RESOLUTION NO. 2013-20
C-79-14-033-3-00

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR ANIMAL CARE AND CONTROL SERVICES.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The Intergovernmental Agreement with Maricopa County for Animal Care and Control Services (the "Agreement") is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, May 2, 2013.

FOR THE TOWN OF FOUNTAIN HILLS:

Linda M. Kavanagh, Mayor

ATTESTED TO:

Bevelyn J. Bender, Town Clerk

REVIEWED BY:

Kenneth W. Buchanan, Town Manager

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION NO. 2013-20

[Agreement]

See following pages.

INTERGOVERNMENTAL
AGREEMENT

FISCAL YEARS 2014-2018

C-79-14-033-3-00

AGREEMENT FOR ANIMAL CONTROL SERVICES

BETWEEN

Maricopa County

And

The Town of Fountain Hills

AGREEMENT FOR ANIMAL CONTROL SERVICES

This intergovernmental agreement, hereinafter called Agreement, is entered into by and between Maricopa County, administered through Animal Care and Control, hereinafter called COUNTY and the Town of Fountain Hills, hereinafter called TOWN hereinafter collectively referred to as the "Parties" and individually as a "Party".

RECITALS

The COUNTY maintains facilities, equipment, and trained personnel for the maintenance, control, and impoundment and/or destruction of unclaimed or vicious dogs and cats including vaccination and licensing of dogs, and rabies control; and administration of animal ordinance offender diversion program.

The Parties are authorized to enter into this Agreement by A.R.S. § § 11-201(A)(3), 11-951, 11-952 and 11-1005(A)(3).

The TOWN is in need of the animal control services provided by COUNTY for dogs as set forth in Appendix B ("Services") and desires to enter into this contract for enhanced animal control services.

It is beneficial to the TOWN to receive enhanced services as it will ensure that animal control will provide the TOWN with priority service in response to calls and that animal control will respond to 100% of the calls for service generated by the Town as provided in this Agreement.

The TOWN and COUNTY desire to enter into this Agreement to establish the Parties' rights and responsibilities with respect to the Services.

This Agreement contains all the terms and conditions agreed to by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Nothing in this Agreement shall be construed as a consent to any suit or waiver of any defense in a suit brought against the State of Arizona, the COUNTY, or the TOWN in any State or Federal Court.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

GENERAL PROVISIONS

1. Term:

Upon its execution by both Parties, this Agreement is effective from July 1, 2013 through June 30, 2014 ("Initial Term"). After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") by the mutual agreement of the Parties, subject to availability and appropriation of funds for renewal. Any extension, modification or amendment to this Agreement shall be approved by both Parties in writing.

2. Amendment:

This Agreement supersedes all previous Agreements between the Parties concerning animal control services. Nothing in this Agreement may be modified or waived except by prior written amendment, duly executed by both Parties.

3. Termination:

Either party may, with or without cause, terminate this Agreement by giving the other Party sixty (60) days prior written notice of such termination. Upon termination of this Agreement, all property used in performing services under this Agreement shall be returned promptly to the Party owning or having the right to possess the same.

4. Insurance:

The Parties agree to secure and maintain sufficient insurance coverage for any and all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.

5. Record Keeping and Audits:

The Parties agree to maintain and furnish to each other such records and documents pertaining to the services provided pursuant to this Agreement as may be required by this Agreement and any applicable Federal and State laws, rules and regulations. Each Party, prior to conducting an audit, must give sixty (60) calendar days notice to the other Party. Notice shall be given as provided in section 15 (C).

6. Default:

If either Party fails to perform any obligation pursuant to this Agreement and such Party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting Party, such

Party will be in default. In the event of such default, the non-defaulting Party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting Party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting Party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting Party immediately (A) provides written notice to the non-defaulting Party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 60 days.

7. COUNTY Reporting Obligations:

COUNTY shall provide TOWN with quarterly routine statistical and/or management reports which provide the following information: the number of calls, the date and time the call was received, incident address or area, descriptor (stray/dangerous), and disposition of the call concerning the services provided pursuant to this Agreement.

8. Amendments to Ordinances:

Should the TOWN amend or repeal its ordinances during the term of this Agreement, the COUNTY may decline to enforce ordinance changes or may require a modification in compensation for enforcement, if the changes to the ordinance(s) result in amending or modifying the services to be provided by COUNTY under this Agreement.

