

RESOLUTION APPROVING CONTRACT WITH NESBITT & HALL FUNERAL DIRECTORS, INC. FOR TRANSPORTATION SERVICES, CORONERS OFFICE

WHEREAS, Dr. Pamela Lancaster, Ashtabula County Coroner, has presented a Contract for the approval of the Board, to-wit:

Scope: Transportation services for deceased persons from locations in Ashtabula County to the Cuyahoga County Morgue or the Ashtabula County Medical Center Morgue, at direction of the Coroner

Provider: Nesbitt & Hall Funeral Directors, Inc., 352 Liberty St., Conneaut, OH 44030

Cost: **Not to Exceed, \$29,400.00** (monthly payments of \$2,800)

Term: Begins February 15, 2021 and terminates December 31, 2021; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio that the Contract as noted above is approved in accordance with the copy now on file in this office.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2021-74

February 09, 2021

**RESOLUTION APPROVING CONTRACT WITH NESBITT & HALL FUNERAL
DIRECTORS, INC. FOR TRANSPORTATION SERVICES, CORONERS OFFICE**

Upon the motion of Casey R. Kozlowski, seconded by Kathryn L. Whittington.

VOTE:

**Kathryn L. Whittington
J.P. Ducro IV
Casey R. Kozlowski**

**Aye
Abstain
Aye**

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

AGREEMENT FOR SERVICES BY AND BETWEEN

NESBITT & HALL FUNERAL DIRECTORS, INC.,
HEREINAFTER REFERRED TO AS ("NESBITT")

AND

ASHTABULA COUNTY BOARD OF COMMISSIONERS
FOR ASHTABULA COUNTY CORONER'S OFFICE,
HEREINAFTER REFERRED TO AS ("CORONER")

This Agreement by and between Nesbitt, whose principal place of business is located at 352 Liberty Street, Conneaut, Ohio 44030, and the Ashtabula County Coroner, by and through the Ashtabula County Board of Commissioners, whose principal place of business is located at 25 West Jefferson Street, Jefferson, Ohio 44047, is effective as of the date of the signatures affixed hereto unless otherwise indicated or specified in the Specifications for Ambulance Transfer Service, labeled and attached hereto as Exhibit 1.

The term of this contract shall begin February 15, 2021 and terminate December 31, 2021.

ARTICLE I: STATEMENT OF WORK

- A. Nesbitt agrees to transport deceased persons from locations in Ashtabula County to the Cuyahoga County Morgue or the Ashtabula County Medical Center Morgue, at the direction of Coroner.
- B. Nesbitt agrees that transportation services shall be available twenty-four (24) hours a day, seven days a week, including holidays.
- C. Nesbitt shall respond to request for transports within 30 minutes of notification by the Coroner's office, notwithstanding special instructions. When response time is longer than 30 minutes, the Coroner reserves the right to utilize any other available transport service.
- D. Nesbitt shall provide equipment necessary, including body bags, for all types of removals, i.e., multiple story buildings, water, woods, ravines, burned buildings,

vehicles, etc. Each removal unit must be equipped with communication devices, i.e., cell phone.

E. Nesbitt shall be responsible for all employee infection control procedures.

ARTICLE 2: INDEPENDENT CONTRACTOR STATUS

A. Nesbitt declares that it is engaged as an independent business and has complied, and will continue to comply during the terms of this Agreement with all federal, state and local laws regarding business permits and licenses of any kind, including but not limited to, any insurance coverage that is required in the normal course of business, as well as any specialized insurance that is specified herein, and that may be required to carry out its business and perform under the terms of this Agreement.

B. Nesbitt agrees that it does not have any authority to sign agreements, notes and/or obligations, or to make purchases, sign drafts, purchase orders, vouchers, and/or dispose of property for or on behalf of the Coroner.

