



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** November 13, 2012
From: Gina Schwin-Whiteside **Item No:** 8
Animal Services Manager
Animal Services
Subject: AGREEMENT TO PROVIDE ANIMAL SHELTERING SERVICES FOR THE
COUNTY OF SAN BERNARDINO

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

1. Direct staff to finalize the details of the Agreement to provide Animal Sheltering Services for the County of San Bernardino.
2. Authorize staff to execute the finalized Agreement to provide Animal Sheltering Services for the County of San Bernardino, subject to "Approval as to Form" by the Town Attorney and "Approval as to Content" by the Town Manager.

SUMMARY:

As directed, Animal Services has prepared a draft agreement to provide Animal Sheltering Services for the County of San Bernardino. Anticipated revenues and expenditures for this agreement are included in the adopted Town of Apple Valley 2012/2013 Fiscal Year Budget.

Consistent with Council direction, staff will monitor any additional programs or service agreements to ensure that they do not impact the quality of animal sheltering services provided to Town of Apple Valley residents. Agencies seeking sheltering services from our agency will be required to comply with the Town's sheltering standards and policies. The Town's policies meet and exceed in many areas, the minimum levels established by the State of California.

This agreement is a fee-for-sheltering services and requires the County of San Bernardino to pay a guaranteed agreement amount, as defined in the "Fees for Sheltering Services." Services exceeding the maximum thresholds identified will have an impact on staffing projections and other operation and maintenance expenditures. This proposal includes an adjusted fee for services when County impounds exceed the maximum allowed per this agreement.

Staff has notified the County of San Bernardino that accepting their animals will place the shelter at or near the 20-year build out capacity in the first year of this agreement. Therefore, consideration for continuing this sheltering services agreement for longer than one-year, will require the County to pay capital improvement costs, including funds to increase animal holding

areas. The payment for capital improvements will be negotiated in future years of this agreement.

Town staff does not support reducing holding periods to accommodate increases realized because of this sheltering agreement. The County will be invited to participate and provide funds for their residents to receive incentives currently offered through the Town's adopted Voluntary Spay/Neuter Program. Both agencies must actively work with their communities to promote responsible pet-ownership and increase spay/neuters, which will reduce shelter impounds and euthanasia.

BACKGROUND:

During the planning stages of the Town's Municipal Shelter, the Town Council directed staff to construct a facility that would meet animal sheltering needs for the next twenty (20) years. The potential for the Town to provide contracted sheltering services for requesting agencies was discussed in the early planning meetings. Council endorsed providing sheltering service agreements, if the agreements would generate revenues to enhance services the Town would be providing.

FISCAL REVIEW

A revenue projection for the remaining six-months of Fiscal Year 2012/2013 of \$144,000 is anticipated from payments on this agreement.

The net increase from this agreement is contingent on the month sheltering services begin and maintaining the minimum obligated costs owed by the County for securing sheltering services that allow up to 1,675 Impounded Animals from January, 1, 2013 through June 30, 2013, *and routine medical treatment as defined.*

The impact on expenditures for operation and maintenance to provide sheltering services to the County will vary depending on the actual increase in the numbers of animals being handled by our facility, outgoing adoptions, return-to-owner percentages, and shelter customers. Generally, these expenditures are calculated by averaging data from past years.

There will be an increase for expenditures in areas such as staffing, food supplies, drugs and vaccinations, and spay/neuter services; while expenditures such as utilities, grounds maintenance, and building maintenance will be less impacted. However, the increased expenditures will not exceed the revenues generated through this sheltering service agreement.

LEGAL REVIEW

After staff receives requested changes to this agreement from the County of San Bernardino, the agreement will be submitted for review in detail and approval as to form by the Town Attorney's office. The final agreement will be approved as to content by the Town Manager before executed.



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New	Vendor Code				Dept.	Contract Number			
<input type="checkbox"/> Change					SC	A			
<input type="checkbox"/> Cancel									
County Department				Dept.	Orgn.	Contractor's License No.			
Department of Public Health				PHL	PHL				
County Department Contract Representative				Telephone		Total Contract Amount			
Lisa Ordaz				909 388-0222		\$818,000			
Contract Type									
<input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:									
If not encumbered or revenue contract type, provide reason:									
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount				
		xx/xx/2012	06/30/2015	\$818,000					
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount			
AAA	PHL	2605		2445		\$818,000			
Project Name				Estimated Payment Total by Fiscal Year					
Animal Sheltering Services				FY	Amount	I/D	FY	Amount	I/D
				12/13	\$332,750	---			---
				13/14	\$297,750*	---			---
				14/15	\$297,750*	---			---

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, Department of Public Health, hereinafter called the County, and

Name
Town of Apple Valley – Animal Services Department

hereinafter called TOWN

Address
14955 Dale Evans Parkway, Apple Valley, CA 92307

(760) 240-7000 Ext. 7060

Phone
33- _____ Birth Date _____

Federal ID No. or Social Security No.

