

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE PIMA COUNTY FREE LIBRARY DISTRICT,  
PIMA COUNTY AND THE TOWN OF ORO VALLEY  
FOR THE TRANSFER OF THE ORO VALLEY PUBLIC LIBRARY FACILITIES  
AND OPERATIONS TO THE PIMA COUNTY FREE LIBRARY DISTRICT**

This Intergovernmental Agreement is entered into by and between the Pima County Free Library District, a special taxing district of Pima County; Pima County, a political subdivision of the State of Arizona; and, the Town of Oro Valley, a municipal corporation of the State of Arizona.

**Recitals**

- A. The Pima County Free Library District was established pursuant to A.R.S. § 11-901 *et seq.* and exercises its powers and duties pursuant to A.R.S. § 48-3901 *et seq.*
- B. The Pima County Free Library District has the authority to levy a county free library district secondary property tax sufficient to fund a public library system in unincorporated Pima County and the incorporated cities and towns therein.
- C. The Pima County Free Library District currently operates a library system made up of the main library in downtown Tucson and twenty-five (25) branch libraries located throughout Pima County.
- D. The Town of Oro Valley operates the Oro Valley Public Library in accordance with the practices, standards and commitments made under an intergovernmental agreement with Pima County and the Pima County Free Library District.
- E. A.R.S. § 11-903 authorizes any incorporated city or town in the County to become a part of a library district.
- F. The Town of Oro Valley and the Pima County Free Library District agree that it is in the best interest of all Pima County residents, including the residents of Oro Valley, that the public library system in Pima County include the Oro Valley Public Library.
- G. The Pima County Free Library District shall, therefore, operate and manage the Oro Valley Public Library as a branch library to allow for equitable access to all current and future library locations in Pima County and to provide the broadest range of library services possible to the residents of Pima County.

**GLOSSARY**

“Agreement”	This Intergovernmental Agreement
“County”	Pima County
“District”	Pima County Free Public Library District
“District Library System”	The main library and all branch libraries operated by the Pima County Free Library District pursuant to A.R.S. § 11- 901
“Effective Date”	July 1, 2012

“Friends”	Friends of the Oro Valley Public Library, Inc., a private non-profit corporation organized under the laws of Arizona
“Interim Period”	July 1, 2012 through December 31, 2012.
“Lease”	The separate lease agreement between Pima County, Pima County Free Public Library District and Town of Oro Valley setting forth the terms and conditions for the occupation and operation of the Premises by District
“Services IGA”	Intergovernmental Agreement between Pima County, Pima County Free Public Library District, and Town of Oro Valley regarding the payment for and provision of library services at the Oro Valley Public Library; County Contract No. 12000000000000000896 (formerly 01-66-O-140125-0707)
“OVPL”	Oro Valley Public Library, a stand-alone structure on the multi-use municipal campus of the Town of Oro Valley
“PCFM”	Pima County Facilities Management
“Pima County Public Library”	Pima County Free Library District
“Premises”	Building, fixtures and all personal property in the building located at 1305 West Naranja Drive in Oro Valley, Arizona
“Town”	Town of Oro Valley
“Transfer Date”	January 1, 2013

## AGREEMENT

IN CONSIDERATION of the various promises and obligations made and undertaken herein, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions for the orderly and timely transfer of OVPL operations to District including the transfer of OVPL staff to the employ of County.
2. Library Operations.
  - 2.1 Transfer of Operation from Town to District. From and after 12:01 a.m. on the Transfer Date, District shall operate the OVPL, which will become part of the District Library System. Until the Transfer Date, Town shall continue to operate the OVPL in accordance with the practices, standards and commitments made between County, District and Town in the Services IGA, and in compliance with all terms of this Agreement. The Services IGA shall remain in full force and effect and is not superseded by this Agreement until the Transfer Date, or unless required to act in compliance with this Agreement.
  - 2.2 Use of County Policies. On and after the Transfer Date, OVPL operations shall be governed by the District Board of Directors and be subject to that Board’s policies,

direction, and control. Further, Pima County personnel, finance and other general rules, policies and procedures shall apply. Library staff employed by Town during the Interim Period may, pursuant to the terms and conditions set forth in Section 6 below, transfer to the employ of County.