C. If applicable, Nesbitt shall deliver, assign, transfer and convey to the Coroner or its authorized representatives, specifically to include employees of the Office of the Ashtabula Coroner, all rights, title to, and interest in all documents, data, materials, information, processes, studies, reports, surveys, proposals, plans, codes, scientific information, regulations, maps, equipment, charts, schedules, photographs, exhibits, software, software source code, documentation and other materials and property prepared or developed or created or discovered under or in connection with this Agreement (the "Deliverables").

D. Nesbitt declares that it is engaged in the same or similar activities for other clients or customers, or that it is free to do so, and that the Coroner is not its sole, only, and/or exclusive client or customer.

E. Nesbitt shall furnish professional services performed in accordance with applicable commercial standards, statutory requirements, and professional mandates necessary for the satisfactory performance of the work hereunder. Services shall be performed by Nesbitt and the Coroner shall not hire, supervise or pay any assistants to Nesbitt in its performance under this Agreement. The Coroner shall not be required to provide any training to Nesbitt to enable it to perform services required hereunder except to provide general information or data to enable Nesbitt to perform under this Agreement.

F. Nesbitt shall furnish its own support staff, materials, tools, equipment and other supplies necessary for the satisfactory performance of the work hereunder. Neither Nesbitt nor its personnel shall at any time or for any purpose, be considered as employees or agents of the Coroner, or any other elected official of Ashtabula County,

Ohio for whose benefit, either directly or indirectly, the work hereunder is being performed.

G. The Coroner or its authorized representatives may, from time to time, as it deems appropriate, communicate specific instructions and requests to Nesbitt concerning the performance of the work described in this Agreement. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of said tasks by Nesbitt. The management of the work, including the exclusive right to control or direct the manner or means by which the work described hereunder remains with and is retained by Nesbitt.

H. The Coroner retains the right to ensure that the work of Nesbitt is in conformity with the terms and conditions of this Agreement, as specified herein, and as specified in the Specifications for Ambulance Transfer Service, labeled Exhibit 1.

I. Nesbitt shall not subcontract the services to be provided under this Agreement without the written consent of the Ashtabula County Board of Commissioners.

ARTICLE II: CERTIFICATION OF FUNDS

It is expressly understood by the parties that none of the rights, duties and obligations described in this Agreement shall be binding on either party until all statutory provisions under the Ohio Revised Code have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate agencies, and, when required, such expenditure of funds is approved by the Coroner, the County Auditor on behalf of and/or for the benefit of the Coroner, or, in the event that state and/or federal funds are used, until such time that the Coroner gives Nesbitt written notice that such funds have been made available for payment to Nesbitt.

ARTICLE III: TIME OF PERFORMANCE

This Agreement shall remain in effect during the term of this Agreement or until terminated as provided in Article VIII, whichever is sooner.

ARTICLE IV: COMPENSATION

In consideration for the promises and the performance of Nesbitt as set forth herein, the Coroner agrees to pay to Nesbitt, upon actual receipt of proper invoices, compensation as follows:

A. \$2,800/month non-fluctuating fee for the initial term.

B. An invoice is not proper if it contains a defect or impropriety as determined by Coroner. The Coroner or its designated representatives shall notify Nesbitt within fifteen (15) days, in writing, of the defect or impropriety and provide any information necessary to correct the defect or impropriety.

C. Any invoices or notices to be given hereunder by either Nesbitt to the Coroner or by the Coroner to Nesbitt shall be effected either by personal delivery or in writing by ordinary U.S. Mail to the principal place of business of the respective parties recited in the Preamble to this Agreement.

D. Unless expressly provided for elsewhere in this Agreement, Nesbitt shall be responsible for and assume all office and business expenses that are incurred as a result of the performance of this Agreement.

ARTICLE V: RECORD KEEPING REQUIREMENTS

A. Nesbitt shall keep all financial records in a manner consistent with generally accepted accounting principles. Documentation to support each action shall be filed in a manner allowing it to be readily located.

