inventions, improvements or other innovations are eligible for patent, copyright, trademark, trade secret or other legal protection and (ii) during the course of performance of the services hereunder, NMS Labs may create inventions, improvements and other innovations, may make, conceive, develop or reduce to practice, alone or jointly with others, inventions, improvements and other innovations, including, but not limited to, techniques and methodologies (including clinical methodologies) and markers discovered during testing (collectively, "Innovations"). Examples of Innovations shall include, but are not limited to, discoveries, research, inventions, formulas, techniques, business methods, know-how, marketing plans, new product plans, advertising, packaging and marketing techniques and improvements to computer hardware or software.

XIV. NO OTHER WARRANTIES

EXCEPT AS OTHERWISE SET FORTH HEREIN, NMS LABS MAKES NO REPRESENTATIONS NOR PROVIDES ANY WARRANTIES WHATSOEVER, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER IMPLIED OR STATUTORY, WITH REGARD TO THE SERVICES TO BE PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. THIS SECTION SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

XV. LIMITATION OF LIABILITY AND DAMAGES

IN NO EVENT SHALL NMS LABS BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOOD WILL, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS), WHETHER THE BASIS OF THE LIABILITY IS IN BREACH OF AGREEMENT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ANY OTHER LEGAL THEORY. ACTIONS COVERED HEREIN INCLUDE BUT ARE NOT LIMITED TO; MISHANDLING OR LOSS OF PATIENT SAMPLES OR THE MISHANDLING OR LOSS OF TESTING RESULTS. THIS SECTION SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

XVI. INDEMNIFICATION

Each party shall defend, indemnify, and hold the other party, its subsidiaries and affiliates, and each of their respective employees, officers, directors, attorneys, agents, and representatives, harmless from and against any and all claims, liabilities, expenses, losses, demands, damages, fines, penalties, and causes of



action of every kind and character from any cause whatsoever, made, incurred, sustained, or initiated by any third party (including any employee, contractor or representative of a party hereto or any of their respective family members), arising out of, incident to, or in connection with this Agreement or in connection with such party's infringement of any third party's Ownership of Innovations intellectual property rights. This Section shall survive any termination or expiration of this Agreement.

XVII. FORCE MAJEURE

NMS Labs shall not be deemed to be in default of any provision of this Agreement, nor be liable for any delay, failure in performance or interruption of services, resulting directly or indirectly from acts of God, embargoes, quarantines, civil or military authority, civil disturbance, insurrection, war, acts of terrorism, fire, other catastrophes or any such other cause beyond its control.

XVIII. GOVERNING LAW/VENUE

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of the State of North Carolina. All actions relating to this Contract in any way will be brought in the General Courts of Justice in the County of Moore and the State of North Carolina, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding, waives any objection to venue laid therein and agrees that all claims with respect to such actions or proceedings shall be heard and determined only in any such court and agrees not to bring any actions or proceedings arising out of or relating to this Agreement in any other court. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world. The non-prevailing party in any action described in this Section shall pay the prevailing party's expenses and costs of such including, but not limited to, the fees and expenses of such party's attorneys and expert witnesses. This Section shall survive any termination or expiration of this Agreement.

XIX. HIPAA COMPLIANCE

Each party, represents and warrants that with respect to all protected health information (as that term is defined in the Privacy Regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), it is a covered entity (and not a business associate of the other party) under the Privacy Regulations and that it shall protect the privacy, integrity, security, confidentiality and availability of the protected health information disclosed to, used by, or exchanged by the parties by implementing and maintaining privacy and security policies, procedures, and practices, and administrative, physical and technological safeguards and security mechanisms that reasonably and adequately protect the confidentiality, integrity and availability of the protected health information created, received, maintained or transmitted under this agreement, all as required by, and set forth more specifically in, the Privacy Regulations and the Security Regulations, as each may be amended from time to time. In the event HIPAA or the Privacy Regulations or Security Regulations require any addition to or modification of this Agreement, the parties shall use commercially reasonable efforts to agree upon such additions or modifications in a timely manner. If such agreement cannot be reached in a timely manner, either party may terminate this Agreement by written notice to the other party.

