

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: April 16, 2019	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
--	---

DEPARTMENT: Sheriff's Office
APPROVING PARTY: Mike Fisher, Sheriff-Coroner
PHONE NUMBER: (530) 289-3700

AGENDA ITEM: Amendment to Agreement between California Department of Justice and Sierra County for DUI analysis services.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
 Letter from California Department of Justice

BACKGROUND INFORMATION: In light of recent changes to the vehicle code and an increase in drug-DUI cases, The Bureau of Forensic Services (BFS) has updated its standard contract for DUI analysis services. When no alcohol is suspected BFS will now test for drugs rather than testing for alcohol first then drugs.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ Monthly

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2018- _____ Agreement 2018- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
---	---	---

COMMENTS:

CLERK TO THE BOARD _____ DATE _____



Mike Fisher

*Sheriff-Coroner
County of Sierra
State of California*

100 Courthouse Square/PO Box 66
Downieville CA 95936
(530)289-3700 Fax (530) 289-3318

Date: April 9, 2019

TO: Sierra County Board of Supervisors

From: Sheriff Mike Fisher

Regarding: California Department of Justice Standard Agreement Amendment

In light of recent changes to the vehicle code and an increase in drug-DUI cases, The Bureau of Forensic Services (BFS) has updated its standard contract for DUI analysis services. When no alcohol is suspected BFS will now test for drugs rather than testing for alcohol first then drugs.

This is just a change in the testing protocol for the BFS and will no significant impact on the county. The Sierra County District Attorney's Office will still be responsible for payment for the monthly/yearly testing of suspected DUI drivers.

Additional Supporting Documentation:

California Department of Justice letter dated February 6, 2019, detailing the amendment to the Forensic DUI Analysis Contract (attached).

Respectfully,

A handwritten signature in blue ink, appearing to read "Mike Fisher", written over a horizontal line.

Mike Fisher
Sheriff-Coroner

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF FORENSIC SERVICES, HEADQUARTERS
1300 I Street, Suite 1150
SACRAMENTO, CA 95814
Telephone: 916-210-7460
Fax: 916-322-7157
E-Mail Address: Barry.Miller@doj.ca.gov

February 6, 2019

Tim Standley
Sheriff-Coroner
Sierra County Sheriff's Office
100 Courthouse Square
Downieville, CA 95936

Re: Amendment to Forensic DUI Analysis Contract

Dear Sheriff Standley,

In light of recent changes to the vehicle code and an increase in drug-DUI cases, the Bureau of Forensic Services (BFS) has updated its standard contract for DUI analysis services.

The existing contract requires BFS to analyze blood and urine samples in every instance, and only conduct drug analysis where the BAC result is below 0.08 percent. The amended language allows our laboratories to commence drug analysis immediately when no alcohol content is suspected, bypassing the otherwise-required testing for alcohol. Without the modifications, much needless alcohol analysis will continue in drug-DUI cases, driving up turn-around times and backlog.

Attached for your review, please find form 'STD. 213A' and attachments 'Exhibit A – SCOPE OF WORK', 'Exhibit B – BUDGET DETAIL AND PAYMENT PROVISIONS', and 'Exhibit D – SPECIAL TERMS AND CONDITIONS,' amending our existing forensic DUI agreement. A copy of your existing agreement has also been provided for comparison.

If there are any edits that need to be made prior to you being able to sign, please contact the BFS Forensic Alcohol Program at 916-227-3791 or alcohol.billing@doj.ca.gov. We can update the documents accordingly and provide you a revised version for final signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Miller".

Barry Miller
Bureau Director, Bureau of Forensic Services

For XAVIER BECERRA
Attorney General

STATE OF CALIFORNIA
STANDARD AGREEMENT AMENDMENT
 STD. 213 A (Rev 6/03)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 6 Pages

AGREEMENT NUMBER 08-105-01	AMENDMENT NUMBER 1
REGISTRATION NUMBER 215105	

- This Agreement is entered into between the State Agency and Contractor named below:
STATE AGENCY'S NAME
COUNTY OF SIERRA
CONTRACTOR'S NAME
CALIFORNIA DEPARTMENT OF JUSTICE
- The term of this Agreement is unchanged through Termination per Exhibit D
- The maximum amount of this Agreement after this amendment is: **\$OPEN**
- The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

Changes have been made to 'Exhibit A, SCOPE OF WORK', 'Exhibit B, BUDGET DETAIL AND PAYMENT PROVISIONS', and 'Exhibit D, SPECIAL TERMS AND CONDITIONS' of our existing forensic alcohol contract with your agency. The updated Exhibits A, B, and D will replace existing exhibits and are attached.
(note: In the updated 'Exhibit B, BUDGET DETAIL AND PAYMENT PROVISIONS', a reference is made to 'Exhibit E'. 'Exhibit E, ADDITIONAL PROVISIONS' has not been modified with this amendment. Please refer to existing 'Exhibit E, ADDITIONAL PROVISIONS' as necessary).