B. Nesbitt shall keep separate business records for this project, including records of disbursements made and obligations incurred in the performance of this Agreement which records shall be supported by the contracts, invoices, vouchers and other data as appropriate.

ARTICLE VI: CONFLICTS OF INTEREST

A. No personnel of Nesbitt or member of the governing body of the Coroner, or any locality or other public official, elected official, or employee of any such entity in which, or relating to which, the work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

B. Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the Coroner in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless the Coroner shall determine that, in light of the personal interest disclosed, his or her participation in any such action not be contrary to the public interest, or in contravention of any provision of the Ohio Revised Code dealing with public contracts or general ethical prohibitions.

ARTICLE VII: EQUAL EMPLOYMENT OPPORTUNITY

A. In carrying out this Agreement, Nesbitt shall not discriminate against any employee or applicant for employment because of and shall ensure that applicants are hired and that employees are treated during employment without regard to race, religion, color, sex, national origin, disability, or age. Such action shall include, but not limited to the following: Employment, Upgrading, Demotion or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of compensation; and Selection for Training including Apprenticeship.

B. Nesbitt agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and shall, in all solicitations or advertisements for employees placed by or on its behalf, state that a11 qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, or age. Nesbitt shall incorporate the foregoing requirements of this paragraph in all of its agreements for any of the work prescribed herein and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for suchwork.

ARTICLE VIII: SUSPENSION AND TERMINATION PROVISIONS

A. This Agreement may be terminated by the unilateral action of the Coroner by providing 60 days' written notice to Nesbitt of election to terminate.

B. If either party fails to perform any of the requirements of this Agreement, or is in violation of a specific provision of this Agreement, then the non-breaching party may suspend or terminate this Agreement if the breaching party fails to cure such non-performance or violation within ten {10} business days following delivery of written notice of any such breach.

C. Upon providing ten (10) business days' written notice to Nesbitt, the Coroner may suspend or terminate this Agreement, in whole or in part, if Nesbitt fails to perform any of the requirements of this Agreement; or that Nesbitt is in violation of a specific provision of this Agreement; or if the Coroner, the Board of County Commissioners of Ashtabula County, Ohio, or any other state or federal entity whose monies are necessary to fund the work contemplated under this Agreement, fails to appropriate funds for any part of the work contemplated under this Agreement.

D. Nesbitt, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities, suspend or terminate all subcontracts relating to such suspended or terminated activities and, if requested by the Coroner, furnish a report, as of the date of the receipt of notice of suspension or termination describing

the status of all work under this Agreement including without limitation, results accomplished, conclusions resulting there from, and such other matters as the Coroner may require.

E. In the event of suspension or termination under this Article, Nesbitt shall be entitled to compensation, upon submission of the proper invoice, for the work performed prior to receipt of notice of termination or suspension, which shall be calculated by the Coroner in accordance with Article IV, less any funds previously paid by or on behalf of the Coroner . The Coroner shall not be liable for any further claims, and the claims submitted by Nesbitt shall not exceed the total amount of compensation stated in this Agreement.

a. In the event of suspension or termination, any payments made by the Coroner in which services have not been rendered by Nesbitt shall be returned to the Coroner.

ARTICLE IX: RESPONSIBILITY FOR CLAIMS

Nesbitt agrees to indemnify and shall hold the Coroner harmless from any and all claims for personal injury or property damage resulting from the fault or negligence of Nesbitt and from claims for wages or overtime compensation due itself or its employees in rendering services pursuant to this Agreement, including payment of all costs in defense of any claim under the Fair Labor Standards Act, as amended, or any other federal or state law.

ARTICLE X: COMPLIANCE WITH LAW

Nesbitt agrees to comply with all applicable federal, state and local laws in the conduct of the work hereunder. Nesbitt and its employees are not employees of the Coroner or employees of the Board of County Commissioners of Ashtabula County, Ohio. Nesbitt accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Nesbitt in the performance of the work authorized by this Agreement. The Coroner and the Board of County Commissioners of Ashtabula County, Ohio shall not be liable for any taxes under this Agreement.