Federal ID No. or Social Security No., if applicable _____

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, The County desires to engage the Town of Apple Valley (TOWN) to provide Animal Sheltering Services to the High Desert Region of San Bernardino County; and

WHEREAS, County has been allocated funds by general funds to provide such services; and

WHEREAS, County finds TOWN qualified to provide Animal Sheltering Services; and

WHEREAS, County desires that such services be provided by TOWN and TOWN agrees to perform these services as set forth below;

NOW THEREFORE, County and TOWN mutually agree to the following terms and conditions:

Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

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ATTACHMENTS

- ATTACHMENT A –AGREED UPON FEES
- ATTACHMENT B – HIGH DESERT REGION BOUNDARY MAP (“BOUNDARY MAP”)

I. PARTIES AND DATE

THIS AGREEMENT FOR ANIMAL SHELTERING SERVICES ("AGREEMENT") is made and entered into this _____ day of _____ 2012 (the "Effective Date"), by and between the TOWN OF APPLE VALLEY, a municipal corporation of the State of California, ("TOWN"), AND the COUNTY OF SAN BERNARDINO, DEPARTMENT OF PUBLIC HEALTH, ("COUNTY"). TOWN and COUNTY are collectively referred to as the "Parties".

II. DEFINITIONS

- A. Abandoned Animal - Any animal left unattended for a minimum of 24 hours without receiving proper care and/or treatment by its owner or caretaker.
- B. Adoptable Animal – Includes those animals of eight weeks of age or older that, at or subsequent to the time the animal is impounded or otherwise taken possession, have manifested no sign of behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future. TOWN reserves the right to place animals less than eight weeks of age as it deems appropriate.
- C. Adopted Animal – Permanent placement of an animal into an adoptee's custody and ownership by TOWN.
- D. Affiliated Companies – All businesses which are directly or indirectly related to TOWN by virtue of direct or indirect goods and services provided.
- E. Apple Valley Animal Services Department (AVAS) – Department that administers animal control and sheltering services for the incorporated areas of the Town of Apple Valley. Also, identified as an agent of "TOWN" for the purposes of this agreement.
- F. Applicable Law ("APPLICABLE LAW") – All laws, statutes, rules, regulations, guidelines, permits, actions determination orders, or requirements of the United States, State of California, County of San Bernardino, Town of Apple Valley, regional or local government authorities, agencies, boards, commissions, courts or other bodies having applicable jurisdiction, that from time to time apply to or govern the services provided pursuant to this agreement or the performance of Parties' respective obligations hereunder, including the foregoing which concern health, safety, fire, environmental protections, labor relations, mitigation monitoring plans, building codes, zoning, and non-discrimination. All references herein to "APPLICABLE LAW" include subsequent amendments thereto, unless otherwise specifically limited.
- G. Business Day – Is defined as every day the Municipal Shelter is open to the public. This does not include designated Federal or State Holidays recognized by TOWN, Sundays or days when the SHELTER is closed for offsite events.
- H. AGREEMENT Year – COUNTY's fiscal year (July 1st through the following June 30th) and each subsequent year thereafter for the duration on the agreement.
- I. COUNTY Customer ("CUSTOMER") –Each qualifying County of San Bernardino resident or business, as identified per the BOUNDARY MAP (Attachment B) that directly or indirectly receives animal sheltering services from TOWN on behalf of COUNTY.
- J. Department of Public Health Animal Care and Control Program (ACC) – The program that provides animal care and control for the residents of the unincorporated areas of the COUNTY.

- K. Euthanasia –California Business and Professions Code 4827 (d) allows, “Administering sodium pentobarbital for euthanasia of sick, injured, homeless, or unwanted domestic pets or animals without the presence of a veterinarian when the person is an employee of an animal control shelter and its agencies or humane society and has received proper training in the administration of sodium pentobarbital for these purposes.” TOWN reserves the right to review and/or deny requested euthanasia of owner surrendered animals that were turned in by the public and are handled as a result of this AGREEMENT.
- L. High Desert Region Boundary Map (“BOUNDARY MAP”) – Map indicating the service area for purposes of this AGREEMENT attached as Attachment B.
- M. Holding Periods - Animals impounded into the SHELTER shall be held in compliance with Federal, State and local laws regarding impound holding periods. All animals impounded will be held for the minimum days established by TOWN and unless determined to be irredeemably ill or suffering, shall not be held fewer days than established by law. COUNTY may request additional holding days for specified animals. TOWN will work with COUNTY to accommodate extensions to the best of their ability.
- N. Impoundment – The taking into custody of any animal into the SHELTER on behalf of COUNTY as a result of this agreement. This includes but is not limited to animals: (1) found in violation of State and/or County laws and codes; (2) taken in by COUNTY for the protection of animal or human health and/or safety; (3) turned in as a found stray by CUSTOMER; (4) turned in as an Owner-Turn-In (OTI); or (5) for any similar circumstances. Each animal impounded is counted as one (1) animal regardless of classification as a “stray” or “owner-turn-in”. A litter is counted as one (1). Animals delivered by COUNTY or CUSTOMER to another facility or veterinarian shall not be considered impounded or in the custody of TOWN.
- O. Licensing Services – TOWN shall provide, on behalf of COUNTY, dog licensing services for CUSTOMERS living within the unincorporated areas of San Bernardino County as identified by the BOUNDARY MAP. TOWN shall use the most current rates schedule as set forth in the COUNTY FEE SCHEDULE, which will be provided annually by COUNTY. This fee schedule does not apply to Town of Apple Valley residents.
- P. Medical Care – The “necessary and prompt” veterinary medical care provided within city, county and/or city/county animal control shelters and/or its agencies to protect the public good with a California licensed veterinarian present is limited to basic care to prevent spread of disease and to protect the public and the animals, e.g. vaccinations, prophylactic treatment of parasites, and basic testing protocols. Medical Care will also include routine health monitoring by AVAS staff, including but not limited to a Supervising Veterinarian, Registered Veterinary Technician, and unregistered Animal Health Assistants contracted or employed by TOWN.
- Q. Litter – Each "unweaned" litter of animals turned in with their mother, regardless of number, shall be treated as an individual animal.
- R. Municipal Animal Shelter (“SHELTER”) – Is the TOWN owned animal shelter facility operated and maintained by AVAS for the purposes of this agreement.
- S. Spay/Neuter – The surgical sterilization of any animal resulting in the inability of that animal to produce offspring. Altered may indicate either male or female.
- T. Owner-Turn-In (OTI) – Any animal that has been in the care and custody of CUSTOMER in excess of fifteen (15) days or reported by CUSTOMER to be their owned animal. OTI’s delivered to the SHELTER by COUNTY will be billed as STRAY unless OTI fees are provided at impound to TOWN. TOWN shall not be responsible for collecting outstanding OTI fees owed to COUNTY for animals impounded in the field or when an owner of an impounded stray animal is later identified