XX. Exhibits

The following Exhibits are incorporate as part of this agreement:

- **Exhibit A** – Pricing
- **Exhibit B** – Customized Terms
- **Exhibit C** – Contract Addendum for Contracts with any Department of Moore County Government



XXI. Notices

1. All Notices will be in writing and addressed as follows:

To National Medical Services, Inc.:

ATTN: Andrew Nolan
Vice President of Finance
3701 Welsh Road
Willow Grove, PA 19090

To Client:

Moore County Sheriff Office
Sheriff Neil Godfrey
Rick Rhyne Public Safety Center
302 S McNeill St, Carthage, NC 28327
(910) 947-2931

Communications between NMS Labs and Client related to the direction or performance of this Agreement must be by letter, fax, or email, each having the same authority and constituting acceptable modes of communication under this Agreement. Formal Notice requires an original letter, or fax thereof, signed by the authorized representative identified in this Agreement. All Notices sent by letter will be deemed effective when confirmation of receipt is sent by the respective party's Notice Contact listed above. Notices transmitted via fax or communications transmitted via email will be deemed effective only upon confirmation of receipt of the fax or email transmission by email reply.

XXII. SEVERABILITY

Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement. Each valid provision hereof will be enforced to the fullest extent permitted by law. In the event any provision of this Agreement is determined to be invalid or unenforceable, the Parties will negotiate in good faith to create a provision that will be enforceable and is as consistent as possible with the original provision.

XXIII. ASSIGNMENT

The obligations assumed under this Agreement cannot be delegated and the rights cannot be assigned without the prior written approval of NMS Labs.

Account Number(s): 41622



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

NATIONAL MEDICAL SERVICES, INC.
d/b/a NMS Labs

Client (Signature)

By Pierre G. Cassigneul
(Signature)

Name (Print)

Pierre G. Cassigneul
Name (Print)

Title (Print)

President & CEO
Title (Print)

Date

8/18/16
Date

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EXHIBIT A - PRICING

Amount due to NMS Labs for the work performed under this agreement is as outlined in this Exhibit:

Section 1. – PRICING INCLUDED IN MONTHLY SERVICE FEE

NMS Labs agrees to provide laboratory testing services to:

Client Billing Address:
 Moore County Sheriff Office
 Sheriff Neil Godfrey
 Rick Rhyne Public Safety Center
 302 S McNeill St, Carthage, NC 28327
 (910) 947-2931

Client Account Number(s): 41622
 Pricing Effective Date: 8/1/2016
 Pricing Expiration Date: 6/30/2017

NMS Representative: Courtney Paul
 Phone: 267-565-0823
 E-mail: Courtney.paul@nmslabs.com

Pricing and Expected volumes for IFS services provided under this agreement are as listed below.

Acode	Description	Projected Volume Covered under Contract Amount	Price per Test
99100	Monthly Services Fee Includes testing and services listed below	12	\$2,500.00
Testing included in Monthly Service Fee			
11000	Blood Alcohol Content	0	\$115.00
26000	Controlled Substances - Dual GC/MS Scan	200	\$150.00
29000	Controlled Substances – Targeted ID by FTIR and Color		\$150.00
22000	Controlled Substances - GC/MS Scan and Color		\$150.00
23000	Controlled Substances - Pharmaceutical ID and GC/MS Scan		\$150.00
21000	Controlled Substances -Marijuana only by Microscopic, Color and TLC		\$150.00
21500	Controlled Substances - Marijuana plus other drugs by Microscopic, Color and TLC		\$150.00
22500	Controlled Substances ID by GC/MS Scan and Botanical Color		\$150.00
24000	Pharmaceutical Identification (Visual Exam Only)		\$150.00