ARTICLE XI: LIMITATION OF LIABILITY

The Coroners liability for damages, whether in contract or in tort, shall not exceed the total amount of compensation payable to Nesbitt under Article IV. Nesbitt's sole and exclusive remedies for the Coroner's failure to perform under this Agreement shall be set forth in this Article.

IN NO EVENT SHALL THE CORONER BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, EVEN IF THE CORONER HAD BEEN ADVISED, OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

NOTWITHSTANDING ANY LANGUAGE TO THE CONTRARY, NESBITT SHALL BE LIABLE FOR ANY PERSONAL INJURY OR DAMAGES TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY, CAUSED BY ITS FAULT OR NEGLIGENCE.

Nesbitt shall provide proof of general commercial liability insurance in amounts shall carry liability limits not less than \$1,000,000 per occurrence, and name Ashtabula County as an additional insured. Nesbitt shall immediately notify the Coroner in the event, for any reason whatsoever, insurance coverage should lapse or terminate.

Nesbitt represents that any and all persons performing services under this Agreement on their behalf, shall have at all times valid Ohio driving privileges consistent with the type of vehicle being operated, and shall be covered as insured drivers in an automobile liability policy with coverage of at least \$100,000 per person/\$300,000 per occurrence and \$1,000,000 dollars in the aggregate.

ARTICLE XII: CHANGES OR MODIFICATIONS

This Agreement constitutes the entire agreement between the parties, and any changes or modifications to this Agreement shall be made and agreed to in writing.

ARTICLE XIII: ASSIGNMENT

Neither this Agreement, nor any rights, privileges, duties, nor obligations described herein, shall be assigned by the Coroner or Nesbitt without the express written consent of the other party.

ARTICLE XIV: CONSTRUCTION AND CHOICE OF FORUM

Waiver: The failures of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Partial Invalidity: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall be nevertheless continue in full force without being impaired or invalidated in any way.

Attorney's Fees: If any legal action is commenced or necessary to enforce or interpret the terms of this Agreement, the prevailing party shall NOT be entitled to attorneys'

fees, costs, and necessary disbursements in addition to any other relief to which that party may be entitled.

This Agreement shall be construed and interpreted, and the rights and privileges, and duties and obligations of the parties shall be determined in accordance with the laws of State of Ohio. The parties hereby agree to litigate any unresolved disputes arising from this Agreement in the Ashtabula County Court of Common Pleas.

ARTICLE XV: DRUG-FREE WORKPLACE

Nesbitt agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all its employees, while performing services on behalf of the Coroner, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

ARTICLE XVI: CONTRACTOR WARRANTY

Nesbitt warrants that it is not subject to any unresolved finding for recovery with the office of either the State Auditor or the Ohio Attorney General. Nesbitt further warrants that any campaign contributions made to any elected official who may be involved in the awarding of this contract, specifically the Coroner, and also to include the Board of County Commissioners of Ashtabula County, Ohio, have been made, and will in the future be made, in compliance with the Ohio Revised Code.

ARTICLE XVII: NO THIRD PARTY BENEFICIARIES, ASSIGNEES OF RIGHTS OR DELEGATES OF DUTIES

The parties further agree that it is their respective and collective intent in the formation of this Agreement to confer no rights or privileges upon any third parties whether labeled intended or unintended third party beneficiaries, assignees of rights, or delegates of duties, including without limitation, any individual, corporation, other unincorporated business association, or political subdivision, or agency, department, board, commission, system, or service of the State of Ohio or of the United States.

The sole exception to this exclusion of the creation of rights in any third party beneficiary, assignees of rights or delegates of duties may involve non-parties to this Agreement who constitute a department, division, agency, board, commission, or political subdivision of Ashtabula County, Ohio.