- 2.3 Name of the Library. The name of the facility shall remain the Oro Valley Public Library. District may not change the name without the approval of Town.
- 2.4 Hours of Operation. On and after the Transfer Date, District will operate OVPL as a full service library. Subject to annual budget approval by the Pima County Board of Supervisors, full service libraries are open seven days a week and four evenings per week. All District libraries are closed on official County holidays.
- 2.5 Library Collections. District agrees that the Heritage Collection and the local Author's Collection are unique, special collections established and purchased by the Friends and that items in these collections shall be so designated and may circulate to other District library branches but shall be returned to the special collections at OVPL. District agrees that books purchased by the Friends for use in the general collection may be marked as purchased by the Friends and shall circulate to other District library branches, but these books shall be returned to the general collections at OVPL.
- 2.6 Library Programs. Pursuant to District policy, OVPL shall continue to operate public programs that meet the needs and interests of the local community. Staff will organize, promote and support local programs. Local program presenters shall not be obligated to provide programs at other branches.
- 2.7 Volunteer Program. The volunteer program at OVPL shall continue following the transfer. Pursuant to District policy, volunteers shall have library access and perform their tasks under the supervision of District.

### 3. Finance and Funding.

- 3.1 Funding of Oro Valley Library for 2011-2012 Fiscal Year. For FY 2011-12 (July 1, 2011 through June 30, 2012), Town and District will jointly pay the Eligible Shared Operating Costs of the Oro Valley Public Library as defined and established in the Services IGA.
- 3.2 Funding after the Effective Date. Except as otherwise specified herein, District shall be responsible for funding one-hundred percent (100%) of OVPL operations, including employee salaries and benefits, on and after the Effective Date, subject to the provisions of Sections 12.4 and 19.

### 4. Disclosure. Town and District staff shall cooperate to identify the specific records needed in order to effectuate the orderly transition of OVPL operations from Town to District. At a minimum, Town shall furnish District with the following, as soon as reasonably possible, or as specifically set forth herein, **but no later than April 15, 2012:**

- 4.1. A complete inventory of the building, specialized equipment, furnishings, fixtures, and other personal property necessary to the management and operation of the OVPL,

including information necessary for GASB-34 reporting and underwriting of property insurance.

4.2. Financial statements with full disclosure of:

4.2.1. Total assets associated with or dedicated to the operation or improvement of OVPL, including, but not limited to:

4.2.1.1. Revenue/accounts receivable;

4.2.1.2. Capital assets;

4.2.1.3. Any and all accrual accounts associated with the budget for the operation of OVPL; and

4.2.1.4. Any other accounts or assets, such as grant funds, trusts or donations received.

4.2.2. Liabilities, both contingent and accrued.

4.2.3. Short and long-term indebtedness, including bonded indebtedness, if any.

4.3. Statements regarding pending claims or litigation or any other events materially and adversely affecting operations or the financial condition of OVPL.

4.4. A full listing, and copies, of all outstanding contracts connected with OVPL operations and/or the Premises, the terms of which extend beyond the Transfer Date, including, but not limited to: liens, deeds, software license agreements, maintenance and construction agreements, supply contracts, cost sharing agreements, and rooftop use agreements. **This information must be provided to District as soon as possible, but no later than April 1, 2012.**

4.5. Any licenses, permits, leases, occupancy agreements, or other agreements, that are currently in place giving any third party the right to use or occupy on a regular basis (whether or not continuous, and whether or not exclusive) any portion of the Premises.

4.6. Copies of any and all as-built plans as well as any reports that have been generated regarding the condition of the Premises, such as mold, asbestos, environmental, ADA non-compliance or deficiencies, or engineering reports.

4.7. Any and all documentation in Town's possession regarding the operations and maintenance of the Premises, including, but not limited to:

4.7.1. Documentation regarding the major mechanical systems and structural condition (including roof) of the Premises, including, but not limited to: service schedules, warranties, and defects or substandard functioning. **This information must be provided to PCFM as soon as possible and not later than April 1, 2012.**

4.7.2. Copies of any and all Accident, Vandalism, and Security Reports associated with the Premises. **This information must be provided to Pima County Risk Management by April 1, 2012.**