29100	Controlled Substances – Cocaine Salt vs. Base Determination by FTIR (Hourly rate)	10	\$327.00
NMS8150B	ProofPOSITIVE® Drug Impaired Driving/DRE Toxicology Panel, Blood	0	\$275.00
91100ES	IFS Local - Expert Opinion Report (Hourly	8	\$75.00
94000ES	IFS Local -Testimony (Hourly Rate)		\$350.00
91300ES	IFS Local -Travel Time (Hourly Rate)		\$175.00
92100ES	IFS Local -Deposition (Hourly Rate)		\$350.00
96600ES	IFS Local -Pretrial Preparation (Hourly		\$350.00
95300ES	IFS Local -BAC Litigation Package		30
99000ES	IFS Local -Litigation Support Package	\$75.00	
97100	Affidavits	10	\$75.00
RETURN	Specimen Return/Handling		\$50.00
99200	Evidence Return/Handling	60	\$50.00

Monthly Service Fee for IFS Services Outlined Above

The services outlined in the table above will be billed at \$2,500 per month for twelve (12) months (July 1, 2016- June 30, 2017) for a total estimated annualized cost of \$30,000. The total estimated annualized cost is based on the volume of services as outlined in the table above.

NMS Labs reserves the right to renegotiate the pricing for the work performed under this agreement throughout the term of this Agreement, if the volume of monthly submissions is trending at a rate that exceeds the annual estimate as outlined in the table above. Should NMS Labs determine that renegotiations are required then Moore County and NMS Labs will mutually agree on either an increased monthly service fee and/or charging for tests exceeding volumes outlined in the table above at a price per test basis.

Section 2. – Pricing for DNA Services

Pricing and Expected volumes for DNA services provided under this agreement are as listed below.

Acode	Description	Estimated Qty	Price under Agreement 2016-2017	*Estimated Expenditures
7305	DNA Amplification (Autosomal STR Amplification Only)	No estimate can be provided	\$450.00	No estimate can be provided
7300	DNA Analysis, Autosomal STR (Casework)	7	\$525.00	\$3,675.00
7308	DNA Analysis, Autosomal STR (Reference)	3	\$420.00	\$1,260.00
7500	Forensic Biology Expedited Process	No estimate can be provided	\$328.00	No estimate can be provided
7359	Database Property Crime	45	\$110.00	\$4,950.00
7301	DNA Analysis, Differential Extraction and Autosomal STR (Sex Assault sample)	No estimate can be provided	\$700.00	No estimate can be provided
7365	DNA Analysis, Data Pack	2	\$100.00	\$200.00
7306	DNA Analysis, Y-STR (Casework)	No estimate can be provided	\$578.00	No estimate can be provided
7357	DNA Analysis, Y-STR (Reference)	No estimate can be provided	\$473.00	No estimate can be provided
7090	Sexual Assault Victim Evidence Collection Kit Examination	No estimate can be provided	\$180.00	No estimate can be provided
98200	Professional Services (Hourly Rate)	No estimate can be provided	\$295.00	No estimate can be provided
DNA Testing Estimated Total based on Estimated Volumes Listed Above				\$10,085**

DNA Expert Service Fees***				
99019ES	DNA/FR Biology Testimony - Technical Director/ Leader	No estimate can be provided	150.00/hour	No estimate can be provided
99001ES	DNA/FR Biology Travel - Technical Director/Leader	No estimate can be provided	150.00/hour	No estimate can be provided
99002ES	DNA/FR Biology Testimony - Biologist/Admin. Technician	No estimate can be provided	100.00/hour	No estimate can be provided
99003ES	DNA/FR Biology Travel - Biologist/Admin. Technician	No estimate can be provided	100.00/hour	No estimate can be provided
99018ES	DNA/FR Biology Litigation Package	No estimate can be provided	\$50.00	No estimate can be provided
99004ES	DNA/FR Biology Expert Opinion- Technical Director/Leader	No estimate can be provided	150.00/hour	No estimate can be provided
99009ES	DNA/FR Biology Deposition - Technical Director/Leader	No estimate can be provided	150.00/hour	No estimate can be provided
99010ES	DNA/FR Biology Deposition - Biologist/Admin. Technician	No estimate can be provided	100.00/hour	No estimate can be provided
99011ES	DNA/FR Biology Pre-Trial Prep- Technical Director/Leader	No estimate can be provided	150.00/hour	No estimate can be provided
99012ES	DNA/FR Biology Pre-Trial Prep- Biologist/Admin Technician	No estimate can be provided	100.00/hour	No estimate can be provided
99013ES	DNA/FR Biology Phone Consult/Meeting - Technical Director/Leader	No estimate can be provided	150.00/hour	No estimate can be provided
99014ES	DNA/FR Biology Phone Consult/Meeting - Biologist/Admin. Technician	No estimate can be provided	100.00/hour	No estimate can be provided
99016ES	DNA/FR Biology Case Review - Technical Director/Leader	No estimate can be provided	150.00/hour	No estimate can be provided