Due to the standardized language used on this STD. 213A form, we clarify the following:

References on this page to 'State Agency', 'State Agency's Name', and 'Agency Name' shall refer to our Client Agency (e.g. County of, Sheriff's Office, Police Department, District Attorney's Office...etc.). The signature section on this page labeled as 'STATE OF CALIFORNIA' shall be considered re-labeled as 'Client Agency'.

References on this page to 'Contractor' or 'Contractor's Name' shall refer to the California Department of Justice.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		CALIFORNIA Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) CALIFORNIA DEPARTMENT OF JUSTICE		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING CHRIS RYAN, CHIEF, DIVISION OF OPERATIONS		
ADDRESS 1300 I Street Sacramento, CA 95814		
STATE OF CALIFORNIA		
AGENCY NAME COUNTY OF SIERRA		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING PAUL ROEN, Chair of Board of Supervisors, County of Sierra		
ADDRESS PO Box D, 100 Courthouse Square, Downieville, CA 95936		

Exempt per:

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. Department of Justice (DOJ) agrees to provide to the Agency as described herein:

This Agreement is hereby entered into by and between the State of California, Department of Justice, hereinafter referred to as “DOJ” or Contractor, and the COUNTY OF SIERRA, a political subdivision of the State of California, hereinafter referred to as “Agency”, for the purpose of DOJ to provide alcohol and/or drug analysis of urine, blood, or breath evidence for the Agency.

2. Terms of Agreement and Amendment Clause:

The term of this Agreement shall be from the date the agreement is accepted and signed, and will continue until terminated as provided in Exhibit D hereto. This Agreement may be amended in writing and not otherwise by mutual agreement of the parties hereto.

3. The project representatives during the term of this Agreement will be:

	AGENCY	CONTRACTOR
Name:	Paul Roen	Alcohol Billing Coordinator
Phone:	(530) 289-3295	(916) 227-3791
Fax:	(530) 289-2830	
Email:	Supervisor3@sierracounty.ca.gov	alcohol.billing@doj.ca.gov

Direct all inquiries to:

	AGENCY	CONTRACTOR
Agency:	COUNTY OF SIERRA	Department of Justice
Section/Unit:	Sheriff's Office	BFS / Forensic Alcohol Program
Attention:	Mike Fisher, Sheriff-Coroner	Alcohol Billing Coordinator
Address:	PO Box 66, 100 Courthouse Square	4949 Broadway, Rm. F126
City/State/Zip:	Downieville, CA 95936	Sacramento, CA 95820
Phone:	(530) 289-3700	(916) 227-3791
Fax:	(530) 289-3318	
Email:	mikefisher@sierracounty.ca.gov	alcohol.billing@doj.ca.gov

4. Responsibilities of DOJ:

Services shall be provided by the laboratories of the Bureau of Forensic Services, California Department of Justice, and shall be in accordance with **Exhibit B**, which by this reference, is hereby incorporated into this Agreement.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

Payment for Services:

DOJ agrees to provide and the COUNTY OF SIERRA agrees to pay for the following services:

- Analysis of blood, breath, and urine samples suspected of containing alcohol. The cost of drug analysis, if available and applicable, in addition to alcohol testing, will be included as part of the uniform fee set forth below;
- Analysis of blood and urine samples suspected of containing drugs but purported to be free of alcohol;
- In the event oral fluid becomes an approved medium for the testing of samples suspected of containing drugs, DOJ will implement an oral fluid program and provide testing services.
- Provision of breath alcohol testing program utilizing approved breath testing instrument(s);
- Upon request, provide DOJ-approved blood and urine sample containers, envelopes and mailers;
- Administrative and logistical support of field breath alcohol tests utilizing DOJ supplied/supported breath instruments, including all associated accessories and supplies;
- Provide and maintain DOJ supplied/supported breath test instruments at established locations and new locations as caseload warrants. This service includes complete instrument repair services as required;
- Consultation and expert testimony on the technical aspects of all analysis performed, including the interpretation of the results relative to driving impairment on cases analyzed by DOJ or those appropriately conducted with DOJ-supplied/supported breath test instruments;
- Training and retraining of certified breath test instrument operators to establish and maintain their proficiency as required by Title 17, California Code of Regulations.
- All of the foregoing services, where necessary, as determined by DOJ, shall be provided by DOJ to the Agency. Except as set forth in the next succeeding sentence, this contract shall apply to all subjects arrested within Sierra County, regardless of arresting agency, for any driving/boating under the influence violations. Subjects arrested in the circumstances specified in Exhibit E will be excluded. An all-inclusive uniform fee of \$35.00 per subject tested will be collected for violations of 23152 cvc, 23153 cvc, 23103 cvc, 23104 cvc, and 23105 cvc as specified in the California Penal Code, section 1463.14.
- Breath test instruments meeting DOJ requirements may be provided by the Agency. Agency-provided instruments will be fully supported (maintenance/repair, consumables, and networking) and fees will be collected as described above.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