9. Conflict of Interest:

Pursuant to the provisions of A.R.S. § 38-511, either Party may cancel the Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of that Party is at any time while the Agreement or any extension thereof is in effect an employee of any other Party to the Agreement in any capacity to any other Party to the Agreement with respect to the subject matter of the Agreement.

10. Indemnification:

To the extent permitted by law, the COUNTY and the Department does hereby covenant and agree to indemnify, defend and hold harmless the TOWN, its officers, employees, contractees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the COUNTY and the Department, its officers, employees, contractees, agents and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement.

To the extent permitted by law, the TOWN does hereby covenant and agree to indemnify, defend and hold harmless the COUNTY its officers, employees, contractees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the TOWN, its officers, employees, , agents and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement

11. Services:

The COUNTY agrees to provide the field enforcement services described in Appendix B.

12. Payment for Services:

The TOWN agrees to pay the COUNTY for services performed under this Agreement in accordance with Appendix A of this Agreement as may be amended. COUNTY will submit an invoice quarterly for Services to be provided. The TOWN will submit payment to COUNTY within 30 days of receiving of a correct invoice.

13. Pricing:

Fees for services provided under this Agreement will be those currently approved by the Maricopa COUNTY Board of Supervisors, and identified on Appendix A, "Compensation Schedule" Attached hereto. For the Fiscal year beginning July 1, 2014 and each subsequent fiscal year during the term of this Agreement, the COUNTY will notify the TOWN by April 1 of the fee Compensation Schedule for services requested and provided under this Agreement for the following fiscal year. Fees for services shall be prepared in accordance with a formula developed by the Department and the COUNTY Office of Management and Budget, in accordance with Board of Supervisors Budgeting for Results Guidelines, which require full recovery of the COUNTY's direct and indirect costs.

14. Force Majeure:

Neither Party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures or power failures.

15. General Provision

A. The COUNTY and TOWN warrant they are in compliance with the provisions in A.R.S. §41-4401 (e-verify).

B. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, all Parties hereby warrant, and represent that they do not have, and its subcontractors do not have, and during the term hereof will not have a scrutinized business operation in either Sudan or Iran.

C. Notices. Whenever written notice is required or permitted to be given by any Party to the other, such notice shall have been deemed to have been sufficiently given if personally delivered or deposited in the United States Mail in a properly stamped envelope, certified or registered mail, return-receipt-requested, addressed to:

Animal Care and Control:

Rodrigo Silva, Assistant County Manager
Maricopa County Animal Care and Control
2500 S. 27th Avenue
Phoenix, Arizona 85009

Town of Fountain Hills:

Kenneth W. Buchanan, Town Manager
16705 E. Avenue of the Fountains
Fountain Hills, Arizona 85268

Copy to:

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC
One E. Washington Street, Suite 1600
Phoenix, Arizona 85004

D. This Agreement shall not be assigned, in whole or in part, without the prior written consent of the parties, and any purported assignment in contravention of this provision shall be null and void.

E. This Agreement shall be construed in accordance with the law of the State of Arizona.

F. Each Party shall comply with all applicable laws, ordinances, Executive Orders, rules, regulations, standards, and codes of the Federal and State whether or not specifically referenced herein.

G. The person signing this Agreement warrant that they have full authority to do so and that their signatures shall bind the parties for which they sign.

IN WITNESS WHEREOF, the parties enter into this Agreement:

MARICOPA COUNTY
BOARD OF SUPERVISORS

By:

Chairman

Attest:

Clerk of the Board 091113

TOWN OF FOUNTAIN HILLS

By:

Kenneth W. Buchanan, Town Manager

Attest:

Bevelyn J. Bender, Town Clerk

This Agreement has been reviewed pursuant to A.R.S. § 11-952 et. seq. by the undersigned attorney, who has determined that it is in proper form and is within the power and authority granted under the laws of the State of Arizona.

