

10/004115

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION AUTHORIZING INTERLOCAL AGREEMENT BETWEEN DOUGLAS
COUNTY, NEBRASKA AND THE SARPY COUNTY ATTORNEY'S OFFICE FOR THE
PURPOSE OF PROVIDING FORENSIC SERVICES

WHEREAS, pursuant to Neb. Rev. Stat. §23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, an agreement has been proposed with Douglas County, Nebraska for the purpose of providing forensic services to the Sarpy County Attorney's Office; and,

WHEREAS, said agreement is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the Interlocal Agreement between Douglas County, Nebraska and the Sarpy County Attorney's Office for forensic services, a copy of which is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the Chair of this Board, together with the County Clerk, is hereby authorized to sign on behalf of this Board the attached Interlocal Agreement and any other related documents.

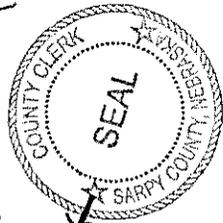
Dated this 9th day of February, 2010.

Moved by Rich Jansen seconded by Rusty Hike, that the above Resolution be adopted. Carried.

YEAS:	NAYS:	ABSENT:
<u>Rusty Hike</u>	<u>none</u>	<u>Tom Richards</u>
<u>Rich Jansen</u>	_____	_____
<u>Tom Jones</u>	_____	_____
<u>Patrick Thomas</u>	_____	_____

ABSTAIN:

none



Tom Jones, Deputy
County Clerk

Approved as to form:
Tom Jones
County Attorney

**INTERLOCAL AGREEMENT
BETWEEN
DOUGLAS COUNTY, NEBRASKA
AND
SARPY COUNTY, NEBRASKA**

Under the authority of the Nebraska Interlocal Cooperation Act, Article 8 of Chapter 13 of the Nebraska Revised Statutes, this Agreement is entered into between the Douglas County, Nebraska, (herein after "Douglas County") a political subdivision of the State of Nebraska, by and through the Douglas County Sheriff, and the Sarpy County Attorney's Office, a *political subdivision of the State of Nebraska*, (herein called "*Requesting Agency*") for the purpose of providing forensic services.

**SECTION ONE
DUTIES AND RESPONSIBILITIES**

- A. Duties/Specific Services to be provided by Douglas County
1. Provide the forensic lab services as specified in Schedule of Forensic Services which is attached and incorporated hereunto as Exhibit A and shall strive to respond to any request for assistance in a timely manner.
 2. Provide and train personnel as necessary to perform forensic services specified in the Schedule of Forensic Services and as determined by the County Sheriff exercising professional judgment. Said personnel will at all times remain under the management and control of Douglas County. Employment rights of personnel assigned to provide services will not be abridged.
 3. Reserve the sole right to determine its own availability to perform the forensic service request. This Agreement shall not be construed to require Douglas County to hire any new or additional personnel to perform forensic services.
 4. Provide all equipment and facilities necessary to conduct laboratory analysis as specified in the Schedule of Forensic Services.
 5. Process evidence in reliance upon the assumption that the evidence was collected and packaged in accordance with the Douglas County Sheriff's Office Crime Scene Investigation Division (CSI) packaging guidelines, to which the current guidelines are attached and incorporated hereunto and subject to periodic review and revision by Douglas County. Further, Douglas

County retains the right to refuse evidence for forensic processing and/or refuse to process or reprocess evidence submitted to the Douglas County Crime Scene Investigation Unit if the County believes, in its sole discretion, that the evidence has been compromised and/or otherwise contaminated.