by COUNTY. If the identified owner claims said animal at the SHELTER, TOWN shall collect fees as per this AGREEMENT.

- U. Quarantine – The strict confinement, for a specific amount of time, of an animal for observation, by TOWN at the SHELTER, as a result of an incident in which the circumstances may have allowed the exposure/transmission of the virus which causes the disease known as rabies to another animal or human.
- V. Quarter or Quarterly – The three month period beginning with the AGREEMENT effective date. Shall be defined as: First Quarter (July/August/September), Second Quarter (October, November, December), Third Quarter (January/February/March), and Fourth Quarter (April/May/June).
- W. Service Area – The entire unincorporated area of the High Desert region of the COUNTY as identified on the BOUNDARY MAP.
- X. Shelter Services – TOWN shall provide COUNTY with animal sheltering services as defined in the SCOPE OF SERVICES. TOWN reserves all rights to define, implement, maintain, and provide operation and maintenance standards of the SHELTER in accordance with Town Council direction and APPLICABLE LAW.
- Y. Stray – Any animal that has not been in the care and custody of the CUSTOMER delivering and declaring such animal to be a stray for a period in excess of fifteen (15) days. Stray also applies to any animal without an owner that is delivered to the SHELTER by COUNTY.
- Z. Town of Apple Valley (“TOWN”) – Local government agency providing animal sheltering services outlined in this AGREEMENT.
- AA. Town Manager – The Manager of TOWN. The Town Manager or his designee is the authorized agent of TOWN in enforcing the terms of this AGREEMENT.

III. SCOPE OF SERVICES

- A. TOWN will accept all animals on behalf of COUNTY for impoundment from the Service Area which are brought to the TOWN by COUNTY Animal Care and Control officers, Sheriff Deputies, constables, authorized individuals, and CUSTOMERS of the Service Area. This includes live strays, deceased animals for disposal, and owner turn-ins (OTI) for adoption or euthanasia.
- B. All animals shall be impounded by TOWN and COUNTY shall reimburse TOWN for such animals, as specified in Attachment A, Agreed upon Fees.
- C. All impounded animals will be classified as stray unless an owner release is obtained and all OTI fees are paid at the time of impoundment. Owners refusing to pay turn-in fees at the SHELTER will be directed to COUNTY for additional options or assistance.
- D. TOWN shall collect owner release paperwork, OTI fees and other required fees from the owner releasing the animal at the SHELTER. Fees collected by TOWN will be recorded as a credit on account for the impounded animal.
- E. OTI Animals delivered to the SHELTER by COUNTY must be delivered with the appropriate owner release paperwork. If paperwork and/or fees are not collected by COUNTY in the field, TOWN shall not be responsible for collection of owner-turn-in fees.
- F. TOWN shall accept for impoundment animals involved in bite cases which are delivered to the shelter by persons authorized in Section III, Paragraph A, above and shall quarantine said

animals for ten (10) days and in compliance with APPLICABLE LAW. Quarantined COUNTY domestic animals shall not be released or destroyed without prior written or verbal approval by the COUNTY. County is responsible for issuing release of animal at the end of the quarantine. Animals under quarantine that exceed the ten (10) day hold shall be billed at a per day rate of \$20 beginning on day eleven (11).