CORONER' SOFFICE
County of Ashtabula
25 W. Jefferson Street
Jefferson, Ohio 44047

Office:(440) 576-3550 FAX: (440) 576-1520 Phone: (440) 998-4791(24 Hours)

Pamela L. Lancaster, D.O.
Coroner

SPECIFICATIONS FOR AMBULANCE TRANSFER SERVICE

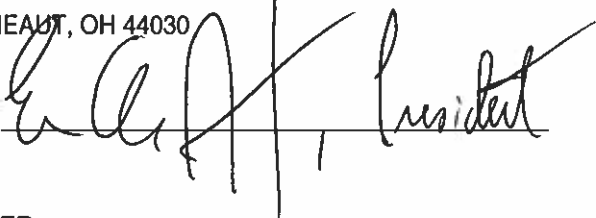
The purpose of these specifications are to provide the Ashtabula County Coroner with ambulance services that are routinely needed for the operations of the Coroner's Office. The list of specifications is not meant to be all inclusive. Further explanation of services may be obtained by contacting the Ashtabula County Coroners' Office at (440) 576-3550. These specifications are current as of February 15, 2021.

Provider of Services shall:

1. Be available twenty-four (24) hours a day, seven days a week, including holidays throughout the period of the contract. Said contract shall be from February 15, 2021 and terminating December 31, 2021.
2. Provide adequate personnel to facilitate removals of bodies.
3. Provide equipment necessary for all types of removals, i. e., multiple story buildings, water, woods, ravines, burned buildings, vehicle, etc.
 - a. Each removal unit must be equipped with communications.
4. Respond to request for transports in a reasonable time period-meaning not more than (1/2) hour from the time of being notified, notwithstanding special instructions in given cases.
 - a. When unavailable or response time is determined to be unreasonable, option to utilize any available service will be retained by the Coroner.
5. Provide transportation services under agreement of an established fee schedule.
 - a. Non-fluctuating charges for all geographic areas of Ashtabula County.
 - b. Long distance transfers to be predetermined routine destinations to be billed on a non-fluctuating, flat rate charge for services.
 - c. No additional fee for multiple transfers in the same unit.
 - d. Rate shall include body bag.
 - e. Reimbursement of services to be made upon submission of monthly invoices for services rendered.
6. Provider shall be responsible for all employee infection control procedures
7. Provider shall, at all times, operate as an independent contractor and shall not at any time be considered an agent or employee of the Ashtabula County Coroner's office.

IN WITNESS WHEREOF: The parties hereunto affixed mentioned above.

CONTRACTOR:
NESBITT & HALL FUNERAL DIRECTORS, INC.
352 LIBERTY STREET
CONNEAUT, OH 44030

BY:  President

CORONER
Dr. Pamela Lancaster

BY: 

ASHTABULA COUNTY BOARD OF COMMISSIONERS

BY:  2/9/21

BY:  Abstaining

BY: 

Signature Page

Agreement Title: Agreement for Transportation Services with Nesbitt & Hall
Funeral Directors, Inc. with the Coroner's office.

Approved as to Legal Form Only:

By: _____



Colleen O'Toole,
Ashtabula County Prosecutor

FISCAL OFFICER'S CERTIFICATE

5705.41 O.R.C.

The undersigned, County Auditor of Ashtabula County, hereby certifies that the amount required to meet the obligations of the County during the 2021, under the Agreement, has been lawfully appropriated for that purpose, and is in the Treasury of the County or in the process of collection to the credit of fund outlined in 1001.006.100.601 not to exceed \$29,400.00 for the remainder of the year 2021 and free from any previous encumbrances.

Agreement Title: Agreement with Nesbitt & Hall for Coroner Transportation Services.



**David Thomas, Ashtabula
County Auditor**

Contact: Lisa Hawkins, Clerk

Date: February 2, 2021