6. The Douglas County Crime Scene Investigation Division has extensive dedicated equipment and facilities to ensure the provision of highly professional forensic lab services. Specific arrangements for the use of equipment and/or facilities is necessarily limited to assigned Douglas County Sheriffs Office personnel.
7. Provide written findings upon completion of any forensic analysis-performed. All records, reports, and documents concerning the performance of services provided by Douglas County Sheriffs Office personnel will be appropriately recorded and securely maintained in accordance with Sheriffs Office records/reporting directives and the State Records Retention Act.
8. Send written notification to the authorized representative of the Requesting Agency upon completion of forensic analysis for each item(s) of evidence submitted to Douglas County CSI Division.
9. Invoice the Requesting Agency on a monthly basis. The invoice will reflect actual services rendered on each item submitted for forensic analysis in addition to the name of the person requesting such services. CSI lab services and deposition and/or court appearances will be billed for a minimum of two (2) hours with additional time billed in .50 hour (30 minute) increments.
10. Update the Schedule of Forensic Services, attached as Exhibit A, no less than annually and provide a copy of said Schedule to the Requesting Agency's authorized representative no less than thirty (30) days prior to the effective date of said Schedule.

B. Duties of the Requesting Agency

1. Submit a request for forensic service(s) that will be completed by the CSI Division in a timely manner. The Requesting Agency shall pay an additional charge to Douglas County when such tests require expedient handling and/or additional personnel or services to meet a specific time requirement requested by the Requesting Agency. Douglas County reserves the right to refuse to perform the forensic services if it deems, in its sole discretion, that the service cannot be complete on or before the requested date.
2. Cooperate at all times with the employees and representatives of the Douglas County Sheriff's Office providing services under this Agreement.
3. Make payment for provided Services no more than thirty days after receipt of an invoice reasonably documenting all applicable uncontested charges and fees.

SECTION TWO

TERM, DURATION, REVIEW, REVISION, AND TERMINATION

The term of this Agreement shall be one year from February 9, 2010 to February 9, 2011 unless terminated earlier by either party by giving 30 days written notice to the other party. The Agreement will automatically renew for two one year terms after the initial term unless terminated earlier by either party by giving 30 days written notice to the other party. This Agreement ends any previous Agreements for CSI services. Upon expiration, this Agreement may be extended or renewed for an additional term by mutual written agreement of the Parties. A review of the agreement will be conducted annually or more often as needed. Revision of the Agreement may be conducted as needed/deemed necessary by Douglas and Sarpy County.

SECTION THREE

GENERAL PROVISIONS

A **Independent Contractors.**

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Any and all acts that either Party or their personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The Parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. None of the Parties nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The Parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers' compensation insurance. Each Party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters.

Any and all claims that may or might arise under the Workers' Compensation Act of the State of Nebraska on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment, including without limitation claims of discrimination against a Party its officers, employees, agents, contractors or servants shall in no way be the responsibility of the other Party. Neither Party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

B. Nondiscrimination.

Both Parties agree that in accordance with the Nebraska Fair Employment Practice Act, Neb.Rev.Stat. §48-1122, they will not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of the race, color, religion, sex, disability, or national origin of the employee or applicant. None of the Parties shall, in the performance of this Agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances.

C. Captions.

Captions used in this Agreement are for convenience and are not used in the construction of this Agreement.

D. Applicable Law and Venue.

Parties to this Agreement shall conform with all existing and applicable city ordinances, resolutions, state and local laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this Agreement. Venue for any non-federal legal proceeding under this Agreement shall be in the State of Nebraska, District Court of Douglas County and for any federal legal proceeding in the United States District Court for the State of Nebraska located in Omaha Nebraska.

E. Entire Agreement

This Agreement contains the entire agreement of the Parties. No representations were made or relied upon by either Party other than those that are expressly set forth herein. No agent, employee or other representative of either Party is empowered to alter any of the terms hereof except as provided herein.

F. Amendments/Modification.

This Agreement may be modified only by written amendment, duly executed by authorized officials of the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Every amendment shall specify the date on which its provisions shall be effective.

G. Assignment.

None of the Parties may assign its rights under this Agreement without the express prior written consent of the other Party.

H. Successors and Assigns Bound by Covenants.

All covenants, stipulations and agreements in this Agreement shall inure to the benefit of the Parties hereto and extend to and bind the legal representatives, successors, and assigns of the respective Parties hereto.

