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INTERLOCAL AGREEMENT FOR PERFORMANCE OF POSTMORTEM EXAMINATIONS BY THE NUECES COUNTY MEDICAL EXAMINER

ARTURO GUAJARDO, JR. COUNTY CLERK HIDALGO COUNTY, TEXAS DEPUTY

THE STATE OF TEXAS §
COUNTY OF NUECES §

THIS INTERLOCAL AGREEMENT (the "Agreement") is made pursuant to chapter 791 of the Texas Government Code (the Interlocal Cooperation Act) and chapter 49 of the Texas Code of Criminal Procedure, and is entered into by and between Nueces County, acting by and through its governing body, the Nueces County Commissioners Court ("Nueces County"), and Hidalgo County, acting by and through its governing body, the Hidalgo County Commissioners Court ("Requesting County").

RECITALS:

WHEREAS, pursuant to Tex. Code Crim. Proc. Art. 49.25 §1, Nueces County has established and maintains the Office of Medical Examiner;

WHEREAS, Requesting County does not have a medical examiner, and a justice of the peace is required to conduct an inquest into the death of a person who dies in the county under certain circumstances;

WHEREAS, if the justice of the peace determines that a postmortem examination is necessary, the justice of the peace may order that a postmortem examination of the body be performed by a physician;

WHEREAS, Requesting County desires to obtain the services of the Office of the Nueces County Medical Examiner ("Medical Examiner") to perform postmortem examinations on persons who died in Requesting County and to provide sworn testimony in connection with any inquest by a justice of the peace or any criminal investigation or prosecution conducted by a prosecuting attorney; and

WHEREAS Nueces County and Requesting County desire to enter into a non-exclusive agreement for the provision of these services; permitting either party to enter into the same or similar agreements with other individuals, organizations, or entities.

NOW, THEREFORE, Nueces County and Requesting County, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

I.
TERM

The Term of this Agreement shall begin on the date of the last to sign this document as indicated below, and, unless terminated in accordance with the provisions contained herein, shall automatically renew each year on the anniversary date of the beginning of the Term.

II.
SERVICES

A. Postmortem Examinations. Postmortem examinations will be performed by the Medical Examiner pursuant to chapter 49 of the Texas Code of Criminal Procedure at the Nueces County Medical Examiner's Office, in Corpus Christi, Texas. In those cases where a complete autopsy is deemed unnecessary by the Medical Examiner to ascertain the cause and manner of death, the Medical Examiner may perform an external examination of the body, which may include taking x-rays of the body and extracting bodily fluids and/or tissue for laboratory analysis.

1. *Written Request*. When a justice of the peace in Requesting County determines, pursuant to article 49.10 of the Code of Criminal Procedure, that a postmortem examination is necessary on the body of a deceased person who died within their jurisdiction, the justice of the peace may request that the Medical Examiner perform an examination. Each request for a postmortem examination shall be in writing, accompanied by an order signed by the justice of the peace. However, the Medical Examiner shall have the discretion to decline any specific request for an autopsy examination and instead perform an external examination of the body.
2. *Written Records - Out of County Body*. The following records shall accompany the body of a deceased person who died in Requesting County (as mentioned in paragraph 1 above): (1) a fully completed executed form titled "Nueces County's Authorization for Autopsy" form, (which form shall be furnished by the Nueces County Medical Examiner's Office and is subject to change from time to time); (2) the entire police report, if any, including scene photographs and; (3) all relevant medical records, including but not limited to hospital admission and emergency room records, if applicable. Failure to provide all necessary records may result in the Medical Examiner refusing to accept the body for a postmortem examination.

III. CONSIDERATION FOR SERVICES

A. Postmortem Examination Fees. In consideration for the services provided by the Medical Examiner, Requesting County agrees to pay Nueces County all costs and expenses associated with performing postmortem examinations in accordance with the fee schedule applicable to this contract; a copy of the current fee schedule on the date of execution hereof is attached to this agreement as **Exhibit B**, and Requesting County acknowledges receipt of such fee schedule. These fees are subject to re-evaluation and amendment from time to time. Amended fee schedules will be furnished to Requesting County and the amended fee schedule will take effect thirty (30) days from the date of mailing, faxing, or other delivery of such fee schedule to Requesting County.

