INTERGOVERNMENTAL AGREEMENT
BETWEEN
PIMA COUNTY AND THE TOWN OF ORO VALLEY
FOR ANIMAL CARE AND ENFORCEMENT SERVICES

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

RECITALS

WHEREAS, the Town desires to enter into an agreement with the County for the provision of animal control services within the geographical jurisdiction of the Town relating to enforcement of the Oro Valley Town Code Chapter 18 Animal Control Code (hereinafter Town Animal Control Ordinances), as amended from time to time, and having to do with rabies vaccination and dog licensing requirements, dog license fees, leash laws, sheltering and humane care of surrendered and stray animals, animal cruelty and neglect, dangerous animals, diseased animals, biting animals, animal waste, and excessive noise; and

WHEREAS, pursuant to A.R.S. § 11-1013, the County operates the Pima Animal Care Center for the intake and sheltering of stray and surrendered animals; and

WHEREAS, the County has the experience and expertise to enforce Town Animal Control Ordinances, and is engaged in certain activities relating to vaccination and licensing activities, rabies control, stray and surrendered animal intake; and

WHEREAS, the Town and the County may contract for services and enter into agreements with one another for joint and cooperative action pursuant to A.R.S. § 11-951, et seq.

NOW, THEREFORE, the Town of Oro Valley and the County, pursuant to the above and in consideration of the matters and things set forth herein, do mutually agree as follows:

AGREEMENT

1.0 **Purpose.** The purpose of this Agreement is to set forth the responsibilities of the parties for the provision of animal control services within the geographical jurisdiction of the Town relating to enforcement of the Town Animal Control Ordinances, as amended from time to time, and having to do with rabies vaccination and dog licensing requirements, dog license fees, leash laws, sheltering and humane care of surrendered and stray animals, animal cruelty and neglect, dangerous animals, diseased animals, biting animals, animal waste, and excessive noise.

2.0 **Term/Effective Date.** This Agreement is effective for one (1) year from July 1, 2016 through June 30, 2017. The Parties shall have the option to extend this Agreement for up to four (4) additional one (1) year periods or any portion thereof. Any modification,

termination, or extension shall be made by formal written amendment executed by the Parties.

3.0 Scope of Services.

3.1 The County Enforcement Agent, herein before designated by the Pima County Board of Supervisors to be Pima Animal Care Center (PACC), and all employees thereunder, shall be referred to as "Town Enforcement Agents" for the purpose of this Agreement. The Town Enforcement Agents shall, but are not limited to:

3.1.1 Administer and enforce the provisions of the Town Animal Control Ordinances and state and County law, and all services related thereunder, including amendments to said laws as may be passed from time to time.

3.1.2 Pursuant to this Agreement, be granted limited police powers necessary from time to time to carry out duties imposed by this Agreement, together with any and all such further powers as may be necessary for such agents to engage in vaccination, licensing, seizure of stray, dangerous, neglected, diseased or abused animals, and other activities arising from their duties as Town Enforcement Agents.

3.1.3 Collect such fees as may be rendered applicable by the Town Animal Control Ordinances. All fees collected by the Town Enforcement Agents as a result of this Agreement shall be retained by Town.

3.2 The Town Attorney shall prosecute and the Town Court shall handle criminal and civil matters arising out of the enforcement of the Town Animal Control Ordinances, as amended, pursuant to this Agreement. All fines collected by the Town Court as a result of enforcement of the Town Animal Control Ordinances, as amended, shall be retained by Town.

3.3 Field Enforcement Within Jurisdiction

3.3.1 Complete field services shall be provided from 6:00 a.m. to 9:00 p.m. by two full shifts of Animal Care Officers operating seven days per week, holidays included. Emergency enforcement response services will be provided by a minimum of one Animal Care Officer from 9:00 p.m. to 6:00 a.m. daily, holidays included.

3.3.2 The County shall provide staffing levels, administrative support, materials, supplies, and equipment sufficient to ensure the provision of animal control services in the Town.

