

## AGREEMENT FOR LEGAL SERVICES

**THIS AGREEMENT FOR LEGAL SERVICES** (the "Agreement"), dated as of the 31<sup>st</sup> day of August, 2020 is made by and between Sauk County (the "County"), and Cross Jenks Mercer & Maffei, LLP ("Cross Jenks"). The County and Cross Jenks may be referred to herein singularly as a "Party" or collectively as the "Parties".

### RECITALS

**WHEREAS**, the County is obligated to provide certain legal representation for certain cases pursuant to the Wisconsin Statutes, including, but not limited, to cases originating in Wis. Stat. Ch. 51, Wis. Stat. Ch. 54 and Wis. Stat. Ch. 55;

**WHEREAS**, the County desires to provide this legal representation by using outside legal counsel, namely Cross Jenks, to provide specific legal services further outlined in this Agreement (the "Legal Services");

**WHEREAS**, representatives of the County and representatives of Cross Jenks have discussed the terms and conditions set forth in this Agreement, and the Parties wish to memorialize the agreement for the Legal Services.

**NOW, THEREFORE**, in consideration of the above recitals, the terms and conditions set forth herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Cross Jenks agree as follows:

1. Recitals. The County and Cross Jenks acknowledge and agree that the Recitals above are true and accurate, and each Recital is incorporated into this Agreement.

2. Term.

(a) The term of this Agreement shall be nine (9) months commencing upon August 1, 2020, and subject to the termination provisions set forth herein. This Agreement shall terminate on April 30, 2021 unless the term is extended by mutual agreement of the Parties or otherwise terminated as permitted herein.

(b) Each Party has the option to terminate this Agreement at any time upon 45 days written notice and/or in accordance with all applicable laws and Wisconsin Supreme Court Rules.

3. Legal Services/Scope of Work. Cross Jenks agrees to work with the County, including the Sauk County Department of Human Services ("DHS"), in all Wis. Stat. Ch. 51 (Mental Health), Wis. Stat. Ch. 54 (Guardianships and Conservatorships) and Wis. Stat. Ch. 55 (Protective Services) for which Cross Jenks does not have an ethical conflict. The following legal services shall be provided by Cross Jenks to the County, which shall hereinafter be known as the "Legal Services," including, but not limited to:

(a) Consulting with DHS regarding the legal process for all Wis. Stat. Ch. 51, Wis. Stat. Ch. 54 and Wis. Stat. Ch. 55 cases that fall under the County's jurisdiction.

(b) Complete file review, correspondence, legal research, collecting necessary information, preparing and reviewing pleadings and documents, and any other work associated with each legal matter or case.

(c) Promptly processing requests for legal actions, preparing legal documents and providing direction to DHS staff and/or other County staff for preparing legal documents, participating in civil discovery, pretrial practice, trial and post-trial litigation.

(d) Represent the County/DHS in all matters and cases under Wis. Stat. Ch. 51, Wis. Stat. Ch. 54 and Wis. Stat. Ch. 55 that fall under the County's jurisdiction.

(e) Preparation of petitions and other legal documents for Wis. Stat. Ch. 51, Wis. Stat. Ch. 54 and Wis. Stat. Ch. 55 matters that fall under the County's jurisdiction.

(f) Providing a written explanation for case results.

(g) Regular and frequent consultation with DHS case workers, their supervisors, any other necessary DHS and/or County staff regarding preparation of legal documents, the provision of testimony and obtaining court orders, and attendance at meetings either by phone or in person where attendance is requested because legal issues are likely to arise. The Parties acknowledge that the representing Cross Jenks attorney will be required to be available on short notice.

(h) Any other tasks, work or actions that are deemed reasonably necessary by the Parties for appropriate representation of the County in all matters and cases under Wis. Stat. Ch. 51, Wis. Stat. Ch. 54 and Wis. Stat. Ch. 55 that fall under the County's jurisdiction.

4. Assigned Attorney(s). The Parties agree that Attorney Brittney Busalacchi of Cross Jenks will be the primary assigned attorney to complete the Legal Services on behalf of Cross Jenks under this Agreement. Cross Jenks agrees that it will provide another Cross Jenks attorney to fill in for Attorney Busalacchi in the event she is unable or unavailable to perform any of the Legal Services.

