

**SECOND AMENDED INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF WILLCOX AND COCHISE COUNTY
FOR THE OPERATION OF AN ANIMAL SHELTER**

RECITALS

WHEREAS, the City of Willcox ("CITY") and the County of Cochise ("COUNTY") have been cooperating in the financing, construction, and operation of an Animal Shelter ("Shelter") owned by the COUNTY, pursuant to the terms of an Intergovernmental Agreement entered in 2015 and thereafter extended; and

WHEREAS, CITY staff provides for the operation and maintenance of the Shelter and enforces the animal control laws in the CITY; and

WHEREAS, it is in the best interests of both parties to continue to operate the Shelter and to conduct these activities jointly to maximize the public benefits that can result from the cooperative use of the resources that are available to each; and

WHEREAS, the parties hereby agree to continue cooperating in the financing, operation, and maintenance of the Shelter, but with some new or revised terms, as set forth in this Agreement, as authorized by A.R.S. §§ 11-1013; 9-240(B)(16) and A.R.S. § 11-952; and

NOW THEREFORE, it is mutually agreed that the CITY and the COUNTY shall continue to operate and maintain the Shelter upon the following terms and conditions:

1. The CITY agrees to continue to assume responsibility for operating the Shelter and providing all the staff required to operate and maintain the Willcox Animal Shelter in accordance with COUNTY Animal Control Ordinance 039-10. This responsibility includes, but is not limited to, providing food, water, sanitation services, daily outdoor exercise, and other requirements for the animals sheltered there; for providing all necessary utility services; and for providing all the administrative services required for this Shelter. The CITY also agrees to use proper pest control to prevent the spread of pests to the animals in the Shelter.

- a. **Staffing:** The CITY agrees that the Shelter shall be staffed by one full-time and two part-time CITY staff members. This will allow the shelter to be open eight (8) hours per day Tuesday through Saturday by the full-time employee and five (5) hours per day Sunday and Monday, excluding holidays, by either the full-time employee or a part-time employee. The other part-time staff member will work 10 hours per week and will assist in the care of the animals. A staff member shall be paid to maintain appropriate care for animals on holidays.
 - b. **Refusal for Lack of Capacity:** The CITY may refuse any COUNTY animals when the CITY determines that it does not have adequate capacity at the Shelter to house the animals humanely. The CITY shall notify COUNTY ACO's in advance when the Shelter is at or near capacity.
2. The CITY agrees to accept the dogs and cats that are delivered to the Shelter by COUNTY staff and residents, in the same manner as such animals from the CITY are accepted, subject to the availability of adequate space for COUNTY animals. The CITY agrees to make its best effort to track complete address information of owner, if obtainable. The COUNTY agrees that if its representatives are unwilling to allow the CITY time to find placement for COUNTY animals, that the COUNTY'S agents will dispose of those animals at the COUNTY'S expense.
3. COUNTY staff using the Shelter shall follow all policies, procedures and guidelines established by the CITY for the operation of the Shelter, including specifically completing paperwork and following established procedures for incoming animals.
4. The CITY shall be entitled to compensation from the COUNTY for the animal care services that it provides pursuant to this Agreement. For fiscal year 2020, the amount of compensation paid by the COUNTY shall be \$77,570 paid in four quarterly installments. Any future increase shall be considered based on the CITY's updated annual budget and current fiscal year actuals. These costs are based on the County's and City's proportionate share of animals and will be discussed at the annual meeting held no later than April.
5. The CITY shall submit to the COUNTY a quarterly invoice with an activity report for the prior quarter to include:
 - a. The number and type of animals impounded by COUNTY.

- b. The number and type of animals impounded by COUNTY Residents, with location/address information.
 - c. The amount collected by the CITY in applicable fees for COUNTY and COUNTY Resident animals.
 - d. Verification of operating hours and responsible staff, with any changes noted.
 - e. Operational summary of budget versus actual expenses as given in Exhibit A.
 - f. Facility maintenance concerns and requests for COUNTY support, if necessary.
6. The CITY shall maintain the facility in good, clean, and safe condition and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. The CITY shall be responsible for providing routine and preventative maintenance to the facility. The term "routine maintenance" includes each separate maintenance activity that does not exceed the total cost of \$1,000 dollars for labor and materials. The CITY is responsible for all costs necessary to repair the facility because of any vandalism or destruction caused by the CITY or any of its employees or agents and shall report to the COUNTY any damage to the Facility as soon as it is identified. The CITY is responsible for completing all such repairs and maintenance within 60 days of discovery. The COUNTY will assume responsibility for any repairs and improvements that may be required that are beyond the scope of routine maintenance to include acts of God.
7. The laws of the State of Arizona shall govern this Agreement. Venue is properly found in Cochise County.
8. This Agreement shall be in effect upon its approval by the respective governing bodies. Thereafter, this Agreement shall be automatically renewed for three (3) successive fiscal years, unless either party provides written notice of its intent to terminate the Agreement, which must be provided not less than ninety (90) days prior to the start of the next fiscal year.
9. Pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by reference, the parties are hereby put on notice that this Agreement is subject to cancellation by the political subdivision or its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of such political

subdivision is, at any time while the contract is or any extension of the contract is in effect, an employee or agent of any other party to the contract in the capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

10. Each party may at any time request an amendment to this Agreement. This Agreement is subject to amendment upon the mutual consent of the respective governing bodies, by the approval of a formal written amendment to this Agreement. On at least an annual basis, the parties shall meet, through their respective representatives, to discuss the operations of this Shelter and the needs of each party for any changes to this Agreement or the applicable procedures, as may be necessary to best accomplish the purposes of this Agreement.
11. To the extent permitted by law, each party to this Agreement shall indemnify, defend, and hold harmless the other party, its officers, departments, employees, and agents from and against any all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature which result from the act or omission of the indemnifying party, its agents, officers, employees, or anyone acting under its direction.