3.3.3 Dead animal pickup services shall be provided during one shift operating seven days per week, holidays included.

3.4 Licensing of Animals

3.4.1 The County shall provide staffing levels, administrative support, materials, supplies, and equipment sufficient to ensure the provision of licensing services in the Town.

3.4.2 The Pima Animal Care Center shall maximize the number of dogs vaccinated and licensed within the geographical jurisdiction of the Town. Dog vaccination requirements and spay/neutering information shall be distributed to all owners of licensed dogs and other interested parties upon request.

3.4.3 License applications shall be processed and returned, electronically or via mail, to the applicant within ten (10) working days. A licensing reminder program shall be conducted to improve compliance with license regulations.

3.4.4 Should Pima Animal Care Center consider outsourcing the licensing functions to take advantage of online registration via the Internet, Pima Animal Care Center shall ensure that day-to-day licensing and registration operations, including telephone services, remain equivalent to those currently provided by the Center.

3.5 Pima Animal Care Center Shelter

3.5.1 The County shall staff, equip, furnish, support and maintain the Pima Animal Care Center, and provide all facilities and vehicles, including replacements, maintenance, repair, gasoline, and oil as necessary for the operation of the Pima Animal Care Center.

3.5.2 Humane treatment of all animals housed at the Pima Animal Care Center shall be provided, including provision of adequate food, water, shelter, and timely and appropriate veterinary care in accordance with nationally accepted shelter care standards. The Pima Animal Care Center shall develop a strategy and procedures to further reduce euthanasia of saveable animals through effective adoption and rescue programs. If necessary, animals shall be euthanized in such a manner that provides for humane treatment of the animal and in accordance with the standards set forth by the American Veterinary Medical Association Guidelines for the Euthanasia of Animals: 2013 Edition. Effort shall be made to decrease shelter intake through but not limited to owner education and community wide spay/neuter programs.

3.5.3 Animal Welfare Community Outreach. The Pima Animal Care Center shall refine and increase outreach and educational efforts at schools, neighborhood association meetings, etc. in order to increase public awareness of health and safety issues related to animals, to promote responsible ownership/companion animal guardianship, including compliance with licensing and other Town Animal Control Codes, and to disseminate information regarding vaccination clinics, spaying and neutering, and care of animals.

4.0 <u>Payment</u>. The Town will reimburse the County a maximum of $143,635[1] for Fiscal Year 2016-2017, with further negotiations necessary between the parties should it exceed that

[1] The annual estimated allocation is based on the average of the previous two full fiscal years' ratio of expenses incurred in the provision of animal services to the Town as compared to the total expenses for services provided for all jurisdictions. For example, Fiscal Year 2016/17 allocation to the Town is 1.60% of the total PACC budget and represents an average of the Town's percent allocation of total animal services expenditures incured by the County for Services in the Town for Fiscal Years 2013/14 and 2014/15. The County will provide the Town the annual

amount. The County will bill the Town monthly for services. The total cost delineated in 4.1 below is the estimated cost of service for the Town of Oro Valley. Actual cost may vary and will be based on documented services provided to the Town or Town residents. Monthly bills may be adjusted on a quarterly basis as set forth in Section 5.2.1.

4.1 Town will reimburse the County for expenses associated with providing the scope of services outlined in Section 3. Annual costs of service units are projected below. The Town may elect to reduce its overall costs by declining or reducing the scope of Enforcement services provided to Town by County.

Expenses	**Amount**	**Allocation Basis**
Administrative Service Charges	$ 18,150	Ratio of all Services Provided
Operations and Management	$ 19,750	Ratio of all Services Provided
Education	$ 2,345	Ratio of all Services Provided
Enforcement	$ 24,635	Ratio of Enforcement Call Responses
Licensing	$ 26,880	Ratio of Licenses Issued
Shelter	$ 31,075	Ratio of Animals Handled
Veterinary Services	$ 9,680	Ratio of Animals Handled
Spay/Neuter Services	$ 7,415	Per Capita
Community Cat Project	$ 3,705	Per Capita
TOTAL	$ 143,635	

4.2 Town will reimburse County for County indirect service expenses associated with providing PACC administrative systems support such as Finance, Human Resources, Procurement, Legal and other indirect County support services based on the federally approved internal cost allocation plan. Such services are listed as Administrative Service Charges.