I. Waiver.

Failure or delay by any Party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving Party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power. In addition, any act by either Party which is it not obligated to do hereunder shall not be deemed to impose any obligation upon that Party to do any similar act in the future or in any way change or alter any of the provisions of this Agreement.

J. Severability.

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect.

K. Dispute Resolution.

Any dispute which, in the judgment of a Party to this Agreement, may affect the performance of such Party shall be reduced to writing and delivered to the other Party. As soon as possible thereafter, the Parties authorized representatives shall schedule a face to face meeting to resolve the dispute in a mutually satisfactory manner. Prior to the institution of any formal legal proceeding, the Parties must meet in this manner to resolve the dispute. This meeting must take place within ten (10) business days after service of the written statement of dispute. During the pendency of negotiations, the Parties shall act in good faith to perform their respective duties described herein.

If the Parties are unable to resolve their dispute using the process described above, the Parties agree to submit to nonbinding mediation with a mutually acceptable mediator prior to commencement of a legal action by any Party.

L. Indemnification/Legal Contingencies.

Requesting Agency agrees to save and hold harmless, to the fullest extent allowed by law, Douglas County, its principals, officers and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the negligent or wrongful acts or omissions of Requesting Agency's principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from the performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including any loss of use resulting there from.

Further, Requesting Agency shall purchase and maintain during the term of this Agreement, comprehensive General Liability Insurance in the minimum amount of \$1,000,000 per person and \$5,000,000 per occurrence naming and protecting them, and Douglas County as an additional insured, against claims for damages resulting from (1) bodily injury, including wrongful death, (2) personal injury liability and (3) property damage, which may arise from operations under this Agreement whether such operations be by Requesting Agency or anyone directly or indirectly employed by them. Copies of the certificate of insurance shall be provided to Douglas County upon request.

The provisions of this section shall survive expiration or termination of this Agreement.

M. No Third Party Rights.

This Agreement is not intended to, nor shall it provide third parties, excluding any assignment as provided herein, with any remedy, claim, liability, reimbursement, cause of action or other right or privilege; except that this Agreement's indemnification provision shall also inure to the benefit of a Party's employees, officers, agents and servants.

N. Authorized Representatives and Notice.

In further consideration of the mutual covenants herein contained, the Parties hereto expressly agree that for purposes of notice, during the term of this Agreement and for the period of any applicable statute of limitations thereafter, the following named individuals shall be the authorized representatives of the Parties:

FOR THE COUNTY

Captain Steven Glandt
Douglas County Sheriff's Office
3601 North 156th Street
Omaha, NE 68916
(402) 444-6854
(402) 444-6065 fax

FOR REQUESTING AGENCY

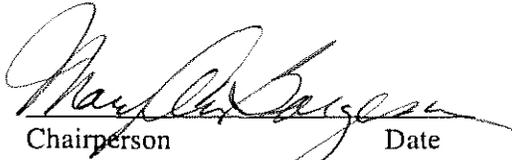
Lee Polikov, Sarpy County Attorney
Sarpy County Attorney's Office
1210 Golden Gate Drive
Papillion, NE 68046
(402) 593-2230
(402) 593-4359 fax

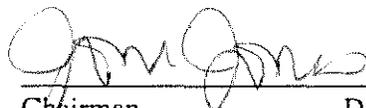
Notice shall be in writing and shall be effective upon receipt. Delivery may be by hand, in which case a signed receipt shall be obtained, or by United States mail, registered or certified, return receipt requested or by facsimile with a signed return facsimile acknowledging receipt.

IN WITNESS WHEREOF, the parties hereunto set their hands to this Agreement upon the day and year hereinafter indicated.

DOUGLAS COUNTY, NEBRASKA

SARPY COUNTY, NEBRASKA

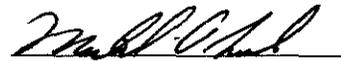

Chairperson Date

 2/9/2010
Chairman Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

 2/22/10
County Attorney Date

 2-9-10
Attorney Date