

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN
MILWAUKEE COUNTY AND WALWORTH COUNTY REGARDING THE PROVISION OF
AUTOPSY SERVICES TO WALWORTH COUNTY**

RECITALS

WHEREAS, Milwaukee County (hereinafter “Milwaukee”) and Walworth County (hereinafter “Walworth”) each have responsibilities under Chapters 59 and 979 of the Wisconsin Statutes regarding the reporting and investigation of deaths occurring in their respective counties; and

WHEREAS, Walworth desires to contract with Milwaukee for its autopsy services; and

WHEREAS, this Agreement has been considered and approved by the County Boards for each county.

NOW, THEREFORE, in consideration of these premises, Milwaukee and Walworth, under the authority of 66.0301, Wis. Stats., hereby mutually agree as follows:

**SECTION I
GENERAL AGREEMENT**

- (a) Purpose. The purpose of this Agreement is to establish the parameters under which Milwaukee and Walworth will work cooperatively to provide Walworth with autopsy services.
- (b) Term. The term of this Agreement shall be five (5) years commencing January 1, 2020 through December 31, 2024 regardless of the dates of the signatures set forth below.
- (c) Either county shall provide written notice to the other no later than May 1st of the fifth year of the Agreement that it will not renew the Agreement at the end of the fifth year.
- (d) After the initial five (5)-year term, this Agreement shall, with the consent of both parties, be renewed for one additional three (3)-year term, unless otherwise amended or terminated.
- (e) Amendment. Any amendments to this contract shall be made in writing only and only with the consent of both parties.
- (f) This Agreement is also subject to termination under the provision in **Section V** below.
- (g) County Representatives. Milwaukee’s Medical Examiner shall serve as the primary contact for implementing this Agreement for Milwaukee and may appoint additional representatives to work on specific tasks. Walworth’s Medical Examiner shall serve as the primary contact for Walworth for implementing this Agreement and may appoint additional representatives to work on specific tasks. These individuals (a minimum of two) shall constitute the CRs. The CRs shall be the primary administrative and managerial body tasked with overseeing all aspects of Milwaukee providing autopsy services to Walworth. They shall work cooperatively, communicate between entities, and convey decisions, documents, and other information relating to the implementation of this Agreement to relevant personnel.

SECTION II
MILWAUKEE COUNTY'S OBLIGATIONS

- (a) Autopsies will be performed by a board-certified, Wisconsin-licensed, forensic pathologist, or by a Wisconsin-licensed physician who is a forensic pathologist-in-training (resident/fellow) and supervised by a board-certified, Wisconsin-licensed, forensic pathologist.
- (b) Milwaukee currently owns, and shall continue to own and/or lease and maintain during the pendency of this Agreement, a fully equipped morgue and associated laboratory space necessary for a pathologist to perform autopsies and other investigatory procedures. This space will be available for use for Walworth cases with no separate charges to Walworth for the use of this space.
- (c) Milwaukee shall provide autopsy services during normal business hours, to be determined by Milwaukee, unless prior arrangements have been made and agreed upon. Telephone consultations shall be provided by Milwaukee staff as needed.
- (d) Milwaukee shall provide case work to Walworth which shall include, but not be limited to: internal and external examinations of bodies; obtaining, storing and submitting specimens for toxicological tests; histology; photography; radiology; other consultation work such as interpretation of laboratory tests, review and analysis of medical records; and discussions with relevant medical professionals.
- (e) Milwaukee shall provide verbal or written autopsy findings to Walworth no later than the next business day following the performance of the autopsy. A complete report with relevant diagrams and photographs will be provided by Milwaukee upon completion of the case, and in a timely manner. A timely manner is understood between the parties to be 30 days for routine, uncomplicated cases, and 60 days for those cases requiring outside consultation.
- (f) Records. Records for Walworth cases shall be considered Walworth's records. Walworth shall be the custodian of these records for the purposes of public records requests. Records shall be sent to Walworth as soon as possible. Any requests for records on Walworth cases received by Milwaukee shall be transmitted to Walworth for response. Milwaukee may maintain copies of records for Walworth cases to allow Milwaukee personnel to answer questions during the pendency of a case.
- (g) Specimen Storage. Milwaukee shall retain all tissue samples, slides and toxicology samples for the same time frame routinely applied to Milwaukee cases, unless Walworth specifies a different time frame and notice is provided to Milwaukee, in writing, prior to the disposal of the samples. Milwaukee will provide Walworth with its written protocol regarding retention.
- (h) Body Storage. Milwaukee shall provide usual and customary storage (up to 14 days unless otherwise agreed upon) for bodies received from Walworth for autopsy at no charge to Walworth. Following the release of a body by Milwaukee, Milwaukee's regular storage policy and fees shall apply if additional storage by the funeral home or next-of-kin is required. All relevant fees shall be communicated and charged to the funeral home designated by the next-of-kin.
- (i) Consulting pathologists employed by Milwaukee will have an obligation to appear in court and testify when needed on those cases being prosecuted by the Walworth County District Attorney's Office. The obligation to appear in court and testify does not end with the termination of this contract. If for

any reason the contract is terminated, but a consulting pathologist is required to testify, he or she shall appear in court and testify.