- 4.7.3. Copies of any and all reports, notices, or other information related to: mold issues; custodial chemical usage; trip hazards and the like; and any and all ADA complaints regarding access to and use of the Premises. **This information must be provided to Pima County Risk Management and PCFM as soon as possible, but no later than April 1, 2012.**
- 4.7.4. Any other documents or information in the possession of Town that a reasonable person would deem to be material to District as if District were actually purchasing and thereafter operating and maintaining the Premises.
- 4.8. Personnel information **must be provided to District as soon as possible, but no later than April 1, 2012.** Personnel information shall include all of the following:
  - 4.8.1. An organizational chart for the library, disclosing:
    - 4.8.1.1. Each position in the library, identified by job title and position number.
    - 4.8.1.2. The name of the individual occupying each position, if filled; if vacant, note that it is vacant.
    - 4.8.1.3. Pay rate for each employee.
  - 4.8.2. A description of the duties and salary range of each job title.
  - 4.8.3. A complete list of all employees, showing:
    - 4.8.3.1. Name.
    - 4.8.3.2. Current title.
    - 4.8.3.3. Pay rate on August 1, 2011.
    - 4.8.3.4. Date of hire.
    - 4.8.3.5. Date in job classification.
    - 4.8.3.6. Accrued vacation leave hours.
    - 4.8.3.7. Accrued sick leave hours.
    - 4.8.3.8. Part-time or full-time status.
    - 4.8.3.9. Hours worked per pay period.
    - 4.8.3.10. Status (regular, temporary, intermittent).
    - 4.8.3.11. If an employee is on leave, the date the leave started, the type of leave, and the circumstances associated with the leave.

4.8.3.12. Probationary status for OVPL employees on probation with probation start date.

4.8.3.13. A list of employees who intend to retire prior to the Transfer Date.

5. Audit Rights. District shall have the right to audit the books of Town relating to OVPL.

6. Personnel. After the Transfer Date, Pima County shall, through an Agreement with the District, provide, at the District's cost, staffing for operation of the District Library System. Subject to the terms and conditions set forth below, County shall accept for employment any and all Oro Valley Library employees who voluntarily leave Town employment, effective as of the Transfer Date, to become County employees (the "Transferring Employees"), except for the employees who have indicated an intent to retire prior to the Transfer Date.

6.1 Transfer to County Employment.

6.1.1 *Application Materials*. Each Transferring Employee shall submit a completed Pima County Application for Employment and other hiring papers required by County, at the time set by County, which must not be later than August 1, 2012. Failure of a Transferring Employee to submit the required documents shall be, at the County's discretion, just cause for denying the transfer.

6.1.2 *Timing*. Except as set forth below, employment by the County (and resignation from Town employment in order to become a Transferring Employee) shall be effective as of 12:01 a.m. on the Transfer Date, provided that all actions necessary for the transition have at that time been taken.

6.2 Classification & Pay.

6.2.1 *Job Placement/Salaries & Wages*. Each Transferring Employee shall be placed in the County job classification that, in the reasonable judgment of the County Human Resources Director, with the approval of the County Administrator, most closely fits such employee's current job duties, and shall, subject to Section 6.2.4, receive salary/wages (base pay) equivalent to what the Transferring Employee was earning at the Town as of July 1, 2012.

6.2.2 *Library Pages*. Under Town personnel policy, OVPL Pages are permanent, part time employees. Therefore these Pages shall be treated as Transferring Employees under Section 6.2.1 of this Agreement. After the transfer new pages will be hired pursuant to District policy.

6.2.3 *Voluntary Change in Job Position*. Employees who wish to continue working within the library system in positions that are not comparable to their previous Town positions, or in non-library County positions, will be required to compete under the County Merit System Rules, will be considered entry level (if hired), and shall not be Transferring Employees under this Agreement.

6.2.4 *Salary Increases*. Town shall not increase the wage or salary of any library employee after January 1, 2012 except if a regular increase is provided to all

Town employees pursuant to Town employment ordinances. Transferring Employees who meet the requirements for a pay adjustment made by the Board of Supervisors for eligible County employees shall be granted the pay adjustment awarded to eligible county employees for fiscal year 2013-2014.