- G. PARTIES agree that the impound holding period for all animals shall be in compliance with APPLICABLE LAW and the defined minimum Holding Periods as per this AGREEMENT. This includes all strays and owner turn-ins.
- H. CUSTOMERs of the Service Area delivering stray animals to the SHELTER will be requested to sign an impound slip indicating that the animal is a stray. The impound slip shall contain a description of the animal, address of person delivering the animal to the shelter, and location where the animal was picked up.
- I. CUSTOMERs of the Service Area delivering owned animals to the SHELTER will be requested to sign an owner release form indicating that they legally own the animal and understand the animal may be offered for adoption upon surrender. The owner release form shall contain a description of the animal, address of person delivering the animal to the shelter. TOWN will charge CUSTOMER established fees for OTI as set for in Schedule of County Fees.
- J. TOWN shall provide proper care and treatment to all animals impounded in accordance with APPLICABLE LAW. This includes housing, food, and veterinary care.
- K. Provide health exams, medical and/or veterinary services to all animals delivered to the SHELTER.
- L. Maintain and operate an adequate, suitable and sanitary animal shelter in compliance with APPLICABLE LAW.
- M. TOWN shall be open to the general public during established operating hours which will be provided to COUNTY and consistent with the hours of operation provided to the TOWN's residents. TOWN reserves the right to designate hours of operation to provide the highest quality of service and to ensure compliance with APPLICABLE LAWS and holding period mandates. TOWN shall provide access to designated COUNTY personnel to allow impoundment of animals after hours into the SHELTER.
- N. TOWN shall ensure that impounded animals will be displayed to public to allow owner identification. When such animals are wearing identification, known owner will be contacted by telephone and by mail. Owned animals must be held for ten (10) business days. If animals are not redeemed by their owners and adoption holds have not been placed, COUNTY may request that the animal be held for adoption for an additional time period as per this AGREEMENT. Those which are neither redeemed nor adopted may be euthanized after the mandatory hold period as mandated by APPLICABLE LAW. This does not apply to OTI animals surrendered by their owners to SHELTER.
- O. TOWN shall arrange for the humane disposal of unclaimed animals after sheltering the animal for the defined Holding Periods as per this AGREEMENT. TOWN shall provide a method of animal euthanasia in compliance with APPLICABLE LAW. TOWN is responsible for employing trained and certified personnel who have been properly trained and certified in performing animal euthanasia.
- P. Euthanize all stray domestic animals brought to the shelter by persons authorized in Section III, Paragraph A provided that it is in compliance with State law and no domestic animals so

impounded shall be euthanized without notice to the owner of such domestic animals, if that person is known. Domestic animals impounded under the provisions of the County Code shall be euthanized only after the mandatory hold period, as mandated by APPLICABLE LAW.

- Q. COUNTY will transfer any animal needing to be held longer than six (6) days as a result of a criminal or civil court case involving said animal. Based on available space, TOWN may authorize an extension to the holding period for said animals.
- R. TOWN will arrange spay or neuter services for all adopted animals in compliance with APPLICABLE LAWS.
- S. Collect apprehension, shelter, licensing and related penalty fees, on behalf of and as described by COUNTY, using established COUNTY fees prescribed in COUNTY FEE SCHEDULE and Attachment A. TOWN shall issue receipts for all license fees collected and shall keep copies thereof for review and/or audit by COUNTY.
- T. Sell and issue dog licenses on behalf of COUNTY to CUSTOMERS living in the Service Area using the established COUNTY FEE SCHEDULE. TOWN shall issue receipts for all license fees collected and shall keep copies thereof for review and/or audit by COUNTY.
- U. Using licensing records provided by COUNTY, TOWN will verify dog license status on all impounded dogs for the purpose of ascertaining the number of unlicensed dogs and to foster compliance with the County Code. COUNTY shall provide access to current animal owner data, including but not limited to licensing database, animal owner information, etc., TOWN will provide workspace for a COUNTY data terminal for this purpose.
- V. Maintain records of all animals delivered to TOWN by parties authorized in Section III, Paragraph A.
- W. TOWN will establish and charge TOWN fees for adoption and shelter services, exclusive of COUNTY fees which have been specified in COUNTY FEE SCHEDULE.

IV. TOWN SERVICE RESPONSIBILITIES

- A. TOWN agrees to perform all of its obligations under this Agreement for the term of this Agreement. TOWN shall furnish and/or manage all of the labor and equipment necessary for providing animal sheltering services subject to the terms, conditions and provisions of this Agreement.
- B. TOWN represents that it has the professional and technical personnel required to perform services in conformance with such terms, conditions and provisions of this Agreement. TOWN shall perform all services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized by professionals in the same discipline in the State of California.
- C. In the performance of this AGREEMENT, TOWN, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. TOWN certifies that neither it nor its principals is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549 and implemented as 45 Code of Federal Regulations part 76.
- D. Without the prior written consent of the Assistant Executive Officer for Human Services, this AGREEMENT is not assignable by TOWN either in whole or in part. TOWN reserves the right to enter into professional services AGREEMENTs for veterinary care, medical supplies, and other like services TOWN performs at the SHELTER and which are or may arise as part of this AGREEMENT at its sole discretion.