4.3 Donations to and solicited by PACC are the sole property of PACC and will be allocated against Town expenses in accordance with PACC fund development policies. Should budget restrictions prevent the Town from paying for the full Fiscal Year 2016-2017 intergovernmental agreement amount set out in Section 4.0, the Town may adjust enforcement service levels and or types to mitigate funding shortfalls.

4.4 All payments received from constituents on behalf of the Town will be deposited regularly with the Pima County Treasurer's Office into a Fiduciary Agency Account. The County will submit a statement to the Town monthly for actual costs incurred on behalf of the Town, and will instruct the Pima County Treasurer's Office to remit to Town all revenues collected on behalf of the Town on a monthly basis. Any interest earned on the Account shall be credited to the Town.

---

estimated expenses for PACC and the Town's estimated share of expenditures for Fiscal Year 2017/18 no later than January 30, 2017.

5.0 **Reporting**. The County will provide the Town the following information:

5.1 Monthly

5.1.1 By jurisdiction, a statement of period-end and year-to-date receipts, disbursements, and the balance of the County Rabies Control Fund.

5.1.2 By jurisdiction, the percentage of administrative services allocated, the number and types of dog licenses issued, the number of calls that resulted in a response from the Pima Animal Care Center, the number of animals processed at the shelter, the number of animals adopted, the number of animals euthanized, the number of animals spayed and neutered, the number of dead animals picked up, the number of animals that died in the kennels and the number of educational event units performed.

5.1.3 The total Pima County Animal Care adopted budget, including operating revenues by revenue source and operating expense by type of expense.

5.2 Quarterly:

5.2.1 The County will perform an audit to assure correct cost allocation and to verify jurisdictional information on a quarterly basis. If, pursuant to paragraph 4.1, the outcome of the audit indicates an overpayment by the Town or results in additional funds being due to Town, County shall transfer the additional funds to the Account within ninety (90) days following the end of the quarter. If, pursuant to paragraph 4.1 the outcome of the audit indicates an underpayment by the Town or in additional funds being due to the County, the amount of the underpayment will be billed to the Town by the County in the next monthly statement.

5.2.2 County will provide to Town on a quarterly basis a data extract or extracts containing detailed information regarding records of requests for services and records of revenue attributed to Town. This report shall include the following:

5.2.2.1 Dates of dispatched enforcement calls

5.2.2.2 Activity types of dispatched enforcement calls (e.g., leash law, stray)

5.2.2.3 Physical address of response site

5.2.2.4 Dates of issuance of licenses

5.2.2.5 Types of licenses issued

5.2.2.6 Payment received for each license issued

5.2.3 The Town will designate a representative to attend quarterly meetings with representatives from Pima County Administration, Pima County Health Department, Pima Animal Care Center and each jurisdiction with which the County has an Intergovernmental Agreement to provide PACC services.

5.3 Fiscal Year End: The County shall prepare a final financial report for each Fiscal Year that includes the following information:

5.3.1 By jurisdiction, a statement of period-end and year-to-date receipts, disbursements, and the balance of the County Rabies Control Fund.

5.3.2 By jurisdiction, the percentage of administrative services allocated, the number and types of dog licenses issued, the number of calls that resulted in a response from the Pima Animal Care Center, the number of animals processed at the shelter, the number of animals adopted, the number of animals euthanized, the number of animals spayed and neutered, the number of dead animals picked up, the number of animals that died in the kennels and the number of educational event units performed.

5.3.3 The total Pima County Animal Care adopted budget including operating revenues by revenue source and operating expenses by type of expense.

6.0 **Legal Jurisdiction.** Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of the Town or the County. This Agreement and all obligations upon the Town or County arising therefrom shall be subject to any limitations of budget law or other applicable local law or regulations.