- 6.2.5 *Subsequent Change in Status.* If at a later date a Transferring Employee is demoted, either voluntarily or involuntarily, or the pay grade of the Transferring Employee's position/job classification is reduced, the Transferring Employee shall be subject to a pay reduction in accordance with Pima County's Merit System Rules and Personnel Policies and any County Administrative Procedures or directives that apply to all other County employees of the grade to which the Transferring Employee is reduced. County shall not in bad faith demote a Transferring Employee, or reduce such Employee's duties or position, or reduce the pay grade of a job classification, for the purpose of justifying a salary/wage reduction.
- 6.2.6 *Subsequent Transfer or Promotion.* Transferring Employees will not involuntarily be transferred to work at a different library location. Transferring Staff, including library management, will be eligible for promotion within the District, but such employee must be willing and able to move to another District branch to be eligible to compete for a promotion. District agrees that it will notify OVPL staff of all publicly advertised District job openings during the Interim Period.
- 6.3 *Probation.* Competitive hire and initial hire probation requirements of the Pima County Employee Merit System are hereby waived for Transferring Employees, except that any Transferring Employee who is on probationary status with Town on the Transfer Date will continue to be on probation under the County Merit System for the remaining term of such employee's probation set by Town when hired.
- 6.4 *New Employee Status.* Transferring Employees shall be deemed to be new County employees for all purposes except as specifically set forth herein.
  - 6.4.1 *Leave Accrual Rates.* Transferring Employees shall accrue sick and vacation leave at the normal County service time rate based on total years of service with both the Town and the County. Years of service shall be computed on full time employment basis, and shall be adjusted proportionately downward for any part time service (for example, if an employee worked half time for ten years—as determined by the employee's Official Personnel File--the employee would be credited with five years of service).
  - 6.4.2 *FMLA.* FMLA entitlements of Transferring Employees are governed by 29 C.F.R. §825.107 as follows: 1) a Transferring Employee's eligibility for FMLA will be based on combined Town/County service time and 2) any Transferring Employee who is on FMLA at the time of the transition will have a total of 12 workweeks of FMLA leave based on the start date of the FMLA while employed by the Town.

- 6.4.3 *Benefits.* Transferring Employees shall receive the standard County new employee benefit package and shall pay the standard County employee contribution. Each Transferring Employee shall be eligible for County benefits as of the Transfer Date, *provided that he or she completes the proper documentation with the County accurately and in a timely manner.*
- 6.4.4 *Seniority.* Transferring Employees shall have seniority within the library system based on their combined Town/County service time. However, in the event that a Transferring Employee transfers from the library system to another County department, seniority shall be based on that employee's service time with the County only.
- 6.5 *Accrued Leave.*
- 6.5.1 *Transfer of Leave.* Each Transferring Employee's accrued vacation and sick leave will be transferred to the County, except that accrued leave may not exceed County maximums (240 hours of vacation time, and 1,920 hours of sick leave). Compensatory time shall not be transferred.
- 6.5.2 *Funding of Transferred Vacation Leave.* The Town shall, on or before the Transfer Date, pay the County an amount sufficient to pay for the accrued vacation time of each Transferring Employee, up to the County maximums, at the Transferring Employee's rate of pay as of the Transfer Date.
- 6.5.3 *Funding of Transferred Sick Leave.* If a Transferring Employee retires from County employment or dies during County employment within two years after the Transfer Date, the Town shall pay the County fifty percent (50%) of the amount required to pay the retiring/deceased employee for any sick leave that has been accrued and that is converted to vacation leave and paid to the employee upon retirement (or to the employee's estate).
- 6.5.4 *Payments.* These payments shall be in addition to any other sums to be paid by the Town hereunder.
- 6.6 *Personnel Files.* Town employee personnel files (including the official, departmental, medical, benefits, retirement and any other personnel files) shall remain property of the Town and shall not be transferred to the County or the District. Town agrees to maintain the official personnel files for all Transferring Employees in accordance with the Town's record retention schedule. Town agrees to allow access to these personnel files to the County's Human Resources Director, the Library District Director, and the County Administrator during normal business hours in accordance with the Town Administrative Directive on access to employment records.
7. *Contracts and License Agreements.*
- 7.1. *Assignment of Contracts and License Agreements.* The Parties acknowledge that Town will have contracts and license agreements necessary for the operation of the OVPL the terms of which will extend beyond the Transfer Date. Town shall assign to District the Town's rights and obligations under any and all of such contracts and agreements for which District requests assignment.