- (j) Consulting pathologists will not accept private criminal defense cases venued in Walworth County. As used here “accept” includes but is not limited to consulting and advising with defense attorneys, reviewing criminal defense case file materials and testifying in court as an expert or otherwise whether or not a fee is paid on behalf of a criminal defendant being prosecuted in Walworth County.
- (k) Consulting pathologists shall cooperate and be available to the Walworth County District Attorney’s Office as a resource to discuss the handling of any cases involving said Office and agrees to answer or discuss any other medically related questions, if necessary.
- (l) Accreditation. The Milwaukee County Medical Examiner’s Office is currently accredited by the National Association of Medical Examiners (NAME); Walworth shall be notified if accreditation changes.

**SECTION III
WALWORTH COUNTY’S OBLIGATIONS**

- (a) Walworth shall report deaths for autopsy to Milwaukee employing the standards and compliance requirements determined by Milwaukee.
- (b) At its discretion, Walworth may send observers to any autopsy of a Walworth case performed by Milwaukee. Walworth observers must comply with the direction of Milwaukee at all times while on Milwaukee’s premises.
- (c) Walworth shall provide Milwaukee with pertinent investigative information correlating with autopsies performed by Milwaukee under this agreement.
- (d) Walworth reserves the right to arrange for organ/tissue donation at an alternate location before or after autopsy as necessary.

**SECTION IV
STATEMENT OF COMMITMENT; DISPUTE RESOLUTION**

- (a) Cooperation. The parties are entering into this Agreement with a full understanding that the success of this relationship depends upon the commitment of the parties to work diligently and cooperatively to achieve their mutual objectives.

While it is the intent of the parties to observe all terms of this Agreement, the parties acknowledge that circumstances may arise that will require flexibility on the part of each County. An example of an unforeseen circumstance includes the loss of key Milwaukee staff. In the event that staffing will not permit Milwaukee to fully perform the services set forth in this Agreement, the parties agree to work in good faith to ensure that high quality services are provided to the public.

- (b) Resolution of Disputes. The parties acknowledge and agree that they shall endeavor to resolve any and all issues that may arise under this Agreement in good faith and in the spirit of cooperation consistent with the intent of this Agreement. When a disputed issue arises, the CRs shall commence

negotiations with respect thereto. If the issue cannot be satisfactorily resolved within sixty (60) days of negotiations, both parties may mutually agree to mediation or either party may pursue any remedy to which they are entitled under this Agreement, at law, or in equity.

SECTION V TERMINATION UPON BREACH

Notwithstanding **Section I (b)**, either party may terminate this Agreement based upon the other party's material breach of this Agreement, so long as (i) the termination party provides the non-terminating party written notice of at least 90 days; (ii) such written notice explains and describes the nature of the material breach in reasonable detail; and (iii) the breaching party was given a reasonable period of time to cure the breach.

SECTION VI FEE SCHEDULE

- (a) Autopsy and Consulting Services. Milwaukee shall submit billing statements to Walworth as cases are completed by Milwaukee. Each autopsy performed by Milwaukee shall be paid at \$1600.00 for contract years one, two and three; \$1800.00 for contract year four; and \$2000.00 for year five (see also Wis. Stat. § 979.22). This fee will include the entire professional component of autopsy, including but not limited to: pathologist dissection; dictation; routine toxicology; neuropathology; histology; photography; radiography; review of medical, toxicological, and investigative reports; and completion of a final autopsy protocol. A digital copy of photographs and radiology (when applicable) will be provided for every case. This fee will also include the storage of bodies at the Milwaukee County Medical Examiner's Office for up to 14 days unless otherwise agreed upon.
- (b) Additional Testing. Walworth shall pay for any additional, non-routine services provided by consultants at cost. Determination of the need for additional, non-routine services shall be discussed by the parties and approved by Walworth prior to performance.
- (c) Testimony. Milwaukee County will provide courtroom testimony / travel / courtroom prep concerning any autopsy performed by Milwaukee at a rate of \$500.00 per hour.

SECTION VII MUTUAL INDEMNIFICATION

The parties to this Agreement agree to indemnify, defend and hold harmless the other party and their elected officials, officers, employees and agents, against any and all liability, losses, charges, fines, costs or expenses (including reasonable attorney's fees) to the extent such damages including suits at law or in equity are caused by or resulting from any intentional misconduct or negligent acts or omissions of the indemnifying party or any of the officers, employees, agents or representatives of the indemnifying party which may arise out of or are connected with the activities covered by this Agreement. Each party's liability shall be limited by Wis. Stat. § 345.05(3) for automobile liability and § 893.80(3) for general liability. Nothing in this agreement shall be construed to constitute a waiver of any otherwise applicable immunity, limited immunity or limitation on liability under Wisconsin law. Nothing in this agreement shall be construed to constitute basis for a third-party claim against either party to this agreement which claim would not exist in the absence of this Agreement.