7.0 **Audit**. The Town shall have the right to audit the books of the County relating to the Pima Animal Care Center and to the collection of licensing fees and other fines and fees.

8.0 **Termination.** Either party may terminate this Agreement by giving written notice to the other party not less than six (6) months prior to the termination date. In the event of termination, each party shall be liable for its proportionate share of the costs and expenses incurred or arising out of performance of activities required by this Agreement occurring prior to the termination date. Termination of this Agreement shall not relieve either party from liabilities or costs already incurred under this Agreement.

9.0 **Assignment of Rights.** Neither party to this Agreement shall assign its rights under this Agreement to any other party without written permission from the other party to this Agreement.

10.0 **Construction of Agreement.**

10.1 Construction and interpretation. All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the Recitals hereof.

10.2 Captions and headings. The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.

11.0 **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.

12.0 **Severability.** In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable.

In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.

13.0 **No Joint Venture.** It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture, or employment relationship between the parties or create any employer-employee relationship between the Town and any County employees or between the County and any Town 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.

14.0 **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 or effect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law.

15.0 **Compliance with Laws.** The parties shall comply with all applicable federal, state, and local laws, rules, regulations, standards, and executive orders, without limitation to those designated within this Agreement.

15.1 Anti-Discrimination. The provisions of A.R.S. § 41-1463 and Executive Order Number 2009-09 issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement.

15.2 Americans with Disabilities Act. This Agreement is subject to 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.

16.0 **Workers' Compensation.** An employee of either party shall be deemed to be an "employee" of both public agencies, while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

16.1 All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency, pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

17.0 **Non-Waiver.** The failure of either Party to insist upon the complete performance of any of the terms and provisions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not constitute a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant

or condition, either in the past or in the future. The acceptance by either Party of sums less than may be due and owing it at any time shall not constitute an accord and satisfaction.

18.0 **Force Majeure.** A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to, failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state, or national emergency, which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

19.0 **Notification.** All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Pima County:
Francisco Garcia, MD, MPH, Director
Pima County Health Department
3950 S. Country Club Road #100
Tucson, Arizona 85714

Kim Janes
Chief of External Affairs
Pima Animal Care Center
3950 S. Country Club #100
Tucson, Arizona 85714

Town of Oro Valley:
Daniel Sharp
Interim Town Manager
11000 North La Canada Drive
Oro Valley, Arizona 85737

Chris Cornelison
Assistant to the Town Manager
11000 North La Canada Drive
Oro Valley, Arizona 85737

20.0 **Remedies.** Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

21.0 **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 the 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, and are caused by the act, omission,

negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

22.0 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterpart and attached to a single instrument.

23.0 Legal Arizona Workers Act.

23.1 Town hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Town's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Town shall further ensure that each subcontractor who performs any work for Town under this Contract likewise complies with the State and Federal Immigration Laws.

23.2 County shall have the right at any time to inspect the books and records of Town and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

23.3 Any breach of Town's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Town to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Town shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

23.4 Town shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this Contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

24.0 Entire agreement. This instrument 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. Any exhibits to this Agreement are incorporated herein by this reference.

IN WITNESS WHEREOF, the County has caused this Agreement to be executed by the Pima County Board of Supervisors, as attested to by the Clerk of the Board, and the Town of Oro Valley has caused this Agreement to be executed by the Mayor of the Town of Oro Valley, upon resolution of the Mayor and Council, attested to by the Town Clerk.

PIMA COUNTY:		**TOWN OF ORO VALLEY:**	
Chair, Board of Supervisors	Date	Town Mayor	Date
ATTEST		**ATTEST**	
Clerk of the Board	Date	Town Clerk	Date

APPROVED AS TO CONTENT

Department Director or designee — Date 27 May '16

ATTORNEY CERTIFICATION

The foregoing 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 Agreement.

Deputy County Attorney	Date 5-26-16	Town Attorney	Date