- 7.1.1. The assignments of such contracts and agreements shall be effective on the Transfer Date.
    - 7.1.2. **On or before April 15, 2012**, Town shall deliver to District all assignments, together with any required consents from the other parties to the contracts, necessary to effectuate the transfers.
  - 7.2. *Interim Contracting*. The Parties acknowledge that Town may, in the normal course of business, have the need to enter into contracts and license agreements to ensure that OVPL business operations continue uninterrupted until the Transfer Date. Therefore, from and after the Effective Date, Town shall take the following steps for any contract or license agreement entered into for the operation of the OVPL during the Interim Period:
    - 7.2.1. *District Consent*. Town will obtain District's consent prior to entering into the contract or license agreement.
    - 7.2.2. *Consent to Assignment*. If District has consented to the contract or license agreement, Town shall use best efforts to include a provision permitting assignment of the contract or license agreement to District or County as of the Transfer Date. Such provision shall ensure that the assignment occurs without the necessity of obtaining the consent or approval of the contractor.
    - 7.2.3. *Procurement of Goods and Services*. Town shall work with County and District to conduct procurement of any goods and services according to County procurement standards, policies, ordinances and rules.
8. Ownership Interests. The Parties acknowledge that County and Town have previously entered into intergovernmental agreements through which County provided bond funds for construction of the building, its expansion, and some furnishings. Pursuant to those agreements, the Parties hold ownership interests in the library facility as follows:
  - 8.1. *August 16, 1999 intergovernmental agreement*. County owns 50% of the project facilities funded under that agreement,
  - 8.2. *January 11, 2005 intergovernmental agreement*. County owns 50 % of the completed 25,000 square foot library; furnishings, fixtures and equipment; and computers funded under that agreement.
  - 8.3. Town owns the remaining fifty percent (50%) of the original and expanded library facility and owns one hundred percent (100%) of the land underlying the building.
9. Lease of Premises. The Parties shall enter into a separate lease agreement, in a mutually acceptable form, for the use of the Premises by District. The lease shall contain, at a minimum, the following terms and conditions:
  - 9.1. *Term/Amendment*. The lease shall be effective on the Transfer Date and shall be for an initial term of fifty (50) years commencing on the Transfer Date. The lease shall be reviewed by the Parties on an annual basis and modifications shall be made, if necessary, to reflect changes in costs and responsibilities. Amendment of the lease shall not necessitate amendment of this Agreement.

- 9.2. Premises/Parking Lot/Common Areas: District shall lease from Town the entire Premises. District shall also have the right to utilize the parking lots to the north, south and the west of the Premises and the common areas of the Oro Valley municipal campus on a non-exclusive basis.
- 9.3. Rent. District shall pay no rent for the Premises. District's agreement to operate the Premises as part of the District Library System shall be sufficient consideration for the lease.
- 9.4. Signs. District may letter the doors and windows of the building and, at its option and cost, replace public signage, or affix District's standard signs and plaques to existing signs for the Premises, provided that any sign erected complies with Town sign codes and requirements.
- 9.5. Keys/Security. District may elect to change the key system to be in compliance with existing key system for District facilities. District will, provide access to the key system to Town for the purpose of maintenance and any services, such as janitorial, obtained from or provided by Town.
- 9.6. Maintenance. Maintenance of the OVPL shall be as set forth in Section 11. Town will, no less than annually, provide PCFM with copies of all required inspections and certifications related to any boilers, elevators and backflow preventers in the building.
- 9.7. Utilities. Utility accounts for operation of the Premises (excluding exterior and parking lot lighting) will be transferred from Town's responsibility to District responsibility by the Transfer Date of this Agreement. Utility accounts include, but are not limited to: electric; gas; water and sewer; trash collection; and telephone. District reserves the right to negotiate rates with utility companies.
- 9.8. Termination. After the Transfer Date, the lease may be terminated at any time by either party with six months advance notice. In the event that Town terminates the lease, Town shall reimburse District in the amount of District's actual costs of structural or non-structural improvements, equipment, and fixtures made during District's tenancy of the Premises and 50% of all funds paid by District during the Interim Period. Town shall also assume, at its own expense, any existing contracts or license agreements between District and vendors associated with District's operation of OVPL.
- 9.9. Use of the Premises. The Premises subject to the lease shall be used primarily for the operation of a public library, but may, at the sole discretion of District, also be used for normal library-related and ancillary purposes such as community group activities, meetings, and special events. Town shall have the ability to reserve space in the library on a priority basis for a reasonable number of special events up to one year in advance. District may refuse to allow a Town special event on the Premises if, in the judgment of the District, the event would unreasonably interfere with the primary use of the Premises as a public library. District shall comply with all applicable laws in its use of the Premises, and shall not interfere with the quiet enjoyment of neighboring properties.

9.10. Improvements to Premises.

9.10.1. *Improvements made and paid for by District.* When District chooses to make, at District expense, modifications to the Premises, District will obtain Town's approval as follows:

9.10.1.1. No Town approval shall be required for non-structural modifications to the Premises.

9.10.1.2. Town shall have the right to approve any exterior design changes or expansions of the OVPL building.

9.10.1.3. Town approval, as required herein, may be withheld only if Town reasonably concludes that the submitted plans and specifications do not meet applicable codes or building standards, would result in damage to the structural soundness of the facility, or are inconsistent with Town's use of the Oro Valley municipal campus.