B. Special Tests. In addition to the postmortem examination fees, Requesting County agrees to pay Nueces County for any special tests requested by Requesting County or deemed appropriate by the Medical Examiner, in his discretion, that are performed by any independent laboratory selected by the Medical Examiner or otherwise performed on behalf of the Nueces County Medical Examiner. These additional charges may include DNA analyses, dental consults and/or anthropology analyses and trace evidence collection. The fees reflected in the attached fee schedule for those items are subject to re-evaluation and change from time to time upon 30 days written notice. Special tests requested by the Requesting County that are not on the attached fee schedule may be furnished based upon a case by case determination and Requesting County agrees to promptly pay for such fees for such special tests.

C. Testimony. Requesting County shall pay Nueces County according to the prices set forth on the fee schedule in effect at the time such testimony is taken and shall cover all time spent by the Nueces County Medical Examiner preparing for and providing sworn testimony in connection with a postmortem examination performed for Requesting County. The hourly rate for all other Medical Examiner's personnel shall be billed at the rates shown on the then current Nueces County Medical Examiner's fee schedule. These hourly rates shall apply also to pretrial preparation, attendance at pretrial conferences, and any time spent waiting to provide testimony. In addition, Requesting County agrees to pay the Medical Examiner for meals, lodging and travel expenses associated with providing such sworn testimony. The Nueces County Medical Examiner's Office will provide an invoice to Requesting County for such associated expenses.

D. Storage of Bodies. Requesting County shall pay the Nueces County Medical Examiner's Office a body storage fee (as set forth in the fee schedule of the Nueces County Medical Examiner's Office applicable at the time of such service). This charge shall be incurred on each body that remains at the Nueces County Medical Examiner's office beyond twenty-four (24) hours after notification by the Medical Examiner that the

body is ready to be released to Requesting County. **This provision shall survive termination of this Agreement and shall apply to any bodies remaining at the Nueces County Medical Examiner's office beyond such time.**

E. Invoice. Within ninety (90) days from the date of the service performed, the Nueces County Medical Examiner's Office agrees to submit to Requesting County an invoice requesting payment for all services performed under this Agreement during the preceding calendar month. Such invoice shall include the total number of postmortem examinations performed, the dates the postmortem examinations were performed, and the total amount due for the services performed. Requesting County shall pay the total amount of the invoice within thirty (30) days of the date of receipt of the invoice by Requesting County. If Requesting County fails to pay any invoice within sixty (60) days after receipt, the Medical Examiner may refuse to accept any additional bodies for autopsy and all unpaid sums shall begin to bear interest at the highest legal rate provided by Texas law.

F. Fair Compensation. Nueces County and Requesting County agree and acknowledge that the contractual payments contemplated by this agreement are reasonable and fairly compensate Nueces County for the services or functions to be performed under this Agreement.

G. Death Certificates. The justice of the peace who requested the postmortem examination shall provide the Medical Examiner with a copy of the signed Certificate of Death immediately upon filing with the local registrar.

H. Mass Fatalities. In the event of a mass fatality, which shall mean death of ten or more victims involved in an incident, Requesting County shall be responsible to provide, at the expense of Requesting County, adequate refrigerated vehicles for storage and transportation of the victims and shall be responsible to provide, at the sole cost and expense of Requesting County, adequate security monitoring of the bodies of the victims until such time as they are processed and released by the Nueces County Medical Examiner's Office. The Nueces County Medical Examiner's Office shall have the right to request, and Requesting County shall be responsible to pay, any required additional personnel deemed necessary by the Nueces County Medical Examiner to assist in processing of bodies of victims of such mass fatalities which may occur from time to time. In addition, in the event other Nueces County employees, law enforcement, and other personnel of Nueces County are needed to assist in such situations, Requesting County agrees to pay the reasonable fees assessed for such service.