5. Payment/Compensation.

(a) In consideration for the Legal Services to be performed by Cross Jenks under this Agreement, the County agrees to pay Cross Jenks at the rate of \$180.00 per hour as invoiced monthly. Invoices shall include case names (as permitted by all applicable laws, including, but not limited to, the confidentiality requirements of the Wisconsin Supreme Court), a detailed description of the work completed, the time spent on the matter and billed in 1/10th of an hour increments. Cross Jenks agrees that it will provide any additional billing information that the County may require or request.

(b) The County agrees to reimburse Cross Jenks for all out-of-pocket expenses and disbursements incurred by Cross Jenks in the performance of the Legal Services. Cross Jenks will consult with County before incurring any unusual or major expense Cross Jenks deems necessary.

(c) The Parties acknowledge and agree that any costs associated with its administration or performance of Legal Services, including, but not limited to, photocopying, postage, administrative assistance, or other administrative costs, are not reimbursable under this Agreement.

6. Confidentiality; File Ownership/Retention.

(a) Cross Jenks shall keep all records, correspondence, etc. confidential as required by the Wisconsin Statutes, County Ordinances, Wisconsin Supreme Court rules, and any other applicable law.

(b) Cross Jenks acknowledges that it will be necessary for the County to disclose certain confidential and proprietary information to Cross Jenks in order for Cross Jenks to perform their duties under this Agreement. Cross Jenks acknowledges that disclosure to a third party or misuse of this proprietary or confidential information would irreparably harm the County. Accordingly, Cross Jenks will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the County without the County's prior written permission except to the extent necessary to perform services on the County's behalf. Proprietary or confidential information includes, but is not limited to: The written, printed, graphic, or electronically recorded materials furnished by County for Cross Jenks to use; any written or tangible information stamped "confidential," "proprietary," or with a similar legend.

(c) Upon termination of Cross Jenks's services to the County, or at the County's request, Cross Jenks shall deliver to the County all materials in Cross Jenks's possession relating to the County.

(d) The Parties agree that all files, documents, and/or attachments relating to any cases for which Cross Jenks provides Legal Services are the sole and exclusive property of County. Cross Jenks shall have the right to retain copies subject to any rules of confidentiality, rules of professional conduct, and any other applicable law.

4. Miscellaneous Provisions.

(a) *County as Governmental Entity.* The Parties acknowledge and agree that the County is a governmental entity subject to Wis. Stat. Ch. 59 and other applicable laws. Notwithstanding any term of this Agreement, the terms and conditions set forth in this Agreement are subject to any laws or restrictions applicable to the County and the Legal Services, and the Parties shall take the necessary steps to ensure compliance with any laws applicable to the County, including, but not limited to, the open records law. The County reserves the right to take any action it considers necessary to comply with any applicable laws and to protect the health, welfare and safety of the public, in the County's discretion, regardless of the terms and conditions of this Agreement.

(b) *Independent Status.* Cross Jenks, under the code of the Internal Revenue Service (IRS) and any other applicable law, is an independent contractor, and neither Cross Jenks's employees nor contract personnel are, or shall be deemed, the County's employees. In its capacity as an independent contractor, Cross Jenks agrees and represents: (i) Cross Jenks has the right to perform the Legal Services for others during the term of this Agreement; (ii) Cross Jenks has the sole right to control and direct the means, manner, and method by which the Legal Services required by this Agreement will be performed.

(c) *No Partnership.* This Agreement does not create a partnership or joint venture relationship between the County and Cross Jenks. Unless otherwise directed, Cross Jenks shall have no authority to enter into contracts on the County's behalf or represent the County in any manner.

(d) *Licenses, Permits, and Certificates.* Cross Jenks represents and warrants that it, and any attorney working or staff performing any part of the Legal Services, shall comply with all federal, state, local and any other applicable laws requiring any required licenses, permits, and certificates necessary to perform the Legal Services under this Agreement.

(e) *Federal and State Taxes.* Under this Agreement, the County shall not be responsible for: (i) withholding FICA, Medicare, Social Security, or any other federal or state withholding taxes from Cross Jenks's payments to employees or personnel or make payments on behalf of Cross Jenks; (ii) making federal or state unemployment compensation contributions on Cross Jenks's behalf; and (iii) payment of any taxes incurred related to or while performing the Legal Services under this Agreement, including all applicable income taxes.