9.10.2. *Improvements made and paid for by Town.* Should Town wish to make improvements to the Premises, either structural or non-structural, Town shall consult with PCFM and obtain District and County approval prior to undertaking any improvements to the Premises. Town shall be responsible for the costs of any such improvements.

9.10.3. *Notice; Standards.* Regardless of whether Town's approval is required, District shall notify Town before any modifications with an estimated cost of more than five thousand dollars (\$5,000.00) are undertaken and shall furnish copies of as-built plans upon completion of the modifications. Any modifications to the building shall comply with Town's construction standards.

9.10.4. *Major Improvements; Conveyance.* Prior to District's construction or installation of any improvements estimated to cost the lesser of **\$2,000,000.00** or 50% of the value of the Premises, the Parties shall make a determination of the ownership interest, if any, to be retained by Town and negotiate the conveyance of the Town's right, title, or interest to the Premises (excluding the ground) to District. Upon such conveyance, the Parties shall execute a ground lease to allow for the continued and uninterrupted operation of the OVPL along with the continued use of the associated parking lots and other common areas on the Oro Valley municipal campus.

9.11. Assignment/Subletting. District shall not assign its interest in the lease and shall not sublease the entire Premises, provided that District may sublet portions of the Premises, and may enter into license agreements for exclusive or non-exclusive use of a portion of the Premises, provided that the use is a library or related use.

9.12. Maintenance and Janitorial costs. To assure maintenance and operations are consistent with the Oro Valley multi-use campus, the following provisions shall apply:

- 9.12.1. *Parking Lots, Landscaping and Common Areas:* Town shall cover the maintenance repair costs for the parking lots, landscaping and common areas as set forth in Paragraph 11.4.
  - 9.12.2. *Maintenance & Repairs of Premises.* District and Town shall cover the maintenance and repair costs for the interior, exterior and physical plant systems of the Premises, excluding major improvements as set forth in Subparagraph 9.10.4, as set forth in Section 11.
  - 9.12.3. *Utilities.* The responsibility for the payment of utility costs shall be as set forth in Paragraph 9.7.
  - 9.12.4. *Insurance/Casualty:* District shall insure the Premises, and shall use any insurance proceeds, in the event of a casualty, to repair or rebuild the building, except that if the building is damaged to such an extent that the cost of repair/rebuilding would exceed 60% of the building's value prior to the casualty, District may elect not to rebuild, in which event the portion of the insurance proceeds identified for demolition shall be paid to Town for clean-up of the library site and the lease of the Premises shall terminate. District shall use the remainder of the proceeds to build a new library or expand an existing library within one mile of the town limits of Oro Valley, to the extent that property for this use is available and affordable.
10. Initial Facility Repairs.
- 10.1. District shall complete a building assessment prior to the Transfer Date. Prior to the Transfer Date, Town will be responsible for: completing any repairs to HVAC, electrical, plumbing or mechanical systems; correcting any roof or structural deficiencies; and, fixing any other equipment or deficiencies identified by District. Town's responsibility includes correcting any ADA compliance issues that may be identified.
  - 10.2. Phone System. In order to connect the OVPL phones to the District's phone system, District shall make all necessary alterations to the existing phone system, including, but not limited to: installation of routers, switches and cables.
11. Maintenance, Repair, and Janitorial Services after the Transfer Date. Town will maintain and repair the Premises (including the interior, exterior and physical plant systems of the building), the parking lots, landscaping and common areas, subject to the following:
- 11.1. Annual Premises Assessment.
    - 11.1.1. On or about January 2 of each calendar year, Town, District, and PCFM shall conduct a comprehensive walk-thru inspection of the Premises and evaluate the maintenance and upkeep needs for the upcoming fiscal year.
    - 11.1.2. After the annual evaluation, the Parties shall develop an Annual Premises Allowance to cover the costs of anticipated maintenance, repairs or replacements, and janitorial services for the upcoming fiscal year. The Annual Premises Allowance shall also include a contingency for emergency needs.

11.2. Provision of Services. Subject to the Annual Premises Allowance, Town shall provide all maintenance, repairs and janitorial services for the Premises.

11.2.1. Town will provide a single point of contact and phone number for staff assigned to OVPL to report maintenance problems and repair needs. This number must be equipped with voice mail and must be regularly monitored by the appropriate person or person(s) twenty-four (24) hours per day, seven (7) days per week. District shall reimburse Town quarterly for all Town expenditures pursuant to this Section.

