

# INTERGOVERNMENTAL AGREEMENT BETWEEN PIMA COUNTY AND COCHISE COUNTY FOR MEDICAL EXAMINER SERVICES

This Intergovernmental Agreement (“Agreement”) is entered into by and between Pima County, a body politic and corporate of the State of Arizona (“County”) and Cochise County, a body politic and corporate of the State of Arizona (“Cochise”) pursuant to A.R.S. §11-952.

## Recitals

WHEREAS, County and Cochise may contract for services and enter into agreements with one another for joint or cooperative action pursuant to Arizona Revised Statutes §11-951, et. seq.

WHEREAS, County is authorized by Arizona Revised Statute §11-591 to appoint and has appointed a qualified person to the position of medical examiner.

WHEREAS, Cochise is authorized by Arizona Revised Statutes §11-592 and has determined that appointment of a full-time Cochise medical examiner is not practical and desires to establish a list of licensed physicians who will be available to perform the duties required of a county medical examiner; and

WHEREAS, County and Cochise desire to enter into an agreement whereby the physicians employed by County as a medical examiner will provide county medical examiner services for and on behalf of Cochise.

NOW THEREFORE, County and Cochise, pursuant to the above, and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

## Agreement

1. **Purpose.** The purpose of this Agreement is to set forth the responsibilities of the parties for the provision of Medical Examiner services by County to Cochise, and to address legal and administrative matters among the parties.
2. **Definitions.**
  - 2.1 **AUTOPSY** – means the postmortem examination of a body, including the internal organs and tissues, to determine the cause of death or pathological changes and conditions.
  - 2.2 **EXTERNAL EXAMINATION** – means the postmortem examination which excludes the internal examination where cause and manner of death may be reasonably ascertained without the direct inspection of internal organs.
  - 2.3 **BOARD CERTIFIED PATHOLOGIST** – means a board certified, or board eligible, forensic physician who is a specialist in diagnosing the abnormal changes in organs and tissues removed during postmortem examinations.

**3. Term.**

**3.1** This Agreement shall be effective upon execution by both parties and shall continue for a term not to exceed five years from date of execution.

**4. Termination**

**4.1** Except as otherwise provided in this Agreement, this Agreement shall terminate five years from execution. This Agreement, upon mutual consent of the parties, may be extended for a period of time not to exceed five one-year periods, or any portion thereof. Any modification or time extension of this Agreement shall be by formal written amendment and executed by the parties hereto.

**4.2** Either party may terminate this Agreement, without cause, upon 90 days advance written notice.

**5. Scope**

**5.1 County will:**

**5.1.1** Provide those services customarily provided by the County Medical Examiner on behalf of a County pursuant to A.R.S. Title 11, Chapter 3, Article 12;

**5.1.2** Except for services provided by residents training under the supervision of County's staff forensic pathologists, assure that physicians performing under this Agreement are Board Certified Forensic Pathologist(s) and licensed to practice in the State of Arizona; Fully comply with all applicable provisions of law and other rules and regulations of any and all governmental, accrediting and regulatory authorities relating to the licensure and regulation of physicians;

**5.1.3** Provide 24-hour staff availability for consultation with Cochise County's designated personnel;

**5.1.4** Perform autopsies in a timely fashion;

**5.1.5** Provide forensic pathologist or otherwise qualified staff to testify in court whether as an expert or fact witness;

**5.1.6** Perform forensic and non-forensic autopsies during the period of Contract Year and each subsequent Contract Year. Some or all of the following service tasks may be performed, based upon the Pima County Medical Examiner's determination of need for each case:

**5.1.6.1** Prepare body for autopsy.

**5.1.6.2** Take photographs of decedent.

**5.1.6.3** Take fingerprints of the decedent.

**5.1.6.4** Take x-rays of decedent, if necessary.

**5.1.6.5** Prepare documents required for court testimony.

**5.1.6.6** Collect evidence, if necessary.

**5.1.6.7** Obtain specimens for possible toxicology testing.

- 5.1.7 Provide a complete and detailed autopsy report for each individual case.
- 5.1.8 Maintain secure records containing the appropriate professional and supportive information and documentation pertaining to individual cases. Each case may contain the following information:
  - 5.1.8.1 Law Enforcement agency preliminary report;
  - 5.1.8.2 Cochise County's initial report of case;
  - 5.1.8.3 Any autopsy or examination report;
  - 5.1.8.4 Histological evidence;
  - 5.1.8.5 Slides and/or photographs of the decedent if any;
  - 5.1.8.6 Fingerprints of the decedent;
  - 5.1.8.7 X-rays of the decedent, if any;
  - 5.1.8.8 Past medical history of decedent, if any;
  - 5.1.8.9 Narrative entries of any other informational aspects concerning decedent, if any;
  - 5.1.8.10 Copy of signed death certificate.
- 5.1.9 Submit to Cochise, by the 15<sup>th</sup> working day following the month in which service is rendered, supporting documentation of cases completed during the previous month and, if applicable, accompanying reports.
- 5.1.10 Perform other duties related to this Agreement, including, but not limited to, the following:
  - 5.1.10.1 Signing death certificates for cremation authorization.
  - 5.1.10.2 Authorize anatomical gifts.
  - 5.1.10.3 Provide information to family members, the public and other service agencies as authorized by law including, when appropriate, to Consulates and other agencies that track or maintain databases regarding missing persons.

## 6. Payment

### 6.1 Method of Payment and Pricing

- 6.1.1 Flat Fee Examination and Autopsy Fees. Not later than 30 days after execution of this Agreement Cochise will submit the amount of \$87,500.00 to Pima as a flat fee payment for cases performed during the first quarter of the Contract Year (the Base Rate). For each subsequent quarter the sum of \$87,500.00 not later than the 1<sup>st</sup> day of each new quarter ((i.e. 10/1/2012; 1/1/2013; and 4/1/2013) for the remaining Contract Year that this Agreement is in effect.
- 6.1.2 Other services. All non-examination or non-autopsy services will be billed and paid in accordance with County's published fee schedule in effect at the time the service is rendered. County will submit an invoice to Cochise by the 15<sup>th</sup> working day following the month in which the service is rendered identifying the service rendered along with any documentation which Cochise may need for their records.

**7. Indemnification**

**7.1** To the extent permitted by law, Cochise shall indemnify, defend and hold harmless Pima County, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature which result from any act or omission of Cochise, its agents, employees or anyone acting under its direction, control or on its behalf unless due solely to county negligence.

**8. Compliance with Laws**

**8.1** The parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement and any disputes hereunder. Any action relating to this Agreement shall be brought in an Arizona court in Pima County.

**9. Non-Discrimination**

**9.1** Cochise agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors.** Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website [http://www.azgovernor.gov/dms/upload/EO\\_2009\\_09.pdf](http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf) which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, Cochise shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

**10. ADA**

**10.1** The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

**11. Severability**

**11.1** If any provision of this Agreement or any application thereof to the parties or any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given effect, without the invalid provision or application and to this end the provisions of this Agreement are declared to be severable.

**12. Conflict of Interest**

**12.1** This contract is subject to cancellation for conflict of interest pursuant to A.R.S. §38-511, the pertinent provisions of which are incorporated herein by reference.

**13. Non-Appropriation**

**13.1** Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason either party does not appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such cancellation, the canceling party shall have no further obligation other than for payment for services rendered prior to cancellation.

**14. Worker's Compensation**

**14.1** Each party shall comply with the notice provisions of A.R.S. §23-1022 (E). For purposes of A.R.S. §23-1022, each party shall be considered the primary employer of all personnel currently or hereafter employed by that party, irrespective of the operations of protocol in place, and said party shall have the sole responsibility for the payment of Worker's Compensation benefits or other fringe benefits of said employees.

**15. No Joint Venture**

**15.1** It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the parties or create any employer-employee relationship between County and any Cochise employees, or between Cochise and any County employees. Neither party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

**16. No Third Party Beneficiaries**

**16.1** Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.

**17. Entire Agreement**

**17.1** This document constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement shall not be modified, amended, altered or extended except through a written amendment signed by the parties.

**In Witness Whereof**, County has caused this Agreement to be executed by the Chair of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board, and Cochise has caused this Agreement to be executed by the Chair of its Board of Supervisors, upon resolution of the Board and attested to by its Clerk of the Board:

**PIMA COUNTY:**

**COCHISE COUNTY:**

\_\_\_\_\_  
Chair  
Board of Supervisors

\_\_\_\_\_  
Chair  
Board of Supervisors

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Clerk of the Board

**Approval**

The foregoing Intergovernmental Agreement between Pima County and Cochise County has been reviewed pursuant to A.R.S. §11-952 by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Intergovernmental Agreement represented by the undersigned.

**PIMA COUNTY:**

**COCHISE COUNTY:**

  
\_\_\_\_\_  
Deputy County Attorney

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Attorney for Cochise County