*These are annual estimates only, and are dependent upon test choice and actual volumes of testing submitted.

**The total annual amount provided is based on the average test price for the total annual volume estimated for these testing options.

***Note that all Expert Services rendered for DNA including testimony, travel, and support documentation are not included in the monthly service fee.

DNA Expert Services Travel Costs: Travel Costs associated with DNA Expert Services will be billed in addition to those fees included in the table above.



- **PRICING FOR LOCAL DNA DATABASING SERVICES:**

No samples may be submitted to NMS Labs for local DNA Databasing until a separate agreement has been fully executed between the parties.

- **COVERED TESTING ACODES WITH EXPECTED VOLUMES**

All other services not included in Exhibit A, ordered during this effective period, will be billed at prevailing List Price Fees. NMS Labs reserves the right to renegotiate the pricing for the work performed under this agreement if the projected volumes as listed above changes.

- **COVERED ENTITIES**

Unless specifically identified the pricing effective under this agreement shall not be applied to any other entities without prior written approval from NMS Labs.



EXHIBIT B – Customized Terms

- **NON-COVERED TESTING**

Any services not included in Exhibit A and B necessary to the performance of the work in accordance with this Agreement shall be billed at prevailing List Price Fees.

- **EXPEDITED TESTING**

NMS Labs does not provide STAT testing however, an expedited turnaround time may be provided to the Client for an additional fee. This fee would be in addition to the pricing as listed in Exhibit A.

- **TESTIMONY AND TRAVEL COSTS**

Should the Client require NMS Labs to provide Experts for testimony or consultations, NMS Labs will charge the Client in accordance with Exhibit A.

- Eight (8) testimony events (inclusive of travel) for IFS Services as outlined in Section 1 of Exhibit A are incorporated as part of the monthly service fee. Should the client require more than eight (8) testimony events for IFS Services then the costs associated with Testimony for these services will be at rates as listed in Exhibit A.
- Testimony and associated travel costs for DNA Services will be billed separately and in addition to the monthly service fee at rates as listed in Section 2 of Exhibit A.

- **ADDITIONAL SERVICES**

The following services are included as part of this agreement as listed in Exhibit A:

- **Litigation Packages:** NMS Labs shall provide 30 Litigation packages to support IFS Services throughout the term of this agreement for fees as outlined in Section 1. of Exhibit A. NMS Labs shall provide Litigation Packages for DNA Services upon request for fees as outlined in Section 2. of Exhibit A.
- **Miscellaneous Forms:** Pricing included in Exhibit A includes administration of the following forms:
 - **Restitution:** To be provided in NMS Labs' standard format.
 - **Affidavits:** NMS Labs will provide un-notarized affidavits using NMS Labs' standard format. Affidavits will accompany reports submitted to the Client.

NMS Labs shall provide additional forms upon request of the Client for fees as outlined in NMS Labs' Expert Services Fee Schedule.

- **SAMPLE RECEIPT –**

Under the terms of this agreement NMS Labs is able to receive samples in the two methods outlined below:

- 1) Client can drop off samples (by appointment only) to the IFS-Cumberland County location: at 412 W. Russell Street Fayetteville NC 28301 between Monday through Friday between the hours of 8:00 AM to 4:00 PM. An appointment must be scheduled with NMS Labs for all samples that the Client will drop off at the IFS-Cumberland County location. Under the terms of this agreement the Client agrees to submit samples in accordance with Section VI.b. of this agreement
- 2) Client can send samples using FedEx, Airborne, etc. adhering to guidelines detailed in the following link: <http://www.nmslabs.com/sample-submission-shipment/>. Samples must be sent to: 2300 Stratford Ave, Willow Grove, PA 19090. So that the shipment arrives between Monday through Friday between the hours of 8:00 AM to 4:00 PM. NMS Labs will responsible for associated costs for the shipping services as outlined above.

