

**Intergovernmental Agreement
between
Pima County and Town of Oro Valley
for
Provision of Water Consumption Data**

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

Recitals

- A. County and Town may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. § 11-951, et seq.
- B. County and Town desire to exchange proprietary water use information for the purpose of calculating billings to sewer users.
- C. Town agrees to provide user fee billing services to County.

NOW, THEREFORE, County and Town, 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 IGA is to exchange water use data to support County’s sewerage user fee system and to compensate Town for providing the data and billing County customers for sewerage system user fees.
- 2. **Scope.** See attached Exhibit A (three pages).
- 3. **Financing.** For the services described in Exhibit A (Scope), County agrees to pay Town and Town agrees to offset against amounts owed County, a monthly administrative and billing fee of \$0.84 per month, per account from July 1, 2012 to September 30, 2012 and \$0.98 per month, per account effective October 1, 2012. Such fees will reimburse Town for the cost of billing and collection services based on the current number of 16948 accounts and the projected growth of 340 accounts per year. Total payment to Town under this IGA will not exceed \$215,000.00 annually.

Town will provide detailed documentation to support requested payment. Payment requests will assign all costs to items identified and authorized by this IGA.

It is the intention of the parties that pricing will remain firm during the terms of the IGA. Price increases will only be considered in conjunction with an annual renewal of the IGA. In the event that economic conditions are such that unit price increases are desired by Town upon renewal of the IGA, Town will, at least ninety days prior to the termination date of the IGA, submit a written request to County with supporting documents justifying the requested increase. It is agreed that the unit prices will include compensation for Town to implement and actively conduct cost and price control activities. County will review the proposed pricing and determine whether it is in the best interest of County to renew or extend the IGA as provided in Paragraph 4 (Term) of the IGA.

4. **Term.** This IGA shall be retroactively effective to July 1, 2012 and shall terminate on June 30, 2014 unless sooner terminated or further extended pursuant to the provisions of this IGA. This IGA may be renewed for up to three (3) additional one-year periods (or any portion thereof) provided the renewals are by formal written amendment executed by the parties hereto.
5. **Disposal of Property.** Upon the termination of this IGA, all property involved shall revert back to the owner. Termination shall not relieve any party from liabilities or costs already incurred under this IGA, nor affect any ownership of property pursuant to this IGA.
6. **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 act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
7. **Insurance.** Each party shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:
 - a) If required by law, workers' compensation coverage including employees' liability coverage.

Parties to this agreement shall provide thirty (30) days written notice to all parties to this IGA of cancellation, non-renewal or material change of coverage.

8. **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 IGA. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this IGA and any disputes hereunder. Any action relating to this IGA shall be brought in an Arizona court in Pima County.

9. **Non-Discrimination.** The parties shall not discriminate against any County employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this IGA. The parties shall comply with the provisions of Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this IGA by reference, as if set forth in full herein.
10. **ADA.** 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.** If any provision of this IGA, 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 IGA which can be given effect, without the invalid provision or application and to this end the provisions of this IGA are declared to be severable.
12. **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.
13. **Non-Appropriation.** Notwithstanding any other provision in this IGA, this IGA may be terminated if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this IGA. In the event of such cancellation, Pima County shall have no further obligation to Town other than for payment for services rendered prior to cancellation.
14. **Legal Authority.** Neither party warrants to the other its legal authority to enter into this IGA. If a court, at the request of a third person, should declare that either party lacks authority to enter into this IGA, or any part of it, then the IGA, 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.
15. **Worker's 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 Worker's Compensation benefits or other fringe benefits of said employees.
16. **No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA 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 Town employees, or between Town 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.

- 17. No Third Party Beneficiaries.** Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or affect the legal liability of either party to the IGA by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.
- 18. Notice.** Any notice required or permitted to be given under this IGA shall be in writing and shall be served by delivery or by certified mail upon the other party as follows (or at such other address as may be identified by a party in writing to the other party) :

County:

Director
 Regional Wastewater Reclamation
 Department
 201 N. Stone, 8th Floor
 Tucson, Arizona 85701

With copies to:

County Administrator
 130 West Congress Street, 10th Floor
 Tucson, Arizona 85701

Clerk of the Board
 130 West Congress, 5th Floor
 Tucson, Arizona 85701

Town of Oro Valley:

Town Manager
 Town of Oro Valley Water Utility
 11000 N. La Cañada Drive
 Oro Valley AZ 85737

With copies to:

Town Attorney
 Town of Oro Valley
 11000 N. La Cañada Drive
 Oro Valley AZ 85737

Water Utility Director
 Town of Oro Valley
 11000 N. La Cañada Drive
 Oro Valley AZ 85737

- 19. 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 IGA shall not be modified, amended, altered or extended except through a written amendment signed by the parties.