V. COUNTY RESPONSIBILITIES

- A. COUNTY agrees to perform all of its obligations under this AGREEMENT for the term of this AGREEMENT. COUNTY shall furnish all documents provided to CUSTOMER, such as, license application forms, license tags for animals, current tag list, and other required COUNTY materials used for providing animal sheltering services subject to the terms, conditions and provisions of this AGREEMENT.
- B. COUNTY shall present animals for impoundment. COUNTY shall ensure that all animals impounded into the SHELTER are processed in compliance with TOWN's established operating procedures.
- C. In the performance of this AGREEMENT, COUNTY, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the Town of Apple Valley. COUNTY certifies that neither it nor its principals is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency as required by Executive Order 12549 and implemented as 45 Code of Federal Regulations part 76.
- D. Without the prior written consent of the Town Manager or his designee, this AGREEMENT is not assignable by COUNTY either in whole or in part.
- E. COUNTY shall notify TOWN in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify TOWN of changes in telephone or fax numbers.

VI. FISCAL PROVISIONS

- A. The consideration to be paid to TOWN, as provided herein, shall be in full payment for all TOWN's services and expenses incurred in the performance hereof.
- B. The minimum guaranteed payment for shelter services under this AGREEMENT for FY 2012/13 (based upon June 30 fiscal year-end) is \$24,812.50 per month/\$297,750 per annum. Thereafter, the minimum guaranteed payment shall be annually adjusted effective July 1 of each year. The adjustment will be based upon the change in the Consumer Price Index for the month of May (preceding the July 1 effective date of the change) on a year-over-year basis for All Urban Consumers ("CPI-U") as published by the U.S. Department of Labor for the Los Angeles-Riverside-Orange Counties Standardized Metropolitan Statistical Area (SMSA).
- A. This AGREEMENT provides for a maximum number of three-thousand, three-hundred and fifty (3350) IMPOUNDMENTS per AGREEMENT YEAR. When the total IMPOUNDMENTS exceed the thresholds established per this AGREEMENT, COUNTY shall reimburse TOWN for services rendered on a "percentage of use" based upon the Fiscal Year Total Budget of the Animal Services – Shelter Department. The minimum guaranteed payment shall be deducted from the reimbursement by the COUNTY for services rendered by the TOWN on a "percentage of use" basis as identified herein.
- B. COUNTY shall pay to TOWN \$35,000 for Capital Improvements, including shelter renovations and modifications to animal holding areas that the TOWN's deems necessary to house animals impounded by COUNTY at SHELTER as a result of this AGREEMENT. This payment shall be payable within the first thirty-days (30 Days) from the execution of this AGREEMENT.
- C. COUNTY shall pay TOWN upon receipt of the TOWN's invoice for services rendered during the previous month. Payment will not be delayed in connection with the submittal of required quarterly reports to the ACC Program.

- D. TOWN will prepare monthly invoices by the 15TH day of the month in a format mutually agreed upon by PARTIES.

Invoices shall be submitted to:

Animal Care and Control

San Bernardino County Public Health Department

351 N. Mountain View Ave., 3rd Floor

San Bernardino, CA 92415-0003

Attn: Greg Beck

- E. TOWN shall accept all payments from COUNTY via electronic funds transfer (EFT) directly deposited into the TOWN's designated checking or other bank account. TOWN shall promptly comply with directions and accurately complete forms provided by COUNTY required to process EFT payments.
- F. COUNTY is not liable for the payment of any taxes, unless COUNTY would otherwise be liable for the payment of such taxes in the course of its normal business operations.
- G. COUNTY shall have the right to reasonably monitor the performance of TOWN in the delivery of services provided under this AGREEMENT in a manner mutually agreed up by PARTIES.
- H. COUNTY or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of TOWN in the delivery of services provided under this AGREEMENT. Full cooperation shall be given by TOWN in any auditing or monitoring conducted.
- I. PARTIES shall cooperate in the implementation, monitoring and evaluation of this AGREEMENT and comply with any and all mutually agreed upon reporting requirements established by this AGREEMENT by PARTIES.
- J. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by county, federal and state representatives for a period of three years after final payment under the AGREEMENT or until all pending county, state, whichever is later. Records of the TOWN which do not pertain to the services under this AGREEMENT may be subject to review or audit unless provided in this or another AGREEMENT. Technical program data shall be retained locally and made available upon the COUNTY's reasonable advance written notice or turned over to COUNTY. If said records are not made available at the scheduled monitoring visit, TOWN may, at COUNTY's option, be required to reimburse COUNTY for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and may be deducted from the following month's claim for reimbursement.
- K. TOWN will provide reasonable facilities and assistance for the safety and convenience of COUNTY's representatives in the performance of their duties as related to this AGREEMENT. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the TOWN.

- L. Upon COUNTY request, TOWN shall hire a licensed Certified Public Accountant at COUNTY expense, approved by the COUNTY, who shall prepare and file with COUNTY, within 60 days after the termination of the AGREEMENT, a certified fiscal audit of related expenditures during the term of the AGREEMENT and a program compliance audit.