**IV.
FUNDS**

- A. Current Funds. Requesting County agrees and acknowledges that the contractual payments in this Agreement shall be made to the Nueces County Medical Examiner's Office from current revenues available to the Requesting County.
- B. Certified Availability. Requesting County represents that it has available and has specifically budgeted/ allocated \$ 710,000.00 annually for services provided hereunder, as evidenced by a certification of funds by Requesting County's County Auditor. In the event the amount of funds certified available by Requesting County's County Auditor falls below the budgeted/ allocated sum for any year this Agreement is in effect, the Requesting County shall notify the Nueces County Medical Examiner's Office of such fact and in such event, at its sole discretion and option, Nueces County shall have no further obligation to complete the performance of any services until Requesting County certifies sufficient additional current funds available in the required amount. Requesting County agrees to immediately notify Nueces County regarding any additional certification of funds for this Agreement in accordance with Paragraph VI.
- C. Other Statutory Liability. This Agreement is not intended to limit any statutory liability of Requesting County to pay for services provided by Nueces County when the funds certified by Requesting County are no longer sufficient to compensate Nueces County for the services provided under this Agreement.
- D. Overdue Payments. Notwithstanding anything to the contrary herein, the parties understand and agree that chapter 2251 of the Texas Government Code applies to late payments.

**V.
TERMINATION**

- A. Without Notice. If Requesting County defaults in the payment of any obligation in this Agreement, Nueces County is authorized to terminate this Agreement without notice.
- B. With Notice. It is understood and agreed that either party may terminate this Agreement prior to the expiration of the term set forth above without cause, upon ninety (90) days prior written notice to the other party in accordance with paragraph VI. Upon termination of this contract as provided by this paragraph V, the Nueces County Medical Examiner's Office will submit an invoice to Requesting County showing the amounts due for the month in which termination occurs in the same manner provided

herein for submitting invoices for services to Requesting County. Such final invoice shall be due as provided above.

VI. NOTICE

Except as otherwise expressly provided herein, any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the parties, at the following addresses:

To Nueces County: Nueces County Judge
 Nueces County Courthouse
 901 Leopard, Room 303
 Corpus Christi, Texas 78401-3680

with a copy to: Nueces County Medical Examiner
 2610 Hospital Blvd.
 Corpus Christi, Texas 78405

To Requesting County: Hidalgo County Judge
 100 E. Cano Street
 Second Floor
 Edinburg, Texas 78539

Either party may designate a different address by giving the other party ten (10) days written notice.

VII. LAW, VENUE, SURVIVAL OF CLAIMS

The parties agree that any dispute arising under this Agreement shall be governed by the laws of the State of Texas, and venue for any such disputes shall lie in Nueces County, Texas. The parties further agree that all claims arising under this Agreement shall survive any termination of the Agreement, whether such termination is effected according to paragraph VI above, or otherwise.

VIII.
MERGER

The parties agree that this Agreement contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this Agreement.

IX.
MISCELLANEOUS

This instrument contains the entire Agreement between the parties relating to the rights granted and the obligations assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties. This Agreement may be executed in duplicate counterparts each having equal force and effect of an original. This Agreement shall become binding and effective only after it has been authorized and approved by both counties, as evidenced by the signature of the appropriate authority pursuant to an order of the Commissioners Court of the respective County authorizing such execution.

FOR NUECES COUNTY:

By *B. C.*
BARBARA CANALES

Nueces County Judge

Date Signed: 1-20-21

Attested: *Kara Sands*
KARA SANDS

Nueces County Clerk



By *Adel Shaker*
DR. ADEL SHAKER

Nueces County Medical Examiner

Date Signed: 1-19-2021

FOR HIDALGO COUNTY:

By *Richard F. Cortez*
RICHARD F. CORTEZ

Hidalgo County Judge


Date Signed: 1-19-21

Attested: *Arturo Guajardo Jr.*
ARTURO GUAJARDO, JR.

Hidalgo County Clerk

AUDITOR'S CERTIFICATION OF FUNDS

I certify that the County budget contains an ample provision for the obligations of Hidalgo County under this Agreement and that funds are or will be available in the amount of \$ 710,000.00 to pay the obligations when due.


Maria Arcilia Duran,
Hidalgo County Auditor