(f) *Unemployment Compensation.* Cross Jenks shall not be entitled to unemployment compensation in connection with the Services performed under this Agreement.

(g) *Workers' Compensation.* Cross Jenks shall be responsible for providing all workers' compensation insurance on behalf of their employees. Upon request by the County, Cross Jenks must provide certificates proving workers' compensation insurance at any time during the performance of the Services.

(h) *Malpractice Insurance.* Cross Jenks agrees to bear all responsibility for the actions related to themselves under this Agreement. In addition, Cross Jenks agrees to maintain professional malpractice coverage in an amount dictated by the State Bar of Wisconsin or any other applicable laws.

(i) *Indemnity by Cross Jenks.* Cross Jenks (including its members, managers, agents, employees, invitees officers, independent operators and representatives) agrees to protect, defend, reimburse, indemnify and hold the County, as well as its agents, employees, administrators, representatives and elected officers, and each of them, free and harmless at all times from and against any and all claims, liabilities, expenses, losses, costs, fines and damages (including reasonable attorneys' fees) and causes of action of every kind and character against and from the County that may arise as a result of any action or inaction by Cross Jenks (including Cross Jenks' members, managers, agents, employees, invitees officers, independent operators and

representatives). Cross Jenks' obligations hereunder shall survive the expiration or termination of this Agreement.

(j) *Indemnity by the County.* Cross Jenks understands and acknowledges that the County is not authorized to indemnify or hold Cross Jenks harmless. Cross Jenks hereby waives any right or claim to indemnification by the County.

(k) *Captions.* The captions used in this Agreement are for the purpose of convenience only and shall not be construed to limit or extend the meaning of any part of this Agreement.

(l) *Entire Agreement.* The Parties acknowledge that this Agreement represents the full and complete agreement between the Parties for the Legal Services described herein. Any prior agreement, whether written or oral, is hereby terminated.

(m) *Binding Effect; Successors and Assigns.* The terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, as well as their respective heirs, successors and assigns.

(n) *Counterparts.* Any executed copy of this Agreement shall be deemed an original for all purposes. This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall constitute a single instrument.

(o) *Severability.* If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

(p) *Governing Law; Interpretation.* This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against either the County or Cross Jenks.

(q) *Entities Bound; Authority to Act.* The Parties represent and warrant that the entities set forth in this Agreement shall be the only parties to whom the benefits prevail. No other entity, partner, subcontractor, or assignee shall be entitled to the rights, privileges and benefits set forth in this Agreement. The individual executing this Agreement hereby represents and warrants that he has authority to act on behalf of the entity intended to be bound.

(r) *Assignment.* Neither Party may assign this Agreement, or any portion thereof, to another party without express written consent of the non-assigning Party.

(s) *Amendment.* This Agreement may only be amended by the Parties by written agreement.

(t) *Actions Pursuant to County Police Power.* The County reserves the right to take any action it considers necessary to protect the health, welfare and safety of the public, in the County's sole discretion, regardless of the terms and conditions of this Agreement in order to comply any Applicable Laws or restrictions applicable to the County.

(u) *Other Compensation or Benefits.* Cross Jenks, and any individual performing any part or all of the Legal Services under this Agreement, is not entitled to any additional compensation, benefits, insurance or other compensation for performance of the Legal Services, including, but not limited to, those benefits offered to County employees.

(v) *Full Force and Effect.* This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

(w) *Breach Waiver.* Any waiver by the County of a breach of any section of this Agreement by Cross Jenks shall not operate or be construed as a waiver of any subsequent breach by Cross Jenks.


(x) *Amendment.* This Agreement may only be amended by the Parties by written agreement.

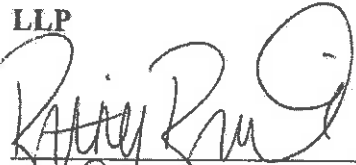
*SIGNATURES APPEAR ON THE FOLLOWING PAGE(S)*

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement for Legal Services as of the date referenced above.

SAUK COUNTY

CROSS JENKS MERCER & MAFFEI,  
LLP

  
By: Rebecca Rocker  
Its: Indiana Corporate Counsel -  
Von Briesen & Poper, P.C.

  
By: Brittany M. Busalacchi  
Its: Partner