VII. PERFORMANCE AND REMEDIES

- A. Failure by either of the PARTIES to comply with any of the provisions, covenants, requirements or conditions of this AGREEMENT shall be a material breach of this AGREEMENT.
- B. In the event of a non-cured breach, either of the PARTIES may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this AGREEMENT:
 - 1. Afford either of the PARTIES thereafter a time period of thirty (30) days within which to cure the breach, which period established at the mutual agreement of PARTIES; and/or
 - 2. Discontinue reimbursement to TOWN for the specific services under review and during the period in which TOWN is in breach, reimbursement shall be entitled to later recovery and breach of a specific service does not forgive fees for services owed by COUNTY ; and/or
 - 3. Withhold funds pending duration of the breach; and/or
 - 4. Offset against any monies billed by TOWN but yet unpaid by COUNTY those monies disallowed pursuant to Item "2" of this paragraph; and/or
 - 5. Terminate this AGREEMENT in conformance with early termination procedures contained in this AGREEMENT. In event of such termination, PARTIES may proceed with the work in any manner deemed proper. The cost for said work shall be deducted/credited from any sum due/owed under this AGREEMENT and the balance, if any, shall be paid upon demand.
- C. PARTIES agree to provide or have already provided information on former administrative officials (as defined below) who are employed by or represent PARTIES. The information provided includes a list of former administrative officials who terminated employment within the last five years and who are now officers, principals, partners, associates of PARTIES. The information also includes the employment with or representation of PARTIES. For purposes of this provision, "Administrative Official" is defined as a member of the Board of Supervisors, Town Council or such officer's staff, Chief Executive Officer of the County, Town Manager, or member of such officer's staff, department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.
- D. PARTIES shall notify in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify of changes in telephone or fax numbers.
- E. PARTIES shall designate an individual to serve as the primary point of contact for the AGREEMENT. PARTIES shall notify when the primary contact will be unavailable/out of the office for one (1) or more workdays. PARTIES or designee must respond to inquiries within two (2) business days as mutually defined.
- F. PARTIES shall provide a mutually approved system, through which recipients of service shall have the opportunity to express and have considered their views and complaints regarding the delivery of services. The procedure must be in writing and provided to all CUSTOMERS.

- G. PARTIES shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event either PARTY determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed and such conflict may constitute grounds for termination of the AGREEMENT. This provision shall not be construed to prohibit employment of persons with whom PARTIES officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.
- H. PARTIES warrant that they shall perform the services required by the AGREEMENT in compliance with all applicable Federal, State, and local laws, including employment laws to include, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this AGREEMENT.
- I. PARTIES shall maintain all information required by Federal, State, and local laws.
- J. PARTIES shall without anyway affecting the indemnity herein provided and in addition thereto; PARTIES shall secure and maintain throughout the AGREEMENT the following types of insurance with minimum limits as shown:

TOWN is self-insured by the California Joint Powers Insurance Authority of California (CJPIA)

COUNTY is self-insured

VIII. TERM OF AGREEMENT

- A. This AGREEMENT shall be effective as of January 1, 2013 and shall renew annually on July 1, until 2023 with provisions as identified for annual cost of living increases; AGREEMENT may be terminated earlier in accordance with provisions contained herein.
- B. This AGREEMENT is of no force or effect until signed by both parties hereto. COUNTY and/or TOWN shall not commence performance until such approval has been obtained; failure to obtain such approval may result in non-payment to TOWN or additional payment from COUNTY shall not commence performance until such approval has been obtained; failure to obtain such approval may result in non-payment to TOWN or additional payment from COUNTY for the performance of those services.

IX. EARLY TERMINATION

- A. Either party may, by written notice, terminate this AGREEMENT in its sole discretion and without cause. Written notice of such termination shall specify the effective date thereof, at least ninety (90) days before the effective date of such termination. TOWN shall be compensated all amounts owed through the date of termination.
- B. If during the course of the administration of this AGREEMENT, either party determines that a material misstatement or misrepresentation or that materially inaccurate information has been provided this AGREEMENT may be immediately terminated.

- C. If this AGREEMENT is terminated according to this provision, PARTIES are entitled to pursue any available legal remedies. Either party may terminate this AGREEMENT if the other party materially fails to comply with any provision of this AGREEMENT, and fails to cure such breach within 30 days of receiving written notice thereof.
- D. If this AGREEMENT is terminated as provided herein, each party's rights and obligations under this agreement which by their nature are intended to continue beyond the termination of this AGREEMENT shall so survive.

X. SERVICE COMPLAINTS AND DISPUTE RESOLUTION

- A. All animal sheltering service complaints by members of the public will be directed to TOWN. All complaints received by TOWN from members of the public regarding fee for service or field services provided by COUNTY will be directed to COUNTY. TOWN will record all complaints received (including date, name, address and nature of complaint). TOWN agrees to use its best efforts to resolve all such complaints within the next business day following the date on which such complaint is received (This does not include weekends or holidays). TOWN will provide a disposition report, as to the action taken or other disposition made of each complaint. Such report will be provided to COUNTY with the quarterly report.
- B. A member of the public making a complaint may appeal TOWN's resolution to COUNTY. COUNTY has the discretion to waive sheltering fees TOWN receives as part of shelter actions provided by COUNTY, however this does not relinquish or reduce fees owed to TOWN as a result of this AGREEMENT.