Invoicing:

DOJ shall send monthly invoices to the Agency noting number of tests conducted, month/year tests were conducted, and total amount due to:

Sierra County
District Attorney's Office
PO Box 457
Downieville, CA 95936

Payments shall be submitted to:

Department of Justice
Accounting Services
P.O. Box 944255
Sacramento, CA 94244-2550

OUTSTANDING ACCOUNTS RECEIVABLE RECOVERY CLAUSE*

Pursuant to Government Code Section 11255, departments that provide services to another department may recover outstanding receivables by initiating a Transfer Request (TR) with the State Controller's Office (SCO) to transfer funds from the debtor department. This option will be used on a limited basis and only when the following conditions are met: (1) the invoice was not paid by the requested due date, (2) non-payment provisions are included in the Interagency Agreement between the departments, (3) the invoice has not been disputed, and (4) a 30-day notice has been provided to the debtor department that a transfer of funds will be initiated for non-payment.

In compliance with Government Code section 11255 and Budget Letter 10-10, provide the appropriation information below:

Agency Name	
Interagency Agreement Number	
Contact Person & Telephone Number	
Fund Number	
Sub Fund	
Organization Code	
Fiscal Year	
Reference	
Category	
Program	

*For State of California Agencies only (e.g. CA Highway Patrol, CA. Dept. of Fish and Wildlife, CA Dept. of Corrections...etc.)

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

Examination and Audit:

The Contractor parties of this Agreement shall be subject to the examination and audit of the State of California, Bureau of State Audits and the Department of Justice, Internal Control and Audits Program for a period of three (3) years after final payment under the terms and conditions to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement.

Termination:

Either party may terminate this Agreement by giving the other party thirty (30) days written notice to the effective date of such termination. DOJ may terminate the performance of services under this Agreement in accordance with this clause in whole on thirty (30) days written notice to the Agency.

Whenever payment has not been received for services rendered within 90 days of invoice date, DOJ may decline (without notice) to perform services referenced on Exhibit A until all outstanding invoices have been paid in full.

After such receipt of a notice of termination and except as otherwise directed by the DOJ, services provided under this Agreement shall stop on the date and to the extent specified in the notice of termination.

In the event this Agreement is terminated by the Agency, DOJ shall be compensated for services completed to the date of termination based upon the compensation rates, together with such additional services performed after termination which are authorized by the Agency to complete the work performed to date of termination.

Disputes:

Any dispute concerning a question of fact arising under the terms of this Agreement, which is not disposed of within a reasonable period of time by the Agency and DOJ employees normally responsible for the administration of this contract, shall be brought to the attention of the DOJ Contract Administrator and Agency Contact Person for joint resolution. The Agency and DOJ agree to continue to carry out all other responsibilities under this Agreement not affected by the dispute.

Disputes shall be submitted in writing to DOJ.

Disputes pertaining to the accuracy of a reported arrest location should be submitted in writing by emailing them directly to alcoholbilling@doj.ca.gov. It is the Agency's responsibility to obtain the correct traffic stop location, including the street name and nearest cross street (with direction of travel if available) from the arresting agency, and to provide that information as part of the formal dispute. To address your dispute, the accurate traffic stop location will be used by DOJ to determine responsibility for charges related to DUI testing.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

Conflict with Existing Law:

The Contractor and the Agency agree that if any provision of this Agreement is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of this Agreement shall remain in full force and effect. Either party having knowledge of such terms or provision shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of this Agreement, this Agreement shall be terminated in a manner commensurate with the interest of both parties, to the maximum extent reasonable.

Governing Law:

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Validity:

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

THIS AGREEMENT IS OF NO FORCE AND EFFECT UNTIL SIGNED BY BOTH PARTIES AND ALL APPROVALS ARE SECURED.