- **SAMPLE RETENTION/STORAGE**



Samples are stored and retained in accordance with NMS Labs Standard Operating Procedures to maintain compliance with its accrediting bodies.

Specimens handled as forensic cases are routinely retained for six [6] weeks after the final report is issued. To request extended storage of forensic specimen, you must send a written request in advance of the disposal date (or the date that DNA samples will be returned to the Client), including a prepayment of the specimen storage surcharge which will extend the retention period by three (3) months. Each additional three months of storage requires an additional payment. Failure to notify the laboratory in writing of a request for storage beyond the routine periods indicated above (six [6] weeks – forensics), and to provide prepayment for extended storage will be considered authorization to discard or destroy the specimen(s). DNA samples will not be destroyed or discarded, but will be returned to the Client for an additional fee if payment for extended storage is not provided.

Under the terms of this agreement, NMS Labs will not store Client's samples that do not require testing, unless the Client agrees to pay NMS Labs a per sample fee per quarter for the storage of these samples as determined by NMS Labs.

- **SAMPLE RETURNS AFTER COMPLETION OF TESTING**

Under this agreement the Client **requires** samples to be returned.

NMS Labs will not charge the Client an additional fee for the return of samples if the Client agrees to schedule an appointment to pick up the samples from:

IFS-Cumberland County location: at 412 W. Russel Street, Fayetteville NC

Should the Client request that samples be shipped directly to the Client's address or another address, the Client will be charged an additional fee for the return of the samples.

- **SUPPLIES**

NMS Labs will provide the following collection and shipping supplies for work under this agreement:

- Requisition form templates in electronic Adobe™ PDF file format
- Tubes
- Collection Kits; kits can be provided that are specially designed for documentation, packaging and shipment of legal samples for analysis.

Client will be charged for any collection and shipping supplies not included on the list above.

- **SPECIAL REPORTING REQUIREMENTS**

Should NMS Labs determine that reports required by the Client do not qualify as "standard reports," The Client will be charged an additional fee to prepare these reports.

- **SPECIAL BILLING REQUIREMENTS**

Should NMS Labs determine that the Client requires customizations to its standard billing; the Client will be charged an additional fee.

Exhibit C

CONTRACT ADDENDUM
FOR CONTRACTS WITH ANY DEPARTMENT OF
MOORE COUNTY GOVERNMENT

CONTRACTOR: National Medical Services, Inc.
COUNTY DEPARTMENT: _____
SUBJECT OF CONTRACT: _____
DATE/TERM OF CONTRACT: _____

Notwithstanding any provision contained in the above referenced Contract or Agreement which may be to the contrary, the following provisions are incorporated and shall apply, supplant and control:

Non-appropriation clause. Contractor acknowledges that Moore County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of Moore County's obligations under this contract, then this contract shall automatically expire without penalty to Moore County thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that Moore County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations. In the event of a change in the Moore County's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects Moore County's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to Moore County upon written notice to Contractor of such limitation or change in Moore County's legal authority.

Dispute Resolution/Jurisdiction/Venue. Any dispute arising under this Agreement may be settled by mediation in the State of North Carolina in accord with such procedures as may be available to units of local government under state law. No other dispute resolution procedures shall apply. Jurisdiction for any legal proceedings concerning this contract or agreement shall be state courts in the State of North Carolina. Venue for such proceedings shall be Moore County.

No pledge of taxing authority. No deficiency judgment may be rendered against Moore County or any agency of Moore County in any action for breach of a contractual obligation under this contract. The taxing power of the Moore County is not pledged directly or indirectly to secure any monies due under this contract.