**SECTION VIII
INSURANCE**

- (a) Milwaukee County is a municipal body corporate that self-funds for liability under Wis. Stat. §§ 893.80 and 895.461(1), and for automobile liability under Wis. Stat. § 345.05. Milwaukee County is also permissibly self-insured under Wis. Stat. § 102.28(2)(b) for Workers' Compensation. This protection is applicable to Milwaukee County officers, employees and agents while acting within the scope of their employment or agency. The County agrees to provide a letter of financial responsibility in proof of this.

- (b) Walworth County will provide Milwaukee with evidence of the minimum insurance requirements summarized in Exhibit A.

**SECTION IX
AUDIT**

Walworth shall allow the Milwaukee County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of Walworth, or other party to the agreement, related to the terms and performance of the Agreement, for a period of up to three years following the date of last payment, the end date of this Agreement, or activity under this Agreement, whichever is later. Any subcontractors or other parties performing work on this Agreement will be bound by the same terms and responsibilities as Walworth. All subcontracts or other agreements for work performed on this Agreement will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. Walworth or other party to the contract, and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.

**SECTION X
INDEPENDENT CONTRACTOR**

Nothing contained in this Contract shall constitute or be construed to create a partnership or joint venture between Milwaukee or its successors or assigns and Walworth or its successors or assigns. In entering into this Contract, and in acting in compliance herewith, Contractor is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder. Nothing contained in this Contract shall give Contractor any authority to supervise, manage, and/or direct County employees.

Signature Page Follows:

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

WALWORTH COUNTY

By: _____ Date: _____
Finance Director

WALWORTH COUNTY

By: _____ Date: _____
Medical Examiner

MILWAUKEE COUNTY

By: _____ Date: _____
Medical Examiner

Approved with regards to County Ordinance Chapter 42:

By: _____ Date: _____
Community Business Development Partners

Reviewed by:

By: _____ Date: _____
Risk Management

Approved for execution:

By: _____ Date: _____
Corporation Counsel

*Approved as to funds available per
Wis. Stat. sec. 59.255(2)(e):*

By: _____ Date: _____
Comptroller

Approved:

By: _____ Date: _____
County Executive

Approved as compliant under sec. 59.42(2)(b)5, Stats.:

By: _____ Date: _____
Corporation Counsel

Exhibit A

County Insurance Requirements

Every contractor and all parties furnishing services or product to County or any of its subsidiary companies must provide County with evidence of the following minimum insurance requirements. In no way do these minimum requirements limit the liability assumed elsewhere in the contract. All parties shall, at their sole expense, maintain the following insurance:

- A. Commercial General Liability Insurance including contractual coverage: The limits of this insurance for bodily injury and property damage Combined shall be at least:

| | |
|---------------------------------------|-------------|
| Each Occurrence Limit | \$1,000,000 |
| General Aggregate Limit | \$2,000,000 |
| Products – Completed Operations Limit | \$2,000,000 |
| Personal and Advertising injury Limit | \$1,000,000 |

- B. Business Automobile Liability Insurance:

Should the performance of this Agreement involve the use of automobiles, Contractor shall provide comprehensive automobile insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles. Contractor shall maintain limits of at least \$1,000,000 per accident for bodily injury and property damage combined.

- C. Workers' Compensation Insurance:

Such insurance shall provide coverage in amounts not less than the statutory requirements in the state where the work is performed, even if such coverages are elective in that state.

- D. Employers Liability Insurance:

Such insurance shall provide limits of not less than \$500,000 policy limit.

- E. Excess/Umbrella Liability Insurance

Such insurance shall provide additional limits of not less than \$5,000,000 per occurrence in excess of the limits in (A.), (B.), and (D.) above.

Additional Requirements:

- F. Contractor shall require the same minimum insurance requirements, as listed above, of all its contractors, and subcontractors, and these contractors, and subcontractors shall also comply with the additional requirements listed below.

- G. The insurance specified in (A.), (B.), and (E.) above shall: (a) name County including its directors, officers, employees and agents as additional insureds by endorsement to the policies, and, (b) provide that such insurance is primary coverage with respect to all insureds and additional insureds.
- H. The above insurance coverages may be obtained through any combination of primary and excess or umbrella liability insurance. County may require higher limits or other types of insurance coverage(s) as necessary and appropriate under the applicable purchase order.
- I. Except where prohibited by law, all insurance policies shall contain provisions that the insurance companies waive the rights of recovery or subrogation, by endorsement to the insurance policies, against County, its subsidiaries, its agents, servants, invitees, employees, co-lessees, co-venturers, affiliated companies, contractors, subcontractors, and their insurers.
- J. Contractor shall provide certificates evidencing the coverages, limits and provisions specified above on or before the execution of the Agreement and thereafter upon the renewal of any of the policies. Contractor shall require all insurers to provide County with a thirty (30) day advanced written notice of any cancellation, nonrenewal or material change in any of the policies maintained in accordance with this Agreement. With the exception of worker's compensation coverage, all coverage must be placed with carriers with an A. M. Best rating of A- or better.