

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF BENSON AND COCHISE COUNTY  
FOR ANIMAL SHELTER SERVICES IN BENSON, ARIZONA**

**RECITALS**

**THIS AGREEMENT** is made between COCHISE COUNTY (the COUNTY), a political subdivision of the State of Arizona, and the CITY OF BENSON, a municipal corporation, (the CITY), located at 101 East 6th Street, Benson, Arizona, 85602, for animal shelter services in Benson, Arizona.

**WHEREAS**, it is mutually agreed that the COUNTY needs to provide animal shelter service in the unincorporated areas around Benson, Arizona; and

**WHEREAS**, the COUNTY contributed \$48,571 to the CITY for the purpose of expanding the shelter capacity in order to provide services to the COUNTY; and

**WHEREAS**, the CITY shall operate and maintain an animal shelter and provide animal shelter services to the COUNTY under the terms and conditions set forth in this Agreement; and

**WHEREAS**, the parties have authority to enter into an intergovernmental agreement to provide animal shelter services pursuant to A.R.S. § 11-952.

**NOW THEREFORE**, in consideration of the mutual covenants, conditions, and obligations herein set forth, the parties agree to the following terms and conditions:

- (1) CITY shall be responsible for accepting all COUNTY originated animals that are delivered to the Shelter by COUNTY staff. Owner surrendered animals shall be limited to those residing within twenty (20) miles of the CITY limits. Notwithstanding anything to the contrary set forth herein, the CITY may refuse any COUNTY animals when the CITY determines that the Shelter is at or nearing capacity. The CITY shall take reasonable efforts to notify COUNTY staff in advance of this status.

- (2) The CITY shall provide the following services:
  - a. 24-hour access to the facility for COUNTY Animal Control Officers (ACOs).
  - b. All routine care of impounded animals, except that if drop-off occurs after hours or on weekends, COUNTY ACOs shall water and feed the animals at that time. CITY shall provide care and disposal of COUNTY-originated animals in the same manner as it does for CITY animals:
    - i. 72 hours for stray
    - ii. 7 days for owned (identifiable owner information chip/tag)
    - iii. 10 days quarantine
    - iv. As otherwise stipulated by court order
  - c. Euthanize animals per the CITY's established Protocol. COUNTY ACOs must euthanize COUNTY-originated animals that are diseased and/or injured to the degree that they require veterinary care, if drop off happens on the weekends or after hours.
  - d. All utilities.
  - e. Quarantine – limit to ten (10) days and bite cases involving humans. CITY shall release the animal to the owner at the conclusion of the quarantine.
  - f. Facility open to public a minimum of 20 hours per week as posted during CITY animal shelter business hours.
  - g. All costs involved in the cremation of COUNTY-originated animals shall be included in the monthly fee charged to the COUNTY by the CITY.
  - h. All fees the CITY collects from the public remains with the CITY.
  - i. Recordkeeping on animals during impoundment. COUNTY ACOs are asked to provide detailed descriptions when completing impound cards.
- (3) COUNTY ACOs may not wash out their trucks at the CITY's facility.
- (4) COUNTY ACOs must notify the CITY shelter one business day in advance of any planned county-wide round-up.
- (5) The CITY shall be entitled to compensation from the COUNTY for the animal care services that it provides pursuant to this Agreement. Upon effective date, the amount of compensation shall be paid by the COUNTY in the amount of \$63,000, per year, paid in 4 quarterly installments. The Parties acknowledge that this compensation is calculated upon COUNTY-originated animals comprising 30% of the total animal population at the CITY shelter. If the percentage of COUNTY-originated animals either increases or decreases by an additional 10% for two successive quarters, the Parties

agree to amend the compensation to reflect the actual percentage of COUNTY-originated animals at the CITY shelter.

- (6) The laws of the State of Arizona shall govern this Agreement. Venue is properly found in Cochise County.
- (7) This Agreement shall be in effect upon its approval by the respective governing bodies. 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.
- (8) 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.
- (9) 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.
- (10) 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 shall survive termination of this Agreement.

- (11) 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.
- (12) The parties are required to comply with A.R.S. § 41-4401, and hereby warrant that they shall, 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.

- (13) 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


**CITY OF BENSON:**

  
\_\_\_\_\_  
Joe A. Konrad  
Mayor

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Sharon Gilman  
Interim Clerk of the Board


  
\_\_\_\_\_  
Vicki L. Vivian, CMC  
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*  
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Denise Riden  
Civil Deputy County Attorney

  
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DeConcini McDonald Yetwin & Lacy, PC  
Paula Loucks  
City's Attorney