No waiver of governmental immunity; Violation of law. Except for waiver of governmental immunity resulting from the execution of a valid contract, Moore County makes no other waiver of governmental immunity. If any provision of the Contract or Agreement is in violation of any legal, statutory or state constitutional prohibition, then such provision(s) shall be unenforceable against Moore County.

Conflict of Interest: If this is a contract for design, engineering, contract administration or similar services, the Contractor will not enter into contracts or agreements with third parties that may present a potential for conflict of interest between Moore County and the third parties regarding the subject matter of this Contract or Agreement.

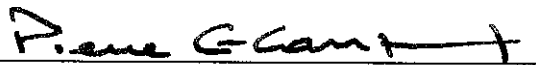
Compliance with E-Verify requirements: The Contractor and any of its subcontractors must comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, if applicable, which requires certain employers to verify the work authorization of each newly hired employee through the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies.

Compliance with Iran Divestment Act: The Contractor warrants that it is not listed on the Final Divestment List created by the State Treasurer pursuant to North Carolina General Statute § 143-6A-4. The Contractor warrants that it will not utilize any subcontractor identified on the Final Divestment List. Prior to the renewal of this Contract, the Contractor will certify, in writing, that neither the Contractor nor its subcontractors are listed on the Final Divestment List. In the event the Contractor or a subcontractor of the Contractor is added to the Final Divestment List, this Contract will be immediately considered void by operation of law.

MOORE COUNTY

CONTRACTOR

By: _____
Title: _____


By: Pierre G. Cassigneul
Title: President & CEO

SOLE SOURCE JUSTIFICATION FORM

(for items costing \$1,000.00 or more)

Vendor: NMS Labs

Item: Laboratory Service Agreement for Forensic Drug Analysis and DNA Testing

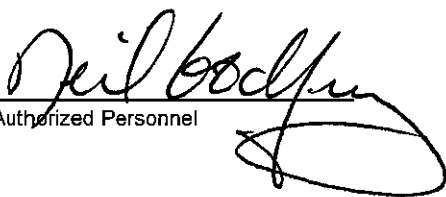
Estimated expenditure for the Above Item: \$40,000.00

INITIAL ALL ENTRIES BELOW THAT APPLY TO THE PROPOSED PURCHASE. ATTACH A MEMO CONTAINING JUSTIFICATION AND SUPPORT DOCUMENTATION.

1. _____ Sole source is for the original manufacturer or provider, there are no area distributors.
2. _____ The parts/equipment are not interchangeable with similar parts of another manufacturer.
3. _____ This is the only known item or service that will meet the specialized needs of this department or perform the intended function.
4. _____ The parts/equipment are required from this source to permit standardization.
5. XXX None of the above apply. A detailed explanation and justification for this sole source is contained in the attached memo.

The undersigned requests that competitive procurement be waived and that the vendor identified as the supplier of the material or service described in this sole source justification be authorized as a sole source for the material or service.

Neil A. Godfrey
Department Head/Authorized Personnel



Moore County Sheriff's Office
Department

14-Sep-16
Date



NEIL GODFREY
SHERIFF

(910) 947-2931
(910) 947-1668 FAX

Office of the Sheriff
Moore County, North Carolina
P.O. Box 40
Carthage, North Carolina 28327

September 14, 2016

To: Moore County Board of Commissioners

From: Sheriff Neil Godfrey

Reference: Sole Source Justification for NMS Labs

I am respectfully requesting that you approve NMS Labs as a sole source vendor for providing forensic drug analysis and DNA laboratory services for the Moore County Sheriff's Office.

My office has done its due diligence and determined that no other lab in the area provides the same service that NMS Labs is able to provide and therefore NMS Labs is the only vendor that can meet the needs of the Moore County Sheriff's Office for providing forensic drug analysis and DNA laboratory services. There are several other law enforcement agencies in this area who have contracted for these same services from NMS Labs.

The North Carolina State Crime Lab provides these services to local law enforcement agencies within North Carolina. However, the State Crime Lab still has a significant backlog in cases leading to delays in arrests and prosecutions in Moore County.