

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

RECITALS

THIS AGREEMENT is made between COCHISE COUNTY (the COUNTY), a political subdivision of the State of Arizona, and the CITY OF DOUGLAS, a municipal corporation, (the CITY), located at 425 Tenth Street, Douglas, Arizona 85607, for animal shelter services in Douglas, Arizona.

WHEREAS, it is mutually agreed that the COUNTY needs to provide animal shelter service in the unincorporated areas around Douglas, Arizona; 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 CITY and COUNTY have Animal Control Officers (ACO's) that enforce state, county, and local regulations relating to animals; 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 thirty (30) 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 ACO'S.
 - b. All routine care of impounded animals, except that if drop-off occurs after hours or on weekends, COUNTY ACO's 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 ACO's 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.

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- 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. Recordkeeping on animals during impoundment. COUNTY ACO's are asked to provide detailed descriptions when completing impound cards.
 - i. COUNTY ACO's washing out their trucks shall be prohibited at this facility.
 - j. COUNTY ACO's must notify the shelter one business day in advance of any planned county-wide round-up.
- (3) 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 2023 (July 1, 2022, to June 30, 2023), the amount of compensation shall be paid by the COUNTY in the amount of \$60,126.34, per year, paid in 4 quarterly installments. The COUNTY agrees to an annual 3% increase for these services beginning with the 2024 fiscal year (July 1, 2023, to June 30, 2024). 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.
- (4) 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.
- (5) 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.
- (6) 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.

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- (7) 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.
- (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) 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.
- (10) 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.

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- (11) Each party shall comply with the notice provisions 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 incident command 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.
- (12) The laws of the State of Arizona shall govern this Agreement. Venue shall be in the Cochise County Superior Court. In the event of any litigation or arbitration arising out of this Agreement, the substantially prevailing Party in such litigation or arbitration shall be entitled to recover its reasonable attorney's fees, expert witness fees and other costs of litigation.

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
Board of Supervisors Chairman

ATTEST:

Tim Mattix
Clerk of the Board

CITY OF DOUGLAS:

Donald C. Huish
Mayor

ATTEST:

Alma Andrade
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:

Kris Carlson
Deputy County Attorney

APPROVED AS TO FORM:

Denis Fitzgibbons
City Attorney