11.2.2. Town shall maintain the capability to respond to emergency building maintenance needs twenty-four (24) hours per day, seven (7) days per week.

11.2.3. Except for an emergency, Town shall work with District and PCFM to schedule maintenance and repair activities, in order to minimize disruption of OVPL activities.

11.2.4. District and Town shall establish the specific terms for Town's provision of janitorial services in a separate agreement.

11.3. Payment for Services.

11.3.1. Provided that Town has made all repairs required under Section 10.1, District shall, as established in the Annual Premises Allowance, assume the financial responsibility for all repairs, maintenance and janitorial services for the Premises.

11.3.2. For any maintenance, repair or replacement activity that costs more than \$5,000.00, Town will consult with PCFM to determine whether more favorable pricing can be obtained for the project.

11.3.3. The costs of any maintenance or repairs, in excess of **\$2,000,000.00**, shall be handled as set forth in Subparagraph 9.10.4.

11.4. Town will, at its expense, be responsible for the maintenance and repair of the parking lots, landscaping and common areas surrounding the Premises.

11.5. District reserves the right to renegotiate the arrangements for maintenance, repair and janitorial services at any time.

12. Information Technology.

12.1. Data Network. District shall conduct an assessment of the data network serving OVPL. Town will cooperate in providing access to information regarding the current network connections, network equipment, cable runs and the like. District will be responsible for connecting the OVPL computer system to the District's network. In order to ensure high speed and wireless access at OVPL, District shall also make all necessary alterations to the existing network, including, but not limited to: installation of routers, switches and cables. Within 90 days of the Transfer Date District shall notify Town of any computer, telephone, security and other Town-installed equipment that is no longer

needed by the District and Town shall have the right to recover and remove that equipment.

- 12.2. E-mail. The email system for OVPL shall convert to the County's e-mail system on or before the Transfer Date. Town shall, for six (6) months after the Transfer Date, forward OVPL and staff e-mails from the Town's to the County's system.
- 12.3. Computer Support Services. District shall conduct an evaluation of the hardware and computer support services at OVPL. District will provide all computer support for library computing no later than the Transfer Date and for so long as District operates the OVPL.
- 12.4. Computer Purchases. Either Party may purchase new computer equipment and software during the Interim period. Neither District nor County will be responsible for the costs of computer equipment and software purchased by Town during the Interim Period, unless such purchase has been approved by the Pima County Information Technology Department.
- 12.5. Website. District shall include the OVPL as a District branch library on the District website.
13. Personal Property Transfers. Except as provided in Section 12.1, all personal property used in connection with the operation of the OVPL shall be conveyed to the District, free of charge, as of the Transfer Date. Personal property includes, but is not necessarily limited to: library books and inventory; accounts receivable; accrual accounts or trust funds; any grant funds awarded in connection with library operation or facilities, along with the associated grant agreements; any funds that have been donated to Town for library operation or facilities; financial and other books and records (or copies thereof); furniture; fixtures; computers and computer servers and related equipment; software assets; and, any other equipment or fixtures used by Town for OVPL operations. Town shall deliver to District, by the Transfer Date, any and all bills of sale, registrations, licenses and other documents reasonably necessary to legally effectuate this transfer on the Transfer Date. Any property subject to a purchase money lien may be conveyed subject to the lien, but the amount of the lien and any loan agreements shall be provided to District on or before the deadline set forth in Section 4. If necessary, Town shall obtain the consent of lienholders to the transfer. Notwithstanding this Section, **on or before April 15, 2012**, Town shall provide a schedule of furniture or fixtures and equipment which has been purchased and donated as memorials by Friends and other local individuals and organizations which shall remain in the OVPL.
14. Additional Details. The Parties acknowledge that the transition of OVPL will be a complex process, and that not all details of that process can be agreed upon at this time. The County Administrator and Town Manager shall work together, and shall direct staff to work together, in good faith to effectuate the intent of this Agreement.
15. Friends of the Oro Valley Library and Oro Valley Historical Society. District will work with the Friends and the Oro Valley Historical Society and will support their activities on behalf of the library, so long as such activities are not in conflict with District policies, procedures or programs. District retains the right to determine whether or not to support any proposed activity. District shall allocate 1,000 square feet of space for the Friends Book Shop and shall

provide use of the meeting room, leisure reading area and hallways twice per year for book sales and for other events designed to raise funds for the OVPL. OVHS shall retain the right to display two dedicated display cases in the OVPL. If the Friends or the OVHS become inactive or the groups' activities conflict with District policies this allocation and support may be withdrawn.