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In Witness Whereof, County has caused this Intergovernmental Agreement to be executed by the Chairman of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board, and the Town of Oro Valley has caused this Intergovernmental Agreement to be executed by its Mayor upon resolution of the Town Council and attested to by the Town Clerk:

PIMA COUNTY:

TOWN OF ORO VALLEY:

Chairman
Board of Supervisors

Dr. Satish I. Hiremath, Mayor
Town of Oro Valley

ATTEST:

ATTEST:

Clerk of the Board

Julie K. Bower, Town Clerk

Date: _____

Date: _____

Approval

The foregoing Intergovernmental Agreement between Pima County and the Town of Oro Valley has been reviewed by the undersigned, and is hereby approved as to content.

Director, RWRD

Intergovernmental Agreement Determination

The foregoing Intergovernmental Agreement between Pima County and the Town of Oro Valley 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:

TOWN OF ORO VALLEY:

Deputy County Attorney

Tobin Sidles, Interim Town Attorney

Exhibit A: Scope of Services (three pages)

Town shall provide the following sewer billing and collection services for County:

- A. Provide water consumption data for each water and sewer account and provide billings and collection of these accounts monthly.
- B. Update all water and sewer accounts (turn-on and turn-off) to maintain an accurate active customer file.
- C. Receive and update all sewer account vacant/vacation requests by the customers to include an initiation and termination date of vacancy as governed by Pima County Code §13.24.120 D.
- D. Provide County with a monthly report of vacant/vacation requests processed by Town, including the account number, customer name, address, initiation date of vacancy, and termination date of vacancy.
- E. Bill and disconnect delinquent sewer accounts in same manner Town uses to bill and disconnect delinquent water accounts and transmit to County for collecting those delinquent sewer accounts that cannot be collected through the water billing system.
- F. Process sewer user fee adjustments transmitted by County and adjust sewer user fees in accordance with adjustment policies authorized by County.
- G. Maintain an accurate, computerized sewer billing and accounts receivable.
- H. Provide County with no less than four (4) read-only access licenses to the computerized customer billing system maintained by Town.
- I. Provide County authorized staff with a method to access Town's network and computerized customer billing system and provide technical support as necessary.
- J. Provide County with winter (December, January and February) water use data for those sewer users on Town water system.
- K. Provide County with all necessary and agreed upon computer-oriented reports required to effectively manage the revenues and customer accounts of the sewer utility.
- L. Provide County with the ability to insert sewer utility-related information in the monthly customer billings.
- M. Upon receipt of sewer user fee payments, Town shall deposit the funds with the Pima County Treasurer Office within the first 10 business days of the month.
- N. At County's option, Town shall provide a register showing active account status of each account on a monthly basis and will provide a final delinquent account register of all accounts considered as the inactive final billing register.
- O. At the request of County, Town shall provide to County all data related to the billing and collection of sewer user fees within Town, at no cost to County.

Exhibit A: Scope of Services, page two

P. Town shall provide a Project Manager for this Agreement who shall serve as liaison with County on all issues relating to this Agreement.

Q. Town shall provide County with the opportunity to provide input to any billing system changes prior to implementation.

R. Town shall cooperate with County to develop procedures and reporting modifications to satisfy deficiencies identified in yearly audits.

S. To the extent possible, Town shall provide additional computer services in the form of special computer programs or printouts to County at no cost.

T. Town shall maintain books, records, documents and other evidence directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. Town shall also maintain the financial information and data used by Town in the preparation or support of the cost submission and a copy of the cost summary submitted to County. County shall have access to such books, records, documents and other evidence for inspection, audit and copying. Town shall provide proper facilities for such access and inspection.

U. Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

V. Town agrees to the disclosure of all information and reports resulting from access to records, as described in Item Q, to County designated auditor, provided that Town is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments of reasonable length, if any, of Town.

W. At the request of County and with the concurrence of Town, Town may provide billing and collection services for sewer accounts receiving water from private water companies:

1. If Town agrees to provide billing and collection services for these accounts, County shall pay fees as described in Article III – Compensation and Payment.

County shall provide the following services for Town:

A. Adjust Town sewer user fee accounts as required.

B. Answer sewer user complaints from Town customers.

C. Provide a Project Manager for this Agreement who will serve as liaison with Town on all issues relating to this Agreement.

D. Accept responsibility to collect all delinquent sewer accounts served by Town after they have been written off to bad debt expense by Town.

Exhibit A: Scope of Services, page three

E. Inspect and identify any computer errors and notify Town of any necessary changes.

F. County and Town agree to provide security measures for all hardware and software to assure confidentiality of all data. Each entity is to provide security for its own facility and information.