XI. REPORTING, ACCOUNTING, AND AUDITING

- A. Provide reports to the COUNTY, on a quarterly basis, in a format mutually approved by PARTIES that track information for all animals received by TOWN on behalf of COUNTY per this AGREEMENT:

XII. GENERAL PROVISIONS

- A. When notices are required to be given pursuant to this AGREEMENT, the notices shall be in writing and mailed to the following respective addresses listed below.

TOWN: Town of Apple Valley
 Animal Services Department
 Attn: Gina Schwin-Whiteside
 14955 Dale Evans Parkway
 Apple Valley, CA 92307

County: County of San Bernardino
 Human Services
 Attn: Contracts Unit
 150 S. Lena Road
 San Bernardino, CA 92415-0515

- B. Nothing contained in this AGREEMENT shall be construed as creating a joint venture, partnership or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.
- C. PARTIES shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items

of value to any officer, employee or agent of the COUNTY in an attempt to secure favorable treatment regarding this AGREEMENT.

- D. The COUNTY, by written notice, may immediately terminate any AGREEMENT if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the COUNTY with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an AGREEMENT has been awarded.
- E. TOWN shall immediately report any attempt by a COUNTY officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from TOWN. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the COUNTY is entitled to pursue any available legal remedies.
- F. COUNTY discourages the purchase of equipment with funds received under this AGREEMENT. All equipment, materials, supplies or property of any kind (including publications and copyrights, etc.) which have a single unit cost of five hundred dollars (\$500) or more, including tax, purchased with funds received under the terms of this AGREEMENT and not fully consumed in one (1) year shall be the property of COUNTY and shall be subject to the provisions of this paragraph. The disposition of equipment or property of any kind shall be determined by COUNTY upon AGREEMENT termination.
- G. COUNTY shall have Power of Attorney to pay delinquent debts and unpaid wages for work provided under this AGREEMENT from accounts payable to TOWN in the event debts and wages have not been paid on a current basis.
- H. No waiver of any of the provisions of the AGREEMENT shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the AGREEMENT shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- I. Any alterations, variations, modifications, or waivers of provisions of the AGREEMENT, unless specifically allowed in the AGREEMENT, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this AGREEMENT. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- J. If any provision of the AGREEMENT is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the AGREEMENT shall not be affected.
- K. This AGREEMENT shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The Parties agree to the exclusive jurisdiction of the federal court located in the County of Riverside and the state court located in the County of San Bernardino, for any and all disputes arising under this AGREEMENT, to the exclusion of all other federal and state courts. If the amount available to TOWN under this AGREEMENT, as specified in **Section VI, Paragraph A*, exceeds \$100,000, TOWN agrees to comply with the Clean Air Act (42 U.S.C. Section 7606), section 508 of the Clean Water Act (33 U.S.C. section 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 C.F.R. section 1.1 et seq.).

- L. TOWN will use recycled and recyclable products, whenever practicable, in fulfilling the terms of this AGREEMENT.
- M. Both PARTIES understand and agree that any and all legal fees or costs associated with lawsuits concerning this AGREEMENT against the COUNTY OR TOWN shall be the sole expense of the named PARTY and shall not be charged as a cost under this AGREEMENT. In the event of any AGREEMENT dispute hereunder PARTIES to this AGREEMENT shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute
- N. Parties agree that any news releases, advertisements, public announcements or photographs arising out of the AGREEMENT or TOWN's relationship with COUNTY shall not be made or used without prior written approval of the designee identified in this AGREEMENT.

XIII. CONCLUSION

- A. This AGREEMENT, consisting of nineteen sixteen (19) pages and Attachments A-B, is the full and complete document describing services to be rendered by TOWN to COUNTY including all covenants, conditions and benefits.
- B. The signatures of the Parties affixed to this AGREEMENT affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.
- C. **IN WITNESS WHEREOF**, the Board of Supervisors of the County of San Bernardino has caused this AGREEMENT to be subscribed to by the Clerk thereof, and TOWN has caused this AGREEMENT to be subscribed in its behalf by its duly authorized officers, the day, month and year written.

COUNTY OF SAN BERNARDINO

►

 Josie Gonzales, Chair, Board of Supervisors
 Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD
 Laura H. Welch
 Clerk of the Board of Supervisors of the County of San Bernardino.
 By: _____

Deputy

Town of Apple Valley, "TOWN"
 By ► _____
(Authorized signature – sign in blue ink)
 Name _____
(Print or type name of person signing AGREEMENT)
 Title: _____
(Print or Type)
 Dated: _____
 Address: _____

Approved as to Legal Form ► _____ Phebe Chu, County Counsel Date _____	Reviewed by Contract Compliance ► _____ Lory Klopfer, HS Contracts Unit Date _____	Presented to BOS for Signature ► _____ Trudy Raymundo, Department Head Date _____
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AGREED UPON FEES

DESCRIPTION	FY 12-13	FY 13-14*	FY 14-15*
One-time cost for Capital Improvement	\$35,000	\$TBD	\$TBD
Impounds			
3350 Impounds (Dogs/Cats – maximum ¹)	\$261,000	\$261,000	\$261,000
Medical (3350 Impounds - maximum¹)	\$36,750	\$36,750	\$36,750
AGREEMENT TOTAL	\$332,750	\$297,750*	\$297,750*

¹Impounds Exceeding Maximum will be Billed at Rates Established within Agreement

Each impoundment, regardless of status is counted as one (1) for the purpose of this agreement. This does not include an “unweaned” animal that is turned in with the mother. This is defined as a litter, no matter the number and counted as one. (Example: Owner-Turn-In: Dog is counted as one (1) dog; Citizen-Turn-In: Stray Dog is counted as one (1) dog, etc.)