The COUNTY shall defend, hold harmless, and indemnify the CITY, its officers, agents, and employees, from all claims, demands, suits, damages, or loss ("claims") that result from the negligence or intentional acts of the COUNTY, its agents, officers, and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional acts. The CITY shall defend, hold harmless and indemnify the COUNTY, its officers, agents, and employees, from all claims, demands, suits, damages, or loss ("claims") that result from the negligence or intentional acts of the CITY, its agents, officers, and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional acts. The extent of the foregoing liabilities shall be limited to and determined by the respective fault of the parties, their agents, officers, and employees, in comparison with others (including, but not limited to, the other party) who may have contributed to or in part caused any such claim to arise. This duty to defend, indemnify and hold harmless is not negated or otherwise limited by the characterization of the underlying duty as a "non-delegable duty" for which either party may be vicariously liable, as a matter of law. If a claim or claims by third parties become subject to this indemnity provision, the parties shall expeditiously

meet to discuss a common and mutual defense, including possible proportionate liability and payment of possible litigation expenses and damages. The obligations under this Section 10 shall survive termination of this Agreement.

12. Neither party shall discriminate against any employee or client of either party or any other individual in any way because of that person's age, race, creed, color, religion, sex, genetic information, disability, familial status, political affiliation, or national origin in the course of carrying out the duties pursuant to this Agreement. Both parties shall comply with applicable provisions of Executive Order 75-5, as amended by Executive Order 2009-09 of the Governor of Arizona, which are incorporated into this Agreement by reference as if set forth in full herein, and 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, as well as the Genetic Information Nondiscrimination Act of 2008.
13. The parties are required to comply with A.R.S. § 41-4401, and hereby warrants that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. § 41-4401, and with the e-verification requirements of A.R.S. § 23-214(A) (together the "state and federal immigration laws"). The parties further agree to ensure that any subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.
14. The parties shall procure and maintain worker's compensation coverage as required by law, and each party shall comply with the notice provisions of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022(D), an employee of a public agency, as defined in section 11-951, who works under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to a specific intergovernmental agreement, entered into between the public agencies as provided in section 11-952, is deemed to be an employee of both public agencies for the purposes of this section. The primary employer shall be solely liable for the payment of workers' compensation benefits for the purposes of this section and/or other fringe benefits of said employees.

IN WITNESS WHEREOF, the parties have authorized the designated officials indicated below to execute this Agreement indicating their respective approval.

COCHISE COUNTY SHERIFF



Mark Dannels
Sheriff


COCHISE COUNTY

Ann English, Chair
Board of Supervisors

ATTEST

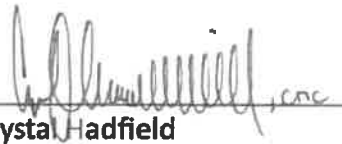
Sharon Gilman
Interim Clerk of the Board

CITY OF WILLCOX



Michael J. Laws
Mayor

ATTEST



Crystal Hadfield
City Clerk

Pursuant to A.R.S. § 11-952(D), the undersigned attorneys have reviewed the foregoing Agreement, and confirm the Agreement is in proper form, and is within the powers and authority granted to each party under Arizona law.

APPROVED AS TO FORM

APPROVED AS TO FORM

Denise Riden

Denise Riden
Civil Deputy County Attorney

William Sims

William Simms
City of Willcox Attorney

EXHIBIT A

City of Willcox General Fund Budget Public Safety - Animal Shelter

City Account	Title	City Estimated
10-424-1101	SALARIES (1, Full-time)	\$31,264
10-424-1105	OVERTIME	\$100
10-424-1201	WORKERS COMPENSATION INSURANCE	\$1,596
10-424-1202	MEDICAL INSURANCE	\$22,339
10-424-1203	FICA	\$2,392
10-424-1204	ASRS	\$3,159
10-424-1205	UNEMPLOYMENT	\$25
10-424-1207	LIFE INSURANCE	\$117
10-424-1208	HEALTH REIMBURSEMENT ALLOWANCE	\$1,146
10-424-1209	BENEFITS FEES	\$396
10-424-2102	UNIFORMS	\$200
10-424-2106	FEED	\$5,000
10-424-2115	EQUIPMENT REPAIR/MAINTENANCE	\$400
10-424-2116	SMALL EQUIPMENT PURCHASES	\$1,000
10-424-2190	SUPPLIES AND MATERIALS	\$2,000
10-424-2402	TELEPHONE	\$480
10-424-2404	UTILITIES	\$9,000
10-424-2590	CONTRACT SERVICES	\$2,250
10-424-2601	FUEL AND OIL	\$2,500
10-424-2602	TIRES AND TUBES	\$600
10-424-2603	VEHICLE REPAIR/MAINTENANCE	\$1,000
10-424-2700	TRAVEL AND TRAINING	\$500
10-424-9601	ADVERTISING	\$400
10-424-9690	MISC. EXPENSE	\$875
10-424-9901	Part-time Position (2)	\$22,074
Expenditure Total		\$110,813
70/30 Cost Share	County	\$77,569.10
	City	\$33,243.90
Total		\$110,813