By:
Attorney for Board of Supervisors

By:
Andrew J. McGuire, Town Attorney

APPENDIX A

COMPENSATION SCHEDULE Field Enforcement

1.	**COUNTY Service Level:**	Enhanced
2.	Minimum Staffing:	Adequate to respond to approximately 100% of Service Area
3.	**Service Cost**	
	Fiscal Year 2013-2014	**$19,464**
	Fiscal Year 2014-2015	**An amount to be determined pursuant to Section 13 of this Agreement.**
	Fiscal Year 2015-2016	**An amount to be determined pursuant to Section 13 of this Agreement.**
	Fiscal year 2016-2018	**An amount to be determined pursuant to Section 13 of this Agreement.**

APPENDIX B

SERVICES

1. **Response Time.** The County shall arrive at the scene of an animal control incident in accordance with the schedule listed below:

Schedule 1 7:00 a.m. to 10:00 p.m.

Priority 1 -	**Police/fire/ bite animal at large**	**1 hour**
Priority 2 -	**School in session on property**	**2 hours**
Priority 3 -	**Impound stray dogs** **Quarantine and investigate dog, cat bites to human victims**	**5 hours**
Priority 4 -	**Enforce license/leash law**	**6 hours**

Priorities 3 and 4, received after the public call center closes (5p.m.), the response time will carry over until the next normally scheduled work shift.

Schedule 2 10:00 p.m. to 7: 00 a.m.

Emergency Response Third Shift 3 hours
Imminent danger stray bite dog at large in process of attacking people.

2. **Ordinance.** Within the TOWN the COUNTY shall be responsible for and enforce rabies/animal control in accordance with the following sections of the TOWN Rabies/Animal Control Ordinance: all provisions in the Fountain Hills Town Code Chapter 6: Animals, found in Sec. 6-2-2, 6-2-5, 6-2-7,6-2-8,6-2-9.

3. **Hours of Operation.** The COUNTY shall operate a call center from 8 a.m. to 5 p.m. seven days a week, excluding observed County Holidays: Thanksgiving and Christmas. COUNTY shall provide Schedule 1 dispatch coverage from 7:00 a.m. until 10:00 p.m. seven days a week, excluding observed County Holidays. The COUNTY may close one day a year for all-hands training set on Columbus Day. The COUNTY shall provide Schedule 2, Priority 1 response services from 10:00 p.m. until 7:00 a.m. seven days a week, The COUNTY shall provide Schedule 2, Priority 1 response services from 12:00 a.m. until 11:59 p.m. on all observed County Holidays and the all-hands training day.

APPENDIX B

Service Level Response Time Matrix			
Service Level Schedule 1 & 2	**Hours**	**Phone**	**Priority**
Schedule 1 Normal Operating Hours Public	8a.m. to 5:p.m.	602-506-7387 Call Center	1 to 4 and O
Schedule 1 Limited Service	5p.m. to 10p.m.	602-506-7387 Recording	1 to 4 and O
Schedule 2 Emergency Public Safety Limited Service	5p.m. to 10p.m.	602-506-1309 Dispatch Direct (non-public line)	1 to 3
Schedule 2 Third Shift Emergency Public Safety Imminent Danger	10p.m. to 7a.m.	602-506-1309 Dispatch Direct (non-public line)	Emergency

APPENDIX B

Service Contract Priority List						
Priority 1 1 hour or less	Priority 2 2 hours	Priority 3 5 hours	Priority 4 6 hours	Priority O - Other 24 hours or by appointment and contract approval		
Officer needs assistance: police/fire/animal control officer.	Aggressive animal at large imminent safety hazard.	Agency assist other than police	Leash law violator	Vicious animal petition	Community requested neighborhood sweeps.	License canvassing.
Animal bite running at large imminent safety hazard.	Animal in trap imminent health danger to animal	Dog in auto traffic public safety concern police not responding	Stray dog complaint at large. Area check.	Rabies license Check.	Kennel permits inspections.	Administrative and jurisdiction reports.
Animal at large on school grounds. (school in session)	Sick or injured stray imminent health danger to animal	Confined stray dog at business or private home.		Animal bite investigations follow up second sequence.	Live animal trap delivery or pickup.	Court Appearance or delivery
		Animal bite investigation follow up to open case		Bite Quarantine health check follow-up.	Release from Home Quarantine.	Neighborhood community events
		Dog confined on school grounds. No threat.		Rabies vaccination license compliance check	Chemical capture of stray dog	
		Animal complaint in progress: constituent will provide location of dog.				

(This page left blank)