Deceased animals delivered to the shelter will be billed to COUNTY at the rate of \$10 per animal and not counted against the maximum impounds per this agreement. Payments received from animal owners will be credited to COUNTY to offset the debit.

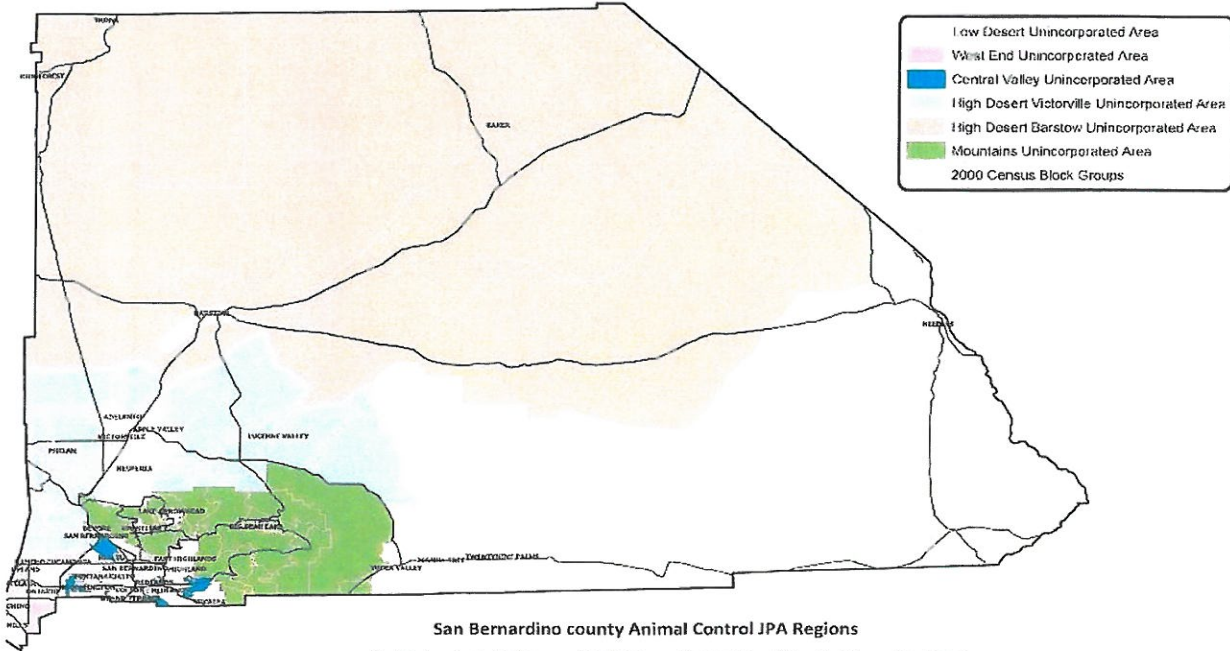
COUNTY will provide TOWN annually with their adopted COUNTY FEE SCHEDULE as related to Animals. The following categories will be recorded as credits when payments are received from CUSTOMER:

- **Animal Handling** - COUNTY is responsible for collecting owner-turn-in fees in the field. Only fees deposited with TOWN will be credited to the account per this agreement.
- **Animal Licensing** – COUNTY has indicated this will be a small percentage of the CUSTOMERs and therefore TOWN has included this service in the agreement. TOWN reserves the right to review this service and increase of administrative overhead annually.
- **Animal Sheltering** – Fees charged to CUSTOMER by COUNTY for Impound and Disposal, Euthanasia, Dead Animal Disposal, and Spay/Neuter.

The following categories are fees or fundraising established by TOWN and **will not** be recorded as credits when payments are received from CUSTOMER unless expressly identified per this agreement:

- **Adoption Fees**
- **Microchip Fees**
- **Vaccination Fees**
- **Donations**
- **Rabies Clinics**
- **Boarding Fees after 5-days of Impoundment**

**HIGH DESERT REGION BOUNDARY MAP (“BOUNDARY MAP”)
(SERVICE AREA – High Desert Victorville Unincorporated Area)**



San Bernardino county Animal Control JPA Regions

	West End	Central Valley	Mountains	Barstow HD	Victorville HD	Low Desert	
2000 Population (Total)	536,668	736,065	55,785	56,088	252,556	67,499	1,704,161
2000 Population (Unincorporated)	37,327	114,310	46,148	28,034	85,080	22,245	333,124
Square Miles (Total)	189.35	304.50	1039.20	11067.25	1881.73	5609.37	20,101
Square Miles (Unincorporated)	41.84	80.59	1026.13	11013.60	1574.90	5214.38	38,051