16. General Provisions.

16.1. Indemnification. Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as Indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the negligent or intentionally wrongful act, omission, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

16.2. Compliance with Laws. 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.

16.3. Non-Discrimination. The Parties agree 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)

This provision is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, Sponsor 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.

16.4. Americans with Disabilities Act. 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.

16.5. Severability. 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.

- 16.6. Conflict of Interest. 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.
- 16.7. Non-Appropriation. Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason the governing body of one any of the parties does not appropriate sufficient monies for the purpose of maintaining this Agreement.
- 16.8. Legal Authority. Neither party warrants to the other its legal authority to enter into this Agreement. If a court, at the request of a third person, should declare that either party lacks authority to enter into this Agreement, or any part of it, then the Agreement, or parts of it affected by such order, shall be null and void, and no recovery may be had by either party against the other for lack of performance or otherwise.
- 16.9. Workers' Compensation. Each party shall comply with the notice 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 Workers' Compensation benefits or other fringe benefits of said employees.
- 16.10. No Third Party Beneficiaries. 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 (including Transferred Employees) 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. Notices/Approvals. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by personal delivery, certified mail, or by facsimile transmission (with an automatically generated transmission confirmation page) as follows, or to such other address as a party shall designate in a notice complying with this Section:

**County and District:**

County Administrator  
130 W. Congress St.  
Tucson, Arizona 85701

**Town:**

Town Manager  
11000 N. La Canada Drive  
Oro Valley, Arizona 85737

With a copy to:

Clerk of the Board  
130 W. Congress St.  
Tucson, Arizona 85701

Town Attorney  
11000 N. La Cañada Drive  
Oro Valley, Arizona 85737

Whenever in this Agreement the approval of District or of County is required, this shall mean the written approval of the County Administrator or designee. Whenever in this agreement the approval of Town is required, this shall mean the written approval of the Town Manager or designee.

18. Term. This Agreement shall be effective on July 1, 2012 provided that the Agreement is executed by all Parties and shall be in effect until all the actions to be taken by the Parties hereunder have been taken and the purpose of the Agreement fulfilled. After the Interim Period and consistent with the terms of the lease for the Premises, either party may terminate this Agreement with six (6) months advance notice. The Parties' on-going relationships shall be governed by the lease agreement that will be executed pursuant to this Agreement, the Services IGA, and other agreements that the Parties may enter into after the Effective Date.
19. Termination of the Agreement during the Interim Period. In the event that Town terminates the Agreement prior to the Transfer Date, Town shall:
  - 19.1. Assume responsibility for one-hundred percent (100%) of the operations of the library on and after the termination date; and
  - 19.2. Reimburse District and County for fifty percent (50%) of all funds paid to Town pursuant to Section 3.2. The terms for payment of such reimbursement shall be determined by the Parties prior to the termination date.

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20. Entire Agreement. 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 shall not effect the validity of subsequent agreements between the parties that are necessary to effectuate the terms of this Agreement, and are referenced herein (such as leases, supplemental agreements and plans, IT support agreement, data network sharing agreement, etc.). This Agreement shall not be modified, amended, altered or extended except through a written amendment signed by the parties and recorded with the Pima County Recorder whichever is appropriate.

**THIS AGREEMENT MAY BE SIGNED IN COUNTERPARTS.**

**PIMA COUNTY &  
PIMA COUNTY FREE LIBRARY DISTRICT:**

**TOWN OF ORO VALLEY:**

\_\_\_\_\_  
Ramón Valadez, Chair,  
Board of Supervisors and  
Board of Directors

\_\_\_\_\_  
Satish Hiremath, Mayor  
Town of Oro Valley

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Robin Brigode  
Clerk of the Board

\_\_\_\_\_  
Julie K. Bower  
Town Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**INTERGOVERNMENTAL AGREEMENT DETERMINATION**

The foregoing Intergovernmental Agreement between Pima County, the Pima County Free Library District and the Town of Oro Valley has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, each of whom has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the party represented by the him/her.

**PIMA COUNTY & PIMA COUNTY  
FREE LIBRARY DISTRICT:**

**TOWN OF ORO VALLEY:**

\_\_\_\_\_  
Karen S. Friar, Deputy County Attorney

\_\_\_\_\_  
Tobin Rosen, Town Attorney